

Oregon State Bar
Minimum Continuing Legal Education
Rules and Regulations
(As amended effective January 1, 2019)

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 activities by the MCLE Program Manager.
- 1.3 BOG:** The Board of Governors of the Oregon State Bar.
- 1.4 Accredited CLE Activity:** An activity that provides legal or professional education to attorneys in accordance with MCLE Rule 5.
- 1.5 Executive Director:** The executive director of the Oregon State Bar.
- 1.6 Hour or Credit Hour:** Sixty minutes of accredited group CLE activity or other CLE activity.
- 1.7 MCLE Committee:** The Minimum Continuing Legal Education Committee appointed by the BOG to assist in the administration of these Rules.
- 1.8 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.
- 1.9 Regulations:** Any regulation adopted by the BOG to implement these Rules.
- 1.10 Reporting Period:** The period during which an active member must satisfy the MCLE requirement.
- 1.11 Sponsor:** An individual or organization providing a CLE activity.
- 1.12 Supreme Court:** The Supreme Court of the State of Oregon.

Regulations to MCLE Rule 1
Terms and Definitions

- 1.100 Inactive or Retired Member.** An inactive or retired member of the Oregon State Bar, as defined in Article 6 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 Program Manager, 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 Program Manager 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 Method.

(a) MCLE Compliance Reports shall be sent to the member's email address on file with the bar, except that reports shall be sent by first-class mail (to the last designated business or residence address on file with the Oregon State Bar) to any member who is exempt from having an email address on file with the bar.

(b) Notices of Noncompliance shall be sent via regular mail and email to the member's last designated business or residence address on file with the Oregon State Bar and to the email address on file with the bar on the date of the notice. Email notices will not be sent to any member who is exempt from having an email address on file with the bar.

(c) 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.

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 Program Manager who shall be an employee of the Oregon State Bar.

2.2 Duties of the MCLE Program Manager. The MCLE Program Manager 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 five of the required hours shall be in subjects relating to ethics in programs accredited pursuant to Rule 5.14(a).

(c) Abuse Reporting. One hour must be on the subject of a lawyer's statutory duty to report child abuse and elder abuse (see ORS 9.114).

(d) Mental Health and Substance Use Education. At least one of the required hours shall be in subjects relating to mental health, substance use, or cognitive impairment that can affect a lawyer's ability to practice law.

(e) 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 5.14(c).

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

(a) An active member whose reporting period is established in Rule 3.6(c)(2) or 3.6(c)(3) shall complete 15 credit hours of accredited CLE activity in the first reporting period after reinstatement. Two of the 15 credit hours shall be devoted to ethics and one shall be devoted to mental health and substance use education.

(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, one credit hour in mental health and substance use education and nine credit hours in practical skills. One of the ethics credit hours must be devoted to Oregon ethics and professionalism and four of the nine credits in practical skills must be devoted to Oregon practice and procedure. New admittees must also complete a three credit hour OSB-approved introductory course in access to justice. The MCLE Program Manager 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 nine hours in other areas. After a new admittee's first reporting period, the requirements in Rule 3.2(a) shall apply.

3.4 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 and who is an active member 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 a child and elder 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.

3.5 Retired and Pro Bono. Members who are in Retired or Active Pro Bono status pursuant to OSB Bylaw 6.101 are exempt from compliance with these Rules.

3.6 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, retired or Active Pro Bono 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 3.6(c)(1), the first reporting period for a member who is reinstated as an active member following a transfer to inactive, retired or Active Pro Bono 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 3.6(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, retired or Active Pro Bono 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.

Regulations to MCLE Rule 3 Minimum Continuing Legal Education Requirement

3.100 Out-of-State Compliance. An active member seeking credit pursuant to MCLE Rule 3.4(b) shall attach to the member's compliance report filed in Oregon evidence that the member has met the requirements of Rule 3.2 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.

