WASHINGTON STATE
BAR ASSOCIATION
Regulatory Services Department

MCLE Board
Established by Washington Supreme Court APR 11
Administered by the WSBA
John Bender, Chair

SPECIAL MEETING AGENDA

August 28, 2019
9:00 A.M.

OPEN SESSION:

9:00 a.m. – Discussion and Action on Preliminary APR 11 Ethics Amendment Proposal

D I S C U S S I O N & A C T I O N :

Preliminary APR 11 Ethics Amendment Proposal

Preliminary APR 11 Ethics Amendment Proposal:

The preliminary recommendation would amend the ethics requirement under Admission and Practice Rule (APR) 11 to require one credit in each of the following subjects: 1) inclusion and anti-bias, 2) mental health, addiction, and stress, 3) technology education focusing on digital security, per reporting period.

Should the MCLE Board recommend the following amendments to APR 11?

APR 11(c)(1)(ii)

(ii) at least six credits must be in ethics and professional responsibility, as defined in subsection (f)(2), with at least one credit from each of subsections (f)(2)(ii), (iii), and (iv).

APR 11(f)(2)

(2) *Ethics and professional responsibility*, defined as topics relating to:

(i) the general subject of professional responsibility and conduct standards for lawyers, LLLTs, LPOs, and judges~~, including diversity and anti-bias with respect to the practice of law or the legal system, and~~;

(ii) the risks to ethical practice associated with ~~diagnosable~~ mental health ~~conditions~~, addictive behavior, and stress;

(iii) equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law, including client advising; and

(iv) the use of technology in the practice of law as it pertains to a lawyer, LLLT, or LPO's professional responsibility, including how to maintain the security of electronic or digital property, communications, data, and information.

Written Feedback about Amendment Proposal

This document is divided into two sections. The first section (A) includes all comments received as of 9:00 a.m. on August 13, 2019. The comments have not been edited in any way, including content, typographical errors, etc., and because the comments were submitted for consideration at a public meeting, we have included the commenters' names but not their email addresses or other identifying information.

How Responses Were Classified:

Based on the content, comments have been assigned to one of three categories: "In Opposition", "In Support", and "Other/Mixed" (which may state partial support, partial opposition, and/or other ideas or comments). Within these three major groupings, comments are displayed in random order. Only comments that explicitly state their opposition or support for the **entire** proposal are in the "In Opposition" or "In Support" section. The MCLE staff acknowledge that each comment is nuanced, and they are sorted into broad categories so as to not misrepresent any one individual statement.

The second section (B) of this document includes all comments received after 9:00 a.m. on August 13, 2019. The comments have not been edited in any way, including content, typographical errors, etc., and because the comments were submitted for consideration at a public meeting, we have included the commenters' names but not their email addresses or other identifying information.

Section A

In Opposition:

1. I read the proposed changes to MCLE requirements and it reminded me of the requirements I must meet in California, which include: at least one hour on competence issues and at least one hour in an area called the Recognition and Elimination of Bias in the Legal Profession and Society. I have found these additional requirements to be essentially useless and also difficult to find appropriate sessions. Typically I complete this requirement with AV materials, but, in the end, it is mostly common sense and really of no value to my legal education. I urge you not to adopt this new standard as it is primarily driven by political correctness rather than attorney competence, which should be the focus of MCLE requirements. -Tom Prescott
2. I am against the proposed amendment to the Admission and Practice Rule (APR) 11. The bar association should not mandate particular subject requirements within a category of MCLE requirements, particularly topics that could be considered politically motivated. Members should have the discretion to choose topics most related to their particular area of practice. -Eric Graham
3. Really? 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. Might I suggest that this busybody proposal be tied to an increased Keller Deduction? -Gene R. Moses

4. I received notice of a proposed rule change requiring one credit in specific categories. I am against this proposal. As an Active Duty military JAG, I already have a hard enough time meeting the ethics requirements. In fact, many of my colleagues states waive CLE requirements for them while they are on Active Duty. I had to pay out of pocket to make my ethics requirements last reporting period, and of Washington continues with development of niche reporting categories that will only continue and probably be worse. If the state continues with this idea, I'd request a government or military exemption. -Alex Rose
5. I do not support the APR 11 amendment. -Dawn Thorsness
6. I do not recommend amending the ethics requirement under APR 11 to "require one credit in each of the following subjects per reporting period: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security." I recommend that ethics amendments must have an empirical basis, i.e., they are substantiated by actual patterns of misconduct (ethical or not) as evidenced by data from WSBA disciplinary proceedings. -Craig Watt
7. I have practiced law in Washington for 33 years. I am opposed to amending the ethics requirement to force attorneys to choose among the 3 listed topics for their ethics credits. I believe attorneys should be trusted to select the ethics courses that will improve their practice and conduct as attorneys. Forcing attorneys to attend seminars in the three listed areas will not improve the practice of law; it will only require attorneys to either (1) attend a seminar they would have attended anyway; or (2) attend a seminar in which he/she is not interested simply because those topics appeal to certain committees of the bar. There are many more ethics issues that are of interest and importance than the 3 listed topics. Dictating which specific topics qualify for ethics credit will not improve the conduct of the bar or the practice of law in Washington. At best, it constitutes virtue-signaling by the Bar leadership. -Mark Clausen
8. I am opposed to the proposed amendment. It's just another extension of the WSBA's desire to create a nanny state within the bar. It's amazing to me that the bar staff and leadership don't get this. It's one of the reasons why your budget was slashed by the membership -Paul L. Henderson

9. I know this is a done deal, but at least I am speaking out. Please do not implement the proposed rule changes. I reviewed the REPORT AND PRELIMINARY RECOMMENDATION OF THE WASHINGTON SUPREME COURT, MANDATORY CONTINUING LEGAL EDUCATION BOARD RE: PROPOSED AMENDMENT TO APR 11. I did not find it compelling. I oppose the adoption of the proposed amendment to require that, of the six required ethics credits for legal professionals, one credit be required in each of these three topics: 1) Inclusion and anti-bias, 2) mental health and addiction, and 3) technology security. My understanding of the current rules is that WSBA gives CLE credit for members who might want to participate in CLE on these issues and subjects. I think I have gotten credit for CLE in these areas. That should continue, but it should not be mandatory. WSBA needs to focus its requirements on the basics of the practice of law. The proposal strikes me as an attempt to provide progressive and illiberal members of our profession, to include employees and leaders at the WSBA, with the opportunity to force their views on members of our bar. I also suspect that if adopted, the WSBA will eventually allow the political weaponization of these rule changes, ultimately using them as a basis to take adverse actions against attorneys who might disagree with the agendas of some of the principle actors behind the proposed rules. I am not really interested in paying someone to lecture me for an hour on what a racist I am, or that I am a homophobe, or a hater, or whatever. I am not. I am tired of people presuming that I am and telling me what I should think. I have striven during my career to practice the law with courage and integrity, and with respect and compassion to all individuals. Regardless of what the WSBA decides to do, I will continue to treat my neighbor, client, or colleagues as I would want to be treated. -Donald G. Lobeda, Jr.
10. I am against the proposed amendment to Admission and Practice Rule (APR) 11, in regards to ethics credits requirements. While I understand the amendment does not propose to increase the total number of ethics credits required for each reporting period. Instead, it requires that three of the ethics credits be in the identified topics listed above. I think it will be very difficult for the CLE seminars I typically attend or at which I speak to incorporate the requisite number of hours of seminar material in a meaningful and useful manner. While the RPPT section of the Bar to which I belong is one of the few, if not the only, profitable sections in the bar, I also know there are administrative challenges. This type of form over substance requirement would only add to an already challenged administrative structure, not to mention the likelihood of increased costs to organize, present and monitor the different categories of ethics credits. -Elaine P. Adams
11. I disapprove of the preliminary amendment proposal. -Greg Raburn
12. Hi, I wanted to provide some feedback on the proposed changes. My main point is that the proposed change could make it more difficult to find acceptable CLEs that meet the new criteria, particularly for those of us who practice outside Washington state, such as myself. -Mark Eichorn
13. I received an email requesting feedback to an amendment to Admission and Practice Rule (APR) 11, in regards to ethics credits requirements. I feel this categorization creates additional hurdles for attorneys to overcome, particularly when the majority of us are already overworked. Additional requirements increase our stress and harm our mental health. -Moshe (Jeff) Admon
14. I am opposed. –Glenn Price
15. I am submitting my feedback here in this email as I am located in the southern corner of the state and will be unable to attend the open forum. I do not think that attorneys should be required to take certain credits in specified areas, and that we should continue to pick and choose areas of interest to us or where we think we need to have more knowledge. For example, we may be very well tuned in regarding health, addiction and stress, but forcing us to take a credit every period in that same subject matter would then take away from taking a

credit in another area of lessor expertise or experience. I hope that this rule does not change. – Tresa Cavanaugh

16. Please do not amend APR 11 as suggested. The amendment is unnecessary and speaks of political correctness. Please do not have the WSBA waste its time on this proposal. -Steven B. Shea
17. Though these topics have value, I do not think the WSBA should place specific topical requirements on ethics CLE's. Practicing attorneys are juggling enough - our daily law practice, general CLE requirements, ethics CLE requirements, not to mention families, etc. The WSBA should consider offering free ethics CLE's in these areas. Please do not create a rule to mandate specific topics. -Erika Nohavec
18. I am opposed to the proposed change to the CLE Ethics requirements adding separate categories, for example "inclusion", to the requirements. It would add further confusion to the process with no real benefit. The proponent may think these are laudatory values but they have no place in CLE requirements applying to all attorneys. It borders on adding current political preferences to the process. -Steven J. Brown
19. I oppose the proposal. Lawyers are smarter than you think. They can choose what courses they need. The Nanny state does not need to spoon feed them with medicine that they may not need. If they do, simply make the relevant courses available, not mandatory. Thanks for the consideration. –John Trebon
20. As I understand it, the WSBA is considering changing our reporting year ethics requirements by adding one credit in each of the following topics: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. While I believe that these subjects have merit, I disagree with making them requirements. There are many, many subjects that have at least equal ethical merit to society and are of more interest to me, such as: 1) governmental sanction of crime in the form of corporate tax breaks and tax incentives; 2) the continuing plague of arbitrary or biased sentencing and the prison industrial complex; 3) ethical issues arising from the lifetime appointments of Federal Judges not on the Supreme Court; and, 4) the ethical considerations stemming from the disenfranchisement of our starving and homeless citizen youth concurrent with enfranchisement of foreign refugees and illegal aliens. I understand that these are hard and even incendiary questions, but we are attorneys. We need to be encouraged to poke the bear and ask hard questions including hard ethical questions. We do not need big brother to shepherd us into its preconceived notion of what is important for us, our clients or society. Doing so, implicitly encourages a prioritization that discourages the kind of questioning that is so necessary for the evolution of ethical awareness and understanding. –Eric Krening
21. Ridiculous. Don't do it. While these are things that are good for us, I am not sure we have to put this into our cle's. -Madeline Gauthier
22. First let me say that I am a staunch supporter of diversity and inclusion and continue to believe we need to do more re bias and prejudice. I also have seen first hand the issues that are created when substance abuse and mental health issues arise. However, I have continued to see the decline in lawyer appreciation for the RPCs and the myriad of issues that arise with those when the type of programs proposed are substituted for the issues relating to the RPCs. Certainly the issues raised touch on and concern the profession and the public. They touch on ethics in several forms but the programs I have seen advanced for CLE credit have done little to shape change and little to add to ethical conduct. Frankly, I'm disappointed by that result but candidly I'm suggesting that those programs do little to advance the cause and little to advance lawyers' adherence to the RPCs and the spirit of those. Moreover, I continue to hear from lawyers who resent being forced to take the courses because they feel they are more politically motivated

and while I don't support that view I'm painfully aware of current and threatened litigation and discord in both the Oregon and Washington Bars memberships. Accordingly, I'm not in favor of what is proposed, at least not in the way it is proposed, despite the fact that I am concerned about the same issues I suspect that gave rise to the proposal. -Russ Garrett

23. Anything that makes CLE more onerous is unwelcome. From my perspective CLE is designed to soak the lawyers. Any practicing lawyer keeps up with developments in his/her field without intervention by the bar. -Keith Goody
24. I am writing to you in comment on the proposal to amend APR 11. I oppose the proposal. Is there any evidence of the need to require attorneys to take ethics courses in the proposed three areas? If there is some perceived need for attorneys to take ethics courses in these particular areas, then is there a way to obtain the desired result without regulation? Regulation should always be the tool of last resort. I suggest to you that a much simpler way to obtain the apparent desired result would be to offer more free online CLE courses in those areas. Many of us gravitate to free online CLE courses, even if we are not particularly interested in the seminar topic. Perhaps the Diversity Committee could sponsor some CLE programs and the WSBA could present them as part of the Legal Lunchbox series. -Michael John Swanson
25. This proposal is making the MCLE procedures too complicated. -J. Scott Miller
26. I am a member of WSBA and I oppose the proposed amendment to APR 11 for two main reasons: 1) I live out-of-state and this proposal could make completing my MCLE requirements more complicated and possibly more difficult; 2) I believe the more appropriate and restrictive means for the MCLE Board to achieve its desired outcome is by offering and encouraging more MCLEs on the three proposed subjects, not by making the credits mandatory and thereby enforcing the Board's determination for the entire WSBA membership on which "areas are among the most important issues facing not only the legal profession but also the general population in the United States today." [Basis for Recommendation, Report and Preliminary Recommendation of the Washington Supreme Court Mandatory Continuing Legal Education Board re: Proposed Amendment to APR 11] -Christine Wozniak

27. Although these are important subjects, I recommend against the change as it further complicates what is already a significant challenge meeting existing requirements. -Chris Wickham
28. I am opposed to amending the ethics requirement to require one credit in specific subject categories. As a lawyer currently practicing in Canada, I partly fulfill my CLE credits by attending continuing legal education courses/seminars here, which often has an ethics component built in. While I fully support increasing our knowledge and awareness of issues such as inclusion and anti bias and mental health etc., I think the goal is better served by encouraging more CLEs addressing these topics and its attendance than making it mandatory attendance for lawyers. There are some topics that are naturally touched on or included in the CLEs we attend that is related to our practice. For example, I work in the personal injury field and previously in the criminal defense field and topics on mental health and addiction are quite frequently touched on in the CLEs that I attend. However, in my old criminal defense practice, technology education focusing on digital security is not really relevant to my practice but awareness of bias and mental health issues was a regular part of the CLEs I attended. -Howard Sham
29. No. This is unreasonable micromanaging of attorneys' professional development. We are professionals, know our ethical duties, and know best what instruction in ethics we need. And these three topics are ones that many attorneys, including myself, are already seeking instruction on without being compelled. Prioritizing these topics for Legal Lunchboxes or other

highly accessible CLEs would achieve the goal of widely disseminating the relevant information, without implementing a mandate that would be administratively burdensome and is also, frankly, offensively paternalistic. -JEANINE BLACKETT LUTZENHISER

30. I am against this proposed amendment. There are enough requirements placed on attorneys regarding CLE's without adding subject matter sub-areas. I am reminded of the recent change to the MAR law which required a subject matter specific CLE on the duties of arbitrators to be attended by prospective arbitrators, and then after the law passed nobody seemed to know what I was talking about when I would call and ask whether there was a CLE that would meet the new statutory requirements. The same thing will likely happen here and everyone will be scrambling last minute to find an appropriate CLE. This is a bad idea. Please do not implement this. -William J. Croft
31. I do not support the proposed changes with regard to our ethics credits. The rule seems unnecessary, restrictive, and burdensome. –Jackson Walsh
32. I oppose the rule changes. While I understand that all the topics covered are very important, one hour of instruction in each of those areas once every three years won't even be a drop in the bucket of the problems they are attempting to address. It seems like the worst kind of lip service: setting up a token program that any serious person will see as insulting to those who struggle with mental health, addiction, and bias. Furthermore, the burden of finding additional, specific CLE seminars is too great. It is already difficult and expensive to take care of the existing ethics CLE requirement and adding three MORE ultra-specific credits will make it hard to meet the requirements, especially for solo/small firm practitioners, attorneys in rural areas, and young attorneys who are already drowning in student debt. -Justin Elder
33. If the WSBA is going to start mandating specific topical requirements for licensure, perhaps it would be best if it focused on areas that attorneys actually get in trouble for. Rather than a social agenda, the WSBA should require credits include the following subjects: Maintaining separate client funds, Maintaining proper trust accounts, Proper accounting of client funds, How to not co-mingle funds, Diligence in client communications, Diligence in litigation, How to decline or terminate representation. Please ask the Board to read through the disciplinary section of the NWLawyer. If you really want to educate attorneys in this state, start with the topics that form the basis for most disbarments/reprimands. –Britt Tinglum
34. The proposed amendment to MCLE requirements is micro-managing that will be confusing and ineffective. –Joseph Brotherton
35. Oppose proposed amendment to the rule -Kenyon E. Luce
36. I am writing in opposition to a change to APR 11, specifically to break out the ethics requirements to include the 3 different types. The increase in stratification of the CLE requirements does not benefit a diverse bar. I have begun to think that I'm back attempting to get my undergraduate degree. I'll need a language, and a science, and … and …. Continuing legal education is meant to inform the members of the bar of changes to the practice of law. It is not meant to be all inclusive, otherwise we'll next have property law, contracts and evidence requirements. Keep it simple and let the members make the choices that are right for them. -R. Tye Graham
37. I do not support the proposed changes. I don't find them helpful to my practice and could, due to time constraints, result in my not taking ethics credits relevant to my practice areas. -Cliff Sears
38. Comment on the addition of the topics: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. Regarding item #1, an ethics class is not going to change people's minds about how to treat others, so I consider this

unproductive. Regarding #2 and 3, neither of these are related to the actual topic of "ethics", even though laudable topics. If you want to make these latter two topics mandatory, then provide them with their own classification and reduce the traditional ethics requirements. – Mike Winslow

39. 1) inclusion and anti-bias; 2) mental health, addiction, and stress; It would have been helpful if you could have told us the context in which #1 & #2 were being looked at. Regardless, I don't think that #1 & #2 need to be an entire class. This is supposed to be legal ethics not social justice. Dealing with people who have mental health or addiction issues should be delt with in the specific area of law as it applies. For instance, how the person's mental health bears on culpability. I think that it is sad when you start telling attorneys what classes they Must take or what content they Must listen to. If the concern is how these two items are part of our interaction in our own work place, then this should be part of the human resources job within each firm. If in #2 you are worried about the stress in each attorneys job, then there are help lines or counseling available to them. I would resent being required to get lectured on mental health, addiction and stress as it relates to my job, the assumption being that I am not able to deal with stress without a mental health or addiction issue. I am one of the few attorneys who actually enjoys most of the ethics classes that I have taken. They are my choice and I try to find things that apply to an area that I practice in or one that I have peripheral contact with. If you want to create classes based on these topics then let it be each attorney's choice whether to include them in their class schedule. 3) technology education focusing on digital security. I have taken several classes dealing with cyber security and they have all included #3 and they have all had an ethics component to them. We all deal with computer systems every day so this component is applicable to all attorneys. Again, it was my choice to take this class and I will most likely take it again. I don't buy in to the need to mandate specific classes to attorneys. - Christien Drakeley
40. Though I understand the bar association's attempt to do the "right thing", It is my opinion that the requirement would place an additional burden on the 90% of the bar that doesn't need it. The 10% that may need it will ignore whatever point you are trying to accomplish. I have never been able to understand why we keep beating ourselves up due to a small percentage of sociopaths we may have in our profession or any other profession for that matter. –Paul Larson
41. I reviewed the proposal to amend the continuing legal education requirement to include diversity and various other topics. I believe the proposal has a laudable goal. However, I am hesitant to give my approval to a proposal that puts the weight of a governmental agency behind mandatory training involving diversity and inclusion. I think it is very difficult to legislate values, and I think the Bar Association should stick to the nuts and bolts of lawyering rather than attempting to change the hearts and minds of its members. -Andrew Williams
42. I disagree with mandatory individual CLE courses in "policy" areas—e.g., 1 CLE credit in substance abuse/treatment. Instead, there should be a "block" requirement, i.e., 3 CLE credits in "policy" areas + allow the member to choose what interests him/her. If the available courses are relevant, well-conceived and topical, the member will likely make a "good" choice (and does not need to be "nudged" by the bar association into selecting specific "policy" areas. The member's "freedom of choice" should be respected, and the bar association should enlarge the availability of CLEs in "policy" areas. -John A. (Tony) McHugh
43. The proposed ethics requirement changes seem, at best unnecessary. At worst---I leave that to others. -Ron Culpepper
44. I do not support making the proposed CLE change. – Kimberly Thulin
45. The proposal to take away freedom to choose CLE ethics classes is ominous. 1. Forcing all licensed legal professionals to attend classes on a subject presumes they are seriously wrong in

their current beliefs about that subject. Otherwise why mandate attendance under the threat of loss of license? There must be something seriously wrong. Please provide data of client complaints or lawsuits in sufficient numbers to justify forced annual, universal classes. Mandatory annual re-education is a draconian solution. If there is no draconian problem, then this is like swinging a sledgehammer at a mosquito. 2. The subjects of inclusion, bias, and addiction involve controversial social/political issues that tend to be presented from a particular political point of view. For instance, how will safe-injection sites be regarded? How will the transgendered be regarded? How will white males be regarded? How will undocumented immigrants be regarded? How will the homeless be regarded? Lawyers have sincerely held social, religious, and legal opinions all across the spectrum on each of these issues. If someone thinks most licensed legal professionals need a change of attitude, they should first try to convince others to change, rather than using the awesome licensing power of the bar to force everyone's nose to a grindstone. 3. Freedom to choose CLE classes has been the cornerstone of voluntary legal education. If the bar starts forcing members to attend specific classes (even "for their own good") the whole concept of voluntary education will be lost, changing the relationship between the bar and its members. This proposal converts liberty into tyranny, so I respectfully oppose removing the freedom to choose CLE classes. - John Panesko

46. I am a member of 3 bars. When each state bar starts requiring special ethics courses it complicates the CLE process and requires you to take a separate classes for each state. -David S. Barlow
47. Adding a technology requirement is a bad idea. I rely on my paralegals for tech stuff and they don't want me touching the inner workings. I know enough not to click on strange emails and I understand the basics of metadata. I think that is true for most members. Re inclusion and anti bias, I think the bar begins to stray from it's appropriate mission when it goes outside the law and the practice of law. -Paul R. Taylor
48. I am a non-practicing attorney licensed since 1998, who struggles to find affordable and/or free CLE credits to keep my bar license active. Making ethics requirements more specific would make it even more difficult for me to find ethics CLE courses. I oppose requiring specific ethics credits and find this proposed recommendation by the MCLE Board to be short-sighted. Ethics is ubiquitous in not only an attorney's practice, but in our society at large and should not be categorized narrowly. In addition, narrowing its focus to these issues, which may not be the most pressing issues from year to year seems stifling and will require changes to this rule again once new/more pressing ethics issues arise. Why is the MCLE Board even fiddling with it? What is their rationale? It appears to me that the Board should be making it easier for attorneys to obtain CLE credits, especially non-practicing attorneys like me. If they are going forward with this, I would at least ask for a waiver for those who cannot afford to specifically tailor their CLE credits to this requirement. -Michelle Reed Oppenheimer
49. I am writing to respectfully oppose the change. Many of us receive training and advice outside CLEs in one or more of the areas that the proposed rule would mandate for CLE ethics credits. It should be up to each individual attorney to decide which area they are not receiving enough information and where they need to focus for CLE ethics training. The new rule is a bit paternalistic in its approach to mandating the areas in which we should receive CLE ethics training. Instead, I propose that the WSBA provide free preliminary information and awareness building activities to provide its members with enough information to make their own decisions about what CLE ethics courses they should attend. -Jim Darnton
50. The MCLE requirement should be made less onerous for lawyers, not more so. The trend for simplification in the last few years, in allowing on-line courses to satisfy the MCLE requirement, was a huge step in the right direction. It saved commute costs, time in transit, and dreadful

travel to the heavy traffic in and around Seattle in many cases. But this new proposal offers increased course delivery challenges for providers, and more onerous compliance problems for WSBA members. Please consider recommending needed and appropriate topics to providers and lawyers as opposed to establishing mandatory requirements. This allows those with detailed subject matter knowledge of a recommended topic to focus on other subjects where he or she lacks expertise. One of the important lessons of a law school education is knowing when research is needed to function competently. The research must be detailed, thorough and contemporaneous to meet a client's needs, even if our basic knowledge is excellent based on past education and training. MCLE is not a substitute for that detailed research. Rather, it provides general background knowledge and helps us focus our studying and research on items we might otherwise miss. Most attorneys do not need to be told what they should study and be interested in; most are competent to pick the best courses for them. -Richard J. Davis

51. I disagree with the preliminary recommendation to amend the ethics requirement under APR 11 to require any number of credits in any specific sub-topic of ethics. As members of the profession, it is our obligation to practice law in conformance with the Rules of Professional Conduct. Requiring MCLE to help practitioners understand and apply the RPCs is logical and helpful. Straying away from the RPCs to require study of topics beyond the RPCs, or within small niche applications of the RPCs, diverts from the primary goal of ethics MCLE – assuring that lawyers are best able to comply with the RPCs in areas that directly affect them. Lawyers know what ethical challenges they confront in their practices, and should be free to choose courses of study that will help them with those issues, without the need to take extra courses to cover the proposed new areas. Requiring study of sub-topics will make satisfying the ethics requirement much more difficult and costly. For example, I typically take a 3 day national CLE program each year focusing on my areas of practice. That program is unlikely to offer credits in any of the three proposed new topics. Accordingly, I will have to take more days away from work or personal time, and pay more in tuition and fees to satisfy the requirement. This is an unnecessary and unreasonable burden to place on practitioners. Assuming that requiring potentially three additional hours of study is not a material burden to many practitioners is high-handed, and frankly offensive. It is similarly presumptuous to assume that every lawyer needs training in the three sub-areas selected by the committee. I am also concerned about the slippery slope. Requiring study of three particular areas, regardless of how meritorious they may be, sets a precedent. In a few years, other topics may be in vogue and added or substituted, exacerbating the difficulty of finding courses that satisfy the requirements - and the time to take them. Finally, I believe this proposal may be emblematic of the root cause of the current upheaval afflicting WSBA governance. Best to not go further down that road. –Everett Billingslea
52. I oppose the proposed amendment to APR 11 for the following reasons: 1. The first listed reason for the amendment is that four other states have implemented similar amendments. That reason is no reason at all. If following other states had any merit in itself, the more persuasive approach would be to follow the majority of states that have not adopted the amendment. The report could as easily have said: "46 other states have not adopted this amendment." I reject this reason. 2. The equity, inclusion, mitigation, implicit bias provision is nothing more than the systematic implementation of a political ideology to which I do not subscribe. These are all political terms, not ethical terms."Equity" is not defined in the proposed amendment. It is a nice-sounding term, but is inherently ambiguous. It is usually used to mean equality of outcome regardless of reason, and not equality of opportunity. I reject the former, and embrace the latter. I do not want to be forced to sit through indoctrination training. If the proposal was for training in equality of opportunity it would be less objectionable, but would still unnecessary.

"Inclusion" is a similarly vague word that has no definitive meaning. Again, I do not want to be forced to attend a lecture by someone who is more enlightened telling me how I need to be more "inclusive," when that word is so elastic that it will only mean what the lecturer says it means. In the end, the lecture will not be on legal ethics. It will only be the lecturer's mushy interpretation of the word. The concept of "implicit bias," as it is generally used, is another political concept. Some see "implicit bias" in others, when there is no objective manifestation that any bias exists. It is easy to claim that someone else has "implicit bias." By its nature, there is no way for the person accused of implicit bias to refute the claim. Unscientific tests are regularly being used to prove the presence of implicit bias. The concept of implicit bias is entirely unuseful and nonobjective. The concept of implicit bias is regularly used to make unsupportable accusations (or as a basis for unsupported self-flagellation). The concept is often used politically by one group to vilify another group. It is a means of asserting identity politics--an approach that is destructive to social cohesion. The concept of "mitigation" is also a political term, suggesting the need to do something because of the poor behavior of others. Again, this is a political view for which training is not required. If I objectively discriminate against someone, that is a problem that can be remedied by changing my behavior. But, I should not be forced to listen to someone's view on my ethical duties on what I should do because of what someone else has done. In any event, much has been done to mitigate past discriminatory conduct. We are doing well as a bar. This amendment assumes a social condition that does not exist. This amendment is nothing more than forced indoctrination of a left-leaning political ideology. The terms use in the amendment are so elastic that what is claimed to be ethical will be nothing more than personal opinion--based on the political views of the presenter. This is not ethics training. Ethics training should be based on the RPCs, on objectively measured actions, not on a person's political opinion. Although innocent sounding words are being proposed, the Bar Association should not impose this political ideology on members who have a different political view. 3. As justification for the amendment, the report states: "Diversification of gender, race, age and abilities in positions of power continues to be an unresolved issue. For example, women or minorities represented 66% of Washington’s population in a recent study but just 44% of its state judges." There are two problems with this statement. First, the statistic does not support the statement. A difference between the percentage of women or minority who are state judges to the percentage of those categories in the population says nothing about the reason for the difference. The report assumes a reason without any support. The report relies on the post hoc ergo propter hoc fallacy. Correlation does not imply causation. If the pool from which judges are selected was society as a whole, perhaps there might be some basis for the claim. But, the pool from which judges are selected is limited to the pool of attorneys. So, the report makes a sloppy misuse of the statistic to support the proposed amendment. There are a number of valid, nondiscriminatory reasons for the percentage differences to exist. It is faulty reasoning to assume that it is the result of discrimination. I reject the notion that the differences in percentages are the result of discrimination or even the result of bias. More likely, it is the function of time and the number of female and minority attorneys. The percentage of female and minority law school graduates to male, non-minority graduates has been increasing substantially in the last decade. I suspect that in time the percentage of female and minority judges to male, non-minority judges will reflect the law school graduate percentages. But, those the judicial percentages will necessarily lag behind the law school graduate percentages, by perhaps a decade or more. In any event, the percentage of women and minority judges will never match the population as a whole until long after the percentage of women and minority law school graduates match the percentages in the society, assuming that ever happens. It is false to claim that this "continues to be an unresolved issue" based on a

percentage at a given time. The problem may have already been resolved, but for the time needed for the existing judges to retire. I suspect that because of the governor's sensitivity to the effect of past discrimination against women and minorities in the law, the percentages of women and minority who currently receive appointments is larger than their percentages in the pool of available lawyers. The study mentioned in the report does not address that issue. Second, the statement assumes that forcing attorneys to attend lectures on equity, inclusion, and implicit bias will somehow bring the judicial percentage into line with the general population. How is that supposed to happen? How is requiring all attorneys to sit for one hour every three years support to produce the desired result? There is no basis for claiming that forcing attorneys to attend this one hour lecture will produce the hoped-for result. This reason lacks merit. In my view there is a different agenda at work. Changes have been made to increase the number of women and minority judges. These changes are working under existing rules. The amendment is not needed and will only serve to propagate a political view. It should be rejected. 4. My only comment about the use of technology provision is that the specific requirement is unnecessary. I suspect that it was included only to dress up the equity, inclusion, mitigation, and implicit bias proposal. Additional reasons could be given for my objections to the amendment, but I have do not have time to go through the 54 page report in detail. We are doing well as a bar. The proposed amendments are unnecessary and ideological. Hopefully, I will not be forced to be "reeducated" on the proposed left-leaning political views. -Brad Englund

53. I am opposed to the proposed amendment. I once took a class on anti bias. (CLE requirement approved). We were taught that everyone is a privileged taker or a disadvantaged poor sole. No in between, no some of both. It was too confrontational and not helpful. I would not want to see these promoted. Not everyone has mental health problems. I am not sure why this would be a required class. I am not persuaded that technological instruction is part of ethics. Please let the governors know I oppose this proposal. -Jeanette Burrage
54. While I understand some need for education in those areas for some individuals, I think the major problem will be whether practitioners can find specific ethics credits which will fit all of those criteria. I already find it difficult to fulfill my ethics credit requirements because, simply put, good CLEs on ethics topics (and especially ones relevant and targeted to my profession--criminal defense) are difficult to find. If the WSBA is willing and able to offer these sorts of credits at no cost to its membership, then I think it would be more palatable. But I also think it could be unfortunate to force individuals to take ethics credits on topics they may already be well-versed in. As it is now, I try not to waste my time on CLEs that are not helpful to my specific practice area, as I gain nothing from those hours and they are basically a waste of money. I think placing a limit or requirement on what types of ethics credits we can use to count towards our licensing is going to be not only difficult for practitioners to follow through with, but also cause some frustration. -Laura Chuang
55. My first impression upon reading about the proposed new CLE requirements was: MORE RULES, MORE STAFF, MORE DUES. Empire building at the WSBA, in all its facets, must stop. I hope that the implementation of Janus relative to bar structure will fix this, but I'm not betting any money on it. I wouldn't bet any money on members' thumbs down being able to stop implementation of these new CLE requirements either. This planned change imputes to members an ethical deficiency which requires the WSBA to require mandatory CLEs. I find this insulting actually. Since members were smart enough to earn a JD, they are probably smart enough to deal with computer and smart phone technologies without the WSBA forcing CLEs upon them. Likewise, members are exposed to diversity/inclusion from all sides 24x7, so members receive enough exposure on that subject without the WSBA forcing CLEs upon them. Here's an even better idea which will no doubt make leaders groan and members cheer. Let's get rid of the WSBA

requirement for CLEs altogether. If Washington, D.C., can do it, Washington State certainly can. Let the members who were smart enough to earn a JD determine what additional schooling they require. That will no doubt drive down the cost of CLEs too, and that would be a very good thing. Let's hope that the mandatory CLE requirements meet the same fate as mandatory malpractice insurance. But don't bet money on that either. The monster that the WSBA has become will be hard to slay. As a member commented to me, it's like a hydra. Cut one head, and two more appear. I'm for whacking all the heads off at once through a voluntary bar association which, of course, I would not join. -Inez Petersen

56. While I support offering CLE courses in the topical areas described, I oppose requiring credits in the specific categories identified. Attorneys should be allowed to select courses that are of interest and relevant to them rather than be force-fed specific course topics. Since my license is inactive, this proposal does not directly affect me. However, I strongly disagree with the proposal--no matter how well-intentioned it might be. -Ronald Weston
57. As a WSBA member I am opposed to the proposed amendment, for the reasons outlined below. Existing MCLE requirements already impose a significant burden on WSBA members. Requirements for Washington State attorneys are some of the most onerous in the nation, as evidenced in the table attached to the Board's report. This burden is compounded for those who, like me, are members of other state bars as well. In general terms, earning MCLE credits can be expensive, takes up valuable time, and adds a serious preoccupation. Imposing requirements that limit members' choices when it comes to choosing MCLE courses only complicates matters and can increase financial costs. The ability to reduce expenditures by attending free or inexpensive courses is reduced, as members must find courses on specific subjects, targeted at practicing attorneys. For the same reasons, the pressures on schedules become greater, as members have less opportunities to take courses that fulfill all their requirements. These financial and time pressures in turn lead to increased stress. I can attest to the negative effects of this type of requirement. As a member of the Florida Bar, I had to comply with a technology requirement during my last MCLE cycle. Having fulfilled all other requirements, it took me an additional five months to earn a single technology credit—which I was only able to secure thanks to a fortuitous invitation to an event during a personal trip to Hong Kong. This despite the fact that Florida's technology requirement is not as narrowly tailored as Washington's proposed one. As a matter of principle, members should be given as much freedom as possible to choose courses. Recognizing that MCLE requirements are burdensome, members should at least be allowed to attend courses that interest them and further needs of their practice. This is particularly true for WSBA members, who are required to earn an unusually high number of credits when compared to their peers nationwide. If the WSBA understands that certain subjects are important, the constructive approach is to offer courses on such subjects that are attractive to their membership. The Legal Lunchbox series is a great example of how to accomplish that, offering free courses that attorneys can take from their own offices. Such offerings help foster positive feelings towards the WSBA among the membership. By contrast, mandatory requirements can lead to resentment. For the reasons described above, I urge the MCLE Board to reject the proposed amendment in its entirety. -Frederic Rocafort
58. I support the comments of Mimi Wagner, attached below. Please pass the comments on to the Board on my behalf as well. -Bill Weissinger
59. I OPPOSE the proposed changes to APR 11. While these proposals are well-intentioned, I believe they are unnecessary. I also believe they will make the practice of law and being a lawyer more difficult than it already is, by requiring sub-categories of ethics credits which must be satisfied. The changes, if enacted, will further increase the cost of running a law practice (due to the

increased complexity of satisfying MCLE). The proposals drive another psychological wedge between “practicing attorneys” who are trying to run a business and do good work for their clients, and those who are seeking to make policy at the WSBA. -Mimi M. Wagner

60. I do not agree with the proposal. First, although inclusive and unbiased approaches to the practice of law are laudable goals, this seems to be a heavy-handed and politicized way of ramming "virtue" down peoples' throats. It sounds terribly Puritanical. It will also, undoubtedly have the opposite effect of the intended goal because people (myself included) hate being lectured about how to be more virtuous, even if it is for the common good. Moreover, once you open this Pandora's Box, you will invite endless squabbles over "what" you advocate to "include" and "which" biases you would "train"people to regard as offensive. Let your imagine run with what else some might demand you package into similar ethics requirement. This is a topic fraught with land mines and the WSBA should not tread there. In sum, the idea is (probably) well-intentioned, but a "cure" that is worse than the disease. Second, although mental health, addiction and stress are all issues of the day, there is no good reason why these subjects should be mandatory "ethics" requirements. Those who want in-depth study of the legal relationship of these issues to the practice of law should take CLE programs that emphasize these issues. Again, if you go down this path, you will invite future (and legitimate) squabbling when a later generation's critical issues crop up. Will lawyers will be required, as part of their ethics credits, to learn about global climate change, weaning our practices off of fossil fuels, "gun control," vegetarianism, the dangers/benefits of children's vaccinations and the reasons to eat only non-GMO/organic foods? If not, why not? However much I may subscribe to one or some of those points of view myself, I would strongly resist the WSBA trying to impose its (or my) viewpoints on any other member of the Bar. In sum, this is a well-intended bad idea. Third, the requirement that lawyers be proficient in technology issues relating to digital security is well and good - but it has absolutely nothing to do with "ethics" except in the larger sense that nothing done via the Web or the Internet was, is or can ever be "confidential." Lawyers who are aware of what is happening certainly ought to familiarize themselves with digital technologies. Those who do not, proceed at their peril. Nevertheless, in light of the current barrages of popular and highly politicized mis-information about digital security, I see this revised "ethics" venue as nothing more than a selling opportunity for a) further mis-information and politicization for any number of ends, and b) the marketing by certain interests of products and services to a captive market of generally uninformed attorneys. I know a little about the topic under discussion. Over the years, I have spoken and written and lectured about digital security, legal and constitutional issues to audiences of "techies" and hackers - ergo my opinions re proposal number 3. In addition to practicing law, I am an officer of a tech company that developed neural networks and so-called AI, and if I do not always know what I am talking about, I have sufficient knowledge in tech/digital issues to recognize that some of the many "experts" on these issues are merely bluffing and puffing. In addition, years ago, while serving on the BOG, as part of a small committee, I authored the original version of GR 12 that was adopted in 1987. The rule has changed somewhat since then, but parts of what, back then, the BOG adopted with Supreme Court approval, remains incorporated into various parts of the existing GRs. Thank you for giving all of us an opportunity to comment on what you are considering doing before you actually do it. -Steven Reisler
61. The proposal is clearly well-meant, but ill-considered. Mandatory CLE is for topics that are deemed a mandatory, minimum, professional requirement. All the topics under consideration for being required are beneficial, and any effort the WSBA would desire to entice members to take them could be encouraged, but to require them as “ethics” would have the undeniable effect of removing from mandatory Ethics requirements instruction into what are required as a

mandatory, minimum, professional requirement – i.e., ethics (not "ethics" as in "it would be nice if every attorney is nice, and ethical, and considerate, and well-versed in modern technology, rather "ethics" as in "every attorney receives a mandatory amount of training in understanding what factors need to be considered in the day-to-day operation of a law firm and a law practice that meets the required minimum standards of professional behavior in order to protect clients and ensure the attorney is not sanctioned"). The WSBA should not exercise its power to require Bar members to take its favored courses in the guise of "ethics" at the expense of the true goals of mandatory Ethics CLE requirements. –Greg Ircink

62. CLE are completely worthless!!! In 30 years I have been to ONE worthwhile CLE! DC Bar is the nations largest bar association has no CLE requirements and that's what I would like to see! I spend a fortune on CLEs for MT, WA, ID and not red cent for CLE for DC. Stop wasting my time and money with CLE requirements that make good press for the WSBA and are completely irrelevant to me. –Dale Robbins

63. Leave things as they are. For inclusion and anti-bias, we can all attend seminars on the laws governing discrimination, and receive credit under L & L. For mental health, the category for entitled OTHER works just fine for mental health laws. For digital security, making it connected to ethics is insane. There are many seminars governing the laws regarding data privacy, data security and cybersecurity. It has No relevance wot ethics……I have no idea who thought that idea up that it belonged to ethics. Change is good at times and at other times, no change is so very important. I can see that what we have for the moment fits the different categories for cle course. Ethics since I graduated from law school (1976) has been all about handling client funds, and other ways in which attorneys are very naughty in their business dealings. -Stephen Zirschky
64. The proposed recipe for mandatory specific ethics categories rather than the current generic ethics approach is another example of a solution in search of a problem. It just creates more unwelcome gotchas for those who don't have staff to monitor newly minted CLE requirements. My recommendation is for the Bar leadership and committees to take the year off to let its subjects catch their breath. -Ron Santi
65. I write to express my opposition to the preliminary recommendation to require one ethics credits in each of inclusion and anti-bias; mental health, et. seq. technology education and digital security. –Steve Chance
66. Ethics should be about the practice of law; not the social policy of the bar staff or elites. These are the kinds of proposals and policies that drive division. –K. Garl Long
67. None, of these subjects have anything to do with Ethics or the law. The bar association should focus on the law and not ancillary matters. If the bar wants people to take these non-law related trainings they should make them optional and provide a free webinar not make them a mandatory part of keeping one's license. –Christine Carille
68. I think this is a condescending proposal with the Bar yet again deciding what is politically correct for all attorneys. The Bar should stay out of the social engineering business. -Frank Morris
69. I don' think such an amendment is necessary or useful. - Steven Sackmann
70. While all three subjects are worthy topics for CLE, trying to include them as Ethics Requirement is not the best way forward. Mandating their inclusion is more of a political statement than an ethical one. I would suggest instead these topics be made more available as part of the general CLE curriculum. –Robert Chadwell
71. I'm against it. The bottom of the slippery slope is requiring various "areas" for all CLE credits. One is just as important as the other. –Joe Nagy
72. I write to state my objections to the proposed ethics CLE requirements to require a portion of the credits topics to be specific to: (1) inclusion/anti-bias; and (2) mental

health/addiction/stress. While these subject matters have some tangential relationship to professional qualifications, they are highly personal matters without very direct relationship to professional skills, and should not be required in connection with CLE requirements but rather left to individual decision and action by those needing education in those areas. The proposal is questionable and unwanted intrusion to personal interests that wanders far from core subjects for attention by a mandatory bar association. -Tom Boeder

73. I'm providing comments regarding the proposed ethics CLE subject matter requirements. I object to its implementation because I believe a "one-size-fits-all" approach to CLE subject matter requirements is a failure. While I note the diversity of the Bar in terms of our genetic ancestry from a diverse planet (something none of us can control), I believe this proposal completely ignores the more pressing issue that the practices of the lawyers in Washington are even more diverse. For example, I'm a white male, first generation American with dual citizenship (US and EU) raised by a refugee father who became a naturalized US citizen. But where I'm mostly practicing, I'm both a racial and gender minority. Having a non-US passport puts me in the majority. Yes this is a technology, financial and IP-related practice. When I was interviewed by our lead investor with my start-up company co-founder, we were asked what is our background. I pointed to my co-founder (clearly of Asian race) and said I'm the same, a first generation American with immigrant parents. With regard to (iii) bias, My client racial backgrounds are highly diverse, but about 80% Asian, either Chinese-American, very different from Chinese-Chinese even if naturalized US citizens (other than by viewing Crazy Rich Asians, I don't know how else to explain this), or a few from Korea or the Philippines but none from Japan (problems getting along). I don't think this kind of situation was considered for implicit or explicit bias, but it is my reality and I've learned how to manage it. Nor do I think a course that is better suited to those practicing criminal law would be useful for my practice. With regard to (ii) mental health, can I get CLE credits for how I deal with stress (swimming workouts; I did 3Km this morning with a masters group)? Or how about the clinical trial agreement I recently negotiated and wrote for a non-opioid pain killer drug candidate to satisfy the addiction requirement? The clinical trial protocol had much detail for patient pain medication history. As for (iv), as someone who is mostly in-house with international operations (including China), we have brought IT security issues to the forefront using professionals in this area. Shouldn't the course teach to hire a professional here, not have the attorney become a do-it-yourselfer? Our China-born CEO and CFO (now US citizens) know how to be careful here. In summary, I think we are professionals who are capable of selecting CLE courses and credits that are useful for our specific practices and not be told what we need because one-size-does-not-fit-all. But then again, if I can get CLE credit for my stress-relieving swimming, please sign me up! -Jeff Oster
74. I disagree with the suggested subjects as mandatory ethics credit requirements. These fall into the elective area in my view, not something to be mandated. Ethics reporting requirements should pertain to the substantive practice of law; other pursuits, however socially laudable, should remain up to individuals to pursue at each person's discretion. –Wendy Allard
75. I prefer the ability to choose a topic relevant to my practice. So no. –Wendy Kelly
76. I do not think you will get much support for this proposal. It is too cumbersome to parse up the ethics credits between 4 areas: these new three proposals and the normal RPC ethics requirements. It is also too heavy handed. Even people who may have drug/substance abuse issues will not want to be told they have to take classes on drugs/substance abuse. I think a better way to go about this is simply to offer the three proposed areas as "ethics" credit classes, and then let people choose to take them as they wish. I would appreciate having a lot more to choose from in the ethics area, as these are the hardest credits to fulfill every year. –Rhe Zinnecker

77. I'm writing to comment on the preliminary recommendation to amend the ethics requirement under APR 11 to require one credit in each of the following subjects per reporting period: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. The views are my own, of course—not a policy position of my company. I am in-house counsel for VMware, Inc., a public company majority owned by Dell. Our elevator pitch: VMware software powers the world's complex digital infrastructure. The company's cloud, networking and security, and digital workspace offerings provide a dynamic and efficient digital foundation to over 500,000 customers globally, aided by an ecosystem of 75,000 partners. Headquartered in Palo Alto, California, VMware is committed to being a force for good, from its breakthrough innovations to its global impact. For more information, please visit https://www.vmware.com/company.html. While requiring specific subjects for the ethics requirement seems like an admirable thing, it's not. My company provides mandatory training in all of these areas because it's good business. Most every in-house lawyer in the state will have too, especially those at technology-oriented businesses Any CLE on these subject would be redundant. It is difficult enough for in-house practitioners to obtain ethics credits in sessions that are even tangentially relevant to our practice. Making us tic these boxes further reduces the relevance of the ethics requirements. –Kevin Fay
78. I prefer to keep the ethics credits general. I think that we are intelligent enough to select the exact classes we need or that would interest us the most. –Aldo Melchiori
79. I disagree with the preliminary recommendation amending the ethics requirement under APR 11. –Mary Jo Moltzen
80. I oppose the proposal for anti-bias, addition, and technology training as part of the required ethics credits. While they may be worthwhile subjects, they do not involve legal ethics issues and should not take the place of legal ethics training, which is at the heart of everything we do. Frankly I'm concerned that this was even proposed. –Karen Murray
81. The proposed amendments are unnecessary and I oppose it. –Mariano Morales, Jr.
82. I am opposed to breaking down the ethics credits in the categories listed. For those of us with very limited practices it would be impossible to find conferences that would all all categories and more importantly none of the topics would help in my practice. -Pat Bosmans
83. While I appreciate and understand the fact we have a separate Ethics CLE requirement, I am opposed to requiring specific separate ethics requirements. My vote is yes on ethics, but no on the separate ethics requirements under the proposal. –Pat Trudell
84. I think the requirement proposal is ridiculous. Our ethics credits should be in what we choose and what best fits our practice areas. Theses credits are already difficult to get so don't make it harder on attorneys. –Rondi Thorp
85. I am writing to you to oppose the recommended changes to the MCLE ethics requirement. While I support the principle that attorneys should be versed in the proposed subjects, I do not believe the requirement will achieve those ends, for two reasons. First, the requirement does not guarantee the quality of the ethics trainings. During an ethics training I was required to take for DC bar admission, student were instructed that it was ethical for law firms to discriminate against employees in granting work assignments, provided it was at the client's request. The DC bar agreed that this lesson was supported by the relevant rules and caselaw. Given this context, attempting to meaningfully address discrimination and bias through the lens of legal ethics may be a fool's errand. Second, I am not confident that courses will be provided that are relevant to my work. I work as in-house counsel for a small non-profit in DC and do not deal with client information. It is hard for me to imagine a digital security course that would be targeted towards my practice. More likely such courses will focus on managing client information in the law firm setting. While this is true of most CLEs, the narrowness of the topics in this case makes

the problem particularly acute. Allowing maximum flexibility in the ethics training options makes it more likely I can find training that will be relevant to my work. –Sarah Sorscher

86. I strongly disagree that the WSBA should dictate to me what type of ethics CLE credits I need. I think this might be the silliest thing that I have seen proposed in this recent shake up of the bar association. –Andrew Kottkamp
87. I am opposed to any decision making it even more difficult to obtain Ethics credits. I feel the MCLE board already requires to many CLE credits, adding expense to clients for legal services. Any further requirements just puts additional costs and burden's on the practitioner's to make up for those costs. For those of us working in other areas and helping clients in a pro bono capacity, you are making it almost impossible to continue to do so. –Renee Janes
88. As a member of the California and Oregon State Bars, in addition to Washington's, I have years of experience being required to take MCLE courses on alcohol and drug abuse. I have taken many superb ethics CLE courses over my 38 years of practice, but not one has been about alcohol and drug abuse. Those courses have been uniformly terrible. Yes, the legal profession has a high incidence of substance abuse, but the numbers are not so high as to justify making everyone sit through what is effectively an Alcoholics Anonymous meeting once every 3 years. The State Bars already publicize the help that's available to members. It does not seem intuitive that making lawyers take a CLE course every 3 years will materially increase the use of those resources. No one should be forced to listen to other lawyers talking about their past alcohol problems. –Scott Seidman
89. I am against the ethics proposal. A compelled inclusion and anti-bias requirement in Ontario was emphatically rejected by voters in the last bar election. The bar was split and freedom from compelled speech became such an issue that litigation resulted, as well as defiance from attorneys who refused to obey the new rules. The risk of rebellion is real if the ethics requirement was split three ways. Let each attorney decide for themselves. –Charles Lugosi
90. My feedback is that this is a bad idea and that it will make it much harder to meet the ethics requirement. I am a member of the New Mexico bar where they imposed a similar requirement for specialized/focused ethics classes and I elected to go inactive because it was too hard to meet the requirement. –Randi Nathanson
91. I do not support the proposal to make it mandatory to earn ethics credits in those specific areas. They are laudable areas that should be offered to practitioners but there are plenty of other worthy topics for us to earn the required 6 ethics credits every 3 years. Perhaps the WSBA may wish to offer ethics credits for little or no fee in those specific areas, but I do not believe earning credit in those specific areas should be a condition to practicing law in this State. To earn one credit in each of the three specified areas is one half of the ethics requirement and disproportionate, in my view. Perhaps a less vigorous requirement of one credit among those three specified areas is more proportionate and a reasonable compromise of the inherent conflicts on one's limited time to undertake required CLE credit? –Tom McDonough
92. I am opposed. –Anthony Carter
93. Too much micro-management by the bar. It is more than enough to require ethics in the first place. Let us at least choose what we want to study and learn about. –Tracy Heims
94. I do not think this should be a requirement. Encouraged, suggested, offered, or rewarded sure! The constant barrage of ways to mandate every aspect of our license is so frustrating. People are busy, attorneys take time off, we have families. –Alexis Merritt
95. I do not want to have additional ethics requirements added to maintain my license to practice. It can already be a challenge sometimes to get in enough ethics credits. Separating them out into categories is going to make it more challenging to find a CLE to fill the requirements. Those are also not topics I think need to be separated out. –Donna Calf Robe

