

## **TEXAS MCLE REGULATIONS**

### **1.0 MCLE COMPLIANCE YEAR**

- 1.1 The definitions set forth in Article XII, State Bar Rules, Section 2, shall apply to these Texas MCLE Regulations.
- 1.2 Each member's initial MCLE compliance year shall begin on the first day of the member's birth month that occurs after the licensing date and shall end twenty-four (24) months later on the last day of the month immediately preceding the member's birth month.
- 1.3 The minimum CLE credits needed for a regular one-year MCLE compliance year are required to be completed during the initial 24-month MCLE compliance year. Only CLE credits completed within this 24-month period and during the 12-month period immediately preceding the initial compliance year may be used toward meeting the compliance requirements of the initial compliance year. The sole exception shall be for "The Guide to the Basics of Law Practice" sponsored by the Texas Center for Legal Ethics and Professionalism, which may be completed earlier for Accredited CLE Activity credit.
- 1.4 A member's minimum CLE requirements should be completed by the last day of the MCLE compliance year for any given year. However, if a member has not completed the minimum CLE requirements by the last day of any given MCLE compliance year, then that member shall be given an automatic grace period up to the last day of their birth month, or reporting month if an extension has been granted in accordance with these regulations and Article XII, to complete the minimum requirements without penalty. If the minimum credits are not completed or reported until after the end of the member's birth month for that year, then a penalty will be required as specified below in Section 7.3.

### **2.0 CATEGORIES OF CREDIT**

- 2.1 Accredited CLE (Minimum of 12 hours allowable).
  - 2.1.1 Sponsor Submitted Accredited CLE Activities shall include activities that have been submitted for review and accreditation to the MCLE Director and that comply with Article XII, Section 4A, State Bar Rules, with Section 10 of the MCLE Regulations and with the Accreditation Standards for CLE Activities established by the MCLE Committee. To qualify as an Accredited CLE Activity, the CLE sponsor must keep track of attendance at the activity, whether it is live or prerecorded, or delivered individually, electronically, or in a group setting, and shall report attendance to the MCLE Department in accordance with MCLE Regulations, Section 6.0-6.3.
    - a. Attendance at an Accredited CLE Activity may be in person or by electronic means and may include viewing or listening to prerecorded media or attendance by such means as may be developed through advanced technology.

- b. A Mentor Program is an Accredited CLE Activity that is either sponsored or cosponsored by the State Bar of Texas or otherwise approved by the MCLE Committee, is open to all members of the State Bar, and is completed in conjunction with MCLE approved training. The purpose of the approved training/mentoring relationship shall be the preparation of participants for providing pro-bono services or for managing professional responsibility challenges and shall consist of substantive legal training as opposed to coaching or personal encouragement. A maximum of five (5) hours, including one (1) ethics hour, per compliance year may be claimed for the actual amount of time spent in the mentoring relationship. Mentor programs shall be submitted to the MCLE department in accordance with Section 10.2 and 10.8.
- c. While high quality written materials should be included with Accredited CLE Activities, written materials alone shall not qualify as an Accredited CLE Activity.
- d. Accredited CLE Activities shall be delivered or presented in one or more of the approved format(s) outlined in the Accreditation Standards for CLE Activities. The Committee may approve other methodologies for delivery of Accredited CLE as developed through advanced technology.

2.1.2 Attorney Submitted Accredited CLE Activities shall include:

- a. speaking at Accredited CLE Activities, including preparation time and presentation time with additional preparation credit for repeated presentations (Article XII, Section 4C);
- b. writing, as an author or co-author, materials published in the form of an article, chapter or book which contributed substantially to the continuing legal education of the author or co-author and other attorneys and which was not done in the ordinary course of the practice of law, the performance of regular employment or as a service to clients (Article XII, Section 4D);
- c. teaching, lecturing or speaking in the position of a part-time faculty in any law school which is approved by the American Bar Association, except as to the minimum requirements for CLE in legal ethics and professional responsibility (Article XII, Section 4F);
- d. attending in person (through non-electronic means) instruction at an ABA accredited law school after admission to practice. Credit shall be for the actual hours of in-class instruction and shall not exceed thirty (30) hours per compliance year. (Article XII, Section 4J); A transcript verifying completion of the course(s) and a non-refundable \$25 accreditation fee (per semester) is required for each application for law school credit.

### 2.1.3 Non-qualifying Activities.

An activity that is done in the ordinary course of the practice of law, the performance of regular employment, or as a volunteer service to clients, government entities, bar organizations or the general public shall not receive Accredited CLE Activity credit. An activity associated with membership or attendance at committee meetings, business meetings or work sessions shall not receive Accredited CLE Activity credit.

## 2.2 Self-Study Credit.

Self-Study Credit is CLE credit that is obtained from any type of CLE activity that is performed by an individual attorney acting alone or while attending non-accredited professional educational activities. A maximum of three (3) Self-Study credit hours can be applied toward each MCLE compliance year. Self-Study Credits may be claimed for any of the following types of CLE activities:

- a. reading materials specifically prepared for an accredited activity;
- b. reading substantive legal articles in recognized legal publications;
- c. reading digests, advance sheets, cases, treatises, statutes, and regulations;
- d. viewing non-accredited videotapes or digital media produced for legal education purposes;
- e. listening to non-accredited audiotapes or digital media produced for legal education purposes;
- f. attending professional educational activities that train participants in the use of non-legal software or teach non-legal skills such as stress management, time management, personal relational management, career management, rainmaking, marketing, accounting, general office management, and communication skills.
- g. attending professional educational activities that present business, technical or scientific knowledge including programs dealing with business management concerns, medical or engineering knowledge and concepts, or other educational activities dealing with topics relevant to specific areas of law practice;
- h. serving as a judge or evaluator in any type of mock trial, moot court or client counseling competition, class or program; and
- i. speaking or writing, including presentation, preparation and composition time for any of the self-study activities enumerated above (a-h).

