

ADOPTED**RESOLUTION**

1 RESOLVED, That the American Bar Association adopts
2 the Model Rule for Minimum Continuing Legal Education
3 (MCLE) and Comments dated February 2017, to replace
4 the Model Rule for MCLE and Comments adopted by the
5 American Bar Association in 1988 and subsequently
6 amended.

7 **American Bar Association**
8 **Model Rule for Minimum Continuing Legal Education**
9 **February 2017**

10
11 **Purpose**

12 To maintain public confidence in the legal profession and the rule of law, and to promote the fair
13 administration of justice, it is essential that lawyers be competent regarding the law, legal and
14 practice-oriented skills, the standards and ethical obligations of the legal profession, and the
15 management of their practices. In furtherance of this purpose, the ABA recommends this Model
16 Rule for Minimum Continuing Legal Education (MCLE) and Comments, which replaces the prior
17 Model Rule for MCLE and Comments adopted by the American Bar Association in 1988 and
18 subsequently amended.

19
20 **Contents**

21 **Section 1. Definitions.**

22 **Section 2. MCLE Commission.**

23 **Section 3. MCLE Requirements and Exemptions.**

24 **Section 4. MCLE-Qualifying Program Standards.**

25 **Section 5. Accreditation.**

26 **Section 6. Other MCLE-Qualifying Activities.**

27
28 **Section 1. Definitions.**

29 **(A)** “Continuing Legal Education Program” or “CLE Program” or “CLE Programming” means a legal
30 education program taught by one or more faculty members that has significant intellectual or
31 practical content designed to increase or maintain the lawyer’s professional competence and
32 skills as a lawyer.

33
34 **(B)** “Credit” or “Credit Hour” means the unit of measurement used for meeting MCLE
35 requirements. For Credits earned through attendance at a CLE Program, a Credit Hour requires
36 sixty minutes of programming. Jurisdictions may also choose to award a fraction of a credit for
37 shorter programs.

38
39 **(C)** “Diversity and Inclusion Programming” means CLE Programming that addresses diversity and
40 inclusion in the legal system of all persons regardless of race, ethnicity, religion, national origin,
41 gender, sexual orientation, gender identity, or disabilities, and programs regarding the
42 elimination of bias.

43 **(D)** “Ethics and Professionalism Programming” means CLE programming that addresses standards
44 set by the Jurisdiction’s Rules of Professional Conduct with which a lawyer must comply to remain
45 authorized to practice law, as well as the tenets of the legal profession by which a lawyer
46 demonstrates civility, honesty, integrity, character, fairness, competence, ethical conduct, public
47 service, and respect for the rules of law, the courts, clients, other lawyers, witnesses, and
48 unrepresented parties.

49 **(E)** “In-House CLE Programming” means programming provided to a select private audience by a
50 private law firm, a corporation, or financial institution, or by a federal, state, or local
51 governmental agency, for lawyers who are members, clients, or employees of any of those
52 organizations.

53
54 **(F)** “Interdisciplinary Programming” means programming that crosses academic lines that
55 supports competence in the practice of law.

56
57 **(G)** “Jurisdiction” means United States jurisdictions including the fifty states, the District of
58 Columbia, territories, and Indian tribes.

59 **(H)** “Law Practice Programming” means programming specifically designed for lawyers on topics
60 that deal with means and methods for enhancing the quality and efficiency of a lawyer’s service
61 to the lawyer’s clients.

62
63 **(I)** “MCLE” or “Minimum Continuing Legal Education” means the ongoing training and education
64 that a Jurisdiction requires in order for lawyers to maintain their license to practice.

65
66 **(J)** “Mental Health and Substance Use Disorders Programming” means CLE Programming that
67 addresses the prevention, detection, and/or treatment of mental health disorders and/or
68 substance use disorders, which can affect a lawyer’s ability to perform competent legal services.

69 **(K)** “Moderated Programming” means programming delivered via a format that provides
70 attendees an opportunity to interact in real time with program faculty members or a qualified
71 commentator who are available to offer comments and answer oral or written questions before,
72 during, or after the program. Current delivery methods considered Moderated Programming
73 include, but are not limited to:

74 (1) “In-Person” – a live CLE Program presented in a classroom setting devoted to the
75 program, with attendees in the same room as the faculty members.