96. I am absolutely opposed to this proposal. It is politically correct clap trap. –Richard Sanders
97. I appreciate the thought behind the proposed ethics training requirement. However, these training topics (bias, stress, etc.) should be promoted and encouraged, not required. Low cost or free online CLE courses on these topics along with a bit of marketing will get a good response without using the coercive power of the Bar. –Dan Bjurstrom
98. I do not think there should be a specificity requirement on the ethics credits as they are already the hardest credits too obtain and get speakers to present on. Unless the goal is to have all the ethics credits be completed by the lunch box series. If that's the case I think it would reduce how hard they are to obtain and would just hope that there will be ethics conversations for specific areas of law, during annual conferences. –Joseph Mintz
99. Please do not add more requirements for separate subjects on ethics. Ethics credits are hard enough to find already; additional specific requirements would make it even more difficult. It also seems that a presenter would have a difficult time developing training in these subjects due to lack of relation to the current RPC's. –Paul Goulding
100. I do not believe this should be changed. I do believe that more training in this issue should be actively supported. –John Dittman
101. Bad idea. Subject matter is of no value to most lawyers. –Howard Stambor
102. I will simply post what was asked of me and then answer it after the proposal: The preliminary recommendation would amend the ethics requirement under APR 11 to require one credit in each of the following subjects per reporting period: 1) Inclusion and anti-bias. No. As a black Latino and former President of the Washington State Hispanic/Latino/a Bar Association I am insulted that you would even suggest such a thing. Understand something important. People are biased based on their upbringing. They learn to change through mistakes and by dealing with individuals personally through life. If they do not learn, they suffer the consequences, less business, fewer opportunities to grow their business with minority communities, etc. For that reason it is impossible for you to force people not to be biased. If I were gay, are you going to force me to take a class not to have bias against gays? This ethics requirement is overbroad and should not be forced upon all members since, generally, we all don't need it. People are adults, let the proverbial market take care of this. Do not FORCE people via this ethics class to treat people without bias. Not going to work and will just create more resentment between the races. Why would anyone want this when we all know that this would foment more division between the races? 2) Mental health, addiction, and stress. My tendency is to say No. But if I had to choose, you should have just one subject in this area instead of three: stress. Leave the mental health and addiction issues to the doctors and mental health professionals among us. 3) Technology education focusing on digital security. No. This is not explained fully in the feedback question digital security is a very broad area. I would like to see some examples. Are you talking about censorship of differing opinions? Since it is not explained, I must say no. This does not include a recommendation to increase the total number of ethics credits required for each reporting period. I would say that the increase of ethics credits would increase costs to attorneys. And anything that would do that I would oppose. I say no to increasing ethics credits although I am fascinated with the ethics classes I take. I don't like taking ethics credits, I LOVE taking ethics credits. The current system of ethics credits is fine. I know you all are doing your best to help us be responsible lawyers and I laud you for your efforts. Forcing people to take courses not to be biased may not be even relevant (in this aspect only): when I review the suspensions of lawyers by WSBA, how many were suspended because they were biased? I know of none. How are you going to prove this? Its divisive and quite frankly, quicksand. You are intentionally setting up lawyers to be accused of bias if this rule is enacted. For reasons stated above, it is a very slippery slope, and I don't like it. Many who suggest forcing us to take ethics

classes on bias are well meaning. However in reality, it implies that you truly do not respect all the many experiences we have to offer the WSBA. Imperfect as those experiences might be. Some are brown and black and are biased against whites, others are whites and are biased against whites based on their own guilt from perceived white privilege, others are white biased against blacks, and gays biased against straights, straights biased against gays etc. You cannot force people not to be biased, its already baked into the cake to some degree in all of us. But you can educate. How? Newsletters sent to our emails with ethics chunks each month. I would read each "WSBA ETHICS BULLETIN #_" in a heartbeat, provided that it was well written and that it was one page or half a page. By well written I do not mean law review well written, or bar examiner well written (with all due respect to my former colleagues), I mean common sense well written. Actually, it does not matter who writes the articles; it must be someone that can explain the topic in a very matter-of-fact way while staying within the RPCs. Some members would read articles, others would read others, yet ALL are reading and learning. The key is to inform us professionally and in a respectful manner about bias, or any other ethical issues you feel are important via an e-newsletter (1 page). Notice I said 'respectful'. Just get more interactive with us. Bulletin boards would be an interesting venue as well. I will never join Facebook, or Twitter although I do read my personal email. And for those really old-school lawyers; send off a printed version. (Black and white). You will attract many more lawyers to understand and read ethics when you approach them with the proverbial honey, as opposed to garlic. Try it, it might be very well received. (This idea is in addition to the content of the WSBA magazine or you can remove an article from it and put it in the newsletter). -Hector Steele

103. I think this is a bad idea. The Board need not micromanage every aspect of the CLE requirement, especially in the absence of any significant number of violations in the required areas. Moreover, if these discreate subjects are required you can be certain that all other subjects will be neglected. Just because the Board has the power to pass new regulations doesn't mean it should. –Jeffrey Needle
104. I don't like the proposal and here is why. Sorry if this seems a rant, but maybe it will be useful. I don't mind if you share. We are already increasingly micromanaged by regulations, with concomitant, implied reduction on the trust that our education and training already prepare us to act ethically, with autonomy and responsibility to the client AND the profession and the legal community. Furthermore, you have to be hiding under a rock to NOT understand the ethical issues around failing to account for, acknowledge and not exploit circumstances where any party to any case is contending with mental illness, chemical dependency, poverty, social stigma, and bias in the realms of sex, race, gender preference, religion, culture, and physical disability. Some attorneys may privately kvetch about having to be really "PC" and so careful in the "me too" era but I would mostly point to the older, retiring wave of white males in that respect, and also call a spade a spade—change takes time and some resistance to it just reflects that we all have cultural identity, bias and assumptions. Again, these are regularly and loudly challenged in the press, in the law, in practically every CLE as a sub-component, and in our homes and societies. We all know now how vulnerable privacy and security are due to digital/ cyber issues, and risks of identity theft, fraud, and more. We are all warned about this constantly. Who needs an ethics CLE to remind them that clients are equally vulnerable? Inclusion and anti-bias are front and center in litigation, the press, our schools, our churches, our families, discussions with our kids, and the raging political debates we all watch with dismay every day online. I sure don't need someone to prepare a power point and lecture me about being inclusive and being aware of bias and white privilege. Finally, we are all hammered over the head with advice, support, warnings, and knowledge regarding the signs of, perils of, and consequences of mental health and chemical dependency problems in clients, opposing counsel

and parties, ourselves and those around us. Attorneys are sponges for information – even when we don't try we hear and see the headlines, and we have all seen many, many real life scenarios where these problems wreak havoc in our clients, our cases, and our personal lives. The tendency towards ever increasing regulation, monitoring, government and agency control and micromanagement is offensive, disheartening, and reminds of the fall of the Roman empire. It is the sign of a bloated bureaucracy, excessive administrative zeal and paranoia, and lack of trust in our colleagues. We already know better. This reflects my personal views, and not in any way those of my agency, even though I write from my work email address. I have cc'd my personal email here, as well. As an aside, to lend my views credibility that should not even be needed…. My experiences include: 25 years of practice in public criminal defense, mental health court, private criminal defense, First Amendment/ Free Speech, environmental law, administrative law, family law, juvenile law, dependency/ termination, Labor and Industries litigation, personal injury, and representation of persons with disabilities. I have owned my own small practice, been employed by large and small firms, and worked for the state. I also have an M. Ed. in special education and have taught from third grade through grad school live and online. I have raised two kids mostly solo who are now fine young adults. I have served in the Navy Reserves. I have my own physical disabilities and have openly worked to address and treat any mental health challenges I may face, with zero shame and fear. I have gay, bi and trans relatives and friends. My children are bi racial. I have experienced both economic hardship and wealth. I have lived in liberal Seattle, WA and conservative Eastern WA. I have paid for my own bar dues and CLEs, and have had them paid by employers at times. –Mary Virginia White

105. Amending APR 11 to require one credit in each of the following subjects per reporting period: inclusion and anti-bias; mental health, addiction, and stress; and technology education focusing on digital security, would be difficult for those of us in the military or working for the Department of Defense. I get most of my CLE credit via the Army, either locally or at the US Army Judge Advocate Legal Center and School. The Ethics training at these CLEs are not separated into the above categories. Moreover, I am assigned to an office in Germany and I do not have complete access to Washington State CLE opportunities, other than the Lunchbox CLEs, which occur at 2100 or 2200 at night for me. If the Ethics CLE is offered during a Lunchbox CLE and I miss the opportunity, then it will be difficult for me to meet the specific requirements. – Anita Raddatz
106. I am NOT in favor of the proposed change. I understand it is not a change in the number of hours, however, it only further complicates the process. –Steven Pyle
107. I am opposed to this change. It's unnecessary -- let practitioners pick an ethics CLE that matches their practice and needs. –Daniel Seligman
108. I am an attorney in Seattle. Please be advised at I strongly oppose the changes to the ethics CLE requirement set forth below. It is already enough of a hassle to get the required credits. I fail to see how requiring one hour on the topics below will actually contribute to anyone's education. However, it will certainly make for more hassle. Please don't institute the changes. –Jacqui Becker
109. I understand that there is grave concern about the ethics of our membership. However, the purpose of continuing education is to increase the competence of attorneys in serving clients. The ethics requirement was added over time because of concern that attorneys were unfamiliar with the changing ethics requirements. There is no reason to add an additional sub-requirement. The goal of this proposal is better served by offering CLEs and permitting attorneys to determine if they choose to know more about these areas. Any other proposition appears political in nature. -Vicki Lee

110. I write to provide feedback on the proposed MCLE rule that would require one credit in each of the following subjects per reporting period: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. While I do not object to continuing education in those areas, in my opinion the proposed requirement that one hour of credit be obtained on each of the topics during each reporting period is overkill. An alternative approach would be to require one hour of credit on one topic each reporting period, and all 3 topics over 3 reporting periods. I am also licensed in Oregon, which requires one hour of combined child/elder abuse reporting per 3-year reporting period. In my experience, requiring the course to be retaken each reporting period is excessive. If the course were required once every 3 reporting periods it would serve to raise (and maintain) the awareness of practitioners about these important issues without unnecessarily increasing CLE cost and requiring repetitive exposure to the same concepts and materials. –Anthony Rafel
111. I disagree with the proposed requirement of the following topics for mandatory CLE reporting: "1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security." The proposal presumes a problem exists where it does not. Further, I prefer to choose the topics for my mandatory CLE classes and not have the topics be dictated by the WSBA or some special interest group(s) that presumes ALL lawyers need some annual training in all three of those areas above. The options DO exist for ANY Washington lawyer to voluntarily take CLE classes for credits on those topics, but me, personally? I resent being forced to take classes on those subjects, especially if I do not need or want those topics in my CLE credits. Moreover, if this proposal was mandated, I think the unintended consequences would be a very limited number of people/entities who are "qualified" to "teach" such topics, resulting in a small number of presenters getting the entire bar association (thousands of lawyers) as their "CLE attendees," which may be another ethical problem altogether if CHOOSING the specific names for the small number of presenters is not "competitive" in its "search" for possible CLE presenters. If we are going to go "down the slippery slope" of mandating CLE ethics credits, why these three topics? Why not mandatory RPC annual review? Why not mandatory trust account updates? These are just two examples I can think of right now, and there are many others. My point is the existing criteria does not even mandate those two topics, so why the three that are proposed above? Who stands to gain from that choice? Lastly, I think the number of attorneys who may resent being forced to attend such topics against their will, myself included, would give short shrift to the amount of attention they would pay while attending such CLE session. In other words, people generally are more enthusiastic about doing something voluntarily, rather than through force. Yes, we may have "attended," but did we really pay attention to the CLE and more importantly, are we going to enthusiastically implement the suggestions from the CLE, or are we just looking to "get that check in the block" to satisfy this year's CLE minimum? I prefer to choose the classes I pay for every year for my CLE requirements. By the way, I have continually exceeded the minimum number of CLE credits each year, for many years. It's not the money, it's the topics I disagree with that make me reject this proposal. Thank you for your objective consideration. –John P. Livingston
112. I think there should be no requirement for any requirement of CLE on anti bias, inclusion or affirmative action. My experience is that those subjects are code for their own form of discrimination and bias, are not legal education, are pushed by special interest groups with political agendas, and are not bona fide subjects. –Gene DeFelice
113. I respectfully disagree with the proposed amendment. Managing the onerous CLE credit requirements is too costly, complex, and time-consuming as is. Adding in specific mandatory course subjects that have to be met within the ethics credits adds an additional layer of

complexity and administrative burden. The materials provided to describe the basis for the recommendation include zero policy grounds to justify this step. The materials note that there is a "national trend" toward increasing requirements in education on these topics, but that description is quite loosely applied when 4 of 50 states have a diversity requirement, 5 of 50 have a mental health requirment, and 2 of 50 have a technology requirement. WSBA members have not been provided with any data from states that have implemented these requirements to suggest that such education has reduced ethics complaints to the bar, or that specific course requirements increase the number of courses actually taken with this type of content relative to the status quo or baseline. No doubt many of us are already taking ethics courses that cover topics of equity and inclusion, digital security, and wellness for the legal practitioner. Unless the Bar has data that show a dearth of course offerings in these areas, or that bar complaints are surging in these topic areas, etc., there is no reason to justify this new burden. This proposal seems premature until such time as the WSBA has obtained data on how many hours members are currently accumulating in CLE's with content aligned with these three topic areas and how many bar complaints have their true genesis in these areas relative to the total number of complaints, so that the impact of the new requirements could at least be measured. –Clay Hill

114. I am licensed in both Washington and Colorado. For lawyers licensed in multiple states the requirement of specific content and hours per subject will only add to the complexity and difficulty, not to mention the expense of complying with the ethics training requirements. CLE providers generally charge more for ethics training because it is specifically required. Further mandatory requirements as to content will only increase the cost. With lawyers admitted to multiple states, if every state does this, it makes economical achievement of the various ethic training requirements almost impossible. While the content listed above is laudable, it is included in some way in many other ethics courses, but is unlikely to be listed per subject if it is covered in a one or two hour ethics block of instruction with multiple topics. The changes in the CLE rules as to provider registration is already causing difficulty with those who are licensed in multiple jurisdictions, this proposal will only compound the difficulty. I don't reside in Washington State so it is unlikely I can avail myself, even if economical, of a bundling of ethics courses that will likely result in the State if this proposal passes. And since it unlikely that Washington will pre-grant credit for courses outside the state, many lawyers who are licensed in Washington but who live outside the State will have to gamble on credit being granted after the fact, again increasing the uncertainty, difficulty, and expense to comply. –Dru Brenner-Beck
115. While I think these topics are worthy and relevant – my concern with requiring ethics requirements for each category/topic is availability of CLEs available to address these additional requirements. It seems its always difficult to find ethics CLEs anyway, and the addition of categories might make it more difficult to satisfy the requirement. Instead, the bar may wish to either offer, or advocate for more CLEs with these topics to be available. I think there is interest and lawyers would take the courses anyway if they were offered (I would rather take CLEs on these subjects for ethics than the usual CLEs on the model code). I really liked the Lunchtime CLE on suicide prevention offered recently – it was relevant and interesting. I think this would be a better alternative to making additional requirements to the ethics requirements. –Francia Doyle
116. It would be appreciated if the Board would stop increasingly pushing an agenda on its members. We do not need the micromanaging that continues to be apparent in the WSBA. All of the three suggested topics are important. Allow the professionals that comprise the WSBA to make our own decisions about how our ethics hours are spent. All of the topics suggested will have numerous options available for members to access quality training in the subject area IF

desired. Frankly, I am so frustrated with the WSBA that I am toying with the idea of retiring early and going inactive with the WSBA. –Leila Edwards

117. I have practiced in rural Clallam County for 40 years. There are not that many ethics CLE courses offered locally. I am opposed to changing the current rule which allows for a broad range of ethics topics. It would be difficult to continue to locally obtain my required ethics credit if the WSBA imposes narrow limitations on subjects. –Carl Gay
118. My initial reaction is not positive. Enough, already were the first words I thought of. My second reaction is that I'm certainly open to taking ethics credits on those topics—they would be interesting, but WSBA would need to create a specific CLE that meets those requirements—like one CLE per year that ticks off all the boxes. Otherwise, it would be an extreme hassle to figure out how to get credit in those three distinct areas. Since I tend to take a lot of ethics courses, as I'm not in traditional private practice, I've certainly listened to topics related to digital security—but not on the other topics. I keep thinking WSBA is after the "perfect" instead of the "good." Why not create a CLE that includes important topics, such as those listed—and let folks make their own decisions. CLE's are already burdensome enough—although I really appreciate being able to download them. But they remain as costly as ever. –Gail McGaffick
119. Please do not institute the proposed change to ethics credit. You should encourage a breadth of ethics topics, including these three, but do not dictate them. Many attorneys get their ethics credits at various conferences and they don't always offer this breadth of topic. Or the topic may not be advertised in a way that would clearly satisfy the requirement even if it covers the material. –Faith Pettis
120. While in general ethics requirements are a good idea and the three areas you are looking at might also be useful to the membership, I can tell you that over the last many years, almost all of the ethics sessions I have participated in have been a complete waste of time and are offered and attended solely to meet the requirements. Adding new subject matter requirements would probably suffer from the same shortcomings, but because they are so specific, they would not be available to attendees of subject matter MCLEs related to their practice, but would instead the credits would have to be picked up in at general ethics only CLE offered at year end when people are scrambling around to satisfy the CLE requirements at the end of their reporting year. If you are considering such a requirement (which I would oppose) then I think the bar association should work to put together three programs which could address the three subject matters you are suggesting be addressed, which are of a high enough quality to retain the attendees interest and offer them online on demand for free. –Greg Petrie
121. I am not in support of the new ethics requirement. I feel it would be an onerous requirement. –Sandy Reinfurt
122. I do NOT support the proposal. –Ken Moyle
123. I practice in Oregon at a Community College. Since I am licensed in both OR and WA I am able to get comity between the two jusidictions. Oregon has recently undergone several changes to include similar trainings as well in their MCLE. Can I just tell you it is getting more and more complicated to get the correct number of credit hours in the correct categories. Plus is difficult to find offereings in these new areas. Please keep it simply and stop making compliance more complicated. –Rebecca Hillyer
124. I am not in favor of the proposed amendment. As much as inclusion and anti-bias; mental health, addiction, and stress; and technology are important subjects, there's no reason to presume we all have similar needs. I very much support the requirement for 15 hours per year of CLE. That should be the minimum for anyone who cares to practice law. We should all invest in ourselves and our skill sets on an ongoing basis. I budget a couple of thousand dollars a year to ensure that I'm constantly expanding my skill set. I always exceed the mandate of APR 11.

This past year I probably satisfied the entire three year requirement. I'm not sure because I don't bother tracking; I know I'll have more than enough simply because I have strong interests and a desire to learn more and practice at ever higher levels of competence. That said, I like being able to choose which areas of study will most benefit the people I serve. There are already, in my opinion, too many rigid requirements. When CLE requirements become rigid, the result is a bunch of bored attorneys taking classes that don't interest them because they have to. I support the 15 hour a year threshold. I don't find the ethics requirement particularly helpful. Not because I lack an interest in ethics but rather because I don't feel I have a deficiency in that area and would rather focus on those areas that are most helpful. Further tightening the requirements so that there are more boxes to check will be burdensome rather than helpful. – Roy Martin

125. 1. Diversity and anti-bias. This recalls the rhetoric of the Oregon State Bar's (OSB) similar MCLE program. That was a disaster and led to the first ever Member referendum by which, by about a 2 to 1 margin, the membership voted that the program be dropped. (I am the OSB lawyer who authored the membership referendum and who was the principal proponent throughout the process.) When you name a program with the words "diversity and anti-bias", you pretty much start with the insulting assumption that lawyers themselves discriminate and are biased. Even if you believe that to be true, that is no way to build goodwill and engender thoughtful conversations about those kinds of issues. It is like forcing people to go to church. Also, you can unintentionally create the impression in the minds of various minority groups that secretly most people are out to get them. In Oregon, after the referendum, the Oregon Supreme Court and the OSB Board of Governors took a two year "do nothing" approach to the problem. Finally, after some direct pressure pointing out that the issue would be taken back to the membership, a compromise was worked out which reduced the mandatory credit requirements and also resulted in renaming the program to "Access to Justice". It is surprising how much of a positive change this made in program content. Instead of having people preach at the membership and basically accuse them of being bigots, it engendered the birth of programs with a positive approach. Examples include really important things, for example, like helping clients with physical disabilities get their legal problems through the legal system, education about transgender people, and societal norms for communication cues and styles based on gender. I now actually like the Access to Justice programs. I hated the "diversity and anti-bias" garbage programs. I do not hear my colleagues complain about the programs anymore either. So, if you are going to go down this path, learn from your OSB neighbor and do not make the WSB Board of Governors any more unpopular than it already is. 2. Mental health, addiction, and stress. Personally, this does not affect me. I am a California bar member also and have had to comply with its similar "substance abuse" MCLE requirement for over 20 years. Also, now the OSB has one of these as well. However, I have always found these programs boring and a complete waste of time. This is probably true of most lawyers who do not have personal substance abuse problems. The notion that we will somehow be educated by these programs so that we can then help our colleagues who do suffer from substance abuse or mental illness is, in my humble opinion, largely mythological. I am trained to help people with their legal problems, not to counsel them on mental health and substance abuse issues. 3. Technology education focusing on digital security. Although the intent behind this proposal is admirable, there is so much diversity in practice areas, law firms, and employment settings that I question that there will be enough diversity in the educational programs to really make this a meaningful exercise for most members. –Gary Georgeff

126. As an attorney licensed in Washington since 2001--almost 20 years--I have been inactive but keeping my CLE compliance up-to-date for many years. I actively practice in two other states in

which I am licensed. Please note my feedback to the proposed CLE ethics training requirements: I VEHEMENTLY disapprove of these requirements! Washington has always been a very liberal state, but that does not mean that every attorney in the state is liberal. Nor does it mean than ANY Washington attorney should be forced to be "trained" regarding very politicized, politically correct, hot-button issues! If a licensed professional chooses to seek out continuing education in these areas that should be his or her choice. Those that choose to fall on the politically conservative side of practice should have the choice to avoid extended parroting on those topics, as well. I feel the exact same way about requiring all licensed attorneys in Washington to undergo three hours of class lecturing about gun rights sponsored by the NRA. The topics of training for any attorney should be that of her own choosing! Again, I am very much AGAINST this proposed change. –Machelle Morris

127. I am WSB #38753 and am not in favor of the proposal to convert three of the current ethics credits required into specialized credits. I'm a member of four state bars and these specialized requirements make compliance more complicated. They also make compliance more expensive because I usually can't apply the CLE credits for these specialty requirements to the general ethics requirement or general CLE requirement in other states (example: Oregon's child abuse reporting CLE requirement), and few national providers offer them, so I'm forced to pay to take these courses on top of the annual subscription for CLE that I have with a national provider. Furthermore, I am very uncomfortable with the trend toward adding more and more requirements to maintain law licenses that focus on social issues and business practices vs. hard legal skills. The role of a licensing authority should be to help ensure that license holders are competent to perform the job for which they are licensed – period. –Rachel McCart
128. I recently received an email soliciting feedback regarding a proposal to amend the Ethics requirement to require specialized training in 3 areas each reporting period. As an active duty military member stationed overseas, my strong recommendation would be AGAINST adopting such a rule. It is challenging enough to find the courses and time to satisfy the existing ethics CLE reporting requirements, that many people – particularly those licensed in Washington but not physically located there - don't need an additional challenge of seeking out specialized training. Add to this the fact that the additional training will almost certainly require military members (and others not located in-state) to 1) complete the training online and 2) pay for the training. I already receive training in each of the proposed areas as part of my mandatory military training – but none of these courses are likely to satisfy the CLE requirements as they are not specific to the legal profession. That said, the course I take are typically relevant to the work that I do and the clients I advise. Adding 3 blocks of specialized Ethics training through WA would not also not satisfy my military requirements, so, in addition to the extra cost of having to complete WA specific training, the requirement would also take away from the time available for training that is more relevant to the work that I do and my needs as a military attorney. Bottom line: please don't adopt this proposal. From my perspective as a relatively senior attorney in my organization, this is a solution in search of a problem. There's no reasons the courses cannot be made available for individuals who wish to satisfy their Ethics requirements in this way, but please trust me to find courses that both satisfy the general Ethics requirements and are of benefit to me. –Trish Wiegman-Lenz
129. Let us determine what ethics credits we need and from what area. The amendment is unnecessary. We're adults. –Annaliese Harksen
130. I am strongly opposed to your imposing this requirement. It is not appropriate to micro-manage an attorney's ethics credits in this manner. Historically there have always been important ethics topics that arguable assume greater weight of importance with the times, but there was no requirement to dictate a line of education on the topic of the day. There is

nothing compelling about the issues of today that would require a shift in the approach. Furthermore, if ignores the realities of any one individual's needs for a particular education and the independence that we as professionals should maintain from the Association. It is important to have a plurality of practicing attorneys with a wide breadth of education and corresponding philosophies that are nevertheless within the broad acceptance of societal guidelines. It is bad policy to dictate the details of that education and reflects a potential bias that will have negative impact on our profession in the future, if not the present. Therefore, I am opposed to the proposal of ethics content required areas of study. - David C. Hammermaster

131. In my, albeit limited, experience, changing the requirements would create an additional burden for finding already limited ethics credits. Unless the WSBA started sending everyone free webinars for the new topic areas, I think further delineating what each ethics credit should cover is cumbersome, repetitive, and unwarranted. –Nickolas J. Ward
132. I do not support requiring those subjects, mental health etc and technology and digital security as required CLE credits. I do support offering those courses with maximum encouragement and marketing to members. –Megan Feil
133. My feedback is that I would like to keep the ethics CLEs as is. We are all so busy as attorneys, requiring specific areas for ethics requirements is unduly burdensome, it's hard enough squeezing these credits into a packed schedule. -Charlotte Smith
134. As a practicing lawyer in Washington State I can no value at all in requiring all lawyers to receive additional ethical training in areas of practice with which the lawyer has never come into contact and very likely will never come into contact. Lawyers are intelligent people and should be left to decide for themselves what areas of ethical training are most pertinent to their particular area of practice. -Charles J. Rupnick
135. Don't push your socialist views on our business. If we choose to support these types of topics let us choose to and not have you force your ideals on us. That is not what the WSBA was created to do. It is an insane idea. –Jim D. Johnston
136. Ethics credit are difficult enough now to collect. The proposed rule will just make it moe difficult and expensive. –Jorgen Bader
137. I do not favor the proposal as I think there would be small benefit and it would further complicate the MCLE process. –Gregory Worden
138. I disagree with the proposed amendment. It can already be difficult enough to obtain the needed CLE credits without pigeonholing them, plus, this change is entirely unnecessary. – Joanne Dantonio
139. Forget it. I'm sick and tired of all of the "political correctness." –Michael O'Donnell
140. A survey request was recently sent out asking about the addition of several new topics. First most of those issues are being covered already by my employer. Second they do not appear to involve ethics so to include them as ethics seems to be a stretch. Third it is already hard enough to get ethic credits so this will be just another undue burden. Please do not make things harder for us. –Bruce Echigoshima
141. Speaking solely for myself, I am opposed to this recommendation as a mandatory requirement. We all know how hard it is to get interesting ethics topics, and to get beyond recitation of the same dry rules that we have heard for decades (in my case). That said, making these three topics available for ethics credit courses is worthy. The Legal Lunchbox series is a perfect venue. Personally, I would certainly take advantage of the digital security course(s) as they relate to duties of competence and confidentiality. However, as a grown up, I don't need to be advised/lectured regarding substance abuse and stress in the profession. I am not sure that the Bar's role is properly aligned to wellness and counseling -- at least in the form of mandatory training. I am sure that many would find it interesting or helpful; let them make such a choice.

With regard to diversity and anti-bias training, I will abstain from a lengthy rant. I will say that I do not see the Bar's role as advancing certain fashionable political or ideological agendas. Surely I am not the first to identify that the membership in its entirety does not share the conscious bias and values of Seattle and the Bar's leadership. Again, those that are invested in such advocacy will gladly attend by choice. In closing, I appreciate the Bar's creativity in offering expanded topics in ethics training. I would also appreciate the ability to make my own informed choices as to what adds value to my practice. –Steven Cooke

142. Please do NOT adopt this amendment. Ethics credits are hard enough to come by without further parsing out categories that must be obtained. Also, dictating that ethics credits must come from certain sources or topics diminishes the effectiveness and importance of obtaining ethics credits and abrogates the WSBA members' right to choose. –Bill Eller
143. I do not approve of the new amendment. -Gregory Scott Hoover
144. I oppose this proposal. –Steven Lawrenz
145. I think this is a poor idea. It makes getting ethics credits even more difficult. Also, an hour of education on stress or the other topics is so minimal as to be worthless. Finally, the research on those anti-bias classes shows that not only do they not prevent bias but they actually cause more bias. -Lynne Alfasso
146. I think this is a bad idea. It is one thing to have to take ethics credits at all, and mildly insulting to believe that ethical concerns do not dominate the day for most lawyers. But now to have us be required to take certain courses based on an extreme minority's inability to operate their practice in ways deemed healthy by a certain few is further insulting. If the bar wants to mandate required ethics courses, I would rather see it cover the basics that affect the majority of active licensees, such as avoiding embezzlement in the firm's practice, theft of client funds, small firm business practices, not doing legal research before engaging in litigation, misrepresenting the law to courts, suborning perjury, fee agreement disclosures and disclaimers, recognizing and acting upon conflicts of interest, and witness intimidation. I also think if the content of ethics credits is to be mandatory, it should concentrate on the solo and small firm lawyer, because that demographic slice is fully one-quarter of active Washington State practitioners (solos, shared office, plus 2-5 members in firm. See https://www.wsba.org/docs/default-source/licensing/membership-info-data/countdemo_20190603.pdf?sfvrsn=ae6c3ef1_62. Before the above-mentioned list is eradicated in Washington State, I would rather avoid virtue-signaling, glamour credits that only attempt to show how socially up to date we are with progressive practices. I am especially insulted by the idea that you would train attorneys to use identity based on race, gender, political affiliation, or religious creed as methods of evaluating and treating people under any circumstances, rather than training attorneys to evaluate people on their merits, and to recognize liars, cheaters, scammers, and those of bad motive. I also think attorney ethics should include training lawyers on when the law is not the best method for resolving a client's problem, and how to recognize and refer out client issues that are not resolvable by the law, but may require financial counseling, drug or substance abuse counseling, or spiritual counseling. –Art Macomber
147. I absolutely support having way more content available on those subjects and have those courses satisfy the ethics requirements, but would recommend strongly against adding 3 more "check the box" categories to MCLE requirements. I'm also licensed in California, which has a number of similar, specialized categories, and it becomes just an extra hoop to jump through. Providing meaningful content and having it satisfy the existing requirements seems more likely to me to draw an interested and attentive audience and provide useful education to lawyers. – Barbara Fielden

148. I would oppose adding required CLE ethics credits for proposed subjects 1 and 2 and I am not sure why subject 3 would be required more than once, instead of every 3 years as is proposed. If attorneys are interested in those subjects, they can find seminars that offer those subjects. All attorneys should not be required to obtain credits for those subjects. –Bruce Medeiros
149. I'm opposed to that amendment because those topics better fit within general CLE credits and are not closely related to ethics. The value of covering those topics will be lost by trying to shoehorn them into a discussion focused solely on ethics. –Craig Cammock
150. I request the amendment be denied. There is nothing prohibiting the inclusion of the topics and 1-hour on each is insufficient to change behaviors. As to the topics, I doubt anyone could be practicing law today and not be aware of the issues involved. – Dan Catt
151. For what reason? Why don't you lets us continue to select CLEs that pertain to us or that we are interested in. Not broke don't fix it! –David Hallowell
152. I am opposed to this proposal. It would be an extreme form of micro-managing WSBA members. It would give excessive power to whomever would determine what the requirements would be for the content of courses on these topics. This is especially true for the topics vaguely defined as inclusion, anti-bias, mental health, addiction, and stress. –David Hevel
153. Please do not segment ethics credits by topic. It is very difficult as it is to fulfill the ethics requirement as it is and will be almost impossible to fulfill it by topic. –Fiona de Kerckhove
154. I am NOT in favor of this proposed change to APR 11. –Dean Messmer
155. I am opposed to this rule change. Requirements imposed through MCLE should be geared toward ensuring rule compliance and attorney subject-matter competence. This new requirement does little to achieve that. The Bar has long allowed attorneys the ability to decide what's relevant for their practice. That practice should remain. If we start prescribing certain types of CLE, where does that end? While the goals of diversity and technological competence are important, are they any more important than managing client funds, ensuring client confidences, or the myriad of other rules and subjects in which an attorney must achieve competence? What constitutes "diversity?" Is it understanding people from different countries? Different socioeconomic levels? Different heights? Different skin colors? Different weights? Who will be the arbiter of that issue at the Bar? What happens when an attorney wants credit for a diversity course but someone at the bar decides that type of diversity isn't the "right" type of diversity training? The proposal is overly specific while being simultaneously overly vague. In addition to opposition because of the prescriptive nature of this rule change, I'm opposed because this rule is largely redundant to training already commonly provided at most institutions. As a government attorney, we have been required to take diversity training for some time. Yet due to the Bar's MCLE rules regarding what constitutes CLE, I cannot count any of that training toward my MCLE requirements. If you now impose an additional requirement on me, I must spend my own limited funds to get training on something I have already had. The same goes for technology. We routinely receive technology training, none of which would qualify for CLE credit. This is hardly fair to take more training. If I have diversity and technological competence, how much more training do I need each CLE cycle? As a government attorney, I would appreciate it if the Bar would understand that government attorney employees generally do not receive money for licensing or for CLE. The Bar's perspective, it seems, is frequently that everyone is a high-paid attorney where firms fund all these requirements, so we can continue heaping new requirements onto the backs of our lawyers. That is simply not true for public servants. We're not paid that well compared to our private sector counterparts and this new CLE requirement would place an undue financial burden on me with no benefit toward helping me achieve rule compliance. I have already had both diversity and technology training. I do not need to have additional training mandated by

the bar. I also see these requirements much like the old adage, "the beatings will continue until morale improves." No amount of training will change people's prejudices. –Joe Edgell

156. I believe the MCLE Board should not require that half of the required ethics credits include one hour on inclusion and anti-bias, one hour on mental health and addiction, and one hour on technological security. Bias, health/competency and confidentiality are in specific RPC sections or subsections that are already addressed in ethics portions of CLEs. A requirement of one hour on each topic is overkill and disproportionately prioritizes those 3 issues over frequent topics in bar complaints – competence, timely case management, communications, conflicts, improper contact with represented parties & the court, misrepresentation, scope, fees. The ethics MCLE requirements should remain as they are. –Evelyn Sybor
157. I write to oppose the MCLE board's proposed amendment to APR 11. The board should be reducing, rather than increasing, the number of specific CLE courses and topics required each year. CLEs do not improve the legal industry, and they should be eliminated. Any attorney who does not learn new things on a daily basis is already committing malpractice, and no CLE will prevent that. Instead of improving our profession, mandatory CLEs simply increase the cost (and stress, ironically) of practicing law, which hinders our shared goals of increasing access to the legal services for the public. Please reject this proposal. –Dave Freeburg
158. No! –George Marlton
159. I am totally opposed to this proposal of making these courses mandatory as they should only be recommended. If these become mandatory it will only drive up the cost of these CLEs, so if they become mandatory the WSBA should put on one free CLE for each required course each year. Actually, I have a better proposal than to make these mandatory, which is to make all CLEs optional altogether and only have recommended courses. This way members of the bar will only take courses when it is to their advantage to obtain further training on the subject matter and will make the courses become better or members won't spend their money on them. –Greg Sandoz
160. Bad idea –Timothy Hays
161. So now the hoity toity, smug self-righteous, well-feed and well-paid bureaucrats are trying to determine what I should learn. The effrontery of it all. And of course, you know best not on the basis of any cognizable morality, but simply because you have power, the power a Stalin or Mao would love. You should sing the Horst Wessel song. What meat does the MCLE board eat that it has grown so big? This is pure tripe. Inclusion and anit-bias. What nonsense. - James A. Sturdevant
162. Terrible idea. None of these topics has anything to do with professional ethics or the practice of law. All three are of dubious value, and the first looks a lot like mandatory funding of political/viewpoint-based speech. At most, the board should consider allowing credits on these three subjects to qualify for ethics credit. –Jim Bishop
163. Let's try less of a hammer first please. Let's: Make recommendations to our entire membership; Make courses inexpensive and available in these areas for each member's choice; Go out to the area law schools and talk to the students (teach the students of these dangers early). The proposal seems over the top. Lawyers that I know are interested in: justice, fairness, inclusion and keeping up with technology. This seems to be a bit patronizing. –Jim Rohrback
164. I believe it is sufficient that the Bar Association set a minimum number of required ethics hours. I do not believe the Bar should prescribe the content of those credits. We are all adult professionals and are capable of making that decision on our own. Making certain subjects mandatory reflects what others temporarily in Bar leadership think is most important, substitutes their judgment for our own, and deprives us of the latitude to choose our own ethics

subjects (at least for those 3 credit hours). It also assumes that Bar members are severely lacking information and knowledge in these areas – a false assumption in my opinion. We are a very smart bunch of people, for the most part. Let us remain the stewards of our own ethics credits. All ethics topics are important and the Bar should not artificially establish "first among equals". –John K. McIlhenny, Jr.

165. I'll pass on the SJW requirements –J. Torrey
166. In response to the email below I disagree with the proposed changes to the MCLE requirements. I do not believe the changes are necessary or helpful. I am specifically concerned that "education" about bias, equity, and inclusion will not be objective and is an intentional inroad to forcing subjective versions of inclusion, equity and anti-bias into becoming disciplinary actions against attorneys. Bias allegations often stem from disagreements where no true bias exists. –Julie K. Fowler
167. I would prefer that ethics credits not be itemized and allow more flexibility for attorneys to secure their ethics credits. So I do not support this –Kathryn Jackson
168. I strongly vote no change. Why do we continually, think we have to manage everyone's mind. Depending on what field of law we practice, there are likely many more ethical issues each could take in their field of law. We don't all want to be the same rose, but to stay ethical in our field. Please let us choose what area we want to study. Is our profession now being made up of professionals that cannot be trusted to do what is right? After all we are supposed to be representatives of the court, so why not trust us and stop trying to manage our thought? –Karl Salzsieder
169. This is completely stupid. What a waste of my dues. –Kurt Becker
170. I would prefer the status quo –Margaret Dore
171. In response to the request for feedback to the MCLE board proposal, I would ask the board to please reject the proposal to further complicate the types of CLEs that attorney need to obtain to remain licensed in the state. As a government lawyer in Olympia, I already find it difficult to find relevant substantive law CLEs to attend (I have lots of "other" credits!). Finding relevant ethics CLEs is always a bit of a challenge, so I would be worried about adding another layer of required CLEs to the menu. –Mark Lally
172. You must think professionals need to be treated like little kids. I believe that most are fully capable of what ethics they need to focus on and the bar should quit trying to micromanage. So quit already. –Ricky Olson
173. First, hasn't Justice Fairhurst of the Washington State Supreme Court already put a hold on any further WSBA by-laws changes until the Supreme Court Bar Structure Work Group completes its recommendations? In the spirit of this hold to major changes within the WSBA, this proposal from the MCLE Board should be tabled. Second, more CLE requirements are a bad idea in any event. In light of Janus v. American Federation of State, County, and Municipal Employees Council 31, 138 S. Ct. 2448 (2018), the WSBA should be moving towards more freedom and freedom of choice in the legal profession rather then towards coercion and excessive rules. Third, the specific proposals are inappropriate and divisive for these reasons: 1) inclusion and anti-bias - This appears to be thinly-veiled propagandizing for the liberal agenda of identity politics. This proposal divides us on the basis of race and gender and violates the prohibition against political activism by bar associations laid out in Keller v. State Bar of California, 496 U.S. 1 (1990). WSBA members cannot be forced to pay for the promotion of someone's identity politics such as "poor downtrodden women and immigrants" and "white man bad" classes. 2) mental health, addiction, and stress - These are personal health matters. They have nothing to do with ethics and are largely irrelevant to anything a lawyer does. The proposal also erroneously assumes that a great many lawyers have problems in these areas. The proposal

only assures a captive audience and captive market for mental health professionals giving lectures.3) technology education focusing on digital security - This proposal is akin to the WSBA requiring classes on locksmithing so lawyers' offices are properly locked at night. This proposal mostly provides employment security for computer geeks to teach classes at the WSBA. This class and the other two classes should be offered only as elective ethics cle's, not as requirements. For all of the above reasons the MCLE Board should reject these three changes to the ethics requirements. –Patricia Michl

174. Don't you people have anything better to do than to make unnecessary rules and regulations? –Peter Connick
175. I would not be in favor of this being mandatory. -Randy Pais
176. I believe the bias and inclusion is incredibly political. We don't all agree. At all. Be careful. – Robert Repp
177. No –Steve Sanford
178. I oppose this proposed change. I recommend these be optional, or perhaps even recommended, but not mandatory ethics credits. –Steven Meredith
179. Each individual have different ethical issues that may be more relevant to the individual's unique needs. Please leave that decision to each attorney. The proposed amendment placed undue and unnecessary burden on WSBA members. –Connie Wan
180. More requirements which a lawyer must schedule and pay for. Most cle requirements aren't really necessary or beneficial. –Terrence Whitten
181. I am not in favor of the proposed changes. –Terrye Shea
182. These are not necessary, are cumbersome, and are insulting. –Vicki Lee Anne Parker
183. I vote NO to this proposal. –William J. Carlson
184. I think the proposed change to the ethics requirement unnecessarily complicates the MCLE process. Finding suitable ethics courses is difficult enough without adding features involving psychological aspects of inclusion and anti-bias, medical implications of mental health, addiction, and stress, and the technical aspects associated with cybersecurity and data privacy. These are important issues that lawyers must deal with in their daily lives, but I don't believe dealing with these issues should be part of the WSBA's mandate. Let's keep the ethical component of MCLE focused on Washington's Rules of Professional Conduct, which all lawyers should be required revisit as part of their continuing legal education, and avoid wandering off into other areas that are not directly related to the qualifications for practicing law in Washington. –William Van Valkenberg
185. I oppose the proposed amendment to APR 11 referenced below. –Dan Brady
186. Quick response – I oppose the changes! –Chris Benis
187. I object to the amendment suggested below. It unnecessary, burdensome, and it another example of the Bar trying to shove social policies onto the bar membership. Just send us to a re-education camp. It has always been difficult for attorneys to fulfill the Ethics Requirements, and now you want to make it harder? Ridiculous! –Edward Wurtz
188. I oppose the proposed amendment. To the extent that attorneys' practices deal with mental health/stress or clients suffering therefrom, or digital security, they will seek out these courses as relevant. To make this a requirement for all licensed attorneys is unnecessary and is a further constraint on already periodically onerous CLE requirements. Most of us, working for public agencies or presumably in large firms, already have mandatory anti-bias training for which we do not receive CLE credit because we are not permitted to make the coursework available for review or public consumption. The proposed amendment would benefit those who provide the training because they would have a corner on the market, not the attorneys required to take it.

Given the regulatory challenges currently facing the WSBA, moving towards more requirements and not less infantilizes the regulated community. Give practicing attorneys some credit for seeking out those CLE courses that are relevant to their practice. –Jeannie Gorman

189. I am AGAINST being forced to take ethics CLEs on topics chosen by the MCLE Board. We are not children. Any attorney who desires a successful practice will educate themselves on inclusion and anti-bias. I don't see this as a big issue here in WA. As for mental health, addiction and stress--if this is client focused, it wouldn't apply to all attorneys. If this is meant to address attorney stress, an ethics CLE is not the place to do it. Meaningful outreach and support makes more sense. I attended a CLE on this topic and the suggestions were simplistic (exercise, meditation, etc.). As for digital security, write articles in the bar magazine. Most of us know about the issue. We are professionals and should be respected as such. The intent behind this may be legitimate but ethics CLEs are not the appropriate means. –Britt Ohlig
190. I am licensed in another state that has a specific requirement of mental health/addiction credits every year. I find it incredibly difficult to tailor CLE credits in this way, and to find new CLEs each year since they aren't popular topics in the first place. The CLEs are usually insightful and helpful, but I would not be in favor of such a change, especially considering the fact that we already have to breakdown our general CLEs into certain categories. It feels unduly burdensome to require so many different types of CLEs, track which ones I've complied with and which ones I haven't, and then be left at the mercy of whatever online platform provides relevant topics for each one and hope WSBA will allot the appropriate credit. If there is a desire to focus on additional legal education on these valuable topics, then my suggestion would be for the WSBA to offer more CLEs on these subjects rather than mandate their completion. I'd prefer my feedback to be kept anonymous, if that's an option. -Anonymous
191. I am completely opposed to the WSBA adding areas to CLE requirements. First, this is unnecessary; attorneys are well-educated and should be able to decide for themselves which CLE areas are most critical to their practices. This seems like an intrusion on our best judgment. Second, this would be an additional cost burden for attorneys who already pay for CLE requirements. Even without an increase in the total number of credits we have to spend CLE dollars carefully and it is not easy. Meaning what is spent for one course or area limits what is available for another. –Damian King

192. I am opposed to specific ethic requirements for 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. They seem like a MCLE agenda that will further segregate our already segregated bar. – David Petersen
193. I do not support this change. These are not areas in which attorneys commonly get sued for malpractice. Most professionals I know are sufficiently culturally sensitive. CLE should be practical and useful. –Deepak Malhotra
194. I'm not in favor of amending the Ethics Requirement to require one credit on inclusion and anti-bias or for mental health, addiction and stress. Both of these subject areas are important issues but I don't believe they should be specifically called out as requirements separate from our standard ethics obligations. I am not opposed to the technology education focusing on digital security because maintaining the security of client records is essential to our obligations, but I'm not convinced of the need to separately require this given that we have not previously called out specific topic areas in our ethics CLE requirements. –Jay Griffiths
195. I do not support this proposal. –Joe Harris
196. No. 1. The WSBA should not be engaging in, supporting, or legitimating identity politics. 2. I am responsible for my own mental health. I don’t need the WSBA to “teach” me about addiction, stress, etc. I’m an adult. 3. If my firm or company has an IT department then this is taken care of

for me. If I need to do it myself then it is my responsibility and I will do it under my own initiative. I don't need the WSBA to mandate it. –Neil Meyers

197. Per the request for feedback below regarding the proposed APR change, please consider this email to be a response in opposition to the proposed amendment. These issues are already more than adequately covered by other rules. Furthermore, a membership poll should be sent to all members electronically to gauge support and opposition of the members in order to have a fair sampling of the membership position. Requesting a response via email like the one below will result in reduced input from the membership. –Timothy Steen
198. I don't believe that there should be any more further restrictions on the type of CLEs that are required of an attorney licensed to practice law in Washington. Rather, I belief that the WSBA should do away with all CLE requirements as is the case in other states. -Theona Jundanian
199. I would oppose this change. I think it might result in extra costs associated with hunting for credits in the applicable sub-categories. Right now, the bulk of my credits come from WSAMA functions where general ethics topics are covered. Although I wouldn't object to these specific topics being covered as part of the general ethics presentation(s), requiring credits in these specialized categories would unnecessarily complicate obtaining credits. –Zack Hofstad
200. I am opposed to the proposed changes in ethics CLE requirements. The bar should not make CLE requirements any more burdensome or complicated than they already are. –Scott Meyer
201. I am against your proposal. Perhaps a cursory review of digital security makes sense. However, the others do not. Why not require classes on happiness, and rainbows and unicorns? I presume you will have a vocal few that will end up forcing this on the majority of bar members that won't take the time to reply. Why not send it out for a vote to the entire membership? In my opinion, the bar is creeping into areas that neither benefit a majority of its members nor protect the public. I remember the days when the Bar was focused on the practice of law. These changes are proposed at the whim of a vocal few. The world is a tough place. Perhaps it would be better to require skills to deal with the world instead of always trying to require changes so that people aren't offended. I recommend that an ethics MCLE specifically address that there is no constitutional right to not being offended. –Tom Harbolt
202. I would prefer to be able to focus on ethics credits that I believe woukd be of the most use to me. –Tim Seeley
203. I do not support requirements based on subcategories of Ethics credits. It can be hard enough to get ethics requirements; subcategories, however laudable in theory, just put up greater barriers for lawyers who don't have access to free CLEs. –Ann Wagner
204. While I understand the importance of why the bar wpuld like to modify the requirements, I do not support the proposal. I am also a member of the California bar which has similar requirements. I have always found it burdensome to have to fund ways to fulfill these specific targeted questions. Also in my life and work, I do not have these issues. I like that the bar makes these classes available but do not support mandating them. –Michael Fink
205. I would disfavor these requirements but maybe allow a reward for partaking in them. i.e. 2 for 1 credit for participating in them. Just seems like a little too much control over one's practice. –David Speikers
206. I agree that inclusion and anti-bias, mental health and addiction, and technology security are important topics. I am very liberal in my political views. However, making those topics required ethics credits seems to put WSBA in the role of a mother hen and makes WSBA seem more and more in the thralls of the "left-wing liberal elite," which will even further accentuate divides within WSBA. I would suggest making them suggested (even strongly suggested) rather than required ethics requirements. –Doug Wheeler

207. I am not in favor of any mandatory ethical subject requirement. Attorney's already have to comply with ethical requirements. It should be up to each individual attorney to determine the subject matter which benefits them and their practice. Frankly, "inclusion" and "bias" ethics is more politically based than necessary in every day practice. Likewise, I do not require training about other individuals problems with addictive substances. Making my practice more secure is always valuable. In summary, I rarely respond to these sort of emails, but I think this proposal is simply out of line, and will do little to actually assist most practitioners in their daily practice of law. -Dennis Beemer
208. The WSBA now wants to follow the lead of the OSB in requiring brainwashing classes as a condition of bar membership! Sieg Heil!!! Sure, and I expect that consideration will be something like, "Anyone who would be accusing such an august entity as the WSBA is engaged in brainwashing must be a wacko, whose input should be simply ignored." To put my input in context, I have been practicing law for over 40 years, mostly as a sole practitioner. Politically, I would be considered a liberal; I've been a registered Democrat my entire adult life, I have a BA in Sociology from the U of O, my head and my heart have always been supportive of those who are placed at a disadvantage by our culture in America. I don't need to be told what to think, about these important issues. Yet, the OSB has adopted rules requiring me to participate in CLE courses the substance of which are instructions on how to think about social issues, which if not attended will result in disbarment. That is brainwashing, pure and simple. Some would call it Socialism. Now the WSBA is considering adoption of similar rules. In Washington Bar members seem to be in general less inclined to just go along with whatever the bar association wants. If you adopt this brainwashing rule in Washington, I can only hope the result will be further dissension within the bar, and I will do what little I can to add to it. –Teunis J. Wyers
209. Please refrain from creating mandatory sub specialties of ethics training. –Tom Kalenius
210. Manipulate and squeeze them as much as you like, these three new proposed mandatory subjects for future ethics credits are not really in the ethics arena. There are enough areas of real concern that are already in the ethics category that diluting them with these three usurpers is counter-productive. While I feel that all CLE subjects should be optional and up the buyer's discretion, if you truly feel these three are so very, very important then mandate them under the category of general credits. If a CLE course is not in my area of practice why would I waste my time and money taking a class that has no real application to my practice. Similarly, mental health, addiction and stress would be great areas of study for those folks who are overly impacted by these issues, but an utter waste of time for lawyers who cope with the stress of a law practice and show no signs of mental illness or addiction. The Bar should not mandate AA meetings or the employment of a mental health professional for everyone just because we might be vulnerable. If I show up high for a 9:00 a.m. docket, or they find me babbling incoherently in my car in the courthouse parking lot, then step in and do your best. Until then, leave me and the rest of out of this misguided attempt at forced indoctrination. Worry about teaching us the law and the ethics we need to know to stay current in the practice of law. Leave the social sciences to those trained in those fields. Ain't broke; don't fix! -Gary A. Morean
211. While adding 1) inclusion and anti-bias; 2) mental health...; 3) technology education/digital security to the potpourri of ethics subjects available to meet CLE requirements is reasonable, MANDATING that there must be one credit in each of the three during a reporting period is pushing CLE requirements for ethics too far. Rest assured, Washington attorneys are well aware of Ethics CLE requirements and some of the subjects of 1,2 and 3 are often covered in already available CLE subjects. Please!!! Enough with the mandates. Totally AOK to offer the proposed 3 as CLE seminar subjects. WSBA members are big boys, girls and others now and can do their own choosing! –Robert Keefe

212. I oppose the MCLE amendment. Attorneys are busy professionals, tasked with maintaining the highest of legal and ethical standards daily. The governing body, the WSBA, has done an excellent job of providing opportunities for growth and enrichment while monitoring compliance of the cannons of ethics within the profession. Any stricter regulation is unnecessary, places undue burden upon an already burdened profession, and simply creates another layer of bureaucracy and oversight by the WSBA that the bar has loudly and consistently rejected. While the continuing education is mandatory, the choice of enlightenment is ours. Hear us now. -Sarah Beemer
213. I am opposed to the amendment requiring specific ethics credits. I do not feel it is appropriate to direct specific topics which the individual member may or may not feel are relevant to his/her situation. –Carol Baker
214. My vote would be against an amendment requiring credits in those specific subjects (or any specific subjects for that matter). Why is the board telling us which subjects are important and which subjects we have to get credits in? -Matthew Johnson
215. I received the email regarding the proposed amendment to Admission and Practice Rule (APR 11) in regards to ethics credits requirements. I do not think the ethics requirement should be amended to require the ethics credits to include 1) inclusion and anti-bias, 2) mental health, addiction, and stress, and 3) technology education focusing on digital security. Because I do not practice in Washington, it would be difficult to find those specific types of ethics credits and would be over-burdensome. In addition, as a federal employee, I already receive training in all of those proposed ethics categories, but it is too cumbersome to request CLE credit for every training that I am required to take. Please take this into consideration when deciding on whether APR should be amended. -Jennifer Whang
216. I don't support the proposed changes. It is difficult enough to find time outside of practice and personal life obligations to meet the WA requirements, which are significantly higher than many of the other states. Additionally, while I can understand the importance of the specific topics referenced by the board, they are not particularly relevant to my line of practice. Our bar dues are already high and being forced to find and pay for courses that fit into these requirements is just adding another burden. –Kelly Rickenbach
217. I am VERY opposed to the amendment. While some of these things may be good to learn about, I reject being forced into it! I am really tired of having certain things "shoved down my throat." –Beth A. Jensen

218. It means well, but I think it is too specific. The WSBA needs to trust that we, as lawyers and officers of the court, are going to select courses to improve ourselves and our practice. Maybe some of us are doing pretty good in the inclusion department but don't understand social media's role in legal practice or have any concept of metadata. That person might want to take several courses with a focus on technology. I'd like to maintain that freedom of choice while working to meet my ethics credits requirements. Honestly, if anything, we should just increase the ethics requirement from 6 to 9 credits (but keep the total at 45). –Christi Goeller
219. I do not support the proposed MCLE amendment. –Eric Sachtjen
220. I am mildly opposed to requiring training on 1) inclusion and anti-bias and 2) mental health, addiction, and stress. I am STRONGLY opposed to the digital security training. Digital security: There have already been countless CLES both in WA and OR on this topic. This is especially true for solo and small firm attorneys, as the solo and small sections in both states tend to have a lot of tech training. The problem is that the substance of these classes is invariably extremely limited. The speaker may identify some of the key tech terms and then cite the ethics rules which say that an attorney must take reasonable steps to protect info that goes into cyberspace.