### **3.0 MINIMUM EDUCATIONAL REQUIREMENTS**

- 3.1 Fifteen total hours of continuing legal education credit are required to be completed during each MCLE compliance year (including the initial 24-month compliance year) in order to meet the minimum educational requirements set out in Article XII, Section 6A, State Bar Rules. A minimum of twelve (12) credit hours must be completed in the form of Accredited CLE Activities, defined by Section 2.1.1-2.1.2.
- 3.2 A minimum of three (3) of the required fifteen (15) hours of CLE must be completed in the subject areas of legal ethics and/or professional responsibility. Two (2) hours of this minimum 3-hour requirement must be completed in the form of an Accredited CLE Activity. One (1) of this minimum 3-hour requirement may be completed in the form of self-study credit. (Article XII, Section 6B)
- 3.3 Carry-forward CLE Credit Hours. A member may carry forward CLE credit hours earned in excess of the minimum 15-hour requirement to the following year's requirement up to a maximum limit of fifteen (15) credit hours. Members may only carry forward excess credit earned to the next MCLE compliance year. Legal ethics or professional responsibility credit will carry forward similarly. (Article XII, Section 6E)
- 3.4 CLE credit hours are computed based on actual time spent in an activity (actual instruction time, reading time, running time of tapes, audio, video or digital media) reported in hours to the nearest one-quarter hour and reported in decimals (Article XII, Section 7A and 7B). Sponsors shall compute CLE credit hours for accredited activities based on this formula and shall identify the number of hours on the application form prescribed by the MCLE Committee. (Article XII, Section 7A)

The individual attorney will need to compute CLE credit hours in instances of self-study programs, preparation and presentation time for speakers, composition time for authors as well as instances where the attorney attends part of a session of a planned activity. (Article XII, Section 7B and 7C)

### **4.0 CONTINUING LEGAL EDUCATION ACTIVITIES SOURCES**

- 4.1 Accredited CLE meets the criteria of Section 2.1, Section 10 and the Accreditation Standards for CLE Activities and may include live or prerecorded presentations. Non-accredited CLE used on an individual basis shall be considered Self-Study credit. (Article XII, Section 4B)
- 4.2 In-house Educational Activities applicable to Self-Study credit shall include those non-accredited activities that are offered by law firms or corporations that are solely for the benefit of their own employees. (Article XII, Section 4B)
- 4.3 Accredited In-house CLE shall include those activities that are offered by local, state and federal government agencies, the military, and law firms or corporations, provided each program is accredited in advance, in accordance with Section 2.1.1, and is a structured continuing legal education activity.

## 5.0 SPECIAL CASES AND EXEMPTIONS

An exemption or special case status shall apply to the entire MCLE compliance year (first day of the birth month through the last day of the month immediately preceding the birth month). Any change in status during the compliance year shall be promptly reported to the MCLE Director on the appropriate reporting form.

5.1 Full-time Faculty Members of ABA accredited law schools may be granted course credit equal to the minimum requirements of Article XII, except for the minimum requirement for CLE in legal ethics or professional responsibility as specified in Section 3.2 above.

5.1.1 Part-time Faculty Members of ABA accredited law schools may claim special course credit for the actual hours of class instruction time, not to exceed 12 hours per compliance year, such credit not to count towards requirements for CLE in legal ethics and professional responsibility.

5.1.2 Full-time and Part-time Faculty Members shall provide to the MCLE Department his/her assertion of full-time or part-time teaching status at the law school of which he or she is a faculty member. Annually, the member will be required to complete three (3) hours of legal ethics (Article XII, Section 4F) and report this credit as outlined below in Section 6.5.

5.2 Judicial Exemption.

Judges subject to Supreme Court Order for Judicial Education dated August 21, 1985, Supreme Court Order for Judicial Education for Retired or Former District Judges dated July 2, 1986, and federal judicial officers are eligible to claim an exemption from these requirements

5.2.1 Judges exempt from the Rules are requested to give written notification to the MCLE Director in order to claim this exemption.

5.3 Non-practicing Exemption.

5.3.1 Members who have not engaged in the practice of law in Texas during the entirety of an MCLE compliance year are eligible to claim an exemption from the MCLE requirements. Members who are engaged in the practice of law at the beginning of a MCLE compliance year but who later cease from practice during that compliance year are not eligible for this non-practicing exemption.

5.3.2 For purposes of this section, 'practice of law' shall mean: (1) the preparation of any kind of pleading or other paper incident to actions and special proceedings on behalf of a client before judges, courts and administrative agencies, (2) the preparation or presentation of any kind of legal instrument, and (3) in general, the giving of advice to clients and taking any form of action for them in matters connected with the law. All of these enumerated services shall be considered practicing law regardless of whether a fee is charged or collected. However, a member who renders any of these enumerated services on behalf of his/her own personal or immediate family interests shall not be considered to be practicing law for purposes of this definition.

