

**Oregon State Bar**  
**Minimum Continuing Legal Education**  
**Rules and Regulations**  
*(As amended effective June 18, 2010)*

**Purpose**

It is of primary importance to the members of the bar and to the public that attorneys continue their legal education after admission to the bar. Continuing legal education assists Oregon lawyers in maintaining and improving their competence and skills and in meeting their obligations to the profession. These Rules establish the minimum requirements for continuing legal education for members of the Oregon State Bar.

**Rule One**  
**Terms and Definitions**

**1.1 Active Member:** An active member of the Oregon State Bar, as defined in Article 6 of the Bylaws of the Oregon State Bar.

**1.2 Accreditation:** The formal process of accreditation of sponsors or activities by the MCLE Administrator.

**1.3 Accredited Sponsor:** A sponsor that has been accredited by the MCLE Administrator.

**1.4 BOG:** The Board of Governors of the Oregon State Bar.

**1.5 CLE Activity:** An activity that provides legal or professional education to attorneys in accordance with MCLE Rule 5.

**1.6 Executive Director:** The executive director of the Oregon State Bar.

**1.7 Hour or Credit Hour:** Sixty minutes of accredited group CLE activity or other CLE activity.

**1.8 MCLE Committee:** The Minimum Continuing Legal Education Committee appointed by the BOG to assist in the administration of these Rules.

**1.9 New Admittee:** A person is a new admittee from the date of initial admission as an active member of the Oregon State Bar through the end of his or her first reporting period.

**1.10 Regulations:** Any regulation adopted by the BOG to implement these Rules.

**1.11 Reporting Period:** The period during which an active member must satisfy the MCLE requirement.

**1.12 Retired Member:** An active member who is over 65 years old and is fully retired from the practice of law.

**1.13 Sponsor:** An individual or organization providing a CLE activity.

**1.14 Supreme Court:** The Supreme Court of the State of Oregon.

## **Regulations to MCLE Rule 1 Terms and Definitions**

**1.100 Inactive Member.** An inactive member of the Oregon State Bar, as defined in Article 3 of the Bylaws.

**1.101 Suspended Member.** A member who has been suspended from the practice of law by the Supreme Court.

### **1.110 MCLE Filings.**

(a) Anything to be filed under the MCLE Rules shall be delivered to the MCLE Administrator, at 16037 SW Upper Boones Ferry Road, PO Box 231935, Tigard, Oregon, 97281-1935.

(b) Filing shall not be timely unless the document is actually received by the MCLE Administrator by the close of business on the day the filing is due.

(c) Timely filing of a completed compliance report as required by Rule 7.1 and 7.4(a)(2) is defined as the actual physical receipt of the signed report at the MCLE office, regardless of the date of posting or postmark, or the date of delivery to a delivery service of any kind. Reports may be delivered by facsimile or electronic transmission. If the due date for anything to be filed under the MCLE Rules is a Saturday or legal holiday, including Sunday, or a day that the Oregon State Bar office is closed, the due date shall be the next regular business day.

### **1.115 Service By Mail.**

(a) Anything transmitted by mail to a member shall be sent to the member by first class mail, or certified mail if required by these rules, addressed to the member at the member's last designated business or residence address on file with the Oregon State Bar. Certified mail will not be sent "Return Receipt Requested". Members who are sent certified mail will also be notified about the certified mailing via e-mail or regular mail (for those members who do not have e-mail).

(b) Service by mail shall be complete on deposit in the mail.

**1.120 Regularly Scheduled Meeting.** A meeting schedule for each calendar year will be established for the BOG and the MCLE Committee, if one is appointed. All meetings identified on the schedule will be considered to be regularly scheduled meetings. Any other meeting will be for a special reason and/or request and will not be considered as a regularly scheduled meeting.

**1.130 Reporting Period.** Reporting periods shall begin on January 1 and end on December 31 of the reporting year.

**1.140 Fully Retired.** A member is fully retired from the practice of law if the member is over 65 years of age and does not engage at any time in any activity that constitutes the practice of law including, without limitation, activities described in OSB Bylaws 6.101 and 20.2.

## **Rule Two Administration of Minimum Continuing Legal Education**

**2.1 Duties and Responsibilities of the Board of Governors.** The Minimum Continuing Legal Education Rules shall be administered by the BOG. The BOG may modify and amend these Rules and adopt new rules subject to the approval of the Supreme Court. The BOG may adopt, modify and amend regulations to implement these Rules. The BOG may appoint an MCLE Committee to assist in the administration of these rules. There shall be an MCLE Administrator who shall be an employee of the Oregon State Bar.

**2.2 Duties of the MCLE Administrator.** The MCLE Administrator shall:

- (a) Oversee the day-to-day operation of the program as specified in these Rules.
- (b) Approve applications for accreditation and requests for exemption, and make compliance determinations.
- (c) Develop the preliminary annual budget for MCLE operations.
- (d) Prepare an annual report of MCLE activities.
- (e) Perform other duties identified by the BOG or as required to implement these Rules.

**2.3 Expenses.** The executive director shall allocate and shall pay the expenses of the program including, but not limited to staff salaries, out of the bar's general fund.

### **Rule Three Minimum Continuing Legal Education Requirement**

**3.1 Effective Date.** These Rules, or any amendments thereto, shall take effect upon their approval by the Supreme Court of the State of Oregon.