76 (2) “Satellite/Groupcast” – a live CLE Program broadcast via technology to remote locations
77 (i.e., a classroom setting or a central viewing or listening location). Attendees participate
78 in the program in a group setting.

79 (3) “Teleseminar” – a live CLE program broadcast via telephone to remote locations (i.e., a
80 classroom setting or a central listening location) or to individual attendee telephone lines.
81 Attendees may participate in the program in a group setting or individually.

82 (4) “Video Replay” – a recorded CLE Program presented in a classroom setting devoted to the
83 program, with attendees in the same room as a qualified commentator. Attendees
84 participate in the program in a group setting.

85 (5) “Webcast/Webinar” – a live CLE Program broadcast via the internet to remote locations
86 (*i.e.*, a classroom setting or a central viewing or listening location) or to individual
87 attendees. Attendees may participate in the program in a group setting or individually.

88 (6) “Webcast/Webinar Replay” - a recorded CLE program broadcast via the internet to remote
89 locations (*i.e.*, a classroom setting or a central viewing or listening location) or to
90 individual attendees. A qualified commentator is available to offer comments or answer
91 questions. Attendees may participate in the program in a group setting or individually.
92

93 **(L)** “New Lawyer Programming” means programming designed for newly licensed lawyers that
94 focuses on basic skills and substantive law that is particularly relevant to lawyers as they
95 transition from law school to the practice of law.
96

97 **(M)** “Non-Moderated Programming with Interactivity as a Key Component” means programming
98 delivered via a recorded format that provides attendees a significant level of interaction with the
99 program, faculty, or other attendees. Types of qualifying interactivity for non-moderated formats
100 include, but are not limited to, the ability of participants to: submit questions to faculty members
101 or a qualified commentator; participate in discussion groups or bulletin boards related to the
102 program; or use quizzes, tests, or other learning assessment tools. Current delivery methods
103 considered Non-Moderated Programming with Interactivity as Key Component include, but are
104 not limited to:

105 (1) “Recorded On Demand Online” – a recorded CLE Program delivered through the internet
106 to an individual attendee’s computer or other electronic device with interactivity built
107 into the program recording or delivery method.

108 (2) “Video or Audio File” – a recorded CLE Program delivered through a downloaded
109 electronic file in mp3, mp4, wav, avi, or other formats with interactivity built into the
110 program recording or delivery method.

111 (3) “Video or Audio Tape” – a recorded CLE Program delivered via a hard copy on tape, DVD,
112 DVR, or other formats with interactivity built into the program recording or delivery
113 method.
114

115 **(N)** “Self-Study” includes activities that are helpful to a lawyer’s continuing education, but do not
116 meet the definition of CLE Programming that qualifies for MCLE Credit. Self-Study includes, but
117 is not limited to:

- 118 (1) “Informal Learning” - acquiring knowledge through interaction with other lawyers, such
119 as discussing the law and legal developments
120 (2) “Non-Moderated Programming Without Interactivity” - viewing recorded CLE Programs
121 that do not have interactivity built into the program recording or delivery method
122 (3) “Text” - reading or studying content (periodicals, newsletters, blogs, journals, casebooks,
123 textbooks, statutes, etc.)

124 **(O)** “Sponsor” means the producer of the CLE Program responsible for adherence to the
125 standards of program content determined by the MCLE rules and regulations of the Jurisdiction.
126 A Sponsor may be an organization, bar association, CLE provider, law firm, corporate or
127 government legal department, or presenter.

128 **(P)** “Technology Programming” means programming designed for lawyers that provides
129 education on safe and effective ways to use technology in one’s law practice, such as to
130 communicate, conduct research, ensure cybersecurity, and manage a law office and legal
131 matters. Such programming assists lawyers in satisfying Rule 1.1 of the ABA Model Rules of
132 Professional Conduct in terms of its technology component, as noted in Comment 8 to the Rule
133 (“To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the
134 law and its practice, including the benefits and risks associated with relevant technology[.]”).
135

136 **Section 2. MCLE Commission.**

137 The Jurisdiction’s Supreme Court shall establish an MCLE Commission to develop MCLE
138 regulations and oversee the administration of MCLE.
139

140 **Comments:**

141 1. Section 2 assumes that the Jurisdiction’s highest court is its Supreme Court and that the
142 Supreme Court is the entity empowered to create an MCLE Commission. The titles of the
143 applicable entities may vary by Jurisdiction.

