

MOC III-C - Attachment A

TITLE 2. RIGHTS AND RESPONSIBILITIES OF MEMBERS

Adopted July 2007

(Proposed amendments with additions underlined and deletions in strike out, for public comment, July 2013)

DIVISION 4. MINIMUM CONTINUING LEGAL EDUCATION

Chapter 1 Purpose and scope

Rule 2.50 Purpose of MCLE

Rules for Minimum Continuing Legal Education (MCLE) 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 member's involuntary enrollment as inactive for failing to comply with these rules is public information available on the State Bar Web site.

Rule 2.50 adopted effective January 1, 2008.

Rule 2.51 Definitions

- (A) An "[Insert begins]MCLE[Insert ends] activity" is [Insert begins]continuing[Insert ends] legal education that the State Bar approves as meeting standards for MCLE credit.
- (B) A "provider" is an individual or entity approved by the State Bar to grant MCLE credit for an [Delete begins]educational[Delete ends][Insert begins]MCLE[Insert ends] activity.
- (C) "MCLE credit" is the number of credit hours that a member may claim to meet the requirements of these rules.
- (D) A "credit hour" is sixty minutes actually spent in an [Delete begins]educational[Delete ends][Insert begins]MCLE[Insert ends] activity, less any time for breaks or other activities that lack educational content. A credit hour is reported to the nearest quarter hour in decimals.
- (E) An "approved jurisdiction" is recognized by the State Bar as having MCLE requirements that substantially meet State Bar standards for [Delete begins]educational[Delete ends][Insert begins]MCLE[Insert ends] activities and computing MCLE credit hours in a manner acceptable to the State Bar. Approved jurisdictions are listed on the State Bar Web site.
- [Insert begins](F) A "participatory activity" is an MCLE activity for which the provider must verify attendance. Participatory activities may be presented in person or delivered by electronic means. [Insert ends]
- [Insert begins](G) A "self-study activity" is any MCLE activity identified in Rule 2.83. Self-study activities may be presented in person or delivered by electronic means.[Insert ends]

Rule 2.51 adopted effective January 1, 2008.

Rule 2.52 ~~[Delete begins]Standards[Delete ends]~~[Insert begins]MCLE Activities[Insert ends]

To ~~[Delete begins]be approved for[Delete ends]~~[Insert begins]receive[Insert ends] MCLE credit, ~~[Delete begins]an educational activity must meet[Delete ends]~~[Insert begins]a member must complete an MCLE activity that meets[Insert ends] State Bar standards.

- (A) The [Insert begins]MCLE[Insert ends] activity must relate to legal subjects directly relevant to members of the State Bar or have significant current professional and practical content.
- (B) The presenter of the [Insert begins]MCLE[Insert ends] activity must have significant professional or academic experience related to its content.
- (C) Promotional material must state that the [Insert begins]MCLE[Insert ends] activity is approved for MCLE credit or that a request for approval is pending; specify the amount of credit offered; and indicate whether any of the credit may be claimed for required MCLE in legal ethics, elimination of bias, or ~~[Delete begins]the prevention, detection, and treatment of substance abuse or mental illness that impairs professional [Delete ends]~~[Insert begins]competence[Insert ends] issues[Insert ends].
- (D) ~~[Delete begins]If the activity lasts more than an hour, [Delete ends]~~The provider must make substantive written materials [Insert begins]relevant to the MCLE activity[Insert ends] available either before or during ~~[Delete begins]the[Delete ends]~~[Insert begins]every MCLE[Insert ends] activity. Any materials provided online must ~~[Delete begins]be available[Delete ends]~~[Insert begins]remain[Insert ends] online for at least thirty calendar days following the [Insert begins]MCLE[Insert ends] activity.
- (E) Programs and classes must be scheduled so that participants are free of interruptions.

Rule 2.52 adopted effective January 1, 2008; amended effective January 1, 2013.

Rule 2.53 New members

- (A) A new member is permanently assigned to a compliance group on the date of admission.
- (B) The initial compliance period for a new member begins on the first day of the month in which the member was admitted. It ends when the period ends for the compliance group. If the initial period is less than the period for the compliance group, the required credit hours may be reduced as provided in these rules.¹
- (C) A new member may not claim credit for education taken before the initial compliance period.

Rule 2.53 adopted effective January 1, 2008.