5.3.3 Members who serve as judicial law clerks in Texas, including federal judicial law clerks, are not eligible for this non-practicing exemption.

5.4 A member who is on Inactive membership status with the State Bar during the entire MCLE compliance year shall be exempt from the MCLE requirements. Members whose membership status is Active at the beginning of a MCLE compliance year but who later change to Inactive status during the course of that compliance year are not eligible for this exemption.

5.4.1 For members who change to Inactive membership status during the course of the compliance, the MCLE Department may automatically defer completion of any remaining MCLE requirements (including payment of penalties for late filing) for that compliance year. Upon activation of membership status, members shall be given ninety (90) days to complete and report all deferred MCLE requirements. Failure to complete deferred requirements during this 90-day period, will subject the member to suspension in accordance with Article XII.

5.5 A member who has been disbarred, who has no permanent license or who has resigned from membership in the State Bar shall be exempt from the MCLE requirements.

5.6 Legislature/Congress.

Any member who is either (a) a member of the Texas Legislature during any MCLE compliance year, or (b) a member of the U.S. Congress during any MCLE compliance year is eligible to be automatically credited with the minimum number of CLE credits required by the MCLE Rules.

5.7 Legislature Attorney.

Any member who is employed as an attorney in one of the capacities specified in Section 81.113 of the Texas Government Code (as amended) for the Texas Legislature, is eligible to be automatically credited with the minimum number of CLE credits required by the MCLE Rules, except for the minimum requirements in legal ethics or professional responsibility as specified in Section 3.2 above.

5.8 Hardship Exemption.

Any member who is unable to satisfy the minimum CLE requirements during any MCLE compliance year as a result of undue hardship caused by illness, medical disability or other extraordinary or extenuating circumstances beyond the control of the member may apply for a hardship exemption from the MCLE requirements for that compliance year. Undue hardship generally will not include financial hardship or lack of time due to a busy professional or personal schedule.

5.9 Age Exemption. (Repealed)

Any member who is 70 year of age or older, shall be exempt from MCLE requirements. Members who are 69 years of age during the compliance year and who turn 70 years of age at the end of the compliance year will be required to comply with MCLE requirements. The age exemption is

repealed effective June 1, 2015, with an implementation date of June 1, 2016. Members who are 70 years or older on or after June 1, 2016 will begin their compliance year on the first day of their birth month.

5.10 Self-study Allowance.

Any member who is unable to satisfy the minimum CLE requirements during any MCLE compliance year due to extraordinary or extenuating circumstances beyond the control of the member may apply to have the maximum limit on self-study credit hours specified in Section 2.2 above waived, such that all of the remaining CLE credit hours for that compliance year can be completed through self-study credit.

5.11 Extensions.

A member may file a written petition requesting an extension of the member's MCLE compliance year for a maximum of ninety (90) days past the last day of the member's birth month when circumstances exist that prevent the member from being able to comply with the MCLE requirements for the compliance year. "Good Cause" for an extension may exist in the event of illness, medical disability or other extraordinary hardship or extenuating circumstances beyond the control of the member. An extension generally will not be allowed due to financial hardship or lack of time due to a busy professional or personal schedule.

5.11.1 A member seeking an extension shall submit a written request to the MCLE Department detailing the circumstances for such request. If an extension is granted, related compliance fees incurred may be waived. CLE hours completed during the extension period and used toward meeting requirements for the immediately preceding compliance year, may not be used again toward the next compliance year's requirements. Hours that are completed in excess of the 15-hour minimum requirement shall carry-forward as outlined in Section 3.3. The member shall be promptly notified of the MCLE Department's decision.

**6.0 PROCEDURES FOR REPORTING CLE CREDIT HOURS**

6.1 Attendance Records for Accredited CLE Activities. CLE sponsors are required to timely submit Texas member attendance records to the MCLE Director for each accredited CLE activity. CLE sponsors are not responsible for meeting individual attorney reporting deadlines.

6.2 CLE attendance information shall be submitted to the MCLE Director by the CLE sponsor via 1) State Bar of Texas CLE Attendance Form, 2) approved Internet attendance submission, 3) approved electronic attendance file submission, or 4) any other attendance submission format developed through advanced technology, subject to approval of the MCLE Committee.

6.2.1 Attendance that is submitted via State Bar of Texas CLE Attendance Form shall be subject to a \$2.00 per attendee service charge for processing.

6.2.2 Attendance that is submitted via electronic file submission or by approved Internet submission shall not be subject to a service charge.

6.3 The MCLE Director shall not accept CLE attendance certificates or attendance lists submitted in

formats that are not specified by Section 6.2 unless a \$10 per attendee service charge accompanies the certificate(s) or list(s).

#### 6.4 Reporting Attendance to CLE Sponsors by Members

6.4.1 Each member shall report his or her attendance to the CLE sponsor by one of the following approved methods:

- a) by completing a State Bar of Texas CLE Attendance Form while in attendance at an accredited CLE activity. The State Bar of Texas Attendance Form should be provided by the CLE sponsor of an MCLE accredited activity. The member must complete the attendance form while in attendance and leave the completed form with the sponsor for submission to the State Bar for inclusion in the member's MCLE compliance record; or
- b) by signing an electronic transfer attendance list or roster that will be used by the CLE sponsor to report credits directly to the MCLE Director via the Internet, electronic file transfer, or other transfer format developed through advanced technology, subject to approval of the MCLE Committee.