#### **3.2 Active Members.**

- (a) **Minimum Hours.** Except as provided in Rules 3.3 and 3.4, all active members shall complete a minimum of 45 credit hours of accredited CLE activity every three years as provided in these Rules.
- (b) **Ethics.** At least six of the required hours shall be in subjects relating to ethics in programs accredited pursuant to Rule 5.5(a), including one hour on the subject of a lawyer's statutory duty to report child abuse (see ORS 9.114).
- (c) **Access to Justice.** In alternate reporting periods, at least three of the required hours must be in programs accredited for access to justice pursuant to Rule 5.5(b). For purposes of this rule, the first reporting period that may be skipped will be the one ending on December 31, 2009.

#### **3.3 Reinstatements, Resumption of Practice After Retirement and New Admittees.**

- (a) An active member whose reporting period is established in Rule 3.7(c)(2) or (d)(2) shall complete 15 credit hours of accredited CLE activity in the first reporting period after reinstatement or resumption of the practice of law in accordance with Rule 3.4. Two of the 15 credit hours shall be devoted to ethics (including one in child abuse reporting).
- (b) New admittees shall complete 15 credit hours of accredited CLE activity in the first reporting period after admission as an active member, including two credit hours in ethics (including one in child abuse reporting), and ten credit hours in practical skills. New admittees admitted prior to December 31, 2008 must also complete one access to justice credit in their first reporting period. New admittees admitted on or after January 1, 2009 must also complete a three credit hour OSB-approved introductory course in access to justice. The MCLE Administrator may waive the practical skills requirement for a new admittee who has practiced law in another jurisdiction for three consecutive years immediately prior to the member's admission in Oregon, in which event the new admittee must complete ten hours in other areas. After a new admittee's first reporting period, the requirement in Rule 3.2(a) shall apply.

**3.4 Retired Members.** A retired member shall be exempt from compliance with these Rules,

provided the member files a compliance report for any reporting period during which the exemption is claimed certifying that the member was or became retired during the reporting period. A retired member shall not resume the practice of law, either on a full or part-time basis, without prior written notice to the MCLE Administrator.

### **3.5 Out-of-State Compliance.**

(a) Reciprocity Jurisdictions. An active member whose principal office for the practice of law is not in the State of Oregon but is in a jurisdiction with which Oregon has established MCLE reciprocity may comply with these rules by filing a compliance report as required by MCLE Rule 7.1 accompanied by evidence that the member is in compliance with the requirements of the other jurisdiction and has completed the child abuse reporting credit required in ORS 9.114.

(b) Other Jurisdictions. An active member whose principal office for the practice of law is not in the State of Oregon and is not in a jurisdiction with which Oregon has established MCLE reciprocity must file a compliance report as required by MCLE Rule 7.1 showing that the member has completed at least 45 hours of accredited CLE activities as required by Rule 3.2.

**3.6 Active Pro Bono.** Members who are in Active Pro Bono status pursuant to OSB Bylaw 6.101 are exempt from compliance with these Rules.

### **3.7 Reporting Period.**

(a) In General. All active members shall have three-year reporting periods, except as provided in paragraphs (b), (c) and (d).

(b) New Admittees. The first reporting period for a new admittee shall start on the date of admission as an active member and shall end on December 31 of the next calendar year. All subsequent reporting periods shall be three years.

(c) Reinstatements.

(1) A member who transfers to inactive status, is suspended, or has resigned and who is reinstated before the end of the reporting period in effect at the time of the status change shall retain the member's original reporting period and these Rules shall be applied as though the transfer, suspension, or resignation had not occurred.

(2) Except as provided in Rule 3.7(c)(1), the first reporting period for a member who is reinstated as an active member following a transfer to inactive status or a suspension, disbarment or resignation shall start on the date of reinstatement and shall end on December 31 of the next calendar year. All subsequent reporting periods shall be three years.

(3) Notwithstanding Rules 3.7(c)(1) and (2), reinstated members who did not submit a completed compliance report for the reporting period immediately prior to their transfer to inactive status, suspension or resignation will be assigned a new reporting period upon reinstatement. This reporting period shall begin on the date of reinstatement and shall end on December 31 of the next calendar year. All subsequent reporting periods shall be three years.

(d) Retired Members.

(1) A retired member who resumes the practice of law before the end of the reporting period in effect at the time of the member's retirement shall retain the member's original reporting

period and these Rules shall be applied as though the retirement had not occurred.

(2) Except as provided in Rule 3.7(d)(1), the first reporting period for a retired member who resumes the practice of law shall start on the date the member resumes the practice of law and shall end on December 31 of the next calendar year. All subsequent reporting periods shall be three years.

(3) Notwithstanding Rules 3.7(d)(1) and (2), members resuming the practice of law after retirement who did not submit a completed compliance report for the reporting period immediately prior to retirement will be assigned a new reporting period upon the resumption of the practice of law. This reporting period shall begin on the date of the resumption of the practice of law and shall end on December 31 of the next calendar year. All subsequent reporting periods shall be three years.

### **Regulations to MCLE Rule 3 Minimum Continuing Legal Education Requirement**

**3.200 Resumption of Law Practice By a Retired Member.** The resumption of the practice of law by a retired member occurs when the member undertakes to perform any activity that would constitute the practice of law including, without limitation the activities described in OSB Bylaws 6.101 and 20.2.

**3.250 Out-of-State Compliance.** An active member seeking credit pursuant to MCLE Rule 3.5(b) shall attach to the member's compliance report filed in Oregon evidence that the member has met the requirements of Rules 3.2(a) and (b) with courses accredited in any jurisdiction. This evidence may include certificates of compliance, certificates of attendance, or other information indicating the identity of the crediting jurisdiction, the number of 60-minute hours of credit granted, and the subject matter of programs attended.

