



# CALIFORNIA STATE AUDITOR

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## FACT SHEET

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Report: 2011-030

The California State Auditor released the following report today:

### State Bar of California

*Its Lawyer Assistance Program Lacks Adequate Controls for Reporting on Participating Attorneys*

#### BACKGROUND

Created to protect the public and assist California's 232,000 attorneys in meeting their professional obligations, the State Bar of California (State Bar) admits new members, investigates and resolves complaints against members, disciplines attorneys who violate laws or rules, and performs various administrative and support duties. To pay for most of its operations, the State Bar collects an annual membership fee from each of its members—every person admitted and licensed to practice law in California must belong to the State Bar by law. To help attorneys impaired by substance abuse or mental health disorders, the State Bar administers the Lawyer Assistance Program (assistance program). Although the assistance program provides short-term counseling services, its main focus is a structured three-year recovery program, which has two versions—a support version that does not provide monitoring or verification of participation and a monitored version that provides long-term structure and can include providing compliance reports to disciplinary bodies.

#### KEY FINDINGS

During our review of the State Bar's assistance program, we noted the following:

- It does not ensure that its case managers are appropriately reporting the progress of attorneys who take part in the monitored version of the assistance program. Our review of 25 participants' cases disclosed that:
  - ✓ The case managers failed to send immediate reports for six of the 34 instances of missed lab tests to disciplinary bodies—one case manager failed to report two lab tests missed over two months.
  - ✓ For the 106 instances in which case managers did report noncompliance, they did not report within the required five-day time period for 10 of those instances—case managers sent the reports two to 52 days after the five-day window.
- It has issued only limited guidance to help case managers determine when to notify the evaluation committee so that it might require additional participant actions and has no formal process for monitoring case managers' adherence to policies and procedures.
  - ✓ Nine of the 25 participants we reviewed each had 10 or more instances of noncompliance, yet the case managers did not always bring these issues to the attention of the evaluation committee.
  - ✓ One participant failed to comply with his participation plan 20 times during the first three years in the program, yet the case manager did not bring it to the evaluation committee's attention until almost the end of the fourth year when the attorney had failed to comply 16 additional times.
- It has not established a meaningful mechanism to measure success and thus cannot determine if it is meeting its goals.

#### KEY RECOMMENDATIONS

We recommend that the assistance program ensure that case managers promptly submit to the appropriate entity the required reports. Further, we advise the assistance program to finish implementing its case review process to make certain that case managers treat consistently noncompliance issues that do not require immediate reporting. Further, we recommend other steps to better gauge the assistance program's effectiveness, such as measuring how long participants remain in the program and future actions that disciplinary bodies impose on those attorneys.

