

**Proposal 02-06
(P.R. 0103)**

Offered by the Illinois State Bar Association and the Chicago Bar Association

PROPOSED MINIMUM CONTINUING LEGAL EDUCATION RULES

I. SCOPE AND EXEMPTIONS.

These Minimum Continuing Legal Education Rules (“Rules”) shall apply to every attorney admitted to practice law in the State of Illinois, except for the following persons, who shall be exempt from the Rules’ requirements:

- (A) All attorneys on inactive status as defined by Supreme Court Rule 756;
- (B) All attorneys serving as judges, associate judges, or magistrates of any federal or state court;
- (C) All attorneys licensed to practice law in Illinois who are on active duty in the Armed Forces of the United States, until their release from active military service and their return to the active practice of law;
- (D) An attorney otherwise subject to this rule who is also a member of the bar of another state which has a minimum continuing education requirement, is regularly engaged in the practice of law in that state, and who has appropriate proof that the attorney is in full compliance with the continuing legal education requirements established by court rule or legislation in that state; and
- (E) In rare cases, upon a clear showing of good cause, the Board may grant a temporary exemption to an attorney from the Minimum Continuing Legal Education (“MCLE”) requirements, or an extension of time in which to satisfy them. Good cause for an exemption or extension may exist in the event of illness, financial hardship, or other extraordinary or extenuating circumstances beyond the control of the attorney.

II. THE MINIMUM CONTINUING LEGAL EDUCATION BOARD.

(A) Creation of Minimum Continuing Legal Education Board.

The administration of the program for MCLE shall be under the supervision of the Minimum Continuing Legal Education Board (“Board”).

(B) Selection of Members; Qualifications; Terms.

- (1) The Board shall consist of nine members, appointed by the Supreme Court (“Court”). At least one member shall be a non-attorney; at least one member shall be a circuit court judge.
The appointments may be made from applications
- (2) submitted by individuals seeking the appointments.
- (3) To be eligible for service on the Board, an attorney candidate must have actively practiced law in Illinois for a minimum of ten years.
- (4) Three members, including the Chairperson, shall initially be appointed to a three-year term. Three members shall be appointed to an initial two-year term, and three members shall be appointed to an initial one-year term. Thereafter, all members shall be appointed or re-appointed to three-year terms.
- (5) Board members shall be limited to serving two consecutive terms.
- (6) No individual may be appointed to the Board who stands to gain financially, directly or indirectly, from accreditation or other decisions made by the Board.
- (7) The Court may remove any member for cause.
- (8) Should a vacancy occur, the Court shall appoint a replacement to serve for the unexpired term of the member.
- (9) Board members shall serve without compensation, but shall be reimbursed for reasonable and necessary expenses incurred in performing their official duties, including reasonable travel costs to and from Board meetings.
- (10) The Chairperson shall be appointed by the Court. Other officers shall be elected by the members of the Board at the first meeting of each year.

(C) Powers and Duties.

The Board shall have the following powers and duties:

- (1) To recommend to the Court rules and regulations for MCLE not inconsistent with the rules of the Court and these Rules, to implement MCLE rules and regulations adopted by the Court, and to adopt forms necessary to insure attorneys' compliance with the Rules and regulations.
- (2) To meet at least twice a year, or more frequently as needed, either in person, by conference telephone communications, or by electronic means. Five members of the Board shall constitute a quorum for the transaction of business. A majority of the quorum present shall be required for any official action taken by the Board.
- (3) To accredit commercial and non-commercial continuing legal education ("CLE") courses and activities, and to determine the number of hours to be awarded for attending such courses or participating in such activities.
- (4) To submit an annual report to the Court evaluating the effectiveness of the MCLE Rules, the quality of the CLE courses, the Board's recommendations, if any, for changes in the Rules or their implementation, a financial report for the previous fiscal year, and its recommendations for the new fiscal year.
- (5) To coordinate its administrative responsibilities with the Attorney Registration and Disciplinary Commission ("ARDC").
- (6) To take all action reasonably necessary to enforce these rules and the decisions of the MCLE Director, staff and Board.

(D) Administration.

The Board shall appoint a Director of MCLE ("Director") and sufficient staff to administer the program, and delegate to the Director and staff authority to conduct the business of the Board within the scope of this Rule, subject to review by the Board. The Director and staff shall be authorized to acquire or rent physical space, and computer hardware and software systems to be used in administering the MCLE program.

(E) Funding.