**3.260 Reciprocity.** An active member whose principal office for the practice of law is in Idaho, Utah or Washington may comply with Rule 3.5(a) by attaching to the compliance report required by MCLE Rule 7.1 a copy of the member's certificate of compliance with the MCLE requirements of the state in which the member's principal office is located, together with evidence that the member has completed the child abuse reporting training required in ORS 9.114. No other information about program attendance is required.

#### **3.300 Application of Credits.**

(a) Legal ethics and access to justice credits in excess of the minimum required can be applied to the general or practical skills requirement.

(b) Practical skills credits can be applied to the general requirement.

(c) No more than two child abuse credits can be applied to the ethics requirement, and then only for a single two-hour program. Additional child-abuse credits can be applied to the general or practical skills requirement.

(d) Members in a three-year reporting period are required to have 3.0 access to justice credits in reporting periods ending 12/31/2012 through 12/31/2014, 12/31/2018 through 12/31/2020 and in alternate three-year periods thereafter. Access to Justice credits earned in a non-required reporting period will be credited as general credits.

#### **3.400 Practical Skills Requirement.**

(a) A practical skills program is one which includes courses designed primarily to instruct new

admittees in the methods and means of the practice of law. This includes those courses which involve instruction in the practice of law generally, instruction in the management of a legal practice, and instruction in particular substantive law areas designed for new practitioners. A practical skills program may include but shall not be limited to instruction in: client contact and relations; court proceedings; negotiation and settlement; alternative dispute resolution; malpractice avoidance; personal management assistance; the negative aspects of substance abuse to a law practice; and practice management assistance topics such as tickler and docket control systems, conflict systems, billing, trust and general accounting, file management, and computer systems.

(b) A CLE course on any subject matter can contain as part of the curriculum a portion devoted to practical skills. The sponsor shall designate those portions of any program which it claims is eligible for practical skills credit.

(c) A credit hour cannot be applied to both the practical skills requirement and the ethics requirement.

(d) A new admittee applying for an exemption from the practical skills requirement, pursuant to Rule 3.3(b), shall submit in writing to the MCLE Administrator a request for exemption describing the nature and extent of the admittee's prior practice of law sufficient for the Administrator to determine whether the admittee has current skills equivalent to the practical skills requirements set forth in this regulation.

**3.500 Reporting Period Upon Reinstatement.** A member who returns to active membership status as contemplated under MCLE Rule 3.7(c)(2) shall not be required to fulfill the requirement of compliance during the member's inactive status, suspension, disbarment or resignation, but no credits obtained during the member's inactive status, suspension, disbarment or resignation shall be carried over into the next reporting period.

**3.600 Introductory Course in Access to Justice.** In order to qualify as an introductory course in access to justice required by MCLE Rule 3.3(b), the three-hour program must meet the accreditation standards set forth in MCLE Rule 5.5(b) and include discussion of at least three of the following areas: race, gender, economic status, creed, color, religion, national origin, disability, age or sexual orientation.

## **Rule Four Accreditation Procedure**

### **4.1 In General.**

(a) In order to qualify as an accredited CLE activity, the activity:

(1) Must be given activity accreditation by the MCLE Administrator, or

(2) Must be an activity that would qualify as an accredited CLE activity and that is presented or co-presented by an accredited sponsor, or

(3) Must be accredited pursuant to MCLE Rule 4.6 or pursuant to a reciprocity agreement to which the Oregon State Bar is a party. An accredited CLE activity may take place outside Oregon.

(b) The MCLE Administrator shall periodically publish a list of accredited sponsors and accredited programs.

(c) All sponsors shall permit the MCLE Administrator or a member of the MCLE Committee to

audit the sponsors' CLE activities without charge for purposes of monitoring compliance with MCLE requirements. Monitoring may include attending CLE activities, conducting surveys of participants and verifying attendance of registrants.

#### **4.2 Sponsor Accreditation.**

(a) Subject to the provisions of Rule 4.2(c), CLE activities presented by accredited sponsors are automatically accredited. Accredited sponsors are exempt from the activity accreditation application requirements in Rule 4.3(d).

(b) A sponsor wishing to qualify as an accredited sponsor shall submit an application to the MCLE Administrator containing the information required by these Rules. In determining whether to grant accreditation, the MCLE Administrator shall consider the sponsor's past and present ability and willingness to present CLE activities in compliance with the accreditation standards listed in these Rules.

(c) Accredited sponsors shall:

(1) Assign the number of credit hours to be allowed for participation in each of their CLE activities, in compliance with these Rules and any Regulations adopted by the BOG.

(2) Pay to the bar the program sponsor fee required by MCLE Regulation 4.350 for each of its CLE activities, which must be paid prior to each CLE activity. An additional program sponsor fee is required prior to any repeat live presentation of a CLE activity.

(3) Submit reports and information that may be required by these Rules.

(4) Comply with all of the accreditation standards contained in these Rules.

(d) The MCLE Administrator may revoke the accredited status of any sponsor that fails to comply with the requirements and accreditation standards of these Rules and any Regulations adopted by the BOG. The MCLE Administrator shall give 28 days' notice of such revocation. Following the expiration of the notice period, that sponsor shall be required to apply for accreditation of each of its CLE activities as provided in Rule 4.3 of these Rules. Review of the MCLE Administrator's revocation shall be pursuant to Rule 8.1 and Regulation 8.100.

