



Home

Bill Information

California Law

Publications

Other Resources

My Subscriptions

My Favorites

Code:

Section:



[Up^](#)

[<< Previous](#)

[Next >>](#)

[cross-reference chaptered bills](#)

[PDF](#)

[Add To My Favorites](#)



Search Phrase:

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.*)

CHAPTER 4. Attorneys [6000 - 6243] (*Chapter 4 added by Stats. 1939, Ch. 34.*)

ARTICLE 4. Admission to the Practice of Law [6060 - 6069.5] (*Article 4 added by Stats. 1939, Ch. 34.*)

6067. Every person on his admission shall take an oath to support the Constitution of the United States and the Constitution of the State of California, and faithfully to discharge the duties of any attorney at law to the best of his knowledge and ability. A certificate of the oath shall be indorsed upon his license.

(*Added by Stats. 1939, Ch. 34.*)



2021 California Rules of Court

Rule 9.7. Oath required when admitted to practice law

In addition to the language required by Business and Professions Code section 6067, the oath to be taken by every person on admission to practice law is to conclude with the following: "As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy and integrity."

Rule 9.7 renumbered effective January 1, 2018; adopted as rule 9.4 effective May 27, 2014.

42

[\[Back to Top \]](#)

2.11 MORAL TURPITUDE, DISHONESTY, FRAUD, CORRUPTION, OR CONCEALMENT

Disbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the practice of law.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014; Renumbered & Revised: July 1, 2015; January 25, 2019.

2.12 VIOLATION OF OATH OR DUTIES OF AN ATTORNEY

- (a) Disbarment or actual suspension is the presumed sanction for disobedience or violation of a court or tribunal order related to the lawyer's practice of law, the attorney's oath, or the duties required of an attorney under Business and Professions Code section 6068, subdivisions (a)(b)(d)(e)(f), or (h), and rule 3.4(f) of the Rules of Professional Conduct.
- (b) Reprimand is the presumed sanction for a violation of the duties required of an attorney under Business and Professions Code section 6068, subdivisions (i),(j),(l) or (o).
- (c) Violations of the duties required of an attorney under Business and Professions Code section 6068, subdivisions (m) or (n), are covered in Standard 2.7.
- (d) Violations of the duties required of an attorney under Business and Professions Code section 6068, subdivisions (c) or (g), are covered in Standard 2.9.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014; Renumbered & Revised: July 1, 2015; January 25, 2019.

2.13 SEXUAL RELATIONS WITH CLIENTS

- (a) Disbarment is the presumed sanction when a lawyer expressly or impliedly conditions the performance of legal services for a current or prospective client upon the client's willingness to engage in sexual relations with the attorney or employs coercion, intimidation, or undue influence in entering into sexual relations with a client.
- (b) Suspension or reprimand is the presumed sanction for any other violation of rule 1.8.10 of the Rules of Professional Conduct, or Business and Professions Code section 6106.9.

Eff. January 1, 1986. Revised: January 1, 2001; January 1, 2014; Renumbered & Revised: July 1, 2015. Revised: May 17, 2019.

Cal. Prac. Guide Prof. Resp. Ch. 11-A

California Practice Guide: Professional Responsibility | September 2017 Update

Mark L. Tuft and Ellen R. Peck; Additional Original Co-Authors: Paul W. Vapnek and Justice Howard B. Wiener (Ret.)

Chapter 11. Discipline

A. Grounds for Discipline

5. [11:90] **Commission of Act Involving Moral Turpitude:** “The commission of any act involving *moral turpitude, dishonesty or corruption*, whether the act is committed in the course of his relations as an attorney or otherwise ... constitutes a cause for disbarment or suspension.” [Bus. & Prof.C. § 6106 (emphasis added); see ¶ 11:105]

a. [11:91] **Includes conduct unrelated to law practice:** An attorney may be disciplined for an act involving moral turpitude even if not committed in his or her professional capacity. [Bus. & Prof.C. § 6106—“whether the act is committed in the course of his relation as an attorney or otherwise”; see also *Matter of Fahy* (Rev.Dept. 2009) 5 Cal. State Bar Ct.Rptr. 141, 147-148—disbarment recommended for attorney with prior disciplinary record who committed moral turpitude by lying to court during jury service]

b. [11:92] **No conviction required:** As discussed earlier, an attorney’s conviction of a *crime* involving moral turpitude is cause for discipline under Bus. & Prof.C. § 6101(a) (¶ 11:45 ff.). Commission of an act “involving moral turpitude, dishonesty or corruption” is a separate ground for discipline under § 6106. This is a disciplinable ground *regardless* of whether the act constitutes a crime; and if it is a crime, regardless of whether a conviction is obtained. [See Bus. & Prof.C. § 6106]