The MCLE program shall initially be funded in a manner to be determined by the Court. Thereafter, funding shall be derived solely from the fees charged to CLE providers and from late fees and reinstatement fees assessed to individual attorneys.

BASIC SKILLS COURSE REQUIREMENT.

III.

- (A) Except as specified in subsection (F), every newly admitted Illinois attorney must complete a Basic Skills Course, totaling at least 15 actual hours of instruction.
- (B) The course must be completed after admission to practice and within one year following the newly admitted attorney's admission to practice in Illinois.
- (C) The course shall cover such topics as the jurisdiction of local courts, local court rules, filing requirements for various government agencies, how to draft pleadings and other documents, title searching, practice techniques and procedures under the Illinois Rules of Professional Conduct, client communications, use of trust accounts, required record keeping, and other rudimentary elements of practice.
- (D) During this period, the newly admitted lawyer shall be exempt from the other MCLE requirements.
- (E) The newly admitted attorney's initial two-year reporting period shall commence on the first January 1st or July 1st, as determined in accordance with section IV(B), below, following the one-year anniversary of the date on which the attorney was admitted to practice in Illinois.
- (F) The Basic Skills Course requirement does not apply to attorneys who are admitted in Illinois after practicing law in other states for a period of one year or more.
- (G) The Basic Skills course shall be offered by the Illinois Institute for Continuing Legal Education or other CLE providers specified by the Board after its approval of the provider's planned curriculum. Courses shall be offered throughout the state and at reasonable cost.

IV. CONTINUING LEGAL EDUCATION REQUIREMENT.

(A) Hours Required.

Every Illinois attorney subject to these Rules shall be required to complete 20 hours of CLE activity during the initial two-year reporting period following adoption of these rules, 24 hours of CLE activity during the next two-year reporting period, and 30 hours of CLE activity during the next two-year reporting period and thereafter.

(B) Reporting Period.

An attorney's two-year reporting period shall begin on January 1st for lawyers whose last names begin with the letters A through M, and on July 1st for lawyers whose last names begin with the letters N through Z.

(C) Carryover of Hours.

All CLE activity hours may be earned in one year or split in any manner between the two-year reporting period. If an attorney earns more than the required CLE hours in a two-year reporting period, the attorney may carry over a maximum of five hours earned during that period to the next reporting period, except for professional responsibility or legal ethics credits referred to in section IV(D), below.

(D) Professional Responsibility Requirement.

A minimum of four of the total hours required for any two-year period must be in the area of professional responsibility, law office management or legal ethics. Such credit may be obtained either by:

- (1) taking a separate course or courses specifically devoted to professional responsibility, law office management or legal ethics;
- (2) engaging in activity approved by the Board as professional responsibility, law office management or legal ethics activity;
- (3) taking substantive law or practice courses a portion of which the Board approves for professional responsibility, law office management or legal ethics credit; or

- (4) engaging in activity a portion of which the Board approves for professional responsibility, law office management or legal ethics credit.

V. STANDARDS FOR ACCREDITATION AND HOURS AWARDED.

(A) Standards for Approval of Continuing Legal Education Credit.

The following standards shall govern the Board's approval of CLE courses and activities:

- (1) The course or activity must have significant intellectual, educational or practical content, and its primary objective must be to increase each participant's professional competence as an attorney.
- (2) The course or activity must deal primarily with matters related to the practice of law, professional responsibility, law office management or ethical obligations of attorneys.
- (3) The course or activity must be offered by a sponsor having substantial, recent experience in offering CLE or demonstrated ability to organize and effectively present CLE. Demonstrated ability arises partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction and supervision of the activity.
- (4) The course or activity itself must be conducted by an individual or group qualified by practical or academic experience. The program, including the named advertised participants, must be conducted substantially as planned, subject to emergency withdrawals and alterations.
- (5) Thorough, high quality, readable and carefully prepared written materials should be made available to all participants at or before the time the course is presented, unless the absence of such materials is recognized as reasonable and approved by the Board.
- (6) Traditional CLE courses or activities shall be conducted in a physical setting conducive to learning, which ordinarily should not be at the lawyer's office or home. The course or activity may be presented through remote or satellite television transmission, by presentation of videotape,

motion pictures, audio tape or over a computer network, so long as the Board approves the content and the provider, and finds that the method in question has interactivity as a key component. Such interactivity may be shown, for example, by the opportunity for the viewers or listeners to ask questions of the course faculty, in person, via telephone, or on-line; or through the availability of a qualified commentator to answer questions directly, electronically, or in writing; or through computer links to relevant cases, statutes, law review articles, or other sources.

