OREGON STATE BAR
MCLE Committee Agenda

Meeting Date: June 2, 2023
Memo Date: May 19, 2023
From: Kellie Baumann, MCLE Program Manager and Regulatory Project Manager
Re: Rule 3.6(b)

Issue

Consider whether the Oregon State Bar Minimum Continuing Legal Education Rules and Regulations ("MCLE Rules") should be amended to conform with the Rules for Admission.

Background

Since our last MCLE meeting, the MCLE Department has become aware of a few potential problems with the way that MCLE Rule 3.6(b) is currently written. According to MCLE Rule 3.6(b):

(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 April 30 of the next calendar year, except a new admittee admitted by reciprocity who has practiced law in another jurisdiction for three consecutive years immediately prior to admission in Oregon shall have a three year initial reporting period that begins May 1 the year following admission and ends April 30 three years later. All subsequent reporting periods shall be three years.

The first potential problem with the way this rule is currently written is the term “reciprocity.” Rules for Admission (RFA) 15.05 states the requirements for admission of attorneys licensed to practice law in other jurisdictions. The Admissions rule refers to this pathway for admission as “comity” rather than “reciprocity.” In order to conform to the Rules for Admission, my first recommendation for a rule amendment to MCLE Rule 3.6(b) would be to change “reciprocity” to “comity.”

The second potential issue with MCLE Rule 3.6 relates to the requirements of RFA 15.05(1)(d):

(1) An attorney who has taken and passed the bar examination in another United States jurisdiction, who is an active member of the bar in any other state, district or territory of the United States, and who meets all the following qualifications may be admitted to the practice of law in Oregon
without having to take and pass the Oregon bar examination, subject to the requirements of this rule:

(d) The applicant has been actively engaged in the authorized fulltime practice of law for no less than 24 of the 48 months immediately preceding the application for admission under this rule. For purposes of RFA 15.05, “full-time practice of law” means an average of at least 30 hours per week engaged in one of the enumerated activities in RFA 1.05(1)(a) or performed work in support of, or in anticipation of, such activities, so long as the applicant was authorized to engage in such activities in the relevant jurisdiction.

In order for a member to be admitted via Comity under RFA 15.05, the applicant must have been “actively engaged in the authorized fulltime practice of law for no less than 24 of the 48 months immediately preceding the application for admission.” However, under our MCLE Rules, in order to qualify to be placed into an initial 3-year reporting period, the new admittee must have “practiced law in another jurisdiction for three consecutive years immediately prior to admission in Oregon.” The MCLE Rules reflect the requirements of the previous Admission Rules, but were not updated to reflect the new RFA requirements. My second recommendation for an amendment for MCLE Rule 3.6(b) would be to change the “three consecutive years” requirement to conform with the Admissions requirement of “no less than 24 of the 48 months.”

Options

The MCLE Committee should discuss potential options about whether to amend the MCLE Rules to conform with the Rules for Admission. Potential options are as follows:

1. Amend MCLE Rule 3.6(b) to change “reciprocity” to “comity” in accordance with RFA 15.05
2. Amend MCLE Rule 3.6(b) to change “three consecutive years” to “no less than 24 of the 48 months”
3. Keep the MCLE rules as written.