Rule 2.54 Exemptions

¹ Rule 2.72 (C)

- (A) The following active members are exempt from MCLE requirements, provided they claim the exemption in their assigned compliance periods using My State Bar Profile online or an MCLE Compliance Form:
- (1) officers and elected officials of the State of California;
 - (2) full-time professors at law schools accredited by the State Bar of California or the American Bar Association;
 - (3) those employed full-time by the State of California as attorneys or administrative law judges on a permanent or probationary basis, regardless of their working hours, who do not otherwise practice law; and
 - (4) those employed full-time by the United States government as attorneys or administrative law judges on a permanent or probationary basis, regardless of their working hours, who do not otherwise practice law.
- (B) Members whom this rule exempts by reason of their employment with the State of California or the United States government may provide pro bono legal services through a California qualified legal services project or a qualified support center², or through a legal services project or support center that primarily provides legal services without charge to indigent persons in another jurisdiction and is funded by the Legal Services Corporation or the Older Americans Act or receives funding administered by the jurisdiction's interest on lawyers trust accounts program.

Rule 2.54 adopted effective January 1, 2008; amended effective November 4, 2011.

Rule 2.55 Modifications

A member prevented from fulfilling the MCLE requirement for a substantial part of a compliance period because of a physical or mental condition, natural disaster, family emergency, financial hardship, or other good cause may apply for modification of MCLE compliance requirements. The State Bar must approve any modification.

Rule 2.55 adopted effective January 1, 2008.

Chapter 2. Compliance

Rule 2.70 Compliance groups

A member is permanently assigned to one of three compliance groups on the basis of the first letter of the member's last name at the date of admission.³ The three groups are A-G, H-M, and N-Z. The member remains in the compliance group despite any subsequent change of last name.

² Business & Professions Code § 6213.

³ A historical exception exists. When the MCLE program was established in 1992, members were permanently assigned to compliance groups on the basis of their last names at the time, regardless of any different last names they might have used previously.

Rule 2.70 adopted effective January 1, 2008.

Rule 2.71 Compliance periods

A compliance period consists of thirty-six months. It begins on the first day of February and ends three years later on the last day of January. The three compliance groups begin and end their compliance periods in different years. A member must report MCLE compliance no later than the day following the end of the compliance period. The report must be made online using My State Bar Profile or with an MCLE Compliance Form. Fees for noncompliance are set forth in the Schedule of Charges and Deadlines.

Rule 2.71 adopted effective January 1, 2008.

Rule 2.72 Requirements

- (A) Unless these rules indicate otherwise, a member who has been active throughout a thirty-six-month compliance period must complete twenty-five credit hours of ~~State Bar approved education~~MCLE activities. No more than twelve and a half credit hours may be self-study.⁴ Total hours must include no less than 6 hours as follows:
- (1) at least four hours of legal ethics; ~~in the legal profession~~
 - (2) at least one hour dealing with the recognition and elimination of bias in the legal profession and society by reason of, but not limited to, sex, color, race, religion, ancestry, national origin, physical disability, age, or sexual orientation; and
 - (3) at least one hour of education ~~designed to prevent, detect, and treat~~addressing substance abuse or other mental ~~illness that impairs professional~~or physical issues that impair a member's ability to perform legal services with competence.
- (B) Required education in legal ethics, elimination of bias, or ~~the prevention, detection, and treatment of substance abuse or mental illness that impairs professional~~ competence issues may be a component of an approved ~~educational~~MCLE activity that deals with another topic.
- (C) A member may reduce the required twenty-five hours in proportion to the number of full months the member was inactive or exempt in the thirty-six-month compliance period. Up to

⁴ Rule 2.83.

half the reduced hours may be self-study.⁵ A tool for applying this formula is available at the State Bar Web site.

- (D) Excess credit hours may not be applied to the next compliance period.⁶

Rule 2.72 adopted effective January 1, 2008.

Rule 2.73 Record of MCLE

For a year after reporting MCLE compliance, a member must retain and provide upon demand and to the satisfaction of the State Bar

- (A) a provider's certificate of attendance⁷;
- (B) a record of self-study that includes the title, provider, credit hours, and date of each [Insert begins]MCLE[Insert ends] activity; or
- (C) proof of exempt status.

Rule 2.73 adopted effective January 1, 2008.

Chapter 3. [Insert begins]MCLE[Insert ends] Activities approved for MCLE credit

Rule 2.80 Attending programs and classes

A member may claim MCLE credit for attending a MCLE activity, such as a lecture, panel discussion, or law school class, in person or by technological means.

Rule 2.80 adopted effective January 1, 2008.

Rule 2.81 Speaking

A member may claim [Insert begins]participatory[Insert ends] MCLE credit for speaking at an approved [Delete begins]educational[Delete ends][Insert begins]MCLE[Insert ends] activity.

- (A) A principal speaker, who is responsible for preparing and delivering a program or class and its related materials, may claim
- (1) actual speaking time multiplied by four for the first presentation; or
 - (2) actual speaking time only for each time a presentation is repeated without significant change.

⁵ Rule 2.83.

⁶ But see Rule 2.93.

⁷ Rule 3.602 (C).

