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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 6. Disciplinary Authority of the Courts [6100 - 6117] (*Article 6 added by Stats. 1939, Ch. 34.*)

6100. For any of the causes provided in this article, arising after an attorney's admission to practice, he or she may be disbarred or suspended by the Supreme Court. Nothing in this article limits the inherent power of the Supreme Court to discipline, including to summarily disbar, any attorney.

(*Amended by Stats. 1985, Ch. 453, Sec. 14.*)

6101. (a) Conviction of a felony or misdemeanor, involving moral turpitude, constitutes a cause for disbarment or suspension.

In any proceeding, whether under this article or otherwise, to disbar or suspend an attorney on account of that conviction, the record of conviction shall be conclusive evidence of guilt of the crime of which they have been convicted.

(b) The district attorney, city attorney, or other prosecuting agency shall notify the State Bar of California's Office of Chief Trial Counsel of the pendency of an action against an attorney charging a felony or misdemeanor immediately upon obtaining information that the defendant is an attorney. The notice shall identify the attorney and describe the crimes charged and the alleged facts. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is an attorney, and the clerk shall record prominently in the file that the defendant is an attorney.

(c) The clerk of the court in which an attorney is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the Office of Chief Trial Counsel. Within 30 days of receipt, the Office of the Chief Trial Counsel shall transmit the record of any conviction which involves or may involve moral turpitude to the Supreme Court with such other records and information as may be appropriate to establish the Supreme Court's jurisdiction. The Office of Chief Trial Counsel may procure and transmit the record of conviction to the Supreme Court when the clerk has not done so or when the conviction was had in a court other than a court of this state.

(d) The proceedings to disbar or suspend an attorney on account of such a conviction shall be undertaken by the Supreme Court pursuant to the procedure provided in this section and Section 6102, upon the receipt of the certified copy of the record of conviction.

(e) A plea or verdict of guilty, an acceptance of a nolo contendere plea, or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of those sections.

(*Amended by Stats. 2019, Ch. 698, Sec. 10. (SB 176) Effective January 1, 2020.*)

6102. (a) Upon the receipt of the certified copy of the record of conviction, if it appears therefrom that the crime of which the attorney was convicted involved, or that there is probable cause to believe that it involved, moral turpitude or is a felony under the laws of California, the United States, or any state or territory thereof, the Supreme Court shall suspend the attorney until the time for appeal has elapsed, if no appeal has been taken, or until the judgment of conviction has been affirmed on appeal, or has otherwise become final, and until the further order of the court. Upon its own motion or upon good cause shown, the court may decline to impose, or may set aside, the suspension when it appears to be in the interest of justice to do so, with due regard being given to maintaining the integrity of, and confidence in, the profession.

(b) For the purposes of this section, a crime is a felony under the law of California if it is declared to be so specifically or by subdivision (a) of Section 17 of the Penal Code, unless it is charged as a misdemeanor pursuant to paragraph (4) or (5) of subdivision (b) of Section 17 of the Penal Code, irrespective of whether in a particular case the crime may be considered a misdemeanor as a result of postconviction proceedings, including proceedings resulting in punishment or probation set forth in paragraph (1) or (3) of subdivision (b) of Section 17 of the Penal Code.

(c) After the judgment of conviction of an offense specified in subdivision (a) has become final or, irrespective of any subsequent order under Section 1203.4 of the Penal Code or similar statutory provision, an order granting probation has been made suspending the imposition of sentence, the Supreme Court shall summarily disbar the attorney if the offense is a felony under the laws of California, the United States, or any state or territory thereof, and either: (1) an element of the offense is the specific intent to deceive, defraud, steal, or make or suborn a false statement, or involved moral turpitude, or (2) the facts and circumstances of the offense involved moral turpitude.

(d) For purposes of this section, a conviction under the laws of another state or territory of the United States shall be deemed a felony if both of the following apply:

(1) The judgment or conviction was entered as a felony irrespective of any subsequent order suspending sentence or granting probation and irrespective of whether the crime may be considered a misdemeanor as a result of postconviction proceedings.

(2) The elements of the offense for which the licensee was convicted would constitute a felony under the laws of the State of California at the time the offense was committed.

(e) Except as provided in subdivision (c), if after adequate notice and opportunity to be heard (which hearing shall not be had until the judgment of conviction has become final or, irrespective of any subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence), the court finds that the crime of which the attorney was convicted, or the circumstances of its commission, involved moral turpitude, it shall enter an order disbarring the attorney or suspending them from practice for a limited time, according to the gravity of the crime and the circumstances of the case; otherwise it shall determine if the facts and circumstances surrounding the conviction involve other misconduct warranting discipline, and if so, impose the appropriate discipline. In determining the extent of the discipline to be imposed in a proceeding pursuant to this article, any prior discipline imposed upon the attorney may be considered.

(f) The court may refer the proceedings or any part thereof or issue therein, including the nature or extent of discipline, to the State Bar for hearing, report, and recommendation.

(g) The record of the proceedings resulting in the conviction, including a transcript of the testimony therein, may be received in evidence.