6.4.2 If a member is unable to complete a State Bar of Texas CLE Attendance Form or sign an electronic transfer attendance list while in attendance at an accredited CLE activity, the member shall report CLE credits to the MCLE Director via either 1) the State Bar of Texas MCLE Internet reporting site or 2) completion and submission of a CLE Credit Input Form to be obtained from the MCLE Department.

6.4.3 The MCLE Director shall not accept CLE attendance certificates or attendance lists submitted by individual members, or attendance information reported in formats that are not specified by Section 6.4.2, unless a \$10 per course service charge accompanies the certificate(s) or list(s).

6.4.4 A member who by-passes reporting to the CLE sponsor, either intentionally or unintentionally, and reports attendance directly to the MCLE Director, automatically consents to the release of his or her name to the sponsoring organization for the sole purpose of reconciling attendance records. (Article XII, Section 12).

6.5 Members are responsible for timely reporting of all other types of CLE credit hours for recording on their MCLE compliance record via one of the approved member reporting formats outlined in 6.4.2 above.

6.6 A member who completes CLE hours during the birth month, non-compliance period (Section 7 below), or reporting month if an extension has been granted, to meet requirements for the immediately preceding compliance year, is responsible for timely reporting these credits to the MCLE Director via one of the approved member reporting formats outlined in 6.4.2 above.

6.7 A member may request that CLE hours be added retroactively to an archived MCLE compliance year. A \$25 service charge shall be required to process each request for change to an archived compliance year.



## **7.0 NON-COMPLIANCE PROCEDURES**

### **7.1 General.**

“Non-Compliance” shall mean failure to comply with the requirements of Article XII of the State Bar Rules or these regulations, and may include, but is not limited to lack of adequate credit hours, failure to report to the Director completed credit hours, credit hours reported for non-accredited CLE activities, inclusion of credit hours for activities not defined in the categories of credit, failure to pay fees or fines, and/or lack of ethics credit. The Director shall send to members in Non-Compliance a Non-Compliance Notice stating the specific reasons for Non-Compliance and also stating that the member has three months after the member’s birth month (or reporting month if an extension has been granted), to file with the Director a statement clarifying the reason for Non-Compliance, which is satisfactory to the Director, or to otherwise demonstrate compliance with the requirements. The Non-Compliance Notice shall include a notice that the member will be subject to suspension from the practice of law if the minimum CLE requirements are not completed within the three-month period following the member’s birth month. For purposes of this Section 7, MCLE Credit hours shall be deemed to have been reported to the Director, only when the Director receives a properly completed MCLE member reporting form as outlined in Section 6.4.2 above, reflecting the completed credit hours.

### **7.2 Grace Period.**

Members who, as of the last day of their MCLE compliance year, have not completed their minimum CLE credit hours and reported same to the Director, or who are otherwise in Non-Compliance as described in Section 7.1, shall be given until the last day of their birth month as a grace period as specified in Section 1.4 above. Members may use this grace period to complete the remaining number of credit hours needed for the compliance year in question, and report the completion of the credit hours to the Director without incurring a penalty or Non-Compliance Fee. CLE credit hours completed during the Grace Period in excess of the number needed to complete the requirements for the compliance year in question, may be carried forward to meet the minimum CLE requirements for the next compliance year. Completed CLE credit hours must be properly reported to the Director within the Grace Period for a member to avoid paying a Non-Compliance Fee.

### **7.3 Non-Compliance Fee.**

A member who is not exempt from the full MCLE requirements, and who fails to complete the minimum CLE credit hours and properly report the completion of those hours to the Director, or is otherwise in Non-Compliance as described in Section 7.1, as of the last day of the member’s birth month (or reporting month if an extension that has been granted) shall pay a Non-Compliance Fee. The Non-Compliance Fee shall be determined by the date upon which the Director receives the member’s report of the completed hours, as follows: (a) \$100 if received within one month after the member’s birth month; (b) \$200 if received within two months after the member’s birth month; and (c) \$300 if received thereafter, but before suspension of the

member. Payment of the Non-Compliance Fee, before suspension of the member, is required in order to bring a member's MCLE record into compliance. Failure to pay the Non-Compliance Fee shall be considered to be Non-Compliance with the MCLE requirements and will subject the member to suspension as specified below.

7.4 Notices to Members.

Any notice required to be given to a member pursuant to this Section 7, shall be deemed to be effective when sent to the member at the Preferred Address for the member as then reflected in the membership records of the State Bar.

7.5 Emeritus Member Non-Compliance Fee Exemption

Any member who is 71 years of age or older shall be exempt from MCLE Non-Compliance Fee assessment. Payment of Non-Compliance Fees accrued prior to age 71 is required in order to bring a member's MCLE record into compliance. Failure to pay Non-Compliance Fees assessed prior to age 71 shall be considered to be Non-Compliance with MCLE requirements and will subject the member to suspension as specified in Section 8.0 below.

**8.0 SUSPENSION OF LICENSE**

8.1 Members who fail to comply with the minimum CLE requirements, after having been given all the required notices as set forth in Section 8, Article XII, State Bar Rules, or who fail to pay the Non-Compliance fee specified in Section 7.3 above, or who are otherwise in Non-Compliance as described in Section 7.1 above, shall be suspended from the practice of law in accordance with Section 8(E), Article XII, State Bar Rules.