3.200 Reciprocity. An active member who is also an active member in a jurisdiction with which Oregon has established MCLE reciprocity (currently Idaho, Utah or Washington) may comply with Rule 3.4(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 from that jurisdiction, together with evidence that the member has completed a child and elder abuse reporting training required in ORS 9.114. No other information about program attendance is required.

3.300 Application of Credits.

(a) Legal ethics, access to justice and mental health and substance use education 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) Excess child and elder abuse reporting credits will be applied as general or practical skills credit. Access to Justice credits earned in a non-required reporting period will be credited as general credits.

(d) Members in a three-year reporting period are required to have 3.0 access to justice credits in reporting periods ending 12/31/2018 through 12/31/2020 and in alternate three-year periods thereafter.

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 impact of substance abuse, cognitive impairment and mental health related issues 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 Program Manager 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 3.6(c)(2) shall not be required to fulfill the requirement of compliance during the member's inactive or retired status, suspension, disbarment or resignation, but no credits obtained during the member's inactive or retired 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 5.13(c) 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 must be given activity accreditation by the MCLE Program Manager.

(b) The MCLE Program Manager shall electronically publish a list of accredited programs.

(c) All sponsors shall permit the MCLE Program Manager 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 Group Activity Accreditation.

(a) CLE activities will be considered for accreditation on a case-by-case basis and must 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 group CLE activity by filing a

written application for accreditation with the MCLE Program Manager. The application shall be made on the form required by the MCLE Program Manager 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 4.300. An additional program sponsor fee is required for a repeat live presentation of a group 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 4.300.

(e) The MCLE Program Manager 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.

4.3 Credit Hours. Credit hours 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.

4.4 Sponsor Advertising.

(a) Only sponsors of accredited group 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.

Regulations to MCLE Rule 4 Accreditation Procedure

4.200 Group Activity Accreditation.

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

(b) 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 via email or regular mail of the number of credit hours assigned or if more information is needed in order to process the application.

4.300 Sponsor Fees.

(a) A sponsor of a group 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 group 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.

4.400 Credit Hours.

(a) Credit hours shall be assigned to group CLE activities in multiples of one-quarter of an hour or .25 credits and are rounded to the nearest one-quarter credit.

(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
- (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 for Category I Activities

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

(a) 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

(b) 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

(c) The activity must include the use of thorough, high-quality written materials, unless the MCLE Program Manager determines that the activity has substantial educational value without written materials.

(d) 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 Attending Classes.

(a) Attending a class at an ABA or AALS accredited law school may be accredited as a CLE activity.

(b) Attending other classes may also be accredited as a CLE activity, provided the activity satisfies the following criteria:

- (1) The MCLE Program Manager determines that the content of the activity is in compliance with other MCLE accreditation standards; and
- (2) The class is a graduate-level course offered by a university; and
- (3) The university is accredited by an accrediting body recognized by the U.S. Department of Education for the accreditation of institutions of postsecondary education.

5.3 Legislative Service. General credit hours may be earned for service as a member of the Oregon Legislative Assembly while it is in session.

5.4 Service in Executive Branch Statewide Elected Office. Members serving as statewide elected officials in Oregon's Executive Branch, whose term in office includes all or part of a reporting period, are exempt from all MCLE requirements except those required in Rules 3.2(b), (c) and (d).

5.5 New Lawyer Mentoring Program (NLMP)

- (1) Mentors may earn CLE credit for serving as a mentor in the Oregon State Bar's New Lawyer Mentoring Program.
- (2) New lawyers who have completed the NLMP may be awarded CLE credits to be used in their first three-year reporting period.

5.6 Other Professionals. Notwithstanding the requirements of Rules 5.13, participation in an educational activity offered primarily to or by other professions or occupations may be accredited as a CLE activity if the MCLE Program Manager determines that the content of the activity is in compliance with other MCLE accreditation standards. The MCLE Program Manager may accredit the activity for fewer than the actual activity hours if the MCLE Program Manager determines that the subject matter is not sufficient to justify full accreditation.