144 2. Supreme Courts are encouraged to consider the following when establishing an MCLE
145 Commission: composition of the Commission; terms of service; where and how often the
146 Commission must meet; election of officers; expenses; confidentiality; and staffing.

147 3. It is anticipated that MCLE Commissions will develop Jurisdiction-specific regulations (or rules)
148 to effectuate the provisions outlined in this Model Rule, such as regulations concerning when
149 and how lawyers must file MCLE reports, penalties for failing to comply, and appeals. Further, it
150 is anticipated that MCLE Commissions will develop regulations concerning the accreditation
151 process for MCLE that is provided by local, state, and national Sponsors. This Model Rule also
152 addresses recommended accreditation standards in Sections 4 and 5.

153 **Section 3. MCLE Requirements and Exemptions.**

154 **(A) Requirements.**

155 (1) All lawyers with an active license to practice law in this Jurisdiction shall be required to
156 earn an average of fifteen MCLE credit hours per year during the reporting period
157 established in this Jurisdiction.

158
159 (2) As part of the required Credit Hours referenced in Section 3(A)(1), lawyers must earn
160 Credit Hours in each of the following areas:

161
162 (a) Ethics and Professionalism Programming (an average of at least one Credit
163 Hour per year);

164 (b) Mental Health and Substance Use Disorders Programming (at least one
165 Credit Hour every three years); and

166 (c) Diversity and Inclusion Programming (at least one Credit Hour every three
167 years).

168
169 (3) A jurisdiction may establish regulations allowing the MCLE requirements to be satisfied,
170 in whole or in part, by the carryover of Credit Hours from the immediate prior reporting
171 period.

172 **(B) Exemptions.** The following lawyers may seek an exemption from this MCLE Requirement:

173 (1) Lawyers with an inactive license to practice law in this Jurisdiction, including those on
174 retired status.

175 (2) Nonresident lawyers from other Jurisdictions who are temporarily admitted to
176 practice law in this Jurisdiction under *pro hac vice* rules.

177 (3) A lawyer with an active license to practice law in this Jurisdiction who maintains a
178 principal office for the practice of law in another Jurisdiction which requires MCLE and
179 who can demonstrate compliance with the MCLE requirements of that Jurisdiction.

180 (4) Lawyers who qualify for full or partial exemptions allowed by regulation, such as
181 exemptions for those on active military duty, those who are full-time academics who do
182 not engage in the practice of law, those experiencing medical issues, and those serving as
183 judges (whose continuing education is addressed by other rules).

184

185 **Comments:**

186 1. While many Jurisdictions have chosen to require twelve Credit Hours per year, and a minority
187 of Jurisdictions require fewer than twelve Credit Hours per year, Section 3(A)(1) recommends an
188 average of fifteen Credit Hours of CLE annually, meaning lawyers must earn fifteen Credit Hours
189 per reporting period in Jurisdictions that require annual reporting, thirty Credit Hours per
190 reporting period in Jurisdictions that require reporting every two years, and forty-five Credit
191 Hours per reporting period in Jurisdictions that require reporting every three years. In addition,
192 this Model Rule recommends sixty minutes of CLE Programming per Credit Hour, which is the
193 standard in the majority of Jurisdictions, although a minority of Jurisdictions have chosen to
194 require only fifty minutes of CLE Programming per Credit Hour.

195 2. Section 3(A)(1) does not take a position on whether lawyers should report annually, every two
196 years, or every three years, all of which are options various Jurisdictions have chosen to
197 implement, in part based on their own Jurisdiction’s administrative needs. Allowing a lawyer to
198 take credits over a two-year or three-year period provides increased flexibility for the lawyer in
199 choosing when and which credits to earn, but it may also lead to procrastination and may provide
200 less incentive for a lawyer to regularly take CLE that updates his or her professional competence.