**9.0 REINSTATEMENT**

9.1 A member whose license to practice law has been suspended due to Non-Compliance may be reinstated by completing the CLE credit hours needed to fulfill the remaining requirements for the MCLE compliance year for which the member was suspended, and by paying a reinstatement fee of \$400.00 to the State Bar. A member may complete the necessary CLE credit hours during the period of suspension to meet the requirements for the year or years of non-compliance. These credit hours may not be counted toward meeting the current year's requirement. An emeritus member who is suspended after age 71 shall be exempt from the \$400 MCLE reinstatement fee.

9.1.1 A member who has been suspended due to Non-Compliance for two (2) or more consecutive MCLE compliance years, upon reinstatement, shall be subject to a \$100 penalty fee per each repeated suspension.

9.1.2 A member who has been suspended due to Non-Compliance and who must comply with more than one MCLE compliance year in order to be reinstated shall be subject to an additional \$100 penalty fee.

9.1.3 Emeritus members shall not be exempt from penalty fees assessed under 9.1.1 or 9.1.2.

- 9.2 The Director, upon receipt of proper documentation showing that a suspended member has satisfied the CLE credit hours that were outstanding for the MCLE compliance year(s) for which the member was in Non-Compliance and suspended, and payment of the reinstatement fee(s) specified in Section 9.1-9.1.2 above, shall notify the Clerk of the Supreme Court of the receipt of such documentation and fees, requesting that the member may be reinstated. Upon reinstatement of the member by the Supreme Court of Texas, the Director will then notify the member of reinstatement.
- 9.3 Notices to Members. Any notice required to be given to a member pursuant to this Section 9, shall be deemed to be effective when sent to the member at the Preferred Address for the member as then reflected in the membership records of the State Bar.

## **10.0 ACCREDITATION OF CLE ACTIVITIES**

- 10.1 The following Standards will govern the approval of continuing legal education activities by the Committee.
- 10.1.1 The activity shall have significant intellectual or practical content for attorneys.
- 10.1.2 The activity shall constitute an organized program of learning dealing with matters directly related to legal subjects and the legal profession, including professional responsibility, legal ethics or law practice management.
- 10.1.3 The activity shall be conducted by an individual or group qualified by practical or academic experience in a suitable facility.
- 10.1.4 Sponsors shall indicate in promotional materials the purpose of the activity, identify the instructors, the time devoted to each topic, and the intended audience. Some means of evaluation by participants is encouraged.
- 10.1.5 While written materials need not be distributed for every activity, thorough, high quality written materials should be distributed to all participants at or before the time the activity is offered whenever practicable.
- 10.1.6 A list of all participants for each activity shall be maintained by the sponsor for a period of at least two years. Attendance records are to be sent to the Director in a form to be designated by the Committee as outlined in Sections 6.1 and 6.2 above, following the end of each activity.
- 10.1.7 For CLE activities that have received accreditation for MCLE, the sponsors of those activities shall indicate in promotional materials that such activity has been accredited for MCLE by including the following statement:

"This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of \_\_\_\_ credit hours, of which \_\_\_\_ credit hours will apply to legal ethics/professional responsibility credit."

10.1.8 For CLE activities in which an application for accreditation has been filed but accreditation has not yet been granted, the sponsors of those activities shall include the following statement in promotional materials:

"An application for accreditation of this activity has been submitted to the MCLE Committee of the State Bar of Texas and is pending."

10.1.9 Activities which fail to comply with the notice provisions required in Sections 10.1.7 and 10.1.8 above may subject the sponsors of these activities to sanctions.

10.1.10 The activity must have at least one-half (.50) hour of instructional time.

10.1.11 The activity must be open to a member of the MCLE Committee or its designee at no cost (except for meals, lodging or similar out-of-pocket costs attributable on an individual basis) for purposes of monitoring the quality of the CLE activity and compliance with the MCLE rules and regulations.

10.1.12 The MCLE Committee shall review member complaints concerning CLE sponsors and CLE activities. If the Committee determines that a response is necessary from the sponsor, the sponsor will be notified in writing and provided a copy of the complaint. If the sponsor has not resolved the complaint to the satisfaction of the MCLE Committee within sixty (60) days after the notice, the Committee may, at its discretion, suspend further accreditation of any applications filed by said sponsor until the matter is satisfactorily resolved.

## 10.2 Procedure for Applying for Accreditation of CLE Activities for Non-Accredited Sponsors

CLE activities may be accredited upon the written application of sponsors, on an individual program basis, or by attorneys on an individual program basis for out-of-state activities. All applications for accreditation of a CLE activity by a Non-Accredited Sponsor shall:

- a. Be submitted at least thirty (30) days, and preferably longer, in advance of the course, although the Committee may grant approval on applications filed less than 30 days prior or retroactive approval if the proper penalty for late filing is paid, as specified below;
- b. Be submitted on a form provided by the Committee;
- c. Contain all information requested on the form;
- d. Be accompanied by a sample brochure or course outline that describes the course content, identifies the instructors, lists the time devoted to each topic, and shows each date and location at which the program will be offered.
- e. Include a detailed calculation of the total CLE hours and legal ethics/professional responsibility credit hours; and
- f. Include designation on the course outline or brochure of any parts or sessions of the CLE activity that are sought to be accredited for legal ethics/professional responsibility.

- 10.2.2 A separate application is required for each activity unless the activity is being repeated in exactly the same format on different dates and/or different locations and is open to attendance by any attorney. Repeat presentations may be added to an existing application for a twelve month period. For example: If the date of the first presentation is May 25, repeat presentation dates through April 30 of the following year may be added to the existing application.
- 10.2.3 In-house CLE activities, repeated at different firms or organizations in which attendance is restricted to the attorneys and guests of each separate organization, shall be considered separate CLE activities and shall be submitted separately.