Accreditation Standards for Category II Activities

5.7 Teaching Activities.

(a) Teaching credit may be claimed for teaching accredited continuing legal education activities or for courses in ABA or AALS accredited law schools.

(b) Credit may be claimed for teaching other courses, provided the activity satisfies the following criteria:

- (1) The MCLE Program Manager determines that the content of the activity is in compliance with other MCLE content standards; and

- (2) The course is a graduate-level course offered by a university; and
- (3) The university is accredited by an accrediting body recognized by the U.S. Department of Education for the accreditation of institutions of postsecondary education.

(c) Credit may not be claimed by an active member whose primary employment is as a full-time or part-time law teacher, but may be claimed by an active member who teaches on a part-time basis in addition to the member's primary employment.

(d) No credit may be claimed for repeat presentations of previously accredited courses unless the presentation involves a substantial update of previously presented material, as determined by the MCLE Program Manager.

5.8 Legal Research and Writing.

(1) Credit for legal research and writing activities, including the preparation of written materials for use in a teaching activity may be claimed provided the activity satisfies the following criteria:

- (a) It deals primarily with one or more of the types of issues for which group CLE activities can be accredited as described in Rule 5.13; and
- (b) 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 or a final instruction of the Uniform Civil Jury Instructions Committee or the Uniform Criminal Jury Instructions Committee, personally authored or edited in whole or in substantial part, by the applicant; and
- (c) It contributes substantially to the legal education of the applicant and other attorneys; and
- (d) 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 Program Manager, based on the contribution of the written materials to the professional competency of the applicant and other attorneys.

5.9 Service as a Bar Examiner. Credit may be claimed for service as a bar examiner for Oregon, provided that the service includes personally writing or grading a question for the Oregon bar exam during the reporting period.

5.10 Legal Ethics Service. Credit may be claimed for serving on the Oregon State Bar Legal Ethics Committee, Client Security Fund Committee, Commission on Judicial Fitness & Disability, Oregon Judicial Conference Judicial Conduct Committee, State Professional Responsibility Board, and Disciplinary Board or serving as volunteer bar counsel or volunteer counsel to an accused in Oregon disciplinary proceedings.

5.11 Credit for Committee and Council Service. Credit may be claimed for serving on committees that are responsible for drafting court rules or jury instructions that are designed to aid the judicial system and improve the judicial process. Examples include service on the Oregon State Bar Uniform Civil Jury Instructions Committee, Uniform Criminal Jury Instructions Committee, Oregon Council on Court Procedures, Uniform Trial Court Rules Committee, and the Federal Bar Association's Local Rules Advisory Committee.

Accreditation Standards for Category III Activities

5.12 Credit for Other Activities.

(a) **Personal Management Assistance.** Credit may be claimed for activities that deal with personal self-improvement, provided the MCLE Program Manager determines the self-improvement relates to professional competence as a lawyer.

(b) **Other Volunteer Activities.** Credit for volunteer activities for which accreditation is not available pursuant to Rules 5.3, 5.4, 5.6, 5.7, 5.8, 5.9, 5.10, or 5.11 may be claimed provided the MCLE Program Manager determines the primary purpose of such activities is the provision of legal services or legal expertise.

(c) **Business Development and Marketing Activities.** Credit may be claimed for courses devoted to business development and marketing that are specifically tailored to the delivery or marketing of legal services and focus on use of the discussed techniques and strategies in law practice.

Activity Content Standards

5.13. Group and Teaching CLE Activities

(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.

5.14 Ethics, Child and Elder Abuse Reporting, Mental Health and Substance Use Education, 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, rules of professional conduct, or statements of professionalism.

(b) Child and elder abuse reporting programs must be devoted to the lawyer's statutory duty to report child abuse and elder abuse (see ORS 9.114).

(c) In order to be accredited as a mental health and substance use education credit under Rule 3.2 (d), an activity shall educate attorneys about causes, detection, response, treatment, or problem prevention related to mental health or substance use.