Duh. Does that really require an hour? Some attorneys might benefit from having someone actually take a "hands on" look at what that attorney does to protect against hacking, etc. But that is more of a case-by-case analysis, and not a CLE program. At CLE programs, all the talk is in generalities. If I have to listen to a speaker explain what "the cloud" is, I will scream. Before adding this requirement, I urge the Board to peruse the disciplinary notices. They are NOT chock-full of reports of Joe Attorney getting in trouble with the bar because he used bad passwords or unencrypted email. Joe Attorney is getting in trouble for all the same issues that existed long before anyone ever heard of digital security. Do you really want Joe Attorney to spend LESS time focused on the traditional ethics topics? Do-gooder requirements: My opposition to what I think of as the "do-gooder" requirements is not as strong. I have attended quite a few anti-bias programs, and they never seem to tell me anything I don't already know. Basically the speakers just try to convince the audience that implicit bias is real. Duh. I know that already. And the people who don't already know are probably not willing to accept it as the truth. So I would leave well enough alone. We can perhaps use some better programming on all of these issues, but the programming should not be mandatory. –Chris Rounds

221. I am opposed to the proposed amendments to the MCLE. I am a member of three bars and Washington State is by far the most burdensome and expensive. Adding additional MCLE requirements would only exacerbate this problem without providing meaningful learning. I have completed most of my required 45 credits over the past three years and I can safely say that I have learned very little during these CLE sessions. I have taken sessions in person, on-line, in state, and out. They are frequently pro forma and provide very little real new information or deep learning. They are frequently expensive and simply done as a way for the presenter to earn money while providing no service. Washington's adding additional requirements would only further burden legal service providers while providing little or no value to them and their clients. –Keith Burney
222. These topics have no place in an ethics curriculum –Larry Zeigler
223. I am afraid such a rule would add hours of ethics classes that would not be helpful to many members of the bar as they practice law in their areas of specialty. While these are good topics, I don't see the roll of the bar as requiring education for all members in all types of good topics, but instead the bar should only require training that is applicable to and in fact is fundamental to the practice of law. It should be noted that the disciplinary system as part of its adjudications can require training in mental health and stress, and possibly anti-bias. To put it differently, if the bar wanted to require mandatory training in order to make bar members better people, which would then translate to them being better lawyers, that could open a flood gate of areas that could be mandatory subjects. Under that approach a reasonable requirement in many people's minds would be that the bar member study a minimum number of hours of religious teachings (of his/her choice). Or one could logically think it a good idea to train all attorneys in how to be better employers/supervisors.... that would be beneficial to their staffs and therefore the public. . I would love it if all lawyers were good spellers and could craft a sentence in English at a level of proficiency that is considered above the 7th grade (myself included). It would help the careful and accurate administration of trust accounts if all lawyers had a proficiency in math that was better than a 4th grader. This could reduce the load on the disciplinary counsel of the bar. All good ideas, but is it the responsibility of the bar to require as mandatory training in every area of training that might be "a good idea"? As a retired judicial officer, I recognize that an argument could be made that the Judicial Training system could add as mandatory training for judges a course in anti-bias, because Judges need to know about this important area as it may effect their decisions and their juror's decisions. This would not necessarily appropriate for all attorneys. Many lawyers in their law practice, however, don't need to know about bias or

mental health or digital security to be more proficient in the practice of law, because they don't deal with those issues often or even rarely. In fact, I would suggest that the role of the bar should be to require a certain amount of CLE and ethics training, which is done currently, and let the members of the bar decide what areas of study they should be studying because of the obvious likelihood that the bar members will pick courses that are germane to their individual practices. This proposal strikes me as leaning towards "big brother" deciding too much similar to Orwell's 1984 novel... which included this quote: "if you want a picture of the future, imagine a boot stamping on a human face----forever". –Josh Grant

224. I am against this proposal. I find it hard enough to find ethics credits that are actually informative or useful. I end up watching whatever is available just to meet the credit requirements. A lot of the ethics CLE's don't really answer questions about what you're supposed to do in certain situations. They just warn you that it's an issue. I end up with more questions than answers. To add this more stringent requirement that the credits must be centered on a specific topic is just making things more difficult and I don't see any positive outcome. If the bar is concerned that attorneys aren't working hard enough on improving inclusion and mental health, I don't think forcing them to take a class on it is going to help them improve. Wouldn't letting them opt in to something, like free CLE credits on the topic, perhaps be a better way to motivate them? Also, how many CLE's are currently being offered on this topic? I've seen an increasing number of technology security CLE's lately. And I've seen (and attended) a few on the other two topics. But ethics classes are already dramatically few compared to the number of L&L credits out there. If you're requiring an even more secularized set of classes to be accomplished… is the bar going to offer more of these classes? This basically seems like people will be forced to purchase particular credits solely for the purpose of maintaining their license. This is effectively raising the cost of the license itself. If this proposal is enacted, I would hope that the bar association would offer these particular ethics credits for free and not expect people to pay for them just to keep their license. If the purpose of this proposal is to encourage attorneys to be better education about inclusion, mental health, and security in the digital-age, why not just offer more classes for free or at a reduced price, compared the more classic ethics CLE's. I'll bet you'd get a better response from people actively choosing to participate in the CLE's rather than being forced to do it to keep their license. –Anna Cunningham
225. I am writing to respond to the proposed amendment of APR 11. I am opposed to requiring that the ethics credits include one of the three topics listed in the proposal. –Hientrinh Lee
226. Please do not amend the ethics requirements. Each attorney can choose which course is most appropriate for them in their practice. Solo practitioners have different needs from large firms. And even within larger firms, some courses may be more appropriate for managing attorneys, while staff attorneys have different needs. –Elizabeth Bejarano
227. Please tell the MCLE Board it has no business trying to put its political views into the CLE credits required for a law license. We don't need the Board telling us what CLE to take to keep up on ethics issues. Nor do I need them forcing us to listen to some self-help stuff I have no interest or need. –Max Meyers
228. I think the recommendation to amend the ethics requirement to require specific credits is a very bad idea. I'm a long time Democrat living in Seattle and I MIGHT support the technology requirement because it's an issue of professional competence and that problem is not going to go away but requiring an entire profession to take mandatory courses on stress and addition? Or on inclusion? Not all of us are stressed! I volunteer to help other attorneys who have these issues, have a daughter with a mental health diagnosis and took the last Legal Lunchbox CLE on the topic, but I'll be pretty annoyed if it's mandated. There are better ways to encourage anti-

bias and good health than attempting to regulate it. I want to send a broader message to the Bar to not embed the current progressive ideals into the long term regulatory structure of our profession. Regulation should be the minimum framework, with committees and other types of general support representing leadership for these ideals. –Beth Pearson

229. Enough already with the politically correct mandatory classes. No. Moreover, I am a member of the Oregon Bar which there are already three mandatory “ethics” courses. It detracts from real ethic issues.–Randolph Harris
230. Please do not make our lives even more complicated and burdened with overhead. –James Buchal
231. I am opposed to the proposed MCLE rule change to APR 11. Breaking down the "Ethics" requirement to include 3 new specific sub-topics will make it more complicated to identify and obtain the necessary CLE credits each reporting period. Up until last December I was practicing law in Western Australia where I was admitted in 2008. That jurisdiction imposed mandatory CLE about the same time I was admitted. Originally, there were 3 categories of subjects for which practitioners were required to obtain credits. That has since been increased to four mandatory categories. CLE course providers tend to be sloppy about identifying which category a given course fulfills, sometimes using the "Category Number", sometimes using the "Category Title" or most often a non-specific synonym for the title that is not always easy to correctly interpret. It makes the process of obtaining ALL the necessary credits more difficult. I imagine WA lawyers in bigger firms with extensive support staff to handle such mundane details will have little trouble with this, but most lawyers in WA are in small firms or solo practice where there is already far too much administrative work to do to maintain one's license and still bill enough hours to pay the rent. I was in solo practice in Seattle for a few years in the early 1990s. I have to say I don't believe the WSBA Board pays nearly enough attention to the problems confronting sole practitioners. –Joel Gilman
232. After reviewing the proposed changes, I ask that the CLE requirements remain the same. If there are certain attorneys who want to take a CLE that has to do with one of the proposed topics, I believe that those are easily accessible. However, forcing everyone to take ethics courses about the same topic doesn't seem like the right way to do it. We're all critical thinking adults and can choose the ethics areas that we each see most often within our practice areas and can choose our classes accordingly. –Marcus Henry
233. I oppose this recommendation. Lawyers should be able to select the ethics credits they need, not what the bar thinks they need. Each attorney is in a separate setting and knows best what they need. This type of additional bureaucracy is not needed. –Julia Phillips
234. I disagree with the proposed ethics amendments. The most important aspect of any lawyer’s ethical obligations is familiarity and compliance with the RPCs. The three changes are a tiny subset of the RPCs and take away from the big picture ethical obligations. –David Sprinkle
235. IT’S A TERRIBLE IDEA. The concept of requiring ethics credits isn’t to make lawyers better human beings, it is to help insure knowledge of and compliance with the RPCs. How does requiring what is essentially diversity training accomplish this? In fact, it would dilute the ethics requirement at a time when our country is sliding further and further away from ethics as standard in business, education, government and the professions. The suggested topics are fine on their own, and should be offered by the bar as regular credit topics, but I am strongly opposed to forcing this requirement on practicing attorneys in lieu of ethics training. I can imagine many people think the ethics courses routinely offered are not challenging, relevant or enlightening, but the solution is better ethics CLEs, not less ethics. –Tom Pors
236. As you may know, ethics credits are quite difficult to accumulate under the current standard as many CLE offerings either do not offer ethics credits or offer ½ - 1 credit per session. Adding an

additional requirement that ethics credits be earned in specific areas adds an incredible burden to an already difficult situation. Additionally, as a US government employee who pays her yearly licensing fee without reimbursement from the Federal government and who is only reimbursed for CLEs specific to my practice, I must carefully choose only those CLEs that would be approved by my agency. Based on the subject matters of the proposed ethics credits categories (1. inclusion and anti-bias; 2. mental health, addiction, and stress; and 3. technology education focusing on digital security), I would be hard pressed to find enough CLEs that would both contain the subject matter that would be approved by agency but that would also cover these new ethics topics. While these ethics subjects are meritorious, their requirement would make performing my public service job, in an era of diminished resources, untenable. Please consider this these burdens, when addressing this amendment. –Dianne Todd

237. Some quick feedback ... I am in favor of fewer requirements, not more. Legal Professionals should be able to choose which topics are important to them on an individual basis. Let's not micromanage the topics requirement to maintain a license in Washington. –Matt Savely
238. I strongly oppose amending the ethics requirement under APR 11 to include one credit each of these subjects: (1) inclusion and anti-bias, (2) mental health, addiction & stress, and (3) technology education. While well-intended, ethics credits are about legal ethics, not social engineering. -Meredith L. Lehr
239. I do not support this amendment. I appreciate the opportunity to take courses in the designated areas, and am open to the recommendation to do so. I do not support a requirement. –Cathryn Dammel
240. I am writing to express my opposition to the MCLE Board's proposed amendment to APR 11 in regards to the ethics credits requirements. CLE credit reporting requirements are difficult, onerous, expensive, and time consuming enough already, particularly ethics credits. Adding further restrictions and unnecessary requirements as to where those credits come from is not something that WSBA should be focusing on, and in my humble opinion is not a good use of the significant member dues that we pay each year. –Luka Juric
241. Please leave the MCLE requirements as they are presently. –Jim Bledsoe
242. In response to your request for comment re proposed changes to include subtopics for ethics, let me state my opposition based on experience. Ethics and professionalism should remain just that and not be diluted by popular subjects du jour. I also a member of the North Carolina Bar which requires a substance abuse hour every 3 years. This is a waste of my time and money. I do not recommend that Washington follow this course. Similarly, I am a member of the New York Bar which just introduced a diversity, inclusion, anti-bias CLE requirement. This is a total waste of time and money and is resented by all but its ardent proponents. I suggest that Washington recognize that you can't force feed selective social engineering on its membership
243. . Keep ethics ethics. -Jim Butler
244. I am against changes to the MCLE requirements. Requiring specific topics is unnecessary micro managing of the CLE process. The CLE process should be left to individual attorneys to seek the type of CLEs that they feel will benefit themselves. –David Bailey
245. My input regarding requiring specific topics of MCLEs is to not do it. I would instead suggest that the WSBA CLEs simply be organized in the future to include these desired components or topics. Granted, not everyone gets their CLE credits from Association CLEs but many, many do, and you can promulgate exposure to these specific topics by requesting the CLE organizers (whether the WSBA itself, or its sections) to include ethics components that address the desired topics. –Chris Johnson
246. These more strict proposed rules are "good" topics. However, there are millions of "good" topics. Why are we forcing specific education topics? Attorney's practice a wide range of diverse

topics, some that have nothing to do with these issues. Let's not start this game of mandating certain educational topics in the legal field. The classic slippery slope argument applies here. One further question: Why are these changes being made? No explanation or reason was given for a need to change the rules. I request an explanation as to what problem or inadequacy is being fixed or improved by these changes. –Stafford Strong

247. I am against changing the mandatory CLE's to include "1) inclusion and anti-bias; 2) mental health, addiction, and stress." If there were elective ethic's CLE's for those topics I have no issue with it. Short of that, I would consider it compelled political speech. –Jerimy Kirschner
248. While I appreciate the Bar's concerns about the areas identified, unless there will be multiple, low cost CLEs that will fulfill these requirements, it is putting a significant burden on attorneys to find and take CLEs that fulfill the requirements, especially since many attorneys get their credits at national seminars that won't track to these requirements. –Sara Page
249. I think the proposed changes are (for the most part) unnecessary. Inclusion and anti-bias seems to have more to do with politics than ethics. Mental health, addiction, and stress – all good, but what does this have to do with ethics. Technology education – digital security – this makes sense to me because it goes to core ethical concerns of maintaining client confidentiality. I don't know that it should be mandatory, but I think this subject should qualify for ethics credits. –Joe Koplin
250. I find it offensive that the MCLE Board deems it necessary to even think about mandating an ethics requirement on inclusion and anti-bias. This whole concept is fraught with too much opportunity to advance personal agendas and ideology. Absolutely not. –Todd Buskirk
251. I absolutely do not want any further imposition of restrictions or requirements put upon me regarding which ethics credits I am required to complete by an group I do not feel represents me as an individual attorney. It appears the Bar is again attempting to require me to "think" in a manner that is "Seattle" and not relevant to my practice. I see this as another attempt by King County -- and specifically Seattle -- to mandate morales, mindsets, and social interactions for the rest of the Bar Association elsewhere in Washington. -Amanda Vey
252. I am not in favor of this proposal. I think it will add substantial costs for the members to have to seek out ethics credits for these particular topics. I'm a government attorney. I make substantially less than many in private practice. I also practice out of Washington. It would be a hardship for me to take specific ethics CLE's in these topics. I get most of my CLE credits through my employer. The ethics CLE's are geared toward issues we encounter in the government practice. While many of our topics might cover these new requirements, it is unlikely that they specifically relate. For example, I took an implicit bias training through my employer. It was over two hours long. It was not approved for CLE credit. So I would have to take this employer offered course and then have to pay for a specifically approved CLE course. I think the members should be able to choose how best to spend their time and money on what particular ethics course applies to their practice area and interest. The bar can require you to get the CLE credits, but you cannot require me to learn something. People are more likely to be engaged and learn from a topic of their choosing. –Kim Kazda
253. Regarding the recommendation to require credits in inclusion and anti-bias, mental health, addiction and stress, and digital technology, we are big enough boys to figure out for ourselves what we need. No on this recommendation. -Rob Crick
254. I do not favor the proposed changes referenced in the June 24 letter soliciting feedback. Undoubtedly, we all could improve on each of these topics, but it is a mistake to continue down a path of dictating the way we fulfill our CLE requirements. The first category (inclusion and anti-bias) seems uniquely capable of generating controversy and resentment within the WSBA because instructors in these areas are themselves so often full of unconscious bias and overt

judgment towards those they purport to teach. Thank you for seeking feedback. Please don't implement these changes. –Kyle Netterfield

255. I am opposed to the proposed changes to the MCLE ethics requirements which would compound the requirements by: require one credit in each of the following subjects per reporting period: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. –Michael Folise
256. I am not in favor of this new requirement because it will make completing my licensing requirements more difficult & probably more expensive. –Sherilee Luedtke
257. I would strongly oppose changing the rules re: ethics credits so as to require us to take those in 3 specific areas. I have no interest in any of those areas, and it would be just one more bothersome criteria to keep track of and comply with . . . –Gary Jacobson
258. This would tie up half of our Ethics credits, and would be in specific areas of law that we might not practice in, so I say absolutely not to the proposal. –Carl Oliveto
259. I am not in favor of the recommendation to amend the ethics requirement under APR 11 to require one credit each in each of the following subjects per reporting period: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. I won't debate the question of how well these topics fall within lawyer ethics. But I work in the Attorney General's Office, where we already have required trainings for all employees (including non-lawyers) for inclusion and anti-bias and digital security. As for mental health, addiction, and stress, it's good to be aware of how these things can affect your own or a colleague's practice, but do we seriously need mandatory training on the subject? I confess that after 31 years in practice (with part of the time in a large Seattle firm and part of the time at the AGO), this feels to me like a flavor-of-the-month management initiative. The CLE process doesn't need to be further complicated in this manner, in my opinion. –Heidi Irvin
260. I am opposed to this amending of the ethics requirement, I believe that this would require additional due diligence by the attorney to verify and ensure that all of the requirements are met. By way of example, if you were looking at a CLE that has ethics credits, it would no longer be a question of, do I need ethics credits or not, now it would be a question of, is this CLE offering the "right" kind of ethics credits that are still needed by that particular attorney. That just seems burdensome. –Byron Moore
261. I have voluntarily attended CLEs on implicit bias/diversity and technology security/confidentiality. I also participated in an entire weekend conference on mindfulness for lawyers in 2015, for which the WSBA allowed ZERO ethics credit. I'm a little indignant that the WSBA is now proposing to REQUIRE ethics credits in a specific topic area that it so recently refused to recognize. I wholeheartedly support expanding accredited CLE offerings to encompass these important topics, ensuring convenient and cost-effective access to these offerings by all Washington attorneys, and effectively publicizing their availability. But I do not support requiring credits in specific topic areas. For those who are truly interested in a topic, it would lessen the value of the seminar experience to share it with attendees who are essentially participating under compulsion. I think we should expect and trust Washington attorneys to participate in CLEs that are meaningful to them and their practices. And it would help if the WSBA would commit to being less stingy with ethics accreditation. –Sarah Mack
262. I am opposed to the requirement of obtaining 1 credit in each of the new MCLE categories. It is needless and burdensome. Many of the on-line seminars will not have any division like that proposed here which will make it much more difficult to meet the requirement. I vote NO. – Douglas Scott
263. I am opposed to the proposed changes to APR 11 on ethics credits. The proposed rule change is micromanagement of CLE by the WSBA and is unnecessary. If members want to elect ethics

credits in anti-bias, mental health and digital security they can do so voluntarily, but the bar membership doesn't need an additional layer of CLE requirements and it would needlessly increase bar management costs. –Matthew Crane

264. One person's "inclusion and anti-bias" is another person's politics. Imposing a CLE requirement on that is not only troubling given the lack of oversight on the politics of such presentations, it would open WSBA up to being sued by the compelled attendance and payment at what no doubt would be political speech. I am in favor of diversity and inclusion but we as a society cannot forget that a society founded on freedom of speech and thought must protect speech and thought we find abhorrent lest we find the very rights we are seeking to advance, later taken away by the same actions. – Dan'l Bridges
265. I am opposed to the recommended amendment to the ethics credits, requiring the fulfillment of three particular subjects within ethics. I think this takes the "Nanny State" to an all new level and is complete micromanagement of our profession. At some point, legal professionals must be trusted to do what is right. Forcing someone to take a particular subject does not guarantee that the person will learn or absorb any of the material. There are better ways to spend the bar association's time and money. –Carrie Selby
266. I think you're trying too hard to be politically correct. For attorneys in small towns far from Seattle it's hard enough to get to seminars and I wouldn't expect it easy to find a seminar that covers the areas you're considering. In my opinion, many ideas/suggestions the bar committees come up with don't consider the impact on rural sole practitioners. After almost 50 years of practice I've long believed the bar association doesn't really represent my interests and needs. I'm strongly opposed to this proposal. –Jim Lamont
267. I practice primarily in Oregon. Oregon already institutes the proposed CLE requirements. They are mandated here. I have found them to be unnecessary to burdensome. The CLE's most useful to me are related to my field of practice. Training in ethics is also important and practicing ethical behavior lessens the likelihood of malpractice. This lowers the overall costs of practicing law and is thus worthwhile. Equally, classes in professionalism offer positive approaches to the practice that often result in a greater enjoyment and longevity of our livelihood. Access to justice, minority rights, perspective and prejudices also offer benefits, similar to what ethics training does. Education about different cultures and perspectives should provide a better understanding of the client populations and expectations. Listening to a mostly excellent CLE on the internment of Japanese citizens or visitors in the West and Intermountain West during World War II was fascinating and terrifying. However, compelling attendance at this type of CLE is a mistake. I am interested in other cultures, belief and peoples. Unfortunately, my experiences attending the Oregon offerings has not been helpful and instead has built resentment and frustration over the requirement. Realization or at least appreciation of other viewpoints is a helpful skill to any litigator. However, having to attend CLE's every three years which repeat reinforce and preach on about the evils of "white privilege," "minority lack of access to justice," "intolerance of cultural differences" has not led me to a more open mind or "woke" mind (I learned that turn of a phrase from one of the classes). My experiences in fulfilling the Oregon requirements on this topic have not made me a better lawyer or better person. The former should be the goal of CLE requirements. The latter has no place coming from a quasi-governmental regulatory body. My Oregon experience has not been a positive one. It is my hope that Washington chooses to a different path. –David Levine
268. I am very concerned about the proposed change to the CLE requirements. I am admitted in CA, WA, an TX. CA has similar requirements. They are extremely difficult to find. They tend to only be offered a few times a year. This makes meeting the requirements difficult to achieve and very stressful. Those specific topics seem to be the ones that are left to the end because they

are so hard to find. Furthermore, those topics tend to not be covered by the free classes. Because I am admitted in three states, cost is an important issue for me. In addition. I do not find the materials helpful. I do not change how I practice based upon these CLEs. –Kris Zilberstein

269. I would like to register my opposition to the proposed way to divide ethics credits into three sub-categories. Legal ethics issues are driven by the Rules of Professional Conduct. If the MCLE Board wants attorneys to obtain CLE credits in the three categories that are proposed for ethics credits, the better way to encourage attorneys to do that is to offer CLE's in those subjects at a significant discount. In my opinion, each proposed category would fall under the CLE category of "Other" rather than ethics. I intend to communicate my opposition to this proposal to the Governor of this district. –Christy Davis
270. 1- this proposal makes meeting the requirement more complicated and more difficult for WSBA members 2- we members can decide for ourselves what topic areas are useful or informative or of interest 3- forcing courses in these 3 topics does not directly and necessarily increase education or responsibility in these areas –Dana Hein
271. I am opposed to the proposed amendment to the WSBA's MCLE rules. I do not believe the specific training is necessary, and I believe the proposal is overly restrictive. –Laura Crowley
272. While I support the intent behind the proposal, and would like to see subject matter such as bias training and mental health qualify for CLE ethics credits, I disagree with mandating these specific topic areas. Ethics instruction is critically important in our profession. The types of ethics issues that cause the most problems for clients (and for the public's perception of lawyers) are issues of conflicts of interest, poor fiduciary care of client assets, and issues of honesty and candor. I cannot support a proposal that will result is less attention to the ethics issues that are at the core of professional responsibility. Please do expand the types of issues that earn ethics credit, but allow attorneys to make appropriate decisions about which training will be the most meaningful in their practice. –Evelyn Lopez
273. Please do not require that ethics credits meet multiple narrowly selected areas. It is already difficult enough to identify and then enroll in the other legal vs practice areas the Washington bar specifies. Finding out after the fact that a CLE does not actually meet the intended category is already frustrating enough. –Noelle Jackson
274. I would like to express my strenuous objection to 2 of the 3 proposed changes, most particularly the "inclusion and anti-bias requirement." One-hour per year is never going to change the mind of anyone who would need such training, and takes time away from ethics training most lawyers can employ on a daily basis to be better lawyers and small business owners (topics like billing practices and compliance with the ever-growing state mandates for small business owners). Feel free to offer all three topics, but why mandate them? The technology training would be wonderful, but why not just make that free on the WSBA website, along with links to IT security partners who will give members a discount for individual consulting? The WSBA's CLE seems too much like a profit center and cultural play-thing, and less like a service to help ensure its members offer superior legal services to all of Washington (not just Seattle). –Katherine Fairborn
275. I'm always leery of responding to "flavor of the day" concerns impacting the legal profession. As a member of the Oregon Bar, as well, it seems that each three year cycle there is a new topic of interest, whether it is child abuse or elder abuse reporting responsibilities, or something else, Oregon has a concern du jour every three year reporting cycle. Wouldn't It make more sense to make training on these subjects available through WSBA sponsored Ethics CLEs that the members can pick and choose from. I am interested in the digital security issue, but I would rather choose to attend a CLE on that rather than be mandated to attend. –Terry Peterson

276. I wanted to write to provide a quick note on the proposed changes to the MCLE rules. Please do *not* make the MCLE rules more complex and burdensome than they already are by requiring the ethics credits come from 3 separate categories. For those of us with small (or even solo) practices, these rules are already a significant headache on top of trying to find clients, maintain a very high standard of work product, and handle all the business and accounting matters that come on top of the actual practice of law. To me, the topics chosen also seem arbitrary. Why not ethical fee collection? Why not handling client conflicts? Why were these three topics deemed important enough to mandate and others excluded? Why not let practicing attorneys themselves decide what is most important for their own practices rather than have this dictated to them? If the WSBA feels these three particular topics are so important, instead of changing the rules as proposed, I suggest instead hosting *free* CLEs on these subjects and make them available to all WA attorneys. I believe that would far better further the goals of the MCLE program than changing the rules as proposed. On a more philosophical level, I find these mandates to be too far along the spectrum towards being paternalistic and overly controlling. I believe the role of the WSBA aside from policing the profession and handling actual licensing, should be to make the practice of law easier, simpler, and more fulfilling for those who actually do it. To add more burdens on attorneys is moving in the wrong direction. We as attorneys are trusted to know the law, uphold our ethical commitments to clients and our courts, and be competent in the areas in which we practice. In my own experience both in New York and Washington, the majority of attorneys I know already view the MCLE requirements as a meaningless hoop to jump through. Lawyers will either maintain their competence or they won't, and there is little the state bar associations can do about this. By having fewer (and simpler) rules about how to meet the MCLE requirements, those rules that do exist will be more respected. Even better, instead of adding additional rules, provide more free, high-quality CLEs to all WA attorneys in the subjects that the WSBA feels are most important. –Ehren Brav
277. Anything that places an administrative burden on the customer should be avoided. If you would like your customers to be exposed to 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security simply offer them for free via a web-conference. –Patrick Torsney
278. I oppose this change -William H. Broughton
279. I don’t see the point of giving attorneys one more hurdle by requiring that they take particularized ethics credits. This smells of micromanaging. -Jeremy P. Yates
280. I have been a member of the bar for 45 years and I think requiring this of me is ridiculous. – Shannon Sperry
281. I feel like mandating ethics training in certain area is imposing the political biases of WSBA and what seems politically correct at the moment on lawyers. Lawyers practice in any number of areas and they should be left to exercise their own judgement concerning what type of training is most needed. After all lawyers are compensated for their judgement. –Doug Fisher
282. I am opposed to the proposed ethics requirements. As a federal administrative law judge stationed outside the state of Washington, I feel that additional MCLE ethics requirements will cause me to reconsider the value of keeping my Washington State bar license. Furthermore, I don't think that requiring specific ethics topics will assist the bar in our goal of improving legal services. –Tim Steuve
283. I would like to register my opposition to changing the current ethics requirements. The proposed changes are overly complex and would make meeting the ethics requirement more burdensome than it already is. The recent trend of adding more layers of granularity on WSBA membership requirements needs to stop. -Alton Gaskill

284. It is rules such as these that are leading the Legislature to contemplate terminating the State Bar Act. These are policy issues, to which I am sympathetic and to which I lend my time, but they are not practice of law issues. We need fewer rules, not more and diluting the ethics education that we need as practicing attorneys is not helpful. You asked. –Donald Black
285. I'm opposed. We are busy enough as it is without a new requirement to comply with. –Dave Arganian
286. I do not support this new requirement. The cost of complying with the current CLE requirements is already burdensome, especially for lawyers who are in sole or small practices, and the educational benefits received through most CLE courses is, quite frankly, disappointing. Adding specific subject areas will simply add to this burden. –Patricia Petersen
287. I am writing to express my opposition to the proposed new MCLE requirement that members of the Washington Bar take one credit in three different new ethics areas during the member's reporting period. As a US government employee who pays her yearly licensing fee without reimbursement from the Federal government, and often pays for required CLE classes when our Union benefits get suspended, any additional MCLE bar requirements, imposed upon us, even if laudable, make performing my public service job, in an era of diminished resources, untenable. Please consider this additional burden, when considering this amendment. –Irene Botero
288. I am a Washington lawyer who practices in Colorado. While I recognize the importance of the topics proposed, I do not believe that they are appropriate for continuing legal education requirements. I have taken courses in all three areas, but never one associated with continuing legal education. As a government lawyer, my budget for legal education is limited. I generally find the most productive and cost-effective means for compliance is to attend attorney conferences. Since I do not practice in Washington, I do not attend conferences in Washington and thus will not have the ability to obtain these credits other than through distance learning. Since this would not benefit the municipality for which I work, I would have to bear this cost as a personal expense. Encouraging lawyers to take these classes is a good idea, requiring it is not. –Thomas Carr
289. On your proposal concerning the ethics requirements. It is already difficult enough for overseas lawyers to comply with the continuing education requirements. Further granularity will only make this more difficult. I have complained several times over the years about how user unfriendly the WSBA is especially for those of us who have practiced overseas for most of our career. I now teach law. Proposals like this and the mandatory malpractice insurance will likely cause me to just give up my license. From afar, the WSBA looks like an organization that can't find its way. At this point, count me among those captive members hoping for liberation through the WSBA's demise. –Mitchell Stocks
290. No- for those of us out of state this is not convenient. I know it can be videos but they are not topics that are usually included in other CLE options nationwide. I do not support the requirement of training in the following areas. 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. -Teresa L. Champion
291. I am not in favor of the proposed MCLE rule described as follows: The preliminary recommendation would amend the ethics requirement under APR 11 to require one credit in each of the following subjects per reporting period: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. This does not include a recommendation to increase the total number of ethics credits required for each reporting period. Instead, it requires that three of the ethics credits be in the identified topics listed above. –Ray Bishop

292. I disagree with requiring bar members to obtain ethics credits in strictly defined defined, sometimes non-legal ethics subject areas. Depending on the type of practice that one has, learning ethics as they apply to one's area is very important. These three topics are already covered in other bar study topics that are not necessarily called out as ethics topics. Ethics rules are some of the most challenging and nuanced issues facing attorneys. I think having the freedom to explore those topics that are less understood by individual practitioners would be preferable. –Ann (Chris) Thomas
293. I oppose the proposed amendments to APR 11 to require mandatory subtopics for ethics credits. The last thing we need to more top down, "nanny-state" direction on how best to stay current with the law. Our members are smart and thoughtful, and should be permitted to think for themselves on how they want to satisfy the ethics credits requirement. –Al Van Kampen
294. I oppose the changes proposed to the Mandatory Continuing Legal Education (MCLE) Board is considering an amendment to Admission and Practice Rule (APR) 11. The amount and specificity of the MCLE program is getting absurd. Please knock it off. –Mark Millen
295. In response to the request for feedback, I must say that I oppose the proposed changes to the Ethics Credit requirement for the MCLE. First and foremost - I do not believe that we should be mandating anti-bias and inclusion. As gay man, who has experienced the discrimination because of it, I stand with the first amendment right of everyone to believe and act however they want. I just wish there was a registry of those who hate (insert group here) so they would not waste their time applying, working for such places. I have taken great efforts to learn these areas on my own- because they matter to me. I just don't believe the WSBA should be telling people what matters other than all of the RPC. There are such a few limited required ethics credits - let's allow attorneys to discuss and figure out what they believe is the rules or guidelines that will believe to be the most necessary for their own continuing education. Personally, I believe that simply allowing a "substantive" CLE to include .5 or 1 credit of ethics is a total throw away. I have never walked out of a day long seminar with a better grasp of the Ethical rules than when I walked in. Personally, mandating that people are required to actually sit for CLE that are entirely devoted to Ethics (whichever they want) would be a better change than mandating what type of ethics to talk about. –Brent Williams-Ruth
296. I oppose the proposed change to the mandatory ethics CLE. –Jeffrey Hart
297. I strongly oppose the recommendation to amend APR 11 requiring specific types of ethics credits for each reporting period. As a resident of a rural county and a member of a minority bar, I already face significant challenges obtaining reasonably priced ethics credits. Put simply, it is challenging, if not impossible to obtain the current ethics CLEs without attending pricey conferences or spending a significant amount of money for access to online ethics CLEs. While I strongly support CLEs focused on inclusion, anti-bias, and digital security I believe that this proposal will have disproportionate effects on rural attorneys, especially minority rural attorneys. Instead, I believe that WSBA should focus this proposal on enhancing these topics into existing CLE offerings, while offering more no cost ethics CLEs. –Austin Watkins
298. I am writing in opposition to the proposed ethics credit requirement. There are two points I wish to make. First, there has been a persistent lack of sufficient ethics-only CLE courses for many years. Your proposal will only make completing the ethics credits more difficult. Second, the fact the proposal was even made suggests that members of the MCLE Board believe the Luddites among the profession are so dangerous we must indoctrinate the membership, through forced-learning (re-education?) about bias, addiction, and technology use. The proposal is insulting. –Jeanette Bowers Weaver
299. While I am not opposed to any of the 3 ethics subcategories identified by the WSBA, I object to this requirement as being unduly burdensome. Not only must we complete the ethics CLE

requirements, this will require that we complete the right ethics requirements. In my opinion this process is too burdensome. - John-Paul Gustad

300. Please do not amend the ethics requirement to further complicate and manage which type of ethics credits are required. That would be inappropriate for several reasons, including: • Attorneys are in the best position to know what type of ethics CLEs they most need, and that may not be all three proposed categories; • Ethics CLE providers do not (and out of state providers will not) designate CLEs beyond the "ethics" category; • CLE reporting is already too complicated; and • Members do not appreciate the WSBE trying to micromanage. CLE reporting should be either voluntary or abolished. –Connie V. Smith
301. I am a member of 4 state bar associations and literally, all you are doing by requiring these ethic's credits in these areas is making it harder for attorneys to meet the CLE requirements (for no real reason). Typically, we are already taking ethics credit and the majority of the time these credits are focused on anti-bias, mental health issues that attorneys face and digital security. We don't need MORE REQUIREMENTS! We need less. Every single state thinks they need to force attorneys to learn that the law is hard and might drive you to drink and that law firms should stop being so racist, sexist and homophobic. California has mental requirements and substance abuse requirements. Nevada has another set and Utah does too - but theirs is professionalism. Every single state is different and frankly, none of it is helpful. Please, please just let us get our ethics credit and work, instead of making us spend our time getting CLE credits that are "special." –Dianna Cannon
302. I do not believe social political agendas should be the role of the mandatory legal education requirements. I oppose the amendment. -Robert Leen
303. I strongly disagree with the proposal. While it may line some pockets by creating a market for specialized CLE programs, it would do nothing to improve the quality of legal services in WA or contribute to the professionalism of myself or my colleagues. While I agree that ongoing education in our respective areas of law is worthwhile, identifying topics you believe we need to be educated about is insulting and inappropriate. -Jeanette Laffoon
304. In my opinion, adding these added requirements to MCLE Ethics classes would be confusing and unnecessary. The sole purpose of said classes should be to remind lawyers of their duties to be honest in their dealings, to protect their client's privacy and put the client's interests foremost. –Paul Treyz
305. I am concerned about and do not support the proposed amendment as relates to the inclusion and anti-bias provision. The Bar represents a broad spectrum of interests and viewpoints. The supporters of the inclusion and anti-bias CLE requirement provision have their interests that they are promoting. While I support some of their positions, it seems inappropriate that they entire Bar membership should be required to take CLE classes promoting that agenda. If the Bar continues to follow this pattern, in the not too distant future, we will be required to obtain CLE credits promoting a wide variety of agendas thus reducing the credits concerning Continuing Legal Education. While certain issues are worthy of consideration, it is simply wrong to mandate that the entire Bar membership take CLE classes on those issues. This also raises the issue of whose moral compass will the Bar use to determine which groups' agendas are worthy of mandated CLE classes and which are not. For these reasons, I cannot support a provision that mandates CLE classes on inclusion and anti-bias. –James Patrick Brown
306. I do not agree with requiring specific areas of ethics credits. I am sure many groups would like their agenda to be applied across the State. However, it is hard enough for WSBA attorneys to obtain the requisite ethics credits. I attended an ethics presentation two years ago on "implicit bias" and it was a very informative topic. However, I do not want to see the required ethics continuing legal education become the vessel for special interests. –Paul Kelly

307. I do not often comment on the proposed rule amendments as I believe that the WSBA does a wonderful job in determining what makes sense for our profession and acts accordingly. However, I am strongly opposed to making the requirements for ethics credits even more stringent than they now are. As currently situated, it is often difficult to obtain ethics credits to meet requirements currently written. The new changes will make the requirements even more difficult to maintain and track given the limited number of ethics courses even offered. In lieu of a formal amendment, I would recommend that the groups proposing the amendment, and the WSBA offer more of these CLE's as free or low cost CLE's, as you will get higher attendance and more people tuned in to the issues that you want to ensure people are getting education on. Trying to track and find CLE's and ensure that I have them in multiple areas of ethics is going to be time consuming and costly if I have to take multiple CLE's just to meet those requirements. Please reconsider adopting this amendment. –Lindsay Abraham
308. I oppose the change in ethics requirements as described due to ability to acquire specific ethics at CLE events. Should the board pass this requirement then I suggest all CLE events be required to have all three ethic topics every time. I support having the option of taking the proposed ethics if easily available and without additional costs. If the board wants every WA attorney to have these specific ethics then I suggest the proposed ethic topics be provided on the web and free of charge to ensure you reach everyone. –Jim C. Klepper
309. I don't see any reason for the change. It strikes me as "political correctness". – Bob Scanlon
310. I do not believe the additions to the ethics requirements proposed below should be made. They are tangential to the ethical concerns of a practicing attorney at best. "1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security." -John Powers
311. Why does the Bar Association feel compelled to micro manage and dictate that which should continue to be non compulsory? In loco parentis, perhaps. –Richard Bechtolt
312. I am against adding these items. -Larrie Elhart
313. Please accept my comments on the proposed amendment of APR 11 ethics CLE requirements. I have been a member of the WSBA since my admission in 2001. As a federal agency attorney located outside of Washington, it is rare for me to find available CLE credits that are relevant to my area of practice and the unique legal, ethical, social, and technological issues I face as a federal attorney. In addition to my own bar association's CLE requirements, my federal agency employer requires agency-specific, workplace training on anti-discrimination/bias and digital security. I am opposed to the proposed rule change because selection of ethics education focus should be at the discretion of individual members based on their own management of their professional development. The Bar has not articulated a need for the proposed change, for instance, a current membership that is incapable of providing high quality, ethical services to the citizens of Washington State absent additional education in these areas. If the rule passes, the rule should specify liberal WSBA acceptance of live and recorded federal agency workplace training on these topics as sufficient equivalent CLE ethics credit. –Brian Perron
314. It's already difficult enough to get general ethics credit, delineating the type/category of ethics credits an attorney must have would make it even more challenging/difficult. As such, I am opposed to the proposal. –Jennifer Wright
315. I oppose the proposed amendment to APR 11, for two reason. First, I personally don't feel the need to take a class re: mental health and stress, as I feel healthy and happy. If I felt otherwise, I would seek out appropriate help, but probably not from the bar association. Secondly, if the bar association is going to require that certain "topics" of ethics be taken, then the bar association should ensure that it offers the class (es) and they should absolutely be offered online, with the option that the classes be taken anytime to avoid date conflicts. I already find it sometimes

difficult to find ethics credits in topics relevant to my practice, and this proposed requirement would make that problem worse. -Lise Place

316. I oppose the proposed amendments to the ethics requirement under APR 11. CLE's are burdensome enough without three additional subcategories to track. Additionally, I do not see sufficient justification to require all lawyers to take these specific CLE's each reporting period in order to be licensed. With that said, I do support the WSBA offering ethics courses on these subjects and promoting them so that lawyers know that these trainings are available to them. If WSBA wants to encourage attorneys to take these trainings, I believe a better approach would be to provide free trainings on these subject through programs like Legal Lunchbox. I appreciate your efforts to improve the Bar and I hope my input is helpful. –Blake Risenmay
317. I am opposed to the proposed amendment to APR 11. I think it makes it difficult when practitioners are required to take MCLE credits in specific categories versus a broader requirement. Practitioners would have to hunt for specific CLEs and could not as easily satisfy their requirements by taking a broader seminar which included an ethics credit in the particular topic area. If the Board would like to encourage or emphasize particular subjects over others, perhaps this could be done by providing incentives such as free or reduced cost CLEs in those particular areas. Moreover, my concern is that the important subjects of today may not necessarily be the same for tomorrow. That's another reason why I believe the more general requirement makes sense. –Timothy Nault
318. Having CLE courses in these three subjects might be useful to some attorneys, but they aren't so essential or critically important that they should be required of all attorneys every three years. CLE courses are expensive and take time to complete. Especially as to the inclusion course and the mental health/addiction/stress course, there are plenty of other information sources available to attorneys on these subjects. I think as professionals we can all be expected to seek out the information we need in these areas, just as we do in selecting all our CLE courses, and we don't need a mandate from the Bar requiring us to take these three courses every three years. –Adrienne Millican
319. I write to express my strong opposition to the added burden this amendment would place on government and nonprofit attorneys. As a government employee, I find that the ethical issues facing me are different from those private attorneys face. I do not have clients (other than the U.S. taxpayer in general), I do not handle any client money, I do not calculate billable hours, I am closely supervised by a large bureaucracy, and my ultimate bosses are politically appointed or elected. In addition, although I am required to maintain a bar license in order to keep my job, my agency does not cover the cost of CLEs or bar dues; I have to pay for CLEs and dues out of my relatively modest government salary. Therefore, to rigidly constrain the ethics topics necessary to maintain my license would do me and other government attorneys a disservice. I fully support the requirement to do continuing legal education, but only if I can tailor it to the issues I experience in my practice. Otherwise, CLEs become meaningless, expensive hoops I have to jump through simply to keep my job and yet another burden government employees face in an era of diminished public resources. Therefore, I urge the bar association to reject the proposed amendment and leave ethics requirements flexible. –Carolyn McConnell
320. I am writing to express my opposition to the proposed amendment that would require MCLE classes in: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. I have been practicing law for 25 years, and not once has any of these areas been relevant to my work. The MCLE reporting requirement is already an administrative and tracking monstrosity, and this would only further the problems in that regard. I further would have a concern that item #1 in the list could become politicized and

polarizing, and thereby create major distraction and even lawsuits for the bar association. –Erik Marks

321. The CLE requirements are burdensome enough without making them more specific. Please do not change them. –Lawrence Lucarelli
322. I think the amendment for a required specific areas of ethics is beyond the scope of the Bar's duties. No do not change the current format. –Scott Robbins
323. I disagree with the amendment; I think a practitioner should be able to earn the 6 ethics credits per reporting period by attending any CLE's or other programs approved for ethics credit. Micromanaging what ethics subcategories a practitioner must study is overkill. I vote to leave the ethics requirement unchanged. –Bryan Santarelli
324. I am writing to express concern that this proposed change to the CLE Ethics requirement will prove to be a significant burden to licensed Washington lawyers who reside in and are licensed in other states as well, because other states do not have this requirement. While information on each of these three subjects could be of interest and/or help to many attorneys and it would be helpful for the Washington State Bar to publish information on these topics in the bar journal, requiring CLE that would likely be only available from the Washington State Bar on these topics will be a significant additional cost, time, and likely travel burden on attorneys currently residing outside the state of Washington. I am, therefore, opposed to this additional CLE requirement. –Lloyd Sadler
325. I would like to voice my opposition to the proposed changes to APR 11 requiring "specialized" ethics credits for each reporting period. Everyone has causes for which they believe people should be especially aware. Should we add mandates for specialized ethics credits addressing the need for pro bono work, homelessness, insider-trading, legal services for the underserved, etc.? I don't think so. Inclusion, anti-bias, mental health, and digital security are important areas of concern, but they should not be elevated above other areas of concern. Offer classes in these areas but do not mandate them as requirements. –James Hunsaker
326. I oppose assigning ethics credits to specific topics. There are a number of new and existing areas that call for ethics education and re-emphasis. For example, I have encountered several instances recently where attorneys fail to understand contacting a client who is already represented, with prior knowledge of that fact, as being an ethical violation. I would not oppose various ethic presentations which include the topics and subjects that are being recommended, but do oppose making them mandatory. –Dominick Driano
327. I am opposed to this proposal. While all three areas are worthy of attention, I think requiring their inclusion each year is simply too narrow a focus in the broad area of attorney ethics. In particular, each of these are focused on attorney practices. Ethics training on inclusion and anti-bias are only of peripheral importance to solo-practice (I'm not denigrating the laudability of the subject). While mental health, addiction and stress are problems for attorneys, you would do a greater service to the community in offering frequent FREE sessions addressing these problems. Digital security is important, but this subject is usually addressed in existing CLEs on technology. Do not add these requirements. –Anthony Claiborne
328. I strongly object to the proposed amendment of APR 11 to require credits for 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. I do not believe it is the mission or duty of the WSBA to require credits beyond substantive subjects of ethics and law and procedure, as currently required by APR (c)(1). I find it particularly offensive for the WSBA to parent me regarding inclusion and anti-bias. Forcing me to spend one credit hour per reporting period on those subject appears to be motivated by political reasons – not legal reasons. While each member's health, addiction, and stress is important, there are lots of other avenues for education in those areas. The WSBA already

provides support for persons having troubles in those areas. Forcing each of us to take classes on those subjects would be a waste of time for many of us. Similarly, forcing me to take technology education classes focusing on digital security would also be inappropriate. While it may be good to have a class available for persons wishing to learn about those subjects, it is inappropriate to force me to take those courses. –Shawn Hicks

