

## **MCLE Rule Change FAQs**

### **What is the new rule?**

The new requirement is for one credit hour per reporting period on the subject of mental health, substance use or cognitive impairment. At the same time, the credit hour requirements for general/practical skills credits (depending on length of bar membership) will be reduced by one hour. This means the total number of credit hours needed per period will not change.

For active members in a regular 3-year cycle, the new credit will count toward the 45-credit minimum. For newly admitted members, the new credit reduces the practical skills credits needed toward the 15-hour minimum.

### **What's the reason for the new rule?**

As bar leaders, we have a front-row view of the impacts of lawyers' mental health and substance abuse issues on the public and the profession. We see those impacts most often in the disciplinary system and with increasing regularity in claims to the Client Security Fund. The bar and especially the PLF's Oregon Attorney Assistance Program have services in place to help, but all too often, lawyers do not reach out before it is too late to avoid serious public harm. By training all of us to spot these issues and know how to offer help, we can reduce that harm through earlier interventions. And by having all lawyers participate, we can remove any stigma that might be associated with attending these programs.

### **Who proposed the rule change?**

The rule change was proposed by the Professional Liability Fund, then reviewed and approved by the OSB's MCLE Committee. It was presented to the Board of Governors on June 22, 2018. Carol Bernick, CEO of the PLF, made a compelling case for the rule change to the board and also to bar members through the "Parting Thoughts" page of the July issue of the *Bulletin* available here:

[www.osbar.org/bulletin/issues/2018/2018July/index.html?page=62](http://www.osbar.org/bulletin/issues/2018/2018July/index.html?page=62). The BOG voted to submit the proposal to the Oregon Supreme Court. In deciding to proceed, the board considered the following:

- Protecting the public by ensuring lawyers are competent and ethical in their conduct is the core mission of the OSB.
- A recent study on lawyer impairment completed by the ABA and the Hazelden Betty Ford Foundation outlined the striking prevalence of substance use and other mental health concerns among lawyers. You can find the report here: <http://lawyerwellbeing.net/>.
- Mental health and substance abuse are common threads in matters handled by the bar's disciplinary department and Client Security Fund, as well as the Professional Liability Fund.
- Both the OSB and OAAP have programs that can help impaired lawyers before their clients are harmed and their careers threatened. This includes treatment resources and confidential support. Early intervention greatly increases the likelihood that intervention will be successful.
- Lawyers and law office staff are uniquely situated to observe behaviors and conduct that could indicate another lawyer has mental health or substance abuse issues.

**When is the new rule effective?**

The rule becomes effective Jan. 1, 2019, and will apply first to any lawyer whose reporting period ends Dec. 31, 2019.

**How can I access CLE seminars that qualify?**

The OSB and PLF will jointly sponsor a CLE this coming January giving overviews of the three areas the rule addresses: substance use, mental illness and cognitive impairment. The seminar will be free, both for people who attend in person or participate via live webcast. A recording of the seminar will then be made available on the bar's website for free access by all OSB members.

In addition, the PLF has a library of more than 25 programs that we expect will be reaccredited under the new rule. The PLF anticipates creating more programs in the coming months. Most PLF CLE seminars are available to all Oregon lawyers free of charge.

Other providers are also welcome to produce qualifying programs. After the rule becomes effective, the accreditation of already-produced programs that qualify may be adjusted as well by MCLE staff.