



The State Bar *of California*

Rule 8.1.1 Compliance with Conditions of Discipline and Agreements in Lieu of Discipline

(Rule Approved by the Supreme Court, Effective November 1, 2018)

A lawyer shall comply with the terms and conditions attached to any agreement in lieu of discipline, any public or private reproof, or to other discipline administered by the State Bar pursuant to Business and Professions Code sections 6077 and 6078 and California Rules of Court, rule 9.19.

Comment

Other provisions also require a lawyer to comply with agreements in lieu of discipline and conditions of discipline. (See, e.g., Bus. & Prof. Code, § 6068, subds. (k), (l).)

PROPOSED RULE OF PROFESSIONAL CONDUCT 8.1.1
(Current Rule 1-110)
Compliance with Conditions of Discipline and Agreements in Lieu of Discipline

EXECUTIVE SUMMARY

The Commission for the Revision of the Rules of Professional Conduct (“Commission”) evaluated current rule 1-110 (Disciplinary Authority of the State Bar) in accordance with the Commission Charter. There is no corresponding ABA Model Rule to current rule 1-110. However, there is a comparable rule 10(B) in the ABA Model Rules for Lawyer Disciplinary Enforcement. The result of the Commission’s evaluation is proposed rule 8.1.1 (Compliance with Conditions of Discipline and Agreements in Lieu of Discipline).

Rule As Issued For 90-day Public Comment

Current rule 1-110 states: “A member shall comply with conditions attached to public or private reprovals or other discipline administered by the State Bar pursuant to Business and Professions Code sections 6077 and 6078 and rule 9.19 California Rules of Court.” Rule 10(B) of the ABA Model Rules for Lawyer Disciplinary Enforcement provides that “[w]ritten conditions may be attached to an admonition or a reprimand. Failure to comply with such conditions shall be grounds for reconsideration of the matter and prosecution of formal charges against the respondent.”

The Commission is recommending two clarifying revisions to the current rule. First, the Commission is recommending the addition of a reference to “an agreement in lieu of discipline.” An agreement in lieu of discipline is a disposition of a disciplinary matter that might include “conditions” with which a lawyer should be required to comply. Second, the Commission is recommending substituting the phrase “the terms and conditions” for “conditions” as the former is a more inclusive reference than the later. The Commission believes that both changes further the function of the rule as a charging vehicle that helps assure that lawyers can be held accountable if terms or conditions of a disciplinary disposition are violated.

The single comment recommended in proposed rule 8.1.1, recognizes that there are other provisions which also require a lawyer to comply with conditions of discipline. See e.g., Business and Professions Code § 6068 subdivisions (k) and (l).

Post-Public Comment Revisions

After consideration of comments received in response to the initial 90-day public comment period, the Commission made no changes to the proposed rule and voted to recommend that the Board adopt the proposed rule.

The Board adopted proposed rule 8.1.1 at its November 17, 2016 meeting.

Supreme Court Action (May 10, 2018)

The Supreme Court approved the rule as modified by the Court. In the Comment, citation style was revised to conform to the California Style Manual.

~~Rule 1-110 Disciplinary Authority of the State Bar~~

Rule 8.1.1 Compliance with Conditions of Discipline and Agreements in Lieu of Discipline

(Redline Comparison to the California Rule Operative Until October 31, 2018)

A ~~member~~lawyer shall comply with the terms and conditions attached to any agreement in lieu of discipline, any public or private ~~reprovals or~~reproval, or to other discipline administered by the State Bar pursuant to Business and Professions Code sections 6077 and 6078 and ~~rule 9.19,~~ California Rules of Court, rule 9.19.

Comment

Other provisions also require a lawyer to comply with agreements in lieu of discipline and conditions of discipline. (See, e.g., Bus. & Prof. Code, § 6068, subds. (k), (l).)