(e) The automatic accreditation given to CLE activities presented or co-presented by accredited sponsors applies only to activities that comply with the accreditation standards contained in these Rules and any Regulations adopted by the BOG.

#### **4.3 Group Activity Accreditation.**

(a) CLE activities not presented by accredited sponsors shall be considered for accreditation on a case-by-case basis and shall satisfy the accreditation standards listed in these Rules for the particular type of activity for which accreditation is being requested.

(b) A sponsor or individual active member may apply for accreditation of a CLE activity by filing a written application for accreditation with the MCLE Administrator. The application shall be made on the form required by the MCLE Administrator for the particular type of CLE activity for which accreditation is being requested and shall demonstrate compliance with the accreditation standards contained in these Rules.

(c) A written application for accreditation of a group CLE activity submitted by or on behalf of the sponsor of the CLE activity shall be accompanied by the program sponsor fee required by

MCLE Regulation 4.350. An additional program sponsor fee is required for a repeat live presentation of a CLE activity.

(d) A written application for accreditation of a group CLE activity must be filed either before or no later than 30 days after the completion of the activity. An application received more than 30 days after the completion of the activity is subject to a late processing fee as provided in Regulation 4.350.

(e) The MCLE Administrator may revoke the accreditation of an activity at any time if it determines that the accreditation standards were not met for the activity. Notice of revocation shall be sent to the sponsor of the activity.

(f) Accreditation of a CLE activity obtained by a sponsor or an active member shall apply for all active members participating in the activity.

**4.4 Credit Hours.** Credit hours, whether determined by an accredited sponsor or by the MCLE Administrator, shall be assigned in multiples of one-quarter of an hour. The BOG shall adopt regulations to assist sponsors in determining the appropriate number of credit hours to be assigned.

#### **4.5 Sponsor Advertising.**

(a) Only sponsors of accredited CLE activities may include in their advertising the accredited status of the activity and the credit hours assigned.

(b) Specific language and other advertising requirements may be established in regulations adopted by the BOG.

#### **4.6 Reciprocal Accreditation.**

(a) Group CLE activities taking place outside of Oregon may be accredited in Oregon provided:

(1) The jurisdiction in which the activity takes place has a MCLE program and MCLE accreditation standards substantially similar to those established by these Rules; and

(2) The activity has been accredited by the body administering the MCLE program in the jurisdiction in which the activity takes place.

(b) For the purposes of accreditation in Oregon, the MCLE Administrator may assign a number of credits attributable to the activity taking place outside Oregon in an amount different from the original amount attributed to the activity by the jurisdiction in which the activity takes place.

### **Regulations to MCLE Rule 4 Accreditation Procedure**

#### **4.200 Sponsor Accreditation.**

(a) Any sponsor seeking accreditation as an accredited sponsor under the MCLE Rules shall submit an application to the MCLE Administrator containing the following information:

(i) Specific credentials of the sponsor as to overall qualifications as a provider, continuing legal education experience and the like; and

(ii) Date, time, place and program content of previously sponsored programs and/or proposed continuing legal education programs and their compliance with the accreditation standards in MCLE Rule 5.1.

(b) The MCLE Administrator shall consider the application for accreditation and shall notify the sponsor seeking accreditation within 21 days of the accreditation determination. Review procedures shall be pursuant to MCLE Rule 8.1 and Regulation 8.100.

#### **4.300 Group Activity Accreditation.**

(a) Applications for accreditation shall be deemed approved unless the MCLE Administrator, within 30 days after receipt of the application, sends a notice that the application is questioned or that additional time is required for approval. The applicant shall have 14 days to respond to the MCLE Administrator's questions. The applicant's response to a questioned application shall be reviewed by the MCLE Administrator and the applicant shall be notified of the decision no later than 21 days after submission of the response.

(b) Review procedures shall be pursuant to MCLE Rule 8.1 and Regulation 8.100.

(c) The number of credit hours assigned to the activity shall be determined based upon the information provided by the applicant. The applicant shall be notified of the number of credit hours assigned.

#### **4.350 Sponsor Fees.**

(a) A sponsor of a CLE activity that is accredited for 4 or fewer credit hours shall pay a program sponsor fee of \$40.00. An additional program sponsor fee is required for every repeat live presentation of an accredited activity, but no additional fee is required for a video or audio replay of an accredited activity.

(b) A sponsor of a CLE activity that is accredited for more than 4 credit hours shall pay a program sponsor fee of \$75. An additional program sponsor fee is required for every repeat live presentation of an accredited activity, but no additional fee is required for a video or audio replay of an accredited activity.

(c) Sponsors presenting a CLE activity as a series of presentations may pay one program fee of \$40.00 for all presentations offered within three consecutive calendar months, provided:

- (i) The presentations do not exceed a total of three credit hours for the approved series; and
- (ii) Any one presentation does not exceed one credit hour.

(d) A late processing fee of \$40 is due for accreditation applications that are received more than 30 days after the program date. This fee is in addition to the program sponsor fee and accreditation shall not be granted until the fee is received.

(e) All local bar associations in Oregon are exempt from payment of the MCLE program sponsor fees. However, if accreditation applications are received more than 30 days after the program date, the late processing fee set forth in MCLE Regulation 4.350(d) will apply.

#### **4.400 Credit Hours.**

(a) Credit hours shall be assigned to CLE activities in multiples of one-quarter of an hour or .25 credits.