(1) [11:93] **Acquittal no bar to discipline:** The fact the attorney was acquitted in a criminal trial does not bar discipline under § 6106, even if the issues in both proceedings are identical. [See *Zitny v. State Bar* (1966) 64 C2d 787, 790, 51 CR 825, 827, fn. 1]

(a) [11:94] **Rationale:** “The reasons for not applying a rule of res judicata are that the parties are different, the quantum of proof required is different and the purposes of the two proceedings are vastly different. A criminal proceeding has for its purpose the punishment of the accused if he is found guilty. A disciplinary proceeding against an attorney is not intended for his punishment, but is for the protection of the public, the courts, and the legal profession.” [*Zitny v. State Bar, supra*, 64 C2d at 790, 51 CR at 827, fn. 1 (internal quotes omitted)]

c. [11:95] **Includes misconduct before admission to practice:** The court’s concern is to *protect the public’s* right to representation by attorneys worthy of trust. Therefore, an attorney may be disciplined for acts involving moral turpitude committed *prior* to admission to the practice of law. [*Stratmore v. State Bar* (1975) 14 C3d

887, 890, 123 CR 101, 102-103]

(1) [11:96] **Rationale:** *Bus. & Prof.C. § 6100* authorizes discipline only for causes “arising after admission to practice.” But it also provides that “(n)othing in this article limits the inherent power of the Supreme Court to discipline ... any attorney.” The power to discipline for preadmission misconduct is within the Supreme Court’s inherent power. [*Stratmore v. State Bar*, *supra*, 14 C3d at 891, 123 CR at 103—attorney suspended for preadmission acts involving moral turpitude (falsified expenses)]

d. [11:97] **Overlap with violation of attorney’s oath and duties (Bus. & Prof.C. § 6103):** Acts involving “moral turpitude, dishonesty or corruption” within the meaning of § 6106 almost inevitably violate the attorney’s oath and duties under § 6103 (§ 11:15 ff.). Therefore, in practice, such offenses have been charged as violations of *both* statutes (and as CRPC violations where appropriate) for the same actions or conduct. [See *Hartford v. State Bar* (1990) 50 C3d 1139, 1153-1154, 270 CR 12, 20-21]

[11:98 - 11:104] *Reserved.*

e. [11:105] **Other (noncriminal) acts involving “moral turpitude”:** “Moral turpitude” involves acts of *dishonesty*, including intentional misrepresentation or concealment of material facts. [*Matter of Jeffers* (Rev.Dept. 1994) 3 Cal. State Bar Ct.Rptr. 211, 220-221; *Matter of Taylor* (Rev.Dept. 1991) 1 Cal. State Bar Ct.Rptr. 563, 576]

[11:106] *Reserved.*

(1) [11:107] **Nature of intent required:** No evil intent is required; nor need it be shown that the attorney was acting in bad faith. All that is required is a *general purpose or willingness* to commit the act or permit the omission. [*McKnight v. State Bar* (1991) 53 C3d 1025, 1034, 281 CR 766, 770]

(a) [11:108] **Includes gross negligence:** “Gross carelessness and negligence constitute violations of the oath of an attorney to faithfully discharge his duties to the best of his knowledge and ability, *and involve moral turpitude* as they breach the fiduciary relationship owed to clients.” [*Giovanazzi v. State Bar* (1980) 28 C3d 465, 475, 169 CR 581, 586 (emphasis added); *Matter of Malek-Yonan* (Rev.Dept. 2003) 4 Cal. State Bar Ct.Rptr. 627, 635—“where an attorney’s fiduciary obligations are involved, particularly trust account duties, a finding of gross negligence will support a charge of violating *section 6106*” (internal quotes omitted); *Matter of Downey* (Rev.Dept. 2009) 5 Cal. State Bar Ct.Rptr. 151, 155—attorney who executed and filed verification that falsely stated his clients were out of county acted with gross negligence where he unreasonably concluded clients were absent based on insufficient facts and analysis]

Moral turpitude also may be found where an attorney’s gross negligence affects the public in general. [See *Vaughn v. State Bar* (1972) 6 C3d 847, 859, 100 CR 713, 720—attorney’s grossly negligent supervision of office staff may affect nonclients and public; *In re Yee* (Rev.Dept. 2014) 5 Cal. State Bar Ct.Rptr. 330, 334—gross negligence in failing to accurately report MCLE compliance undermines public confidence in legal profession]