(h) The Supreme Court shall prescribe rules for the practice and procedure in proceedings conducted pursuant to this section and Section 6101.

(i) The other provisions of this article providing a procedure for the disbarment or suspension of an attorney do not apply to proceedings pursuant to this section and Section 6101, unless expressly made applicable.

(Amended by Stats. 2023, Ch. 697, Sec. 21. (SB 40) Effective January 1, 2024.)

6103. A wilful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney, constitute causes for disbarment or suspension.

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

6103.5. (a) A licensee of the State Bar shall promptly communicate to the licensee's client all amounts, terms, and conditions of any written offer of settlement made by or on behalf of an opposing party. As used in this section, "client" includes any person employing the licensee of the State Bar who possesses the authority to accept an offer of settlement, or in a class action, who is a representative of the class.

(b) Any written offer of settlement or any required communication of a settlement offer, as described in subdivision (a), shall be discoverable by either party in any action in which the existence or communication of the offer of settlement is an issue before the trier of fact.

(Amended by Stats. 2018, Ch. 659, Sec. 87. (AB 3249) Effective January 1, 2019.)

6103.6. Violation of Section 15687 of the Probate Code, or of Part 3.5 (commencing with Section 21350) or Part 3.7 (commencing with Section 21360) of Division 11 of the Probate Code, shall be grounds for discipline, if the attorney knew or should have known of the facts leading to the violation. This section shall only apply to violations that occur on or after January 1, 1994.

(Amended by Stats. 2010, Ch. 620, Sec. 1. (SB 105) Effective January 1, 2011.)

6103.7. It is cause for suspension, disbarment, or other discipline for any licensee of the State Bar to report suspected immigration status or threaten to report suspected immigration status of a witness or party to a civil or administrative action or his or her family member to a federal, state, or local agency because the witness or party exercises or has exercised a right related to his or her employment or hiring of residential real property, broadly interpreted. As used in this section, "family member" means a spouse,

parent, sibling, child, uncle, aunt, niece, nephew, cousin, grandparent, or grandchild related by blood, adoption, marriage, or domestic partnership.

(Amended by Stats. 2018, Ch. 659, Sec. 88. (AB 3249) Effective January 1, 2019.)

6104. Corruptly or wilfully and without authority appearing as attorney for a party to an action or proceeding constitutes a cause for disbarment or suspension.

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

6105. Lending his name to be used as attorney by another person who is not an attorney constitutes a cause for disbarment or suspension.

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

6106. 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, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension.

If the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding is not a condition precedent to disbarment or suspension from practice therefor.

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

6106.1. Advocating the overthrow of the Government of the United States or of this State by force, violence, or other unconstitutional means, constitutes a cause for disbarment or suspension.

(Added by Stats. 1951, Ch. 179.)

6106.2. (a) It shall constitute cause for the imposition of discipline of an attorney within the meaning of this chapter for an attorney to engage in any conduct in violation of Section 55.3, subdivision (b) or (c) of Section 55.31, or paragraph (2) of subdivision (a) or subdivision (b) of Section 55.32 of the Civil Code.

(b) This section shall become operative on January 1, 2016.

(Repealed (in Sec. 1) and added by Stats. 2012, Ch. 383, Sec. 2. (SB 1186) Effective September 19, 2012. Section operative January 1, 2016, by its own provisions.)

6106.3. (a) It shall constitute cause for the imposition of discipline of an attorney within the meaning of this chapter for an attorney to engage in any conduct in violation of Section 2944.6 of the Civil Code.

(b) This section shall become operative on January 1, 2017.

(Amended (as added by Stats. 2009, Ch. 630, Sec. 2) by Stats. 2012, Ch. 563, Sec. 2. (SB 980) Effective January 1, 2013. Section operative January 1, 2017, by its own provisions.)

6106.5. It shall constitute cause for disbarment or suspension for an attorney to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 550 of the Penal Code.

(Amended by Stats. 2000, Ch. 867, Sec. 10. Effective January 1, 2001.)

6106.6. The State Bar shall investigate any licensee against whom an information or indictment has been filed that alleges a violation of Section 550 of the Penal Code or Section 1871.4 of the Insurance Code, if the district attorney does not otherwise object to initiating an investigation.

(Added by Stats. 2000, Ch. 867, Sec. 11. Effective January 1, 2001.)

6106.7. It shall constitute cause for the imposition of discipline of an attorney within the meaning of this chapter for an attorney to violate any provision of the Miller-Ayala Athlete Agents Act (Chapter 2.5 (commencing with Section 18895) of Division 8), or to violate any provision of Chapter 1 (commencing with Section 1500) of Part 6 of Division 2 of the Labor Code, prior to January 1, 1997, or to violate any provision of the law of any other state regulating athlete agents.

(Amended by Stats. 1996, Ch. 858, Sec. 1. Effective January 1, 1997.)