201 3. Section 3(A)(2) recognizes that Jurisdictions may choose to identify specific MCLE credits that
202 each lawyer must earn, such as those addressing particular subject areas. This Model Rule
203 recommends that every lawyer be required to take the specific credits outlined in Section
204 3(A)(2)(a), (b), and (c). While requiring specific credits may increase administrative burdens on
205 accrediting agencies, CLE Sponsors, and individual lawyers, and also requires proactive efforts to
206 ensure the availability of programs, it is believed that those burdens are outweighed by the
207 benefit of having all lawyers regularly receive education in those specific areas.

208
209 4. Many Jurisdictions currently allow CLE Programs on topics outlined in Section 3(A)(2)(b) and
210 (c) (relating to Mental Health and Substance Use Disorders Programming, and Diversity and
211 Inclusion Programming) to count toward the general CLE requirement or the Ethics and
212 Professionalism Programming requirement, rather than specifically requiring attendance at
213 those specialty programs. This Model Rule recommends stand-alone requirements for those
214 specialty programs, in order to ensure that all lawyers receive minimal training in those areas.
215 With respect to Mental Health and Substance Use Disorders Programming in particular, research
216 indicates that lawyers may hesitate to attend such programs due to potential stigma; requiring
217 all lawyers to attend such a program may greatly reduce that concern. Nonetheless, this Model
218 Rule recognizes that Jurisdictions may choose not to impose a stand-alone requirement and,
219 instead, accredit those specialty programs towards the Ethics and Professionalism Programming
220 requirement. All Jurisdictions are encouraged to promote the development of those specialty
221 programs in order to reach as many lawyers as possible. Nearly every Jurisdiction has a lawyers
222 assistance program that can offer, or assist in offering, Mental Health and Substance Use
223 Disorders Programming. In addition, numerous bar associations, including the American Bar
224 Association, have diversity committees that can offer, or assist in offering, Diversity and Inclusion
225 Programming.

226
227 5. Section 3(A)(3) endorses regulations that allow lawyers to carry over MCLE credits earned in
228 excess of the current reporting period's requirement from one reporting period to the next,
229 which encourages lawyers to take extra MCLE credits at a time that meets their professional and
230 learning needs without losing credit for the MCLE activity. It is anticipated that each Jurisdiction
231 will draft carryover credit regulations that best meet the Jurisdiction's needs, taking into account
232 factors such as the length of the reporting period, the availability of CLE Programs in the
233 Jurisdiction, administrative considerations, and other factors.

234
235 6. Section 3(B) recognizes that Jurisdictions may choose to exempt certain lawyers from MCLE
236 requirements. It is anticipated that regulations addressing such exemptions will identify those
237 who are automatically exempt, those who may seek an exemption based on their particular
238 circumstances, and the process for claiming an exemption.

239 7. Section 3(B)(3) provides a mechanism for lawyers licensed in more than one Jurisdiction to be
240 exempt from MCLE requirements if the lawyer satisfies the MCLE requirements of the Jurisdiction
241 where his or her principal office is located. A Jurisdiction may consider limiting this exemption to
242 lawyers with principal offices in certain Jurisdictions if the Jurisdiction is concerned that the MCLE
243 rules of other Jurisdictions vary too greatly from its own rules. A Jurisdiction may also consider
244 limiting this exemption to require that the lawyer attend particular CLE Programs, such as a
245 Jurisdiction-specific professionalism program, or other specific programs not required in the
246 Jurisdiction where the lawyer's principal office is located.

247
248 **Section 4. MCLE-Qualifying Program Standards.**

249 To be approved for credit, Continuing Legal Education Programs must meet the following
250 standards:

251
252 **(A)** The program must have significant intellectual or practical content and be designed for a
253 lawyer audience. Its primary objective must be to increase the attendee's professional
254 competence and skills as a lawyer, and to improve the quality of legal services rendered to the
255 public.

256
257 **(B)** The program must pertain to a recognized legal subject or other subject matter which
258 integrally relates to the practice of law, professionalism, diversity and inclusion issues, mental
259 health and substance use disorders issues, civility, or the ethical obligations of lawyers. CLE
260 Programs that address any of the following will qualify for MCLE credit, provided the program
261 satisfies the other accreditation requirements outlined herein:
262

- 263 (1) Substantive law programming
- 264
- 265 (2) Legal and practice-oriented skills programming
- 266
- 267 (3) Specialty programming (*see* Section 3(A)(2))
- 268
- 269 (4) New Lawyer Programming (*see* Section 1(L))
- 270
- 271 (5) Law Practice Programming (*see* Section 1(H))
- 272
- 273 (6) Technology Programming (*see* Section 1(P))
- 274
- 275 (7) Interdisciplinary Programing (*see* Section 1(F))
- 276
- 277 [(8) Attorney Well-Being Programming]
- 278

279 **(C)** The program must be delivered as Moderated Programming, or Non-Moderated
280 Programming with Interactivity as a Key Component. The Sponsor must have a system which
281 allows certification of attendance to be controlled by the Sponsor and which permits the Sponsor
282 to verify the date and time of attendance.