329. Instead of requiring specialized ethics units, offer to the membership, for free, ethics courses that include the subject matter the MCLE Board is interested in covering. Legal Lunchbox series is an excellent and free mechanism to accomplish this. Lots of attorneys will attend free offerings, and the Board will have achieved its aspirations without unnecessarily making the membership pay more money to practice law for low income people. –Bob Baird-Levine
330. This amendment is the type of proposed action that is alienating a goodly portion of the bar from the Washington State Bar Association. We have recently witnessed this sharp division with the proposed malpractice insurance requirement and within planning a response to the Janus decision. This proposed rule change will be additionally divisive. We do not need more divisiveness, particularly in the name of inclusiveness. I have found that ethics credits are sometimes hard to come by. Programs do not always include them in the presentation. At the end of the reporting period, I have to scramble sometimes to earn them. Moreover, the ethics classes are somewhat repetitive--basically don't lie, don't steal, etc. Frankly, I think the ethics CLE requirement should be reduced. I fear much the same for this proposal. These classes may turn out to be don't discriminate, watch your drug and alcohol use, get health care if needed, and don't click on suspicious email, etc., etc., etc. And arguably, the Janus decision prohibits requiring this type of instruction. Some states do not require CLE, so it can be argued that CLE is not a necessary component of licensing, and just a legislated do-good requirement. I think the Bar should hold off making any changes in this regard until after its planning in the face of the Janus decision is complete. -A. Stevens Quigley
331. I would oppose the rule change. Lawyers have widely varying interests and needs when it comes to keeping up with developments in their areas of practice. It seems like unnecessary micro-managing to require such specific topics for ethics education, however laudable each of these categories may seem. I support giving lawyers more freedom to choose what they need to know. –David Thompson
332. In response to your inquiry, the proposed subject amendments should not be adopted. –B. Michael Schestopol
333. I am opposed to this rule change. It strikes me that the bar is trying to promulgate rules that get at certain specific information. Rather than structure it this way with the potential that such information might not even be included, simply create some sort of omnibus CLE that is required of all attorneys each reporting period and offer it 2x/3x a year. Then the critical subjects could be covered to the bar's satisfaction, it would probably take less time, and we wouldn't have to manage all of the distinctions as found in the current proposed rule. –Kevin Diaz
334. I am strongly opposed to the changes, requiring WSBA to provide further oversight as to which categories of topics the ethics courses are covering. This proposal is way to "Nanny-statish..." And, these rules actually get in the way of what an attorney really needs. We are not stupid. WE KNOW what we need. I don't need some administration telling me in which areas I need to earn the ethics credits. I do not drink or smoke. I spent years working in anti-bias, sexual harassment law, etc. I want to have the right to CHOOSE what I want to cover, given that it is MY TIME, MY MONEY, MY PRACTICE. Is it NOT your practice!! Why do we want to pay people at the WSBA to babysit us?? RIDICULOUS and unnecessarily expensive. I routinely take over 250 CLE courses per year...and probably rack up over 30 ethics credits. IF this is going to be a

requirement, then I suggest all faculty at the law schools be REQUIRED to take courses on GENDER BIAS and sexual harassment, instead of being able to "opt out" given their teaching credentials. I'll never forget that slimey Ivey League prof who wanted to have sex with me in my convertible. Yuck. Nonethesless, I don't like the WSBA telling me what I have to take. –Pamela Fuller

335. After 37 years, it is my opinion that the CLE requirements are by and large an expensive and useless waste of time designed primarily to provide income for those who teach them. If it is in your area of practice, you generally know it already. If it is not, you sit through it without listening. Very occasionally, and I mean once in a decade, you pay for something you actually use. In my case, a CLE on e-discovery. Otherwise, to quote Mr. Scrooge loosely, it is a poor excuse for picking one's pocket once a year. By and large, the way the WSBA is heading makes me glad I will be retiring soon. –Paul Brain
336. My initial reaction is to oppose the specification of categories of CLE credit. It is difficult enough to find 3 ethics credits per year for my malpractice carrier among the available programs in Spokane. I'm not sure those of us in Spokane or eastern Washington would be able to satisfy specific credit categories without traveling out of area. –Sharon Saito
337. We should stay away from mental health it is too complex and can present a danger to attorney or officd –Gail Oreilly
338. I oppose the proposed changes and any changes that would make obtaining ethics credits more difficult. It is aleady very hard to obtain relevant ethics credit. The proposed changes would only aggravate the problem. One can pursue these sub-issues as part of the general ethics requirements. –Wayne Lieb
339. I oppose the proposal to include mandatory subject areas in the Ethic's CLE reporting requirement. I have not been engaged in the private practice of law since 2006. I am employed full time in a University position teaching a law course. The CLE requirements have very little utility to the average practitioner. They are both a time and cost burden. The advent of online CLE courses has greatly diminished both the cost and time aspects of CLE compliance. These CLE bundles contain Ethics modules, but not necessarily those the WSBA would prefer. In my University position, I am exposed to continuous faculty guidance concerning ant-bias, diversity etc. including training sessions. I also have had to undertake training on online security and privacy issues. We all understand what our ethical requirements are. We do not need or desire additional pressure from the WSBA seeking to channel us into topics the WSBA wishes to emphasize. –Donald Hackney
340. I prefer not changing the Ethics CLE requirements. -Eric Jorgenson
341. For folks like me, a government attorney with no office budget to pay for any CLEs, I simply can't afford to have to search out and pay for ethics CLEs on topics this specific! I have to pay for all my CLEs out of my own pocket, at a government salary, and only recently having paid down my student loans after 20+ years. This proposal may benefit the folks charging for CLE classes, but it is too much for public interest attorneys to bear out of their own pockets. I have to spend time searching for free CLEs, and that means I don't always get ethics courses on specific topics I'd most value. I can't afford otherwise. –Stephanie Mairs
342. Although I understand the desire to ensure a well-rounded ethics requirement, in my opinion this requirement goes too far because it likely creates the need to seek out specialized CLE courses on these subjects (instead of the current structure, which often provides more generic ethics credit in the context of a program of interest to the lawyer). That adds an extra burden and expense. Of course, if the Bar provides free CLE on these subjects on a regular basis, that concern would be largely overcome. Nevertheless, I would prefer that the WSBA maintain the existing rule. –Travis Dodd

343. As a 51 year member of the Washington State Bar Association I lodge my objection to the proposed changes in Mandatory CLE. Let's concentrate on understanding the law rather than "feel good social concerns." The Bar Association should not be in the business of legislating personal belief standards to our members. I have great respect for our members understanding their duties to the profession and the public without being lectured by our Association. –Mike Rodgers
344. I think they would be fine subjects for someone to include in a WSBA ethics course but they should not be mandatory. Good ethics courses are hard enough to find without adding three new requirements to a shopping list. –Rolf Beckhusen
345. I have to oppose the proposed MCLE amendment I received an email about yesterday because it would be very difficult for me to find those specific types of credits as an attorney domiciled in Colorado who still actively practices in Washington. Washington is already quite restrictive in granting CLE credits compared to Colorado, especially for credits I earn for attending and teaching Colorado-accredited CLEs, and more restrictions will make CLE compliance far more expensive and burdensome for me. I'm not a high-earning practitioner, and I support both my own family and my elderly mother. Any additional costs and time requirements will be tough on me and anyone else in my position. –Heidi Gassman
346. I am an active member of the Washington State Bar, and am writing to provide feedback on the recent proposal to amend (APR) 11 to require that ethics training must include three credits on inclusion and anti-bias, mental health, addiction, stress, and digital security. I am firmly against such an amendment. While these topics are certainly worthwhile, a little reflection will suggest that these topics may not all be equally valuable to each attorney, and requiring that the ethics training focus on these special interest areas will be counterproductive. I feel that each practitioner should continue to be free to fulfill all of their ethics training obligation in whatever area of ethics and law is most beneficial and relevant to their area of practice. For this reason, I am providing feedback that this proposal, however well intentioned, is misguided, and should not be implemented. Thank you for your efforts on behalf of all of the attorneys in Washington! –Mike Fisher
347. Please stop the madness. When I was admitted to the WSBA in 1988, lawyers had to get 15 credits every year with a maximum of 30 carryover credits. Simple, basic, easy to understand. Rules changed, I lost half of my carryover credits, and at some point we had to all start getting ethics credit. While that was a laudable goal, I'd bet that most of the attorneys receiving significant discipline each year do so for extreme reasons no right-thinking attorney would do (like stealing from clients, for example). Then somewhere along the way, we moved to 45 credits every 3 years and I lost more carryover. Then some was split into A/V (although doing them all by computer and reading helps us in rural areas, plus avoids Seattle's insane traffic and parking, so that was a GREAT shift). Now we may have to get 1 credit every 3 years on inclusion, something on mental health/stress/addiction/etc. (for serving clients with these issues or for attorneys who have them?) and one on technology...something digital security to look forward to? Please, just stop. I already have to have my older brother and his wife help me do the math when filling out CLE forms every three years (they are both engineers). The WSBA has long offered attorneys who need help a program to provide that help, and does a very good job of reminding us of that. 1 credit every three years won't teach many attorneys on dealing with addicted or disabled clients; unfortunately, you need a more extensive classes or OTJ training. Any attorney who reads even a little news, caselaw dealing with technology and discovery, or generally is aware of this thing called "The Internet" knows to take steps to safeguard communications and electronic records, and caselaw and ethics rules make it clear on how to handle inadvertent receipt of confidential materials. I also seriously doubt that any bigots will

find 1 credit every three years compelling and aid them in seeing the errors of their ways. The WSBA has generally been good about realizing some problems, but its record on fixing them is mixed, to put it kindly. Our membership may have under-representation of some groups? Aside from the dubious premise that the membership should look like some sort of reflection of every identifiable group, the WSBA then undergoes a thorough examination of potential places where discrimination could occur and then takes steps to stop that discrimination, right? No, of course we just add a couple of "at large" seats to the BOG, which (wink wink) could go to possibly just anyone, not focused on minorities or others possible excluded from admission. This does virtually nothing to curtail potential systemic organizational or vocational discrimination. Recent grads don't know how to actually file things with the courts? Well, we have three law schools in the state, let's work with them to teach students about how to...wait, what? A free 4 hour CLE? Sure, everything you could possibly know about the mechanics of practicing and motions in court can be handled in four hours. Shoot, we spent something like 5-7 years debating whether we should have a rule prohibiting sexual relations with existing clients, even during a time when a bar president was being sued by a former client relating to such conduct. I don't know which was worse, that we needed a rule telling us it was a terrible idea, or that it took so long to implement the rule. Last I checked, we had a fairly recent bar president leave early after she was accused of theft. She appears to still be practicing law (I don't know what became of the criminal charges against her). Her claimed defense was basically that she didn't know the applicable criminal law, despite having reportedly handled criminal cases. At least one BOG member is either being sued or accused of harassment and possibly putting the WSBA on the hook for same. The WSBA's former executive director is suing or talking of suing the WSBA for the manner in which she was dismissed from her position. If you want to accomplish something good in educating attorneys on these subjects, perhaps you make those who hold a leadership position take classes related to these subjects. That might actually make a dent in the concerns that led to the most recent proposal. It certainly would feel like less of a slap in the face than an organization creating all kinds of havoc at the top level, then telling its rank-and-file members they have to take classes to hopefully forestall some of the same misbehavior. The proposed rule changes smacks of the WSBA's often-practiced feel-good silliness. It certainly would be reasonable to see to it that classes are offered to address some of these issues. I know the free lunch hour CLEs have addressed some of these things (and that whole program is a great idea). Perhaps we continue to make sure those things are covered and trust the adults in the room to actually take notice of them. The children and miscreants amongst us will not likely be swayed. /end rant/ -Tom Pacher

348. I am strongly OPPOSED to this change. It is hard enough to get the required ethics CLE credits already without making it even more difficult by breaking down the credits into sub-categories. I am particularly opposed to the WSBA adding left-wing, politically correct requirements such as forcing people to learn about “inclusion”, which is not a requirement of the rules of professional conduct in the first place. I find it interesting that the four states cited in the background report on this CLE issue that have added inclusion to their CLE requirements are all strongly Democrat states. If you want to offer liberal Democrat talking points as part of optional CLE courses, that’s fine, but none of it should be required. –Ben Tesdahl
349. I think the Ethics CLE requirements need to focus specifically on the RPC’s. I think it could be difficult seeking out class/video options to meet the narrow focus on the three subjects mentioned in your email. The three areas proposed as a focus are not very relevant to my practice. They are more properly the focus of articles in the Bar’s monthly publication, where they have been covered fairly extensively for the past few years. –Robert Casey

350. I am NOT in favor of these changes or additional requirements for the following reasons: 1. I don't like the idea of further micro-managing which courses attorneys must take. Attorneys are professionals with at least 19 years of schooling. They are perfectly capable of determining where they may need brushing up. We do not need social programming. 2. Re: diversity courses: One-size fits all courses catered to Seattle and major cities may be completely inapplicable to attorneys in rural areas. A course on diversity concerning the needs of inner-city blacks or east-Asian victims of trafficking may have little to do with an attorney practicing in a rural part of the state who deals primarily with farmers and Latino/a migrant workers. Attorneys themselves are the best judges of what courses would enable them to meet the needs of their local clients. 3. Re: technology courses: While most attorneys should be familiar with basic email and website safety, not all need to take courses on secure cloud storage or adequate encryption levels. A partner attorney with cyber security decision making authority has very different learning needs from a low-level staff attorney who only uses email and legal research sites. Believe it or not, some attorneys shun technology and still use old-fashioned telephones and paper. 4. Re: mental health courses: while probate, guardianship, criminal, and real estate attorneys might regularly interact with mentally ill people, it is unlikely a patent attorney or a merger and acquisitions attorney will encounter many such people in practice. Why should such attorneys be required to spend an hour on mental health issues when such time could be better spent discussing the ethics of say, patent trolling? It is preferable to keep the categories broad and allow attorneys individually to determine the courses most applicable to their area of practice and the population they serve. In short, leave us alone. –Paul Ferman
351. I am opposed to this change. It's not that I don't believe WSBA members should get ethics credits in these areas – not at all. However, in many of the CLE classes I take, the ethics portion of the presentation is specifically designed to be relevant to the specific subject matter of the CLE. For example, if I take a CLE on ADR, generally the ethics portion of the CLE (if there is one) covers ethics specifically as they relate to ADR. This is helpful to me, as it gives me ethical information I need on the specific subject matter I am studying. If certain areas were mandated, and if the CLEs I took (on subjects in which I obviously want training, because I signed up for those particular CLE classes) didn't happen to cover ethics in these new mandated areas, I would be forced to take additional ethics CLEs specifically to hit those areas. This raises 2 concerns: (a) those additional ethics classes/credits might or might not be valuable to me, whereas (as I explained above) the ethics credits provided as part of a larger CLE presentation are, in generally, always valuable to me; and (b) I might need to take more than the mandated 15 hours of CLE credits just to hit these (somewhat artificially) mandated subject areas, which isn't fair to the members. Forcing ALL members to take ethics credits in specific areas also fails to recognize one of the longstanding tenets of the CLE system, which is that members are free to program CLE credits as they see fit, to meet their practice and legal needs, as long as they take the mandated minimum number of hours in ethics, L&L, and overall. Therefore, I am opposed to the proposed change. The WSBA has not, as far as I am aware, clearly shown that each and every member of the bar needs training in these areas – indeed, there are certainly members for whom one or all of these areas simply aren't applicable or relevant to their practices or their lives. Therefore, while the WSBA might want to encourage members to take credits in these areas, it does not have a solid basis for forcing all bar members to do so. –Christopher Porter
352. This is a very quick note in opposition to the proposed MCLE revision on ethics. The new topic areas are useful and important for those who need them, but I believe the focus of required legal ethics should be legal ethics. –Chuck Caldart
353. While each of the proposed areas is worthy of careful thought, none of them seem to me to have to do with competence to practice law, which is supposed to be your mission. Ethics rules

clearly do, and so do subject matter expertise. I do not think the Bar should make itself designate as mandatory offerings of courses that stand to make us better citizens or safer custodians of information. I do not object to offering such courses to those who may wish to consider those topics, but if you are going to insist on self-improvement as a condition of licensure, where do you stop? Racial, age and gender equality are important, too. Why is that not on the mandatory list? Or sensitivity to disability? Or to political differences? Or a host of other topics people find central to establishing a persona and a professional method. You are not offering a slippery slope with this--you are offering a greased pole. You have a system that works. My input is, leave it alone, offer all the courses anyone wants to offer, and leave it at that. –Chris McLeod

354. All these changes proposed make CLE providers lots of money. they have no real effect upon the practice of law, and if anything, they breed resentment over the issues. Being politically correct is not a tenant of law practice, and i would appreciate these great ideas being tabled since they only will cost money with no real gain to the profession. BTW-I have been an attorney for over 40 years and find micro managing this area to be highly distrubing at best.–Michael Levy
355. I am opposed to the recommendation. I do not see the need for inclusion/bias training, and mental health issues are very apparent. As a prosecutor for the City of Goldendale, I can immediately think of 2 people who continually re-offend, but there is nothing to be done. One has been evaluated by Eastern State Hospital, and he was determined to be competent. He just has some type of problem that results in bizarre behavior that falls into the categories of misdemeanors/gross misdemeanors. The second has been evaluated, and she was deemed incompetent (I believe bi-polar was the suspected condition). This seems to be a recommendation that will dedicate 2 CLE credits that would be better spent in education in areas of LAW practice. -Gwendolyn Grundei
356. I am opposed. Unnecessarily intrusive over-reaching and micro-managing on the part of the MCLE Board. Stop it. –Glenn Price
357. I am writing in opposition to the below proposal. I believe that this unnecessarily micromanages ethics courses, both in subject matter as well as duration. –Paul Sander
358. I am absolutely opposed to this proposal. We don't need to emulate California by imposing these kinds of CLE requirements. The only people who benefit are the vendors who prepare and sell video or audio presentations that purportedly address these topics. Even though everyone would be forced to purchase these "talking head" video or audio presentations in order to fulfill these new requirements, most attorneys will resent this kind of micromanagement of their CLE choices, and as a result, it is unlikely that they will pay attention to the content of the presentations. –Bob Hailey
359. As practice areas are quite diverse, I do not believe that the profession would be well-served by the proposed new subject requirements. Instead, each attorney should assess their own practice areas and decide which subject matters they should familiarize themselves with. This is not a one-size-fits-all profession. The proposal would force many attorneys to earn ethics credits in areas that may not apply to their practice. –David Bustamante
360. I don't think any feedback I've given on any WSBA proposal has ever been heeded, but I will try once more. It is difficult enough to ensure we are getting our ethics credits. This would make that nearly impossible. And likely very expensive since demand will be high and supply of these courses will be low. I hope this will not pass, but given the trends, I have little hope that it won't. –Donna Beatty

361. It is difficult to find ethics credits already. Adding the requirement for sub-categories is only going to make that harder. I live outside the US. For this reason I would not be in support of this proposal. –Doug Silin
362. This proposal seems to be tailored to support the aims of the proposers, and not to the broader aims of providing ethics training to WSBA members. For instance, most violations of the RPCs appear to be related to mis-management of client funds. None of these proposed requirements address that issue at all. It is difficult enough to meet ongoing CLE requirements. I am sure that one or more of the proposing groups will provide the re-education of us for a fee. That's okay. But let us not pretend that these requirements will improve WSBA members' ability to operate under the Requirements of Professional Conduct. For these reasons, I oppose the amendment. -Eric Halsne
363. I prefer to not restrict the subject areas in which lawyers may obtain ethics CLE credits to fulfill the requirement. The ethics sub-topics that are most relevant and most helpful vary between lawyers and from year to year. CLEs qualified for ethics credit should focus on the Rules of Professional Conduct. The RPCs allow for addressing issues of inclusion, anti-bias, addiction, mental health, and technology and WSBA should provide and promote CLEs on those topics. –Eric Rhoades
364. I do not agree with any proposal to specify categories of ethics credits that must be earned. If the bar thinks education on these topics is necessary, a better approach would be for the bar to offer classes covering the topics for free with online access.?? This would allow interested bar members to attend them easily.?? If few bar members attended any free course offering (everyone is always looking for ethics credits), the bar could learn that its membership is not as interested in the particular topics as the bar is.?? I am of the opinion that the bar should reflect its members interests, should not try to dictate what its members think, and should not mandate support of various political issues or other topics of the day. –George Cicotte
365. This is too onerous, and puts another burden on attorneys to meet all the MCLE requirements. Let the organizers of CLE hours dictate how and what to cover for the ethics as long as it meets the basic parameters. It allows organizers to fit the subject matter to what is topical at that time. What is the point of hamstringing the programs, dictating everything down to the last dotting of the "i"? –Julianne Peter
366. I am generally against the creation of requirements which limit flexibility and are likely to return unintentionally absurd results. (e.g., already having 6 ethics credits on drug abuse but then not being able to find anyone who offers cyber or mental stress when you need to take them, then being flagged as “non compliant” with the ethics credits even though you have twice as many credits as are required) –Mark Bardwell
367. I practice in Oregon as well. Oregon imposes an increasing number of faddish "ethics" credits on its attorneys. A couple years ago, there was backlash against the triennial child abuse requirement; now we report every other triennium. Why? Because the bar thought the OSBar was a tad full of itself. Here's the problem I have. The societal issues are not ethical as ethics relates to legal discipline. If I take my client's money, it matters not whether he is a she, a he taking drugs to appear to be a she, a WASP, or a blond-haired Danish convert to Rastafarianism. My client is still my client, and I'm still a thief. Am I any less a thief if my client is Bill Gates III and can afford to buy me out? What if my client is poor? Am I still not a thief? If these matters are important to the bar, then make them general credits. Don't stick them in some corner where you can safely say "see, we are being good" while only giving them 20 minutes of lip service per year. Keep the ethics CLEs for the training of legal ethics. Give a whole day to a seminar about not being a biased pig. After all, I'm not going to be disbarred because I stole

money from my black, female client instead of my white, male client. I'm going to be disbarred because I stole my client's money. –Mark John Holady

368. The proposal referenced below to amend the MCLE ethics requirements unnecessarily complicates an already onerous MCLE system. –Martin Anderson
369. The WSBA is too handsy. We don't need more regulation. –Mike Rhodes
370. I suggest that the WSBA not adopt these new MCLE requirements. For those of us out of state, which includes active duty military as well as Washington lawyers selected for public sector positions like mine that took them elsewhere, it is already hard enough to get free and low cost general and ethics CLE and certify it ourselves for Washington credit. Adding special subject matter requirements unique to Washington will only make it that much harder, since out of state and in-house government providers will not offer those courses. The WSBA might instead offer courses in those subjects online for free, and certify them for ethics credit, which would draw attendees. –Evan Nordby
371. Regarding the proposed changes to CLE requirements for 1 hour each for mental health/inclusion/digital security, i oppose the suggestion. Let us make our own decisions about when to reach out for help (mental health), how best to be inclusive, and how to protect our client's digital security. We don't need a CLE. –Phil Brennan
372. I respectfully but strongly object to this proposal. I'm a gay man and I recognize the importance of these topics. I came of age during a period when gay people were viewed as disease-carrying vermin, not as full citizens or attorneys. However, this proposal will only serve to make CLE certification more difficult and expensive. It will expand the cottage industry of people who are seeking to make a quick buck by offering CLEs. I wish that the CLE board would focus its efforts on reducing the costs and barriers for CLE compliance. Why haven't you focused on making free CLE available to everyone, instead of making it more expensive for everyone? These costs and expenses are the primary reason that I'm no longer an active member of the Washington State Bar. I allowed my membership to go inactive given the many hurdles and barriers to CLE compliance. –Robert Jacobson
373. As an active WSBA member, I do not agree with the MCLE Board's proposed amendment to the ethics credits requirements. –Robert Sealby
374. I understand what the WSBA is trying to do with the more discrete MCLE ethics requirements. However, I believe the WSBA should instead encourage MCLE credit offerings around those subjects rather than require such stringent reporting requirements. The proposed requirements will be administratively burdensome to report and track and add more complication to what is already a burdensome process. The WSBA should be focusing more on the 'carrots' than the 'sticks.' –Ryan Rubenstein
375. Mandating specific categories of ethical education is a terrible idea. First, while I respect the intention, requiring lawyers to undergo specific types of ethics training will by necessity decrease the breadth of ethics programming overall. I have planned many CLEs, and know the challenges of developing appropriate curricula and finding engaging speakers. In addition to the existing difficulty inherent in developing substantive CLEs, we need broader, not narrower education. Lawyers need ethics training on more topics than just these three, and imposing specific requirements appears both heavy-handed and short-sighted. Second, I will stab my eyes out with a dull pencil if I have to attend one more training on digital security. This relates to my above comment about mandating specific types of training: I understand well enough how to avoid causing a digital security breach. My interest in sitting through a 60 minute presentation on a topic about which I am both uninterested and adequately educated is less than zero. Mandating education is only going to punish those of us who are willing to learn, and I am deeply skeptical that it would improve the practices of those who are oblivious. Third, I would

encourage the Bar Association to re-prioritize its work. While this program is probably well-intentioned, I would strongly prefer that the WSBA focus on improving its track record of enforcing the RPCs. The current enforcement protocols are laughable, and result in many lawyers who are menaces to the public being allowed to continue practicing law. Rather than trying to teach pigs to sing, I would strongly prefer that my bar dues go toward more thoughtful ways to ensure that the people allowed to practice law are competent and ethical in their chosen area of practice. In short, I strongly disfavor this proposal. –Sara Amies

376. This is a really dumb requirement. Every time the wsba adds a requirement, it does so under the assumption that all attorneys practice in the same way. They don't. People do all sorts of different things with a law degree and a law license. Not everything involves technology, not everyone deals with bias issues, not everyone is in danger of substance abuse. It would be great if it wsba would just allow us rank-and-file members to choose whatever subject we want for our continuing education based on what we need to learn to be effective practitioners, whatever that practice may be. Please stop micromanaging us. –Spencer Bishins
377. I think this is a ridiculous proposal (to require ethics CLE sessions on those three specific questions). I would suggest that ethics training through CLE sessions focus on compliance with our ethics rules (with emphasis, but not specific mandatory CLE, on "tricky" issues that may arise in each specialty area of law). –Stephen Falk
378. Respectfully, NO. Bar dues already are staggeringly high for what members actually get (aka 'not much'). This merely is a grab for more money for either the bar or CLE providers or a feel-good move by the Board. Unless these are free CLE programs with a lot of advance notice for those of us forced to take them, lay off. – Susan Stearns
379. Do not amend APR 11. If you want 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security, then offer Ethics classes in such topics. –Tim Rybka
380. I am strongly against requiring an ethics credit in the areas of inclusion and anti-bias. Those are social issues (which I support by the way) but not legal ethics issues. I also don't favor the rest of the proposal because it seems to elevate some ethical issues over others. For example, we'd have to take courses on mental health and technology, but would not necessarily have to take any courses on conflicts of interest. No ethical issues are more important than others, so I think the credit system should reflect that. –Trevor Zandell
381. - I'm opposed to this idea. Stop making the WSBA a left-wing organization. Stay out of politics. –D. Neil Olson
382. Short answer is NO to any amendment of the ethics rule as proposed –Stephen Kozer
383. While I see the value and importance of addressing each topic, I am not certain I agree that these need to be addressed for an hour each, every three years. Hopefully over time people will "get" implicit bias and how to guard against it in their practices and in trial. I think lawyers are very aware of stress, addiction, etc. – what I think lawyers need is to be assured about the value and confidentiality of programs so they'll use them when needed, but I don't think they need an hour of it every three years. As technology changes, the way in which electronic data is protected (and stolen) is going to change, so I think it's important to get the word out regularly as technological change impacts the standard of care owed by a lawyer to her clients. I'm not sure if 1 hour a year every 3 years is enough or too much on that topic because things seem to change so quickly. –Chris Nicoll
384. I think specifying an ethics credit in the specific subjects would be window dressing rather than actually improving anything. –Richard Cole

385. I am writing to oppose the Mandatory Continuing Legal Education (MCLE) Board proposed amendment to Admission and Practice Rule (APR) 11, in regards to ethics credits requirements. –Tom Hart
386. To what end is this proposal – a way for more people to make more money selling CLEs that we do not need. Enough. This is one of the most ridiculous proposals I have seen. It serves absolutely no useful purpose except to add to an already much too high an expense for CLEs. Voting this one down is a "no brainer." –Judith Maier
387. I am writing to express my opposition to the proposed recommendation on amending the ethics requirement. It is my opinion that getting the required ethics credits already presents a consistent challenge to most of us and adding specific topic areas would only make that more difficult. If such specificity is to be added, the WSBA should have web cast CLEs on these topic areas available at no cost to the membership to view at their discretion. For most of the bar obtaining the necessary CLE credits present a challenge in both time and funding. Removing the distinction between live and web cast CLEs was a positive move and added much needed flexibility. This proposal goes in the opposite direction. –Beth Anne Kreger
388. I do not think this is needed –Pamela Andrews
389. I do not think the amendment to Rule 11 would be helpful. It is already difficult for out of state licensed attorneys to keep up with the variety of CLE credits we have to keep up with in the various states we are licensed in. Requirements to have very specific ethics cle requirements would be very daunting indeed. No other state that I am licensed in would have similar requirements, and it would be very difficult to find CLE courses offered in the very specific subdisciplines proposed. I think it may be helpful to encourage attorneys to get credits in different areas of ethics, or to encourage ethics providers to offer more diverse ethics classes. But, to put those requirements on attorneys to find those specific CLEs would be challenging, especially out of state. –Benjamin Sheridan
390. I recommend that the Board not begin micromanaging the continuing education sought by licensed legal professionals. Micromanagement would be the essence of requiring courses on very specific subjects. As valuable as the proposed subjects are, there are 100's of other ethics/professional responsibility subjects that are worthy of education and training. It should be up to each professional to determine the training most applicable to their stage of professional development and type of legal practice. Inclusion and mental health subjects, for example, are best advanced and addressed in settings other than continuing education courses. I manage several attorneys and we have had several inhouse discussions (some of which have included experts) regarding inclusion that is very specific to this office's practice. Mental health, including mental health awareness, is not best addressed in a continuing education course. Digital security, for me, is best addressed in consultation with our director of IT. These are just a few examples of why micromanagement is problematic. My continuing education hours are a precious resource and expenditure of time and funds. As a professional, I believe I am in the best position to determine how I will maximize the benefits of my continuing education hours within the already existing framework that ensures that a certain number of hours are dedicated to ethics and professional responsibility. –Peter Ruffatto
391. I am licensed but not practicing. That fact may inform my view, but I do not favor more specific Ethics CLE requirements. Let each attorney continue to choose what is most helpful to him or her. The prescription of certain topics infers a perceived deficiency (which may or may not be the case) and elevates certain ethical concerns over others. I do not favor a change. - Shirley A. Ort
392. I strongly believe that WSBA members are in the best position to determine the areas of ethics CLE training warranting their time and money. I do not believe that the WSBA should mandate

specific areas of ethics training. I do believe that the WSBA should encourage and recommend a variety of ethics trainings for members to consider. –Steve Reinmuth

393. No. No. No. Please stop making our lives more complicated with programs that simply have little or no positive impact! Legal ethics is fine for a brush up every few years. I enjoy those sessions. I suffered through the others before in the California bar for years. Everyone I knew scrambled to pick up the credits for them at the last minute, and gained little from the offerings. Please, no! - Peg Manning
394. I oppose the change to add a MCLE requirement for one credit in each of the following subjects per reporting period 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. The first topic is an attempt at social engineering and is not a subject requiring routine reeducation of a professional. It is offensive to think that the bar association has to tell its members how not to be biased and how to include others. The second topic is of particular concern to many but not all and need not be focused on each three years by most. those who are interested can certainly seek out such courses. The third topic is the most important overall as the area continues to develop but again a special requirement seems like micromanaging a professionals' continuing education. –Frank Dinces
395. My feedback on the proposed MCLE changes is both general and specific: 1. Generally, MCLE should be abolished. It's not your place, or the State's place, to tell trained professionals what they need or must do to do their jobs. The justification of "consumer protection" is a canard: you could require all the MCLE in the world, and there'd still be incompetent and unethical lawyers. I believe in the free market, not government regulation and micromanagement. 2. Specifically, the proposed requirement for "inclusion and anti-bias" is pure left-wing political correctness, not far removed from Stalinist "re-education" camps. You do not have the moral or ethical right to tell people how to think. Many people believe "diversity" is a weakness to be managed, not a strength that should be celebrated, much less required. Be that as it may, you cannot mandate political stances. If someone does not want to be inclusive, that is their right. If someone has biases, that is their business, not yours. People do not need to be "educated" that your point of view is right, and their point of view is wrong. Because YOU may be wrong. Fight it out in the marketplace of ideas, not the Orwellian school of rightthink. Gender, race, and "inclusiveness" are not legitimate criteria for lawyering. The only legitimate criterion is qualifications and performance. –Richard Sybert
396. No - Jim Rigos
397. I am opposed to the proposed amendment to APR 11. - Christopher D. Bell
398. I think this is not a good idea at all. Members should have the freedom to pursue many kinds of interests. There needs to be less mandates, not more. The mandates are contrary to the professional development that each member is responsible for as a mature practitioner. There is too much conformity and uniformity in perspectives as it is. - Lawrence Watters
399. Just a brief note to say that while I agree in principle that attorneys should be mindful of the ethics subjects mentioned in your e-mail of earlier today, I do not support the proposed amendment to Rule 11. The proposed amendment adds cumbersome administration tasks that outweigh any benefit that the amendment would bring. Just my 2 cents. –Lucia Udlinek
400. I am opposed to the amendment. If Bar Members would like to take those types of courses, they certainly can as there are numerous ones on the subjects. Additionally, it sets bad precedent where every few years, the topics will need to be changed to reflect what some Bar Members think are the most relevant at the time. –Wade Cascini
401. I teach professional responsibility at the University of Washington, and I regularly speak and write on professional responsibility topics. I have one comment concerning the proposed

amendment to APR 11(c)(1) and (2): We should not include new anti-bias and mental health CLE requirements at the expense of our very important existing ethics requirements. By specifying that three out of the six ethics & professional responsibility credit hours must be in the areas of inclusion/anti-bias, mental health, and technology, we would be materially reducing the number of credit hours that practicing lawyers would take on other important ethics topics. Working lawyers need continual professional responsibility training and updates, and lots of it. The existing six hours is not really enough. Cutting the required number of hours for general ethics training in half would seriously undermine efforts to keep PR issues in the front of each attorney's mind, every day, all the time. Arguably, the technology requirement fits in with ethics training in general. But I'm not sure that a specific credit hour requirement is appropriate. It might be important today, as we transition into a more digital world. But it might not be so important in ten years. In my view, we should simply encourage lawyers to include technology issues in the professional responsibility CLE courses they choose—but not make it mandatory. The other two topics—inclusion/anti-bias and mental health—are broader issues than ethics (notwithstanding RPC 8.4(g) & (h)). If the MCLE Board concludes that all practicing lawyers should take courses on these topics, either two additional hours should be added to the existing total 45 MCLE hours requirement (for a total of 47), or those two additional hours should be placed in the "Law and Legal Procedure" category rather than in the "Ethics" category. –Hugh Spitzer

402. These proposed requirements seem too specific in that it may be very hard to find CLE's with these specific topics. –David Liscow
403. Thank you for the work you and appropriate others have done on the proposed change in the requirement for the mandatory ethics credits, to modify to some specific topic requirements (APR 11). It is appreciated. Although I am sure your proposal is well-meaning, I believe it narrows ethics requirements down to too specific of topics. I am sure I risk negative comments about being politically incorrect; however, too often these sorts of proposed modifications have been driven by individual or small group personal and/or political agendas. It was not very long ago when APR 11 was changed to require ethics credits. This was a reasonable approach which I did not oppose. I beg you to continue to allow WSBA members to use our own adult and professional judgment and discretion to pick and choose which ethics courses we take, based upon our evaluation of what our needs are in a particular reporting period – not based upon your determination of our needs. Too often, as in this case, individuals and small groups – frankly, special interest groups – are pushing their own agendas and aim to manipulate requirements and rules to help them bolster those personal and/or political agendas. I do not personally oppose the existence of various and sundry member groups [there are good reasons for them to exist], and if this modification does not pass I will likely take a number of ethics courses in the future that fit squarely within the topics of the desired modifications. However, the pushing of this change in the rule should be recognized for what it is – the pushing of personal and political agendas by special interest groups [e.g. Washington Women Lawyers, Asian Bar Association, Cardozo Society, Filipino Lawyers, Loren Miller Bar, Latina/Latino Bar, South Asian Bar, and QLaw]. Please do not modify the current rule. Let the adult, professional attorneys who are members of the WSBA make their own decisions on meeting their own needs. They are much more responsible, mature, and accountable than you tend to give them credit. –Charles Bates
404. I am opposed to making these three classes mandatory. First, these classes are not needed. Like most families in Washington, mine is extremely diverse in race, sexual orientation, age, disability including mental health issues, etc.; so the inclusion and anti-bias; and the mental health, addiction, and stress are a waste of time. The digital security classes are already being

offered and I have taken several of them from various providers. Second, the inclusion and anti-bias class is not related to understanding and applying the law. Since you haven't provided any detail it is probably a purely social agenda class designed to promote the LGBTQ+ agenda and is likely to deeply offend the faith of many bar members from Muslim to Christian. It makes no sense to spend member funds defending a discrimination and/or religious freedom lawsuit over a class that could have been made voluntary instead of mandatory. Third, it is an financial burden to require members to take classes that don't relate to their practice. Those three ethics credits will cost somewhere around $500 to take, deprive an attorney of over $2,000 in income and they will not all three relate to every attorney's area of practice. -Alicia M. Berry

405. I write to urge the WSBA not to adopt the proposed amendment to the mandatory CLE requirements. First, it adds unnecessary complexity to the licensing requirement. Second, it gives excessive emphasis to a rather small part of the Rules of Professional Conduct. Finally, as a 60 plus year old female lawyer who dealt with my share of discrimination in the practice of law, I am sick and tired of being lectured about inclusiveness and related PC issues. I oppose the rule first because it adds yet another complication to maintaining my license. In addition to making sure I attend enough CLE and have enough ethics credits and whatever that is now required, this rule imposes yet further requirements. Second, the Rules of Professional Conduct cover a wide array of topics, yet your committee has picked some relatively obscure portions of the rules to emphasize. Over the years, I have served on a variety of ethics CLE panels and don't recall ever having these issues as a source of great concern. I also served as Special Disciplinary Counsel (or whatever it is called now) for many years, and again, these are not the topics that cause problems. I don't recall seeing disciplinary notices involving lack of inclusivity. And while substance and stress issues may lead to other violations, a vast majority of lawyers I know deal with these issues professionally and it is frankly insulting to require everyone to attend seminars because a small portion have substance issues. Finally, technology is an important issue, but for many lawyers in big firms or government offices, it is irrelevant because there are hired professionals to maintain the systems. And for retired lawyers, it would be a complete waste of time. I think focusing on these few topics at the expense of other ethical issues that pose as great or greater risks to the public is unwise and reflects misplaced priorities of the WSBA as well as a political agenda that we do not all share. Finally, I am simply tired of lectures on bias. I am a female who graduated from law school in 1982 and practiced in a larger firm for many years. I had some experience with bias and dealt with it. Progress has been made in a lot of areas and more is needed, but mandatory CLE hectoring is not going to change minds. What I learned from my practice was work hard, be as a good a lawyer as you could and change the minds of the doubters by example, not by whining. Every lawyer I ever talk to about "diversity" and "inclusion" is equally sick and tired of the constant lectures. At this point, I think it does more harm than good. I have my problems with MCLE – I don't think it is an effective way of improving the skill and knowledge of the members of the profession. But if we must have MCLE, then it should be on topics of interest to each lawyer's individual practice, and not topics dictated by WSBA. –Erika Balazs

406. I am writing to provide feedback regarding the proposed amendment to APR 11, which I oppose. Why is the MCLE Board 1) proposing inclusion and anti-bias and mental health and addiction CLEs at all when there is plenty of information on these topics readily available, and 2) why are they being proposed as "ethics" CLEs? How are either of these topics "ethics"? The purpose of ethics CLEs is to ensure attorneys understand and follow the RPCs. Neither of those topics has anything to do with ethics. That they are being proposed at all gives the impression that the MCLE Board thinks all attorneys are exclusionary, biased, and/or have mental health or addiction disorders and we need to be straightened out. The WSBA already provides support

for members with mental health and addiction disorders, and we get plenty of information about inclusion and anti-bias in NW Lawyer; we do not need regular CLEs on either of these topics, and should not be required to pay for CLEs on topics we don't need and that aren't helpful to our practice. Technology security makes a little more sense, but I still don't think it should be a mandatory ethics CLE. Again, I am vehemently opposed to this proposed amendment to APR 11. –Angela Carlson-Whitley

407. My input is that amending the rule doesn't necessarily solve a real-world problem. What problem is it designed to solve? Please do not complicate the already high number of CLE hours required by mandating certain subjects. I'm guessing that educating attorneys on issues that generally affect a very low number of members of the bar is not going to solve whatever problems anyone has identified. Also, if there isn't a problem the amendment is purportedly going to solve, then the rule is fine as is. By the way, I've already done my ethics courses to satisfy my first reporting period three years from now. If it ends up that the amendment is forced through, please make it relevant to 2025 or some year down the road. -Sean Lewis
408. I just read that the MCLE board is looking to make 3 of our 6 credits mandatory in three individual topics. I'm opposed to that happening because at this time, it's hard to locate enough classes to meet the 6 ethics credits as it is. Most ethics credits are joined to larger CLE seminars at .5 credits for a whole day's classes. I can't afford to hunt & peck for specific types of ethics courses in order to make the 3 new requirements, especially if I have to pay for a whole seminar I can't really afford. Please leave the ethics as they are - post recommendations/ suggestions as to what you'd like to see lawyers take, and that way if we can find affordable CLE covering those topics, great. If there aren't any affordable ones, we won't be forced into CLEs we can't afford, just so we can stay in compliance with the bar. Just so you know why this is so important to me, I currently earn $54K a year. My bar dues (WSBA, KCBA, & ABA) run me $1,600.00 a year, plus I have Association memberships that run $210 a month. And I pay a Marketing company $300 a month for specialty leads. I haven't even touched paying for CLE credits yet. So if I have to search for specific types of ethics, and they aren't stand alone, it will really hurt me financially. –AnnMichelle Hart
409. I write as a 12-year member of the WSBA to express my concern about the proposed amendment of APR 11. This proposal raises several issues, most notably, the fact that it would be both "mandatory" as well as not actually be "continuing LEGAL education." Rather, this appears to be yet another attempt by the most vocal members of the bar association to force others to be subjected to what they believe are important qualities of being a good person, as opposed to an ethical, professional attorney. If members of the bar want to be involved and advocate on behalf of these issues, then that is certainly their prerogative, but "inclusion and anti-bias" and "mental health and addition" are NOT appropriate mandatory requirements to be a lawyer in Washington State and if passed, I fear the same challenges to many other bar association policies will be the fate of this new rule. - Eric Ferguson
410. I am not in favor of this proposed amendment. Too much micro management by the WSBA. Can't our members decide if they have an interest in these topics and elect to take them if they want to? -Larry Hall
411. Please stop making our lives more difficult and complicated. I vote "NO" the proposed amendment to APR 11. –Patrick Kirby
412. I am against adding the proposed substantive requirements for the ethics CLE compliance. I would like to choose CLE topics based on things I know I need to learn. –Gina Culbert
413. I am against it as stated. It is already hard enough to find programs with ethic hours. Finding specialized ethic hours will be harder. Repeating this same requirement year after year is a bad

idea and may make folks who get it resentful and cause a backlash. I would not be opposed to a one time requirement, or even having it related to the passing of the bar (within the first reporting period after becoming a member for example). While these topics are all valid social goals, they are not, on first impression, issues of legal ethics. I don't think they should be marketed as 'ethics' even if required. Based on what I have seen with bar complaints you should throw in a trust accounting requirement and associate/partner relationships and duties in the first period. Lots of complaints and activity there! Hope this made some sense. Glad folks are stirring the pot. One last thing, Given that comments are not anonymous ((I may have missed it)I think a lot of the real stinkers out there won't comment and will bury their heads, afraid of being called out. It is exactly those folks' attitudes that need the work, and that need to be heard so they can be addressed. WSAJ has done some great programming in this area I was happy I attended. -Morgan G. Adams

414. I am writing to express my opposition to a change in the ethics requirement under APR 11 to require credits in: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. In particular, mental health, addiction and stress are personal issues, not areas of the law worthy of being awarded MCLE credits. –Gregory Lyle
415. Please do NOT change the MCLE requirements to require 3-hours of "1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security" each reporting period. I am already required to complete several hours of mandatory CLE for the US Department of Justice each year—which include annual courses in "No Fear/Sexual Harassment," Government ethics, and Professional Responsibility—for which I do not receive credit toward my Washington Bar MCLE requirements. I would suggest instead, if the MCLE Board is committed to promoting these three "ethics" subjects over others, that they be made voluntary—i.e., given equal weight with other MCLE programs (whether as "ethics" or in general), so WSBA members can choose for themselves the courses that suit them. This would increase the freedom to choose courses of the most relevance to each member, instead of requiring these relatively narrow topics that the Board finds important. That, or allow DOJ attorneys to count their in-house CLE—like DOJ's mandatory sexual harassment, PR and government ethics courses—toward these requirements. –Bruce Ross
416. I am responding to the Washington Bar's request for comments about adding specific CLE requirements for bias, addiction and technology. As a California Bar member of almost 35 years, I have taken bias and addiction CLEs for several decades and, therefore, speak from experience. The problem with mandating specific subjects is that they become stale. This has been especially true of the addiction CLEs, which are always the same: The law is a stressful profession and lawyers succumb to substance abuse, which results in trouble at work and home. The bias CLEs tend to share this problem: The same presentation is made year after year. Bias CLEs have one advantage over addiction, since they involve changes in the law, which can be interesting; but, it has been my experience that the CLEs shy away from substantive law (e.g., civil rights, workplace law) to focus on personal issues of bias, which follow predictable patterns. After listening to these bias and addiction CLEs over and over again, I conclude that the bar's object is to make a point by repetition, but it has the effect of diminishing the subject and degrading the listener. I suggest that, if these subjects are mandated, they should not be

required every reporting period. Nevertheless, it is my experience that the bias and addiction CLEs have not materially changed in the decades I have taken them. As for technology, in the past 5 years, I have taken at least two ethics CLEs that addressed the intersection of technology and professional responsibility, especially in connection with keeping client confidentiality. Again, after hearing the first CLE, I got it. The next time I heard the same thing, it was just irritating. Finally, the whole area of bar-mandated subjects, usually ethics, is prone to the problem of repetition. If I hear one more ethics CLE panel in which a senior judge gets up and scolds the listeners to be more "collegial" -- i.e., make the judge's job easier -- I will ... probably just sit back and tune it all out. By contrast, CLEs addressing the substance of specific legal issues and changing laws can be very interesting and helpful. –Duncan Palmatier

417. I read the material included in the link to your June 24 email, and opposed the MCLE Board's proposal to include a technology CLE requirement. My reasons are described below. The cost of obtaining CLEs which are specific only to Washington state is a burden on its membership. Were the technology CLE requirement to pass, Washington would be only one of two other states which requires this type of CLE. I have learned that when only one state requires a state specific CLE topic, it allows the state to charge a premium for those CLE credits. In addition to the expense, these specific CLE credits have been difficult to obtain as there is usually only one CLE vendor who provides that specific type of CLE credit. Currently, only North Carolina and Florida impose a requirement for a technology CLE. Except for Oregon, none of the states listed in the chart of MCLE Requirements imposes upon its members the requirement to obtain three specialty specific CLEs. Were Washington to approve a technology CLE, it would be an outlier in requiring three different state specific CLE requirements. The increasing obligation to obtain a variety of CLE credits is difficult for membership to manage and keep track of. I reviewed the ABA's Model Rules for CLEs. These Model Rules mentions/promotes CLE's regarding ethics, professionalism, and elimination of bias. However, the ABA Model rules are silent on a technology CLE. Additionally, the MCLE Board's report provides no rationale, provides no data, and makes no compelling argument to support its position that a technology CLE will improve the public's confidence in the legal profession and the rule of law, and to promote the fair administration of justice will be enhanced by including a CLE on digital security. For these reasons, I oppose the MCLE Board's proposal. –Janine Sarti
418. The proposed amendment would institutionalize a political agenda. Demographics will rid us of old white men soon enough. Please do not distract us from the hard task of being the best lawyer for our clients. -David R. Risley
419. This is a very bad idea in my opinion. That is because by requiring ethics credits to be used for these 3 topics, the bar association is limiting what other ethics topics an attorney can learn about with the remaining 3 required ethics credits. There are many important ethical issues that any attorney needs to know and understand. It is not acceptable for the bar to dictate what half of those should be. In addition, I would not consider technology education to be an ethical issue. If the bar feels that such a requirement should be mandatory, then I would suggest it be made a requirement to use a non-ethics CLE credit for it. - Neil Sussman
420. I believe that it is unwise to require this level of specificity for something that is already specific. Adding requirements that ethics credits include inclusion and anti-bias, mental health and addiction, and technology security only adds additional burdens on attorneys to find specific classes in a certain time frame. Making such courses more widely available and accessible may be more helpful to the goal of getting attorneys better educated in these topics. –Jinju Park

