



# The State Bar of California

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II.I. Sandbox Confidentiality -  
A-C Privilege - Data Security  
09-17-21 CTJG Meeting  
Open Session

**DATE:** September 10, 2021

**TO:** Closing the Justice Gap Working Group (CTJG)

**FROM:** Scope Subcommittee

**SUBJECT:** II.I. Discussion and Possible Action on a Subcommittee Recommendation for the Sandbox Application Criteria Concerning Attorney-Client Privilege, Confidentiality, and Data Privacy

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For the Closing the Justice Gap Working Group September 17, 2021 meeting agenda item II.I. – Discussion and Possible Action on a Subcommittee Recommendation for the Sandbox Application Criteria Concerning Attorney-Client Privilege, Confidentiality, and Data Privacy, the Scope Subcommittee voted to approve (6-0-0) the following resolutions concerning competence and confidentiality, and the regulator’s ability to pierce applicant confidentiality and privilege, as revised at its September 3, 2021 meeting.

The subcommittee now submits these recommendations for consideration by the Working Group.

**Recommendation 1:**

*Recommend that rules 1.1(b) (competence), 1.6 (confidentiality), 1.8.2 (use of confidential information), 1.18 (duties to prospective client), and 1.9 (duties to former client), Business and Professions Code section 6068(e), will apply in their then current interpretation of the rules/statutes to all entrants to the sandbox. Sandbox participants who are ordinarily under the California Consumer Privacy Act (CCPA) would still be under CCPA.*

**Recommendation 2:**

*Recommend that the regulatory entity have the ability to pierce confidentiality and privilege in order to regulate the sandbox participants.*

