

AGENDA ITEM

MOC III E JULY

DATE: June 29, 2012

TO: Members, Member Oversight Committee

FROM: Gayle Murphy, Senior Director for Admissions
Pam Wilson, Interim Senior Director of Education

SUBJECT: Request for Public Comment – Rules of the State Bar, Title 2, Div. 4, Rule 2.52 and *Title 3, Div. 5, Ch. 1, Rule 3.601*

EXECUTIVE SUMMARY

An educational activity must meet State Bar standards to be approved for Minimum Continuing Legal Education (MCLE) credit. The activity must relate to legal subjects directly relevant to members of the State Bar and have significant current professional and practical content.

Under this standard, an MCLE provider is authorized to provide approved credit for a program or activity that offers legal education that relates to both a legal subject and has direct professional relevance to the practice of law.

To clarify and to eliminate any ambiguity as to what constitutes permissible and credit-worthy MCLE, and to expand the scope of acceptable MCLE to expressly cover programs and activities that relate directly to the management and operation of a member's law office and to mediation training, staff has prepared a proposed amendment to the rules and seeks the Board Committee's approval to circulate the proposed amendment for public comment. Board members with questions about the proposal may contact Gayle Murphy at (415) 538-2322 or gayle.murphy@calbar.ca.gov and Pam Wilson at (415) 538-2395 or pam.wilson@calbar.ca.gov

The stated purpose of MCLE is to require active members of the State Bar of California to remain current regarding the law, the obligations and standards of the legal profession, and the management of their practices.

A slight change in the MCLE Rules will clarify and eliminate any ambiguity as to what constitutes permissible and credit-worthy MCLE for certain programs. In the past, there has been some confusion by MCLE providers as to the types of programs that will qualify for MCLE credit under certain broad categories. The proposed amendment will also expand the scope of acceptable MCLE to expressly cover programs and activities

that directly relate to the management and operation of a member's law office and to mediation training, which was the rule prior to the current version of the rule.

ISSUE

The stated purpose of MCLE includes educating members of the State Bar of California to remain current regarding the law, the obligations and standards of the legal profession, and the management of their practices.

Education courses on the management of a law practice do not qualify for MCLE credit under the current MCLE rules. Examples of subjects no longer approved for MCLE credit that can have significant professional and practical content to California lawyers include the following:

- Topics related to business or financial management of a law firm;
- Topics related to law office operation, including but not limited to facilities, staffing, systems and equipment;
- Topics related to creation and improvement of legal case work and work flow management, including time management of attorneys and support staff, and delegation of responsibility;
- Topics related to the competent delivery of legal services and/or the establishment and maintenance of effective law office management;
- Topics related to communications by and between attorneys and support staff
- Topics related to the use of computer and/or Internet technology in the practice of law or the management of a law office.
- Topics related to the lawful and ethical management of a law office's financial accounts including client trust accounts.
- Topics relating to lawful and ethical client fee agreements, fee sharing and referral arrangements.

Since these are areas in which attorneys often encounter difficulties, i.e., discipline and attorney malpractice, staff believes that it would be appropriate to once again permit MCLE credit for these types of courses. If the rule amendment is adopted, guidelines with much more specificity will be prepared, with the input of the MCLE providers, which would then be used to assist them in determining the kinds of courses that would be permitted.

SUMMARY OF PROPOSAL

The request is to circulate for public comment a proposed amendment to the MCLE rules in the form attached hereto as Attachment A, which adds the word "or" to the education standards as follows: "The activity must relate to legal subjects directly relevant to members of the State Bar and/or have significant current professional and practical content."

LENGTH OF PUBLIC COMMENT PERIOD AND REASON

Forty-five day public comment period commencing on July 23, 2012 and ending on September 8, 2012.

EFFECTIVE DATE OF PROPOSAL

If the Board of Trustees ultimately approves the amendment to the rules, it is anticipated the rule change would become effective January 1, 2013.

FISCAL / PERSONNEL IMPACT:

None

RULE AMENDMENTS:

Rules of the State Bar, Title 2, Div. 4, Rule 2.52 and Title 3, Div. 5, Ch. 1, Rule 3.601.

BOARD BOOK IMPACT:

None

RECOMMENDATION

Staff recommends that the Board Committee on Member Oversight's approve the request that the proposed amendments to the MCLE Rules, as attached as Attachment A, be circulated for public comment.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Member Oversight Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Member Oversight Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Member Oversight Committee authorizes staff to make available for public comment for a period of 45 days, the proposed revisions to the Rules of the State Bar, Title 2, Div. 4, Rule 2.52 and Title 3, Div. 5 Ch. 1, Rule 3.601 in the form attached; and it is

FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed item.