421. My opinion is that this is unnecessary and irrelevant for a lot of practitioners including me. I've been at this 44+ years, never a bar action, nor anyone complain that I am bias or non-inclusive, never a malpractice case against me for my actions. I have people in my office that take care of digital security issues and keep me straight on it. I'm not stress, addicted or suffering from mental health issues (tho I see some of this in my work but have been able to assist clients and families for more years than the reader has perhaps been alive without being mandated to take some CLE). This is over-regulation. Let members decide for themselves what is relevant and needed unless they actually evidence a problem with one of these areas. Then the Bar has programs and the enforcement tools that work to insist on counseling, etc. where necessary---which I am sure is a very small minority of members of WSBA. My 2 cents. -Eric Gustafson
422. I oppose the proposal that the Bar's ethics-credit requirements be individuated one-half to general ethical topics and the other one-half split equally amongst (a) mental health conditions, addictive behavior, and stress; (b) equity, inclusion, and the mitigation of both implicit and explicit bias; and (c) the use of technology in the practice of law. The proposal assumes that WSBA members need education in these specific area. As Ms. Wulf commented regarding the bias-inclusion component: Mandatory training is especially important here, due to the insidious nature of bias, which is "activated involuntarily and without an individual's awareness or intentional control." A lawyer who is not aware of his or her biases may not opt in to specialty training. However, bias affects even the best of us and mandatory training would help mitigate its effects on our profession through education and awareness. So, some lawyers don't know they're biased, and need instruction to recognize their shortcomings. But what of those members who are self-aware and unbiased? And what is their prevalence? For them, the mandatory education requirement creates a solution in need of a problem. And even as to those members who are not so enlightened, must we impose recurring training to fix them? This proposal recalls the scene from Cool Hand Luke, where the namesake protagonist, played by Paul Newman, is thrown to the bunkhouse floor after his latest recapture, and the prison camp warden, played by Strother Martin, advises: You run one time, you got yourself a set of chains. You run twice, you got yourself two sets. You ain't gonna need no third set, 'cause you're gonna get your mind right. And I mean right. Well, it seems we will need the third set of chains in the WSBA, and the fourth …, even if you got your mind right. I would not oppose these three proposed categories being recognized as qualifying ethics topics, as two of them in somewhat different form already are. But I strongly oppose the current proposal that our members must be instructed in each of these three specific subject areas on a recurring basis. -Kevin Underwood
423. I am opposed to the proposal for specific ethics topics needed to fulfill the CLE requirements. Most practitioners would probably agree that it is hard enough to fulfill the ethics requirement without having to be topic specific. Those subjects are important and entities giving CLE classes should certainly include those topics when relevant. However, making the topics required is too burdensome. -Tom Ledgerwood
424. I would strongly advise against including these additional specific topics in the MCLE requirements. Such additions end up diluting CLE training. At what point do we stop adding special categories? What about a mandatory 1 hour CLE for dietary selection? 1 hour for office ergonomics? 1 hour for proper exercise techniques? -Dominic Lindauer
425. I am a solo practitioner and I am opposed to the proposed changes to the requirements. To be clear, I have no problem with offering more courses in these areas. That said, I object to additional requirements. Overall, adding 3 requirements would either require adding more MCLE ethics hours or cutting the number of hours available to be spent on things relevant to every practice, including, but not limited to updates to or complex cases around the

requirements on conflicts, competence, and practice requirements. Especially to the extent that courses in these areas address solo or virtual practices, they are important to me and where I want to spend my MCLE money and time. I would also oppose adding more required hours in order to accommodate these new requirements for the reasons listed below. Here are my specific concerns by subject: INCLUSION AND ANTI-BIAS 1. As a business law attorney, clients come to me; I don't go looking for them. Many of my clients want review of documents or simply regulatory filings and I never meet them. Everything is done electronically/virtually and without regard to any of these issues. 2. Many of my clients are startup businesses. To the extent that they have or intend to hire employees, I refer them to the many wonderful resources in this area and advise them that they need to have policies in place to address them. However, for many of my clients, the owners are the only employees and they take the customers that come to them. In these cases, these topics are not very relevant. 3. I have clients for whom I have been working with successfully over the course of 4 or 5 years who I still have never met and have no idea what kind of diversity silos they would fall into. 4. I work alone. I don't employ anyone. If I need a paralegal, I contract for those services through the same agency from whom I sometimes accept contract work. I choose the paralegal that best meets my needs and is available, nothing more. In most cases, when I contract, I do not meet the attorney for whom I am working and do not meet that attorney's clients. I have no idea what diversity silos they might fall into. 5. As to the inclusion issues around LBGT persons, I don't know. I don't care. Their private life is none of my business and, because I don't litigate discrimination issues, it is not relevant to the work I am doing for them. 6. When I was in a firm with about 6 attorneys, the unspoken rule was, when a matter comes to us, unless there is a conflict, take the matter or be prepared to justify why you did not. Diversity didn't come into the decision. It had to do with whether the matter was one that the client was going to be willing to pay for and whether we thought it was a good case or matter to take on. Clients contacted us by phone and email and we seldom met them in person unless something went to discovery. 7. This might be more appropriate as a requirement under LOMAP for offices with big enough staff and marketing budgets to be making choices that might be affected by something they learned in this matter. MENTAL HEALTH, ADDICTION, AND STRESS 1. These issues are already covered by many CLEs. I have no issue with giving credit for them, but why add stress to our lives by forcing us to spend time on them, when most of us are neither mentally ill or addicted to anything. Certainly most attorneys are stressed (so is most of society) but coping techniques are available from medical and natural health practitioners, gyms and parks & rec departments, outdoor suppliers like REI, churches, and other sources much more likely to provide real value. The reality is that the biggest stressors in a practice (other than finances) are things like balancing deadlines and surprises that force redoing work because they have to be explained to the client and may force unpredictable long hours and they are not controllable. 2. Again, forcing me to spend time and money on MCLEs for something that is either irrelevant to my practice (mental health and addiction) or available from any number of sources would only increase the stress for having to spend time and money meeting unnecessary requirements. TECHNOLOGY EDUCATION FOCUSING ON DIGITAL SECURITY 1. Many classes are available in this subject area from current MCLE suppliers as well as from vendors. In fact, many classes are currently on sale on your summer sale. 2. That said, many of the more practical (better) classes do not have MCLE credit because they are primarily sales tools or are not primarily focused on attorneys, but on the cybersecurity problems. I don't see that changing. 3. The biggest problem with the available classes that are MCLE accredited is that most of the solutions are for large firms, not solo practices. Consequently, they have unsustainable costs for small/solo firms. 4. In addition, I have taken a number of classes on digital security where the methods became

defunct within weeks or months of taking the class because of a newly exploited failure in operating systems or software. 5. I would support additional options in MCLE on digital security for solo practices but not a requirement in this area unless there is a significant opening of the MCLE certification to cover classes that aim at cybersecurity generally, not just at an attorney audience. This is a multidisciplinary problem. In summary, the addition of practical, high quality classes in these areas as options for practitioners is a good idea, particularly as they focus on the half of our profession that are solo practioners or practice in firms with fewer than 10 attorneys. However, adding required MCLEs in these areas may be politically correct, but is tone deaf to the needs of small practice attorneys. -Fara Daun

426. I am opposed to the amendment. -Derek Radtke
427. While I believe the three subjects you have chosen are all worthy ethics CLE topics, I am opposed to making them mandatory. There are so many necessary ethics rules that attorneys need to be mindful about that I do not believe it's a good use of limited time and resources to just focus on these three subjects. In addition, there are other ways attorneys learn about these three subjects, such as through the public health system, through their health providers, through their employers. I would like to see it not become mandatory. Thank you. -Lucinda S. Whaley
428. I would not support any effort to impose mandatory content of any kind for the six required ethics credits for legal professionals. Offering credits on these topics is one thing. Demanding that people take any particular course is another thing entirely. Thank you. -Edward Libby
429. This is to state my "strong opposition" to this proposal. As for society, culture, and social and behavioral science, the first two proposed topics (inclusion and anti-bias, and mental health, addiction, and stress) have merit. However, diluting the requirements for the challenging legal ethics issues we deal with daily with social and medical issues does not serve our legal profession's need for emphasizing traditional legal ethics education. Other continuing legal education courses covering the above topics may be offered and provided at a minimal cost to encourage participation. Dealing with mental health issues, stress and addictive behavior are not subjects dealt with through an hour of legal ethics. I have family members who I help take care of with these issues. Learning compassion and giving support comes from experience. Having compassionate counselors available may be the best answer. Improving inclusion and mitigating anti-bias come from an attitude shift which ultimately prevails when the old-fashioned "golden rule" is applied. Treating others like we want to be treated is beneficial in all situations with all persons, including in our legal profession. Providing social interaction opportunities for our whole legal profession, and not just in sub-groups, will provide greater opportunity for improving barriers. There are multitudes of current legal ethics issues that we are responsible for staying up on. Why is there a focus on the one for security of digital information that it needs a required course? The NW Lawyer publication of the WSBA is now providing comprehensive coverage on many topics so it can keep us current on this topic. Personally, I have already had this topic covered in continuing legal education courses, but not as a requirement. Lastly, because New York or California has added these requirements, this does not serve as a legitimate basis for or against the merits of this proposal. We are the WSBA and we make independent value judgments on what is best for our profession and not because there may be a trend. The WSBA should carefully evaluate any additional micromanagement of our legal profession. -Michael S. McNeely
430. The Board is considering the following changes to APR 11. Under these changes, all attorneys would be required to take at least six credits in ethics and professional responsibility with at least one credit each covering: (ii) the risks to ethical practice associated with mental health, addictive behavior, and stress; (iii) equity, inclusion, and the mitigation of both implicit and

explicit bias in the legal profession and the practice of law, including client advising; and (iv) the use of technology in the practice of law as it pertains to a lawyer, LLLT, or LPO's professional responsibility, including how to maintain the security of electronic or digital property, communications, data, and information. The second of these, "equity, inclusion, etc." employs the divisive, politicized language of the alt-left and ought not be in any rule. The Bar is to be apolitical, and this proposed rule is not.1 The terms "equity", "Inclusion" and "implicit bias" are weaponized words that mean the opposite of an integrated society with equal opportunity – a goal the American law been trying to achieve since 1954. Casual readers might mistake these words for something they are not. In his testimony to Congress, Bret Weinstein pointed out weaponized words such as "equity" if used in any proposal means that any opponent of that proposal is a racist.2 One fails to be inclusive if she fails to embrace some supposedly victimized group, e.g. Scarlet Johansson turning down the transgender roll of Tex Grill in Rub & Tub. Whether one believes Weinstein's termination from Evergreen College was or was not justified, or Johansson still has some tiny bit of artistic freedom, the issue is divisive. The Bar Association should not be a participant. As a practical matter, implicit bias training does not work. The links Faith Ireland provided lead to the core of this issue – a type of re-education called the implicit-association testing that supposedly measures implicit bias. There is little or no connection between Implicit bias and behavior.3 Years in the Gulag did not alter Aleksandr Solzhenitsyn's thinking; an hour's re-education every three years will do nothing. Some things ought to be self-evidently useless. Finally, there is something fundamentally wrong with "mandatory" education for professionals. Indoctrinating adults to keep up on technology to keep their clients' confidences or that being drunk or crazy is not good for their practice is inane. Attorneys know what they need to study. Requiring ethics education is itself just window dressing. Katherine Kealoha had all her CLEs up to date before she applied for inactive status and headed off to Federal prison.4 My complaint is not new. "By degrees the whole surface of society was cut up by ditches and fences, and quickset hedges of the law, and even the sequestered paths of private life so beset by petty rules and ordinances, too numerous to be remembered, that one could scarce walk at large without the risk of letting off a spring-gun or falling into a man-trap."5 Washington Irving could not have imagined today. This proposed rule is political, unnecessary, divisive and just plain wrong. The bar should reject it in its entirety. Thank you for the opportunity to respond. –William Cameron 1 "GR 12.2…(c) Activities Not Authorized. The Washington State Bar Association will not: … (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice;" 2 https://www.bing.com/videos/search?q=evergreen+college+racist+students&&view=detail&mid=806088098FF0BC855538806088098FF0BC855538&rvsmid=3746A30AAAB74B2CFCBC3746A30AAAB74B2CFCBC&FORM=VDRVRV 3 "Researchers from the University of Wisconsin at Madison, Harvard, and the University of Virginia examined 499 studies over 20 years involving 80,859 participants that used the IAT and other, similar measures. They discovered two things: One is that the correlation between implicit bias and discriminatory behavior appears weaker than previously thought. They also conclude that there is very little evidence that changes in implicit bias have anything to do with changes in a person's behavior." Tom Bartlett, "Can We Really Measure Implicit Bias? Maybe Not" The Chronicle of Higher Education, (January 05, 2017) https://www.chronicle.com/article/Can-We-Really-Measure-Implicit/238807 4 https://www.thegardenisland.com/2018/01/18/hawaii-news/katherine-kealoha-cleared-of-ethics-claims-despite-charges/ Despite beating the rap at the Hawaii Ethics Commission, Kealoha, her erstwhile Chief of Police husband and others have been found guilty of several serious crimes. http://www.startribune.com/feds-want-ex-prosecutor-guilty-of-conspiracy-

locked-up/511961342/ 5 Washington Irving, Knickerbacher's History of New York, W.B. Conkey Co. 1809 Vol I, Bk. IV, Ch. V,

431. I oppose adding the proposed three mandatory subjects to the ethics requirement; the proposal is not evidence based and may be inconsistent with the Bar's obligation to protect the public from attorney misconduct. Ethics courses should enable attorneys to avoid misconduct and ethical violations. WSBA disciplinary actions are the best evidence of attorney misconduct. As a result, they indicate conduct that ethics courses need to address. While disciplinary reports in the bar journal are lamentably incomplete, they do provide some indication of the type of conduct that lawyers should be trained to avoid. Even a cursory review discloses that the proposed mandatory subjects are not among the most common violations. During the last several years, ethics courses have emphasized the proposed mandatory subjects. There are probably few, if any, attorneys in Washington who haven't attended courses on them, often to the exclusion of courses on those subjects (such as diligence, timelines, communication and financial matters) that involve more frequent ethics complaints and disciplinary actions. Making these three subjects mandatory could harm the public by preempting courses addressing topics that are more frequent causes of attorney misconduct. If the Board must mandate CLE subjects, it should focus on those resulting in public harm, as reflected in disciplinary actions. – Lee Roussel
432. I have an idea – Why don't we have people present Ethics CLE's in a fresh and interesting way and let the professional attorneys that populate our bar decide how they want to engage in them. I am absolutely against the idea that the WSBA has to prescribe certain topics, chosen by a handful of people with a specific agenda, that will be useless to the vast majority of the bar. Leave the APR alone and have people put effort into presentations that will actually provide helpful tools and information for the practice of law. Otherwise, attorneys will simply sign up and waste an hour simply to check the box. -Gary Andrews
433. I am writing in opposition to the proposal to require that future ethics MCLE requirements be modified to require mandatory training in "inclusion and anti-bias, mental health and addiction, and technology security." My recollection is that mandatory ethics credits began to be required in the wake of the Watergate scandal, when so many lawyers lost their way as a result of their actions in serving the Nixon administration. At least two of them were WSBA members, John Ehrlichman and Egil "Bud" Krogh, both of whom served prison terms. Krogh was later readmitted to the bar and practiced successfully for many years in Seattle. In 2007 he wrote in the New York Times how he got into ethical trouble: "I finally realized that what had gone wrong in the Nixon White House was a meltdown in personal integrity. Without it, we failed to understand the constitutional limits on presidential power and comply with statutory law." Those ethical concerns remain valid today. While I agree that the proposed required topics can be important to lawyers, it's a mistake to substitute them for traditional ethical training. If it is decided that the topics should be mandatory, they should be in the L&L section, not elbowing out traditional ethical concerns that came about because of the Watergate scandal. -Kenneth J. Pedersen
434. In short, I **oppose** the amendment. While offering these subjects as ethic credit *options* is fine for those who are interested in the topics or find the topics relevant, requiring these MCLE credit topics for *all* WSBA members in unnecessary and burdensome, especially for non-practicing members and those like myself who do not find the topics relevant to my practice. This one-size fits all approach is a solution in search of a problem. Ethics credits are already the most difficult credits to complete (speaking from personal experience) since it is more specialized than the general credit topics, and further narrowing the scope of ethic credit topics

will likely result in limited options and availability. For these reasons, among others, I oppose the proposed amendment. –Rachel Morrison

435. I respectfully oppose these new requirements. I am also a member of the California Bar, which has similar requirements. They do not change anything - just one more hoop to force attorneys to jump through each year without benefiting anyone but the MCLE service providers. –Allan Marson

436. I have a quick comment on the proposals to require topic specific MCLE (inclusion, mental health and digital security). I have seen Oregon go through the same kind of topic specific CLE requirements. In my opinion they did not work for Oregon lawyers and they will not work well for Washington lawyers if implemented. The are multiple problems with the proposal. It presumes all attorneys are coming from the same starting point with their understanding of these topics. I earned a master's degree in psychology and spent 3 years working in a locked state hospital. I doubt the anyone would ever offer a CLE on mental health or addiction that would do anything other than waste my time, and maybe irritate an instructor. Another problem is one of definition Who decides if a topic is anti-bias or not? For example, would a CLE on 1st amendment issues and why ALL speakers should be included in campus discussions qualify under "inclusion"? Could a general mediation class qualify for credit as a CLE on stress? Oregon struggled for years with defining criteria for it diversity CLE requirement resulting in many poor unhelpful CLEs that did nothing but check off a vague box on a reporting form. If the WSBA really feels specialized CLEs are necessary it should be a matter of picking one of the 3 when reporting so that lawyers spend their limited time in a CLE on a topic they can use. I oppose the proposal to require topic specific CLEs. -Glenn Slate

437. I oppose the proposed change to have one of the required ethics credit be required in each of these three topics: Inclusion and anti-bias, mental health and addiction, and technology security. While these are laudable goals, they have little or nothing to do with my professional obligation as an attorney. If the class doesn't directly reflect a requirement under the RPCs, it should not count as an ethics class. You've already gone too far in allowing CLE credit for "personal development," offering credit for such legal skills as "How Our Attitude Affects Our Happiness (April 2019)," and "Lawyers are People Too! (April 2017)," for which I can get the same quality credits as I can for actually learning something useful in my area of practice. If you can find someone to combine any of those three subjects with something that directly affects my ability to practice law or better serve my clients, I'll be the first to sign up for them as part of my *general* credit requirements. - Steve Gross

In Support:

1. YES!! -Jill Higgins Hendrix
2. As a black Trans woman, I think the first one is great and wholly approve of the other two as well. - Cassandra Quick
3. I **strongly agree** with the proposal to amend APR 11 to require that an attorney take ethics credits in each of the three stated topics. -Ben Dietz
4. I support this amendment proposal and feel like it would strengthen the bar's commitment to advances in these key areas. Thank you for bringing this thoughtful proposal to the table. – Cat Connell
5. I support this proposal. - Shona Voelckers
6. I agree with the initiative :) - Amira Lahdiri
7. I think those all are critical components of lawyering and I support the proposed ethics amendments. - Suzanne Mager
8. Sounds good to me  But I should note that the odds of me having to actually worry about complying are pretty low... -Kurt Lichtenberg
9. I strongly support the proposal from the MCLE Board. I think tailoring the ethics requirements to the greatest ethics needs of today makes perfect sense. – John Butler
10. I like the three proposals. I also think you should consider giving the Rule 6 Tudors partial credit for their time teaching Rule 6 students. For four years, it was like going back to law school for me. – Steve Jolley
11. I am in favor of the proposed amendment under APR 11 to require one credit in each of the following subjects per reporting period: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. I am a licensed California lawyer, and the first two items are mandatory for California attorneys. I have taken courses in those subjects over the years and found them a good way to focus on matters that I otherwise might not have taken time to do. The third requirement would put us ahead of California! -Mary Lee
12. I think it is an excellent idea to require credits in the three proposed areas. - Sachi Wilson
13. I like the sound of each of those three required cle areas. - Alicia DeGon
14. I am in complete agreement with the idea of requiring education on bias, digital security etc. as currently proposed. -Dave Tift
15. I support the proposed rule change for the MCLE ethics credits. – Constance Proctor
16. I approve. -Scott E. Snyder
17. I think this is a great idea. Please implement these requirements. – Geary Reeve
18. Good changes. Each category is worthwhile – Richard Guy
19. I support the proposed changes to the ethics requirements to include one credit in each of the following subjects per reporting period: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. I think this is a great way of addressing a quickly evolving world. – Kaylynn What

20. These sound reasonable as lawyers must know a lot more than just the law in order to do justice. -Faith Ireland
21. I just wanted to write to voice my support for the proposal. I think it would help expand awareness of ethical issues that arise in the practice of law but aren't strictly RPC-type issues. -Rachel K. Roberts
22. Proposed changes sound good. Recommend approval. –Bill Garvin
23. I support the proposed amendment to the Ethics requirement for MCLE credits. -Laura Evezich
24. As the former head of training for the King County Prosecuting Attorney's office criminal division, I support this proposal. These are important areas that span all areas of practice. I think it is especially important for the bar to address the stress and addiction issues that plague our profession with required training. -Ann Summers
25. I'm fully in support of all three proposed changes, especially the addition of required mental health/stress/addiction hours. So many discipline cases are rooted in addiction and anxiety/depression. -Rob Mead
26. I agree. -James Workland
27. I am writing to express my support for amending the ethics requirement under Admission and Practice Rule (APR) 11 to require one credit in each of the following subjects: 1) inclusion and anti-bias, 2) mental health, addiction, and stress, 3) technology education focusing on digital security, per reporting period pursuant to the MCLE Board recommended amendments to APR 11. -Terry Vetter
28. I think the ethics amendment makes a whole lot of sense. These are three topics, which need, but do not get coverage. –Robert Zoffel
29. I am writing to express my support of the amendment to Ethics Rule 11, where all members of the WSBA would be required to complete CLEs that address issues of (1) inclusion and anti-bias; (2) mental health, addiction and stress; and (3) technology education focusing on digital security. Members of the Bar, whether they be attorneys, judges, or other legal professionals, play an influential role in ensuring both access to and actual justice for all. Completing a small number of credits that increase understanding and awareness of behaviors that can promote injustice, if unchecked, will improve our chances of realizing that ideal. -Carol C. Mitchell
30. I think the proposed requirements regarding 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security are outstanding. These are all areas that we, as a profession, ought to be spending more time and attention focusing on. Please let me know if there are any questions or if there is anything else I can do to show our support for the proposed amendment to APR 11. –Michael Edwards
31. I just wanted to take a brief moment to comment on the proposed additional subject matter requirements for MCLE credits. I believe they are not just valuable but necessary to the practice of law today and in the future. I fully support the amendment. -Justin R. Jensen
32. I would be in favor of seeing a proposal for the amendment to APR 11 regarding more specific requirements for ethics credits. -Jeremy Zener
33. Sounds like a good idea to me. I have been practicing law for 19 years, but I recently started my own firm. So, the technology education would be particularly relevant to me. -Daniel S. Houser

34. Yes, I think those are three important topics and would serve the bar well to make them requirements. I think all are critical for lawyers and the rest of society. - Marla Marvin
35. I support the amendment. These are each topical, important to the practice of law in Washington, and helpful educational information and reminders. -John Shaffer
36. Yes! -Anne Dalrymple
37. I think this is an excellent proposal. This would demonstrate the WSBA's commitment to the necessity of these topics as important components of a lawyer's ethical/moral compass. –Han Gim
38. Certainly, the three subjects are very important and I favor the recommendation to amend APR 11. -Kevin Curran
39. I think the proposed changes are sound and that they should be implemented. -L. Brooks Baldwin
40. I CONCUR WITH THE RECOMMENDATIONS! –Tony Menke
41. I am in favor of the amendment to the ethics requirement for MCLE. Currently, I am inactive in Washington State and practice in California. The California Bar has a similar requirement, asking attorneys to get education in elimination of bias and competence. I have found CLEs in these topics to be informative and helpful. The addition of a digital security is a good idea. – Rebecca Ball
42. I think this is a good recommendation. It's difficult to be aware of these issues without education, and, especially with regard to issues (1) and (2); awareness is well below where it should be. – Marta Lowe
43. I agree with the proposal to modify the MCLE requirements with respect to ethics. The three subject areas of concentration seem very sensible in my view based on my 15 years of experience in the legal profession as a lawyer. Since I often work with technology-related legal issues, I especially see a need for attorneys to keep current with some technology education. –John Chandler
44. This is a great idea, particularly regarding the mental health, addiction, and stress portion. The rate of mental health and addiction issues in the legal profession is notoriously high, and from what I've seen, we've only recently started to really recognize and address the prevalence and impact on the profession as a whole. As a result, it's important to continue to increase awareness of these issues, so requiring one of the ethics credits to include these issues is a very positive and necessary change. -Bianca Stoner
45. I agree with the proposal. -Andrew Mankowski
46. I think the proposed change to APR 11 is probably a good idea. -Patricia Halsell
47. I'm in support of the proposal to amend APR 11. Lawyers need to keep up with the times and the changes in demographics and clientele. It would be especially helpful if the WSBA provided a list of free or low-cost CLE that would fulfill the potential new requirement. –Richard J. Glein, Jr.
48. This is a fantastic idea. I support it -Camille McDorman
49. I would like to register my support for the amendment to APR 11 to require one credit in each of the following subjects per reporting period: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. These are critical

topics to advance ethical practices in the legal field, and I believe the change will result in more relevant and useful ethics education. –Sarah Leyrer

50. I am in favor of the three topics proposed by the Board. –Bill Kiendl
51. I write to urge you to support the amendment to require one ethics credit in each of these three topics: Inclusion and anti-bias, mental health and addiction, and technology security. –Annie Benson
52. I am writing in support of the proposed amendment. Please let me know if you need a more in-depth comment. – Sara Sluszka
53. I am writing to fully support the following proposal: The preliminary recommendation would amend the ethics requirement under APR 11 to require one credit in each of the following subjects per reporting period: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. This does not include a recommendation to increase the total number of ethics credits required for each reporting period. Instead, it requires that three of the ethics credits be in the identified topics listed above. Ethics training on anti-bias and inclusion is long overdue as a requirement for legal education. -D'Adre Cunningham
54. My short response – I think this is a great idea. Particularly the technology education/digital security portion. -Luis F. Aragon
55. I am writing to voice my support for the proposed amendment. Requiring CLE credits in the three proposed topics seems like the bare minimum and I would actually like to see the requirements for CLEs on inclusion and anti-bias and on mental health and addiction be increased to more than one hour each per reporting period. It is absolutely critical that both topics be addressed meaningfully if we are to effectively serve our community. I appreciate that steps are being taken in that direction. -Youn-Jung Kim
56. I fully support the proposed change for two reasons: as a gay woman in her 50s, I have seen people with different privileges barge through their careers, completely oblivious to how the system opens doors and windows to them. And, as someone who ruined her health and abused her body (by not alleviating stress and internalizing vicarious trauma) while practicing under difficult circumstances (providing legal aid to low-income tribal members), we all need to recognize stress and how take care of ourselves while practicing. There were court staff members and members of the bar who made my life consistently stressful. Practice should not be so difficult because of individual personalities and unwritten rules. Also, we all need to be aware of how bullying affects our enthusiasm for our jobs and our daily happiness. There is a pro tem commissioner in Spokane County who interacted with me as opposing counsel and who bullied me and my client and acted dishonorably with us. I would like to have avenues in place (besides reporting his behavior to the Bar) to rectify or address this kind of reprehensible practice. I'm not going to report someone who confuses skillful application of the rules with boorishness (not returning phone calls in a timely way, lying directly or by omission, misleading the court about facts etc.,). –Anne McLaughlin
57. I support the recommendation. I am aware that California has MCLE requirements relating to inclusion/diversity/bias and substance abuse; I am not sure if other jurisdictions do as well. –Margaret Chen

58. I agree with the recommended changes. –Darcia C. Tudor
59. I support the change in ethics requirements discussed below, particularly the requirement to complete a CLE regarding inclusion and bias. –Jennifer Slagle Peck
60. I write to support the proposal. The required ethics topics (inclusion and anti-bias, mental health and addiction, and technology security) are important to the practice of law. Moreover, I believe that many in the profession lack an adequate understanding of these topics; further, many have a tendency to discount the value of these topics because they don't understand them or have misconceptions about them. Including such topics for all members of the profession within the ethics requirement is a great way to encourage a foundation of understanding in these topics and better serve clients. –Dan Shih
61. Responding to the email about the proposal to have the 3 credits for Ethics requirement fulfilled by 3 different topics. I think it is a great idea and would further add that I would support 5 credits of ethics if fewer general credits were required. –Soheila Sarrafan
62. I support the proposed subjects being suggested as mandatory programs for CLE Ethics requirements. I do believe that the CLE Board must generate programs on these subjects, and make them available on the Bar Website, to assure access to these programs for all Bar Members. –Mark S. Allard
63. I'd like to express my strong support for the amendment to APR 11 proposed below, particularly regarding inclusion and anti-bias. –Ada Danelo
64. I support the proposed amendment recommended by the WA Supreme Court MCLE Board. – Aileen Novess
65. I support specifying the three areas of continuing education for ethics credits. -Waltraud Scott
66. I write to express my strong support for the amendment which would add inclusion and the reduction of implicit bias training as a CLE requirement. -Laura Wulf
67. I support the proposed amendment to APR 11(f)(2)(iii) to cover both implicit and explicit bias. – Margaret Pak
68. I have read the proposed changes to APR 11 and agree that this is a necessary change. Gender bias and racial bias should be addressed and many professionals deal with clients and colleagues with mental health issues as well as addictions. I also agree that digital security is a real problem that needs to be addressed. Having worked for large firms and small firms, it is easy to see how a small firm struggles to keep their technology secure and up-to-date, not to mention the expense. It might also be an opportunity to share experiences, pool resources as well as discover new issues. As a member of the California Bar Association, we already have some of these requirements in place and has created interesting and informative CLEs. I approve of these proposed changes and hope they well received. –Catherine Pope
69. I fully endorse the recommendation for all three ethics credits. Sadly, bias and exclusion of persons in employment, education, civil and military service, housing, etc. appears to be on the rise. Not only are there numerous reports of instances of overt discriminary statement and acts, subtle instances of exclusion and bias seem to occur with increasing regularity. In over 30 years of practice I have personally counseled numerous attorneys regarding stress, addiction, depression & anxiety, etc., referring many to my firmer firm's Employee Assistance Program, WSBA services, and private addiction and mental health counselors. A CLE directed to identifying

mental health, addiction, and stress issues, minimizing their occurrence and effects, and obtaining expert assistance when needed is appropriate to reduce personal sufferring in our profession. Technological advances have forever altered the mechanics of the practice of law. Courts, goverment entities, news services, businesses, and individuals are abandoning paper in favor of electronic means of communication. Understanding basic concepts of metadata and blockchain to aid in eliminating or limiting access to protecting confidential, private, and personal information is necessary for every practitioner. Moreover, failure to take appropriate action to ensure the security of confidential and privileged client information exposes unwary attorneys to violations of their professional responsibilities. Thank you for advising of the preliminary recommendation and seeking comment. -Michael H. Weier

70. I support the proposal to change APR 11(c)(1)(ii) and 11(f)(2)((i), (ii), (iii), and (iv) as shown in the MCLE Report and Preliminary Recommendation. The real change is to make some of the options for CLE compliance, that now appear in APR 11(f)(2), mandatory instead. I think the proposal is a reasonable one and addresses legitimate concerns. -John M. Gray
71. I am writing to indicate my support of the proposed changes to APR 11. I think it's important for all legal professionals to stay educated about all the topics being added/included as mandatory, for the health, safety and improvement of our practitioners, clients and community. We continue to evolve and our educational requirements should grow as new issues arise and new insights into issues are discovered. -Lisa M. Keeler

Other/Mixed Feedback:

1. CLE requirements focusing on technology and digital security make good sense. Addiction and mental stress as a required issue for ethics? I'm not sure that makes sense, but am somewhat neutral. "Inclusion and anti-bias" is far too vague to be fully comprehensive, but it sounds a lot like the kind of politically charged nonsense that is causing so many of us outside of Seattle to lose faith in the Bar Association as it is currently structured. Politics do not belong in the bar, and the bar should not impose leftist ideology on the rest of us any more than the bar should be mandating Judeo-Christian values. We are lawyers. We need not all adhere to the same political views, nor do we need the bar to dictate political orthodoxy. –JD Bristol
2. It seems like the motivation for this amendment is to embed the "race equity" concept into the CLE program. This is a great idea, but we can make it better. Diversity education is so important that we should not be placing financial barriers in the way of providing it to everyone. So, the Board should vote to produce 45 hours of on-demand/ 24/7 ethics and diversity CLE, and post it on YouTube for free access by all WSBA members. If it is important for the WSBA to employ dozens of staff members to promote "Diversity", it is likewise important that their messages get the widest distribution possible. Free ethics and diversity CLE will produce this result. I will be happy to produce 5 hours of free Diversity CLE to get the ball rolling. If the Board provides the remaining 40 hours, then all WSBA members will have access to FREE CLE as a membership benefit. –Edward Hiskes
3. The three CLE ethics topics cover a wide and important range of issues in the field. Since the topics are rather specific, I think it will be important for the WSBA to provide CLE courses that meet these requirements, preferably at no charge or a very moderate/small fee. –Anonymous
4. I would support #3, as digital security directly relates to the duty to keep client information protected and confidential, which, as we know, increasingly depends on use and management of electronic systems of which lawyers have little practical knowledge. Inclusion and anti-bias content is already included in a variety of CLE programs, and I believe all lawyers (and most people for that matter) are otherwise aware these topics are both culturally and legally relevant in our society. If the Bar proceeds to make an amendment to include the spirit of #1, I would like to see the requirement referenced to RPC 8.4(g) and (h). Meaning, that at least one credit would be required for approved courses related to these subsections rather than using terms of “inclusion” or “anti-bias,” which are not found in those rules. If RPC 8.4 (g) and (h) are not the focus of #1, it would imply that the committee wishes to force some type of social or political agenda on members, which would not be appropriate, and therefore should not be required for maintaining professional licensing. With respect to #2, mental health, addiction, and stress are, to the extent experienced by an individual, personal life-matters relevant to our entire society and have no unique or specialized relevancy to lawyers or the practice of law. I don’t believe it is appropriate for the Bar to require education on those subjects in order to maintain professional licensing. Instead, I would like to see mandatory education on subjects like client communication skills, managing the client relationship, and other such skills lawyers need in order to optimize the overall client service experience but don’t learn in law school, and all of which directly relate to the RPCs. –Sands McKinley

5. While the APR 11 proposal seems like a well-intentioned good idea, I nevertheless suggest that the three special credits be recommended rather than mandated. I would take these three particular CLEs if they sufficiently available to me, but I do not want to be disbarred because I was unable to attend these particular CLEs. Because they are so specific, their availability would be inherently limited. Ethics CLEs are already limited, and the MCLE Board proposal would be make that problem substantially worse. Besides being recommended, not mandated, the three specific CLEs should be readily and freely available as legal lunch box CLEs, or as free downloads of some sort. In that case I would gladly comply. – Steve Cross
6. There are too many ethical violations as it is going around, and prioritizing them can subtract from the ethics credits that some lawyers need and want more than others. Lawyers should decide what they need since there is a also a wide diversity in types of ethical impairments of lawyers. As far as I am concerned the CLE ethics requirement is already too low. I don't mind additional CLE requirements for diversity but please don't subtract that from the already too meager ethics requirements of 3 credits a year. –Kenneth Henrikson
7. No objection to the proposed amendments provided the WSBA provides MCLE courses in the 3 areas available by webcast throughout the state/country. –Paul Clark
8. This sounds like a very interesting proposition. It might be good for large law firms or firms that rely on jury selections. However, I am not really sure that I understand how it assists me in improving my merger and acquisition practice. –David Carson
9. The addition of the technology requirement, particularly in light of the ever-present bombardment on our personal data, is crucial. The more hands on and practical these sessions, the better. Bias provision: In recognition of the disparity in the legal field, the bias provision sounds good – and intuitively it makes sense. I have two comments/questions: 1. Are there studies showing that these kind of programs are effective in improving diversity? We will be spending time and paying quite a bit of money—across the whole bar—to fulfill this requirement. Is it of value? 2. My second comment is more subtle – the word 'inclusion' seems to be jargon. I certainly don't need to spend time on sessions that are just feel-good or touchy-feely about living better together and including people who don't look like me. Mental health provision: My comments here mirror those above. Similarly, it makes sense intuitively. Is it effective? Availability of courses: One concern related to all three of these provisions – particularly since they're so specific – is the availability of attractive options to fulfill the requirement. I have found the Ethic CLEs are harder to find than the regular credits. We'd be multiplying this difficulty by 3 if all three provisions are included in the CLE requirement. – Cynthia Cannon
10. First, I'd like to commend the effort. I think that much of the stress of practice arises from the unacknowledged lack of awareness of stress itself, and the many ways the practitioner of micro (or larger) aggressions is unaware of their commission. The law is not a gentle profession, but it is sufficiently challenging to justify extraneous challenges created by habit or unconscious behavior. I would add the time for the proposed reallocation to the total hours required, and not substitute for other ethics credits which I do not think should be replaced. –William Appel

11. I am in favor of the amendment only if WSBA provides free noontime CLEs (WEBCAST Legal Lunchbox) each year on each of the three topics (inclusion and anti-bias, mental health and addiction, and technology security). –Leona Bratz
12. I am not opposed to the amendment so long as all three credits can be covered in one face-to-face of on-line CLE session. –William Kinsel
13. I am writing in response to the proposed rule change for MCLE ethics requirements. I am generally in favor of increased ethics education since it affects behavior in the profession. I am particularly in favor of the rule concerning education on stress and lifestyle issues. I am, however, opposed to a mandatory course on inclusion and bias. Those are important topics, but I do not believe that they can be taught in a neutral and apolitical fashion. I worry that the end result will backfire on what I am sure are very good intentions. Specifically, I worry that sessions on such a topic, if made mandatory, will have a high likelihood generating antipathy among individuals who might otherwise be open to such training, or worse, devolving into outright acrimony. I think training on this topic is best left to employers, should they wish to mandate it. I think the bar will be treating itself to incredible headaches if it attempts to impose that same mandate on all lawyers. I hope you'll consider these comments. –Benjamin Reichard
14. Per the request for initial feedback regarding the proposed amendments to APR 11 for specific ethic topics for the MCLE requirements, I have 2 concerns/recommendations: 1) I am concerned that few courses would be available to meet the specific topic of the proposed new requirements, especially for the proposed technology security area. I note in the supporting documentation that only 2 states, Florida and North Carolina, currently require technology security. I recommend that the Technology Security requirement be delayed until another major state, such as California, Texas or New York adopt such a requirement so that members would be assured that needed CLE courses are more readily available. 2) I recommend that any new requirement should be effective with the next new 3-year cycle that an attorney will begin. That way these specific, rare new CLE's could be obtained over a normal cycle rather than putting a new requirement onto an attorney who may have already fulfilled that category under the current rules or leave little time to meet the new requirement. Moreover, an attorney may have already met the requirement but the proper designation for the CLE was termed as a generic ethics credit rather than a specific type of ethics credit, thus imposing confusion and re-work to get it recategorized and recorded properly. - Mark J Koslicki
15. I am writing Comments to the proposed Ethics CLA requirements (proposing to include one credit in each of the following subjects per reporting period) as follows: (1) YES - inclusion and anti-bias - I think it is imperative to have ethics requirements focused on this issue and would actually propose this be two credits not one. As a professional woman in her 50s, it is appalling still how many lawyers (old and young alike, and sorry, mainly men) who truly need sensitivity training and knowledge in this area (not to mention LGBT or racial and ethnic inclusion and anti-bias). I am very happy to see this up for comment and fully support the inclusion into the WSBA Ethics CLE requirements. (2) YES - mental health, addiction, and stress; - I think this is definitely an area for awareness and understanding for lawyers, especially since we are so competitive and problems with mental health, addiction, and stress in our colleagues are often brushed under or used to shame lawyers who "couldn't cut it" or "can't handle it" and drop out of the

profession. Those who gain more understanding and empathy in this area are going to make better lawyers (in my opinion) and help their colleagues deal with the real issues around mental health, addiction, and stress in order to help them stay in the profession. I am very happy to see this up for comment and fully support the inclusion into the WSBA Ethics CLE requirements. (3) NO - technology education focusing on digital security. - Honestly, although this is very important generally for businesses and lawyers, and should be offered in CLEs as a topic, but I do not see the necessity to have a full credit CLE requirement on this topic. I would rather see two credits for item (1) and strike this one, or add another on a different focused topic (like whistleblower protection or other compliance topic) that has more ethics focus. Digital security is not an ethics topic per se (and technology education certainly is not) and making it one for lawyers is not really a good idea. I think that placing lawyers as responsible for digital security compliance (where often small firms/businesses do not have this capability, and larger ones have whole departments of IT specialists for this type of security) places a strange burden on lawyers in an area where they generally do not have expertise nor have the best skills to deal with it, nor have the hands-on time to develop these skills. This is not a legal ethics topic in my feeble mind. I do not support this one and think it should be struck. I also noticed that the materials discussed taking away a certain # live attendance credit CLE requirement. I fully support this. I work offsite for a tiny company that does not support CLEs, and I have to pay thousands out of pocket annually to attend live courses and spend the time travelling which is far less efficient than an online course. The quality of the CLE and its education (for the receiver) is less dependent on live courses - I have had excellent CLE webnars and video courses over the years, many of which are offered online through the WSBA. While I am a true believer in live courses and the networking opportunities that enhance my practice (the non-CLE aspect of these), I do think that the bar should recognize that not all lawyers are supported in this manner, and it can be very difficult and expensive to attend live courses. –Jenifer Johnson

16. When do the proposed changes go into effect? I currently just work pro bono. I comply with the CLE requirements through Lawline, $199/ unlimited courses for a year. Who will be putting on the new required CLE's? Will they be free? Do the RPC'S already cover some of the topics? I am not opposed, I just need more information. If the new rules happen immediately, then I feel the CLE's should be offered by WSBA free of charge and available online. If the bar association and other bar associations agree that we need to be educated on these topics, then they should be offered free of charge. –Debra Hannula
17. This idea is a great one, however..... it is very very difficult for those of us in the hinterlands to find things so specific. Most ethics is pointed to how not to violate RPCs and not committing malpractice. I THINK the focus should be on more trainings in many areas: trams, child development, bias, poverty related issues. There are lots of them. I hope the Bar expands it programming beyond self-serving issues. –Sally Lanham
18. I believe that there is merit for inclusion of item 1, but not the others, which I believe are adequately covered by ethics requirements. -Julian “Pete” Dewell
19. How would this work for out of state attorneys whose states may not make an effort to accommodate this changes as will surely happen in WA state? – Stephen French

20. Please exempt any bar member with over 10 years experience from having to take a CLE on "inclusion and anti-bias." Such attorneys are too far from the university atmosphere to be able to sit through it. –William O Brien
21. It's difficult to take any such proposal seriously when the cover letter isn't written in proper English: " . . . in regards to ethics credits requirements, Should be "in regard" It's always upsetting when I find we, the Bar, are actually paying people who don't use proper English. Maybe see the comment on https://www.google.com/search?q=grammar%20in%20regards%20to&ie=utf-8&oe=utf-8&client=firefox-b-1-m -M. Laurence
22. In response to your request for input, I'd just like to comment that while I have no issue with requiring the different types of ethics credits, I'd like to know if the WSBA will provide complimentary CLEs covering these new topics to ensure that the credit requirements can be met. As a non-practicing attorney, I have found that I'm able to fulfill my credits through the WSBA and ABA complimentary CLEs but I can't say that I have seen a huge variety of ethics credits. –Kathy VanYe
23. I'm not currently practicing, but I am planning on taking CLE courses to get my license reactivated. If topics like unconscious bias, mental health awareness, and cyber security aren't covered elsewhere in mandatory training, this sounds like a good change. Thanks for the email about this, by the way. Working for the federal government, I take cyber security training every year. It didn't occur to me that it might be worth CLE credits. I will look into that too! –Carmela Conroy
24. I do not object to the ethics requirements revision, so long as the WSBA offers those credits in LunchBox CLE or similar format, because otherwise they can be inaccessible. –Natasha Black
25. I'm all for it!!!!! these are important topics. As long as the bar makes enough CLE's available in these categories it is a GREAT idea. –Jessica Neilson
26. While I can see that anti-bias training might fit in under ethics, the other two proposed categories, mental health and digital security would seem to be replacing ethics training with something different. So I am wondering if you are now suggesting that less ethics training is acceptable? Overall, I do not have a problem with the proposed changes as long as courses that meet the requirements are actually available. -Margaret Felts
27. Yay! But also think more ethics credits would be good. -Marilyn E. Siegel
28. I think mental health, substance abuse, stress management should absolutely included. Regarding cybersecurity having a specific requirement is a bit overkill. Perhaps requiring that in order for an ethics credit to be approved by WSBA, the presentation should be required to touch on cybersecurity. For younger lawyers and those who are more technologically inclined, sitting through an hour on cybersecurity is a waste. - Brooks de Peyster
29. I understand and agree with requiring ethics credit for inclusion and anti-bias and for addiction, stress, and mental health issues. Attorneys and our clients face these issues daily. I am not sure what is even meant by the third category. If what is meant is education on technology security why is that under ethics? If it is about safeguarding client information then say that. As it is the technology proposed rule seems too vague to be able to either support or not support the change suggested. Specifics please. –Ken Williams

30. I agree with the proposal provided that 1 hour CLE courses are offered as Lunchbox seminars. – Don Kelley
31. I like the new ethics topics, just be aware of the extra expense burden as these topics might not be available through national discount CLE providers. –Steve Morgan
32. As a member of the WSBA living in Europe, I am fundamentally opposed to the first two of these proposals. I will not find courses like this in Europe and it will make it more difficult for me to maintain my license. Moreover, these are political, social and health issues, not ethical issues, and should be addressed in some other way. With regard to the third proposal, I have no objection. This does attach to privilege, confidentiality and a host of other ethical issues. - Jim Firn
33. I became a member of the WSB in 1972. I appreciate the motivations behind the proposed changes, but it will be particularly hard for out of state practitioners. I have practiced federal income tax in Washington, DC for 40 years, but I have maintained by WSB credentials throughout. I have no trouble amassing technical CLE, in part because I teach at so many seminars. But ethics credits are hard to come by. DC has no ethics requirements so there are virtual no offerings. I use recorded CLE from WSB offerings, but I have not seen any on the 3 topics. If the requirement is added, WSBA needs to assure that there are frequent offerings that are available in webinar & recorded versions. - John B. Magee
34. While I like the idea of having some specifics around the ethics requirement, the one around technology education feels oddly specific, unlike the other two. I would think lawyers of any type of practice would benefit from anti-bias and mental health/stress education, but only certain practice areas would benefit from technology education focused on digital security. I practice in the area of K-12 education and I feel like I would be taking a technology MCLE simply for the sake of meeting a requirement, rather than seeking to learn and apply the knowledge to my practice. –Holly Ferguson
35. As someone practicing outside of the state of Washington, my concern is whether it would be difficult to meet these additional ethics requirements locally. Is inclusion and anti-bias a common topic nationally? Is substance abuse and mental health (that one is a requirement here in North Carolina, but I do not know about other jurisdictions). I think technology education is increasingly common, but I don't know about digital security. To the extent that these are unique requirements to Washington, these may be difficult to satisfy for those attorneys outside the state. –Andrew Kristianson
36. I would support such an amendment, which would in turn ensure that there were CLE offerings that were diversified to at least cover those three identified areas. Although not part of the inquiry, I would also support increasing the required credit hours in ethics to a number greater than the current amount with the hope that each CLE could go more in-depth using different instruction-based formats. –Karen Skantze
37. I don't think I should be "required" to take those topics. I have no interest in # 1 & 2 and see no reason to be forced to pay for CLEs in those areas. Digital security effects me, my clients, and opposing counsel so I don't object to that. Additionally, based on what I've seen practicing law, better "requirements" would be the ethics basics. Topics 1 & 2 can be "offered" rather than "required" to those who think it beneficial. –Cynthia Stewart

38. After reviewing the proposal, the only feedback I have is to consider how to phase in this requirement. Attorneys who have a year left of their reporting time may struggle to find CLEs that fulfill the expanded scope of ethics areas where credit must come from. Also, I would assume that the MCLE Board did it's research into available courses that would satisfy these requirements. The WSBA CLE website should be updated to allow users to easily find courses that provide content in these new areas. –Lisa DeFors
39. I am in favor of the elimination of bias as a required area for ethics credits. I think this is important. I think we need to take responsibility for changing our profession and our community. A new requirement sends a powerful message that this is important to the profession, even if many of us benefit from the status quo. It is a fundamental justice issue. I support this new requirement for those reasons. I do NOT agree that we also need technology and mental health / addiction credits added as additional required ethics subcategories. At some point, this just gets too complicated. Elimination of bias is something I can buy into as a priority for the legal profession. These other areas - no. It is fine that we can get credit for instruction in these areas. We do not need to add more and more requirements just because we are adding elimination of bias. The efficiency argument (we are going to have to add these other two categories someday, so let's do it all at once) fails on two levels for me. One, no we do not need to add these eventually. We do not need to add them EVER. Elimination of bias credits are nothing new nationally and we are just now getting around to thinking about it. There is nothing mandatory here. It is our WSBA and we can make different decisions in the future. Two, why should we make so many changes at once? Is there something inherently better about adding three new categories at once as opposed to phasing in new categories? I think not. It seems reactionary. To be blunt, it seems hastily conceived, although I am sure it is a well-intentioned suggestion. If elimination of bias is important enough, add it and leave things alone for a while. I am not interested in the tech security topic. I would personally resent an additional requirement to study these issues. I am interested in the addiction and mental health topic. I think it is very important information. I appreciate the WSBA CLEs I have attended on this these topics - they have been excellent. However, making this a requirement is not appropriate, in my opinion. Self care is a big umbrella. I think the WSBA is doing enough already to put the issues on our radar. Just because something is important does not mean it needs to be a mandatory requirement. My suggestion: put more money into producing free CLEs on these topics rather than adding a mandatory requirement - that would support the assistance and awareness aspects without creating a burden for practitioners. It would actually reduce burdens. That would be a win-win. It also - in my opinion - waters down elimination of bias as a policy priority to lump it in with mental health / addiction and tech. They are not the same kinds of things and should not be treated as though they are. The impact of discrimination is trivialized by doing so. This is the wrong message to send to the legal community and to the public. - Victoria Kesala
40. I completely and wholeheartedly endorse the proposal to amend the current MCLE ethics education requirements, with requirements in the three specified areas of education: 1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security. As a retired King County Superior Court Judge, and a former sole practitioner for most of my years in practice, as well as one of a small percentage of women in

the WSBA during the first half of my legal career, I can attest to the need for current -- and ongoing, every year -- anti-bias education for all Bar members. With the current -- and increasing -- diversity in the WSBA, ongoing consciousness-raising and education of all attorneys and other active members of the WSBA, is essential. Anti-bias education will also necessarily include education about sexual harrassment in the workplace, and also in attorney-client relationships, which everyone needs. Furthermore, as an attorney who practiced almost entirely in the pre-digital era, the emphasis on education on digital security is excellent. Even attorneys of the "digital natives" generation need to be educated about how to protect their clients' confidentiality from breaches which hackers and platforms which are not secure from hacking allows. Finally, the proposal to require some minimal annual education about professional/personal life balance, mental health, addictiion and stress is long overdue. The number of complaints the WSBA receives every year (which we all know are a tiny fraction of behavior we all witness in practice and from the bench (and with colleagues on the bench!) only confirm the importance of placing a value on this type of education. The intersection between personal poor health and professional responsibilities is pervasive and perilous territory for all WSBA members. The rule should specify the subjects to be allowed in approved MCLE educational courses, however, so that taking a 3-hour session of yoga, for example, does not satisfy the requirement (and I write this as a yoga practitioner and proponent myself). My only suggestion for possible amendment of this proposed new requirement would be that WSBA members be allowed to choose to take 3 hours total in these subject areas, perhaps limiting the number of hours in one field to 2. This might allow for a bit more in depth consideration of any of these important areas, at the election of members. The proposal is a great one by the WSBA Board, and I hope it will pass with full support of the Board, as proposed, or with any minor modifications which might be suggested in feedback sought by members of the Bar and judiciary. Good luck! –Harriett Cody