283
284 **(D)** Thorough, high-quality instructional written materials which appropriately cover the subject
285 matter must be distributed to all attendees in paper or electronic format during or prior to the
286 program.

287
288 **(E)** Each program shall be presented by a faculty member or members qualified by academic or
289 practical experience to teach the topics covered, whether they are lawyers or have other subject
290 matter expertise.

291
292 **Comments:**

293 1. This Model Rule recommends approval of CLE programs designed for lawyers on the topics
294 outlined in Section 4(B). This Model Rule supports allowing a lawyer to make educated choices
295 about which programs will best meet the lawyer’s educational needs, recognizing that the
296 lawyer’s needs may change over the course of his or her career. Therefore, this Model Rule does
297 not place limits on the number of credits that can be earned through the programs identified in
298 Section 4(B).

299
300 2. Section 4(B)(4) supports accrediting CLE Programs specifically designed for new lawyers. Many
301 Jurisdictions require new lawyers to take one or more specific programs that focus on basic skills
302 and substantive law particularly relevant to new lawyers, either prior to or immediately after bar
303 admission. Other Jurisdictions simply accredit such programs as general CLE. The catalyst for
304 some Jurisdictions to begin offering such programs was a 1992 ABA task force report entitled:
305 “Task Force on Law Schools and the Profession: Narrowing the Gap” (commonly known as the

306 “MacCrate Report”), which offered numerous recommendations for preparing law students and
307 new graduates to practice law. This Model Rule supports the creation of programs designed for
308 new lawyers, but does not specifically require such programs, because many Jurisdiction-specific
309 factors may influence a Jurisdiction’s decision on this issue, such as the number of lawyers in the
310 Jurisdiction, the availability of existing CLE programs, whether there are specific Sponsors
311 available to teach such programs, similar educational programs required before licensure, and
312 other factors.

313

314 3. Law Practice Programming, Section 4(B)(5), is programming specifically designed for lawyers
315 on topics that deal with means and methods for enhancing the quality and efficiency of a lawyer’s
316 service to the lawyer’s clients. Providing education on the operation and management of one’s
317 legal practice can help lawyers avoid mistakes that harm clients and cause law practices to fail.
318 In some cases, Law Practice Programming may qualify as Ethics and Professionalism
319 Programming.

320

321 4. Technology Programming, Section 4(B)(6), provides education on safe and effective ways to
322 use technology in one’s law practice, such as to communicate, conduct research, ensure
323 cybersecurity, and manage a law office and legal matters, thereby assisting lawyers in satisfying
324 Rule 1.1 of the ABA Model Rules of Professional Conduct in terms of its technology component,
325 as noted in Comment 8 to the Rule (“To maintain the requisite knowledge and skill, a lawyer
326 should keep abreast of changes in the law and its practice, including the benefits and risks
327 associated with relevant technology[.]”). In some cases, Technology Programming may qualify as
328 Ethics and Professionalism Programming.

329

330 5. Interdisciplinary Programming, Section 4(B)(7), provides a lawyer the opportunity to gain
331 knowledge about a subject pertinent to his or her law practice, such as the treatment of particular
332 physical injuries, child development, and forensic accounting.

333

334 6. In recent years, some Jurisdictions have begun accrediting programming that addresses
335 attorney wellness or well-being topics. Some of those programs qualify for accreditation under
336 this Model Rule’s definitions of Mental Health and Substance Use Disorders Programming and
337 Ethics and Professionalism Programming. In the future, this Model Rule may be amended to
338 include additional programming that falls within a broader definition of Attorney Well-Being
339 Programming. For that reason, Section (4)(B)(8) appears in brackets and Attorney Well-Being
340 Programming is not defined in this Model Rule.