- (B) A panelist may claim
- (1) either of the following for the first panel presentation:
 - (a) scheduled [Insert begins]individual[Insert ends] speaking time multiplied by four, plus the actual time spent in attendance at the remainder of the presentation; or
 - (b) when times have not been scheduled for individual speakers, an equal share of the total time for all speakers multiplied by four plus the actual time spent in attendance at the remainder of the presentation.
 - (2) actual speaking time only for each time a presentation is repeated without significant change.
- (C) A member who introduces speakers or serves as a moderator may claim only the MCLE credit available to any attendee.

Rule 2.81 adopted effective January 1, 2008.

Rule 2.82 Teaching

A member may claim [Insert begins]participatory[Insert ends] MCLE credit for teaching a law school course.

- (A) A member assigned to teach a course may claim no more than the credit hours granted by the law school multiplied by twelve or actual speaking time for required MCLE in legal ethics, elimination of bias, or [Delete begins].the prevention, detection, and treatment of substance abuse or mental illness that impairs professional [Delete ends]competence[Insert begins] issues[Insert ends].
- (B) A guest lecturer or substitute teacher may claim
- (1) actual speaking time multiplied by four for the first presentation; or
 - (2) actual speaking time only for each time a presentation is repeated without significant change.

Rule 2.82 adopted effective January 1, 2008.

Rule 2.83 Self-study

A member may claim up to half the credit hours required in a compliance period for

- (A) completing [Insert begins]MCLE[Insert ends] activities for which attendance is not verified by a provider[Insert begins] and the MCLE activities were prepared within the preceding five years[Insert ends];

- (B) taking an open-or closed-book self-test and submitting it to a provider who returns it with a grade and explanations of correct answers; or
- (C) authoring or co-authoring written materials that
 - (1) have contributed to the member's legal education;
 - (2) have been published or accepted for publication; and
 - (3) were not prepared in the ordinary course of employment or in connection with an oral presentation at an approved [Delete begins]educational[Delete ends][Insert begins]MCLE[Insert ends] activity.

Rule 2.83 adopted effective January 1, 2008.

Rule 2.84 Legal specialization

A member may claim MCLE credit for educational activities that the [Insert begins]California[Insert ends] Board of Legal Specialization approves for certification or recertification.

Rule 2.84 adopted effective January 1, 2008.

Rule 2.85 Education taken while physically out of state

- (A) A member may claim MCLE credit for an [Delete begins]educational[Delete ends][Insert begins]MCLE[Insert ends] activity authorized by an approved jurisdiction if it meets the requirements of these rules and if the member attends or does the [Insert begins]MCLE[Insert ends] activity outside California. A member may not claim credit for such an activity, including self-study, when physically present in California unless the State Bar has specifically approved it.
- (B) A member who qualifies for [Insert begins]an[Insert ends] MCLE [Insert begins]activity[Insert ends] authorized by an approved jurisdiction may claim the amount of credit authorized by the jurisdiction. No special procedure is required to claim the credit.

Rule 2.85 adopted effective January 1, 2008.

Rule 2.86 Member credit request

A member may apply for [Insert begins]MCLE[Insert ends] credit for an [Insert begins]educational[Insert ends] activity directly relevant to the member's practice but not otherwise approved if the activity substantially meets State Bar standards. The application must be submitted with the appropriate fee.

Rule 2.86 adopted effective January 1, 2008.

Rule 2.87 Bar examinations and MPRE

A member may not claim MCLE credit for preparing for or taking a bar examination or the Multistate Professional Responsibility Examination (MPRE).

Rule 2.87 adopted effective January 1, 2008.

Chapter 4. Noncompliance

Rule 2.90 Definition

Noncompliance is failure to

- (A) complete the required education during the compliance period or an extension of it;
- (B) report compliance or claim exemption from MCLE requirements;
- (C) keep a record of MCLE compliance⁸ or;
- (D) pay fees for noncompliance.

Rule 2.90 adopted effective January 1, 2008.

Rule 2.91 Notice of noncompliance

- (A) A member who is sent a notice of noncompliance must comply with its terms or be involuntarily enrolled as inactive. An inactive member is not eligible to practice law.
- (B) If the notice requires the member to complete credit hours for the previous compliance period, any excess credit hours may be counted toward the current compliance period.

Rule 2.91 adopted effective January 1, 2008.

Rule 2.92 Enrollment as inactive for MCLE noncompliance

A member who fails to comply with a notice of noncompliance is enrolled as inactive and is not eligible to practice law. The enrollment is administrative and no hearing is required.

Rule 2.92 adopted effective January 1, 2008.

Rule 2.93 Reinstatement following MCLE noncompliance

Enrollment as inactive for MCLE noncompliance terminates when a member submits proof of compliance and pays noncompliance fees. Credit hours that exceed those required for compliance may be counted toward the current period.

Rule 2.93 adopted effective January 1, 2008.

⁸ Rule 2.73