1) [11:109] **Rationale:** “As far as the client is concerned, the result is the same whether his money is deliberately misappropriated or is unintentionally lost by circumstances beyond the attorney’s control.” [*Murray v. State Bar* (1985) 40 C3d 575, 582, 220 CR 677, 681]

(b) [11:110] **Compare—honest mistake:** However, there is no moral turpitude where the attorney acts

upon beliefs and understandings which, although mistaken and unreasonable, are *sincerely and honestly* held. [*In re Klein* (Rev.Dept. 1994) 3 Cal. State Bar Ct.Rptr. 1, 10-11—no moral turpitude where attorney withheld funds he had been ordered to turn over, because he *honestly believed* the order had been issued in error]

(c) [11:110.1] **Compare—bad faith violation of court order:** Noncompliance with a court order may constitute moral turpitude under Bus. & Prof.C. § 6106 where the attorney acted in bad faith. [See *Maltaman v. State Bar* (1987) 43 C3d 924, 950-951, 239 CR 687, 701-702; *In re Kinney* (Rev.Dept. 2014) 5 Cal. State Bar Ct.Rptr. 360, 366—attorney repeatedly disregarded vexatious litigant prefiling order by using “puppet” plaintiff]

(d) [11:111] **Effect on discipline:** Assessing whether an attorney’s culpability is based on intentional or grossly negligent conduct is important because intentional action is more likely to result in more severe discipline. [*In re Hansen* (Rev.Dept. 2016) 5 Cal. State Bar Ct.Rptr. 464, 472]

For example, an attorney who deliberately misappropriates client funds is much more likely to be disbarred than one whose negligence causes the loss. [*Edwards v. State Bar* (1990) 52 C3d 28, 38, 276 CR 153, 159; see discussion at ¶ 11:1071 ff.]

(2) [11:112] **“Moral turpitude” inferred from pattern of misconduct:** Even where individual acts of misconduct do not involve moral turpitude, *repeated acts may*. For example, habitual disregard for clients’ interests may show a pattern of misconduct constituting moral turpitude. [*Matter of Collins* (Rev.Dept. 1992) 2 Cal. State Bar Ct.Rptr. 1, 14-15; see also *Walker v. State Bar* (1989) 49 C3d 1107, 1117, 264 CR 825, 830—“lawyer’s habitual disregard” of clients’ interests combined with failure to communicate with clients was moral turpitude]

(a) [11:113] **Burden of proof in trust fund cases:** Where there is a large number of violations involving misappropriation of client funds, the burden shifts to the attorney to show that moral turpitude was *not* involved. [*Matter of Collins*, *supra*, 2 Cal. State Bar Ct.Rptr. at 14]

- [11:114] **Comment:** *Collins*, *supra*, involved misuse of client funds. It is unclear whether the burden would shift to the attorney to show moral turpitude was not present in cases not involving misuse of client funds.

[11:115 - 11:119] Reserved.

f. [11:120] **Application:** The following are examples of attorney misconduct held to involve moral turpitude in particular cases:

(1) [11:121] **Misappropriation of client funds or property:** [*Matter of Malek-Yonan* (Rev.Dept. 2003) 4 Cal. State Bar Ct.Rptr. 627, 635—complete failure to supervise nonlawyer staff’s management of client trust account resulted in misappropriation of \$1.7 million from account; *Matter of Priamos* (Rev.Dept. 1998) 3 Cal. State Bar Ct.Rptr. 824, 827-830—using client’s money (without client’s knowledge or consent) to fund attorney’s horse breeding business; *McKnight v. State Bar* (1991) 53 C3d 1025, 1033, 281 CR 766, 770—withholding and withdrawing funds from client’s trust account without authority]

(2) [11:122] **Breach of fiduciary duty:** [*Read v. State Bar* (1991) 53 C3d 394, 413-414, 279 CR 818, 826—failing to account to client for fees and costs charged against trust deed attorney was holding as security; see also *Matter of Casey* (Rev.Dept. 2008) 5 Cal. State Bar Ct.Rptr. 117, 124-125—failing to advise Client 1 she would no longer have any right, title or interest in real property following its sale to Client 2 yet

would remain on trust deed and be responsible to lender for any default in mortgage payments and/or tax liability]

