



# Crisis at the Bar

## An Examination of the Legal Code of Ethics

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**GOT ETHICS?**  
My thesis argues that the American Bar Association (ABA) Code of Ethics serves as a favorable cover for the suspicious behavior that attorneys partake in, resulting in intense public scrutiny of the legal profession.



### Abstract

Lawyers have been subjected to intense public criticism for acts that they routinely (but often secretly) practiced for years. In the legal profession, lawyers have practiced their craft with a well-developed set of publicly declared "ethical" principles, but have been marked for public contempt. Attorney's claim to be following their ethical code and parade their American Bar Association (ABA) Model Code of Professional Conduct code of ethics as the standard, if not the guarantor, of their public virtue. Specifically, the ABA Canons of Professional Ethics are general, and often unclear, declarations of the various duties of lawyers. By way of illustration, the ABA Canon's Preamble has indicated the early drafters' decision to assemble a non-exhaustive set of ethical rules dealing with some, but not all, circumstances lawyers would face. The ABA has rebutted public scrutiny by arguing that most of the criticism at hand stems from bad personal experience with attorneys and that the citizenry has failed to make a distinction between individuals who have been ill-treated by unethical attorneys and/or those who have experienced elements of the legal system that did not produce justice. My thesis will discuss the following: the debate as to whether the ABA Canons of Professional Ethics facilitate unethical behavior, the history of ethics role development, weaknesses in ethics of the legal field, solutions to address a lack of enforcement mechanisms to protect consumers, examining attorney stereotypes, and practicing law ethically. An interview with a current member of the ABA is also included in the appendix of the paper. In all, this paper argues that the code of ethics serves as a convenient cover for the suspicious behavior that attorneys partake in, resulting in intense public scrutiny of the legal profession.



### Weaknesses in Ethics of the Legal Field

Attorneys themselves oversee and self-regulate discipline entities which create obstacles for disbarment

Attorneys are not mandated to take specialist examinations and are allowed to handle cases in many different areas of law.

Reluctance of lawyers to expose the abuses of which they know that certain members of the bar are guilty

### The ABA Rebuttal to Public Scrutiny

ABA argues that most of the criticism stems from bad personal experience with attorneys specifically when people fail to make a distinction between individuals who have been ill-treated by unethical attorneys and/or those who have experienced elements of the legal system that did not produce justice.

Many misconceived notions against those in the legal profession arise from the lack of understanding of the legal field and will not be solved until most Americans take the educational approach and have a strong foundational understanding of the legal system.

got ethics?

### Do the ABA Canons of Professional Ethics Encourage Unethical Behavior?

The ABA Canons described as "vaporous platitudes which have somewhat less usefulness as guides to lawyers in the predicaments of the real world than do valentine cards as guides to heart surgeons in the operating room."

Complying with the rules is usually a necessary, but never sufficient, part of being an ethical lawyer

### Enforcing the Code of Ethics Mechanism

ABA Model Rules of Professional Conduct

Enforcement of the code of ethics through state disciplinary procedure.

Court proceedings that depend on ethics rules for enforcing clients' rights against lawyers in motions to disqualify or professional malpractice actions.

Ethics Opinions



### The History of Ethics Role Development

#### History of the Bar in the United States

Around 1875, the leaders of the bar, aware of the dishonorable condition into which their profession was falling into, saw the necessity of taking a stance to counter the rising commercialism and increasing influence of those who would turn the profession from a "branch of the administration of justice" into a "mere money getting trade." This began the movement for the reestablishment of the standards of character, education, and training, and also for the organization of bar associations all over the country.

#### The History of the ABA

As state and local bar associations became more prevalent, lawyers saw the need for a national association. One hundred lawyers from twenty-one states formed the ABA in 1878.

### Solutions to Address a Lack of Enforcement Mechanisms to Protect Consumers

- ABA Model Code of Professional Responsibility
- ABA Special Committee on Evaluation of Disciplinary Enforcement
- Ethics Opinions
- Continuing Professional Development (CPD) Plan
- ABA Re-evaluates Model Rules
- Revival of Legal Ethics Courses in Law School