(b) Credit Exclusions. Only CLE activities that meet the accreditation standards stated in MCLE Rule 5 shall be included in computing total CLE credits. Credit exclusions include the following:

- (1) Registration
- (2) Non-substantive introductory remarks

- (3) Breaks exceeding 15 minutes per three hours of instruction
- (4) Business meetings
- (5) Programs of less than 30 minutes in length

#### **4.500 Sponsor Advertising.**

- (a) Advertisements by sponsors of accredited CLE activities shall not contain any false or misleading information.
- (b) Information is false or misleading if it:
  - (i) Contains a material misrepresentation of fact or law or omits a fact necessary to make the statement considered as a whole not materially misleading;
  - (ii) Is intended or is reasonably likely to create an unjustified expectation as to the results to be achieved from participation in the CLE activity;
  - (iii) Is intended or is reasonably likely to convey the impression that the sponsor or the CLE activity is endorsed by, or affiliated with, any court or other public body or office or organization when such is not the case.
- (c) Advertisements may list the number of approved credit hours. If approval of accreditation is pending, the advertisement shall so state and may list the number of CLE credit hours for which application has been made.
- (d) If a sponsor includes in its advertisement the number of credit hours that a member will receive for attending the program, the sponsor must have previously applied for and received MCLE accreditation for the number of hours being advertised.

### **Rule Five Accreditation Standards**

#### **5.1 Group CLE Activities.** Group CLE activities shall satisfy the following:

- (a) The activity must have significant intellectual or practical content with the primary objective of increasing the participant's professional competence as a lawyer; and
- (b) The activity must deal primarily with substantive legal issues, legal skills, practice issues, or legal ethics and professionalism, or access to justice; and
- (c) The activity must be offered by a sponsor having substantial, recent experience in offering continuing legal education or by a sponsor that can demonstrate ability to organize and effectively present continuing legal education. 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; and
- (d) The activity must be primarily intended for presentation to multiple participants, including but not limited to live programs, video and audio presentations (including original programming and replays of accredited programs), satellite broadcasts and on-line programs; and
- (e) The activity must include the use of thorough, high-quality written materials, unless the MCLE Administrator determines that the activity has substantial educational value without written materials.

(f) The activity must have no attendance restrictions based on race, color, gender, sexual orientation, religion, geographic location, age, handicap or disability, marital, parental or military status or other classification protected by law, except as may be permitted upon application from a provider or member, where attendance is restricted due to applicable state or federal law.

## **5.2 Other CLE Activities.**

### **(a) Teaching Activities.**

(1) Teaching activities may be accredited at a ratio of four credit hours for each sixty minutes of actual instruction if the presentation includes preparation of written materials, or at a ratio of two credit hours for each sixty minutes of actual instruction if the presentation does not include written materials. No more than 20 hours of teaching credit may be claimed in a three-year reporting period and no more than 10 hours may be claimed in a shorter reporting period.

(2) Teaching credit is allowed only for accredited continuing legal education activities or for course in ABA or AALS accredited law schools. Credit shall not be given to an active member whose primary employment is as a full-time or part-time law teacher, but may be given to an active member who teaches on a part-time basis in addition to the member's primary employment.

(3) Teaching credit is not allowed for programs and activities for which the primary audience is nonlawyers unless the applicant establishes to the MCLE Administrator's satisfaction that the teaching activity contributed to the professional education of the presenter.

(4) No credit is allowed for repeat presentations of previously accredited courses unless the presentation involves a substantial update of previously presented material, as determined by the MCLE Administrator. Updated courses satisfying this requirement may be accredited at a ratio of two credit hour for each sixty minutes of actual instruction.

(b) Service as a Bar Examiner. Service as a bar examiner for Oregon may be accredited, provided that the service includes personally writing or grading a question for the Oregon bar exam during the reporting period. Up to six (6) credit hours may be earned for writing and grading a question, and up to three (3) credit hours may be earned for grading a question.

### **(c) Legal Research and Writing.**

(1) Legal research and writing activities not included in a teaching activity may be accredited provided the activity satisfies the following criteria:

(i) It has been published in the form of articles, CLE course materials, chapters, or books, or issued as a final product of the Legal Ethics Committee, personally authored or edited in whole or in substantial part, by the applicant; and

(ii) It contributes substantially to the legal education of the applicant and other attorneys; and

(iii) It is not done in the regular course of the active member's primary employment.

(2) The number of credit hours shall be determined by the MCLE Administrator, based on the contribution of the written materials to the professional competency of the applicant and

other attorneys. One hour of credit will be granted for each sixty minutes of research and writing, but no credit shall be granted for time spent on editing.

(d) Legal Ethics Service. A member serving on the Oregon State Bar Legal Ethics Committee, Client Security Fund Committee, Commission on Judicial Fitness & Disability, Local Professional Responsibility Committees, State Professional Responsibility Board, and Disciplinary Board or serving as volunteer bar counsel or volunteer counsel to an accused in Oregon disciplinary proceedings may earn two ethics credits for each twelve months of service.

(e) Legislative Service. Two general credit hours per month shall be given for each full month of service as a member of the Oregon Legislative Assembly while it is in session.

(f) A member seeking credit for any of the activities described in Rule 5.2 must submit a written application on the form designated by the MCLE Administrator for Other CLE Activities.