- (7) As a minimum, the course or activity must consist of not less than one-half hour of actual instruction, unless the Board determines that a specific program of less than one-half hour warrants accreditation.
- (8) A list of all participants for each course or activity shall be sent by the sponsor to the Board in a form specified by the Board within 30 days following such activity, and such list shall be maintained by the sponsor for a period of at least three years.
- (9) The Board may require, on good cause shown, a sponsor to set aside without cost, or at reduced cost, a reasonable number of places in the course for those attorneys determined by the Board to have good cause.

**(B) Accredited Continuing Legal Education Provider Status:
Presumptive Approval of All Courses and Activities.**

The Board may extend presumptive approval to a sponsoring agency for all of the CLE courses or activities presented by that sponsor each year that conform to Standards (1) through (9) in section V(A), above, upon the written application of sponsors to be “Accredited Continuing Legal Education Providers.” Such accreditation shall constitute prior approval of all CLE courses offered by such providers. However, the Board may withhold accreditation or limit hours for any course found not to meet the standards, and may revoke accreditation for any organization which is found not to comply with standards. The Board shall assess an annual fee, over and above the fees assessed for each course, for the privilege of being an “Accredited Continuing Legal Education Provider.”

(C) Accreditation of Individual Courses or Activities: Non-Presumptively Approved Providers.

- (1) Any sponsor not included in section V(B), above, desiring advance accreditation of an individual course or other activity shall apply to the Board by submitting a required application form, the course advance accreditation fee set by the Board, and supporting documentation no less than 45 days prior to the date for which the course, program or activity is scheduled. Documentation shall include a statement of the provider's intention to comply with the accreditation standards of this Rule, copies of programs and written materials distributed to participants at the two most recently produced programs, if available, or an outline of the proposed program and list of instructors, and such further information as the Board shall request. The Board staff will advise the applicant in writing by mail within 30 days of the receipt of the completed application of its approval or disapproval.
- (2) Providers denied prior approval of a program or activity, or individual attorneys who have attended such a program or activity may request reconsideration of the Board's initial decision by filing a form approved by the Board. The Board shall consider the request within 30 days of its receipt, and promptly notify the provider and/or the individual attorney.
- (3) Providers who do not seek prior approval of their course or activity may apply for approval for the course or activity after its presentation by submitting an application provided by MCLE staff, the supporting documentation described above, and the accreditation fee set by the Board.
- (4) A list of participants shall be maintained by the sponsoring provider for a period of three years and sent within 30 days of the course or activity to the Director in a form designated by the Board.

(D) Courses and Activities Which Qualify For Minimum Continuing Legal Education Credit.

In addition to traditional CLE courses, the following courses or activities may qualify for MCLE credit, upon proper determination by the Board:

(1) "In-House" Programs.

Attendance at "in-house" seminars, courses, lectures or other CLE activity presented by law firms, corporate legal departments, governmental agencies or similar entities, either individually or in cooperation with other such entities, subject to the following conditions:

- (a) The seminars must meet the rules and regulations applicable for any other CLE sponsor.
- (b) Specifically, the activity must have significant intellectual, educational or practical content, its primary objective must be to increase the participant's professional competence as an attorney, and must deal primarily with matter related to the practice of law, professional responsibility, law office management or ethical obligations of attorneys. No credit will be afforded for discussions relating to the handling of specific cases, or issues relating to the management of a specific law firm, corporate law department, governmental agency or similar entity.
- (c) The activity shall be submitted for approval on an individual course or activity basis rather than on a Presumptively Accredited Continuing Legal Education Sponsor basis.
- (d) The application, including all written materials or an abstract thereof, should be filed with the Board at least 30 days prior to the date on which the course is held in order for a prior determination of acceptability to be made. However, prior approval by the Board shall not be required.
- (e) Only activities that have at least five attorney participants shall qualify for MCLE credit. The attorneys need not be members of the same firm, corporation or governmental agency.
- (f) Experienced attorneys must contribute to the teaching, and efforts should be made to achieve a balance of in-house and outside instructors.
The activity must be open to observation,
- (g) without charge, by members of the Board or their designates.

- (h) The activity must be scheduled at a time and location so as to be free of interruptions from telephone calls and other office matters.
- (i) A list of participants shall be maintained by the sponsoring agency for a period of three years and sent within 30 days of the activity to the Director in a form specified by the Board.
- (j) The Board may impose a fee on the organizer of the in-house program similar to the fees assessed to traditional CLE providers for programs involving payments to the organizer or provider.

