

**Rule 8.1 [1-200] False Statement Regarding Application for  
Admission, Readmission, Certification or Registration  
(Commission's Proposed Rule Adopted on May 30, 2015 – Clean Version)**

- (a) This Rule applies to applications for admission, readmission, certification or registration submitted to the State Bar or a court, including applications for: admission to practice law under Business and Professions Code §§ 6060 and 6062; readmission or reinstatement to practice law pursuant to California Rules of Court, rule 9.10(f); certification as a legal specialist under California Rules of Court, rule 9.35; and appearance and practice under California Rules of Court, rules 9.40 – 9.46.
- (b) An applicant for admission, readmission, certification or registration shall not knowingly\* make a false statement of material fact, fail to disclose a material fact, or fail to correct a statement known\* to be false.
- (c) A lawyer supporting or opposing another person's application for admission, readmission, certification or registration, shall not, as part of the application process, knowingly\* make a false statement of material fact, fail to disclose a material fact, or fail to correct a statement known\* to be false.
- (d) This Rule does not apply to a lawyer in representing an applicant in proceedings relating to admission, readmission, certification or registration.

**Comment**

[1] A person\* who makes a false statement in connection with that person's own application can be subject to discipline under this Rule or to later cancellation of that person's admission or other authorization.

[2] In representing an applicant for admission, readmission, certification or registration, a lawyer is subject to other applicable rules and the State Bar Act.

**PROPOSED RULE OF PROFESSIONAL CONDUCT 8.1**  
**(Current Rule 1-200)**  
**False Statement Regarding Application for Admission,**  
**Readmission, Certification or Registration**

**EXECUTIVE SUMMARY**

The Commission for the Revision of the Rules of Professional Conduct (“Commission”) has evaluated current rule 1-200 (False Statement Regarding Admission to the State Bar) and in accordance with the Commission Charter, with a focus on the function of the rule as a disciplinary standard, and with the understanding that the rule comments should be included only when necessary to explain a rule and not for providing aspirational guidance. In addition, the Commission considered the national standard of the American Bar Association (“ABA”) counterpart, Model Rule 8.1 (Bar Admission and Disciplinary Matters). The Commission also reviewed relevant California statutes, rules, and case law relating to the issues addressed by the proposed rules. The result of the Commission’s evaluation is proposed rule 8.1 (False Statement Regarding Application for Admission, Readmission, Certification or Registration). This proposed rule has been adopted by the Commission for submission to the Board of Trustees for public comment authorization. A final recommended rule will follow the public comment process.

Proposed rule 8.1 retains the substance of current rule 1-200 while expanding the public policy protections of the current rule. Current rule 2-100 prohibits members (on behalf of another person) from making false statements or omitting material facts in connection with an application for admission to the State Bar. Proposed rule 8.1 would expand the current rule to petitions for reinstatement after disbarment or resignation, applications for certified legal specialization and applications for special or temporary admission.

Paragraph (a) defines with specificity the applications covered under the expanded scope of proposed rule 8.1. The objective of paragraph (a) is to make clear that the rule applies to applications for admission, readmission, certification and registration.<sup>1</sup>

Paragraph (b) is new and recognizes the need to expand the public protection policy objectives of proposed rule 8.1 to cover conduct related to applications from both members of the California State Bar as well as non-California lawyer applicants (e.g. non-California lawyer seeking authorization to practice as a registered in-house counsel under the Multijurisdictional Program (MJP)).

Paragraph (c) makes clear that the proscriptions against making false statements, omissions or failure to correct a statement known to be false, equally apply to lawyers who are supporting or opposing the application of another person.

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<sup>1</sup> One member of the Commission submitted a written dissent expressing concerns that proposed rule 8.1 might overlap with duties imposed by other rules, resulting in a risk of confusion on the part of lawyers seeking to comply and a potential for double-charging in disciplinary matters. The full text of the dissent is attached to this summary.

Paragraph (d) is derived from current rule 1-200(C) and clarifies that the rule does not apply to a lawyer representing a client/applicant in proceedings relating to admission, readmission, certification or registration.

Proposed rule 8.1 contains two comments that clarify the rule's application. Comment [1] clarifies that a person making false statements in connection with that person's own application can be subject to discipline or cancellation of that person's admission or other authorization. Comment [2] relates to paragraph (d) and makes clear that a lawyer who represents a client/applicant is subject to other applicable rules and the State Bar Act.

Non-substantive changes in proposed rule 8.1 include: changing the title to accurately reflect the expanded scope of the rule, reordering the rule to place key definitions in the first paragraph and stylistic changes to track the ABA Model Rule numbering system, format and style conventions. These changes include substitution of the word "lawyer" for "member."

**Commission Member Dissent to the Recommended Adoption  
of Proposed Rule 8.1, Submitted by Robert L. Kehr**

I generally support this proposed Rule and its expansion beyond admission to the Bar - the only subject of current rule 1-200 - to include various forms of certification and registration. However, there is an overlap between this Rule and proposed Rule 3.3 in that both address a lawyer's false statements to a court. Including the same topic in two rules would create inconsistent standards governing the same conduct, lead to confusion among courts, disciplinary authorities and lawyers, and create the risk of double charging in disciplinary proceedings. This problem could be eliminated by editing Rule 8.1(c) in the following way:

(c) A lawyer supporting or opposing another person's application for admission, readmission, certification, or registration is governed by rule 3.3, ~~shall not, as part of the application process, knowingly make a false statement of material fact, fail to disclose a material fact, or fail to correct a statement known to be false.~~

**Rule 8.1 [1-200] False Statement Regarding ~~Admission to the State Bar~~ Application for  
Admission, Readmission, Certification or Registration  
(Redline Comparison of the Proposed Rule to Current California Rule)**

- (a) This Rule applies to applications for admission, readmission, certification or registration submitted to the State Bar or a court, including applications for: admission to practice law under Business and Professions Code §§ 6060 and 6062; readmission or reinstatement to practice law pursuant to California Rules of Court, rule 9.10(f); certification as a legal specialist under California Rules of Court, rule 9.35; and appearance and practice under California Rules of Court, rules 9.40 – 9.46.
- (b) An applicant for admission, readmission, certification or registration shall not knowingly\* make a false statement of material fact, fail to disclose a material fact, or fail to correct a statement known\* to be false.
- (c) ~~(A) A member shall not~~ lawyer supporting or opposing another person's application for admission, readmission, certification or registration, shall not, as part of the application process, knowingly\* make a false statement regarding a of material fact or knowingly, fail to disclose a material fact in connection with an application for admission to the State Bar, or fail to correct a statement known\* to be false.
- ~~(B) A member shall not further an application for admission to the State Bar of a person whom the member knows to be unqualified in respect to character, education, or other relevant attributes.~~
- (d) ~~(C) This rule shall not prevent a member from serving as counsel of record for~~ Rule does not apply to a lawyer in representing an applicant for admission to practice in proceedings related to such relating to admission, readmission, certification or registration.

**CommentDiscussion**

~~For purposes of rule 1-200 "admission" includes readmission.~~

[1] A person\* who makes a false statement in connection with that person's own application can be subject to discipline under this Rule or to later cancellation of that person's admission or other authorization.

[2] In representing an applicant for admission, readmission, certification or registration, a lawyer is subject to other applicable rules and the State Bar Act.