**5.3 Other Professionals.** Notwithstanding the requirements of Rules 5.1(b) and (c) and 5.2, participation in or teaching an educational activity offered primarily to or by other professions or occupations may be accredited as a CLE activity if the MCLE Administrator determines that the content of the activity is in compliance with other MCLE accreditation standards. The MCLE Administrator may accredit the activity for fewer than the actual activity hours if the MCLE Administrator determines that the subject matter is not sufficient to justify full accreditation.

**5.4 Attending Law School Classes.** Attending a class at an ABA or AALS accredited law school may be accredited as a CLE activity.

### **5.5 Ethics and Access to Justice.**

(a) In order to be accredited as an activity in legal ethics under Rule 3.2(b), an activity shall be devoted to the study of judicial or legal ethics or professionalism, and shall include discussion of applicable judicial conduct codes, disciplinary rules, or statements of professionalism. Of the six hours of ethics credit required by Rule 3.2(b), one hour must be on the subject of a lawyer's statutory duty to report child abuse (see ORS 9.114).

(b) In order to be accredited as an activity pertaining to access to justice for purposes of Rule 3.2(c), an activity shall be directly related to the practice of law and designed to educate attorneys to identify and eliminate from the legal profession and from the practice of law barriers to access to justice arising from biases against persons because of race, gender, economic status, creed, color, religion, national origin, disability, age or sexual orientation.

(c) Portions of activities may be accredited for purposes of satisfying the ethics and access to justice requirements of Rule 3.2, if the applicable content of the activity is clearly defined.

**5.6 Personal Management Assistance.** Activities that deal with personal self-improvement may be accredited, provided the MCLE Administrator determines the self-improvement relates to professional competence as a lawyer.

**5.7 Unaccredited Activities.** The following activities shall not be accredited:

(a) Activities that would be characterized as dealing primarily with personal self-improvement unrelated to professional competence as a lawyer; and

(b) Activities designed primarily to sell services or equipment; and

(c) Video or audio presentations of a CLE activity originally conducted more than three years prior

to the date viewed or heard by the member seeking credit, unless it can be shown by the member that the activity has current educational value.

(d) Repeat live, video or audio presentations of a CLE activity for which the active member has already obtained MCLE credit.

## **Regulations to MCLE Rule 5 Accreditation Standards**

### **5.050 Written Materials.**

(a) For the purposes of accreditation as a group CLE activity under MCLE Rule 5.1(5), written material may be provided in an electronic or computer-based format, provided the material is available for the member to retain for future reference.

(b) Factors to be considered by the MCLE Administrator in determining whether a group CLE activity has substantial educational value without written materials include, but are not limited to: the qualifications and experience of the program sponsor; the credentials of the program faculty; information concerning program content provided by program attendees or monitors; whether the subject matter of the program is such that comprehension and retention by members is likely without written materials; and whether accreditation previously was given for the same or substantially similar program.

**5.100 Other CLE Activities.** The application procedure for accreditation of Other CLE Activities shall be in accordance with MCLE Rule 5.2 and Regulation 4.300.

(a) With the exception of panel presentations, when calculating credit for teaching activities pursuant to MCLE Rule 5.2, for presentations where there are multiple presenters for one session, the number of minutes of actual instruction will be divided by the number of presenters unless notified otherwise by the presenter. Members who participate in panel presentations may receive credit for the total number of minutes of actual instruction. Attendance credit may be claimed for any portion of an attended session not receiving teaching credit.

### **5.200 Legal Research and Writing Activities.**

(a) For the purposes of accreditation of Legal Research and Writing, all credit hours shall be deemed earned on the date of publication or issuance of the written work.

(b) Legal Research and Writing that supplements an existing CLE publication may be accredited if the applicant provides a statement from the publisher confirming that research on the existing publication revealed no need for supplementing the publication's content.

**5.300 Personal Management Assistance.** A program may be accredited as a personal management assistance program if it provides assistance with issues that could impair a lawyer's professional competence (examples include but are not limited to programs addressing alcoholism, drug addiction, burnout, procrastination, depression, anxiety, gambling or other addictions or compulsive behaviors, and other health and mental health related issues). A program may also be accredited as a personal management assistance program if it is designed to improve or enhance a lawyer's professional effectiveness and competence (examples include but are not limited to programs addressing time and stress management, career satisfaction and transition, and interpersonal/relationship skill-building).

**5.400 Business Development and Marketing Activities.** Activities devoted to enhancing profits or generating revenue through advertising and solicitation of legal business, whether denominated business development, client development, practice development, marketing or otherwise, shall

not be accredited. Activities dealing with ethical issues relating to advertising and solicitation under applicable disciplinary rules may be accredited if it appears to the Administrator that the emphasis is on legal ethics rather than on business development or marketing.

**5.500 Access to Justice.** A program shall not be ineligible for accreditation as an access to justice activity solely because it is limited to a discussion of substantive law, provided the substantive law relates to access to justice issues involving race, gender, economic status, creed, color, religion, national origin, disability, age, or sexual orientation.

**5.600 Independent Study.** Members may earn credit through independent screening or viewing of audio-or video-tapes of programs originally presented to live group audiences, or through online programs designed for presentation to a wide audience. A lawyer who is licensed in a jurisdiction that allows credit for reading and successfully completing an examination about specific material may use such credits to meet the Oregon requirement. No credit will be allowed for independent reading of material selected by a member except as part of an organized and accredited group program.

## **Rule Six Credit Limitations**

### **6.1 In General.**

(a) Credit shall be allowed only for CLE activities that are accredited as provided in these Rules, and substantial participation by the active member is required. The MCLE Administrator may allow partial credit for completion of designated portions of a CLE activity.