### 10.3 Accreditation of Sponsoring Organizations

The MCLE Committee may extend approval to a sponsoring organization for all of the CLE activities presented by such organization that conform to Section 10.1.

#### 10.3.1 Eligibility/Requirements for Accredited Sponsor Status

Eligibility for Accredited Sponsor status shall be extended to local or district bar associations, state and national legal organizations, ABA/AALS accredited law schools, state bar associations, law firms or corporate legal departments and other nonprofit and commercial organizations that consistently provide CLE to the legal community. In order to be eligible, the organization must have a demonstrable history of (1) consistently providing quality CLE programming for lawyers that meets the requirements of Article XII of the State Bar Rules, these Regulations and the Accreditation Standards for CLE Activities for a period of at least two years, and (2) providing ten or more CLE activities per calendar year.

#### 10.3.2 Application for Accredited Sponsor Status

In order to obtain Accredited Sponsor status, an organization must submit an Application for Accredited Sponsor Status (“Application”) approved by the MCLE Committee and a \$200 application fee. The Application may require the sponsor to submit information regarding its organization, purpose, history of providing CLE activities, or such additional information that the MCLE Committee may deem relevant. Approval of Accredited Sponsor status will be based upon information received with the application, such other information the MCLE Committee shall deem relevant and historical information contained within the MCLE data base including, but not limited to, course submission and attendance history, approvals and denials of accreditation, complaints concerning past programs or the marketing thereof, and payment history of the sponsor.

#### 10.3.3 Responsibilities of Accredited Sponsors

Accredited Sponsors shall provide specific information to the MCLE Department related to each CLE activity at least 30 days prior to the day the activity commences in an

electronic format approved by the MCLE Committee,. This information shall include, but is not limited to the following:

- a. activity title;
- b. date(s) and location(s) of the activity;
- c. total Accredited CLE hours, including ethics credit hours;
- d. method of presentation; and
- e. registration contact and registration fee information;

Accredited Sponsors shall keep course materials for two years, which shall include a brochure or outline that describes the course content, identifies the instructors, lists the time devoted to each topic, each date and location of the presentation, and attendance records showing lawyer attendees and the number and description of non-lawyer attendees. The Accredited Sponsor, upon request of the MCLE Director, shall immediately submit this information for review. Additional responsibilities of Accredited Sponsors include the timely submission of attendance information, amendments to CLE hours, dates, and/or locations for each activity submitted, and payment of all applicable accreditation and late filing fees for each activity.

#### 10.3.4 Benefits of Accredited Sponsor Status

Accredited Sponsors may participate in the following benefits of Accredited Sponsor status:

- a. Accredited Sponsors may indicate in promotional materials that they are accredited by including the following statement in promotional materials:  
“\_\_\_\_\_ is an accredited sponsor, approved by the State Bar of Texas, Committee on MCLE.”
- b. Accredited sponsors may submit payment of required accreditation and late filing fees upon receipt of invoice from the MCLE Director.
- c. Accredited Sponsors need not comply with State Bar MCLE Regulations 10.2 (a) through (f).

#### 10.3.5 Renewal/Revocation

Accredited Sponsors shall pay a \$200 annual renewal fee. The renewal fee will be due each year during the anniversary month of Accreditation. Accredited Sponsors shall be reviewed each year for renewal of Accredited Sponsor status or at such other times as the MCLE Committee shall deem reasonable. The Committee may revoke accreditation at any time when the MCLE Committee finds that a sponsor has not complied with the responsibilities of Accredited Sponsor status (Section 10.3.3 above). Additional

conditions which may cause revocation of Accredited Sponsor status shall include, but are not limited to:

- a. non-payment of accredited sponsor fee or annual renewal fee.
- b. submission of an activity or activities that do not qualify for MCLE accreditation as set forth in the Accreditation Standards for CLE Activities and interpreted by the MCLE Committee;
- c. non-payment of accreditation fees or late filing fees;
- d. failure to report attendance for activities sponsored by the Accredited Sponsor;
- e. submission of jointly sponsored activities, or activities sponsored by other organizations; or
- f. unresolved complaint(s) documented against the Accredited Sponsor or an activity offered by an Accredited Sponsor.

#### 10.3.6 Responsibilities of MCLE Director

The MCLE Director shall provide course numbers for each Accredited Sponsor CLE activity that is submitted to the MCLE Department upon the appropriate form and in compliance with the requirements of Section 10.3.3 (a) through (e).

#### 10.3.7 Specific Restrictions

An Accredited Sponsor shall not sponsor a CLE activity with any other organization. An organization that has been granted Accredited Sponsor Status may co-sponsor a CLE activity with another entity, but that CLE activity must be provided as though the Accredited Sponsor were not an Accredited Sponsor.

#### 10.4 Approval of In-House Education Activities.

Courses by local, state and federal government agencies, the military, law firms, either individually or in connection with other law firms, corporate legal departments, or similar entities primarily for the education of their members may be accredited for MCLE credit under the Rules and Regulations applicable to any other sponsor and the requirements set forth in Sections 10.1 and 10.2 above, plus the following additional conditions:

- a. The courses shall be submitted for approval on a course-by-course basis at least 30 days prior to the date of the activity;
- b. Experienced instructors must contribute to the teaching and efforts should be made to achieve a balance of in-house and outside instructors;
- c. The course must be scheduled at a time and location so as to be free of interruptions from telephone calls and other office matters.