(2) Law School Courses.

Attendance at J.D. or graduate level law courses offered by American Bar Association (“ABA”) accredited law schools, subject to the following conditions:

- (a) No credit may be used for courses taken prior to admission to practice in Illinois.
- (b) Credit towards MCLE requirements shall be for the actual number of class hours attended, but the maximum number of credits that may be earned during any two-year reporting period by attending courses offered by ABA accredited law schools shall be the maximum MCLE hours required by sections IV(A) and (D) of these rules.
- (c) The attorney must comply with registration procedures of the law school, including the payment of tuition.
- (d) The course need not be taken for law school credit towards a degree; auditing a course is permitted. However, the attorney must comply with all law school rules for attendance, participation and examination, if any, to receive MCLE credit.

- (e) On request of the Board, the law school may be asked to certify that the attorney has complied with requirements for the course and attended sufficient classes to justify the awarding of course credit if the attorney were taking the course for credit.

(3) Bar Association Meetings.

Attendance at bar association or professional association meetings at which substantive law, matters of practice, professional responsibility, law office management or legal ethics are discussed, subject to the overall educational requirements for CLE credit defined in sections V(A)(1)-(9), above. To qualify the attendees, the bar or professional association must keep and furnish attendance records, as any other provider.

(4) Cross-Disciplinary Programs.

Attendance at activities that cross academic lines, such as accounting-tax seminars or medical-legal seminars, may be considered by the Board for full or partial credit. Purely non-legal subjects, such as personal financial planning, shall not be counted towards MCLE credit. The program must be targeted primarily at attorneys, and any mixed-audience programs may receive credit only for sessions deemed appropriate for CLE purposes.

(5) Teaching Continuing Legal Education Courses.

Teaching at CLE courses or activities during the two-year reporting term will receive MCLE credit, subject to the following:

- (a) Credit may be earned for teaching in an approved CLE course or activity. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material.
- (b) Time spent in preparation for a presentation at an approved CLE activity shall be counted at three times the actual presentation time.

- (c) Authorship or co-authorship of written materials for approved CLE activities shall qualify for MCLE credit on the basis of actual preparation time, but subject to receiving no more than ten hours of credit in any two-year reporting period.

(6) Part-Time Teaching in Law Schools.

Teaching at an ABA-accredited law school is eligible for MCLE credit, subject to the following:

- (a) Teaching credit may only be given to lawyers who are not employed full-time by a law school; full-time law teachers who choose to maintain their licenses to practice law are fully subject to the MCLE requirements established herein, and may not earn any credits by their ordinary teaching assignments.
- (b) Credit may only be awarded for teaching law courses offered for credit toward a degree at a law school accredited by the ABA. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material.
- (c) Time spent in preparation for a presentation of a law school class shall be counted at three times the actual presentation time.
- (d) Appearing as a guest speaker to a law school assembly or group shall not count toward CLE credit; appearing as a guest instructor in a law school class for a presentation which meets the overall guidelines for CLE courses or activities may be approved. Serving as a judge at a law school moot court argument and the preparation for the argument may qualify for CLE credit for the time spent in hearing arguments.

(7) Legal Scholarship.

Credit may be awarded for writing law books and law review articles, subject to the following:

- (a) Credit may be awarded for publication during the two-year reporting period for legal textbooks, casebooks, treatises and other scholarly legal books, the number of hours awarded to be determined by the Board on an individual assessment of time spent.
- (b) Credit may be awarded for publication of legally related articles in responsible legal journals or other legal sources during the two-year reporting period of articles which in form and content fulfill the underlying purposes for CLE, such as subject matter relating to the substance, theory, practice or ethics of law practice. Republication of any article shall receive no additional MCLE credits unless the Board determines that the author made substantial revisions or additions. The Board shall determine the amount of credits to be awarded on an individual basis.
- (c) Where articles or books are co-authored, the Board shall make a reasonable allocation of the credits of the co-authors up to the maximums prescribed.

(8) Pro Bono Training.

Attendance at programs designed to train lawyers who have agreed to provide pro bono services shall earn MCLE credit to the same extent as other courses and seminars.

Capital Litigation Trial Bar Training.

(9)

Attendance at programs pursuant to Supreme Court Rule 714(b) designed to train attorneys for certification for membership in the Capital Litigation Trial Bar shall earn MCLE credit to the same extent as other courses and seminars.

(10) Bar Review Courses.