(b) Except as provided in Rule 6.1(c), credit for a particular reporting period shall be allowed only for activities participated in during that reporting period.

(c) An active member may carry forward 15 or fewer unused credit hours from the reporting period during which the credit hours were earned to the next reporting period.

**6.2 Legal Research and Writing Limitation.** No more than 15 credit hours shall be allowed for each legal research activity for which credit is sought under MCLE Rule 5.2(c) and no more than 20 hours of legal research and writing credit may be claimed in one three-year reporting period. Not more than 10 hours may be claimed in any shorter reporting period.

**6.3 Personal Management Assistance Limitation.** No more than 6 credit hours may be claimed in one three-year reporting period and not more than 3 hours may be claimed in a shorter reporting period for personal management assistance activities.

## **Regulations to MCLE Rule 6 Credit Limitations**

**6.100 Carry Over Credit.** No more than six ethics credits can be carried over for application to the subsequent reporting period requirement. Ethics credits in excess of the carry over limit may be carried over as general credits. Child abuse education credits earned in excess of the reporting period requirement may be carried over as general credits, but a new child abuse education credit must be earned in each reporting period. Access to justice credits may be carried over as general credits, but new credits must be earned in the reporting period in which they are required. Carry over credits from a reporting period in which the credits were completed by the member may not

be carried forward more than one reporting period.

**6.200 Credits Earned in Excess of Credit Limitations.** Any credits earned in excess of the credit limitations set forth in MCLE Rule 6.2 and 6.3 may not be claimed in the reporting period in which they are completed or as carry over credits in the next reporting period.

## **Rule Seven Compliance**

**7.1 Reports.** Every active member shall file a completed compliance report certifying completion of the member's MCLE requirement, on a form provided by the MCLE Administrator, on or before 5:00 p.m. on January 31 of the year immediately following the active member's reporting period.

### **7.2 Recordkeeping.**

(a) Every active member shall maintain records of participation in CLE activities for use in completing a compliance report and shall retain these records for a period of twelve months after the end of the member's reporting period.

(b) The MCLE Administrator may maintain records of active members' participation in CLE activities as necessary to verify compliance with the MCLE requirement.

### **7.3 Audits.**

(a) The MCLE Administrator may audit compliance reports selected because of facial defects or by random selection or other appropriate method.

(b) For the purpose of conducting audits, the MCLE Administrator may request and review records of participation in CLE activities reported by active members.

(c) Failure to substantiate participation in CLE activities in accordance with applicable rules and regulations after request by the MCLE Administrator shall result in disallowance of credits for the reported activity and assessment of the late filing fee specified in 7.5(f).

(d) The MCLE Administrator shall refer active members to the Oregon State Bar Disciplinary Counsel for further action where questions of dishonesty in reporting occur.

### **7.4 Noncompliance.**

(a) Grounds. The following are considered grounds for a finding of non-compliance with these Rules:

(1) Failure to complete the MCLE requirement for the applicable reporting period.

(2) Failure to file a completed compliance report on time.

(3) Failure to provide sufficient records of participation in CLE activities to substantiate credits reported, after request by the MCLE Administrator.

(b) Notice. In the event of a finding of noncompliance, the MCLE Administrator shall serve, by certified mail, a written notice of noncompliance on the affected active member. The notice shall state the nature of the noncompliance and shall summarize the applicable rules regarding noncompliance and its consequences.

## **7.5 Cure.**

(a) Noncompliance for failure to file a completed compliance report by the due date can be cured by filing the completed report demonstrating completion of the MCLE requirement during the applicable reporting period, together with the late fee specified MCLE Regulation 7.200, within 63 days following mailing of the notice of noncompliance.

(b) Noncompliance for failure to complete the MCLE requirement during the applicable reporting period can be cured by doing the following within 63 days following mailing of the notice of noncompliance:

- (1) Completing the credit hours necessary to satisfy the MCLE requirement for the applicable reporting period;
- (2) Filing the completed compliance report; and
- (3) Paying the late filing fee specified in MCLE Regulation 7.200.

(c) Noncompliance for failure to provide the MCLE Administrator with sufficient records of participation in CLE activities to substantiate credits reported can be cured by providing the MCLE Administrator with sufficient records within the time established by the MCLE Administrator and paying the late fee specified in MCLE Regulation 7.200.

(d) Credit hours applied to a previous reporting period for the purpose of curing noncompliance as provided in Rule 7.5(b) may only be used for that purpose and may not be used to satisfy the MCLE requirement for any other reporting period.

(e) When it is determined that the noncompliance has been cured, the MCLE Administrator shall notify the affected active member that he or she has complied with the MCLE requirement for the applicable reporting period.

**7.6 Suspension.** If the noncompliance is not cured within the deadline specified in Rule 7.5, the MCLE Administrator shall recommend to the Supreme Court that the affected active member be suspended from membership in the bar.

## **Regulations to MCLE Rule 7 Compliance**

**7.100. Member Records of Participation.** In furtherance of its audit responsibilities, the MCLE Administrator may review an active member's records of participation in CLE activities. Records which may satisfy such a request include, but are not limited to, certificates of attendance or transcripts issued by sponsors, MCLE recordkeeping forms, canceled checks or other proof of payment for registration fees or audio or video tapes, course materials, notes or annotations to course materials, or daily calendars for the dates of CLE activities. For individually screened presentations, contemporaneous records of screening dates and times shall be required.