## 10.5 Attorney Request for Accreditation of Out-of-State CLE Activity.

A member of the State Bar of Texas may seek individual accreditation for a live out-of-state CLE activity that has not been previously submitted and approved by the CLE sponsor by completing an application form to be provided by the Committee. The application may be submitted either before or after the activity is conducted and shall include a brochure or other outline describing the course content, identifying the instructors, listing the topics by title, and showing the time schedule for each topic. An accreditation fee of \$25 per request shall be imposed upon the member and shall be submitted at the time of request.

10.5.1 A member may not seek individual accreditation for electronically delivered activities such as live or prerecorded teleconferences, webcasts, satellite broadcasts or other non-accredited digital media.

## 10.6 Request for Teaching Credit.

Credit may be earned for teaching in an approved CLE activity. To receive credit, the member shall submit an application for teaching credit on a form to be provided by the Committee.

10.6.1 Presentation and preparation time will qualify for CLE credit on the basis of hour-for-hour credit for each hour spent in preparation and the actual time of presentation. Credit for repeat presentations shall qualify for additional time spent in preparation only.

## 10.7 Request for Writing Credit.

Credit may be earned for research-based writing activities, provided the activity (1) produced material published in the form of an article, as materials for an accredited CLE activity, or as a chapter or book written, in whole or in part, by the applicant; (2) contributed substantially to the continuing legal education of the applicant and other attorneys; and (3) is not done in the ordinary course of the practice of law, the performance of regular employment, or as a service to clients. To receive credit, the member shall submit an application for writing credit on a form to be provided by the Committee.

10.7.1 In granting credit for research-based writing, the Committee shall consider the following factors: (1) the content, level and length of the materials; (2) the originality of the materials with the individual applicant; and (3) the nature of the publication in which they appear, if any.

## 10.8 Accreditation and Late Filing Fees

### 10.8.1 Accreditation Fee Paid by Sponsors of CLE Activities.

An accreditation fee shall be required for each CLE activity for which a sponsor seeks MCLE accreditation for such activity pursuant to these regulations, unless exempted as set out in Section 10.8.3 of this regulation. A series of CLE activities that occurs on non-consecutive dates shall be considered as separate activities and shall be submitted separately with an accreditation fee required for each application.



10.8.2 The accreditation fee for non-accredited sponsors shall be calculated at the rate of \$20.00 per approved credit hour or \$10.00 per Texas attendee, whichever is less, with the minimum fee of \$50.00 to be paid for each CLE activity.

10.8.3 The accreditation fee for a sponsor who has been extended Accredited Sponsor status by the MCLE Committee outlined in Sections 10.3-10.3.7 or for an organization that meets the definition of a local bar association outlined below in Section 10.8.5, shall be calculated at the rate of \$14 per approved credit hour or \$7.00 per Texas attendee, whichever is less, with the minimum fee of \$35 to be paid for each CLE activity.

10.8.4 Payment of the minimum fee shall accompany each application for accreditation submitted by a sponsor. Applications for accreditation submitted without payment of the minimum fee shall be returned to the sponsor without being processed for accreditation. If the CLE activity is subsequently accredited, the balance of the accreditation fee, if any shall be paid by the sponsor within thirty (30) days after conclusion of the corresponding CLE activity

10.8.5 Exemptions.

An exemption from payment of the attendance reporting service charge specified in 6.2.1 and accreditation fee specified in 10.8.1 through 10.8.3 above shall be allowed for each accredited CLE activity that is solely sponsored by a local or district bar association for which no separate attendance fee is charged. For purposes of this subsection, "local or district bar association" shall mean a bar association contained within a particular geographical area of a city, county or state judicial district and that is open for membership to the entire general lawyer population within such area.

Local and district bar associations and government agencies are exempt from accredited sponsor and annual renewal fees specified in 10.3.5 above. Institutions of higher education are not included in this exemption.

10.8.6 Accreditation Fee Paid by Members for Out-of-State CLE Activities.

An accreditation fee shall be required for any out-of-state CLE activity (not previously accredited through an application by the sponsor of the activity) for which a member seeks accreditation on an individual basis pursuant to these regulations. A separate application and accreditation fee shall be required for each member who attends the activity and who desires to receive MCLE credit for such activity. A series of CLE activities that occurs on non-consecutive dates shall be considered as separate activities and shall be submitted separately with an accreditation fee required for each application.

10.8.7 The amount of this accreditation fee shall be \$25.00 for each application for accreditation submitted regardless of the number of credit hours allowed for the CLE activity.

10.8.8 This fee shall be paid directly by each individual member requesting accreditation for the out-of-state activity. Payment of the fee must accompany the application. Individual applications for accreditation submitted without proper payment of the \$25.00 fee shall be returned without being processed for accreditation.

