

MEETING AGENDA

August 9, 2024, at 10:00 A.M.

Remote Meeting Via Zoom

OPEN SESSION 10:00 a.m.

1. Welcome and Introductions
2. Review/Approval of Minutes from Meeting on May 17, 2024
3. YMCA Mock Trial Presentation – Nolan Martin, Executive Director Washington YMCA
Youth & Government
4. DEI Discussion –Saleena Salango and Elliott Schwebach, WSBA Equity and Justice
Leads
5. Mentoring Subcommittee Report and Recommendation
6. Undue Hardship Decision Matrix Discussion
7. Audit Reports
8. MCLE Updates

CLOSED SESSION

1. Hardship Petitions

Adjourn

Minutes

May 17, 2024

The meeting of the Mandatory Continuing Legal Education Board was called to order by Board Vice Chair Katie Denmark at 10:00 A.M. on Friday, May 17, 2024. The meeting was held via videoconference. Board members in attendance were:

Ayanna Coleman
Darryl Coleman
Katie Denmark
Merri Hartse
Brendon (joined at 10:19 am)

Liaisons and Staff in attendance:

Ransom Smith	MCLE Analyst
Adelaine Shay	MCLE Board Staff Liaison
Bobby Henry	RSD Associate Director

Review of Minutes

The MCLE Board reviewed the minutes from the April 12, 2024, meeting. The Board approved all minutes without change.

Audit Reports

Board member, Merri Hartse, presented her audit report of a Washington State Association for Justice accredited sponsor course by the name of *Sudden Wealth Syndrome* (1249090). This audit resulted in the revision of the accreditation for the course from 1.00 credit of Law & Legal credit to 1.00 credit of Office Management credit.

MCLE Board Meeting Schedule for Fiscal Year 2024-2025

The MCLE Board reviewed and briefly discussed a proposed meeting schedule which was arranged to avoid conflict with any known holidays and days marked for a specific religious purpose. After review, the Board unanimously approved the schedule subject to revision if the preferences of non-voting Board members were in conflict.

Discussion on Changing Undue Hardship Policy

The Board discussed generally the possibility of modifying certain aspects of its hardship decision matrix to foster more equitable outcomes in the petition decision-making process. Among these possible revisions were amending the definition of immediate family member to be more expansive (which was formerly set by RPC 1.8 subpart 1 which limits immediate family member to parent, child, sibling or spouse), adding parental leave as a qualifying hardship basis, and expanding military hardship to include recent deployment of an immediate family member. Following discussion on the merits of each change, the Board unanimously voted to expand the definition of immediate family member by substituting the prior definition for the more inclusive one found in Washington's Paid Family Medical Leave Act (RCW 50A.05.010 which defines immediate family member as "grandchild, grandparent, sibling, or spouse...and also includes any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care..."). The Board also unanimously approved amending military leave to accommodate for members who recently had an immediate family member deploy or return from deployment. As to the topic of parental leave, the Board required further inquiry (including an analysis of jurisdictional policy throughout the country and the state of paid family leave nationwide) to determine if it should be a subject of hardship and tabled the issue for further discussion. As a concluding point, the Board requested that MCLE staff draft language for the policy changes and propose them at the next meeting.

MCLE Updates

The MCLE Staff Liaison provided updates of import to the Board including the timeline for Board recruitment to fill two upcoming vacancies, statistics regarding the number of suspended licensed legal professionals following the close of the 2022-2023 reporting period, the progress of postproduction work on the MCLE website, and the status of suggested amendments to APR 11 which would create new requirements in the areas of mental health and technology.

MCLE Board Staff Liaison Decisions

The MCLE Board decided reviewed and approved by motion on 5 staff liaison undue hardship petition decisions. No further information is provided to protect member confidentiality.

Adjournment

There being no further business at hand, the meeting was adjourned at 10:41 AM. The next regularly scheduled MCLE Board meeting will be held at 10:00 AM on Friday, August 9, 2024.

Respectfully submitted,

Adelaine Shay
MCLE Board Staff Liaison



BOARD OF DIRECTORS

Kelly Evans, Board Chair
Sound View Strategies

Sung Yang, Vice Chair
Pacific Public Affairs

Arlen Harris, Secretary
WA State Community &
Technical Colleges

Neil Strege, Treasurer
Washington Roundtable

Dan McGrady, Past Chair
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Marty Brown
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Holly Chisa
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Jeanne Cushman
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Mike Egan
Microsoft

Morgan Hickel
University of Washington

Amber Lewis
Lewis Consulting

Judge Robert Lewis
Clark Co. Superior Court

Julien Loh
Puget Sound Energy

Mary Catherine McAleer
Weyerhaeuser

Jane Wall
WA State County Road
Administration Board

Dear Mandatory Continuing Legal Education Board,

Please accept this letter from Washington YMCA Youth & Government (sponsored by YMCA of Greater Seattle) regarding a request to modify APR 11.

The previously stated sponsors respectfully request the Mandatory Continuing Legal Education (MCLE) Board of the Washington State Bar Association consider, put up for public comment, and approve the below change to APR 11.

New Section; Adding to Section (e)
(11) Judging or rating high school mock trial competitions. The sponsoring organization must comply with all sponsor requirements under this rule.

The sponsors of this new section believe that changing the Washington MCLE APR 11 rule allowing attorneys and Judges to earn credit for judging and rating high school mock trial competitions would greatly benefit the members of the bar and the public. Specifically this would (1) provide attorneys, who are not often in court, with hands-on experience engaging with the Rules of Evidence and courtroom procedure, (2) encourage attorneys to take part in personal and professional development, (3) connect attorneys directly with sitting Judges, (4) expand and promote diversity of members of the legal system by fostering mock trial programs for students who may have an interest in legal careers, & (5) create opportunities for intrinsic satisfaction and personal inspiration while serving the legal community, communities at large, and our educational institutions specifically.

Similar rule adoption has been implemented in several states including Oregon under [Or. State Br MCLE Rule 5.300\(b\)\(2\) and \(3\)](#)

During this review process we invite all MCLE and WSBA Board members to attend one of our local district competitions that will occur in February 2025. We know that firsthand observation of these high school age mock trial competitors, with their impressive high level of legal knowledge and advocacy skill, will convince you of the value of mock trial programs and the necessary participation of attorneys and Judges. If you observe these students in these competitions yourself, it will provide a better understanding of why this requested change will benefit our legal community and the public. District competition dates will be distributed in December.

Thank you for your consideration. Please don't hesitate to reach out with questions. I can be reached at nolanmartin@seattleyymca.org.

Sincerely,

Nolan Martin
Executive Director
WA YMCA Youth & Government

Kelly Evans
Board Chair

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FOR
FOR
seattl nca



WASHINGTON YMCA MOCK TRIAL

WASHINGTON YMCA YOUTH AND GOVERNMENT

Program History



- **1987** - YMCA along with other co-sponsors held the first state competition. Co-sponsors included the Administrative Office of the Courts and the Young Lawyers Division of the Washington State Bar Association.
- **1994** – Washington YMCA Youth and Government took on full sponsorship of the Mock Trial Program
- **2024** – The highest number of teams, coaches, participants, and supports in program history (below).



66 High School Teams
6 Middle School Teams



131 Coaches



933 Youth Participants
Both MS and HS



714 Attorney and Judges
Supporters

Program Structure



- **Middle & High School age-based teams**
- **Before/During/Afterschool**
- **Minimal cost to participate \$800/team**
- **Comprehensive fictitious case written by sitting WA Superior Court Judge.**
- **Three-hour trials presided over by sitting judges.**
- **Registered bar members are required to rate student performances & provide feedback.**
- **Trial requires three attorney raters and one judge per round.**
 - **560 required for Statewide Program**
 - **192 required for Championship**

**Washington Mock
Trial Statewide
Program** **66
Teams**

**WA State
Championship
Competition** **24
Teams**

**National High
School Mock Trial
Competition** **1
Team**

Since 2001 Washington teams have placed in the top 16 at Nationals including 3 first place finishes.

PROPOSED CHANGE

APR 11

MANDATORY CONTINUING LEGAL EDUCATION (MCLE)

(8) Participating in a structured mentoring program approved by the MCLE Board, provided the mentoring is free to the mentee and the mentor is an active member of the Bar in good standing and has been admitted to the practice of law in Washington for at least five years. The MCLE Board shall develop standards for approving mentoring programs; and

(9) Judging or preparing law school students for law school recognized competitions, mock trials, or moot court. The sponsoring law school must comply with all sponsor requirements under this rule.

(10) Tutoring clerks through the APR 6 Law Clerk Program courses when providing “personal supervision” as defined in APR 6(d)(2).

(11) Judging or rating high school mock trial competitions. The sponsoring organization must comply with all sponsor requirements under this rule.

Benefits for Lawyers



Connecting attorneys directly with sitting judges

Hands-on experience engaging with the Rules of Evidence and courtroom procedure.