6106.8. (a) The Legislature hereby finds and declares that there is no rule that governs propriety of sexual relationships between lawyers and clients. The Legislature further finds and declares that it is difficult to separate sound judgment from emotion or bias which may result from sexual involvement between a lawyer and his or her client during the period that an attorney-client relationship

exists, and that emotional detachment is essential to the lawyer's ability to render competent legal services. Therefore, in order to ensure that a lawyer acts in the best interest of his or her client, a rule of professional conduct governing sexual relations between attorneys and their clients shall be adopted.

(b) With the approval of the Supreme Court, the State Bar shall adopt a rule of professional conduct governing sexual relations between attorneys and their clients in cases involving, but not limited to, probate matters and domestic relations, including dissolution proceedings, child custody cases, and settlement proceedings.

(c) The State Bar shall submit the proposed rule to the Supreme Court for approval no later than January 1, 1991.

(d) Intentional violation of this rule shall constitute a cause for suspension or disbarment.

(Added by Stats. 1989, Ch. 1008, Sec. 1.)

6106.9. (a) It shall constitute cause for the imposition of discipline of an attorney within the meaning of this chapter for an attorney to do any of the following:

(1) Expressly or impliedly condition the performance of legal services for a current or prospective client upon the client's willingness to engage in sexual relations with the attorney.

(2) Employ coercion, intimidation, or undue influence in entering into sexual relations with a client.

(3) Continue representation of a client with whom the attorney has sexual relations if the sexual relations cause the attorney to perform legal services incompetently in violation of Rule 3-110 of the Rules of Professional Conduct of the State Bar of California, or if the sexual relations would, or would be likely to, damage or prejudice the client's case.

(b) Subdivision (a) shall not apply to sexual relations between attorneys and their spouses or persons in an equivalent domestic relationship or to ongoing consensual sexual relationships that predate the initiation of the attorney-client relationship.

(c) Where an attorney in a firm has sexual relations with a client but does not participate in the representation of that client, the attorneys in the firm shall not be subject to discipline under this section solely because of the occurrence of those sexual relations.

(d) For the purposes of this section, "sexual relations" means sexual intercourse or the touching of an intimate part of another person for the purpose of sexual arousal, gratification, or abuse.

(e) Any complaint made to the State Bar alleging a violation of subdivision (a) shall be verified under oath by the person making the complaint.

(Added by Stats. 1992, Ch. 740, Sec. 1. Effective January 1, 1993.)

6107. The proceedings to disbar or suspend an attorney, on grounds other than the conviction of a felony or misdemeanor, involving moral turpitude, may be taken by the court for the matters within its knowledge, or may be taken upon the information of another.

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

6108. If the proceedings are upon the information of another, the accusation shall be in writing and shall state the matters charged, and be verified by the oath of some person, to the effect that the charges therein contained are true.

The verification may be made upon information and belief when the accusation is presented by an organized bar association.

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

6109. Upon receiving the accusation, the court shall make an order requiring the accused to appear and answer it at a specified time, and shall cause a copy of the order and of the accusation to be served upon the accused at least five days before the day appointed in the order.

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

6110. The court or judge may direct the service of a citation to the accused, requiring him to appear and answer the accusation, to be made by publication for thirty days in a newspaper of general circulation published in the county in which the proceeding is pending, if it appears by affidavit to the satisfaction of the court or judge that the accused either:

(a) Resides out of the State.

(b) Has departed from the State.

(c) Can not, after due diligence, be found within the State.

(d) Conceals himself to avoid the service of the order to show cause.

The citation shall be:

(a) Directed to the accused.

(b) Recite the date of the filing of the accusation, the name of the accuser, and the general nature of the charges against him.

(c) Require him to appear and answer the accusation at a specified time.

On proof of the publication of the citation as herein required, the court has jurisdiction to proceed to hear the accusation and render judgment with like effect as if an order to show cause and a copy of the accusation had been personally served on the accused.

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

6111. The accused shall appear at the time appointed in the order, and answer the accusation, unless, for sufficient cause, the court assigns another day for that purpose. If he does not appear, the court may proceed and determine the accusation in his absence.

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

6112. The accused may answer to the accusation either by objecting to its sufficiency or by denying it.

If he objects to the sufficiency of the accusation, the objection shall be in writing, but need not be in any specific form. It is sufficient if it presents intelligibly the grounds of the objection.

If he denies the accusation, the denial may be oral and without oath, and shall be entered upon the minutes.

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

6113. If an objection to the sufficiency of the accusation is not sustained, the accused shall answer within the time designated by the court.

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

6114. If the accused pleads guilty, or refuses to answer the accusation, the court shall proceed to judgment of disbarment or suspension.

If he denies the matters charged, the court shall, at such time as it may appoint, proceed to try the accusation.

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

6115. The court may, in its discretion, order a reference to a committee to take depositions in the matter.

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

6116. When an attorney has been found guilty of the charges made in proceedings not based upon a record of conviction, judgment shall be rendered disbaring the attorney or suspending him from practice for a limited time, according to the gravity of the offense charged.

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

6117. During such disbarment or suspension, the attorney shall be precluded from practicing law.

When disbarred, his name shall be stricken from the roll of attorneys.

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