341

342 7. If a lawyer seeks MCLE credit for attending a program that has not been specifically designed
343 for lawyers, including but not limited to programs on the topics identified in Section 4(B),
344 Jurisdictions may choose to consider creating regulations that would require the lawyer to

345 explain how the program is beneficial to the lawyer’s practice. The regulations could also address
346 how to calculate Credit Hours for programs that were not designed for lawyers.

347

348 8. In-Person Moderated Programming, *see* Section 4(C) and Section 1(K)(1), requires lawyers to
349 leave their offices and learn alongside other lawyers, which can enhance the education of all and
350 promote collegiality. Other forms of Moderated Programming and Non-Moderated Programming
351 with Interactivity as a Key Component, such as Section 4(C), Section 1(K) and (M), and Section
352 4(A)(2), allow lawyers to attend programs from any location and, in some cases, at the time of
353 their choice. This flexibility allows lawyers to select programs most relevant to their practice,
354 including specialized programs and programs with a national scope. Some Jurisdictions have
355 expressed concern with approving programming that does not occur In-Person on grounds that
356 the lawyer is less engaged. Thus, some Jurisdictions have declined to accredit or have limited the
357 number of credits that can be earned through these other forms of programming. This Model
358 Rule supports allowing a lawyer to make educated choices about whether attending Moderated
359 Programming (In-Person or other) or Non-Moderated Programming with Interactivity as a Key
360 Component will best meet the lawyer’s educational needs, recognizing that the lawyer’s needs
361 may change over the course of his or her career. Therefore, this Model Rule does not place limits
362 on the number of credits that can be earned through Moderated Programming or Non-
363 Moderated Programming with Interactivity as a Key Component. If a Jurisdiction believes that
364 Moderated Programming, specifically In-Person Programming, is crucial to a lawyer’s education,
365 then it is recommended that the Jurisdiction establish a minimum number of credits that must
366 be earned through this type of programming, rather than place a cap on the number of credits
367 that can be earned through other types of programming. A key factor in deciding whether to
368 require In-Person Programming is the availability of programs throughout a particular
369 Jurisdiction, which may be affected by geography, the number of CLE Sponsors, and other
370 Jurisdiction-specific factors.

371

372 9. Currently, all Jurisdictions calculate credits exclusively based on the number of minutes a
373 presentation lasts. Several Jurisdictions have explored offering MCLE credit for self-guided
374 educational programs, such as those offered using a computer simulation that is completed at
375 the lawyer’s individual pace. Jurisdictions may wish to consider offering MCLE credit for such
376 programs, especially as technology continues to advance.

377 10. Self-Study does not qualify for MCLE Credit. Jurisdictions have used the term “self-study” in
378 varying ways. As defined in this Model Rule, Self-Study refers to activities that are important for
379 a lawyer’s continuing education and professional development, but which do not qualify as
380 MCLE. Lawyers are encouraged to engage in Self-Study as a complement to earning MCLE Credits.

381 **Section 5. Accreditation.**

382 **(A)** The Jurisdiction shall establish regulations that outline the requirements and procedures by
383 which CLE Sponsors can seek approval for an individual CLE Program. The regulations should
384 indicate whether the Jurisdiction imposes specific requirements with respect to the following:

385

- 386 (1) Faculty credentials
387
388 (2) Written materials
389
390 (3) Attendance verification
391
392 (4) Interactivity
393
394 (5) Applications and supplemental information required (agenda, sample of materials,
395 faculty credentials, etc.)
396
397 (6) Accreditation fees
398
- 399 **(B)** Any Sponsor may apply for approval of individual programs, but if the Jurisdiction determines
400 that a Sponsor regularly provides a significant volume of CLE programs that meet the standards
401 of approval and that the Sponsor will maintain and submit the required records, the Jurisdiction
402 may designate, on its own or upon application from a Sponsor, such a Sponsor as an “approved
403 provider.” The MCLE Commission may revoke approval if a Sponsor fails to comply with its
404 regulations, requirements, or program standards.
405
- 406 **(C)** Programs offered by law firms, corporate or government legal departments, or other similar
407 entities primarily for the education of their members or clients will be approved for credit
408 provided that the program meets the standards for accreditation outlined in Section 4.
409
- 410 **(D)** A Jurisdiction may establish regulations allowing an individual lawyer attendee to self-apply
411 for MCLE Credit for attending a CLE program that the Sponsor did not submit for accreditation in
412 the Jurisdiction where the individual lawyer is licensed.
413