Intrinsic satisfaction and personal inspiration through volunteerism

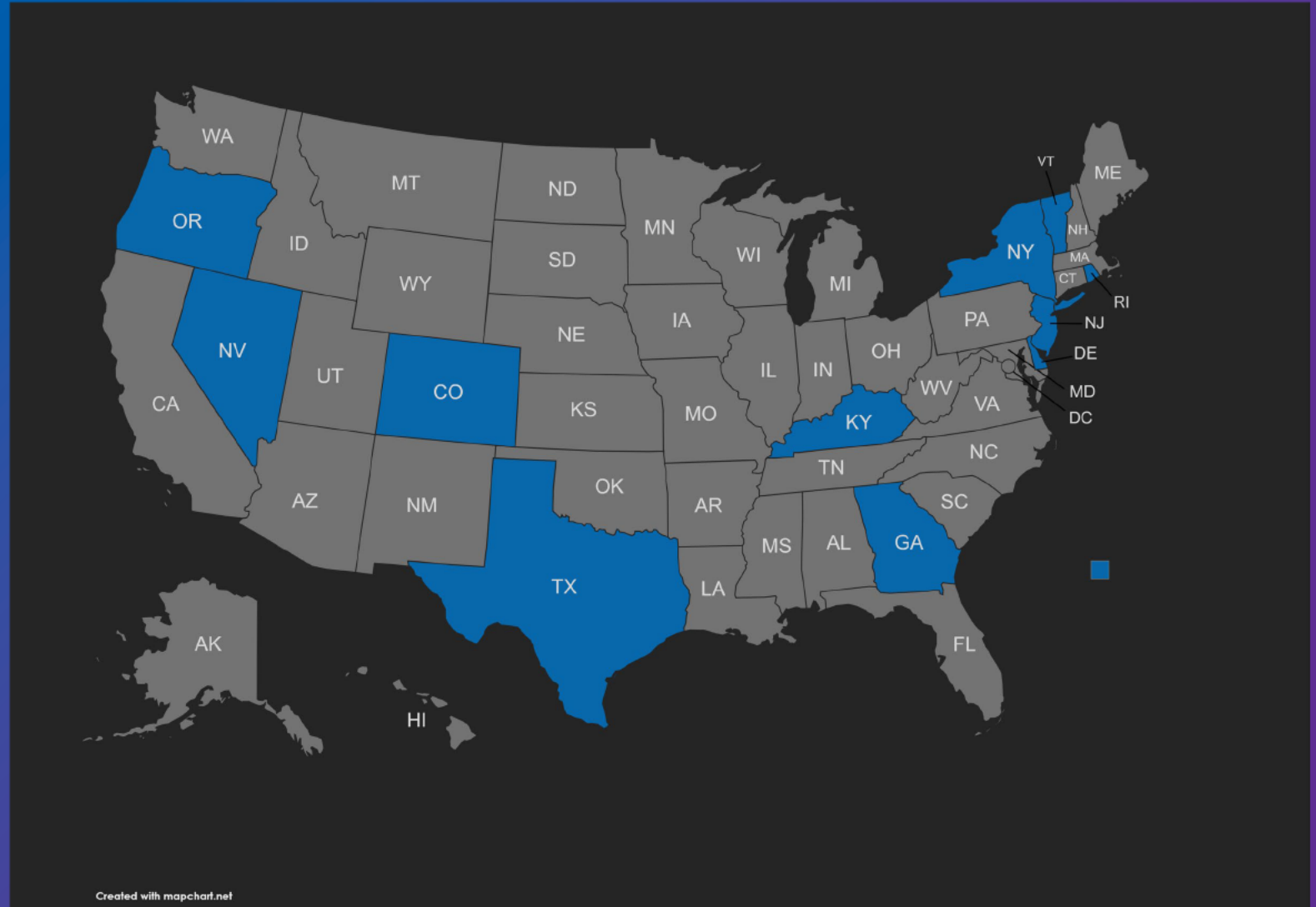
Personal and Professional development through community engagement

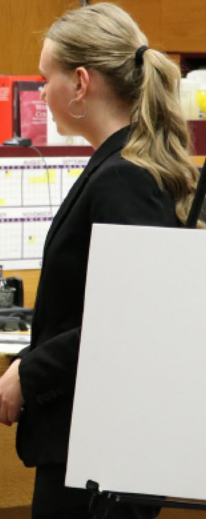
Expand and promote diversity in the legal system

STATE COMPARATIVES

Current States that allow some varying level of MCLE Credit for High School Mock Trial

- Colorado
- Nevada
- Texas
- Oregon
- Kentucky
- Georgia
- New York
- Vermont
- Rhode Island
- New Jersey
- Delaware









DISCUSSION SUMMARY:

DEI Discussion

Summary: Saleena Salango, WSBA Equity & Justice Lead, and Elliott Schwebach, WSBA Equity and Justice Lead, will facilitate a DEI discussion with the MCLE Board.

Background:

MCLE Board members were asked to watch the 60 minute WSBA CLE titled “Building Inclusion in Your WSBA Entity and Beyond” with the intent that this video and a facilitated discussion with the MCLE Board will assist the Board with its goal of promoting diversity and inclusion within the MCLE Board.

Materials:

Video Link: [Building Inclusion in Your WSBA Entity and Beyond](#) (60 minutes)

Accredited for 1.00 Ethics (Equity) credits. This was originally recorded for the 2023 Chairs Orientation.

DISCUSSION / ACTION :**Suggested Changes to Structured Mentoring Program Approval Policy**

Discussion Summary: The Mentoring Subcommittee is proposing changes to the current MCLE Board Standards for Approving Structured Mentoring Programs. The proposed changes modify the MCLE Board policy and permit law students, J.D. graduates, law clerks, and law clerk program graduates intending to become licensed in Washington, and/or inactive members to participate as mentees in approved structured mentoring programs, allowing WSBA members to receive MCLE mentoring credit pursuant to APR 11(e)(8).

Background:

At its January 19, 2024, meeting, Jessica Bejerea, DEI Committee Chair of the WSBA Taxation Section, delivered a presentation advocating for the expansion of mentoring credit eligibility to mentoring programs that include law student mentees who intend to become members of the bar and currently inactive members of the bar. Bejerea posited the diversity and inclusion benefits of such a change as it would incentivize extending mentoring opportunities to those invested in entry or reentry into the practice of law in Washington. The standing policy for structured mentoring program requirements does not currently permit credit for mentoring law students or inactive members. As such, this type of expansion would require an amendment of existing policy standards controlling the approval of structured mentoring programs. Given this, the Board unanimously formed a subcommittee (composed of members Katherine Denmark, Ayanna Colman, and Darryl Colman) to further inquire into the viability and advisability of a policy amendment.

The subcommittee discussed the request received and determined that an expansion of the program eligibility would further the goals of the program, in particular the goal of bridging the gap for new and transitioning legal professionals. As such, the subcommittee did an initial draft of proposed changes to the Standards for Approving Structured Mentoring Programs and the Mentoring Agreement. In both documents, standards as to program and mentee eligibility have been revised to allow for approved structured mentoring programs that expand the definition of mentee as it applies to structured mentoring programs to include law students and law clerks who express an intention to obtain an active WSBA license and inactive members of the WSBA. The language in both documents further stipulates that program mentees must have completed “no less than 1/3 of a law school or 16 months of the APR 6 law clerk program prescribed course of study.” Finally, the subcommittee recommends continuing to limit mentee eligibility for self-directed programs to active WSBA members of the WSBA.

On May 10, 2024, the subcommittee met with Renata Garcia de Carvalho Garcia, Chief Regulatory Counsel of Regulatory Services Department (RSD), Bobby Henry Associate Director of RSD, and Adelaine Shay, MCLE Manager/MCLE Board Liaison, to review the proposal. RSD staff asked the subcommittee to consider the following questions:

- Would the credit policy extend to recent law school and law clerk program graduates that are not yet licensed?
- What is the reasoning behind excluding self-directed programs from the policy?

- Should there be a requirement that mentees state an intention to be licensed in Washington if there is no way to track the fulfillment of that requirement, and it could serve as a barrier to an organization's fair administration of the program? Should the Board collect information that they will not be verifying?

The subcommittee requested that MCLE staff investigate existing mentoring programs within minority and specialty bars. They decided to consider these questions and have a discussion at a later meeting. For results of the search into existing mentoring programs please see enclosed documents:

1. "Published list of minority and specialty bar association mentoring programs: <https://www.wsba.org/connect-serve/mentorship/find-a-mentorship-program>", and
2. "Staff Addendum on existing mentoring programs (included with official list of available mentoring programs)."

The MCLE Board subcommittee reviewed and accepted the draft changes to the Mentoring Agreement and Standards for Approving Structured Mentoring Program at its July 9, 2024. The changes included recent graduates of law school and the law clerk program as eligible mentees. The subcommittee resolved to keep in place the attestation of intent to be licensed in Washington requirement for law school student, inactive, law clerk participants, and recent graduates. The subcommittee believes this is in line with the original vision for mentoring credit. The subcommittee does not plan to require any proof of this intent other than the signed attestation.

Additionally, the subcommittee reached consensus on continuing to exclude the self-directed mentoring program from the new eligibility criteria. The self-directed program does not have oversight from a program or an organization, and the subcommittee believes this could be detrimental to students, recent graduates, and inactive members if any issues occur between mentor and mentee.