41. Laudable goals, but my concern is it might make fulfilling required CLE credits too complicated. – Don Wittenberger
42. Your effort to broaden and update scope of CLE education it to be commended.However, each of the proposed areas may be more or less relevant to individual practice areas. I would suggest either “two out of three” or broaden the “menu” and make it “three out of five” so individual attorneys can continue to make appropriate individual choices based on their practices. -Tor Jernudd
43. Has the MCLE Board considered whether there will be trainings readily available linked to these three subjects- inclusion and anti-bias, mental health and addiction, and technology security, at a reasonable cost to all WSBA attorneys, including attorneys who practice in less metropolitan, rural areas? –Anonymous
44. I would be OK with this proposal if all of these were covered by free CLEs, such as the Lunch-box CLEs provided earlier this year (which covered all three of these). While I think technology education focusing on digital security is a good idea, I don’t think it falls in the ethics bin. For ethics, I think something relating to using digital media for purposes that may reflect poorly on the legal profession (and/or may reveal confidential information) would be more valuable. Granted, poor security could result in compromises to client information. –Alan Burnett

45. They are not ethics but should be mandatory and presented free statewide. –Bob Beaumier
46. Curious how that will work for comity with other state bars' CLE? I am all for the materials, but hope there are a variety of offerings. When other states have rolled out requirements the lack of program options has proven a challenge. Also might be a good idea to establish standards for evaluating when CLE categories will be expanded. Traditionally there were only professionalism and ethics. There has been a trend to add categories and once that door is open it will be tempting for special interest groups to think attorneys all need to be educated on their interests. Standards can help manage that evaluation to prevent future allegations of subjectivity. -David Shirk
47. I would request that the rule not be applied to those of us who are satisfying our ethics requirements by showing CLE compliance in another state. I practice in Oregon and we have separate ethics requirements, such as Child Abuse Reporting, Diversity and a new requirement: mental health, addiction, and stress. So it looks like Oregon and Washington overlap on 2 out of 3, but it would be nice not to have to manage the different and changing requirements of both bars. I hope I can still use compliance in Oregon to satisfy my Washington requirements. –Mary Del Balzo
48. My initial thoughts are that number 1 and 2, without more specifics on application, do not really have to do with Ethics training, but mere humanity. Number 3 on digital security does relate to ethics from a protecting client confidence standpoint, but I am not sure we need to spell it out as a separate are that needs 1 MCLE credit each reporting period. It is so much part of what we do, it should just be part of our discussion. But those are just my initial thoughts…and in no means represents the importance of the topics, just my opinion as related to ethics training for lawyers. –Heidi Baxter
49. WDA has more than 1600 individual attorney members who attend dozens of WDA sponsored CLE's each year and represent the bulk of the low-income individuals in the state who are charged with a crime or otherwise entitled to public defense in a civil matter like a child welfare proceeding. Understanding issues of inclusion and anti-bias and mental health, addition and stress are essential skill sets for any advocate working in our justice systems and in particular in public defense. I would support the addition of insuring this focus as a part of lawyers continuing legal education. –Hillary Behrman
50. In general, I support the proposal to include instruction in each of these areas, but I would strongly suggest that for each three-year reporting session, only two of the three areas be required as part of a lawyer's continuing legal education requirements. I base this upon my participation for the past 37 years as a member of the Oregon State Bar Association which has imposed similar requirements for several years requiring courses on (1) Child Abuse Reporting Requirements and (2) Access to Justice. There used to be one other required topic area, but that topic was eliminated a few years ago because of public outcry from participating Oregon State Bar members. What I have learned over the years from fellow Oregon Bar members is virtually all of them think the promotion of learning and understanding in those areas is valid and helpful, but they often resent having to take the same or similar classes every reporting period for as long as they are lawyers. While the Technology Security area may change enough that new topics and areas of coverage may evolve over time, Inclusion and Anti-Bias and Mental

Health and Addiction can be covered fairly comprehensively over two or three rounds of required CLE courses. Using a rotational method of requiring courses seems to me to stretch out the time periods and allow good coverage with "refresher" courses down the road as an added benefit. Simply requiring repetitive courses in the same topic areas year after year becomes monotonous and unhelpful to most lawyers and those intended to be benefitted become resentful at the repetitive nature of the CLE requirements. Those are my thoughts from many years of complying with the same types of courses in Oregon. I would invite you to speak with folks in the Oregon State Bar offices for their perspective. –James Horne

51. My response is that if these three areas are required, that an ethics piece covering all three be included in most if not all of the CLE courses, regardless of the subject of the course. I am retired, but maintain my license, and my selections of CLE courses is limited. I would not like to have to take a $400 CLE course I don't want, just to pick up an ethics credit in one of the three targeted areas. –John Davis
52. I am all in favor of (3) technology education based on digital security. I think this is very important and timely. –Kerri Davis
53. The topics in ethics are too narrow for bar members to find CLE providers that have such topics as: 1) inclusion and anti-bias; California had a requirement called Bias in the Profession; but, generally the idea for topics is too limited. 2) mental health, addiction, and stress; this is a matter for psychologists or medical experts -- it can be a general law requirement, but is too narrow the topic so that only a few providers have courses available on these topics; and, 3) technology education focusing on digital security; I am also a graduate engineer and I find this topic overly technologically complex; this topic would be difficult for even doctors, scientists and engineers to understand or explain. All the above topics should perhaps count for the current ethics credit generally; for now, the only winners would be providers who charge at least 3 to 4 times the price for such courses. Also, these topics are too narrow to relate to the practice of the majority of WSBA members. At least for the first 5 years after the adoption of the Proposed rule, the WSBA should offer webinars at no additional cost to its membership as a trial run of these three ideas. An expanded legal clinic program would benefit society more than theses narrow specialized topics. As the saying goes, it is like putting lipstick on a mountain lion; the lion is already king! –L. David Rish
54. As a lawyer who practices overseas, I cannot get those courses here in London, unless an exemption is made for foreign lawyers. So, if that Rule is adopted, I will be forced to go on inactive status. - Malcolm Katz
55. I think this change is acceptable. I think the topics should include those issues as they relate to clients as well – for example, dealing with a client with inclusion/bias issues or mental health/addiction issues. –Maren Calvert
56. My question is whether this would change the current rule that meeting a cooperating state's reporting rules (in my case, OR) will meet the WA reporting requirement? –Mark Golding
57. Is the Bar going to offer courses on these subjects? Should be part of the proposal. –Michael Flanigan
58. I am in favor of making the first topic mandatory, but not the other two. –Jeff Miller

59. I don't support this proposal, as stated, because it does not include an increase in the overall ethics credits requirement. Continuing education in the traditional areas for Ethics CLEs continues to be needed. Six credits over three years seems increasingly small, as the years go by. The proposal potentially diminishes the amount of overall education to the WSBA membership in important RPC topics such as trust fund management, conflicts of interest, professional duties, et al. If required, I would add to the overall ethics requirement, or create a different class of credits altogether (e.g. Professional Developments). I would not rob Peter, to pay Paul, as it is said. Also, it is tempting to group these three subjects together. They are important subjects, but categorically different. I think the need is greatest for techno-ethics education and guidance, as technology can be completely foreign sometimes. I feel like this is a subject everyone is still chasing, and of great importance to both the public and membership. If I was going to "rob Peter to pay Paul," I'd do it for this topic alone. I also wonder who will teach these courses, particularly in smaller communities. Perhaps on-line courses will work, but when requiring everyone in the bar to take something specific like this, it seems teaching capacity becomes an important consideration. Perhaps WSBA will post opt-in recordings for free on-line, which can be accessed any time. I've practiced in NW Washington for over 20 years, and have organized and taught many CLEs. Some subjects are easier to find teachers for than others, and these seem like tougher subjects for good teachers. –Scott Railton
60. I am opposed to the recommendation, in general the simpler and less involved the administrative requirements are the better in my opinion. However, if the intent is to make sure the membership has had training in the identified areas, why not create a mandatory training module to be completed each reported period that covers all the topics? I am in the Navy Reserves. We have GMT's (General Military Training) certain topics all members must complete annually. Pretty conveniently handled online. Could the Bar do something similar to make sure our membership has had exposure to the 3 subjects (if that is the goal)? Thank you for considering my perspective. –Steve Franklin
61. I see you are the point of contact for feedback about the proposed change to APR 11 noted below. I think it's good to highlight some of these issues like diversity and inclusion, but that changes to the ethics credit requirements aren't a good way to promote awareness about these topics. It's hard enough finding ethics credits, and the brunt of a policy change like this would fall mostly on the solo and small firm practitioners that already have to scrimp and carefully plan to complete their ethics requirements. Government and corporate attorneys will have an employer paying the bill or organizing a group training for them to obtain these narrow credit requirements, but for the rest of us, I think these changes will create headaches and additional financial pressures. Has the Bar considered requiring these credits as part of general MCLE credits attorneys could complete, irrespective of whether or not they were ethics-related? Or has the Bar considered ways of promoting awareness about these topics other than requiring specific additional MCLE credits? –Walter Smith
62. My recommendation is that bar work with a CLE provider to develop the three programs that you would like to require and then make them available on the Bar's website for us to take at little or no charge. It is often difficult for us to find these very specific specialized programs

through our regular CLE provider. For example, I use a service provided by LexisNexis CLE and I always have a hard time finding the ultra specific credits. –Casper Rankin

63. Washington, from my perspective is unique with respect to its 6 ethics credits requirements over multiple years vs. a single year requirement. Other states I have found have 2 credits annually. The difference is the local state CLE programs have two subjects they present annually for the benefits of their respective lawyers and this is a routine matter to ensure all lawyers meet their requirements wherever they live. I am a member of three state bars--along with Washington I belong to the bars of Iowa and Kansas. I live in the Kansas City metro, so my CLE options are presented by both Missouri and Kansas, the most popular hosted via the University of Missouri, Kansas City's law school program.In concept, I think your three categories would make for interesting presentations. I attend extra seminars each year for my own knowledge base and some of the best have been over ethics and technology, both technology available to lawyers to do their jobs, and technology concerns on a more global basis, such as how social media can have an impact on any client's business. Kansas, in particular, has had a particularly good program given on mental issues, suicide risks, etc., for lawyers by a Topeka lawyer named Mr. L.J. Leatherman, who I highly recommend. In Kansas and Missouri we have a CLE year ending June 30, whereas Washington and my other bar, Iowa, have year end calendars. So I just completed my 2019 minimum 15 credits of coursework including 2 ethics credits and will submit for approval in Washington soon (I actually sat through 25 hours this year--these are always expensive because hosting colleges and companies assume lawyers are made of money, and I like to learn all I can since I am spending $375 already). Of these 25 hours, 2 of each of the categories of wellness and technology were presented to members via the seminar in Kansas for its requirements and the seminar in Missouri for its requirements. So that's my background. I understand the Bar does not view multi-state bar member requirements as its first priority, but belonging to multiple bars is already complicated (for one example, Washington has a 60-minute hour computed in 15-minute increments, Iowa has a 60 minute hour and each minute is calculated, and Kansas has an eight-hour maximum per day and calculates 50-minutes as an hour). I have attended prior CLEs in each of Kansas, Iowa, Missouri, Washington (Seattle), Oregon (Portland), and Washington, DC. I've simply never had a law school or private program discussing inclusion and anti-bias. So as much as I think this is a fine subject, I expect I would be required, to comply with my Washington requirements, to either make a special trip to Washington state or attend a webinar to acquire this subject matter in addition to other seminars I am taking and paying for--my guess is right now would only be a topic in Washington. Either way that will raise my cost of compliance, because I already am paying for one seminar series that currently captures all of my states, but I'd need to spend an extra--guessing--$75-100 for this single course. So as much as I think these are three fine program subjects, my preference for efficiency and personal cost factors would be that any new rule would have exceptions for out-of-state attorneys, or it would be written as a "strongly encouraged to attend these three subjects" to make the point that the Bar sees these three subjects as important. If you could get every state to catch up with Washington, that would be ideal, but I don't see that happening practically speaking very soon. Also, I think a technology seminar is fine as a subject, but narrowing to digital security is not a subject that needs a full hour presentation. Of the seminars

I've attended over the past five or so years, digital security can take up maybe 15-20 minutes, but doesn't really need more time. I say this having worked in the telecommunications industry as counsel from 1996-2016. I'd actually be curious to see what a presenter could use to fill a full hour on that subject. In brief, I think these are fine subjects, suggested categories possibly, but shouldn't be mandatory. If mandated, technology should be a general rather than specific category, and out-of-state attorneys should be exempt for cost and practicality reasons because other states aren't offering inclusion and bias seminars and may not be offering the other courses, and a requirement would result in extra costs and coordination for compliance for out-of-state members of the bar. –Christopher Bunce

64. I would encourage the board to refrain from micromanaging requirements. The more you break these general requirements down into specific classes, the harder it is to track and the more stressful making sure you're in compliance becomes. If you really think attorneys need these specific topics covered, require them but provide the classes online and at no cost.–Chris Kringel
65. I support your decision to add these three topics to ethics credit requirements as long as there are ample courses that can fulfill these requirements. Inclusion, mental health, and technology are relevant and important issues for attorneys (and all people) to understand and update their knowledge on. If you do start requiring the topics, please ensure there are sufficient courses offering them either as their main topic or as a secondary topic. This will facilitate easy access to the courses and not impact peoples' ability to meet CLE requirements. –Denise Leung
66. Query: Is there a breakdown in the present system? I support allowing our Members to themselves select the mix of ethics that match their practices. To me, this proposal sounds complicated, thus unnecessary mistakes may occur in requiring practitioners to subdivide their Ethics credit as outlined. Of course I defer to your judgment, being uninformed to the instant premise, and plainly you have thought long and well on the subject. –Glen Pszczola
67. I am supportive of the requirement to include require annual training on anti-bias. I thinking the stress/addiction issue as also a good idea for an annual requirement. However, I do not see the need for an annual ethics CLE on digital technology security. I am not aware of the significance of this issue such that it would require an annual update. I reviewed the supporting materials on the MCLE website and did not see reference to the reason for an annual technology security CLE. However, if the MCLE Board wishes to recommend this training, one credit for every reporting cycle seems sufficient. –Emily Sheldrick
68. I am licensed as both an attorney and as a certified professional guardian (CPG). Both professions wisely require continuing education. I have been a member of the Elder Law Section Executive Committee for many years and was the CLE co-chair for three years. I am also on the board of the Washington Association of Professional Guardians (WAPG), which puts on professional continuing education program to allow CPG's to meet their own education requirements. As a CPG we are required to fulfill credit requirements in specific topic areas, along with credits in general topic areas. Assuring that professional education covers relevant topics in an ever changing environment should be a foundation of the education requirement. The challenge, however, is making sure that the profession is assured reasonable assess to courses which enable practitioners to fulfill these requirements. I am sure this has already been considered. It would seem to be a reasonable concern that there would be would be an

increase in attorneys failing to get the needed specialty credits within the required time period. This is particularly sensitive with ethics credits, which I believe are disproportionately more difficult to accumulate than general CLE credits. It would seem that the WSBA, as a sponsor of continuing legal education, could easily solve the problem by assisting with the proportionate proliferation of such courses to enable compliance. WAPG is careful to make sure that those attending courses for general education credits are able to proportionately fill specialty credits. Offering specialty credits proportionate with general credits enables the MCLE planner to avoid having to crunch for a particular specialty credits just to cover a specific area or take a particular course just to get the credit offered there even though there may be a more relevant practice focus CLE for the particular practitioner, but which does not offer the right kind of credit needed. Another thought it may also be as productive to encourage the various sections to simply offer courses in these areas, which the WSBA could then approve without having a requirement. –Mark Vohr

69. I support the amendment however, as you likely know, Ethics credits can be desperately hard to come by and my concern would lie with finding a CLE that qualifies in each of the areas. –Manda Lyghts
70. I strongly support the recommendation to require one ethics credit in each of the following subjects per reporting period: 1) inclusion and anti-bias; 2) mental health, addiction, and stress. I have no opinion on the third item. It is vital that our field holds each other accountable for inclusivity - which must include anti racism and anti white supremacy trainings. It is also vital that we address head on the high incidence of addiction, alcoholism and mental exhaustion within our profession. Reducing stigma saves lives. We need to show up for each other. –Katelyn Kinn
71. I have some thoughts on this proposal. While I think it's great to make it mandatory that everyone take inclusion and anti-bias training, I have concerns over this being an ethics credit. While there are a growing number of trainers nationwide about this this topic generally, finding speakers who can speak to this topic and the RPC's may prove to be a challenge. Unless the WSBA is going to put a free webinar up on the website, I really worry that there will not be enough training access on this particular topic. This is also the same for the other two topics. If the mandatory requirements are just general topics that you have to have a credit on, the concern is less. But that needs to be more clearly spelled out. For example, something like, "Half of your ethics credits must be in these three area and not necessarily directly law related." I'm sure you have someone who can come up with better verbiage. However, if they are general topics, why not make them mandatory under the general credits and not ethics. It's not like we, as a profession, need less guidance on ethical behavior. - Janna Lewis
72. Given how difficult it already is to obtain ethics credits (especially for those of us in in-house positions), despite the well-meaning nature of the proposal I would recommend that the MCLE Board not adopt these changes to the ethics credit requirements. Or at the very least, consider requiring them in the alternative (i.e. a requirement that at least one of the reported ethics credits be in other of the three topic areas enumerated in the email requesting our feedback). Additionally, under APR 11(f)(2) there is already a requirement to take CLEs in "topics relating to the general subject of professional responsibility and conduct standards for lawyers, LLLTs,

LPOs, and judges, including diversity and antibias with respect to the practice of law or the legal system, and the risks to ethical practice associated with diagnosable mental health conditions, addictive behavior, and stress," thus the proposed changes to the ethics CLE requirements would unnecessarily complicate the ability of legal professionals licensed in Washington state to meet their licensure requirements without significantly changing the scope of what we are supposed to be focusing on in our ethics CLEs (other than digital security). Thus, although well-meaning, this appears to be a solution looking for a problem. –Kaustuv Das

73. I think these three topics are long overdue as requirements. However, I am not sure that 1 hour every three year period is going to net much. In one hour a presenter will be barely able to scratch the surface of these topics. I recognize something is better than nothing, but this is awful close to nothing. Not sure of an answer ot this problem though. If you required more hours for each, then you may not get coverage for 6 or 9 years. That is also unacceptable. –Steve Aycock
74. The volume of CLE offerings in these areas—inclusion and anti-bias; mental health, addition, and stress; and technology education focusing on digital security—suggests that these are current hot topics. Without disparaging the importance of any of these subject areas, I wonder if their importance will endure at a level that justifies their permanent enshrinement by way of rule-making. The Oregon State Bar establishes a 1-credit subject-matter requirement for each 3-year reporting period, changing the subject area each reporting period within the larger, otherwise unspecified ethics requirement. Perhaps that is a more reasonable and more flexible nod to topicality than the preliminary recommendation of the Washington MCLE Board. –Terry McGee
75. I certainly agree that the three topics proposed are important for attorneys to be competent and informed in. My question is to how these particular areas were chosen. Has feedback been received from those in the Bar or from the public that Washington attorneys are in need of development in these areas? Are these focus areas going to remain the same for an indefinite period of time? Or will new requirements be established as perceived needs change? (The need for digital security training, in particular, is one that was not particularly pressing 15 years ago, but it is very much so now). Would any future requirements replace these as topics or be added in addition to them? –Zach Burr
76. My feedback on the proposal is that it would be fine if accompanied by a reduction in the number of ethics hours required. My experience over 20+ years with ethics CLE classes is that the presenters squeeze 30 minutes of content into 60 minutes. Maybe it's a function of having time to fill for the CLE course, but I think these courses could be more effective and effectively inviting presenters to get more done more quickly would be useful. –Jeff Beyle
77. I write to provide feedback on the MCLE Board proposal to add three specific requirements to the current CLE requirements. As further explained below, I partially support and partially oppose the proposal, and make an additional recommendation. 1. I support the first recommendation, addition of a credit covering inclusion and anti-bias training. We continue to see the negative impact of past policies and practices, and unconscious bias in the profession. This is an issue that touches the entire profession. The report of the committee amply justifies this additional requirement. 2. I oppose the addition of one credit requirements for "mental health, addiction, and stress;" and "technology education focusing on digital security;" at this time. a. First, in contrast to the well-reasoned justification for the inclusion of the anti-bias

training, the justification for the addition of these two items appears to essentially boil down to a claim that other jurisdictions are starting to look at this, so we should do it now, so we don't have to think about doing it later. With all due respect to the committee, these issues deserve just as full an investigation and justification as the anti-bias training. Specifically, we should first answer the question, "why are these broad societal issues have special application to the legal community and is an hour of CLE training once every three years the best way to address these issues?" b. Personally, I believe that mental health, addiction, and stress are important issues in the legal community, but I'm not convinced that it touches as broadly on members of the bar as diversity and bias. Mental health is a topic that exists in the broader society as a whole and may best be addressed by society instead of the state Bar. I am not convinced that this subject requires a mandatory CLE without additional investigation and support. c. Second, as a lawyer practicing extensively in the field of data privacy and security, I similarly believe that many attorneys would benefit from adopting better digital security procedures. However, once again, I am not certain that this rises to the level of requiring mandatory CLE credits absent broader study and justification absent from the current proposal. Further, requiring those who are already experts practicing in the area, or those whose practice does not touch upon data security in any meaningful way, to take a basic CLE does not effectively advance any broader purpose and would be a waste of time. d. Finally, as a lawyer practicing outside of the State of Washington, I am very concerned that fulfilling these requirements may be difficult for me and other out-of-state lawyers. Already the majority of CLE events I attend in the other Washington do not provide Washington CLE credit. Adding very specialized CLE requirements that will necessitate course approval from the state bar will make it very difficult for out-of-state lawyers to comply, and will possibly require us to undertake the burden of seeking approval for CLE credits on our own. While you may believe this is not unduly burdensome, it does require time and attention – two things that are precious resources. 3. Should you add any of these three requirements, I strongly recommend that you phase them in over three years so that every Washington lawyer has a full three-year cycle to comply. This is especially important for those of us out-of-state who may have difficulty finding compliant CLE classes, especially immediately after the enactment of a new rule, when such courses have yet to be developed and approved by the Bar. –Eric B. Martin

78. If the WSBA is going to prescribe specific content then I think the WSBA should provide those courses online free of charge. –David Hayes
79. As a retired member trying to stay current, this is not helpful. While the substance of that material is good, it should NOT be mandatory for licensure. I practiced over 30 years and requiring this might be beneficial for those just starting i.e. first 5 years, but for those practicing in a governmental environment, much of this is immaterial. In sum, good idea but should not be mandatory or if mandatory, for those in their first few years of practice. –Mark Hannibal
80. I am responding to the request for comments about adding a requirement for ethics credits in certain specific areas. I oppose this requirement because it is difficult to find accredited courses in these areas for out-of-state practitioners such as myself. This will deter people who do not live in Washington from maintaining their Washington license. I think this should be an optional and aspirational goal rather than a requirement. However, if WSBA commits to offering low-cost

or free CLEs on these topics that are electronically available and easily accessible, I would be willing to reconsider my position on this topic. –Christine Lyman

81. I believe 2 and 3 are necessary… I think 1 is too much parenting from the bar. People can have options, but shouldn't be required to take number 1. –Greg SIlliman
82. I like the idea of the first 2 topics in theory, not so much the third. But making it harder to get ethics credits is not so great. They're already the hardest to fulfill. –Vicky Cullinane
83. I think it would be good to encourage that the credits be based on these topics. However, I think all of these topics could easily be covered in a non-ethics CLE and it should not solely be ethics. The only one I think makes the most sense is the digital security. But again, the ethics issues I face in my profession are vastly different than these topics and our workplace already emphasizes inclusion and anti bias and the second topic. –Pam Visco
84. I think these changes are a good recommendation however I am concerned about members in rural settings and in Eastern Washington to be provided adequate opportunity to get those credits. –Kammi Smith
85. I do not necessarily disagree with the subjects that are proposed for mandatory credits. However, if there are no classes that can be taken to meet this new requirement, then you are putting us all in a disadvantaged place. You should not be making mandatory requirements unless there are enough ways for us to meet these new requirements. As is, it is near impossible to get ethics credits as the availability are courses are small. –Roselyn Marcus
86. I read with dismay the email sent to me from the MCLE Board. It sounds as though the do-gooders are once again attempting to foist unwanted requirements down the throats of Washington state attorneys. Attempting to effectuate social change to placate the West side liberal nut-jobs is not (or should not be) part of the scope of the MCLE Board. Let attorneys choose the educational topics they decide, instead of treating them like children. To my knowledge, there never was a need to mandate continuing legal education for ethics. There will always be folks who are ethically challenged, but mandating ethics education is not going to change that. From an optics perspective, the ethics mandate only provides ammunition for attorney haters, so they can claim that attorneys are so unethical that the Supreme Court had to mandate ethics education for them. In this same light, mandating continuing legal education on the subjects of anti-bias, inclusion, mental health, addiction and stress is not going to get at the heart of these issues. Only those who decide for themselves that these are good areas, that they would like to learn about, will benefit from taking these courses. There is already a plethora of course offerings in these areas. Adding these specific areas to mandatory continuing legal education will only serve to showcase the perceived shortcomings of attorneys. The social costs of this well-intentioned, but ill-conceived mandate far outweighs the potential social benefits. That said, adding technology education, specifically as it pertains to data security is a very good idea. If a carve-out that is specific to ethics is considered appropriate (again, a horrible idea from an optics perspective), data security in the information age is a far better and more useful area for mandatory education. Unfortunately, as technology is progressing so rapidly, most practitioners are ill-trained and ill-prepared to safeguard their clients (and their own) data. This is an appropriate area for the MCLE Board and to step in with a recommendation. Attorneys need this education and have no idea they need it. This is

necessary training from both a practical perspective and for the fulfillment of professional responsibility. This is one of the rare occasions it would be appropriate for the MCLE Board to recommend a specific subject matter for mandatory continuing legal education. Bottom line – unless absolutely necessary, it is always best for pseudo governmental authorities to stay in their own lane and stop attempting to expand their reach in an attempt to direct the lives of others. Data security technology education is one of the areas of absolute necessity. I am hopeful that by expressing my personal opinions, I will not be subject to retribution. – Stacy Lavin

87. I am in support of, or at least indifferent to, requiring that one of the six ethics CLEs be focused on issues of inclusion and anti-bias, or mental health and addiction. These topics are no doubt important and relevant to today's practice of law. More importantly, these topics are related, or can be related, to the umbrella issue of ethics in the practice of law. I do not see the topic of technology security in the same light. It seems to me to be a stretch to include this topic as an ethics issue, although an important issue in its own right. It seems more a law office practice issue instead. I oppose including technology security within the ethics category as it would allow the substitution of instruction in office administration for an ethics related topic. –Doug Fortner
88. I am agnostic of any change so long as the ethics credits obtained in the state of Oregon would satisfy the ethics obligation even if they are not exactly in the three new sub-topics of inclusion and anti-bias, mental health and addiction and technology security. I am licensed in four states - Oregon, Washington, Virginia and the District of Columbia. Meeting each state's unique ethics requirements is an undue burden. Currently, to comply with Washington requirements, and due to our reciprocity agreement, I may submit a comity statement that I have complied with Oregon's ethical obligations. Oregon's specific ethics requirements include credits in mandatory elder law abuse, child abuse reporting, and a similar anti-bias reporting (3 hours of Access to Justice). I understand just this year Oregon has added one credit hour of mental health, substance use and cognitive impairment. Oregon does not have a technology security requirement to my knowledge. My support is conditioned on the effectiveness of the comity certificate, even if the ethics classes are not the exact match to Washington's requirements. – Lori Murphy
89. Since my next reporting period is December of this year, and my credits have already been accumulated I assume any change respecting credit requirements will not commence until 2020 reporting. –Robert Israel
90. 1 and 2 are already limitations/requirements for attorneys in WA state – very few instances where Constitutional rights such as bona fide religious beliefs would be encountered in assisting, e.g., attorneys would not be able to rely on religious belief to not serve a person from a tribe not of the attorney's tribe. For #2 every attorney is bound to assess the mental and emotional capabilities of clients and may be required to make such assessment e.g. in preparing a will. Re: technology – some attorneys still use pencils and paper and those with email et al will have hazards similar to the pencil/paper in filing and in getting documents sent to the wrong address. #me too, same sex marriage, black/brown/yellow/red/white – The idea of having classes on such topics is a lobbying effort by teachers of classes. Making such mandatory is making jobs for teachers at the expense of attorneys who already have the duty to attend to the topics in their

legal practices. Making such classes mandatory is not required. Making such classes mandatory merely adds another hour, in addition to the hour of ethics, to standard courses. However, perhaps these topics are in the ethic realm and could substituted for the 1 hour ethics now required. –Floyd Ivey

91. (1) One credit of diversity and inclusion CLE is both not enough and too much. Big NO on this one. (2) Same re: Mental health, etc. (3) One credit re: internet security could be worthwhile. – Amy Stephson
92. I'm in favor of the proposed changes. I think the first two will be very helpful for those of us who prosecute crimes. Whether we're talking about witnesses & victims or the people we're prosecuting, issues related to these two topics weigh heavily on our ability to pursue justice. Those of us in the dominant community often fail to recognize how our privilege impacts the way we interact with people in marginalized communities. I'm less enthusiastic about the last category. I have no control over how our technology is maintained or secured. I don't have an office-supplied smart phone. My interaction with this topic is largely controlled by the Public Records Act; my awareness of its requirements is more important to my job than the topics described in this category. –Kim Kremer
93. I am writing to suggest this not be made mandatory. The ever increasing sub specialization of the CLE requirements makes it difficult to monitor and in my mind is of little to no benefit. I practice in Oregon where every reporting period we are required to take 1 hour CLE for child abuse, and now they have added elder abuse as well. I now know the issues around child abuse and elder abuse reporting and don't need to be reminded every three years of them. I hear the same CLE programs over and over. At some point the bar has to just trust that the lawyers will read the RPC and laws and be aware of his/her obligations. While CLE programs in each of theses areas is a good idea, the requirement should be optional. If there is a requirement, it should be once every 10 years or so, not every 3 year period. –Thomas Phelan
94. None of these 3 topics have anything to do with the ethics of practicing law. They have an impact on the practice of law, but that does not make them an ethics issue. These should be considered general practice topics. –Steven King
95. I have no problem with 2 and 3. 1, however, is nothing but political correctness, which is a communist technique and I will never support it.
96. What exactly does "inclusion" mean? What does anti-bias mean? Every human being has biases, including every sitting judge and those judges make decisions every day based on their own biases. This is political only and I cannot support it. –Bruce F.
97. I am opposed to this amendment as currently structured. I agree that the topics suggested for three hours of coverage are important and substantive, but I feel that using up half of the ethics hours requirement for them is ill-advised. Moving them into another category, or increasing the ethics requirements to 9 hours (out of 45 total), would be a better solution in my opinion. When I look at the breakdown of grievance filings in the June 2019 NW Lawyer magazine, I think there is still plenty of reason to be focused on basic practice ethics. A fairly small percentage of the grievances fall into the categories outlined in the proposed changes (which admittedly can refer to intra-office issues and hiring policies as well as client interactions). I think the reputation of the profession is still fairly murky and when complaints each year total 10% of the number of

licensed lawyers, I am not comfortable reducing a focus on fundamental issues surrounding the ethical practice of law. –Bob Allison

98. I am writing Comments to the proposed Ethics CLA requirements (proposing to include one credit in each of the following subjects per reporting period) as follows: (1) YES - inclusion and anti-bias - I think it is imperative to have ethics requirements focused on this issue and would actually propose this be two credits not one. As a professional woman in her 50s, it is appalling still how many lawyers (old and young alike, and sorry, mainly men) who truly need sensitivity training and knowledge in this area (not to mention LGBT or racial and ethnic inclusion and anti-bias). I am very happy to see this up for comment and fully support the inclusion into the WSBA Ethics CLE requirements. (2) YES - mental health, addiction, and stress; - I think this is definitely an area for awareness and understanding for lawyers, especially since we are so competitive and problems with mental health, addiction, and stress in our colleagues are often brushed under or used to shame lawyers who "couldn't cut it" or "can't handle it" and drop out of the profession. Those who gain more understanding and empathy in this area are going to make better lawyers (in my opinion) and help their colleagues deal with the real issues around mental health, addiction, and stress in order to help them stay in the profession. I am very happy to see this up for comment and fully support the inclusion into the WSBA Ethics CLE requirements. (3) NO - technology education focusing on digital security. - Honestly, although this is very important generally for businesses and lawyers, and should be offered in CLEs as a topic, but I do not see the necessity to have a full credit CLE requirement on this topic. I would rather see two credits for item (1) and strike this one, or add another on a different focused topic (like whistleblower protection or other compliance topic) that has more ethics focus. Digital security is not an ethics topic per se (and technology education certainly is not) and making it one for lawyers is not really a good idea. I think that placing lawyers as responsible for digital security compliance (where often small firms/businesses do not have this capability, and larger ones have whole departments of IT specialists for this type of security) places a strange burden on lawyers in an area where they generally do not have expertise nor have the best skills to deal with it, nor have the hands-on time to develop these skills. This is not a legal ethics topic in my feeble mind. I do not support this one and think it should be struck. I also noticed that the materials discussed taking away a certain # live attendance credit CLE requirement. I fully support this. I work offsite for a tiny company that does not support CLEs, and I have to pay thousands out of pocket annually to attend live courses and spend the time travelling which is far less efficient than an online course. The quality of the CLE and its education (for the receiver) is less dependent on live courses - I have had excellent CLE webnars and video courses over the years, many of which are offered online through the WSBA. While I am a true believer in live courses and the networking opportunities that enhance my practice (the non-CLE aspect of these), I do think that the bar should recognize that not all lawyers are supported in this manner, and it can be very difficult and expensive to attend live courses. –Jennifer Johnson
99. Provided the Legal LunchBox Series of monthly free CLEs offers these topics, I have no relevant commentary on their inclusion -- although I do somewhat object to making these sub-topics mandatory to the exclusion of other issues of importance in other categories. I do offer one suggestion, please provide more Law & Legal Procedures webinars -- as these topics appear to

be few and far between. More parity in the CLE offerings in the mandatory categories is, in my humble opinion, needed -- and not necessarily mandatory sub-topics in the ethics category. Anyway, thanks for considering my 2 1/2 cents worth. - Rhys A. Sterling

100. Seems like a good idea. However, the idea of making some CLE's "Required" could be a slippery slope. I mean, why is "inclusion and anti-bias" more important than any other legal issue like "1st amendment" or "engagement agreements". Perhaps a solution could be to have a REQUIRED BLOCK of CLEs 5-10 Credits that includes a "core" education and some yearly flavors (like these)? - J.D. Houvener
101. Please accept these comments on the proposal described below. This proposal would be fine so long as the WSBA regularly offers free, call-in or online sessions to its members that will satisfy these highly specific topic areas. Otherwise, it is far too burdensome and costly to find and attend CLEs for such specialized credits. Personally, I choose CLEs relevant to my practice area that include an ethics session, so that the cost makes sense for me. It does not make sense for me to have to pay for and attend CLEs on at least one of these topics, so if this is a policy priority for the organization, the WSBA needs to make it exceedingly easy and cheap (ideally, free) for this to be acceptable to its membership. –Jane Steadman
102. I am strongly against the proposal outlined below as to items #1 and #2. I still object to item #3 but my objection is less than for items #1 and #2. I do not like the micromanaging of the CLE credits unless WSBA is going to provide the required training free of charge for those elements. It is my understanding that the ethics requirements relate to the Rules of Professional Conduct. Items #1 and #2 do not appear to support those rules directly but rather target “soft skills” to be a better lawyer. Item #3 appears to have some nexus to the RPC. I object to the micromanaging by WSBA as it is unfairly burdensome on small firm and solo practitioners, or those of us in government or non-profit work who do not have the benefit of firm dollars to pay for our CLES. We pay out of pocket. If I cannot get the training easily thru a subscription service then it feels burdensome. If WSBA wants attorneys to get this training this badly then they should require it and provide the free course as part of our high dues. I would rather get that than a glossy magazine that I throw away each month. –Lisa Johnson
103. Please consider this e-mail my response to the solicitation for feedback on the three proposed additions to the ethics requirement. •#1: As to inclusion and anti-bias, it is not clear from the description what group or groups are the subject of the proposal. Stated otherwise -- who's left out? Please clarify. •#2: Concerning the proposal relative to mental health and stress, adding more moving parts to MCLE requirements increases an already stressful profession and runs the risk of driving lawyers into reefer madness. •#3: Finally, as to computer security, it would be more helpful to send members of the Bar a link to software that can be uploaded to provide digital security. If software is available that provides a safe harbor for lawyers if installed, that would be preferred over sitting through an hour of someone droning on for an hour about the topic. Such would necessitate proposal #2. –Kevin Snider
104. I would be very pleased to see the anti-bias and mental health requirements put into place.- Sarra Yamin
105. 1) having the ethics req 'broken out' as it were into specific categories isn't necessarily a bad thing, provided ample opportunity exists to obtain them; 2) for any Legal Lunchbox CLEs

provided to this end, I'd ask that they be recorded and available for later viewing (generally too, but especially on these topics) - of late I've been unable to attend the live ones and so might be caught out near end of year in not being able to fulfill a more specific ethics requirement (if you update them)? –Kevin Orme

106. While I find it well-intentioned, I think it could create some increased barriers, especially for those of us working at nonprofits. While my bar dues are covered, my CLE credits are not, and it can be a big hurdle to find as many low-cost or free CLEs as I can. I often have to make conscious choices on out-of-pocket expenses that would benefit my competency in practice, and this would just be an increased financial barrier. If they were free to attend, I'd be happy to participate, as I do appreciate the topics outlined thematically. However, this is a big challenge. –Melody Young
107. This proposal strikes me as yet another attempt by the WSBA to fix something that is not broken. It carries the inherent suggestion that non lawyers working for the WSBA know what is best and that we are not capable of making wise choices about what CLE topics are best suited to our law practice. We should be able to choose what topics suit our areas of practice. None of these are of any relevance to what many of us do. Also, none of the topics listed are in any way relevant to what I understand to be lawyer "ethics". Perhaps the WSBA could begin by explaining why these topics have been arbitrarily classified as relating to "Ethics"? -John Goodall
108. 1. Do the addition of new requirements ever end? 2. Original MCLE's were predicated on the necessity of keeping attorneys up to date on law and procedure, not how to be polite or spot mental health issues. Can the bar really erase bias, discourtesy, and prejudice with MCLE? Doubtful. Can the bar expect the addition of a mental health MCLE will eliminate those issues, or turn attorneys into metal health professionals? Do we have a duty to report a mentally stressed attorney, an issue we all grapple with during our careers? 3. Cyber security should be included and is the only one I support. –Deborah St. Sing
109. I'm writing in response to the proposed amendments to APR 11. Although I believe that lawyers should educate themselves on the proposed ethical subjects (1) inclusion and anti-bias; 2) mental health, addiction, and stress; and 3) technology education focusing on digital security), and that CLE providers should address such topics, I am concerned that the proposed amendment could place a burden on out-of-state members that will be difficult for us to shoulder. I maintain my WSBA membership, but practice entirely in Montana, which does not require that level of specificity. Years ago, when Washington added ethics requirements and Montana had not yet done so, it was nearly impossible to obtain credits in specific areas when the bar in the state where you are located does not require reporting in those areas, because CLE providers don't make sure that their programs address the topics. Currently, the WSBA's free Legal Lunchbox series addresses many of these topics; some paid CLE on them is also available. If those programs continue to be available, then out-of-state lawyers can meet the proposed requirement. Without them, it's a problem. I hope that if the proposed amendment is adopted, it will be coupled with intent to 1) continue providing free seminars on the topics, and 2) encourage private CLE providers to do so. –Leslie Budewitz
110. All three are worthwhile topics, but why include them under the segment regarding legal ethics? -John Mericle

111. I am not in favor of the proposed change unless the WSBA will be offering CLEs that will allow attorneys to obtain credit for the three categories in one or two CLE's. It would be too expensive and time consuming to have to take three CLE's to cover each topic. If I'm mistaken about that, please let me know. –Gary Trabolsi
112. I'm in favor of the CLE requirements for inclusion/anti-bias and mental health. These are two critically important aspects of the practice of law for any attorney. Although digital security important, I oppose adding it as a required credit. -L. William Locke
113. If 1 credit hour minimum digital security is the most we can get, I support. It would be better for the profession to require 3 hours digital security per reporting period and probably still not sufficient. –Greg Touchton

114. The Bar Association needs to be split into two separate organizations. Licensing and social issues need to separated. A State mandated membership organization should not be taking positions on issues which do not directly involve the quality of legal services rendered. Licensing is for purpose of protecting the public from unqualified or dishonest lawyers. The proposed amendment to the rule regarding ethics is another step outside the responsibilities of the mandatory bar. -Stanley Pratt
115. I can see adding an inclusion and anti-bias credit requirement as part of our ethics training. The ethical dimension of having a bar that looks like the community seems worth talking about. I'm very dubious about adding the other two requirements. I skimmed the materials provided and didn't see any meaningful justification for adding those requirements to our ethics CLE requirements. If you could point me to a succinct, clear explanation as to why those things in particular should be added, I'd be happy to take a look, but absent that, I do not support it. – Laura Anglin
116. I worry about an MCLE requirement that could become too granular in its requirements. I concur with amending the ethics requirement to include an inclusion and elimination of bias requirement, but would recommend that a separate requirement be labeled something along the lines of "Law Practice Management & Competence". This would be broad enough to include both the mental health/stress/addiction focus as well as technology competence but allow for variations in the types of courses attorneys take to fulfill those requirements. -Peter F. Black
117. I am in favor of amending APR 11 to require a portion of required ethics credit address inclusion and explicit bias as well as mental health and addiction. After reviewing the MCLE Board preliminary report, I am not convinced technology security warrants a credit requirement. -Laura Murphy
118. My personal opinion and two cents is not to require inclusion and anti-bias topics as MCLE ethics credits for Legal Professionals. I personally believe we have become a much too politically correct and easily offended society; to the detriment of freedom of speech, thought and opinion. -Bruce E. Cox
119. I am writing in reference to the proposed ethics requirements. It feels as though the CLEs are beginning to resemble course requirements for law school. I believe the new requirements would mean we would have to sign up for more (and specialized) CLEs to meet the requirements each reporting period. In turn, this likely would lead to greater cost in completing CLEs that meet these requirements, not to mention making the tracking of completed hours more cumbersome and difficult to understand. For these reasons, I am not in favor of the proposed changes. However, if the bar were to offer free online courses that meet these (and

the remaining CLE) criteria, then I would not have an objection. As a newer attorney and soon-to-be solo practitioner, I am ever mindful of costs. –Michele Moore

120. For oh so many reasons I adamantly oppose any *requirement* that we take bias/mental health courses for our mandatory credits to practice law. Those are not core elements of the practice of law. They are social education and development. Which I believe to be very good things - but *not* as a requirement to practice law. The technology security, I see as quite different. That is of immediate impact to lawyers and their clients in the core practice of law in today's age, to the point we have RPCs directly addressing this point. And has zero political or social elements. It's hard to put words to it, but I look for *requirements* to be focused on the essential practice of law. I respect that some consider these issues "essential" - but some do not, and many who do, oppose it being a *requirement* to practice law in this state. Where there is a possibility of disagreement on the position, it is not part of the essential core of regulating lawyers. You can't disagree that not having a secure computer system is a problem. You can't disagree as to the necessity of knowing, say, easement law if you are a property lawyer. You can, however, disagree on pretty much any social issue, and yet you want to *force* lawyers to engage in social issues in order to practice law. Really? On security, knowing how to handle client files, security, ethical practice in the legal elements of our work, are essential elements of practicing law. "Sensitivity" is an amorphous concept that is often in the eye of the beholder. Aside from such courses I've experienced (and even taught) in multiple contexts (such as employment) boiling down to preachy condescending lessons, and even the best of them, either (1) those of us who have any awareness already get it and there is nothing practical about a course or (2) those of us who don't, aren't going to get it from a one hour class. And I fear, like so many things in society and the bar in particular, that this "basic" requirement will become a platform for some rather radical and extreme perspectives on "appropriateness". Consider the fact that many members (including myself), while really very sensitive with friends across a wide range of race, sexual preferences, religions, and whatever else you can think of, think that our society is really just going too far and it's only escalating where it's downright bizarre in the context of "sensitivity" and avoiding bias that is often not bias at all, but just honest opinion, and the bias is going the other direction to shut down a voice just because it disagrees.I want to emphasize I do recognize bias and discrimination and insensitivity are very real problems. I know victims of it, and those that struggle against it every day. I participate in causes that support what is likely the objective of your proposed requirements. But those are *personal* choices. There are arenas of sensitivity that cross lines, and create bias in the wrong direction, and all kinds of negative - or at least, of arguable benefit/detriment -ramifications. I do not believe it is the bar's place to take this social lead in *requirements* for the ability to practice law in this state. And in mental health, which again is not a core function of law but rather support of the person (not their profession), what is it, exactly, that a lawyer is supposed to come away from in a one hour course that they are not already aware of with the growing social conversation that is already everywhere? Ultimately, the Bar should take a hold of this and focus on the practice of law on its own initiative, not

promote social positions on an official capacity. Not force inclusion of discussion of social issues in the basic ability to practice law in this state. It isn't even a question of what members "want" (though I can guess that the opinion is strongly against this, notwithstanding vocal advocates) - the bar has a legal obligation, and it is its duty to uphold it. That is the *regulation* of lawyers. Unless you are going to say that requiring us to all be "socially sensitive" (whoever might define that) is a necessity of regulation, it has no place for *requirements* to practice law. It is the bar's job to uphold its mandate and purpose. People would like the bar to do all kinds of things, but doesn't mean that is properly within their function. This is the very core of why there is a movement to either abolish or bifurcate the bar. Forcing people to support things that they may or may not agree with, that are not ultimately part of the core *regulatory* function the bar is meant to serve. I am in the camp that thinks CLEs are part of this, as they are essentially to helping people be good lawyers. But these issues you are contemplating tread into helping people be good people, or people stay healthy people, which are always a good thing, but way outside appropriate for helping people be good *lawyers*, *requiring* someone to take to practice law. The bar is not here to regulate our social appropriateness. The bar is not here to babysit lawyer's mental health. Providing *services* that support these things, or provide a platform for discussion, is one thing. *Mandating* that we engage in these things in order to practice law quite another. Despite the clear resistance to the bar's trends in this direction, it seems every time I turn around the bar has hit the accelerator in this direction. Put a little sarcastically - but I think accurately - this is precisely the kind of thing the bar should do if it wants to keep putting nails in its coffin. The more that you *force* people to do or support things not directly related to the practice of law, that furthers certain social goals (no matter how noble), the further you not only stray from your purpose but the stronger the resistance. And then we all lose when the bar gets cut down because it reached too far. -Carmen Rowe

121. Overall the proposal is not offensive or overreaching if it is a single time or required once in a dozen years. Even as an attorney that prosecute discrimination cases, those lessons once learned should not need to be re-learned. To require those every time one needs to report CLE credits will not only be an additional barrier to completing the requirements, which are difficult enough as to ethics credits are concerned, in addition WSBA will be finding itself accused of social engineering and face some unneeded backlash. –Crystal Rutherford
122. I am writing to oppose amending the rules to require ethics credits in mental health, addiction, anti-bias. These are social and political issues that are outside the WSBA's scope, which is the practice of law. It places the Bar on a slippery slope towards 'requiring' people to adopt a position they may oppose religiously or politically. What is the Bar going to do? Disbar someone who thinks that homosexuality violates the Quran, Torah, or Bible? Focus on what is central to practicing law. -Marlena Grundy
123. I support a CLE requirement for technology security which is key to effectively and safely representing our client and safeguarding their confidential client information. We can't be careful enough with your clients' confidential information. Just read about the current Capitol One hack involving Amazon Web Services (where a lot of us back up files) and that the accused

hacker is from right here in our backyard.I oppose a CLE requirement for inclusion and anti bias, mental health and addiction. These are laudatory subjects but not core to regulation of attorneys in the practice of law. Sure, offer seminar topics in these areas, but they should not be a requirement, any more than I should be required to take classes in estate planning or antitrust law, if my practice is not focused on estate planning or antitrust law. You get the idea. -Joe Koplin

124. I certainly do not take issue with the intent of the proposed rule change. My only quibble is with the further stratification of the credit requirements. This complicates planning and tracking for attorneys who must now consider timing, pricing, topic, and subtopic of CLE programming while fitting it into busy schedules. To mitigate this effect, it would perhaps be advisable for the WSBA to assure that the reporting requirements can be satisfied with free, on-demand programs that are available year-round. In essence, have the WSBA assure that the credit requirements can be satisfied with programing addressing the MCLE Board's specific educational goals at a convenient time and without increased cost to members of the bar. -Colin A. Olivers
125. I am an attorney with the Washington Bar who has to cover my own costs for CLEs so I am very sensitive to the increasing requirements with which we are forced to comply. I do not think every social Issue that lawyers experience can be corrected by a CLE requirement. Specifically, I'm writing in response to the recommendation that "of the six required ethics credits for legal professionals, one credit be required in each of these three topics: Inclusion and anti-bias, mental health and addiction, and technology security." I believe making each of these required would make an already burdensome requirement even more so. We already have so many sub-requirements within our overall CLE requirements that it is overwhelming to track and certainly places hardship on the Bar to enforce. Inclusion and anti-bias should be the priority since it's so widely misunderstood. The other two are important but are very popular topics in the CLE world and should just be optional. It's also important that CLEs touting the "inclusion and anti-bias" label be of adequate quality. Too often in the name of "understanding diversity" I have seen lawyers (and other professionals) perpetuate stereotypes that do more harm than good. For example, in another state I listened to a CLE featuring western lawyers talking about how backwards certain cultures are in the context of international business. It was upsetting and because it was recorded there was nothing I could do. Please do not allow this category to exacerbate the problem! -Sheiba Waheed
126. I am writing to request the Mandatory Continuing Education Board (MCE Board) NOT require one credit in each of the following subjects: 1) inclusion and anti-bias, 2) mental health, addiction and stress, and 3) technology education focusing on digital security, per reporting period. I believe making such a mandate steps beyond the MCE Board's role of ensuring legal professionals under the jurisdiction of the Washington State Bar Association (WSBA) remain competent to advise and counsel their clients. By mandating specific subject matters, the MCE Board is telling legal professionals the MCE Board knows better than each legal professional, which training would benefit them and their clients. Therefore, the MCE Board is telling legal professionals how to run their businesses. The MCE Board is effectively spending legal professionals hard-earned money. I acknowledge and understand the MCE Board has the

authority to mandate the total credits required, the categories in which credits can be earned, and the period during which all credits must be completed. However, I believe this recommendation exceeds that authority by mandating actual topics and apparently the curriculum and subject matter of up to half of such training, per period. Instead, I would ask that you require only the first course (inclusion and anti-bias), and only strongly recommend the others. This is not to argue these subjects are not worthy of being potential courses or curriculum for legal professionals. It is to argue that the MCE Board and WSBA are in no position to understand where any individual legal professional needs to work to ensure competence to assist their clients. I acknowledge I am not an expert on inclusion or anti-bias issues. Therefore, as to the inclusion and anti-bias subject, I am willing to concede this may be necessary across the board. However, I request that if the MCE Board does mandate such a course, that the MCE Board approve a broad selection of suitable alternative courses, both free and for fee, from a variety of public and private providers including law schools, universities, community colleges, and other agencies, and allow an individual legal professional to select from these alternatives, the course that best suits their needs. Please understand, the days of legal professionals working for large firms who pay our costs for mandated Bar requirements are long gone. When the Bar - including the Boards which also report to the Court and in the eyes of the members are the Bar - mandate requirements, those requirements have real costs to legal professionals. Costs which cannot always be passed on to clients. They are effectively a Bar enforced tax on a practice. I understand that it is a privilege to be able to serve as an attorney and counselor of law, but without being able to earn the money required to support a practice and make a living, it is a privilege which cannot be exercised. Therefore, please stop using regulatory power to spend legal professional's money as if it is the WSBA's money. Convince members on the merits of the additional education and skills they should consider. But leave the choices of particular skills and knowledge to individual legal professionals as they plan THIER personal training calendar and budget. – Michael Cherry

127. Recognizing America's criminal justice system is one wrought with inherent bias, we at the Seattle City Attorney's Office have an obligation to our citizenry to acknowledge and work to remedy that bias. Education is at the heart of change, which is why I so enthusiastically support the Mandatory Continuing Legal Education (MCLE) Board's proposal to require that "equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession" be at least one of the six ethics credits licensed legal professionals are required to earn. Lifelong learning in law means gaining a broader understanding of the thoughts and experiences of the people underrepresented in the legal profession and also of those who sometimes suffer consequences of the law. In the legal profession, inertia can result in siloed thinking, leaving lawyers focused on legal minutia while operating unaware of the larger context of their actions. My office has a dedicated team who focuses on advancing racial and social equity in the workplace, through the law, and in governmental policy. This team focuses on training all employees in the office and opening dialogues to learn about each other's lived experiences, which helps staff recognize and address their own personal biases. My office's Race & Social Justice team also helps bring diverse perspectives while evaluating new and existing policy proposals; those proposals have been made better by the inclusion of multiple viewpoints than a homogenous group might have

reached alone. Actions, no matter how well-intentioned, might have unforeseen consequences, and we've experienced that an environment fostering consideration of diverse opinions has identified problems early-on. Training and policy review with a racial equity lens can lead to dismantling structural dynamics that can perpetuate implicit bias. We see the inclusion of the newly proposed ethics credit as being in-step with our team's efforts and will bring similar benefits to the legal profession as a whole. I'm so heartened the Mandatory Continuing Legal Education Board has recognized and elevated the need for a more inclusive and racially and culturally aware membership of legal professionals. Your comprehensive outreach conducted to date is evidence of how seriously MCLE is taking the issues of equity and bias. You have my full support in making this change. –Peter S. Holmes

Section B

Feedback received after 8-13-19 submission deadline:

1. The Government Lawyers Bar Association of WA agrees that the proposed amendment to APR 11 would introduce three important topics into the MCLE requirements. Many government lawyers are already required by their employers to take trainings that cover these topics. However, agencies or local governments do not always obtain CLE credits when providing such training, because the trainings are presented to all staff members, not just the lawyers that work for them. This means that our members may be required to pursue credit from WSBA individually in order to ensure they obtain the specific credits required to meet the proposed MCLE requirements. GLBA is seeking direction that we can provide to our members in the event this proposal should pass. Please provide us with the following clarifications: • Will training which would qualify for MCLE credit under the proposed amendment have to be presented with reference to the RPC's, or, since training on these topics can be offered from a variety of perspectives and disciplines, could such training be flexible and qualify for credit if it includes presentations that are more open-ended but clearly applicable in a legal setting? • If government lawyers would be able to apply for ethics credits for their agency trainings on these topics, what would be the WSBA's criteria for approval? - The Government Lawyers Bar Association of Washington Board

2. Sorry to have missed the Aug. 8 deadline, but if I may – if the board institutes the amendment, perhaps we could change the name from Continuing Legal Education to Continuing Legal Indoctrination. -Timothy E. Siegel

3. I am partially opposed to this Amendment. I have been an attorney for nearly 22 years and I believe attorneys in Washington State are intelligent enough to already know about bias, mental health and tech security, and if they are not, I believe we are wise enough to take courses that will broaden our perspectives. I would prefer the following (numbered in order of preference):

1. Require each new attorney to take CLEs in the areas proposed within their first year or two of becoming an attorney, including those admitted via reciprocity.
2. Through educational awareness efforts, strongly encourage attorneys to take these courses or provide a discount on dues for so doing. Additionally, provide no-fee CLEs in these areas.
3. Have all attorneys take 1-2 hours of CLE in each of the proposed areas during their current reporting period (with the exception of those needing to report this year who should take such CLEs during their next reporting period). And that is all. No recurring CLEs are necessary. At some point, we have heard it all from numerous persons.
4. If the WSBA does require these ethics CLE topics to be taken every reporting period, list them as a separate categorical requirement apart from ethics and general requirements for 3.0 hours, reduce the ethics credits necessary to 3.0 hours, and have the WSBA provide for no-fee CLEs in the desired areas with the presenters of such CLEs giving their presentation(s) either pro bono and/or for CLE credits. The WSBA should provide for each of the three (3) topics at least six (6) opportunities per year to meet each requirement, thus having 18 no-fee CLEs per year on these subjects. Attorneys will be encouraged through publication in the monthly magazine, NW Lawyer, as well as other educational awareness efforts, to take these courses.