414 **Comments:**

415 1. The vast majority of Jurisdictions now require MCLE. Over the four decades during which
416 Jurisdictions began implementing MCLE requirements, they have taken a variety of approaches
417 to accreditation requirements and processes. This has allowed Jurisdictions to consider
418 Jurisdiction-specific priorities and needs when drafting CLE requirements. However, this has
419 created challenges for CLE Sponsors seeking program approval in multiple Jurisdictions. Many
420 regional and national CLE Sponsors spend considerable time and resources to file applications in
421 multiple Jurisdictions with differing program requirements. This increased financial and
422 administrative burden can increase costs for CLE attendees, and it can also affect the number of
423 programs being offered nationwide on specialized CLE and federal law topics. While differences
424 in regulatory requirements among Jurisdictions are likely to continue, Jurisdictions are
425 encouraged to consider ways to reduce financial and administrative burdens so that CLE Sponsors
426 can offer programming that meets lawyers' educational needs at a reasonable price. For instance,
427 Jurisdictions can promulgate regulations that are clear and specific, and they can streamline
428 application processes, both of which would make it easier for Sponsors to complete applications
429 and know with greater certainty whether programs are likely to be approved for MCLE credit. In
430 addition, Jurisdictions may choose to reduce administrative costs to the Jurisdictions, CLE
431 Sponsors, and individual lawyers by recognizing an accreditation decision made for a particular
432 program by another Jurisdiction, thereby eliminating the need for the CLE Sponsor or individual
433 lawyer to submit the program for accreditation in multiple Jurisdictions. Jurisdictions might also
434 consider creating a regional or national accrediting agency to supplement or replace
435 accreditation processes in individual Jurisdictions.

436 2. Many Jurisdictions outline specific requirements for CLE program faculty members, such as
437 requiring that at least one member of the faculty be a licensed lawyer. Section 5(A)(1) does not
438 suggest specific regulations with respect to faculty, but Section 4(B) recognizes the value of
439 programming in Law Practice, Technology, and Interdisciplinary topics. For CLE Programs on
440 those topics, the most qualified speaker may be a non-lawyer. Therefore, Jurisdictions are
441 encouraged to allow non-lawyers to serve as speakers in appropriate circumstances, and
442 Sponsors are encouraged to include lawyers in the planning and execution of programs to ensure
443 that any subject area is discussed in a legal context.

444
445 3. All Jurisdictions currently require that a CLE program include written materials, which enhance
446 the program and serve as a permanent resource for attendees. Section 4(D) continues to require
447 program materials for a program to qualify for credit. Section 5(A)(2) does not suggest specific
448 requirements for written materials, but Jurisdictions are encouraged to provide clear guidance
449 on the format and length of required materials, which will better enable CLE Sponsors and
450 individual lawyers seeking credit for programs to satisfy the Jurisdiction's requirements with
451 respect to written materials.

452
453 4. Section 5(A)(3) recognizes that many Jurisdictions require lawyers to complete attendance
454 sheets at In-Person CLE programs or provide proof they are attending an online program. This

455 Model Rule does not take a position on how Jurisdictions should verify attendance, but
456 Jurisdictions are encouraged to weigh the benefits of particular methods of verifying attendance
457 against the administrative cost of the various methods of tracking and reporting attendance.

458 5. Section 5(A)(4) acknowledges that many Jurisdictions require that attendees have an
459 opportunity to ask the speakers questions. While this Model Rule does not offer specific
460 regulations on this topic, this Model Rule does endorse Moderated Programming with
461 Interactivity as a Key Component, which includes allowing lawyers to attend CLE on demand.
462 Those Jurisdictions that wish to provide an opportunity for attendees to ask questions are
463 encouraged to consider alternate ways of allowing speakers and attendees to communicate, such
464 as using Webinar chat rooms or email.