- 10.8.9 A penalty for late filing in the amount of \$100 must be paid for each accreditation application filed by a non-accredited CLE sponsor if the application is received in the office of the MCLE Department less than fifteen (15) calendar days prior to the starting date of the CLE activity specified on the accreditation application.
- 10.8.10 A penalty for late filing in the amount of \$50 must be paid for each course submission filed electronically by a CLE sponsor who has been extended Accredited Sponsor status by the MCLE Committee outlined in Sections 10.3-10.3.7 or that meets the definition of a local bar association outlined in Section 10.8.5 if the course submission is received in the office of the MCLE Department less than fifteen (15) calendar days prior to the starting date of the CLE activity.
- 10.8.11 The late filing deadline will be calculated by starting with the date that is one calendar day immediately prior to the starting date of the CLE activity, and counting backward 15 calendar days; the resulting date is the late filing deadline, and the application must be received by the close of business on that date in order to avoid this late filing fee.
- 10.8.12 When applicable, this penalty for late filing shall be required on all applications regardless of whether or not an accreditation fee is required. This penalty for late filing shall not apply to accreditation applications filed by individual members for out-of-state CLE activities.
- 10.9 Initial Accreditation Determination. An applicant for accreditation shall bear the burden of proof that the program is entitled to receive MCLE accreditation, including the burden as to the amount and type of credit to be received. A lack of information is a sufficient basis to deny accreditation. The Director of MCLE is empowered to review and pass upon applications and to grant or deny accreditation. The Director has the discretion to refer an application to the Committee or to a panel of the Committee members as the chairperson may, from time to time designate; and, a panel to which an application has been referred may in turn refer the application to the full Committee for determination. Minimum accreditation application fees and late fees are nonrefundable even if accreditation is denied.
- 10.10 Denial of Accreditation and Internal Committee Review Process.
- Upon denial of accreditation, the applicant shall be notified in writing that the applicant may seek reconsideration. Within 30 days after notification has been mailed that credit has been denied, the applicant must file with the MCLE Director a written appeal and a non-refundable filing fee in the amount of \$50 for sponsor submitted appeals and \$25 for member submitted appeals, or the denial of accreditation shall be final. Checks for filing fees shall be made payable to the order of the State Bar of Texas. The written appeal shall set forth, or include in a separate brief, argument as the applicant wishes to make as to why credit should be granted and the initial decision was erroneous. The appeal and separate brief, if any, may be submitted in letter form. The applicant may submit additional documents or other evidence that was not presented previously. Based upon the additional information submitted, the Director has the discretion to grant the appeal and grant accreditation without referring the matter to the MCLE Committee, except when the MCLE Committee made the initial determination. The Director may refer the appeal to the Committee or

to a panel of the Committee members as the chairperson may, from time to time designate; however, if the initial determination to deny credit was made by a panel, reconsideration may not be conducted by a panel. The applicant may appear before the Committee to give oral argument. Written notification of the decision of the MCLE Committee regarding the appeal shall be mailed to the applicant. Upon timely exhaustion of the internal Committee review procedures as set forth in this paragraph, the applicant may appeal a denial of credit to the Board of Directors of the State Bar of Texas as provided below.

#### 10.11 Review by the Board of Directors.

##### 10.11.1 Request for Review to the Board of Directors.

Within 30 days after the mailing of written notification that the appeal was denied in whole or part, an applicant may file a written request for review with the Executive Director of the State Bar of Texas, together with a non-refundable filing fee of \$50.00. Failure to timely file the request for review and pay the filing fee waives review and causes the decision of the MCLE Committee to be final. The request for review shall set forth the reasons why the applicant believes that the determination to deny credit was erroneous and credit should be granted. Letter form of the request for review is sufficient, and the request for review shall not exceed 10 typewritten, double-spaced pages in length. The applicant may not submit new documentation or information regarding the program, for the review must be based only on the record submitted to, and considered by, the MCLE Committee. The MCLE Committee shall have 30 days after the filing of the request for review in which it may reverse its decision. If the decision is not reversed, the MCLE Committee shall prepare a record of the proceedings, which shall include the application for accreditation and other documents or evidence submitted to the MCLE Committee prior to its reconsideration, relevant correspondence, the appeal and any written argument presented to the MCLE Committee. The MCLE Committee shall set forth a summary of the record of the proceedings before the MCLE staff and Committee, together with the response of the Committee to the request for appeal, which may include the factors and reasons considered in making its decision as well as argument and other matters that the Committee believes are relevant including the impact that granting credit would have on other programs.

10.11.2. Referral to Appeals Committee; Standard of Review. If the request for review is filed timely, the Executive Director shall forward the request for review, the record of the MCLE Committee proceedings, and the response by the MCLE Committee to the Appeals-Grant Review Subcommittee of the Board of Directors of the State Bar of Texas. The Appeals-Grant Review Subcommittee shall review such materials and may hear oral argument from the applicant and the MCLE Committee or its representatives. The Appeals-Grant Review Subcommittee shall uphold the decision of the MCLE Committee unless the applicant proves by a substantial evidence standard that the decision of the MCLE Committee was incorrect. The Appeals-Grant Review Subcommittee may not substitute its judgment for that of the MCLE Committee and may consider only the record on which the MCLE Committee based its decision. The MCLE Committee's

findings, inferences and conclusions are presumed to be supported by substantial evidence, and the applicant bears the burden of showing a lack of substantial evidence.

10.11.3 Recommendation of Appeals Committee and Board Action. The Appeals-Grant Review Subcommittee shall make its recommendation to the Board of Directors of the State Bar of Texas. The final decision on the appeal shall be made by the Board of Directors. Within 15 days after the Board's determination, the Executive Director shall notify the applicant and the Director of MCLE of the Board's decision.

## **11.0 EFFECTIVE DATE**

The effective date for this set of regulations shall be June 13, 2017.