Before the Board now are the subcommittee's most recent recommendations for this policy change. If approved, in accordance with APR 11(d)(2)(ii), the Board will be required to "notify the Board of Governors and the Supreme Court of [the policy adoption]. [The policy adoption] will become effective 60 days after promulgation by the MCLE Board."

Possible Discussion Topics:

- Does the Board want to adopt the revised standards and policy changes in full or part?

Enclosed Documents:

-Redline of Standards for Approving Structured Mentoring Programs

-Draft of Mentoring Agreement

-Published list of minority and specialty bar association mentoring programs:
<https://www.wsba.org/connect-serve/mentorship/find-a-mentorship-program>

-Staff Addendum on existing mentoring programs (included with official list of available mentoring programs)

In addition to the mentoring programs listed on WSBA “Find a Mentorship Program” page, WSBA staff was able to ascertain a couple of other minority bar mentoring arrangements that were not listed on such page.

- Seattle Chinese Bar Association is not listed on the WSBA page, but they already have a structured mentoring program approved by the Board in October of 2023.
- Filipino Lawyers of Washington- website indicates that there may be some of loose pairing process in place but not a formal structured program.
- Washington Women Lawyers-website indicates that offer a joint minority mentorship program which appears to be formally structured.

The following minority bar associations do not appear to have a mentoring program (formal or informal) in place:

- Latina/o Bar Association of Washington
- Middle Eastern Legal Association of Washington
- Northwest Indian Bar Association
- Washington State Veterans Bar Association

MENTORING AGREEMENT
Please sign before your first meeting.

We, _____, Mentor, and _____, Mentee, agree to participate in a MCLE Board Approved Structured Mentoring Program in accordance with the terms of this agreement. We understand the goals of mentoring include:

- Foster professionalism, civility and collegiality in the legal community;
- Bridge the gap for new and transitioning attorneys;
- Promote inclusion and eliminate bias with respect to the practice of law;
- Encourage professional development, including insights into the practice of law;
- Encourage personal development, including the need for healthy work-life balance and awareness of mental health, addiction, and stress issues; and
- Support the community through public service.

We acknowledge and will abide by the following rules:

- Any communication between Mentor and the Mentee is not intended to be the rendering of legal or professional advice to the Mentee or their clients, and the Mentee will not rely upon such communications or cause any client to rely upon them.
- No confidential or attorney-client relationship is formed between Mentor and the Mentee as a result of participation in mentoring. Neither the Mentee nor Mentor will identify any client or reveal any client confidence to the other, nor will either seek professional or legal advice from the other about specific legal matters or clients. Instead, all discussions about substantive legal matters between the Mentee and Mentor will be limited to hypothetical situations.
- Mentor is not assuming any liability or responsibility with respect to any legal matter of the Mentee's clients, nor will the Mentor render professional services to, or take any responsibility either directly or indirectly for any aspect of representation of the Mentee's clients.
- Mentor will not co-counsel any matter with the Mentee, nor will Mentor make referrals to or accept referrals from the Mentee during the term of their mentoring term.
- The Mentor and Mentee will not be employed by the same employer.

Mentee eligibility – please select the option that applies to you:

- Active WSBA member
- Inactive WSBA member
- Law school graduate or student who completed no less than 1/3 of law school
- Completed the law clerk program or current law clerk who completed no less than 16 months of the APR 6 law clerk program prescribed course of study

MENTORING AGREEMENT
Please sign before your first meeting.

Mentees who are inactive members of the WSBA, law school students, law school graduates, APR 6 law clerks, or APR 6 law clerk program graduates acknowledge by signing this agreement that they:

- intend to be an active member of the WSBA and complete all steps toward obtaining an active WSBA license.
- have completed no less than 1/3 of a law school or 16 months of the APR 6 law clerk program prescribed course of study.

We hereby certify that we have read the above *Mentoring Agreement* and agree to its terms.

Mentor Signature: _____ Date: _____ City/County: _____ State: _____

Mentee Signature: _____ Date: _____ City/County: _____ State: _____

DRAFT

STANDARDS FOR APPROVING STRUCTURED MENTORING PROGRAMS FOR MCLE CREDIT
Adopted by MCLE Board Effective [If Approved Enter Effective Date]

The MCLE Board will approve structured mentoring programs for MCLE credit that meet the requirements of APR 11 and the following requirements and standards:

1. **Purpose.** Structured mentoring programs are intended to:
 - a. Foster professionalism, civility and collegiality in the legal community;
 - b. Bridge the gap for new and transitioning attorneys;
 - c. Promote inclusion and eliminate bias with respect to the practice of law;
 - d. Encourage professional development, including insights into the practice of law;
 - e. Encourage personal development, including the need for healthy work-life balance and awareness of mental health, addiction, and stress issues; and/or
 - f. Support the community through public service.
2. **Structured Mentoring Program Standards.** The minimum structural standards for a program to be approved include facilitating and requiring the mentor and mentee to:
 - a. Attend an orientation meeting for which MCLE credit is not earned;
 - b. Sign a mentoring agreement;
 - c. Create a personalized mentoring plan that includes meetings on approved subjects under APR 11(f);
 - d. Have face-to-face mentoring meetings related to the approved course subjects under APR 11(f). Face-to-face meetings can be in person or via electronic means of communication; and
 - e. Provide an evaluation of the mentoring experience to the organization. The forms or the information from the forms must be retained for two years and provided to the MCLE Board upon request.
3. **Goals of Approved Structured Mentoring Programs.** Approved Structured Mentoring Programs should:
 - a. Strive to appropriately match qualifying mentors with qualifying mentees;
 - b. Assist mentors and mentees in creating a mentoring plan that will best serve them in achieving their goals; and
 - c. Provide support as needed to help mentors and mentees fulfill their responsibilities.
4. **Application for Approval of Structured Mentoring Program.** Organizations shall submit an application, program materials and sample forms to the MCLE Board to be considered for approval.

5. **Self-Directed Structured Mentoring Programs.** Mentors and mentees wishing to develop their own mentoring relationship and attain MCLE credit for mentoring may do so through the Self-Directed Structured Mentoring Program Guide available at <https://www.wsba.org/for-legal-professionals/mcle/mcle-credit-for-mentorship>.
6. **Eligibility.** The mentor and mentee shall not be employed by the same employer. Those using the WSBA provided "Self-Directed Mentoring Program Guide" must mentor active members of the WSBA to obtain MCLE credits.
7. **Mentor Eligibility.** The mentor must be an active member of the WSBA in good standing and have been admitted to the practice of law in Washington for at least five years. ~~The mentor and mentee shall not be employed by the same employer.~~
8. **Mentee Eligibility.** ~~The mentee must be an active member of the WSBA.~~ To be eligible, the mentee must:
 - a) be an active member of the WSBA; or
 - b) be an inactive member of the WSBA who intends to return to active status within one year;
or
 - c) be a J.D. graduate seeking admission in Washington; or
 - d) be an enrolled law student who has successfully completed not less than one third of a law school's prescribed 3-year course of study or 16 months of a law school's prescribed 4-year course of study; or
 - e) be an enrolled law clerk who has successfully completed not less than 16 months of the law clerk's program prescribed 4-year course of study; or
 - f) have completed the APR 6 law clerk program.

Prior to commencing a mentoring relationship under this policy, mentees who are inactive members, law school students, or participating in the law clerk program must certify in writing their intention to complete all steps to obtaining an active WSBA license by signing the MCLE Board mentoring agreement.
9. **MCLE Credit for Participation.** Mentors and mentees may earn one MCLE credit per each 60 minutes during which they held mentoring meetings and covered topics or issues related to the approved course subjects under APR 11(f). Law and Legal Procedure credits may not be earned through mentoring. There are no limits on the number of MCLE ethics and "other" credits attorneys may earn and attorneys may participate as often as they wish. The mentor may not receive payment for the mentoring time.

DISCUSSION SUMMARY:**Draft Language and Further Discussion Regarding the Hardship Matrices**

Summary: At its May 17, 2024, meeting, the MCLE Board approved changes to the Hardship Matrices which included the acceptance of a more inclusive definition of immediate family member (as defined in Washington’s Paid Family & Medical Leave Act) and broadening military leave to include considerations of immediate military family members being deployed overseas or returning from deployment. Pursuant to these changes, MCLE Board requested MCLE staff to draft language to incorporate these policy items. MCLE staff has done so, and the draft language is now before the Board.

Background: At the May 17th meeting, the Board discussed the merits of proposed changes to the Hardship Matrices including a broader definition of immediate family member and working overseas deployment or return of an immediate family member into the existing category of military leave. The Board also considered the possibility of making parental leave into a qualifying hardship category, but expressed some reservations about whether parental leave alone rose to the level of hardship and the limitations that would be effective in narrowing the relief category into something reasonable. To inform their opinion further, the Board tasked MCLE Staff with conducting research on the hardship policies of other jurisdictions towards parental leave and the status of paid leave generally in other jurisdictions. Considering the Board’s ambivalent stance on the topic, MCLE staff has drafted language designed to integrate parental leave into the matrices but acknowledges that this policy change is still under evaluation.