(d) In order to be accredited as an activity pertaining to access to justice for purposes of Rule 3.2(e), 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.

(e) 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.

Teaching Activity Content Standards

5.15 Other Professionals. Notwithstanding the requirements of Rules 5.6 and 5.13, credit may be claimed for teaching an educational activity offered primarily to other professions or occupations if the MCLE Program Manager determines that the content of the activity is in compliance with other MCLE accreditation standards and the applicant establishes to the MCLE Program Manager's satisfaction that the teaching activity contributed to the presenter's professional competence as a lawyer.

Unaccredited Activities

5.16 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(c), 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 Program Manager 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 Category I Activities

- (a) Credit for legislative service may be earned at a rate of 1.0 general credit for each week or part thereof while the legislature is in session.
- (b) Members serving as Governor, Secretary of State, Commissioner of the Bureau of Labor and Industries, Attorney General and Treasurer during all or part of a reporting period are required to complete the minimum credit requirements in the following categories – ethics, access to justice, child abuse and elder abuse reporting – during the reporting periods set forth in MCLE Regulation 3.300(d). These members are exempt from any other credit requirements during the reporting period in which they serve.
- (c) Members who serve as mentors in the Oregon State Bar's New Lawyer Mentoring Program (NLMP) may earn eight credits, including two ethics credits, upon completion of the plan year. If another lawyer assists with the mentoring, the credits must be apportioned between them.
- (d) Upon successful completion of the NLMP, new lawyers may earn six general/practical skills credits to be used in their first three-year reporting period.

5.200 Category II Activities.

- (a) Teaching credit may be claimed at a ratio of one credit hour for each sixty minutes of actual instruction.
- (b) With the exception of panel presentations, when calculating credit for teaching activities pursuant to MCLE Rule 5.6, 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.

(c) 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.

(d) One hour of credit may be claimed for each sixty minutes of research and writing, but no credit may be claimed for time spent on stylistic editing.

(e) Credit may be claimed for 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.

(f) Jury Instructions Committee Service. Members may claim two general credits for each 12 months of service. To be eligible for credit under MCLE Rule 5.11, a member of a jury instructions committee must attend at least six hours of committee meetings during the relevant 12-month period.

(g) Service as a Bar Examiner. Three (3) credits may be claimed for writing a bar exam or local component question and three (3) credits may be claimed for grading a bar exam or local component question.

(h) Legal Ethics Service. Members may claim two ethics credits for each twelve months of service on committees and boards listed in Rule 5.10.

(i) Oregon Council on Court Procedures Service. Members may claim three general credits for service per year. To be eligible for credit under MCLE Rule 5.11, a member must attend at least 9 hours of regularly scheduled Council meetings during the year.

5.300 Category III Activities.

(a) Personal Management Assistance. Credit may be claimed for programs that provide assistance with issues that could impair a lawyer's professional competence (examples include but are not limited to programs addressing burnout, procrastination, gambling or other addictions or compulsive behaviors, and other health related issues). Credit may also be claimed for programs 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).

(b) Other Volunteer Activities. Credit may be claimed for volunteer activities for which accreditation is not available pursuant to Rules 5.3, 5.4, 5.6, 5.7, 5.8, 5.9, or 5.10. Credit may be claimed at a ratio of one credit hour for each two hours of uncompensated volunteer activities provided that the MCLE Program Manager determines the primary purpose of such activity is the provision of legal services or legal expertise. Such activities include but are not limited to:

(i) Providing direct pro bono representation to low-income clients referred by certified pro bono programs;

(ii) Serving as a judge, evaluator, mentor or coach in any type of mock trial, moot court, congressional hearing or client legal-counseling competition, law-related class or law-related program at the high school level and above; and

(iii) Teaching a legal education activity offered primarily to nonlawyers high school age and older.

(c) Business Development and Marketing Activities. Credit may be claimed for courses devoted to business development and marketing that are specifically tailored to the delivery or marketing of legal services and focus on use of the discussed techniques and strategies in law practices. Examples include but are not limited to courses focusing on business development approaches, strategies and techniques

available to attorneys, marketing to clients seeking legal services, and website development to promote one's practice.

