



# The State Bar *of California*

## The Law of Moral Character in California

### A Survey of Applicable Rules, Statutes and Selected Cases

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## Business & Professions Code Sections

- Section 6001.1: “Protection of the public shall be the highest priority for the State Bar of California ... .”
- Section 6060(b): To be certified for admission and a license to practice law a person shall “be of good moral character.”
  - Section 6062 (applies “good moral character” standard to out-of-state attorneys)
  - Standard also applies to applicants for Registered In-House Counsel (Cal. Rules of Court, rule 9.46(c)(3)); Registered Legal Services Attorneys (Cal. Rules of Court, rule 9.45(c)(3)); Registered Foreign Legal Consultants (Cal. Rules of Court, rule 9.44(c)(2)); Registered Military Spouse Attorney (Cal. Rules of Court, rule 9.41.1(c)(4)).



- Moral Character Admissions Rules
  - Rules of the State Bar, Title 4, Division 1, Chapter 4, rule 4.40 et seq.
- Rule 4.40 (A)
  - “An applicant must be of good moral character as determined by the State Bar. The applicant has the burden of establishing that he or she is of good moral character.” (Revised rule pending.)
- Rule 4.40 (B)
  - “‘Good moral character’ includes but is not limited to qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the law, and respect for the rights of others and the judicial process.” (In re Glass (2014) 58 Cal. 4<sup>th</sup> 500, 520)



- Decisional Law
  - State Bar Court Decisions and Opinions.
    - Confidential
  - California Supreme Court Opinions
    - Opinions are public record



- Selected General Legal Principles
  - “A lawyer’s good moral character is essential for the protection of clients and for the proper functioning of the judicial system itself.” (In re Glass (2014) 58 Cal.4<sup>th</sup> 500)
  - Persons of good moral character do not commit acts or crimes involving moral turpitude. (In re Gossage (2000) 23 Cal.4<sup>th</sup> 1080, 1095.)
  - The fundamental question is whether the applicant is a fit and proper person to be admitted to practice law. (In re Glass.) The term “good moral character” embraces more than just the absence of acts involving moral turpitude. (Admissions Rules, rule 4.40 (B); see Kwasnick v. State Bar (1990) 50 Cal.3d 1061, Justice Kennard, concurring)



- Remorse (insight): genuine remorse (i.e. a candid admission of wrongdoing and full acknowledgment of the misconduct) is considered a mitigating factor in moral character cases. Remorse, however, does not demonstrate rehabilitation. (See In re Menna (1995) 11 Cal.4<sup>th</sup> 975; Cf. In re Hall (1979) 25 Cal.3d 730 [remorse does not require false penitence]; Seide v. CBE (1989) 49 Cal.3d 933 [acknowledging wrongfulness of his actions is an essential step towards rehabilitation].)
- Honesty/candor: “Honesty is absolutely fundamental to the practice of law, without it ... the profession is worse than valueless in the place it holds in the administration of justice.” (In re Glass; see Berstein v. CBE (1968) 69 Cal.2d 90)



— Honesty/Candor cont'd:

With respect to material omissions in moral character applications the California Supreme Ct. has stated:

“Whether it is caused by intentional concealment, reckless disregard for the truth or an unreasonable refusal to perceive the need for disclosure, such an omission is itself strong evidence that the applicant lacks the ‘integrity’ and/or ‘intellectual discernment’ required to be an attorney.” In re Gossage (2000) 23 Cal.4<sup>th</sup> 1080, 1102; see Spears v. State Bar (1930) 211 Cal. 183, 187.