The draft language makes three principal changes across the matrices, (1) all now contain the expansive definition of family member; (2) the extension requests and late fee waiver decision matrices now have categories for overseas deployment/return of an immediate military family member; (3) an attempt has been made to provide an example of what parental leave relief could look like (including a time limitation that leave must fall on the last year of a petitioner’s reporting period). The first two changes simply convert what the Board has approved into written policy. The last is provisional, subject to Board discretion, and an example approach to the topic of parental leave.

To further inform the Board’s views on the topic of parental leave, MCLE staff has produced or procured reports on hardship policies in different jurisdictions and the status of paid leave in different states. Following an extensive search of all pertinent state rules on MCLE hardship and feedback elicited from the CLE regulators listserv, MCLE staff has ascertained that no state hardship policies address the topic of parental leave directly, but several states have flexible enough of hardship rules to the point where parental leave could be a plausible hardship. The question of which states have paid leave is more straightforward, and 22 states (including Washington) currently have some form of either mandatory or voluntary paid leave laws. The enclosed materials provide all information that MCLE staff was able to glean germane to the questions posed. We encourage the Board members to review it closely to further explore the prospect of a parental leave hardship.

Issue:

- Should the Board accept language related to the definition of immediate family member and considerations of overseas deployment/return as drafted?
- Does the Board want to proceed with working parental leave into hardship policy? If yes, does the Board want to adopt the language put forward by MCLE staff or craft language of its own?
- Does the Board want to consider further areas of improvement/revision to the matrix?

- **Attachments:**

1. Matrices with Drafted Language
2. Paid Family Leave by State Report
3. State Hardship Comparison Table

CREDIT MODIFICATION (MOD) DECISION MATRIX

Reason No.	SITUATION <i>Applies to first period of non-compliance, and multiple consecutive periods of non-compliance.</i>	DECISION
MOD 1	Significant medical hardship of self or immediate family member for whom lawyer is primary support.	Grant as appropriate
MOD 2	Death of immediate family member which caused lawyer hardship (e.g., emotional, physical, financial, scheduling).	Grant as appropriate
MOD 3	Financial hardship (as defined by the "First Time Late Fee Waiver Requests Decision Criteria" table)	Grant as appropriate
MOD 4	All other reasons	Deny

*"Immediate family member" as defined by RCW 50A.05.010 "as child, grandchild, parent, grandparent, sibling, or spouse of [the member] and also includes any individual who regularly resides in the [member's] home or where the relationship creates an expectation that the [member] care for the person, and that individual depends on the [member] for care. "Family member" includes any individual who regularly resides in the [member's] home, except that it does not include an individual who simply resides in the same home with no expectation that the [member] care for the individual."

DISCUSSION SUMMARY:**Draft Language and Further Discussion Regarding the Hardship Matrices**

Summary: At its May 17, 2024, meeting, the MCLE Board approved changes to the Hardship Matrices which included the acceptance of a more inclusive definition of immediate family member (as defined in Washington's Paid Family & Medical Leave Act) and broadening military leave to include considerations of immediate military family members being deployed overseas or returning from deployment. Pursuant to these changes, MCLE Board requested MCLE staff to draft language to incorporate these policy items. MCLE staff has done so, and the draft language is now before the Board.

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- Does the Board want to proceed with working parental leave into hardship policy? If yes, does the Board want to adopt the language put forward by MCLE staff or craft language of its own?
- Does the Board want to consider further areas of improvement/revision to the matrix?

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EXEMPTION (EXM) DECISION MATRIX

Reason No.	SITUATION <i>Applies to first period of non-compliance, and multiple consecutive periods of non-compliance for EXM 3 only. For EXM 1&2, for multiple consecutive periods of non-compliance, bring to board.</i>	DECISION Note: If a waiver is approved and some credits have already been completed, grant the waiver only for the number of credits still needed for compliance. There should be no carry-over as a result of this waiver.
EXM 1	(1) Significant medical hardship of self or immediate family member for whom member is primary support; and (2) Petition is filed by certification deadline; and (3) <u>Less</u> than 15 credits due of which no more than 2 are ethics.	<u>*Grant.</u>
EXM 2	(1) Significant medical hardship of self or immediate family member for whom member is primary support; and (2) Petition is filed by certification deadline; and (3) 15 or <u>more</u> credits still due and/or more than 2 ethics credits due.	<u>*Grant</u> request if medical hardship is for lawyer and: (a) is life-threatening; or (b) is of long duration (in years); or (c) lawyer is 75 or older. All others: Deny request and grant extension instead
EXM 3	On active military assignment in remote location or on a domestic base where it is difficult to access CLE courses.	Grant.
EXM 4	All other requests.	Deny.

*"Immediate family member" as defined by RCW 50A.05.010 "as child, grandchild, parent, grandparent, sibling, or spouse of [the member] and also includes any individual who regularly resides in the [member's] home or where the relationship creates an expectation that the [member] care for the person, and that individual depends on the [member] for care. "Family member" includes any individual who regularly resides in the [member's] home, except that it does not include an individual who simply resides in the same home with no expectation that the [member] care for the individual."

EXTENSION (EXT) REQUESTS MATRIX

Reason No.	SITUATION <i>Applies to first period of non-compliance, and multiple consecutive periods of non-compliance.</i>	DECISION
EXT 1	(1) Significant medical hardship of self or immediate family member for whom member is primary support; and (2) Requested extension deadline is in the same calendar year in which the lawyer is due to report.	* First request -- grant extension with reasonable deadline * Second request -- refer to the MCLE Board
EXT 2	(1) Death of immediate family member which caused lawyer hardship (e.g., emotional, physical, financial, scheduling); and (2) Requested extension deadline is in the same calendar year in which the lawyer is due to report.	* First request -- grant extension with reasonable deadline * Second request -- refer to the MCLE Board
EXT 3	(1) Financial hardship -- due to (a) being unemployed or employed with poverty-level wages; (b) major medical expense for self or family member; or (c) bankruptcy; and (2) Requested extension deadline is in the same calendar year in which the lawyer is due to report.	* First request -- grant extension with reasonable deadline * Second request -- refer to MCLE Board
EXT 4	On an active military assignment in a location where it is possible to access CLE courses but military obligations do not allow enough time to complete credits by the deadline.	* First request -- grant extension with reasonable deadline * Second request -- refer to MCLE Board
EXT <u>EXT 5</u>	All other requests <u>Immediate family member is about to be deployed overseas or is returning from overseas deployment within the last 3 months of the reporting period.</u>	Deny * First request -- grant extension with reasonable deadline * Second request -- refer to the MCLE Board
<u>EXT 6</u>	<u>Took Parental Leave within the last year of member's reporting period.</u>	* First request -- grant extension with reasonable deadline * Second request -- refer to the MCLE Board
<u>EXT 7</u>	<u>All other requests</u>	<u>Deny or Refer to Board</u>

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*"Immediate family member" as defined by RCW 50A.05.010 "as child, grandchild, parent, grandparent, sibling, or spouse of [the member] and also includes any individual who regularly resides in the [member's] home or where the relationship creates an expectation that the [member] care for the person, and that individual depends on the [member] for care. "Family member" includes any individual who regularly resides in the [member's] home except that it does not include an individual who simply resides in the same home with no expectation that the [member] care for the individual."

LATE FEE WAIVER DECISION CRITERIA

Note: If "Credits by 12/31" is "Y," then late fee was assessed because certification was submitted after the February 1 deadline.

Y* = Complete at time petition considered

No.	SITUATION	CREDITS BY 12/31?	CREDITS DONE After 12/31?	CERTIFIED?	1st Non-Comp RP	>1 Consecutive Non-Comp RP	DECISION
MEDICAL HARDSHIP/DEATH <ul style="list-style-type: none"> "Immediate family member" as defined by RPC 1.841 RCW 50A 05.010 subpart 1 "as child grandchild parent grandparent sibling or spouse of [the member] and also includes any individual who regularly resides in the [member's] home or where the relationship creates an expectation that the [member] care for the person, and that individual depends on the [member] for care. "Family member" includes any individual who regularly resides in the [member's] home except that it does not include an individual who simply resides in the same home with no expectation that the [member] care for the individual." parent, child, sibling or spouse. Death must have occurred within six months of end of reporting period Referral to request a basis of death to be ally to the Board if any doubt exists 							
A1	Significant medical hardship of self or immediate family member for whom licensed legal professional is primary support, or Death of immediate family member which caused lawyer hardship (e.g., emotional, physical, financial, scheduling)	Y/N	Y*	Y/N	X		Waive if certification submitted or once it is submitted.
A2	Significant medical hardship of self or immediate family member for whom licensed legal professional is primary support, or Death of immediate family member which caused lawyer hardship (e.g., emotional, physical, financial, scheduling)	Y/N	Y*	Y/N		X	Reduce or waive [depending on the circumstance] if certification submitted or once it is submitted.
A3	Significant medical hardship of self or immediate family member for whom licensed legal professional is primary support, or Death of immediate family member which caused lawyer hardship (e.g., emotional, physical, financial, scheduling)	N	N	Y/N	X	X	<15 credits remaining = Reduce or waive [depending on the circumstance] if Certification submitted by the deadline (with all credits needed for compliance completed). >15 credit remaining = Refer to the Board

