

California State Bar Proposes Rule Requiring Lawyers to Report Ethical Violations



In a move aimed at enhancing lawyer oversight and addressing concerns of professional misconduct, the State Bar of California's board of trustees has voted in favor of a new ethics rule that would require lawyers to report fraudulent activities, misappropriation of funds, and other criminal acts committed by their fellow attorneys. Referred to as the "snitch rule" by critics, the proposed change marks a significant shift in the state's legal landscape. The rule, if adopted, would bring California in line with every other state that already mandates lawyers to report ethical violations.

The board's recommendation for the new rule will now be forwarded to the California Supreme Court, which has the final authority to decide whether to implement it. The State Bar's proactive approach in implementing such measures stems from the aftermath of the highly publicized Tom Girardi scandal. Girardi, the founder of Girardi Keese, a now-defunct law firm, faced a staggering 205 attorney ethics complaints over the course of his career, with more than half of them accusing him of misusing client funds, according to a state bar investigation. Despite the numerous complaints, Girardi retained his license to practice until June of last year when federal prosecutors charged him with embezzling over \$18 million from his firm's clients. Girardi has pleaded not guilty, with his defense team citing Alzheimer's disease as a factor impacting his competency to stand trial.

The proposed rule has drawn mixed reactions from the legal community and beyond. With California housing the largest number of lawyers in the United States, it is unsurprising that nearly 200 attorneys voiced their opposition to the rule through submitted comments. Critics argue that the mandatory reporting requirement could inundate the state bar's disciplinary system with an overwhelming number of complaints, potentially straining its capacity. Furthermore, concerns have been raised about the potential negative impact on the lawyer-client relationship.

Conversely, comments submitted by non-attorneys overwhelmingly support the proposed change, asserting that it would act as a deterrent against misconduct and that fellow lawyers are better positioned to identify potential ethical breaches. Supporters argue that holding attorneys accountable through mandatory reporting would help maintain public trust in the legal profession.

Don't settle for less. Search BCG Attorney Search for the highest-paying legal jobs in your area.

During the board's deliberations, two versions of the rule were considered, with one version featuring a broader definition of lawyer misconduct that would need to be reported. However, due to a lack of consensus among the trustees, both versions will be submitted to the California Supreme Court for the justices to make the final determination.

Should the rule be implemented, attorneys found to be in violation could face a range of disciplinary actions, from private reproof to a suspension lasting up to three years. To ensure fairness and accuracy, the potential rule stipulates that lawyers must possess actual knowledge and credible evidence of the misconduct they report. Exceptions are provided for instances where the information is obtained through substance use or mental health programs or when the information is protected by confidentiality or privilege.

The State Bar's proposal is not the only response to the need for attorney misconduct reporting. In December, State Senator Tom Umberg introduced a bill seeking to establish a similar reporting requirement for lawyer misconduct, highlighting the growing pressure from state lawmakers to address this issue.

As the legal community awaits the decision of the California Supreme Court, the outcome of this proposed rule has far-reaching implications. It has the potential to significantly impact the accountability of lawyers, enhance public confidence in the legal profession, and shape the future of attorney oversight in California.