Although these topics are relevant and important, we need to be allowed to direct our time and money to what we decide is most important to us. I do believe that everyone should take these courses once, but I am not willing to force others to adhere to my opinions regarding specific CLE attendance. Personally, I think the reporting requirements should be at least 12 hours of ethics and 33 hours of general because ethics seem to be in the background for so many these days. But, as I said before, I am not willing to impose my beliefs/desires on others, for if I did, I would be taking away the opportunities of others to voluntarily choose to attend these seminars. Bottom line is that this proposed amendment goes too far. -Edward P. Sager

4. I am the author of a national MPRE course that follows the ABA model. When we present it locally we try to be sure that we cover any Washington variations. These are three good subjects but I would suggest leaving that type of decision to the individual lawyer to choice exactly what area of ethics they feel most useful to their individual practice. There is already a large variety out there for the Washington lawyer to decide among so I would leave the rules as they are. Hope this helps. -Jim Rigos

5. The Proposal to Amend APR 11 was not received at this office until August 21. I've been an attorney since 1976, 43 years. Until 1990 primarily litigation - divorces, car wrecks, med mal, contract, employ disc etc. defense and plaintiff and then Intellectual Property and with less litigation and more IP Agreements. Clients have been corporations, all races, homosexual and while I have not considered all clients and their choices to be the best choices I have not had pause to assist without comment unless relevant to the case. I've not paused in assisting all races. I realized 25 years ago that new managers were, with high likelihood, going to manage in ways which were hostile and discriminatory and hence was never surprised when someone came with a work circumstance deserving justice. And I've had clients who were using drugs and yet who were inventive with their inventions subject to patent protection and involving licensing agreements. And arbitration for their conflicts and I've been an Arbitrator primarily for automotive injury cases. And before Law I was an Electrical Engineer in the nuclear/Manhattan Project/Department of Energy industry with involvement with technology. The categories of anti-bias, mental health and addiction and technology security are categories that most attorneys will encounter as a normal matter of course fact of being lawyers. The idea of requiring mandatory CLE's for these categories ignores the contact attorneys have in the professional realm. Mandatory CLE ignores the wide spread availability of articles, cases, news regarding each of these categories. I resist the imposing of mandatory CLE relative to these topics. The profession is already educated by the practice of law and the occurrences surrounding all with evidence that informs and alerts. -Floyd E. Ivey

8. I appreciate the work you have done on this matter, and I was saddened by the news that a decision on this has been delayed. I appreciate that you need to consider the feedback, and although I did not agree with the full proposal, I hope you will continue to move this matter forward in some form. No matter what you decide I feel doing something is better than doing nothing and remaining with the status quo. Hopefully you can find a compromise that accommodates the feedback. -Michael Cherry

9. I think making this mandatory is a good idea. The people that care about this are probably going to sign up for diversity matters anyways. However, the ones that are against it will not. And while

everyone is entitled to their own beliefs etc., everyone needs to work together and treat everyone with the respect they deserve regardless of those beliefs. Reviewing some of the comments, it appears there are many people who need this training such as comments stating diversity is a weakness or inclusion and anti-bias is communism. -Mandy L. Rose

10. I reside in Eastern Washington, so excuse my backwardness. I thought the WSBA was actually a professional licensing agency tasked with assuring that lawyers were competent in lawyering. It seems the proposed amendment has strayed into the pursuit of a social agenda. I am not a supporter of bias or exclusion. However, if I were building a house and wanted to hire an electrician I would be interested most interested in his or her skill in that trade. It would not concern me whether the electrician had attended inclusion or anti-bias training. This is like having college students forced to take out elephant size student loans to pay six figure salaries to the assistant to the dean of micro-slights. The objective is well intentioned. It just seems like overreach to single out lawyers and require such things as a condition of professional licensing. As a practical matter more harm is done on a daily basis by lawyers to their own clients by rudeness and a pathological lack of civility in dealing with opposing counsel. Sadly, this does not seem to be amenable civility training. -J. Valente

11. I recognize the comment period has expired, but I was informed there have been many negative comments about the proposal. These are my thoughts, in pertinent part, I shared with those within the AGO: AGO embraces diversity, equity, and inclusion. There are many opportunities within the office, as well as mandatory classes. AGO is a leader in training all employees, not just attorneys, about these core values... I support the additional requirements the WSBA is proposing. Everyone would benefit. I sent you an email earlier regarding my support of the amendment. I need to clarify that it is my personal opinion and is not reflective or representative of the Attorney General's Office. -CJ Murray

12. I am not a WSBA member, but I am a Washington state resident with an interest in equitable application of the law in my community. I am emphatically in favor of the proposed amendment to APR 11 to add inclusion, mental health, and digital security to the required CLE curriculum. As a computer security professional in 2019, I think the digital security proposal stands on its own. Clients must have confidence that their privileged discussions with counsel will not be disclosed. Yet today's threat landscape makes it nontrivially possible for a single-person law practice to be targeted by sophisticated attackers. Lawyers need to know about the threats they face and about straightforward and effective defenses like multi-factor authentication. More importantly, though, regarding the inclusion and mental health provisions: I was disheartened to see the voluminous negative feedback that WSBA has received so far, and in particular the repeated assertion that these trainings were "beyond the scope" of what the Bar should require. To the contrary, I believe that the new proposed trainings are essential to the Bar's mission "to ensure the integrity of the legal profession" and "to champion justice". Without recognizing and addressing bias head-on, we cannot expect uniform application of ethics rules. And without embracing a proactive narrative against bias, we cannot expect clients of all backgrounds to enjoy consistently zealous representation by their attorneys. To my eye, the volume and quality of negative comments regarding these latter proposals are the strongest argument in favor of their adoption. -Matthew Riley

13. I strongly support adding a CLE requirement for a minimum of 6 hours on Diversity, Equity and Inclusion. The Bar should set the standards for the entire state on such issues. Instead, WA Bar is far behind many law firms. ALL Attorneys should be able to recognize bias, and take appropriate steps to

prevent such bias to interfere with the judicial process. There are a number of reasons this change is needed: acts of bias, implicit or explicit, are increasing, and effect the practice of law, therefore, it is time to require training; those with privilege typically don't recognize it; it's difficult to be aware of these issues without education necessary to the practice of law, and for the future of the practice of law; many in the professional don't understand these topics and therefore discount their value – don't let those people decide this issue; requiring this training will help better serve all clients and the public. -Susan Sackett DanPullo

14. I am reaching out to you regarding tomorrow's consideration of the required CLE credit on the topic of diversity. I have noticed that a large portion of the comments submitted against this proposal point to precisely why it is so important for these CLE courses to be required. The comments overarching message is that it is too time-consuming, costly, and too "politically-correct" to be mandatory. Working as a young legal professional, it is impossible to conceive of Washington State's future without the proper footholds in place for acknowledging the growing diversity of our State Bar Association. This is allegedly burdensome, but the larger burden is carried by attorneys and staff with diverse backgrounds, beliefs, and physical capabilities that do not have the support necessary to work in an effective, inclusive workplace. This is not about hurt feelings, it is about being professional. I ask that the MCLE Board accept and make this CLE credit mandatory. Our growing diverse workplace is where these CLE courses set a precedent for the future of law in our State; the remaining viewpoints are the individuals that need to attend these diversity courses, especially if they are partners at a firm with a diverse group of associates and staff working for them. Thank you for your time and effort in this initiative. –Kevin Burdet

15. I am writing today in support of a proposal to include a diversity requirement in our State CLE scheme. If anything, I think the current proposal -- one class every three years if I understand correctly -- is the bare minimum of what we should be doing as a State that values diversity and progress as much as we do. I know some have complained that it's too had to find these CLE's, but if it were a requirement, the current offerings would be better attended leading to more being held. As both a former prosecutor for Grant County and current AAG, I have often thought back to diversity-based courses I was lucky enough to need to complete both college and law school. Those classes have often helped me approach my job in a more sensitive and effective way. It's a shame that we do not continue this approach once we are already in our careers. As a government lawyer my entire career, I often have found, contrary to the claim that this requirement would be too difficult for us, that my employers have often been at the forefront of making sure its employees get this type of training. We all know the legal profession lags behind many others in terms of diversity and I hope I don't have to explain here how important diversity is to enriching and bettering our work and lives. What makes more diversity training especially important for the legal profession is how often our decisions and actions dictate what happens to disadvantaged groups. We may not be able to fully solve that problem with a little bit of diversity training, but it's sure a bad look to not even try. -Elise Abramson Constantine, J.D.

16. I just wanted to weigh in with support for the diversity education amendment. This is a small but necessary step to show WSBA is committed to supporting all of its members. Please make sure this proposal goes out to the entire bar for feedback. -Ivy Anderson

17. I am in favor of requiring diversity, equity and inclusion CLE credits. One CLE on the topic of diversity, equity and inclusion every three years is not burdensome. Another approach would be to require a certain number of credits so the topic could be included in other CLEs, similar to Ethics CLEs. It might allow those who are afraid of or hostile to diversity to learn about people who differ from them in baby steps that they can handle. –Sandra Adix

18. As a non-attorney I would like to contribute my opinion on the upcoming APR 11 Amendment Proposal. Coming from California where cultural and gender diversity is the norm, I really appreciate the Washington Attorney General's tenets of diversity and inclusion in our offices. In my short time living in Washington State, I've realized the importance of diversity in my work life. Attorney General Bob Ferguson is doing an exemplary job in providing those trainings and outlets to help our office grow in a positive way. But wouldn't it be great to see the entire legal community growing and expanding their horizons even if it's just one MCLE every two years? It saddens me to some of the negative comments, but it only reinforces the need for education in our current climate. One of the comments says, "Diversity is not a weakness." It's not. It's a strength and can only help our practices stronger. –Jane Montes-Hall

19. I am in support of requiring one diversity CLE every three years. During my time in private practice, many clients told me that they were intimidated and apprehensive about meeting with an attorney. I would imagine the situation is even more common for people who come from a diverse background. The apprehension is understandable. As a woman and person of color, I have been mistreated by other attorneys who don't know better. And I have heard similar stories from other attorneys from diverse backgrounds. Other attorneys may have responded that they feel like values are being pushed on them. With the population of Washington becoming increasingly diverse, awareness and tools to interact with others different from you are not about morals or values, but are basic skills needed to serve the people of this state. -Angie Lee

20. I write to support the proposal to require CLEs that address diversity and inclusion. This is an important topic to us as lawyers and humans and we can always do better in this area—the statistics speak for themselves. This will force attention to be paid to an area that is too easily dismissed as "PC nonsense"—but usually dismissed by those that haven't struggled to be included. I'm disheartened by the negative comments to date. Please consider this important issue carefully. Those comments show me just how important it is to highlight issues of diversity and inclusion. -Rike Connelly

21. I fully support the proposed amendments to APR 11, which would require all members of the bar to complete CLE credits addressing (1) inclusion and anti-bias, (2) mental health, addiction, and stress, and (3) technology. These are all areas that we as a profession should focus on more, and each member of the bar plays an important role in ensuring that justice is both possible and real. -April Benson

22. I am writing to express my strong support for the proposed amendment of APR 11, requiring attorneys to obtain regular training on equity and inclusion. As a young female attorney, I am often faced with uncomfortable or offensive situations that are created by others' implicit (and sometimes explicit) biases. Personally, I can only do so much to educate them or change their behavior—especially when it comes to opposing counsel. Requiring all attorneys to take DEI-specific CLEs would increase the likelihood that those kinds of people will take the issue seriously. Unfortunately, those who avoid this kind of training are those who need it the most. Their resistance to this new requirement, no matter how vocal, should not be a reason for the proposal to fail—if anything, it should serve as a demonstration of why this kind of training really is needed. In my experience, this is an issue that negatively affects not only the morale and mental health of those targeted by micro-/macro-aggressions, but also efficiency and productivity in the workplace. It is in everyone's best interest—including the clients we serve and the judges we practice before—for the legal profession to prioritize this issue. Thank you for your consideration. Please let me know if you would like additional information from me. -Caroline Cress

23. I am writing in full support of WSBA's proposal that all licensed attorneys take one CLE on the topic of diversity every three years. I applaud WSBA for putting this proposal forward. The world is changing and the bar needs to change with it. In addition to the implicit bias I have experienced personally, I have known colleagues to be treated differently by parties, opposing counsel, and decision-makers, due to the fact that they don't look like the majority. This is not only personally offensive and morally wrong, but it damages the integrity of the judicial system. Eliminating all types of bias in the courtroom is critical to our collective goal of equal justice, and to maintaining public trust and confidence in our legal system. Thank you for the opportunity to comment on this proposal. -Sonia Wolfman

24. I am writing to express my strong support for the proposed amendment to APR 11 that will require one diversity CLE credit. I understand the WSBA has received a large amount of negative feedback and comments. While not surprising (this is still, after all, a profession mostly controlled by cis white men, and when one is accustomed to privilege, equality can feel like oppression), I was disturbed to see some comments that went well beyond simply expressing displeasure with the proposal, and ventured into the territory of asserting a "right" to discriminate, or exclude others based on their status. Of course, no such right exists, and the comment perfectly illustrates why such education should be mandatory for all Washington attorneys. I urge the members of the BOG to look beyond sheer numbers when evaluating the comments on this proposal, and to vote in favor of the proposal. -Emily C. Nelson

25. It is my understanding that the WSBA is considering a proposal for a Diversity CLE requirement. Please add me to the list of those in favor of such a requirement. Attorneys individually and our profession as a whole will benefit from these types of trainings. It would not be difficult for members of the bar to meet a requirement of one class every three years. I work for the Office of the Attorney General and we already have a robust program for some mandatory DEI trainings as well as many voluntary diversity trainings and events. I urge you to please adopt this proposal. Thank you for considering this relevant and timely issue. -Linda A. Sullivan-Colglazier

26. I am strongly in favor of adding a requirement that all attorneys take at least one CLE class on the topic of diversity each reporting period. Although I currently serve in a public service position, I spent nearly 10 years in private practice. Awareness and recognition of diversity and implicit bias are vital to a well-functioning judicial branch. Bias and discrimination play a role in so many of our daily interactions, business dealings, investigations, analyses and resulting decisions, often in ways we don't intend or recognize. Requiring legal practitioners to receive even minimal training on diversity, whether on issues encountered by women, communities of color, people with disabilities, veterans, members of the LGBTQ+ community or other under-served populations, will only make us better lawyers and judges. As an example, I recently served as a potential juror in a murder case in which voir dire lasted a full day. In King County, every juror is required to watch a video about implicit bias as part of orientation. During voir dire, a juror invoked the issue of implicit bias in her response to a question early in the day, and it led to a fulsome discussion in which a room of nearly 60 potential jurors identified, admitted to, and wrestled with, their own biases—both implicit and explicit—throughout the day. I left the courtroom with a renewed faith that conversations and trainings about diversity, and specifically implicit bias, are effective. This proposed CLE requirement would ensure that all legal practitioners—including those not working in law firms or corporate offices prone to mandate such training—are educated on issues of diversity. From my perspective, there are zero drawbacks to adding this diversity CLE requirement—there are only benefits. Notably, it poses no additional burden on licensed attorneys—either financially or CLE credits—and is the functional equivalent to requiring a certain portion of our CLE credits cover ethics. I sincerely hope that the WSBA moves forward with this proposal. -Heidi Anderson

27. The legal profession needs diversity training because the legal system is still skewed against people of color, women, and low income individuals. -Jody Lee Campbell

28. I am in favor of requiring attorneys to attend one CLE on diversity every 3 years. To me, this is not an onerous requirement, especially when attorneys may choose what diversity topic they want to learn more about. Although the term "diversity" encompasses several concepts, I support that attorneys should be educated about how diversity and inclusiveness are manifested, how they affect society as a whole, and how they affect situations attorneys might encounter in their work. -Darcey Elliott

WASHINGTON STATE
BAR ASSOCIATION
Regulatory Services Department

MCLE Board
Established by Washington Supreme Court APR 11
Administered by the WSBA
John Bender, Chair

REPORT AND PRELIMINARY RECOMMENDATION OF THE WASHINGTON SUPREME COURT MANDATORY CONTINUING LEGAL EDUCATION BOARD RE: PROPOSED AMENDMENT TO APR 11

Background

At the Washington State Supreme Court Mandatory Continuing Legal Education Board (MCLE) meeting on October 5, 2018, the WSBA Diversity Committee presented to the MCLE Board a proposed amendment to Rule 11 of the Washington Supreme Court's Admission and Practice Rules (APR 11). The proposal was drafted by the WSBA Diversity Committee and the Washington Women Lawyers with the support of eight minority bar associations: the Asian Bar Association of Washington, Cardozo Society of Washington State, Filipino Lawyers of Washington, Pierce County Minority Bar Association, Loren Miller Bar Association, Latina/o Bar Association of Washington, South Asian Bar Association of Washington, and QLaw. Their proposal was to require that at least one of the six ethics credits licensed legal professionals are required to earn each reporting period be on the topic of "equity, inclusion and the mitigation of bias in the legal profession". Following the presentation, the MCLE Board formed a subcommittee to study the proposal and make a recommendation to the MCLE Board.

The subcommittee provided a report and recommendation at the January 2019 MCLE Board meeting. Based on the factors and information discussed below, the subcommittee recommended that the MCLE Board propose an amendment that included not only a required credit for equity, inclusion, and anti-bias but also one credit for mental health and addiction, and technology education focusing on digital security for a total of three of the six required credits. The MCLE Board approved the recommendation by the subcommittee and sought feedback about the proposed amendment from key stakeholders including board and committee members in the Bar, minority bar associations, providers of CLE seminars, and former members of the MCLE Task Force. After considering the feedback, the subcommittee proposed revised amendments at the May 2019 meeting of the MCLE Board. The MCLE Board adopted the revised preliminary recommendation as set forth below, and is now seeking feedback on this proposal.

Preliminary Recommendation

The following preliminary recommendation would amend the ethics requirement under Admission and Practice Rule (APR) 11 to require one credit in each of the following subjects: 1) inclusion and anti-bias, 2) mental health, addiction, and stress, 3) technology education focusing on digital security, per reporting period. The MCLE Board recommends the following amendments to APR 11:

APR 11(c)(1)(ii)

(ii) at least six credits must be in ethics and professional responsibility, as defined in subsection (f)(2), with at least one credit from each of subsections (f)(2)(ii), (iii), and (iv).

APR 11(f)(2)

(2) *Ethics and professional responsibility*, defined as topics relating to:

(i) the general subject of professional responsibility and conduct standards for lawyers, LLLTs, LPOs, and judges~~, including diversity and anti-bias with respect to the practice of law or the legal system, and~~;

(ii) the risks to ethical practice associated with ~~diagnosable~~ mental health ~~conditions~~, addictive behavior, and stress;

(iii) equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law, including client advising; and

(iv) the use of technology in the practice of law as it pertains to a lawyer, LLLT, or LPO's professional responsibility, including how to maintain the security of electronic or digital property, communications, data, and information.

If the amendment is adopted by the Washington State Supreme Court, the MCLE Board would recommend a target implementation date of January 1, 2021.

Basis for Recommendation

Upon review of the materials and consideration of available information, it became apparent to the MCLE Board that national trends are moving toward increased requirements in education in the topics of diversity, inclusion and anti-bias, mental health and addiction, and technology education focusing on digital security. A few of the largest states have already implemented one or more of these requirements, including California, Illinois, New York and Florida. The MCLE Board believes these three areas are among the most important issues facing not only the legal profession but also the general population in the United States today.

The MCLE Board believes that, in addition to the initially recommended topic of equity, inclusion, and anti-bias in the legal profession, the topics of mental health and technology are very likely to come under consideration at some time in the near future. The MCLE Board believes that it makes sense to implement these new requirements contemporaneously rather than piecemeal. In addition, the rulemaking process can take a considerable amount of time. Implementing them now is more efficient and prevents unnecessary delay in the future.

The MCLE Board notes that this recommendation does not include a recommendation to increase the total number of ethics credits required for each reporting period. Instead, it requires that three of the ethics credits be in the identified topics. The MCLE Board also notes that two of these topics are already included as eligible for credit in the current ethics category, but they are not specifically required.

Factors & Information

In determining this preliminary recommendation, the MCLE Board considered the following factors and information:

- Need for Equity, Inclusion and Mitigation of Bias in the Legal Profession

The MCLE Board reviewed the information and materials provided by the WSBA Diversity Committee that discussed the need for mandatory diversity and mitigation of bias training for all licensed legal professionals. The MCLE Board believes that education in this area is of paramount importance, would benefit all licensed legal professionals whether they are currently engaged in the active practice of law or not, and would serve the purpose of APR 11 of assisting legal professionals' competence, fitness to practice, and character.

- ABA Model Rule for Minimum Continuing Legal Education (2017)

The ABA recently amended its Model Rule for MCLE. Section 3(A) of the ABA Model Rule recommends that jurisdictions require one credit per year in the area of ethics and professionalism (which would be three credits for a three-year reporting period as in Washington). In addition, it recommends one credit every three years in the specific areas of mental health and substance abuse disorders, and one credit every three years in diversity and inclusion. That is a total of five required credits in a three year period. Washington already requires six credits in ethics and professional responsibility, one more than the total recommended by the ABA.

- Trends in United States Jurisdictions

  A review of the MCLE requirement in other U.S. jurisdictions found that four states have adopted a diversity requirement. In addition, five states have adopted a mental health or substance abuse requirement, and, two states have adopted a technology education requirement. Given the recommendation by the ABA and the trend so far in the United States, the MCLE Board decided to recommend the adoption of mental health/substance abuse as a requirement, not just as a permitted ethics topic, in Washington as well. The MCLE Board notes that it appears states are starting to include requirements for continuing education in technology. However, instead of a general technology requirement, the MCLE Board believes a technology requirement should focus on digital security and the protection of confidential information, which relates to ethical requirements of competency.

- Intent of APR 11

  Another factor considered by the MCLE Board was the intent of APR 11. When APR 11 was rewritten by the MCLE Task Force in 2014, the MCLE Task Force issued a report that recognized that not all active members are practicing law and stressed the importance of the relevance of the education to the individual. In its July 2014 report, the task force wrote:

> One of the fundamental premises on which the task force bases its recommendations is that Washington lawyers are not only engaged in the traditional lawyer-client representation, but that there is an increasing amount of lawyers in Washington whose career options or employment are in a myriad of different legal and nonlegal professions. …
>
> The task force's proposed new rules recognize, in its requirements, that a lawyer who is not practicing law in the traditional sense is still licensed to practice while an active member of the Bar. The task force's recommendations, therefore, attempt to strike a balance between the needs of protecting the public and the needs of all lawyers who may or may not be practicing law but could do so at any moment in any given situation.

The report's conclusion included:

> The recommendations also address specific current and future needs of WSBA members wanting healthier practices and recognition that the practice of law – and use of a lawyer's skills – is much wider than in the past. In addition, the recommendations are based on solid pedagogical grounding – that mandatory legal education is only effective if it addresses a lawyer's true needs and is relevant to the lawyer. The public is also best protected and served when members take courses that address true need.

- Resources and Time Needed to Implement

The MCLE Board considered the input from WSBA staff about resources needed to implement an amendment of this type. WSBA staff reported that it would be impractical to implement the rule prior to January 1, 2021. In addition, due to the current technological structure of the MCLE online system, it would be difficult, if not impossible, to incorporate a change to the credit structure into the current system. It would also result in delays to other technology projects underway at the WSBA. The WSBA is currently planning and working on a revision to the MCLE system in order to improve the general functioning of the system and to incorporate LLLTs and LPOs; therefore, it would be easier to include a change to the credit structure into those plans at this time, rather than later. Although implementation would be approximately nineteen months out, that is only a few months longer than a normal rule-making schedule. Suggested rules generally go to the Washington Supreme Court in October, and if adopted, are effective the following September. Because the MCLE requirements are based on three calendar-year reporting periods, it would be logical for any new requirement adopted by the Supreme Court to start on a January 1 so that all members will have, at a minimum, one year to meet any new requirement.

Changes to the Proposed Amendment Based on Initial Stakeholder Feedback

The MCLE Board reviewed initial feedback provided by key stakeholders including minority bars, former MCLE Task Force members, and CLE Sponsors. The MCLE Board adopted suggestions from the Washington Attorneys with Disabilities Association (WADA). WADA suggested removing "diagnosed" and "conditions" from APR 11(f)(2)(ii) in an effort to reduce stigmatization that may deter lawyers from seeking treatment and support. The MCLE Board also adopted WADA's suggestion of adding "implicit and explicit" before bias in APR 11 (f)(2)(iii). WADA's suggestions were supported by the Korean American Bar Association and the South Asian Bar Association of Washington.

Similarly, the Middle Eastern Legal Association of Washington and the Loren Miller Bar Association advised changing the language to incorporate "unconscious bias". The MCLE Board believes the intent of that language is captured by adding "implicit" and "explicit" to the proposed amendment. The MCLE Board added language to clarify that technology and security credits must also pertain to a lawyer, LLLT, or LPO's professional responsibility to qualify for ethics credit.

Request for Comment from Members

The MCLE Board would like to hear from all WSBA members about the proposed amendment to APR 11. Please provide your feedback by emailing the MCLE manager, Adelaine Shay at adelaines@wsba.org by August 8th, or by attending the MCLE Board meeting on Aug. 16, 2019 comments will be heard from 10:05 AM to 10:25AM at WSBA, 1325 Fourth Ave, Suite 600, Seattle, WA.

Proposed Schedule

June – July 2019	Member Comment	Share Report with members for comment
Aug 16, 2019	MCLE Board Meeting	Revise if needed after member comments
September 26 2019	BOG Meeting	Share with BOG for FYI
October 2019	MCLE Board	Revise if needed if any feedback from BOG
Oct 15, 2019	Deadline	Send recommendation to Court; request effective date Jan 1, 2021

Attachments

1. Proposal from WSBA Diversity Committee
2. Additional Statistical Support for MCLE Requirement on Equity, Inclusion and Mitigation of Bias
3. ABA Model Rule for Minimum Continuing Legal Education (2017)
4. MCLE Requirements in United States Jurisdictions
5. MCLE Task Force Report, July 2014

Proposal from WSBA Diversity Committee and Washington Women Lawyers

Adelaine Shay

From: Adelaine Shay
Sent: Wednesday, March 6, 2019 9:47 AM
To: Adelaine Shay
Subject: FW: Proposed Change for MCLE Requirements
Attachments: MCLE Proposal.docx

From: Wulf, Laura (ATG) [mailto:LauraW@ATG.WA.GOV]
Sent: Thursday, September 20, 2018 5:03 PM
To: MCLE
Cc: Karrin Klotz; Dana Barnett; Ailene Limric
Subject: Proposed Change for MCLE Requirements

MCLE Committee:

We are pleased to submit the attached amendment proposal to your committee. Other state bar associations have adopted rules that require each bar member to earn a CLE credit based on Equity, Inclusion and the Mitigation of Bias principles. The ABA supports the concept as well. Washington Women Lawyers brought the idea to the WSBA Diversity Committee where the idea was enthusiastically supported. We urge the committee to consider adopting such a requirement for WSBA members. We have consulted several of the Washington Minority Bar Associations. In addition to Washington Women Lawyers, we have met with the Asian Bar Association, the Cardozo Society of Washington State, the Filipino Lawyers of Washington, and the Pierce County Minority Bar Association who have endorsed the proposed rule amendment. We anticipate receiving support from other MBA's as well.

Both myself and Karrin Klotz, on behalf of the Washington Women Lawyers, look forward to discussing the proposal with you at your meeting on October 5, 2018. I am hopeful that there will be a call-in number as I will be attending the Tacoma—Pierce County Bar Association Convention in Bellingham on the 5th. Karrin will attend in person.

In the meantime, if you have any questions, please feel free to contact one of us.

Thank you for your consideration.

Laura Wulf
WSBA Diversity Committee Member

1. Proposed New CLE Requirement:

That Washington requires each member of the WSBA to take one stand-alone hour of approved continuing legal education activity every three years in an area called Equity, Inclusion and the Mitigation of Bias in the legal profession, and the practice of law, including client advising. Qualifying CLEs would include courses and activities regarding implicit and explicit bias, equal access to justice, serving a diverse population, equity and inclusion initiatives in the legal profession and society, and raising awareness and sensitivity to myriad differences when interacting with members of the public, judges, jurors, litigants, attorneys, court personnel, other employees, executives, and customers.

The mitigation of bias aspect shall be designed to help legal professionals identify and mitigate implicit and explicit bias in the practice of law against persons based on, for example: race, gender, economic status, creed, color, religion, national origin, disability, political ideology, breastfeeding in a public place, military or veteran status, age, sexual orientation, sex, gender identity, ancestry, parental status, marital status, ethnicity, and use of a service animal. The protected categories include those under federal, state and Seattle laws, which employers must follow depending on number of employees or whether they are engaging in business activities that otherwise create a jurisdictional nexus to employee-protection laws.

APR 11(c)(1)(ii) requires six credits in "ethics and professional responsibility," as defined in APR 11(f)(2). Currently, programs related to "diversity or antibias with respect to the practice of law or the legal system" can be applied toward the six-credit minimum at each member's option. Our proposal would revise APR 11(c)(1)(ii) to stipulate that at least one of the six ethics and professional responsibility credits focus on equity, inclusion, and the mitigation of bias.

One option for building such a requirement into the existing framework is highlighted below:

APR 11(c)(1)(ii): at least six credits must be in ethics and professional responsibility, as defined in subsection (f)(2), with at least one of the six credits from subsection (f)(2)(ii).

APR 11(f)(2): Ethics and professional responsibility, defined as topics relating to (i) the general subject of professional responsibility and conduct standards for lawyers, LLLTs, LPOs and judges, including the risks to ethical practice associated with diagnosable mental health conditions, addictive behavior, and stress or (ii) equity, inclusion and the mitigation of bias in the legal profession and the practice of law, including client advising;

2. Justification for New CLE Requirement:

Diversification of gender, race, age and abilities in positions of power continues to be an unresolved issue. For example, women or minorities represented 66% of Washington's population in a recent study but just 44% of its state judges.[1] In private practice, women and minorities represent 59% of junior associates nationwide but just 24% of equity partners.[2]

Meanwhile, bias continues to affect the legal profession and the practice of law, which is one reason Washington changed General Rule 37 earlier this year to help combat implicit bias in jury

[1] Tracey E. George & Albert H. Yoon, *The Gavel Gap: Who Sits in Judgment on State Courts?* 26 (American Constitution Society 2016).

[2] Marc Brodherson et al., Women in Law Firms 3 (McKinsey & Company 2017).

selection and the U.S. District Court for the Western District of Washington asks all jurors to watch a video on unconscious bias. While explicit bias may be rare in our profession, "we all live our lives with stereotypes that are ingrained and often unconscious, implicit biases that endure despite our best efforts to eliminate them."[3]

We can help by ensuring legal professionals have practical tools and tips for recognizing and mitigating explicit and implicit bias against underrepresented populations in the legal profession and in the practice of law, including in court and when counseling clients who face these issues in their own entities. Qualifying CLEs could also help us work toward a more diverse and self-aware profession by focusing on best practices for increasing inclusion and mitigating bias, such as policies and procedures that recognize and address the needs of specific underrepresented populations, impact litigation, and other methods for increasing diversity.

This MCLE requirement will help legal practitioners recognize and mitigate their own bias and biases within the profession to better serve the public. This is a topic that is crucial to maintaining public confidence in the legal profession and the rule of law, and to promoting the fair administration of justice.[4]

We propose, as the ABA Model Rule for Minimum Continuing Legal Education[5] does, that inclusion or bias mitigation training should be a stand-alone requirement to ensure that all lawyers receive minimal training in this area. Mandatory training is especially important here, due to the insidious nature of bias, which is "activated involuntarily and without an individual's awareness or intentional control."[6] A lawyer who is not aware of his or her biases may not opt in to specialty training. However, bias affects even the best of us and mandatory training would help mitigate its effects on our profession through education and awareness.

---

[3] *State v. Saintcalle*, 178 Wn.2d 34, 36, 309 P.3d 326 (2013), citing Jerry Kang & Kristin Lane, *Seeing Through Colorblindness: Implicit Bias and the Law*, 58 UCLA L. Rev. 465, 471 (2010).

[4] Micah Buchdahl, *Report on Model Rule for Minimum Continuing Legal Education* 4 (American Bar Association 2017).

[5] American Bar Association, Model Rule for Minimum Continuing Legal Education § 3(a)(3)(c) (2017).

[6] The Kirwan Institute for the Study of Race and Ethnicity at The Ohio State University, *Understanding Implicit Bias*, http://kirwaninstitute.osu.edu/research/understanding-implicit-bias/ (last visited September 2018).

Additional Statistical Support for MCLE Requirement on Equity, Inclusion and Mitigation of Bias

Adelaine Shay

From: KARRIN KLOTZ <karrink@aol.com>
Sent: Tuesday, October 9, 2018 3:09 PM
To: MCLE
Cc: Dana Barnett
Subject: Additional Statistical support for MCLE requirement on "Equity, Inclusion & Mitigation of Bias"

Follow Up Flag: Follow up
Flag Status: Completed

I contacted Retired Justice Faith Ireland about the issue of support for our proposal for a required MCLE on "Equity, Inclusion & Mitigation of Bias" and she sent me the below link for your follow-up purposes:

http://projectimplicit.org/demopapers.html
http://www.pewsocialtrends.org/2015/08/19/exploring-racial-bias-among-biracial-and-single-race-adults-the-iat/
http://kirwaninstitute.osu.edu/wp-content/uploads/2017/11/2017-SOTS-final-draft-02.pdf

ABA Model Rule for Minimum Continuing Legal Education (2017)

AMERICAN BAR ASSOCIATION

ADOPTED BY THE HOUSE OF DELEGATES

FEBRUARY 6, 2017

RESOLUTION

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

American Bar Association
Model Rule for Minimum Continuing Legal Education
February 2017

Purpose

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

Contents

Section 1. Definitions.

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

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

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

(D) "Ethics and Professionalism Programming" means CLE programming that addresses standards set by the Jurisdiction's Rules of Professional Conduct with which a lawyer must comply to remain authorized to practice law, as well as the tenets of the legal profession by which a lawyer

demonstrates civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rules of law, the courts, clients, other lawyers, witnesses, and unrepresented parties.

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

(F) "Interdisciplinary Programming" means programming that crosses academic lines that supports competence in the practice of law.

(G) "Jurisdiction" means United States jurisdictions including the fifty states, the District of Columbia, territories, and Indian tribes.

(H) "Law Practice Programming" means programming specifically designed for lawyers on topics that deal with means and methods for enhancing the quality and efficiency of a lawyer's service to the lawyer's clients.

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

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

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

(1) "In-Person" – a live CLE Program presented in a classroom setting devoted to the program, with attendees in the same room as the faculty members.
(2) "Satellite/Groupcast" – a live CLE Program broadcast via technology to remote locations (i.e., a classroom setting or a central viewing or listening location). Attendees participate in the program in a group setting.
(3) "Teleseminar" – a live CLE program broadcast via telephone to remote locations (*i.e.,* a classroom setting or a central listening location) or to individual attendee telephone lines. Attendees may participate in the program in a group setting or individually.
(4) "Video Replay" – a recorded CLE Program presented in a classroom setting devoted to the program, with attendees in the same room as a qualified commentator. Attendees participate in the program in a group setting.

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

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

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

(1) "Recorded On Demand Online" – a recorded CLE Program delivered through the internet to an individual attendee's computer or other electronic device with interactivity built into the program recording or delivery method.
(2) "Video or Audio File" – a recorded CLE Program delivered through a downloaded electronic file in mp3, mp4, wav, avi, or other formats with interactivity built into the program recording or delivery method.
(3) "Video or Audio Tape" – a recorded CLE Program delivered via a hard copy on tape, DVD, DVR, or other formats with interactivity built into the program recording or delivery method.

(N) "Self-Study" includes activities that are helpful to a lawyer's continuing education, but do not meet the definition of CLE Programming that qualifies for MCLE Credit. Self-Study includes, but is not limited to:

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

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

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

Section 2. MCLE Commission.

The Jurisdiction's Supreme Court shall establish an MCLE Commission to develop MCLE regulations and oversee the administration of MCLE.

Comments:

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

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

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

Section 3. MCLE Requirements and Exemptions.

(A) Requirements.

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

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

(a) Ethics and Professionalism Programming (an average of at least one Credit Hour per year);
(b) Mental Health and Substance Use Disorders Programming (at least one Credit Hour every three years); and
(c) Diversity and Inclusion Programming (at least one Credit Hour every three years).

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

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

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

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

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

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

Comments:

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

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

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

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

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

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

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

Section 4. MCLE-Qualifying Program Standards.

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

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

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

(1) Substantive law programming

(2) Legal and practice-oriented skills programming

(3) Specialty programming (*see* Section 3(A)(2))

(4) New Lawyer Programming (*see* Section 1(L))

(5) Law Practice Programming (*see* Section 1(H))

(6) Technology Programming (*see* Section 1(P))

(7) Interdisciplinary Programing (*see* Section 1(F))

[(8) Attorney Well-Being Programming]

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

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

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

Comments:

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

2. Section 4(B)(4) supports accrediting CLE Programs specifically designed for new lawyers. Many Jurisdictions require new lawyers to take one or more specific programs that focus on basic skills and substantive law particularly relevant to new lawyers, either prior to or immediately after bar admission. Other Jurisdictions simply accredit such programs as general CLE. The catalyst for some Jurisdictions to begin offering such programs was a 1992 ABA task force report entitled: "Task Force on Law Schools and the Profession: Narrowing the Gap" (commonly known as the "MacCrate Report"), which offered numerous recommendations for preparing law students and new graduates to practice law. This Model Rule supports the creation of programs designed for new lawyers, but does not specifically require such programs, because many Jurisdiction-specific

factors may influence a Jurisdiction's decision on this issue, such as the number of lawyers in the Jurisdiction, the availability of existing CLE programs, whether there are specific Sponsors available to teach such programs, similar educational programs required before licensure, and other factors.

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

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

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

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

7. If a lawyer seeks MCLE credit for attending a program that has not been specifically designed for lawyers, including but not limited to programs on the topics identified in Section 4(B), Jurisdictions may choose to consider creating regulations that would require the lawyer to explain how the program is beneficial to the lawyer's practice. The regulations could also address how to calculate Credit Hours for programs that were not designed for lawyers.

8. In-Person Moderated Programming, *see* Section 4(C) and Section 1(K)(1), requires lawyers to leave their offices and learn alongside other lawyers, which can enhance the education of all and promote collegiality. Other forms of Moderated Programming and Non-Moderated Programming

with Interactivity as a Key Component, such as Section 4(C), Section 1(K) and (M), and Section 4(A)(2), allow lawyers to attend programs from any location and, in some cases, at the time of their choice. This flexibility allows lawyers to select programs most relevant to their practice, including specialized programs and programs with a national scope. Some Jurisdictions have expressed concern with approving programming that does not occur In-Person on grounds that the lawyer is less engaged. Thus, some Jurisdictions have declined to accredit or have limited the number of credits that can be earned through these other forms of programming. This Model Rule supports allowing a lawyer to make educated choices about whether attending Moderated Programming (In-Person or other) or Non-Moderated Programming with Interactivity as a Key Component will best meet the lawyer's educational needs, recognizing that the lawyer's needs may change over the course of his or her career. Therefore, this Model Rule does not place limits on the number of credits that can be earned through Moderated Programming or Non-Moderated Programming with Interactivity as a Key Component. If a Jurisdiction believes that Moderated Programming, specifically In-Person Programming, is crucial to a lawyer's education, then it is recommended that the Jurisdiction establish a minimum number of credits that must be earned through this type of programming, rather than place a cap on the number of credits that can be earned through other types of programming. A key factor in deciding whether to require In-Person Programming is the availability of programs throughout a particular Jurisdiction, which may be affected by geography, the number of CLE Sponsors, and other Jurisdiction-specific factors.

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

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

Section 5. Accreditation.

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

(1) Faculty credentials

(2) Written materials

(3) Attendance verification

(4) Interactivity

(5) Applications and supplemental information required (agenda, sample of materials, faculty credentials, etc.)

(6) Accreditation fees

(B) Any Sponsor may apply for approval of individual programs, but if the Jurisdiction determines that a Sponsor regularly provides a significant volume of CLE programs that meet the standards of approval and that the Sponsor will maintain and submit the required records, the Jurisdiction may designate, on its own or upon application from a Sponsor, such a Sponsor as an "approved provider." The MCLE Commission may revoke approval if a Sponsor fails to comply with its regulations, requirements, or program standards.

(C) Programs offered by law firms, corporate or government legal departments, or other similar entities primarily for the education of their members or clients will be approved for credit provided that the program meets the standards for accreditation outlined in Section 4.

(D) A Jurisdiction may establish regulations allowing an individual lawyer attendee to self-apply for MCLE Credit for attending a CLE program that the Sponsor did not submit for accreditation in the Jurisdiction where the individual lawyer is licensed.

106

Comments:

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

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

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

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

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

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

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

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

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

9. Section 5(D) endorses regulations that allow an individual lawyer to self-apply for MCLE credit for attending a CLE Program that would qualify for MCLE Credit under Section 4, but which was not submitted for accreditation by the Sponsor in the Jurisdiction where the individual lawyer is licensed. This allows greater flexibility for a lawyer to select CLE programming that best meets his or her educational needs regardless of where the program Sponsor has chosen to apply for MCLE credit. It is anticipated that each Jurisdiction will draft regulations that best meet the Jurisdiction's needs, taking into account factors such as: the standards, delivery format, and

content of the program; the Sponsor's qualifications; other accreditation of the program by CLE regulators; the availability of CLE Programs in the Jurisdiction; administrative considerations, including fees; and other factors.

Section 6. Other MCLE-Qualifying Activities.

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

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

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

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

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

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

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

[**(C)** Pro Bono]

[**(D)** Mentoring]

Comments:

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

2. A minority of Jurisdictions award MCLE credit for participating in mentoring programs for fellow lawyers. This Model Rule takes no position on whether credit should be available for that activity, as many Jurisdiction-specific factors may influence a Jurisdiction's decision on this issue, such as the perceived need for formal mentoring programs in the Jurisdiction and the

availability of organizations to administer formal mentoring programs. Accordingly, this option appears in brackets in this Model Rule.

REPORT

Nearly thirty years have passed since the American Bar Association House of Delegates adopted the Model Rule for Minimum Continuing Legal Education (MCLE) and Comments (hereafter, "1988 MCLE Model Rule") to serve as a model for a uniform standard and means of accreditation of CLE programs and providers. The CLE landscape has changed considerably in the last three decades. Technological advancements have made it possible for lawyers to learn about the law in new and exciting ways. Evolution in the practice of law and changes in society have also created opportunities for educating lawyers about new subjects. In addition, increasing numbers of lawyers are licensed in more than one Jurisdiction.[1]

Although only thirty United States Jurisdictions required MCLE in 1988, forty-six states and four other Jurisdictions now do so.[2] While each Jurisdiction has its own MCLE rules and regulations, many requirements are consistent across Jurisdictions. As Jurisdictions continue to evaluate their MCLE requirements, they look to successes and challenges other Jurisdictions have experienced, as well as to the 1988 MCLE Model Rule. In light of the many changes that have occurred in CLE and the legal profession over the past thirty years, the time has come to adopt a new MCLE Model Rule to assist Jurisdictions in the years to come. This Model Rule retains many of the core provisions of the 1988 MCLE Model Rule, but it eliminates some detailed recommendations, such as those concerning the organization of MCLE commissions in each Jurisdiction and specific penalties for lawyers who do not satisfy MCLE requirements. This Model Rule also adds a definitions section, as well as new recommendations for specific types of programming and methods of program delivery. In addition, it has been reorganized for easier navigation.

I. Model Rule drafting process.

Although the 1988 MCLE Model Rule was amended by the House of Delegates several times over the last three decades, the House of Delegates has not considered the document as a whole since it was adopted. In recent years, the MCLE Subcommittee of the ABA Standing Committee on Continuing Legal Education ("SCOCLE") discussed several developments in CLE

[1] The terms "Jurisdiction" and "Sponsor" are among those defined in Section 1 of the Model Rule. Those terms are capitalized in this report.

[2] United States Jurisdictions include the fifty states, the District of Columbia, territories, and Indian tribes. The following forty-six states require lawyers to take MCLE: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. In addition, Guam, Mariana Islands, Puerto Rico, Virgin Islands, and some Indian tribes (e.g., Navajo Nation) require MCLE.

that could necessitate amendments to the 1988 MCLE Model Rule. Then, in August 2014, the House of Delegates passed Resolution 106, which specifically asked SCOCLE to consider changes to the 1988 MCLE Model Rule, including those related to law practice CLE. *See* 2014A106.

To address issues identified by the MCLE Subcommittee and by Resolution 106, SCOCLE initiated the MCLE Model Rule Review Project (hereafter, "Project"), which has undertaken a comprehensive review of the 1988 MCLE Model Rule. The Project began by seeking volunteers from within and outside the ABA to serve on working groups. Over fifty volunteers—including individual lawyers, ABA leaders, CLE regulators, CLE providers, judges, academics, law firm professional development coordinators, and state/local/specialty bar association leaders—considered a wide variety of issues related to MCLE, including: CLE delivery methods, substantive law programming, specialty programming, CLE for specific constituent groups, the impact of technology on CLE, international approaches to CLE,[3] and many other topics.

Based on reports of the various working groups and larger discussions with working group members and other interested persons, the Project prepared a draft Model Rule that was circulated for comment to entities within and outside the ABA in August 2016. As a result of feedback from various entities and individuals, the draft was revised and is now being submitted to the House of Delegates for adoption.