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No.	SITUATION	CREDITS BY 12/31?	CREDITS DONE After 12/31?	CERTIFIED?	1st Non-Comp RP	>1 Consecutive Non-Comp RP	DECISION
	FINANCIAL HARDSHIP as defined by 200% of Federal Poverty Guidelines based on <u>gross household</u> annual income due to (1) being unemployed or employed with poverty-level wages; (2) major medical expense for self or family member; or (3) bankruptcy. The guidelines are the same ones approved by the BOG in 2010 for determining a one-time waiver of the annual license fee based on financial hardship. (See attached "WSBA License Fee Exemption Request Form".) Offer a payment extension if necessary, taking the following guidelines into consideration: <ul style="list-style-type: none"> • Petition received for financial hardship waiver of late fee; • Waiver was denied or late fee was reduced; • Gross household income between 200-400% of the Federal Poverty Guidelines; • Credit requirements have been met and certified; • The late fee amount owed is equal to or more than \$450; • The fee is paid in full within 3-5 months depending on the amount. 						
B1	FINANCIAL HARDSHIP	Y		Y	X		Waive
B2	FINANCIAL HARDSHIP		Y*	Y*	X		Reduce to \$50 [<u>waive</u> \$100] if paid by the deadline.
B3	FINANCIAL HARDSHIP	Y		N	X		Reduce to \$50 [<u>waive</u> \$100] if paid and certified by the deadline.
B4	FINANCIAL HARDSHIP		Y*/N	Y/N	X		Reduce to \$75 [<u>waive</u> \$75] if paid and certified by the deadline.
B5	FINANCIAL HARDSHIP	Y		Y*		X	Waive \$300 if paid by the deadline.
B6	FINANCIAL HARDSHIP		Y*	Y*		X	Waive \$200 if paid by the deadline.
B7	FINANCIAL HARDSHIP	Y		N		X	Waive \$250 if paid and certified by the deadline.
B8	FINANCIAL HARDSHIP		Y*/N	Y/N		X	Waive \$150 if paid and certified by the deadline.
B9	FINANCIAL HARDSHIP qualifying criteria not met		Y*/N	Y/N	X	X	Deny - Include payment extension language in denial letter.
	Maternity/Paternity Leave						
<u>C1</u>	<u>Leave must be taken within the last year of member's reporting period. Waive if ≤ approximately half of credit requirement is remaining (22 total credits for lawyers or 15 total credits for LLLT/LPOs). No fee waiver if more than half of credits remaining.</u>						

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No.	SITUATION	CREDITS BY 12/31?	CREDITS DONE After 12/31?	CERTIFIED?	1st Non-Comp RP	>1 Consecutive Non-Comp RP	DECISION
	MILITARY – On active military assignment in remote non-U.S. location where mail is slow and unreliable and/or in active combat area. <u>Or on an active military assignment in a location where it is possible to access CLE courses but military obligations do not allow enough time to complete credits by the deadline or internet is unreliable.</u> No deadline for payment due to mail unreliability (but will not be compliant until it is paid).						
D1	MILITARY – See header criteria	Y/N	Y*/N	Y*/N	X		Waive late fee.
D6	MILITARY – See header criteria	Y/N	Y*/N	Y/N		X	Refer to the Board
	MAIL DELIVERY PROBLEM						
F4D Z	Claims certified by 2/1.	Y	Y*	Y*	X	X	Grant if licensed legal professional establishes timely certification or if administrative error; otherwise deny.
	MILITARY FAMILY						
F1	<u>If immediate family member is deployed overseas or is returning from overseas deployment in the last 3 months of member's reporting period. Waive if approximately half of credit requirement is remaining (22 total credits for lawyers or 15 total credits for LLLT/LPOs). No fee waiver if more than half of credits remaining.</u>						
MIS- INFORMATION FROM WSBA / LICENSED LEGAL PROFESSIONAL'S FAILURE TO LEARN MCLE REQUIREMENTS							
F1	Reports that certification completed online by 2/1 and it was the <u>first time</u> licensed legal professional certified online. Certification was not submitted correctly, therefore 2/1 deadline not met.	Y		Y*	X	X	Waive the late fee once certification has been completed successfully. (This policy was passed by the Board on 3/19/10.)
F2	Reports being told by WSBA staff certification not needed	Y/N	Y*	Y*/N	X	X	Deny

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No.	SITUATION	CREDITS BY 12/31?	CREDITS DONE After 12/31?	CERTIFIED?	1st Non-Comp RP	>1 Consecutive Non-Comp RP	DECISION
F3	Licensed legal professional reports receiving other errant information from the WSBA [and it was reasonable for the licensed legal professional to be dependent on the information] or other WSBA administrative error occurred causing the late fee.	Y	Y*	Y*	X	X	Reduce or waive the late fee depending on the circumstances.
F4	Licensed legal professional reports receiving the previous petition decision letter after the deadline that had to be met for a fee reduction.	Y	Y*	Y*	X	X	Reduce or waive the late fee depending on the circumstances.
	SPONSOR MIS-ADVERTISEMENT						
G1	Short credits due to sponsor error or mis-advertisement of CLE credits (if < or = 2 credits)	See note	See note	Y	X	X	Grant if * At least 43 credits are in reporting period * Shortfall made up in timely manner after notification of misaccreditation * All credits needed for compliance are complete * Certification is complete
	MISC. REASONS FOR NON-COMPLIANCE						
K1	Certified reporting period roster with a duplicate course; deletion of the course causes credit non-compliance after 12/31. * All other credits were taken within the RP * < or = 4 credits need to be taken to make up credit deficiency. * Credits made up and certified in a timely manner. * Never late before.	Y		Y	X		Reduce late fee to \$75 <u>waive</u> \$75]. if payment postmarked/delivered to the WSBA by the deadline.

No.	SITUATION	CREDITS BY 12/31?	CREDITS DONE After 12/31?	CERTIFIED?	1st Non- Comp RP	>1 Con- secutive Non- Comp RP	DECISION
K2	Busy practice / Oversight / Other non-medical or non-financial hardship reason [See "Misc." list below]						Deny
MISC. REASONS FOR NON-COMPLIANCE							
Claims mailed certification to WSBA but not received by WSBA.							
Class that licensed legal professional planning to take cancelled at last minute and licensed legal professional still has time in reporting period to take needed credits.							
Did not know certification had to be submitted since all credits are on the MCLE web site (even though instructions about requirement for certification is in APR 11, and in the July 1st letter, in the NW Lawyer FYI column Sept.-April each year, on the certification forms in the annual license packet and in all email reminders about license renewal).							

Features of State Paid Family Leave Programs

State	Timeline ¹	Voluntary or Mandatory Participation	Social or Private Insurance ²	Parental	Family Caregiving	Personal Medical	Military Care	Safety Leave ³	Total Paid Leave Avail. in One Year
California	Enacted 2002, effective 2004	Mandatory	Social Insurance	8 weeks	8 weeks	52 weeks ⁴	8 weeks	None	52 weeks
New Jersey	Enacted 2008, effective 2009	Mandatory	Social Insurance	12 weeks	12 weeks	26 weeks ⁴	None	None	38 weeks
Rhode Island	Enacted 2013, effective 2014	Mandatory	Social Insurance	6 weeks	6 weeks	30 weeks ⁴	None	1 week ⁵	30 weeks
New York	Enacted 2016, effective 2018	Mandatory	Private Insurance	12 weeks	12 weeks	26 weeks ⁴	12 weeks	None	26 weeks
District of Columbia	Enacted 2017, effective 2020	Mandatory	Social Insurance	12 weeks	12 weeks	12 weeks	None	None	12 weeks ⁶
Washington	Enacted 2017, effective 2019/2020	Mandatory	Social Insurance	12 weeks	12 weeks	12 weeks	12 weeks	None	16-18 weeks ⁶
Massachusetts	Enacted 2018, effective 2019/2021	Mandatory	Social Insurance	12 weeks	12 weeks	20 weeks	12 - 26 weeks	None	26 weeks
Connecticut	Enacted 2019, effective 2021/2022	Mandatory	Social Insurance	12 weeks	12 weeks	12 weeks	12 weeks	12 days	12 weeks ⁶
Oregon	Enacted 2019, effective 2023	Mandatory	Social Insurance	12 weeks	12 weeks	12 weeks	None	12 weeks	12 weeks ⁶
Colorado	Enacted 2020, effective 2023/2024	Mandatory	Social Insurance	12 weeks	12 weeks	12 weeks	12 weeks	12 weeks	12 weeks ⁶
New Hampshire	Enacted 2021, effective 2022/2023	Voluntary ⁷	Private Insurance	At least 6 weeks ⁸	At least 6 weeks ⁸	At least 6 weeks ^{8,9}	At least 6 weeks ⁸	None	At least 6 weeks ⁸