(3) [11:123] **False statements to clients:** [*Read v. State Bar*, supra, 53 C3d at 409, 279 CR at 822—false promise not to record trust deed given as security for fees; *Fitzpatrick v. State Bar* (1977) 20 C3d 73, 87-88, 141 CR 169, 176—false statements concerning status of clients’ lawsuits]

(4) [11:124] **False statements to court:** [*Read v. State Bar*, supra, 53 C3d at 412, 279 CR at 824—falsely telling judge that attorney had been discharged in order to explain her failure to appear; *Matter of Field* (Rev.Dept. 2010) 5 Cal. State Bar Ct.Rptr. 171, 179-180—falsely agreeing to exclusively seek authorization from particular judge for future search warrants; *Matter of Regan* (Rev.Dept. 2005) 4 Cal. State Bar Ct.Rptr. 844, 856—falsely advising appellate court that attorney’s clients did not want appeal dismissed and had fired him]

(5) [11:125] **False pleadings or documents:** [*Drociak v. State Bar* (1991) 52 C3d 1085, 1090, 278 CR 86, 89—use of presigned verification forms in discovery proceedings without first consulting with client to assure that assertions of fact are true; *Matter of Downey* (Rev.Dept. 2009) 5 Cal. State Bar Ct.Rptr. 151, 155—executing and filing verification falsely stating that clients were out of county based on insufficient supporting evidence; *In re Brimberry* (Rev.Dept. 1995) 3 Cal. State Bar Ct.Rptr. 390, 395—signing client’s name without authority and deliberately misrepresenting client’s county of residence]

(6) [11:126] **Encouraging perjury:** [*Read v. State Bar*, supra, 53 C3d at 416, 279 CR at 826-827—attorney encouraged client to perjure herself]

(7) [11:127] **Altering court documents:** [*Lebbos v. State Bar* (1991) 53 C3d 37, 45, 278 CR 845, 849—altering court order attorney disagreed with, including forging signature of commissioner presiding]

(8) [11:128] **Concealing assets from judgment creditor:** [*Lebbos v. State Bar*, supra, 53 C3d at 45, 278 CR at 849—giving knowingly false testimony in examination as judgment debtor]

(9) [11:129] **Issuing bad check:** [*Read v. State Bar*, supra, 53 C3d at 409, 279 CR at 822—writing check with knowledge of insufficient funds in account upon which it is drawn]

(10) [11:130] **Abandoning client:** [*Read v. State Bar*, supra, 53 C3d at 412, 279 CR at 824—withdrawing from case without court’s permission or client’s consent and without taking reasonable steps to avoid foreseeable prejudice to client]

(11) [11:131] **Habitual disregard of clients’ interests:** [*McMorris v. State Bar* (1983) 35 C3d 77, 85, 196 CR 841, 845—“Habitual disregard by an attorney of the interests of his or her clients combined with failure to communicate with such clients constitute acts of moral turpitude justifying disbarment”; *In re Myrdall* (Rev.Dept. 1995) 3 Cal. State Bar Ct.Rptr. 363, 385—“An attorney’s habitual disregard of clients’ interests involves moral turpitude even if such disregard *results only from carelessness or gross negligence*” (emphasis added)]

(12) [11:132] **Illegal fees:** [*Read v. State Bar*, supra, 53 C3d at 421-422, 279 CR at 830—collecting fees for services in probate matter without court approval]

(13) [11:133] **Unearned fees:** [*Hulland v. State Bar* (1972) 8 C3d 440, 449, 105 CR 152, 157—“Taking money for services not performed or not to be performed is close to the crime of obtaining money by false pretenses”]

(14) [11:134] **Oppressive methods of collecting fees:** [*Bluestein v. State Bar* (1974) 13 C3d 162, 170, 118

CR 175, 179—force methods may include withholding client funds or property, threats of criminal proceedings or other actions injurious to client’s interests]

(15) [11:135] **Incurring credit card debt without intending to pay:** [*Matter of Petilla* (Rev.Dept. 2001) 4 Cal. State Bar Ct.Rptr. 231, 244—using cash advances from credit cards without intending to pay, gambling money away and filing bankruptcy to discharge credit card debt]