5.400 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.

5.500 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.

5.600 Child and Elder Abuse Reporting. In order to be accredited as a child abuse and elder abuse reporting activity, the one-hour session must include discussion of an Oregon attorney's requirements to report child abuse and elder abuse and the exceptions to those requirements.

Rule Six Credit Limitations per Category

6.1 In General.

(a) Category I Activities. Credits in this category are unlimited. 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 Program Manager may allow partial credit for completion of designated portions of a CLE activity.

(b) Category II Activities. Credits in this category are limited to 20 in a three-year reporting period and 10 in a shorter reporting period. No accreditation application is required.

(c) Category III Activities. Credits in this category are limited to 6 in a three-year reporting period and 3 in a shorter reporting period. No accreditation application is required.

(d) 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.

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

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. Abuse education credits earned in excess of the reporting period requirement may be carried over as general credits, but a new abuse reporting education credit must be earned in each reporting period in which the credit is required. 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 Six 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 Program Manager, 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 Program Manager 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 Program Manager 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 Program Manager 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 Program Manager shall result in disallowance of credits for the reported activity and, in certain situations, assessment of the late filing fee specified in 7.5(b).

(d) The MCLE Program Manager 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 Program Manager.

(b) Notice. In the event of a finding of noncompliance, the MCLE Program Manager shall send a written notice of noncompliance to the affected active member. The notice shall be sent via regular mail and email 30 days after the filing deadline and 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, no more than 60 days after the notice of noncompliance was sent.

(b) Noncompliance for failure to complete the MCLE requirement during the applicable reporting period

can be cured by doing the following no more than 60 days after the notice of noncompliance was sent:

- (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 Program Manager with sufficient records of participation in CLE activities to substantiate credits reported can be cured by providing the MCLE Program Manager with sufficient records, together with the late fee specified in MCLE Regulation 7.200, no more than 60 days after the notice of noncompliance was sent.

(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 Program Manager shall notify the affected active member that he or she has complied with the MCLE requirement for the applicable reporting period. Curing noncompliance does not prevent subsequent audit and action specified in Rule 7.3.

7.6 Suspension. If the noncompliance is not cured within the deadline specified in Rule 7.5, the MCLE Program Manager 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.

(a) In furtherance of its audit responsibilities, the MCLE Program Manager may review an active member's records of participation in Category I 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.

(b) Members claiming credit for Category II activities should keep course descriptions, course schedules or other documentation verifying the number of minutes of actual instruction, along with a sample of the written materials prepared, if applicable. Members claiming Legal Research and Writing credit should keep a log sheet indicating the dates and number of hours engaged in legal research and writing in addition to a copy of the written product.

(c) Members claiming credit for Category III activities should keep log sheets indicating the dates and number of hours engaged in pro-bono representation and other volunteer activities, along with course descriptions and course schedules, if applicable. Members claiming credit for direct pro-bono representation to low-income clients should also keep documentation establishing the referral by a certified pro bono provider.

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 Program Manager.

7.200 Late Fees. Members who complete any portion of the minimum credit requirement after the end of the reporting period or who fail to file a completed compliance report by the filing deadline set forth in Rule 7.1 must pay a \$200 late fee.

Rule Eight Review and Enforcement

8.1 Review.

(a) Decisions of the MCLE Program Manager. 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 Program Manager 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 Program Manager 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 Program Manager 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 Program Manager. A recommendation for suspension pursuant to Rule 7.6 shall be subject to the following procedures:

(1) A copy of the MCLE Program Manager's recommendation to the Supreme Court that a member be suspended from membership in the bar shall be sent by regular mail and email to the member.

(2) If the recommendation of the MCLE Program Manager is approved, the court shall enter its order and 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 Program Manager 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 Program Manager 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 Program Manager 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 Program Manager 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.