Maryland	Enacted 2022, effective 2024/2026	Mandatory	Social Insurance	12 weeks	12 weeks	12 weeks	12 weeks	None	24 weeks ¹⁰
Virginia	Enacted 2022, effective 2022	Voluntary	Private Insurance	Set by insurer	Set by insurer	N/A ¹¹	Set by insurer	None	Set by insurer
Vermont	Enacted 2022, effective 2023/2024 /2025 ¹²	Voluntary	Private Insurance	At least 6 weeks ⁸	At least 6 weeks ⁸	At least 6 weeks ⁸	At least 6 weeks ⁸	None	At least 6 weeks ⁸
Delaware	Enacted 2022, effective 2025/2026	Mandatory	Social Insurance	12 weeks	One period of leave of up to 6 weeks in any 24-month period			None	12 weeks
Arkansas	Enacted 2023, effective 2023	Voluntary	Private Insurance	Set by insurer	Set by insurer	N/A ¹¹	Set by insurer	None	Set by insurer
Tennessee	Enacted 2023, effective 2024	Voluntary	Private Insurance	Set by insurer	Set by insurer	N/A ¹¹	Set by insurer	None	Set by insurer
Alabama	Enacted 2023, effective 2023	Voluntary	Private Insurance	Set by insurer	Set by insurer	N/A ¹¹	Set by insurer	None	Set by insurer
Minnesota	Enacted 2023, effective 2026	Mandatory	Social Insurance	12 weeks	12 weeks	12 weeks	12 weeks	12 weeks	20 weeks
Texas	Enacted 2023, effective 2023	Voluntary	Private Insurance	At least 2 weeks ⁸	At least 2 weeks ⁸	N/A ¹¹	At least 2 weeks ⁸	None	At least 2 weeks ⁸
Florida	Enacted 2023, effective 2023	Voluntary	Private Insurance	At least 2 weeks ⁸	At least 2 weeks ⁸	N/A ¹¹	At least 2 weeks ⁸	None	At least 2 weeks ⁸
Maine	Enacted 2023, effective 2025/2026	Mandatory	Social Insurance	12 weeks	12 weeks	12 weeks	12 weeks	12 weeks	12 weeks

1) Multiple effective dates denote effective dates for premiums/benefits.

2) In all social insurance states, except Washington D.C. and Rhode Island, employers can choose to apply for an equivalent private/voluntary plan to provide their employees with.

3) Safety leave policies differ across states; however, all provide employees with time to address a wide range of medical or non-medical needs arising from situations such as domestic violence, sexual abuse, sexual assault, harassment, and/or stalking.

- 4) Medical coverage is provided through the state's disability insurance program.
- 5) Employers of 18+ employees must provide 1 hour of sick/safe leave for every 35 hours worked. They must offer up to 40 hours if accrued but can choose to offer more.
- 6) 2-4 additional weeks of prenatal leave are available under some circumstances.
- 7) New Hampshire's Granite State Family Leave Plan provides the option for employer-based plans or an individual plan, if an employer does not opt-in.
- 8) The minimum duration of leave/benefit amount set by law. However, insurers can provide more generous coverage.
- 9) Personal medical leave is only provided if the employer does not provide an equivalent short-term disability plan.
- 10) Leave-takers can take up to 24 weeks of leave in one year if they are eligible for both parental and personal medical leave during that year.
- 11) State has pre-existing disability insurance market.
- 12) 2023: benefits are available for state employees, 2024: benefits are available for private employees via group insurance through employer, 2025: benefits are available for individuals to opt in.

Source of Law	Hardship Definition	Additional Regulator Commentary	Has paid family leave
Alabama (Rules for Mandatory Continuing Legal Education Rule 2)	The MCLE Commission may waive the requirements of these rules for a period of one year or longer, upon a finding of undue hardship or of extenuating circumstances beyond the control of the attorney seeking such waiver, which prevent him or her from complying in any reasonable manner with these rules	Alabama would only offer a waiver if it was a high-risk pregnancy and/or the mother was required to be on bedrest for an extended period of time...	Yes but voluntary.
Alaska (Alaska Bar Associations Regulations Bar Rule 65)	A member may file a written request by email or mail to the MCLE Administrator for an extension of time for compliance with this rule. A request for extension shall be reviewed and determined by the Association.		
Arizona (Ariz. R. Sup. Ct. 45)	Upon application and showing of undue hardship, the CEO/ED of the state bar or his or her designee may exempt an active member from the requirements of section (a) or extend the deadline for compliance for a period of not more than one year.		
Arkansas (Rule 1)	In cases of extreme hardship due to mental or physical disability, the Board may approve a substitute plan by which individuals may meet the requirements of these rules		Yes but voluntary.
California (Title 2, Chapter 1)	A licensee prevented from fulfilling the MCLE requirement for a substantial part of a compliance period because of a physical or mental condition, natural disaster,		Yes and mandatory.

	<p>family emergency, financial hardship, or other good cause may apply for modification of MCLE compliance requirements. The State Bar must approve any modification</p>		
<p>Colorado (Colo. R. Civ. P. Rule 250.7)</p>	<p>If you do not complete your requirement by December 31, you may file a request for an extension of time. Your request should be filed by January 31 on the make-up plan form. An extension of your original compliance period may be granted only if you file an acceptable make-up plan.</p>	<p>In Colorado, attorneys have three years to complete their CLE credits and have the opportunity to request and pay for a three-month extension if needed. Because they have a longer reporting period, we most likely wouldn't approve an additional extension outside of the normal extension we offer.</p>	<p>Yes and mandatory.</p>
<p>Connecticut (Sec 2-27A of Connecticut Superior Court Rules)</p>	<p>Attorneys who, for good cause shown, have been granted temporary or permanent exempt status by the Statewide Grievance Committee (referring to who is excepted from education obligations).</p> <p>Requests for exemption are considered purely on a case by case basis. Some examples of possible good cause include a serious accident or illness that has debilitated you to the extent you are unable to complete the required MCLE. Examples that will not be considered good cause are the fact that you do not practice in Connecticut, your schedule, your amount of work, your financial</p>		<p>Yes and mandatory</p>

	status, or your inability to find MCLE courses. (From CT MCLE FAQ).		
Delaware (The Delaware Rules for Continuing Legal Education)	<p>In the event an Attorney shall fail to complete the required credits by December 31 of the Compliance Year, the Attorney shall submit to the Commission a specific plan for making up the deficiency of necessary credits by April 30 of the Verification Year. Submission of the make-up plan must be included with the online Transcript verification.</p> <p>An Attorney shall be required to pay to the Commission \$10.00 for each business day that the Attorney's make-up plan has not been fully completed and reported to the Commission beginning on May 16 of the Verification Year, to and including the date of filing. The Commission may waive all or any part of this penalty for good cause shown</p>		Yes but voluntary.
Florida (R. Regul. FL. Bar 6-10.3)	<p>Eligibility for an exemption, under policies adopted under this rule, is available for:(1) active military service;(2) undue hardship;</p> <p>Florida's CLER FAQ states that undue hardship determinations are made by the Board of Legal Specialization & Education</p>		Yes but voluntary.

<p>Georgia (Rule 8-104).</p>	<p>The Commission may exempt an active member from the continuing legal education, but not the reporting, requirements of this rule for a period of not more than one (1) year upon a finding by the Commission of special circumstances unique to that member constituting undue hardship</p> <p>(2) Undue Hardship. Requests for undue hardship exemptions on physical disability or other grounds may be granted. The CCLC [Commission on Continuing Lawyer Competency] shall review and approve or disapprove such requests on an individual basis.</p>		
<p>Hawaii (Rule 22)</p>	<p>An active member may apply to the Hawai'i State Bar for good cause exemption or modification from the CLE requirement. Members seeking an exemption or modification shall furnish substantiation to support their application as requested by the Hawai'i State Bar. Good cause shall exist when a member is unable to comply with the CLE requirement because of illness, medical disability, or other extraordinary hardship or extenuating circumstances that are not willful and are beyond the member's control</p>		

<p>Idaho (Idaho Bar Comm. R. 402).</p>	<p>Exemptions. Exemptions from all or part of the CLE requirements of subsection (a) may be granted as follows:</p> <p>(1) Eligibility. An exemption may be granted: (A) Upon a finding by the Executive Director of special circumstances constituting an undue hardship for the attorney; or (B) Upon verification of the attorney's disability or severe or prolonged illness, in which case all or a specified portion of CLE credits may be earned through self-study; or (C) For an attorney on full-time active military duty who does not engage in the practice of law in Idaho.</p> <p>(4) Extension. An attorney may request an extension of time to complete these requirements by filing a written petition with the Executive Director within one (1) year of admission as an Active or House Counsel Member. The Executive Director may grant the extension upon a showing by the attorney that completion of these requirements would cause a substantial hardship.</p>	<p>In Idaho, attorneys have three years to complete their CLE credits and have the opportunity to request and pay for a three-month extension if needed. Because they have a longer reporting period, we most likely wouldn't approve an additional extension outside of the normal extension we offer. To add to this, I will say that our rules do include a hardship extension similar to what Kansas offers. A normal maternity leave probably wouldn't fall under this, but the attorney can submit a written request to our executive director if they felt a hardship prevented them from completing their CLE credits on time.</p>	
<p>Illinois (Ill. Sup. Ct. R. 791).</p>	<p>In rare cases, upon a clear showing of good cause, the Minimum Continuing Legal Education Board ("Board") may grant a temporary exemption to an attorney from the Minimum Continuing Legal Education ("MCLE") requirements, or an extension of time in which to satisfy them. Good cause for an</p>		