**7.150 Sponsor Records of Participation.** Within 30 days after completion of an accredited CLE activity, the sponsor shall submit an attendance record reflecting the name and Oregon bar number of each Oregon bar member attendee. The record shall be in a compatible electronic format or as otherwise directed by the MCLE Administrator.

## **7.200 Late Fees.**

(a) The late fee for curing a failure to timely file a completed compliance report is \$50 if the report is filed within 30 days of the filing deadline and \$100 if the report is filed more than 30 days after the filing deadline but within the 63 day cure period; if additional time for filing is granted by the MCLE Administrator, the fee shall increase by \$50 for every additional 30 days or part thereof.

(b) The late fee for not completing the MCLE requirement during the applicable reporting period is \$200 if the requirement is completed with the 63 day cure period; if additional time for meeting the requirement is granted by the MCLE Administrator, the fee shall increase by \$50 for every additional 30 days or part thereof.

## **Rule Eight Review and Enforcement**

### **8.1 Review.**

(a) Decisions of the MCLE Administrator. A decision, other than a suspension recommended pursuant to Rule 7.6, affecting any active member or sponsor is final unless a request for review is filed with the MCLE Administrator within 21 days after notice of the decision is mailed. The request for review may be by letter and requires no special form, but it shall state the decision to be reviewed and give the reasons for review. The matter shall be reviewed by the BOG or, if one has been appointed, the MCLE Committee, at its next regular meeting. An active member or sponsor shall have the right, upon request, to be heard, and any such hearing request shall be made in the initial letter. The hearing shall be informal. On review, the BOG or the MCLE Committee shall have authority to take whatever action consistent with these rules is deemed proper. The MCLE Administrator shall notify the member or sponsor in writing of the decision on review and the reasons therefor.

(b) Decisions of the MCLE Committee. If a decision of the MCLE Administrator is initially reviewed by the MCLE Committee, the decision of the MCLE Committee may be reviewed by the BOG on written request of the affected active member or sponsor made within 21 days of the issuance of the MCLE Committee's decision. The decision of the BOG shall be final.

(c) Suspension Recommendation of the MCLE Administrator. A recommendation for suspension pursuant to Rule 7.6 shall be subject to the following procedures:

(1) A copy of the MCLE Administrator's recommendation to the Supreme Court that a member be suspended from membership in the bar shall be sent by certified mail to the member. Within 14 days of the date of the mailing, the member recommended for suspension may file with the State Court Administrator and the MCLE Administrator a petition for review of the recommended suspension. The petition shall set forth a concise statement of each reason asserted for review of the MCLE Administrator's recommendation and may be accompanied by one or more supporting affidavits.

(2) Within 14 days after a petition for review is filed by a member recommended for suspension, the MCLE Administrator shall file with the State Court Administrator a response and may submit one or more supporting affidavits. Further submissions by the parties shall not be allowed unless the court so requests.

(3) The court may review the MCLE Administrator's recommendation, petition for review

and response without further briefing or oral argument. The court may, however, request either further briefing or oral argument, or both. Thereafter, the court shall enter its order. If the court approves the recommendation of the MCLE Administrator, an effective date for the member's suspension shall be stated therein.

**8.2 Reinstatement.** An active member suspended for noncompliance with the MCLE requirement shall be reinstated only upon completion of the MCLE requirement, submission of a completed compliance report to the bar, payment of the late filing and reinstatement fees, and compliance with the applicable provisions of the Rules of Procedure.

### **Regulations to MCLE Rule 8 Review and Enforcement**

#### **8.100 Review Procedure.**

(a) The MCLE Administrator shall notify the active member or sponsor of the date, time and place of the BOG or MCLE Committee meeting at which the request for review will be considered. Such notice must be sent no later than 14 days prior to such meeting. If the request for review is received less than 14 days before the next regularly scheduled meeting, the request will be considered at the following regularly scheduled meeting of the BOG or MCLE Committee, unless the member or sponsor waives the 14 day notice.

(b) A hearing before the MCLE Committee may be recorded at the request of the active member or sponsor or the MCLE Committee. In such event, the party requesting that the matter be recorded shall bear the expense of such recording. The other party shall be entitled to a copy of the record of the proceedings at their own expense.

(c) The MCLE Administrator shall notify the active member or sponsor of the decision and the reasons therefor within 28 days of the date of the review. A decision of the MCLE Committee shall be subject to BOG review as provided in Rule 8.1.

### **Rule Nine Waivers and Exemptions**

Upon written request of a member or sponsor, the MCLE Administrator may waive in full or part, grant exemption from or permit substitute compliance with any requirement of these Rules upon a finding that hardship or other special circumstances makes compliance impossible or inordinately difficult, or upon a finding that the requested waiver, exemption or substitute compliance is not inconsistent with the purposes of these Rules. The request shall state the reason for the waiver or exemption and shall describe a continuing legal education plan tailored to the particular circumstances of the requestor.

### **Regulations to MCLE Rule 9 Waivers and Exemptions**

**9.100 Waivers and Exemptions .** The MCLE Administrator will consider requests for waivers and exemptions from the MCLE Rules and regulations on a case by case basis.

### **Rule Ten**

### **Amendment**

These Rules may be amended by the BOG subject to approval by the Supreme Court. Amendments may be proposed by the MCLE Committee, the executive director, or an active member. Proposed amendments shall be submitted and considered in compliance with any regulations adopted by the BOG.