II. The Purpose of MCLE.

Long before Jurisdictions began requiring CLE, Jurisdictions recognized the need for CLE.[4] "Continuing legal education … was originally implemented as a voluntary scheme after World War II to acclimate attorneys returning to practice after a lengthy absence in the military

[3] The International Approaches working group looked at MCLE requirements in Canada, New Zealand, Australia, England, and Wales. In Canada, between 2009 to 2016, eight of the ten provinces and the three territories introduced a mandatory credit hours system. Although these Canadian requirements are similar to those in the U.S.A., the regulatory mechanisms have been designed to be less complex and significantly less expensive to administer. In New Zealand and four Canadian jurisdictions, a learning or study plan requirement has been introduced either in combination with or in place of a credit hours requirement. Most Australian states have a mandatory credit hours system. Very recently in England and Wales, the credit hours requirement for solicitors has been eliminated in place of a requirement that solicitors certify they are maintaining their competence to practice law. For information on these changes in England and Wales, please visit: http://www.sra.org.uk/solicitors/cpd/solicitors.page. Barristers in England and Wales moved to a similar requirement that became effective on January 1, 2017. *See* https://www.barstandardsboard.org.uk/regulatory-requirements/regulatory-update-2016/bsb-regulatory-update-may-2016/changes-to-cpd/.

[4] Several important national conferences considered the role of CLE. They were known as the "Arden House" conferences and were held in 1958, 1963, and 1987. More recently, in 2009, the Association for Continuing Legal Education Administrators (ACLEA) and the American Law Institute-American Bar Association (ALI-ABA) cosponsored an event called "Critical Issues Summit, Equipping Our Lawyers: Law School Education, Continuing Legal Education, And Legal Practice in the 21st Century."

and to meet the needs of increased numbers in the profession."[5] In 1975, Minnesota and Iowa became the first states to require MCLE, in part to counteract negative publicity caused by the involvement of lawyers in the Nixon Watergate scandal.[6]

Ultimately, it is clear that the primary reasons for requiring CLE have remained the same since the first states began requiring MCLE forty years ago: ensuring lawyer competence, maintaining public confidence in the legal profession, and promoting the fair administration of justice. In recognition of those goals, this Model Rule includes the following Purpose Statement, from which all other provisions of the Model Rule flow:

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

III. Key themes addressed by this Model Rule.

The Project's working groups were asked to consider what works well in Jurisdictions that require MCLE and what has challenged consumers, providers, and regulators of MCLE. Several key themes emerged and are reflected in this Model Rule.

First, when it comes to regulating MCLE, there are many similarities among Jurisdictions, but no two Jurisdictions have identical rules and regulations. Given that the vast majority of Jurisdictions already have MCLE rules and regulations in place, it is unrealistic to expect that every Jurisdiction will adopt identical rules. Rather than suggest that every Jurisdiction adopt identical rules for every aspect of MCLE administration, this Model Rule focuses on the most important aspects of MCLE, including those that affect MCLE on a national level. The Model Rule states that it is anticipated that Jurisdictions will develop additional rules and regulations to address administrative decisions such as reporting deadlines, fees, attendance verification, and other issues.

Second, the continuing education needs of lawyers vary based on the lawyer's length of experience, practice setting, and area of practice. For instance, an introduction to an individual

---

[5] Lisa A. Grigg, Note, "The Mandatory Continuing Legal Education (MCLE) Debate: Is It Improving Lawyer Competence or Just Busy Work?", 12 BYU. J. PUB. L. 417, 418 (1998). For additional history of the development of MCLE, *see* Cheri A. Harris, MCLE: The Perils, Pitfalls, and Promise of Regulation, 40 VAL. U. L. REV. 359, 369 (2006); and Chris Ziegler and Justin Kuhn, "Is MCLE A Good Thing? An Inquiry Into MCLE and Attorney Discipline," available at: https://www.clereg.org/assets/pdf/Is_MCLE_A_Good_Thing.pdf.

[6] *See* Rocio T. Aliaga, "Framing the Debate on Mandatory Continuing Legal Education (MCLE): The District of Columbia Bar's Consideration of MCLE," 8 GEO J. LEGAL ETHICS 1145, 1150 (1995).

state's laws of intestacy will be helpful to a newer lawyer engaging in general practice in a single state, but of little use to a lawyer with twenty years of experience practicing products liability law in federal courts in six Jurisdictions. It is imperative that lawyers have access to high-quality CLE that most meets their educational needs. One way to achieve that goal is to allow lawyers to access CLE in person or using technology-based delivery methods such as teleconferences and webinars. This Model Rule addresses that goal by recommending that Jurisdictions allow lawyers to choose CLE offered in a variety of program delivery formats and not limit the number of credits that can be earned using a particular delivery format.

Third, it is important that lawyers continue to receive CLE on substantive legal topics—especially those areas in which the lawyer practices—because the law is ever-evolving. At the same time, it is also important that lawyers have access to CLE that addresses the management of their practices to ensure that they can properly serve and manage their clients. For these reasons, it is imperative that CLE be offered in substantive law areas, law practice, and technology. This Model Rule addresses that goal by recommending that Jurisdictions accredit substantive law programs, law practice programs, and technology programs, and further recommending that Jurisdictions not limit the number of credits that can be earned in a particular subject area.

Fourth, although this Model Rule is designed to allow lawyers to choose the CLE topics that best meet their educational needs, there are several topics that are so crucial to maintaining public confidence in the legal profession and the rule of law, and promoting the fair administration of justice, that all lawyers should be required to take CLE in those topic areas. Those areas include: (1) Ethics and Professionalism; (2) Diversity and Inclusion; and (3) Mental Health and Substance Use Disorders.

Fifth, the Model Rule recognizes that having each Jurisdiction draft its own rules and regulations over the past thirty years has allowed Jurisdictions to consider Jurisdiction-specific priorities and needs when drafting CLE requirements, but has also created challenges for CLE Sponsors seeking program approval in multiple Jurisdictions. There are increased financial and administrative burdens associated with seeking MCLE credit in multiple Jurisdictions, which can increase costs for CLE attendees and affect the number of programs being offered nationwide on specialized CLE and federal law topics. This Model Rule suggests several strategies Jurisdictions may consider to reduce those financial and administrative burdens so that CLE Sponsors can offer programming that meets lawyers' educational needs at a reasonable price.

Sixth, with the vast majority of Jurisdictions now requiring MCLE, many law firms, government legal departments, and other legal workplaces—especially those with offices in multiple cities and states—offer in-house CLE programs that address educational topics most relevant to the legal entity. In some Jurisdictions, these programs are not granted MCLE credit. This Model Rule recommends that Jurisdictions treat in-house Sponsors of CLE programs the same as other Sponsors and allow for full accreditation of programs when all other accreditation standards have been met.

Seventh, the legal profession includes hundreds of thousands of lawyers who are licensed in more than one Jurisdiction.[7] Some of these lawyers experience challenges meeting the requirements of each Jurisdiction in which they are licensed due to differences in requirements and the process for MCLE program approval. To reduce the administrative burdens on those lawyers, this Model Rule recommends that Jurisdictions adopt a special exemption for lawyers licensed in multiple Jurisdictions, pursuant to which a lawyer is exempt from satisfying MCLE requirements if he or she satisfies the MCLE requirements of the Jurisdiction where the lawyer's principal office is located.

IV. 2017 MCLE Model Rule: A Closer Look.

The Model Rule contains the aforementioned Purpose Statement plus six Sections, including:

Section 1. Definitions.
Section 2. MCLE Commission.
Section 3. MCLE Requirements and Exemptions.
Section 4. MCLE-Qualifying Program Standards.
Section 5. Accreditation.
Section 6. Other MCLE-Qualifying Activities.

The discussion below highlights some of the most important provisions of those Sections.

A. Section 1. Definitions.

The Definitions section defines sixteen important terms which are then incorporated in the five sections that follow. The term "Jurisdiction," which we use throughout this report, is defined as: "United States jurisdictions including the fifty states, the District of Columbia, territories, and Indian tribes." The term "Sponsor" refers to "the producer of the CLE Program responsible for adherence to the standards of program content determined by the MCLE rules and regulations of the Jurisdiction" and may include "an organization, bar association, CLE provider, law firm, corporate or government legal department, or presenter."

B. Section 2. MCLE Commission.

Section 2 and its three Comments recognize that Jurisdictions, generally acting through the Jurisdiction's highest court, will develop MCLE regulations and oversee the administration of MCLE.

C. Section 3. MCLE Requirements and Exemptions.

[7] Based on publicly available information, it is estimated that approximately twenty-one percent of lawyers are licensed in more than one Jurisdiction. The percentage varies greatly by Jurisdiction. For instance, nearly forty percent of lawyers licensed in New York are licensed in another Jurisdiction, but less than ten percent of lawyers in Florida are licensed in another Jurisdiction.

Section 3(A) outlines several MCLE requirements, such as requiring lawyers with an active law license to earn an average of fifteen credit hours each year; credit hours are defined in Section 1(B) as sixty minutes. Section 3, Comment 1 recognizes that some states have chosen to require fewer than fifteen hours or to define a credit hour as less than sixty minutes. Section 3, Comment 2 acknowledges that the Model Rule does not take a position on whether lawyers should report annually, every two years, or every three years, and it includes the following observation from the 1988 MCLE Model Rule: allowing a lawyer to take credits over a two-year or three-year period provides increased flexibility for the lawyer in choosing when and which credits to earn, but it may also lead to procrastination and may provide less incentive for a lawyer to regularly take CLE that updates his or her professional competence.

Section 3(B) recommends that all lawyers be required to take three types of specialty MCLE, including: (a) Ethics and Professionalism Credits (an average of at least one Credit Hour per year); (b) Mental Health and Substance Use Disorders Credits (at least one Credit Hour every three years); and (c) Diversity and Inclusion Credits (at least one Credit Hour every three years).

Ethics and Professionalism Credits are currently required in every state and territory with MCLE. They assist in expanding the appreciation and understanding of the ethical and professional responsibilities and obligations of lawyers' respective practices; in maintaining certain standards of ethical behavior; and in upholding and elevating the standards of honor, integrity, and courtesy in the legal profession. This Model Rule defines Ethics and Professionalism Programming as: "CLE programming that addresses standards set by the Jurisdiction's Rules of Professional Conduct with which a lawyer must comply to remain authorized to practice law, as well as the tenets of the legal profession by which a lawyer demonstrates civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rules of law, the courts, clients, other lawyers, witnesses, and unrepresented parties." *See* Section 1(D). Many Jurisdictions have similar definitions and, like the Model Rule, do not separate Ethics topics from Professionalism topics, but at least one Jurisdiction requires separate credits for those topics.[8]

Mental Health and Substance Use Disorders Programming is currently accredited in most Jurisdictions, and many Jurisdictions allow such programs to count towards Ethics and Professionalism Programming requirements. Three Jurisdictions specifically require all lawyers to attend programs that focus on mental health disorders and/or substance use disorders.[9] This Model

[8] Georgia requires lawyers to attend both Ethics programs and Professionalism programs. Georgia's Rule 8-104, Regulation 4 offers this definition of the latter: "Professionalism refers to the intersecting values of competence, civility, integrity, and commitment to the rule of law, justice, and the public good. The general goal of the professionalism CLE requirement is to create a forum in which lawyers, judges, and legal educators can explore and reflect upon the meaning and goals of professionalism in contemporary legal practice. The professionalism CLE sessions should encourage lawyers toward conduct that preserves and strengthens the dignity, honor, and integrity of the legal profession."

[9] The following three states require one credit every three years of programming addressing mental health and/or substance use disorder issues: Nevada (substance abuse), North Carolina (substance abuse

Rule recommends that all lawyers be required to take one credit of programming every three years that focuses on the prevention, detection, and/or treatment of mental health disorders and/or substance use disorders. It is anticipated that programs may address topics including, but limited to, the prevalence and risks of mental health disorders (including depression and suicidality) and substance use disorders (including the hazardous use of alcohol, prescription drugs, and illegal drugs).

The need for required Mental Health and Substance Use Disorders Programming was underscored in early 2016 with the release of a landmark study conducted by the Hazelden Betty Ford Foundation and the American Bar Association Commission on Lawyer Assistance Programs, which revealed substantial and widespread levels of problem drinking and other behavioral health problems in the U.S. legal profession.[10] The study, entitled "The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys," found that twenty-one percent of licensed, employed lawyers qualify as problem drinkers, twenty-eight percent struggle with some level of depression, and nineteen percent demonstrate symptoms of anxiety. The study found that younger lawyers in the first ten years of practice exhibit the highest incidence of these problems. The study compared lawyers with other professionals, including doctors, and determined that lawyers experience alcohol use disorders at a far higher rate than other professional populations, as well as mental health distress that is more significant. The study also found that the most common barriers for lawyers to seek help were fear of others finding out and general concerns about confidentiality. Many organizations, including the ABA Commission on Lawyer Assistance Programs, have seen the study's findings as a call to action, which led to this Model Rule's recommendation that all lawyers take one credit of Mental Health and Substance Use Disorder Programming every three years. Section 3, Comment 4 explains: "[R]esearch indicates that lawyers may hesitate to attend such programs due to potential stigma; requiring all lawyers to attend such a program may greatly reduce that concern."[11]

---

and debilitating mental conditions), and California ("Competence Issues," formerly known as "Prevention, Detection and Treatment of Substance Abuse or Mental Illness").

[10] *See* Krill, Patrick R.; Johnson, Ryan; and Albert, Linda, "The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys," JOURNAL OF ADDICTION MEDICINE, February 2016 Volume 10 Issue 1, available at: http://journals.lww.com/journaladdictionmedicine/toc/2016/02000. The mainstream media have also shone a light on rates of depression in the legal system. *See* http://www.cnn.com/2014/01/19/us/lawyer-suicides/.

[11] At the same time, Section 3, Comment 4 recognizes that "Jurisdictions may choose not to impose a stand-alone requirement and, instead, accredit those specialty programs towards the Ethics and Professionalism Programming requirement." In those Jurisdictions, Lawyer Assistance Programs, bar associations, and other CLE providers may wish to focus on increasing the amount of available Mental Health and Substance Use Disorder Programming, so that lawyers more frequently choose it to satisfy their Ethics and Professionalism requirement. It is extremely unlikely, however, that one hundred percent of lawyers will elect to take Mental Health and Substance Use Disorder Programming if it is not specifically required, which is why this Model Rule recommends a stand-alone requirement.

Diversity and Inclusion Programming can be used to educate lawyers about implicit bias, the needs of specific diverse populations, and ways to increase diversity in the legal profession. Currently, only three states require lawyers to take specific Diversity and Inclusion Programs, while other states allow programs on elimination of bias to qualify for Ethics and Professionalism Credits.[12] In February 2016, the ABA House of Delegates recognized the importance of requiring this programming when it adopted a resolution encouraging Jurisdictions with MCLE requirements to "include as a separate credit programs regarding diversity and inclusion in the legal profession of all persons regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities, and programs regarding the elimination of bias." *See* 2016M107.[13] Resolution 107 did not specify the number of credits that should be required. This Model Rule recommends that all lawyers be required to take one credit every three years.

Section 3(B) recognizes that Jurisdictions may choose to provide MCLE exemptions for certain categories of lawyers, such as those on retired status. Section (3)(B)(3) recommends an exemption for lawyers licensed in multiple Jurisdictions who satisfy the MCLE requirements of the Jurisdiction where their principal office is located. This exemption is designed to reduce the administrative burden and costs to those lawyers who have already satisfied the requirements of the Jurisdiction where their principal office is located. Section 3, Comment 7 recognizes that Jurisdictions may choose to limit the exemption to lawyers with principal offices in certain Jurisdictions, or to require that the lawyer attend particular CLE Programs, such as a Jurisdiction-specific Ethics and Professionalism Program.

D. Section 4. MCLE-Qualifying Program Standards.

Section 4 outlines the types of programs that the Model Rule suggests should receive MCLE credit. It explicitly addresses seven types of programming that are defined in Section 1, such as Technology Programming. Section 4, Comment 1 emphasizes that this Model Rule supports allowing a lawyer to make educated choices about which programs will best meet the lawyer's educational needs, recognizing that the lawyer's needs may change over the course of his or her career. Therefore, this Model Rule does not place limits on the number of credits that can be earned for any particular type of program, including those outlined in Section (4)(B).

[12] California, Minnesota, and Oregon require specific Diversity and Inclusion Programming (which they refer to "elimination of bias" or "access to justice" programming), while states such as Hawaii, Kansas, Illinois, Maine, Nebraska, Washington, and West Virginia allow such programs to count towards their Ethics and Professionalism Programming requirements. This Model Rule encourages Jurisdictions to implement a stand-alone credit requirement, but Section 3, Comment 4 also recognizes that "Jurisdictions may choose not to impose a stand-alone requirement and, instead, accredit those specialty programs towards the Ethics and Professionalism Programming requirement." As with the Mental Health and Substance Use Disorder Credit, it is extremely unlikely that one hundred percent of lawyers will elect to take Diversity and Inclusion Programming if it is not specifically required, which is why this Model Rule recommends a stand-alone requirement.

[13] The full text of ABA House of Delegates Resolution 2016M107 is available at: http://www.americanbar.org/content/dam/aba/directories/policy/2016_hod_midyear_107.docx.

Section 4, Comment 2 explains that while the Model Rule supports the creation of programs designed for new lawyers, it does not specifically require such programs, because many Jurisdiction-specific factors may influence a Jurisdiction's decision on this issue, such as the number of lawyers in the Jurisdiction, the availability of existing CLE programs, whether there are specific Sponsors available to teach such programs, similar educational programs required before licensure, and other factors.[14]

Section 4(B)(5) and Section 4, Comment 3 recommend that Law Practice Programming be approved for MCLE credit. That programming is defined as: "programming specifically designed for lawyers on topics that deal with means and methods for enhancing the quality and efficiency of a lawyer's service to the lawyer's clients." *See* Section 1(H). This Model Rule provision builds on policy adopted by the ABA House of Delegates in August 2014. *See* 2014A106.[15] Resolution 106 and this Model Rule both recognize that providing education on the management of one's legal practice can help lawyers avoid mistakes that harm clients and cause law practices to fail. Lawyers require far more than knowledge of substantive law to set up and operate a law practice in a competent manner. In fact, at a national conference on CLE, it was noted that the percentage of cases involving lawyers' shortcomings in personal and practice management far outweighs the percentage of cases involving lack of substantive law awareness.[16] Effective client service requires lawyers to be good managers of their time and offices, skilled managers of the financial aspects of running a practice, and knowledgeable in areas that do not necessarily involve substantive law. Law Practice Programming is designed to help lawyers develop those skills.

Section 4(B)(5) and Section 4, Comment 4 recommend that Technology Programming be approved for MCLE credit. Technology Programming is defined as "programming designed for lawyers that provides education on safe and effective ways to use technology in one's law practice, such as to communicate, conduct research, ensure cybersecurity, and manage a law office and legal matters." *See* Section 1(P). The definition and Section 4, Comment 4 also recognize that Technology Programming "assists lawyers in satisfying Rule 1.1 of the ABA Model Rules of

[14] Section 4, Comment 2 also recognizes that many of the Jurisdictions that have mandated specific CLE programming for new lawyers based the development of those programs on recommendations from a 1992 ABA task force report entitled: "Task Force on Law Schools and the Profession: Narrowing the Gap" (commonly known as the "MacCrate Report" after the late Robert MacCrate, who chaired the commission), which offered numerous recommendations for preparing law students and new graduates to practice law. New lawyer programming varies by jurisdiction. For instance, Florida, Pennsylvania, and Tennessee require new lawyers to complete basic skills courses, but Virginia requires new lawyers to take a professionalism course that focuses primarily on ethics CLE.

[15] The full text of ABA House of Delegates Resolution 2014A106 is available at: http://www.americanbar.org/content/dam/aba/administrative/house_of_delegates/resolutions/2014_hod_annual_meeting_106.authcheckdam.pdf.

[16] *See* Critical Issues Summit, *supra* note 4.

Professional Conduct in terms of its technology component, as noted in Comment 8 to the Rule ("To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology[.]"). The ABA Ethics 20/20 Commission that proposed that Comment to Rule 1.1 concluded that "in a digital age, lawyers necessarily need to understand basic features of relevant technology" and "a lawyer would have difficulty providing competent legal services in today's environment without knowing how to use email or create an electronic document." *See* 2012A105A.[17] The Commission further noted it was important to make this duty explicit because technology is such an integral—and yet, at times invisible—aspect of contemporary law practice. One MCLE Jurisdiction not only allows for the accreditation of these programs, but also requires lawyers to take technology-related courses.[18]

Section 4, Comment 6 acknowledges that some Jurisdictions have begun accrediting programming that addresses attorney wellness or well-being. While some Jurisdictions explicitly accredit attorney wellness or well-being programs, others allow accreditation under their Ethics and Professionalism or Mental Health and Substance Use Disorder programming. *See*, *e.g.*, Maryland, South Carolina, Tennessee, and Texas.[19] Across the country, numerous bar association committees, lawyer assistance programs, and other entities have recognized attorney wellness and well-being as compelling and important issues that affect attorney professionalism, character, competence, and engagement. The National Task Force on Lawyer Well-Being is currently compiling the various approaches and research regarding attorney mental health and wellness and will be preparing a formal report in 2017 outlining its findings and recommendations.[20] ABA

[17] The text of ABA House of Delegates Resolution and Report 2012A105A and additional information on the Ethics 20/20 Commission are available at: http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20.html. That resolution revised then Comment 6 to Model Rule 1.1, which was renumbered as Comment 8 pursuant to Resolution and Report 2012A105C.

[18] On September 29, 2016, Florida became the first state to require Technology CLE, effective January 1, 2017. The Florida Supreme Court amended the MCLE requirements "to change the required number of continuing legal education credit hours over a three-year period from 30 to 33, with three hours in an approved technology program." *See* http://www.floridabar.org/DIVCOM/JN/jnnews01.nsf/8c9f13012b96736985256aa900624829/3b05732accd9edd28525803e006148cf!OpenDocument.

[19] For more information, please visit: www.msba.org/committees/wellness/default.aspx (Maryland); www.scbar.org/lawyers/sections-committees-divisions/committees/wellness-committee/ (South Carolina); cletn.com/images/Documents/Regulations2013.04.16.pdf (Tennessee); and www.texasbar.com/AM/Template.cfm?Section=Lawyers&Template=/CM/ContentDisplay.cfm&ContentID=15117 (Texas).

[20] The National Task Force on Lawyer Well-Being is a collection of entities within and outside the ABA that was created in August 2016. Its participating entities include: ABA Commission on Lawyer Assistance Programs; ABA Standing Committee on Professionalism; ABA Center for Professional Responsibility; ABA Young Lawyers Division; ABA Law Practice Division Attorney Well-Being Committee; The National Organization of Bar Counsel; Association of Professional Responsibility Lawyers; and others.

entities participating in the Task Force may, in the future, propose amendments to the MCLE Model Rule based on the Task Force's findings and recommendations.

Section 4, Comment 8 discusses In-Person Moderated Programming, *see* Section 4(C) and Section 1(K)(1), which requires lawyers to leave their offices and learn alongside other lawyers, which can enhance the education of all and promote collegiality. Other forms of Moderated Programming and Non-Moderated Programming with Interactivity as a Key Component, such as Section 4(C), Section 1(K) and (M), and Section 4(A)(2), allow lawyers to attend programs from any location and, in some cases, at the time of their choice. This flexibility allows lawyers to select programs most relevant to their practice, including specialized programs and programs with a national scope. Some Jurisdictions have expressed concern with approving programming that does not occur in person on grounds that the lawyer is less engaged. Thus, some Jurisdictions have declined to accredit or have limited the number of credits that can be earned through these other forms of programming. This Model Rule supports allowing a lawyer to make educated choices about whether attending Moderated Programming (In-Person or other) or Non-Moderated Programming with Interactivity as a Key Component will best meet the lawyer's educational needs, recognizing that the lawyer's needs may change over the course of his or her career. Therefore, this Model Rule does not place limits on the number of credits that can be earned through Moderated Programming or Non-Moderated Programming with Interactivity as a Key Component. If a Jurisdiction believes that Moderated Programming, specifically In-Person Programming, is crucial to a lawyer's education, then it is recommended that the Jurisdiction establish a minimum number of credits that must be earned through this type of programming, rather than place a cap on the number of credits that can be earned through other types of programming.[21] A key factor in deciding whether to require In-Person Programming is the availability of programs throughout a particular Jurisdiction, which may be affected by geography, the number of CLE Sponsors, and other Jurisdiction-specific factors.

Section 4, Comment 9 recognizes that jurisdictions currently calculate the number of credits earned based on the number of minutes of instruction or lecture provided to attendees, but it suggests that Jurisdictions may wish to consider offering MCLE credit for self-guided educational programs, especially as technology continues to advance. Those that choose to explore other ways of calculating credit could look to the experience of other professions. For instance, Certified Professional Accountants (CPAs) may earn credit for self-paced learning programming. Calculation of credit is determined by review by a panel of pilot testers (professional level, experience, and education consistent with the intended audience of the program) and the average time of completion (representative completion time) is then used to determine credit to be received

[21] Currently, several Jurisdictions limit the number of credits that may be earned through non-live programming. These include: Georgia, Indiana, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, Ohio, Pennsylvania, Puerto Rico, South Carolina, Tennessee, Utah, and West Virginia. There are currently no Jurisdictions that explicitly require In-Person Programming credits; instead, they use the cap on non-live formats to effectively require In-Person Programming credits.

by all who complete the program.[22] The regulators require additional safeguards as part of the program including review questions and other content reinforcement tools, evaluative and reinforcement feedback, and a qualified assessment such as a final examination. CPAs may also earn credit for text-based content with credit calculation based on a word-count formula, and now allow for nano-learning—short programs (minimum 10 minutes) focusing on a single learning objective.

Section 4, Comment 10 recognizes that Jurisdictions have used the term "self-study" in varying ways. As defined in this Model Rule, Self-Study refers to activities that are important for a lawyer's continuing education and professional development, but which do not qualify as MCLE.

E. Section 5. Accreditation.

Section 5(A) recognizes the need for regulations on topics including faculty credentials, written materials, attendance verification, interactivity, applications and accreditation fees, but it does not prescribe those specific regulations, leaving that role to individual Jurisdictions.

Section 5, Comment 1 recognizes that because regulations vary among Jurisdictions—and are likely to continue to vary—Sponsors bear significant financial and administrative burdens to seek MCLE credit in multiple Jurisdictions, which can affect the number of programs being offered nationwide on specialized CLE and federal law topics. Comment 1 suggests several ways Jurisdictions can minimize those burdens, such as by promulgating regulations that are clear and specific and by streamlining the application processes, both of which would make it easier for Sponsors to complete applications and know with greater certainty whether programs are likely to be approved for MCLE credit. Section 5, Comment 1 further states that Jurisdictions may choose to reduce administration costs to the Jurisdictions, CLE Sponsors, and individual lawyers by recognizing an accreditation decision made for a particular program by another Jurisdiction, thereby eliminating the need for the CLE Sponsor or individual lawyer to submit the program for accreditation in multiple Jurisdictions. Finally, Section 5, Comment 1 recognizes that Jurisdictions might consider creating a regional or national accrediting agency to supplement or replace accreditation processes in individual Jurisdictions.

Section 5, Comments 2, 3, 4, 5, and 6 discuss suggested provisions for faculty credentials, written materials, attendance verification, interactivity, applications and accreditation fees.

Section 5(B) recognizes that Jurisdictions may choose to create an approved provider program for Sponsors who frequently present CLE in the Jurisdiction. Section 5, Comment 7

[22] The Statement on Standards for Continuing Professional Education (CPE) Programs (2016) (Standards) is published jointly by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA) to provide a framework for the development, presentation, measurement, and reporting of CPE programs. General information on those Standards is available at: https://www.nasbaregistry.org/the-standards. The Standards, including a discussion of the methods of calculating credit, is available at: https://www.nasbaregistry.org/__media/Documents/Others/Statement_on_Standards_for_CPE_Programs-2016.pdf.

discusses the types of regulations that would need to be created and the list of possible benefits for preferred providers.

Section 5(C) and Section 5, Comment 8 recommend that in-house programs, such as those offered by law firms, corporate or government legal departments, should be approved for credit as long as the program meets the general standards for accreditation outlined in Section 4.

Section 5(D) and Section 5, Comment 9 endorse regulations that allow an individual lawyer to self-apply for MCLE credit for attending a CLE Program that would qualify for MCLE Credit under Section 4, but which was not submitted for accreditation by the Sponsor in the Jurisdiction where the individual lawyer is licensed.

F. Section 6. Other MCLE-Qualifying Activities.

Section 6(A) and (B) recommend that lawyers be allowed to earn MCLE credit for teaching and writing, and that Jurisdictions create regulations which define the standards, credit calculations, and limitations of credit received for teaching or presenting activities or writing on legal topics.

Section 6(C) and Section 6, Comment 1 recognize that a minority of Jurisdictions award MCLE credit for providing pro bono legal representation, but this Model Rule takes no position on whether such credit should be granted, as many Jurisdiction-specific factors may influence a Jurisdiction's decision on this issue, such as the extent of free legal services existing in the Jurisdiction and pro bono requirements imposed by the Jurisdiction's ethical rules.[23] For that reason, Section 6(C) appears in brackets.

Similarly, Section 6(D) and Section 6, Comment 2 recognize that a minority of Jurisdictions award MCLE credit for participating in mentoring programs for fellow lawyers, giving credits to both mentors and mentees.[24] This Model Rule takes no position on whether credit should be available for that activity, as many Jurisdiction-specific factors may influence a Jurisdiction's decision on this issue, such as the perceived need for formal mentoring programs in the Jurisdiction and the availability of organizations to administer formal mentoring programs. For that reason, Section 6(D) appears in brackets.

[23] Jurisdictions that currently allow lawyers to earn credit through the provision of pro bono legal services include: Arizona, Colorado, Delaware, Louisiana, Minnesota, New York, North Dakota, Ohio, Tennessee, Washington, Wisconsin, and Wyoming.

[24] For instance, Georgia and Ohio both offer lawyer-to-lawyer mentoring programs that allow lawyers to earn MCLE credit for participation. For more information on those programs, visit: https://www.gabar.org/aboutthebar/lawrelatedorganizations/cjcp/mentoring.cfm (Georgia) and http://www.supremecourt.ohio.gov/AttySvcs/mentoring/ (Ohio). Other Jurisdictions which allow mentors and mentees to gain credit are: Alaska, Arizona, Colorado, Illinois, Indiana, Oregon, Texas, Utah, Washington, and Wyoming.

V. Conclusion.

MCLE continues to play a crucial role in maintaining public confidence in the legal profession and the rule of law and promoting the fair administration of justice. This Model Rule, which builds on four decades of experience in the Jurisdictions that have mandated MCLE, recognizes effective ways to provide lawyers with the high quality, accessible, relevant, and affordable programming that enables them to be competent regarding the law, legal and practice-oriented skills, the standards and ethical obligations of the legal profession, and the management of their practices. The American Bar Association strongly urges all Jurisdictions—whether they currently have MCLE or not—to consider implementing the recommendations in this Model Rule to further the continuing education of lawyers throughout the United States.

Respectfully Submitted,

Micah Buchdahl, Chair
Standing Committee on Continuing Legal Education

February 2017

MCLE Requirements in United States Jurisdictions

STATE	REQ TOTALS*	REQ CATEGORIES	NOTES	GOVERNING RULE
Alabama	12 T/yr	Of these, 1 E/professionalism	No mention of diversity/anti-bias	AL State Bar Rules for MCLE
Alaska	3 E/yr, and 9 T/yr *voluntary* CLE	3 E/yr	No mention of diversity/anti-bias	Rule 65
Arizona	15 T/yr	Of these, 3 credits of prof. resp.	No mention of diversity/anti-bias	Rule 45
Arkansas	12 T/yr	Of these, 1 in ethics (which may include professionalism)	No mention of diversity/anti-bias	AR MCLE Rule 3
California	25 T/3 yrs	Of these, 4 E plus 1 Substance Abuse/Mental Illness, plus 1 Elim. of Bias in legal prof. (originally effective 2008, in 2014 elim of bias definition broadened to include not just w/n practice of law)	1 ELIM OF BIAS REQUIRED (separate from 4 E required)	Rule 2.5
Colorado	45 T/3 yrs	Of these, 7 E	Topics on diversity included but not required	Rule 250
Connecticut	12 T/yr	Of these, 2 E/prof. resp.	No mention of diversity/anti-bias	Practice Book §2-27A
Delaware	24 T /2 yrs	Of these, 4 E	No mention of diversity/anti-bias	DE Rules for CLE
Florida	33 T/3 yrs	Of these, 5 E plus 3 technology programs	Topics on bias elimination included but not required	Rule 6-10.3
Georgia	12 T/yr	Of these, 1 E, 1 professionalism, (& 3 trial hrs for trial attys only)	Diversity included in professionalism definition but not required	GA State Bar Rule 8-104
Hawaii	3 T/yr & 1 E/3 yrs	Separate requirement -1 E/prof. resp. every 3 yrs	Topics on bias awareness/prevention included but not required	RSCH Rule 22
Idaho	30 T/3 yrs	Of these, 3 E/prof. resp.	No mention of diversity/anti-bias	IBCR 402
Illinois	30 T/2 yrs	Of these, 6 PMCLE (Prof. Resp. MCLE) incl. at least 1 diversity/inclusion AND 1 Mental health/sub. Abuse (effective 2019 - D&I req.)	1 DIVERSITY/INCLUSION REQUIRED (as part of 6 T E required)	IL Supreme Court Rule 790-798
Indiana	36 T/3 yrs (6T/yr)	Of 36 T, 3 E/prof. resp.	No mention of diversity/anti-bias	Admission & Discipline Rule 29
Iowa	15 T/yr & 3 E/2 yrs	3 E/2 yrs	Topics on diversity included but not required	Commission on CLE Ch. 41, 42
Kansas	12 T/yr	Of these, 2 E/prof.	No mention of diversity/anti-bias	Rule 802, 803
Kentucky	12 T/yr	Of these, 2 E	No mention of diversity/anti-bias	KT SCR 3.6
Louisiana	12.5 T/yr	Of these, 1 E AND 1 Professionalism	No mention of diversity/anti-bias	LA SCR for CLE Part H
Maine	11 T/yr	Of these, 1 professionalism	Topics on diversity included but not required	ME Bar Rule 5

Maryland	none			
Massachusetts	none	New admittees only – day long Practicing with Professionalism course	Practicing with Professionalism keynote topic - Elim of bias	SJC Rule 3:16
Michigan	none			
Minnesota	45 T/3 yrs	Of these, 3 E/prof. resp. plus 2 Elim. of Bias (effective 2016)	2 ELIM OF BIAS REQUIRED	MN Rules of the Board of CLE
Mississippi	12 T/yr	Of these, 1 E/prof. resp.	No mention of diversity/anti-bias	MS Rules & Regs for MCLE
Missouri	15 T/yr	Of these, 2 professionalism	No mention of diversity/anti-bias	Rule 15
Montana	15 T/yr	Of these, 2 E	No mention of diversity/anti-bias	MT Rules for CLE
Nebraska	10 T/yr	Of these, 2 prof. resp. (ethics)	Topics on diversity included but not required	NE SCR Ch 3 Art 4
Nevada	13 T/yr	Of these, 2 E, plus 1 substance abuse	No mention of diversity/anti-bias	NV SCR 210-215
New Hampshire	12 T/ yr	Of these, 2 E/professionalism	No mention of diversity/anti-bias	NH SCR 53
New Jersey	24 T/2 yrs	Of these, 4 E/professionalism	No mention of diversity/anti-bias	NJ CR 1:42
New Mexico	12 T/yr	Of these, 2 E/professionalism	No mention of diversity/anti-bias	NM SCR 18-101 thru 303
New York*	24 T/2 yrs	Of these, 4 E/professionalism, plus 1 diversity &inclusion/elim. of bias (effective 2018)	1 DIVERSITY & INCLUSION/ ELIM. OF BIAS REQUIRED	NYCRR 1500
North Carolina	12 T/yr	Of these, 2 E/professionalism, plus 1 technology training (effective 2019), AND 1 mental health/sub abuse every 3 yrs	Topics on diversity included but not required	27 NCAC 1D, Sections .1500 and .1600.
North Dakota	45 T/ 3 yrs	Of these, 3 E	No mention of diversity/anti-bias	State Bar Assn of SD CLE Policies
Ohio	24 T/2 yrs	Of these, 2.5 E/professionalism, mental health, sub. Abuse, Access to Justice, Diversity	Topics on diversity included but not required	SCR for The Gvt of the Bar of OH Rule X
Oklahoma	12 Tyr	Of these, 1 E	No mention of diversity/anti-bias	MCLE rules for the SC of OK
Oregon*	45 T/3 yrs	Of these, 5 E, plus 1 Elder Abuse Reporting, and every alternate RP- Of total, 3 Access to Justice; AND starting 2019, Of 45 T, 1 Mental Health/Sub. Abuse	No mention of diversity/anti-bias	OSB MCLE Rules & Regs
Pennsylvania	12 T/yr	Of these, 1 E/professionalism/sub. abuse	No mention of diversity/anti-bias	PACLE Rules & Regs
Rhode Island	10 T/yr	Of these, 2 E/professionalism	Topics on diversity included but not required	RI Judiciary Art. IV Rule 3
South Carolina	14 T/yr	Of these, 2 E/professionalism	No mention of diversity/anti-bias	SC Commission Regulations for MCLE

South Dakota	none			
Tennessee	15 T/yr	Of these, 3 E/prof. resp.	No mention of diversity/anti-bias	TN SCR 21
Texas	15 T/yr	Of these, 3 E/prof. resp.	No mention of diversity/anti-bias	TX St. Bar MCLE rule Article XII
Utah	24 T/2 yrs	Of these, 3 E/prof. resp. (1 of 3 must be professionalism/civility)	No mention of diversity/anti-bias	UT SCR of Prof. Practice Ch 14 Art 4
Vermont	20 T/2 yrs	Of these, 2 E	No mention of diversity/anti-bias	VT SCR Rules for MCLE
Virginia	12 T/yr	Of these, 2 E/professionalism	No mention of diversity/anti-bias	VA SCR MCLE regs
Washington	45 T/3 yrs	Of these, 6 E	Topics on diversity included but not required	WA SC APR 11
West Virginia	24 T/2 yrs	Of these, 3 E	Topics on elim of bias included but not required	MCLE WV Rules
Wisconsin	30 T/2 yrs	Of these, 3 E/prof. resp.	No mention of diversity/anti-bias	WI SCR 31
Wyoming	15 T/yr	Of these, 2 E	Topics on diversity included but not required	Rules of WY St. Board or CLE

NOTE – WASHINGTON, DC HAS NO MCLE REQUIREMENT (not listed, as it is not a state, but it is a jurisdiction)

*New admittees may have additional requirements, but if there are any additional requirements concerning any different credit categories they will be listed here:

- **NY** new admittees must also complete 32T within the first two years of the date of admission, of which 16 T must be 3 E/professionalism; 6 must be skills; and 7 must be law practice management and areas of professional practice.
- **OR** new admittees must (NOT also, but only) complete in their first RP 15 T, including 2 E, and 10 practical skills. One of the E must be devoted to Oregon ethics and professionalism and four of the ten credits in practical skills must be devoted to Oregon practice and procedure. New admittees must also complete a three credit hour introductory course in access to justice.

DIVERSITY/INCLUSION/ANTI-BIAS – 4 (CA, IL, MN, NY)

MENTAL HEALTH/SUBSTANCE ABUSE –5 (CA, IL, NV, NC, OR)

OTHER SPECIFIED CREDIT CATEGORY – 3 (FL, NC, OR)

MCLE Task Force Report

July 2014

REPORT AND RECOMMENDATIONS OF THE MCLE TASK FORCE

Background

The current MCLE rules and regulations have been amended several times over the years resulting in a long, complicated set of rules and regulations. In 2013, the MCLE Board, after receiving significant input from various sources and stakeholders, submitted a new set of suggested amendments to the Court. The suggested amendments in 2013 proposed new subject areas, credit caps on certain subjects and activities, and recommended requirements to be met to earn credits in some of the approved subjects and activities. The Court recognized the frequent amendments and difficulty in understanding the rules by all stakeholders and, therefore, tabled consideration of the suggested amendments and stated that they would wait for the Task Force's comprehensive review of the MCLE rules.

The Process

The MCLE Task Force was charged with suggesting amendments to the MCLE rules in light of the changes in the areas of education and training, the rapidly changing legal services marketplace, and the widely varied needs of Washington lawyers and their clients in the 21st century. In order to accomplish their charge, the task force of about 20 members of the Bar Association met once a month for the last nine months. In between meetings, task force members studied MCLE related articles, information relating to best learning practices and reviewed evolving drafts of proposed APR 11 revisions. During the course of its work, the task force also heard from several different stakeholders and experts in related fields:

- Paula Littlewood, WSBA Executive Director, who discussed the future of the legal profession and the changes taking place in the 21st century.
- Mark Johnson, malpractice lawyer with Johnson Flora PLLC and past president of the BOG, who discussed malpractice claims and the fact that somewhat less than half of the claims result from substantive law knowledge errors and a significant number of claims result from administrative errors and client relations issues;
- Doug Ende, Chief Disciplinary Counsel, who discussed the underlying reasons for grievances and pointed out that violations of the RPC generally do not arise from a lack of understanding the RPCs. Rather, the data suggests that courses on improving the lawyer-client relationship would likely decrease the number of grievances;

- Peg Giffels, WSBA Education Programs Manager, who discussed key factors for learning, primarily that the subject matter be relevant and include practical application as opposed to a pure lecture format;
- Michal Badger, WSBA LAP Manager, who discussed the important correlation between a lawyer's mental and emotional health and a lawyer's career satisfaction;
- Mary Wells, WSBA LOMAP Advisor, who discussed the importance of technology related skills, employee relations skills, and practice management skills; and
- Supreme Court Justices Charles Johnson and Sheryl Gordon McCloud, who provided some insight into the matters important to the Court such as making sure the rules are relevant to the lawyers of today's world and meet the original purpose of MCLE—keeping lawyers competent to practice law.

Finally, the task force sought and considered comments and feedback from the WSBA membership and CLE providers.

Key Premises

Easy to Understand and Administer

The task force recommends a complete rewrite of APR 11. The rules recommended by the task force are clear, concise and easy to understand. The comprehensive review of all of the current rules and regulations led the task force to conclude that the substance and purpose of MCLE, now and going forward, is better served by these new rules. The task force believes that these new rules will greatly increase the lawyer's understanding of how to earn MCLE credit, assist efficient administration of the MCLE program, and provide each lawyer expanded opportunities to grow in the profession.

Expanding and Diverse Bar

One of the fundamental premises on which the task force bases its recommendations is that Washington lawyers are not only engaged in the traditional lawyer-client representation, but that there is an increasing amount of lawyers in Washington whose career options or employment are in a myriad of different legal and nonlegal professions. In addition, the Bar is rapidly expanding with a large number of newer lawyers entering the profession while older lawyers are starting to retire. These newer lawyers are more diverse and more technologically savvy than previous generations of lawyers.

The task force's proposed new rules recognize, in its requirements, that a lawyer who is not practicing law in the traditional sense is still licensed to practice while an active member of the Bar. The task force's recommendations, therefore, attempt to strike a balance between the needs of protecting the public and the needs of all lawyers who may or may not be practicing law but could do so at any moment in any given situation.

Prevention

Task force members understand that prevention of problems through education can have a positive impact on the practice of law. Several speakers and related materials addressed

the importance of creating and maintaining good lawyer-client relationships and office practices. The task force recognizes the importance of work-life balance and the fact that a happy, healthy lawyer makes a competent lawyer. Allowing lawyers to use MCLE to address lawyer-client, stress management, or office management issues will more likely increase overall client satisfaction and assist in preventing the types of issues that lead to lawyer discipline cases and malpractice claims.

Self Regulation

The task force also recognizes the fact that the profession is self-regulating. The task force has a great deal of trust and respect for the membership and strongly believes that lawyers, in terms of both a profession and as individuals, are perfectly capable, and should be able, to choose the education that best suits their needs for their particular situation. Learning something relevant to one's situation is one of the key factors for successful learning. The recommendations are designed to address the needs of all lawyers by trusting each lawyer to decide what he or she most needs to remain competent and fit to practice law.

The Future

Finally, the task force recognizes that these recommendations are cutting edge and forward thinking. Yes, they are ahead of other states' MCLE rules. But then so were the current rules when they were adopted. There is significant literature (including a recent ABA Committee analysis) to the effect that MCLE as currently structured is not effective in protecting the public or making better lawyers. The task force intentionally drafted rules for the future. It will be 2016 at the earliest before the new rules take effect. The task force is of the opinion that it is important to look ahead and plan for the changes in the legal landscape. These rules do that by foreseeing the needs of the whole membership, not just litigators or general practitioners, but all lawyers. By taking action now to address the educational and training needs of the membership as we see it, the lawyers of Washington will be better equipped to maintain their competence and professionalism which in turn serves to better protect the public in the long run.

Recommendations

Purpose (Proposed APR 11(a))

Based on those key premises, the task force recommends expanding and clearly defining the purpose of MCLE to include competence, character, and fitness. Those are the three fundamental requirements for admission to the practice of law that, therefore, should be maintained by any lawyer wishing to continue in the practice of law. The purpose also clearly states that public protection is an important purpose for MCLE.

Education Requirements (Proposed APR 11(c))

The task force recommends that lawyers be required to complete a minimum of 15 credits in "law and legal procedure" courses and a minimum of six "ethics and professional responsibility" credits. After having met these minimum requirements, lawyers may choose to earn the remaining 24 credits in any of the approved subject areas or approved activities that qualify for MCLE credit. This is a simplified structure without credit caps

and numerous conditions for other approved activities and subject areas as found in the current rules.

"Law and Legal Procedure" Subject Area (Proposed APR 11(c)(1)(i) and (f)(1))

The "law and legal procedure" subject area continues the recognition of the importance of keeping current on the law. The task force recommends that a minimum of 15 credits be earned from "law and legal procedure" courses. This subject area represents the traditional, substantive, black letter law courses, including updates and developments in all areas of law and legal procedure. Any course related to substantive "law" or "legal procedure" falls into this subject area. This subject area was created to enable the new simplified structure to work properly. More importantly, requiring courses in this subject area eliminates the possibility, as it exists now, that any one lawyer could obtain all their credits through other approved activities without attending or completing a single traditional CLE course.

Approved Course Subjects (Proposed APR 11(f))

The task force recommends more diversity in the approved course subjects. As discussed above, after a lawyer meets the minimum 15 "law and legal procedure" course credits and the six "ethics" credits, the remaining credits may be earned in a number of other approved subject areas. All of the proposed course subjects relate directly to the practice of law and the legal profession. In fact, most of them are already approved for CLE credit under the existing rules or were included in the 2013 suggested amendments. These subject areas incorporate the needs of all lawyers as identified by the expert reports to the task force.

This structure allows lawyers who are engaged in the practice of law to choose to continue to supplement their knowledge of the law by attending additional "law" courses. On the other hand, lawyers may choose courses or activities that enhance their knowledge and skills relevant to their situation or the legal profession while at the same time maintaining minimum competence to practice law.

No "Live" Credit Requirement

The task force recommends the elimination of the "live" credit requirement. Currently, the rules require lawyers to earn at least half of their credits by attending courses that occur in real time—this includes live webcasts.

There are several factors that convinced the task force to eliminate the "live" credit requirement. Members often express concern about the cost of CLE courses—and not only the course tuition or registration fees. For many members, the cost of attending CLE courses in person includes travel expenses and time away from the home and office. A majority of newer lawyers, post-recession, may not be able to quickly find employment. In addition, those new lawyers finding employment typically start out in small law firms (two-to-ten lawyer size firms) rather than joining large law firms as has been the case historically. These lawyers do not have the same resources and ability to take time away from the office as lawyers in larger law firms. In addition, the Bar

Association now has over 30,000 active lawyers living and working around the world so access and expense is a real issue.

Among other factors are the rapid advances in technology that now bring pedagogically sophisticated CLE courses into lawyers' offices and homes, and, the reality that most live seminars are simply lectures with a brief question and answer period at the end. Research shows that these lecture programs are a less effective learning method compared to actual "doing" (trial advocacy programs, handling a pro bono case, for example). There are very few courses that provide significant time for participation or application of the new knowledge or skills. Given this reality, the task force sees little benefit in travelling to or viewing a live lecture when the same experience can be replicated at your home or office at a time that is convenient for you.

The task force understands that in a proper learning environment the best learning can happen when people are able to participate and interact with the educators and other attendees. Likewise, the task force understands the need for some lawyers to use CLE courses and seminars as a way to network and connect with other lawyers in their areas of practice. These are all good reasons for sponsors to continue to offer these live courses.

The task force is of the opinion that those lawyers who need or want a "live" or participatory experience will continue to seek out such courses. It may even turn out that CLE providers will improve their "live" offerings to capture lawyers who are looking for courses that are more than a lecture. However, "live" should not be a requirement especially when such a requirement does not necessarily provide a better learning experience and can also be a barrier for those with limited means or limited geographic opportunities to attend "live" courses.

Approved Activities (Proposed APR 11(e))

The task force recommends simplifying requirements for earning credits for approved activities. The primary recommendations for approved activities involve removing credit caps and most of the requirements to be able to earn credits for the activities. This, again, simplifies and works with the new recommended structure for earning credits after the minimum requirements are met. One significant change is the recommendation that CLE speakers or presenters earn a maximum of five credits of preparation time *per hour* of presentation time. This is a change from the current ten credits *per course.*

The task force also recommends adding mentoring for MCLE credit. This is the most significant recommendation in this section. The task force believes mentoring is important for the profession and that both the mentor and mentee should earn MCLE credit in this experiential learning environment. The task force recommends that credit be awarded for structured mentoring programs that are approved by the MCLE Board. The MCLE Board would be tasked with establishing standards for approving mentoring programs.

Sponsor Deadline for Application for Approval of Courses (Proposed APR 11(g))

Finally, the task force recommends requiring all sponsors to apply for credit at least 15 days prior to the date of the course. This is likely the most significant recommendation affecting sponsors of CLE courses. Currently, only private law firms, corporate legal departments and government sponsors need to apply in advance of the first presentation of the course. The purpose is to encourage sponsors to apply for credit in advance so that lawyers know in advance what course are available and how much MCLE credit they are going to earn from attending a course. Sponsors who fail to meet the deadline may still submit an application for approval subject to a late fee.

Conclusion

In conclusion, the recommendations of the task force for updating APR 11 are much broader, deeper, and clearer than previous amendments. The recommendations arise out of the context of today's 21st century Washington state lawyer who is now practicing in a global economy with rapidly changing technologies which are in turn radically changing the practice of law. The recommendations also address specific current and future needs of WSBA members wanting healthier practices and recognition that the practice of law – and use of a lawyer's skills – is much wider than in the past. In addition, the recommendations are based on solid pedagogical grounding – that mandatory legal education is only effective if it addresses a lawyer's true needs and is relevant to the lawyer. The public is also best protected and served when members take courses that address true need.

The lawyers on the MCLE Task Force were specially chosen to represent a broad cross-section of the WSBA membership. As such, over the past nine months there were many opposing views on specific issues. The task force members held true to the overarching purpose of MCLE and – with each issue – were able to find the balance point that all could agree on. The task force's recommendations are the result of this collaborative, deliberative and reflective process.