465
466 6. Section (5)(A)(6) recognizes that most Jurisdictions impose fees on CLE Sponsors or individual
467 lawyers to offset the cost of accrediting and tracking MCLE credits. The amount and type of fees
468 vary greatly by Jurisdiction. In some cases, CLE Sponsors make decisions about where they will
469 apply for accreditation based on the fees assessed, and may decide not to seek credit in particular
470 Jurisdictions, such as if providing MCLE credit for a handful of attendees costs more than the
471 tuition paid by those attendees. This can affect the availability of CLE programming to individual
472 lawyers, especially on national and specialized topics that may not otherwise be offered in a
473 particular Jurisdiction. Jurisdictions are encouraged to consider various fee models when
474 determining how best to cover administrative costs.

475
476 7. For an approved provider system, *see* Section 5(B), Jurisdictions should create regulations
477 which define the standards, application process for approved provider status, ongoing
478 application process for program approval, reporting obligations, fees, and benefits of the status.
479 Benefits may include reduced paperwork when applying for individual programs, reduced fees
480 for program applications, or presumptive approval of all programs.

481 8. Many Jurisdictions impose specific requirements on In-House CLE Programming, which is
482 sponsored by a private law firm, a corporation, or financial institution, or by a federal, state or
483 local governmental agency for lawyers who are members, clients, or employees of any of the
484 those organizations. This Model Rule recommends that Jurisdictions treat In-House Sponsors the
485 same as other Sponsors and allow for full accreditation of programs when all other standards of
486 Section 4 have been met.

487
488 9. Section 5(D) endorses regulations that allow an individual lawyer to self-apply for MCLE credit
489 for attending a CLE Program that would qualify for MCLE Credit under Section 4, but which was
490 not submitted for accreditation by the Sponsor in the Jurisdiction where the individual lawyer is
491 licensed. This allows greater flexibility for a lawyer to select CLE programming that best meets

492 his or her educational needs regardless of where the program Sponsor has chosen to apply for
 493 MCLE credit. It is anticipated that each Jurisdiction will draft regulations that best meet the
 494 Jurisdiction's needs, taking into account factors such as: the standards, delivery format, and
 495 content of the program; the Sponsor's qualifications; other accreditation of the program by CLE
 496 regulators; the availability of CLE Programs in the Jurisdiction; administrative considerations,
 497 including fees; and other factors.

498

499 **Section 6. Other MCLE-Qualifying Activities.**

500

501 Upon written application of the lawyer engaged in the activity, MCLE credit may be earned
 502 through participation in the following:

503 **(A) Teaching** – A lawyer may earn MCLE credit for being a speaker at an accredited CLE program.
 504 In addition, lawyers who are not employed full-time by a law school may earn MCLE credit for
 505 teaching a course at an ABA-accredited law school, or teaching a law course at a university,
 506 college or community college. Jurisdictions shall create regulations which define the standards,
 507 credit calculations, and limitations of credit received for teaching or presenting activities.

508

509 **(B) Writing** – A lawyer may earn MCLE credit for legal writing which:

510

511 (1) is published or accepted for publication, in print or electronically, in the form of an article,
 512 chapter, book, revision or update;

513

514 (2) is written in whole or in substantial part by the applicant; and

515

516 (3) contributed substantially to the continuing legal education of the applicant and other
 517 lawyers.

518

519 Jurisdictions shall create regulations which define the standards, credit calculations, and
 520 limitations of credit received for writing activities.

521 **[(C) Pro Bono]**

522 **[(D) Mentoring]**

523

524 **Comments:**

525 1. A minority of Jurisdictions award MCLE credit for providing pro bono legal representation. This
 526 Model Rule takes no position on whether such credit should be granted, as many Jurisdiction-
 527 specific factors may influence a Jurisdiction's decision on this issue, such as the extent of free
 528 legal services existing in the Jurisdiction and pro bono requirements imposed by the Jurisdiction's
 529 ethical rules. Accordingly, this option appears in brackets in this Model Rule.

530

531 2. A minority of Jurisdictions award MCLE credit for participating in mentoring programs for
532 fellow lawyers. This Model Rule takes no position on whether credit should be available for that
533 activity, as many Jurisdiction-specific factors may influence a Jurisdiction's decision on this
534 issue, such as the perceived need for formal mentoring programs in the Jurisdiction and the
535 availability of organizations to administer formal mentoring programs. Accordingly, this option
536 appears in brackets in this Model Rule.

