

**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.

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Synopsis of Public Comments**

TOTAL = XX **A = X**
 D = X
 M = X
 NI = X

No.	Commenter/Signatory	Comment on Behalf of Group?	A/D/M/NI ¹	Rule Section or Cmt.	Comment	RRC Response
X-2016-43am	Committee on Professional Responsibility and Conduct (COPRAC)	Yes	M		<p>COPRAC supports the proposed rule, with the following significant caveat.</p> <p>Unlike present Rule 1-200, proposed Rule 8.1 includes within its scope applications for admission not only made to the State Bar, but also applications to a court, including <i>pro hac vice</i> applications.</p> <p>Proposed Rule 8.1, however, contains a different standard of truthfulness than that applicable to lawyer statements made to a court or other tribunal. In particular, proposed Rule 3.3 [5-200] and Bus. & Prof. Code § 6068(d) each prohibits an attorney from making any “false statement of fact” to a tribunal; whereas proposed Rule 8.1 [1-200] prohibits an attorney only from making a false statement of “material” fact. With respect to applications for admission, readmission, certification or registration made to a court, then, the applicable standards of truthfulness are different.</p> <p>Moreover, permitting an attorney, as proposed Rule 1-200 does, to make knowingly false statements</p>	

¹ A = AGREE with proposed Rule

D = DISAGREE with proposed Rule

M = AGREE ONLY IF MODIFIED

NI = NOT INDICATED

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					<p>about non-material matters to the State Bar or any tribunal is contrary to an attorney's duty of honesty under the State Bar Act. (See Bus. & Prof. Code §§ 6068(d) and 6106).</p> <p>Because proposed Rule 1-200 cannot be harmonized with the prohibition in the State Bar Act on making knowingly false statements of fact to a tribunal or engaging in dishonest conduct, the limiting term "material" should not be used in Rule 1-200. Rather, the Rule should prohibit an attorney from knowingly making any false statement of fact, not merely a false statement of "material" fact. 2</p> <p>COPRAC recognizes that the present formulation of Rule 1-200 and ABA Model Rule 8.1 both include the materiality limitation, but each applies only to statements made in connection with an application for admission to the State Bar, not applications made to a tribunal, such that the inconsistent standard of truthfulness present in proposed Rule 8.1 is not present in either.</p>	