

Rule 8.1 False Statement Regarding Application for Admission to Practice Law. [Sorted by Commenter]						TOTAL = <u>3</u> Agree = <u>2</u> Disagree = <u>0</u> Modify = <u>1</u> NI = <u> </u>
No.	Commenter	Position ¹	Comment on Behalf of Group?	Rule Paragraph	Comment	RRC Response
1	San Diego County Bar Association	A	Yes		Supports as drafted.	No response required.
2	Office of Chief Trial Counsel	M	Yes		<p>OCTC has the same objection to the use of the term knowingly in proposed rule 8.1 as to proposed rule 3.3. False statements made with reckless disregard are disciplinable.</p> <p>There are too many comments and some are more appropriate for treatises, law review articles, and ethics opinions.</p> <p>Comment [1] Further, Comment [1] should advise that attorneys may be either disciplined (<i>In the Matter of Pasyanos</i> (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746) or their license cancelled. (<i>Goldstein v. State Bar</i> (1989) 47 Cal.3d 937.)</p>	<p>The Commission has determined that in the context of statements regarding the application for admission to practice law, discipline should require a knowing false statement or failure to disclose, not merely "reckless disregard." See RRC Response to Comment 3 to Proposed Rule 3.3. In addition, the Commission's position is that in such a context, whether a particular false statement made with reckless disregard could be disciplined as "gross negligence" or moral turpitude will depend upon the facts of the individual case and should not be a matter of black letter rule.</p> <p>The Commission has attempted to balance the desire for conciseness with the need to provide guidance in the interpretation and application of the black letter rule and has determined that the number of length of comments to this rule strikes an appropriate balance.</p> <p>The reference to an attorney's being "subject to discipline" in Comment [1], as throughout the Proposed Rules and Comments, is intended to include potential cancellation of the license to</p>

¹ A = AGREE with proposed Rule

D = DISAGREE with proposed Rule

M = AGREE ONLY IF MODIFIED

NI = NOT INDICATED

**Rule 8.1 False Statement Regarding Application for Admission to Practice Law.
[Sorted by Commenter]**

TOTAL = 3 Agree = 2
Disagree = 0
Modify = 1
NI =

No.	Commenter	Position ¹	Comment on Behalf of Group?	Rule Paragraph	Comment	RRC Response
						practice.
3	COPRAC	A	Yes		Support as drafted.	No response required.

Rule 8.1 False Statement Regarding Application for Admission to Practice Law
(Commission's Proposed Rule – Clean Version)

- (a) An applicant for admission to practice law shall not knowingly make a false statement of material fact or knowingly fail to disclose a material fact in connection with that person's own application for admission.
- (b) A lawyer shall not knowingly make a false statement of material fact in connection with another person's application for admission to practice law.
- (c) An applicant for admission to practice law, or a lawyer in connection with an application for admission, shall not fail to disclose a fact necessary to correct a statement known by the applicant or the lawyer to have created a material misapprehension in the matter, except that this Rule does not authorize disclosure of information otherwise protected by Rule 1.6 and Business and Professions Code section 6068(e).
- (d) As used in this Rule, "admission to practice law" includes admission or readmission to membership in the State Bar; reinstatement to active membership in the State Bar; an application for permission to appear pro hac vice; and any similar provision relating to admission or certification to practice law in California or elsewhere.
- [1] A person who makes a false statement in connection with that person's own application for admission to practice law may be subject to discipline under this Rule after that person has been admitted.
- [2] This Rule is subject to the provisions of the fifth amendment of the United States Constitution and corresponding provisions of applicable state constitutions.
- [3] A lawyer representing an applicant for admission to practice law is governed by the rules applicable to the lawyer-client relationship, including Rule 1.6 and Business and Professions Code section 6068(e). A lawyer representing a lawyer who is the subject of a disciplinary proceeding is not governed by this Rule but is subject to the requirements of Rule 3.3.
- [4] The examples in paragraph (d) are illustrative. As used in paragraph (d), "similar provision relating to admission or certification" includes, but is not limited to, an application by an out-of-state attorney for admission to practice law under Business and Professions Code section 6062; an application to appear as counsel pro hac vice under Rule of Court 9.40; an application by military counsel to represent a member of the military in a particular cause under Rule of Court 9.41; an application to register as a certified law student under Rule of Court 9.42; proceedings for certification as a Registered Legal Services attorney under Rule of Court 9.45 and related State Bar Rules; certification as a Registered In-house Counsel under Rule of Court 9.46 and related State Bar Rules; certification as an Out-of-State Attorney Arbitration Counsel under Rule of Court 9.43, Code of Civil Procedure section 1282.4, and related State Bar Rules; and certification as a Registered Foreign Legal Consultant under Rule of Court 9.44 and related State Bar Rules.
- [5] This Rule shall not prevent a lawyer from representing an applicant for admission to practice in proceedings related to such admission. Other

laws or rules govern the responsibilities of a lawyer representing an applicant for admission. See, e.g., Rule 3.3; Business and Professions Code sections 6068(c), (d) and (e).