(16) [11:136] **Communications with unrepresented party involving dishonesty:** [*Matter of Loftus* (Rev.Dept. 2007) 5 Cal. State Bar Ct.Rptr. 80, 84-86—moral turpitude involved where lawyer (i) created false impression by telephoning client’s unrepresented doctor (who allegedly committed malpractice on client) and leading doctor to believe doctor was a witness (not a defendant in client’s future lawsuit), (ii) recorded the telephone conversation without doctor’s consent, and (iii) lied to doctor’s attorney about that recording; *Matter of Dale* (Rev.Dept. 2005) 4 Cal. State Bar Ct.Rptr. 798, 808—lawyer made misleading statements to induce unrepresented party to sign declaration confessing to arson; see Cal. State Bar Form.Opn. 2015-194 (discussed at ¶ 6:269.13)]

(a) [11:136.1] **Compare—deceiving opposing counsel:** [*Coviello v. State Bar* (1955) 45 C2d 57, 66, 286 P2d 357, 361—lawyer inserted client’s name (without authority) in grant deeds for purpose of deceiving opposing counsel; *Monroe v. State Bar* (1961) 55 C2d 145, 152-153, 10 CR 257, 261—lawyer deceived opposing counsel into believing funds were being held in escrow by lawyer’s law firm; see Cal. State Bar Form.Opn. 2015-194]

(17) [11:137] **Disrespect for court:** [*Matter of Field* (Rev.Dept. 2010) 5 Cal. State Bar Ct.Rptr. 171, 179-180—agreeing to exclusively seek authorization from particular judge for future search warrants and then obtaining search warrant from Colorado judge 4 days later without notifying judge]

(18) [11:137.1] **Suppression of evidence:** [*Matter of Field*, supra, 5 Cal. State Bar Ct.Rptr. at 178—intentionally concealing witness statement favorable to defense where prosecutor (i) instructed his investigator to prepare misleading declaration and filing it with court and opposing counsel; (ii) filed status conference statement falsely implying that he did not know witness’ whereabouts; (iii) waited nearly five months to disclose witness’ interview and location and only did so after opposing counsel learned of it and filed prosecutorial misconduct motion; and (iv) sought to take advantage of deception by encouraging court to proceed with habeas corpus hearing without witness]

(19) [11:137.2] **Improper closing argument:** [*Matter of Field*, supra, 5 Cal. State Bar Ct.Rptr. at 184—intentionally arguing in rebuttal closing argument consequences of sexually violent predator finding in violation of California law and court’s in limine order]

(20) [11:137.3] **Harassing conduct:** [*In re Elkins* (Rev.Dept. 2009) 5 Cal. State Bar Ct.Rptr. 160, 166—moral turpitude involved where Lawyer left 53 threatening and abusive voicemail messages over short period to successor administrator of Lawyer’s father’s estate and administrator’s attorney, which were harassing, demeaning and offensive and caused recipients to fear for their personal safety]

(21) [11:137.4] **Settling without client authorization:** [*In re Guzman* (Rev.Dept. 2014) 5 Cal. State Bar Ct.Rptr. 308, 316—“overreaching” retainer agreement gave attorney “complete and unqualified authority to settle” matters without client knowledge or consent]

(22) [11:137.5] **Repeatedly abusing court system:** [*In re Kinney* (Rev.Dept. 2014) 5 Cal. State Bar Ct.Rptr. 360, 366—pursuing “persistent and obsessive campaign of litigation terror” on neighbors for attorney’s own benefit and using “puppet” plaintiff (see ¶ 11:110.1)]

(23) [11:137.6] **Falsely affirming MCLE compliance:** [*In re Yee* (Rev.Dept. 2014) 5 Cal. State Bar Ct.Rptr.

330, 334—affirming “MCLE compliance without making any effort to confirm its accuracy”; *see also* ¶ 11:185]

(24) [11:137.7] **Concealing present inability to practice:** [*In re Tishgart* (Rev.Dept. 2014) 5 Cal. State Bar Ct.Rptr. 338, 343-344—creating false impression of ability to practice when on disciplinary suspension]

(25) [11:137.8] **Falsifying evidence in criminal proceeding:** [*In re Murray* (Rev.Dept. 2016) 5 Cal. State Bar Ct.Rptr. 479, 486-488—prosecutor knowingly altered defendant’s statement to police (implying defendant had sexual intercourse with child) and sent it to defense counsel to influence better plea bargain]

(26) [11:137.9] **Knowing unauthorized practice of law:** [*In re Burke* (Rev.Dept. 2016) 5 Cal. State Bar Ct.Rptr. 448, 458-459—knowing he was suspended, attorney entered into settlement negotiations and appeared for deposition on behalf of client]

[11:138 - 11:139] Reserved.

© 2017 by The Rutter Group, a Thomson Reuters Business. No Claim to Orig. U.S. Govt. Works.

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.