	<p>exemption or extension may exist in the event of illness, financial hardship, or other extraordinary or extenuating circumstances beyond the control of the attorney.</p>		
<p>Indiana (Rules for Admission to the Bar and the Discipline of Attorneys-Rule 29).</p>	<p>An Attorney shall be exempted from the educational requirements of the Rule for such period of time as shall be deemed reasonable by the Commission upon the filing of a verified petition with the Commission and a finding by the Commission that special circumstances unique to the petitioning Attorney have created undue hardship. Subsequent exemptions may be granted. Attorneys in the military who are mobilized or deployed outside the United States and who present their orders to the Commission along with a verified petition to establish undue hardship may be CLE exempted for a period of up to three years. The Commission may set forth further requirements and/or limitations for any exemption that is issued or granted under this subsection, including but not limited to the requirement of annual renewals or reporting.</p> <p>An Attorney who believes that he or she will be unable to make timely compliance with the educational requirements imposed by this Rule may seek relief from a specific compliance</p>		

	<p>date by filing a verified petition with the Commission. The petition shall set forth reasons from which the Commission can determine whether to extend such compliance date. A petition seeking such an extension of time must be filed as much in advance of the applicable compliance date as the reasons which form the basis of the request afford. The Commission, upon receipt and consideration of such petition, shall decide if sufficient reasons exist, and may grant an extension for such period of time as shall be deemed reasonable by the Commission.</p>		
Iowa (Chapter 41, Rule 41.3).	<p>For good cause shown, the commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the requirements or make the required reports.</p>		
Kansas (Rule 800).	<p>The Board may grant an exception to the strict requirement to complete continuing legal education in any compliance period because of good cause, such as disability or hardship. The following provisions apply. (1) An attorney must submit a written request for an exception to OJA with a detailed explanation of the circumstances necessitating the request.</p>	<p>Kansas Rule 804(c) allows an exception for good cause. The Board may grant an exception due to a disability or hardship. General maternity/paternity leave would not qualify for an exception. However, if there were extenuating medical issues, the request could be considered. The exception is not a waiver of the requirement, but it will allow additional time, without</p>	

	<p>(2) The Board must review and approve or disapprove a request for an exception on an individual basis.</p>	<p>penalty, to complete the requirement. The attorney must submit a written request for a CLE exception. The request should be submitted to our office with an explanation of the circumstances necessitating the request. We ask that they also include a proposed timeline with their own plan to complete the requirement (one month, two months, six months, etc.). The request remains confidential.</p>	
<p>Kentucky (SCR 3.675).</p>	<p>Unless good cause is shown by the return date of the notice, or within such additional time as may be allowed by the Board, the lawyer will be stricken from the membership roster as an active member of the KBA and will be suspended from the practice of law or will be otherwise sanctioned as deemed appropriate by the Board.</p>		
<p>Louisiana (Rule 6).</p>	<p>That attorney must, within sixty (60) days of the date the notice is mailed, furnish the Committee with the following:</p> <p>(1) Documentary proof that the Member has complied with the requirements, or</p> <p>(2) An affidavit or documentary proof setting forth the reasons for failure to</p>		

	<p>comply with the requirements because of illness or other good cause, or</p> <p>(3) Documentary proof indicating compliance with satisfactory substitutes to compensate for failure to comply timely.</p>		
Maine (Rule 5).	In the discretion of the CLE Committee, any individual may be exempted from all or part of the requirements of this Rule upon a showing of hardship or for other good cause shown pursuant to procedures to be established by the CLE Committee. An exemption may not be granted in successive years for the same or similar hardship.		Yes and mandatory.
Maryland	No requirements as of March 27, 2024		
Massachusetts	No requirements		Yes and mandatory.
Michigan	No requirements		
Minnesota (Rules of the Board of Continuing Legal Education).	[The Board]...shall have authority to grant waivers of strict compliance with these Rules or extensions of time deadlines provided in these Rules in cases of hardship or other compelling reasons		Yes and mandatory.
Mississippi (State of Mississippi Rules and Regulations for Mandatory Continuing Legal Education).	Other requests for substituted compliance, partial waivers, or other exemptions for hardship or extenuating circumstances may be granted by the		

	<p>Commission upon written application of the attorney and may likewise be reviewed as provided in Rule 6.MM</p>		
Missouri (Rule 15.05).	<p>Any lawyer for whom compliance with Rule 15 is unreasonable difficult due to</p> <p>(a) a physical or mental disability; or</p> <p>(b) military or other governmental service at an isolated place of duty; or</p> <p>(c) age or any other good cause upon a written request setting forth the grounds therefore shall be granted a waiver, extension of time, or permission to comply with Rule 15 by an alternative method that may include in excess of six hours of self-study credit</p>		
Montana (Rules for Continuing Legal Education).	<p>Exemptions due to special circumstances. Upon written and sworn application, accompanied by the annual filing fee required by Rule 3B(2)(d), the Commission may exempt a member from all or a portion of the CLE requirements for a period of not more than one year upon a finding by the Commission of special circumstances, unique to that member, constituting undue hardship. Such circumstances include:</p>	<p>. It would be very rare to grant an extension of time for someone on maternity/paternity leave and we would not typically grant an exemption. Our rules also require that the reason be due to extenuating circumstances constituting undue hardship. They would have to submit a request in writing explaining why the leave constituted as undue hardship.</p>	

	<ul style="list-style-type: none"> a. Severe or prolonged illness or disability of the member that prevents the member from participating in approved CLE activities. If the member is disabled or hospitalized, a sworn statement from another person who is familiar with the facts may be accepted; b. Extended absence from the United States; or c. Other extenuating circumstances. <p>☐ An exemption may not be granted in successive years for the same or similar hardship.</p>		
Nebraska (Sup. Ct. R. § 3-401.13),	If, due to disability, hardship, or extenuating circumstances, an attorney is unable to complete the hours of accredited CLE during the preceding reporting period as required by § 3-401.4 , the attorney may apply to the Director for an extension of time in which to complete the hours.		
Nevada (Board of Continuing Legal Education Regulations).	An attorney may apply for a hardship exemption from CLE credit hour requirements or any annual fee requirements on a form approved by the Board of Continuing Legal Education. Such application must be made prior to obtaining an exemption unless the	NV is the same as Montana. A hardship application would have to be submitted.	

	attorney is unable to apply in advance by reason of the hardship itself.		
New Hampshire (Rule 53. New Hampshire Minimum Continuing Legal Education Requirement).	Lawyers may be exempted from meeting the minimum CLE requirements of Rule 53.1(B)(1), in whole or in part, by the NHMCLE Board, upon petition, for compelling reasons. Such reasons may include, but are not limited to, financial, physical, or other hardship which prevents compliance with this rule during the period of such hardship.		Yes and mandatory.
New Jersey (Board on Continuing Legal Education Regulations).	<p>“undue hardship” shall mean a severe medical condition, natural disaster, family emergency, financial hardship or other compelling good cause reason which in the judgment of the Board renders a lawyer incapable of complying with these regulations</p> <p>The Board, in its discretion and for good cause appearing, may waive the mandatory CLE requirements of Rule 1:42 and these regulations for such period as the Board may determine, upon a finding of the Board, by clear and convincing evidence, of either (a) undue hardship, or (b) circumstances beyond the control of the lawyer that prevent the lawyer from complying in any reasonable manner with the CLE requirement</p>		Yes and mandatory.

<p>New Mexico (NMRA 24-102(D)(1)).</p>	<p>Upon petition and a finding of the Board of Bar Commissioners of extreme individual hardship, the board may waive all or part of the annual license renewal requirements in Subparagraphs (C)(3) and (C)(4) of this rule and any associated late fees if the annual license renewal requirements in Subparagraphs (C)(1) and (C)(2) are satisfied. If the board receives a petition for waiver of all or part of the license renewal requirements based on a physical, mental, or emotional infirmity, impairment, incapacity, or illness as an extreme individual hardship under this rule, the board shall refer the matter to the Disciplinary Board for a determination under Rule 17-208 NMRA.</p>		
<p>New York (CLE Program Rules Joint Rules of the Appellate Divisions 22 NYCRR 1500).</p>	<p>. §1500.5 Waivers, Modifications and Exemptions (a) Waivers and Modifications. The Continuing Legal Education Board may, in individual cases involving undue hardship or extenuating circumstances, grant waivers and modifications of Program requirements to attorneys, upon written request, in accordance with the Regulations and Guidelines established by the CLE Board and this Part.</p>		<p>Yes and mandatory</p>
<p>North Carolina (Section 1400 Rules of the Standing Committees of the North Carolina State Bar).</p>	<p>Special Circumstances Exemptions. The board may exempt an active member from the continuing legal education requirements for a period of not more</p>	<p>North Carolina would require the submission of a hardship application</p>	