Attendance at bar review courses shall not be used for MCLE credit.

(11) Reading Legal Materials.

No credit shall be awarded for reading advance sheets, newspapers, law reviews, books, cases, statutes, newsletters or other such sources.

(E) Guidelines for Determining Credit Hours.

Hours of MCLE credit will be determined under the following guidelines:

- (1) Sixty minutes shall equal one hour of credit; the Board may award partial credit for qualified activities of less than 60 minutes duration.
- (2) The following are not counted for credit:
 - (a) coffee breaks;
 - (b) introductory and closing remarks;
 - (c) keynote speeches;
 - (d) lunches and dinners;
 - (e) other breaks; and
 - (f) business meetings.
- (3) Question and answer periods are counted toward credit.
- (4) Lectures or panel discussions occurring during luncheon or dinner sessions of bar association committees may be awarded credit.
- (5) Credits are determined by the following formula:

$$\text{Total minutes of approved activity} \text{ minus } \text{minutes for breaks (as described in subsection (2), above)} \text{ (divided by 60)} = \text{maximum CLE credit allowed}$$

- (6) Credits merely reflect the maximum that may be earned.
 Only actual attendance or participation earns credit.

VI. ENFORCEMENT OF REQUIREMENTS.

(A) Reporting Compliance.

- (1) The Director shall, on or before the first day of the month preceding the end of an attorney's Basic Skills Course Requirement reporting period or two-year reporting period, mail to each attorney an MCLE Report Form, containing a computerized transcript of CLE credits previously reported by providers or the attorney. It is the responsibility of each attorney on the Master Roll to notify the Director of any change of address. Failure to receive an MCLE Report Form shall not constitute an excuse for failure to file the report.
- (2) Every Illinois attorney subject to these Rules shall sign and submit to the Board within 30 days after the end of the attorney's reporting period the MCLE Report Form, together with corrections or additions, and shall affirm the accuracy of the information presented.

(B) Failure to Comply with Requirements.

Failure to comply with the requirements may encompass such violations as filing a report which shows a lack of adequate credit hours, reports credit hours from programs by non-accredited sponsors, includes credit hours for activities not defined in the categories of credit, improperly carries over non-qualified hours from a previous reporting period, fails to meet the Basic Skills requirement, if applicable, or fails to meet the ethics requirement. The Director shall notify in writing attorneys failing to comply with the requirements, pointing out the specific discrepancies, and shall request an amended report within 60 days of said notice, clarifying the discrepancies or otherwise showing compliance with the requirements.

(C) Failure to Report Compliance.

Attorneys who fail to submit a MCLE Report Form by the tenth of the month following their reporting date shall be notified by the Director and given 60 days from said notice in which to file a report.

(D) Grace Period.

Attorneys given additional time pursuant to subsections (C) or (D) to comply with the requirements of these Rules may use that “grace period” to attain the adequate number of hours for compliance. Credit hours earned during a grace period may be counted toward compliance with the previous reporting period requirement, and hours in excess of the requirement may be used to meet the current reporting period’s requirement. No attorney may receive more than one grace period with respect to the same reporting period.

(E) Late Fee.

Attorneys who, for whatever reason, submit an MCLE Report Form or amended report more than 60 days after the end of their reporting period shall pay a late filing fee, in an amount to be set by the Board.

(F) Sanctions for Failure to Comply or Failure to Report.

The Director shall refer to the ARDC attorneys who, by the end of their grace period, fail either to comply or to report compliance with the requirements of these Rules. After providing notice, the ARDC shall remove such attorneys from the master roll of attorneys.

(G) Reinstatement.

An attorney who has been removed from the master roll due to non-compliance with these Rules may be reinstated by the ARDC, upon recommendation of the Board. Such recommendation may be made only after the removed attorney files a report which the Board determines shows full compliance with the applicable MCLE requirements. The removed attorney shall also pay a fee with the request, in an amount to be set by the Board. To be reinstated, the attorney must meet any further conditions and pay any additional fees established by the ARDC. The removed attorney may attain the necessary credit hours during the period of removal to meet the requirements for the years of non-compliance. Excess hours earned during the period of removal, however, may not be counted towards meeting the current or future reporting periods’ requirements.

VII. CONFIDENTIALITY.

All files, records and proceedings of the Board must be kept confidential, and may not be disclosed except (a) in furtherance of the duties of the Board, (b) upon written request and consent of the persons affected, (c) pursuant to a proper subpoena duces tecum, or (d) as ordered by a court of competent jurisdiction.