	<p>than one year at a time upon a finding by the board of special circumstances unique to that member constituting undue hardship or other reasonable basis for exemption, or for a longer period upon a finding of a permanent disability.</p>		
<p>North Dakota (Continuing Legal Education Policies)</p>	<p>Except in extraordinary circumstances, requests for extension of time are reviewed at the end of the 60-day period by the Commission. In extraordinary situations, the S/T may poll the Commission to determine whether a request for extension may be granted/denied before the 60-day meeting or suspension meeting</p>		
<p>Ohio (Rule X Supreme Court Rules for the Government of the Bar of Ohio).</p>	<p>Exemption by Commission. Upon approval by the Supreme Court Commission on Continuing Legal Education, the following attorneys may be exempted from the requirements of Section 3 of this rule: (1) An attorney on full-time military duty who does not engage in the private practice of law in Ohio; (2) An attorney suffering from severe, prolonged illness or disability preventing participation in accredited continuing legal education programs and activities for the duration of the illness or disability; (3) An attorney who has demonstrated special circumstances</p>		

	<p>unique to that attorney and constituting good cause to grant an exemption for a period not to exceed one year and subject to any prorated adjustment of the continuing legal education requirements</p>		
<p>Oklahoma (Rule 7 of Mandatory Continuing Legal Education Rules for the Supreme Court of the State of Oklahoma).</p>	<p>Other requests for substituted compliance, partial waivers, or other exemptions for hardship or extenuating circumstances may be granted by the Commission upon written application of the attorney and may likewise be reviewed by the Board of Governors of the Oklahoma Bar Association.</p>		
<p>Oregon (Minimum Continuing Legal Education Rules and Regulations Rule 9).</p>	<p>(1) Upon written request of a member or sponsor, the MCLE Program Manager may waive, grant exemption from, or permit substitute or delayed compliance with any requirement of these Rules. The request shall state the reason for the waiver or exemption and shall describe a continuing legal education plan tailored to the particular circumstances of the requestor. The MCLE Program Manager may grant a request upon a finding that MCLE Rules and Regulations effective May 1, 2024 Page 24 (i) hardship or other special circumstances makes compliance impossible or inordinately difficult, or</p>		<p>Yes and mandatory.</p>

	<p>(ii) the requested waiver, exemption, or substitute or delayed compliance is not inconsistent with the purposes of these Rules.</p>		
<p>Pennsylvania (Pennsylvania Continuing Legal Education Board Rule 111)</p>	<p>These rules shall be strictly enforced, but waivers of strict compliance with these rules or extensions of time deadlines provided in these rules may be made by the Board in cases of undue hardship or for other compelling reasons in accordance with the following:</p> <ul style="list-style-type: none"> • (a) Waiver: When a lawyer on active status, because of circumstances beyond his or her control, cannot in any reasonable manner meet the requirement for continuing education in any given reporting year, these rules may be waived, in whole or in part. • (b) Application for Waiver: The application for waiver shall set forth the reason why the lawyer cannot comply with the minimum requirements of these rules; shall set forth the efforts made to comply; and shall be accompanied by a plan setting forth how the lawyer expects to continue his or her legal education during the period of time for which strict compliance is waived. 		

	<ul style="list-style-type: none"> • (c) Termination of Waiver: Waivers may be granted by the Board for such period as the Board may determine. Upon termination of the waiver, the Board may make such additional educational requirements as it deems appropriate. • (d) Extensions of Time: The Board may grant an extension of time for the completion of a lawyer's CLE requirements upon such terms as the Board shall require. 		
Rhode Island (Article IV Rule 3 Sup. Ct. Rules)	The MCLE Commission is authorized to exempt attorneys from MCLE requirements under Section 3.2(a) for good cause shown.		Yes and mandatory.
Tennessee (Rule 21 of the Tennessee Supreme Court Rules)	An attorney may petition the Commission in writing for "Exceptional Relief" from this Rule, and may be granted Exceptional Relief upon majority vote of the Commission. An attorney applying for Exceptional Relief, including requests for appropriate waivers, extensions of time, hardship, and extenuating circumstances, shall file with the Commission a written statement showing cause why that individual should be considered for "Exceptional Relief" and shall specify in detail the particular relief being sought.		Yes but voluntary.

Texas (Rule 7 of the Texas MCLE Regulations)	Any member who is unable to satisfy the minimum CLE requirements during any MCLE compliance year as a result of undue hardship caused by illness, medical disability or other extraordinary or extenuating circumstances beyond the control of the member may apply for a hardship exemption from the MCLE requirements for that compliance year. Undue hardship generally will not include financial hardship or lack of time due to a busy professional or personal schedule.	This would fall under requests for extensions from our Regulations for good cause:	Yes but voluntary.
Utah (Rule 11-610)	It is not intended that compliance with this article will impose any undue hardship upon any lawyer or paralegal practitioner because the lawyer or paralegal practitioner may find it difficult to attend such activities because of health or other special reasons.	Utah would require the submission of a hardship application	
Vermont (Rules for Mandatory Continuing Legal Education)	In the event that unusual circumstances render it a hardship for an attorney to engage in a sufficient quantity of continuing legal education activity creditable pursuant to subdivisions (1) or (2) of paragraph (a) above, the Board, in its discretion, may approve any alternate plan for continuing legal education which it finds satisfies the objectives of these rules.		Yes but voluntary.
Virginia (Regulation 111 of Mandatory Continuing Legal	Regulation 111: Waivers, Extensions		Yes but voluntary.

Education Regulations)	and Deferrals 1. Waivers 1. A waiver of the MCLE requirement or of any fees associated with MCLE noncompliance may be sought by filing a request with the Board, together with any appropriate or required supporting material or documentation (e.g. doctors' letters, medical records). The filing of any waiver request does not toll the running of any time limit set forth in these regulations or the Rule regarding suspension. 2. A waiver shall be valid for a single completion period, unless renewed or extended by the Board. A waiver will be granted only for good cause. 3. If the waiver is based on medical reason, condition, illness or hospitalization, then the application for waiver shall be a completed		
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	<p>form entitled "Request for Waiver Based on Hospitalization, Illness or Medical Reason." It must be completed and signed by the admitting, family or attending health care provider and it must set forth the medical condition, hospitalization or illness which prevents the member from completing the required MCLE courses for the period for which the Waiver is being requested and have attached to it any appropriate supporting material or documentation.</p> <p>4. If the waiver is based on non-medical reasons, then the grounds shall be stated in a letter to the Board and any appropriate supporting material or documentation shall be attached.</p> <p>5. A member who is unable to satisfy the MCLE requirement due to</p>		
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	<p>extraordinary or extenuating circumstances beyond the control of the member may apply as prescribed in Regulation 111(a)(1) to have all or part of the eight-hour limitation on pre-recorded courses waived.</p> <p>6. All waiver requests should be promptly submitted when the grounds for the waiver request become known to the applicant or applicant's representative. Failure to file a waiver request in a timely manner may be considered by the Board in determining whether to grant a waiver. A prudent lawyer will use the carryover of credits provision of the Rule to avoid most nonmedical based waiver requests.</p> <p>2. Extensions</p> <p>1. An extension may be sought by filing with the Board a request,</p>		
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	<p>together with any appropriate or required supporting material or documentation (e.g. physicians' letters, medical records, military deployment orders). The filing of an extension request does not toll the running of any time limit set forth in these regulations or the Rule regarding suspension.</p> <p>2. An extension shall be valid for the specific time period granted by the Board unless renewed or extended. An extension will be granted only for good cause.</p> <p>3. If the extension is based on medical reason, condition, illness or hospitalization, then the application for extension shall be a completed form entitled "Request for an Extension Based on Hospitalization, Illness or Medical Reason." It must be completed and signed by the admitting, family or</p>		
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	<p>attending health care provider and it must set forth the medical condition, hospitalization or illness which prevents the member from completing the required MCLE courses for the period for which an extension is being requested and have attached to it any appropriate supporting material or documentation.</p> <ol style="list-style-type: none">4. If the extension is based on non-medical reasons, then the grounds should be stated in a letter to the Board and any appropriate supporting material or documentation should be attached.5. All extension requests should be promptly submitted when the grounds for the extension request become known to the applicant or the applicant's representative. Failure		
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	<p>to file an extension request in a timely manner may be considered by the Board in determining whether to grant an extension. A prudent lawyer will use the carryover of credits provision of the Rule to avoid most non-medical based extension requests.</p>		
<p>West Virginia (Rule 7.2 of the West Virginia MCLE Rules)</p>	<p>For good cause shown, the Commission may, in individual cases involving extreme hardship or extenuating circumstances, grant conditional, partial, or complete exemptions of these minimal continuing legal education requirements.</p>		
<p>Wisconsin (Wisconsin Supreme Court Rule 31)</p>	<p>(1) The board may extend time deadlines for completion of attendance and reporting requirements in cases of hardship or for other compelling reasons.</p> <p>(2) The board may waive attendance and reporting requirements where to do otherwise would work an injustice</p>		
<p>Wyoming (Rules of the Wyoming</p>	<p>he Board may, in individual cases</p>		

State Board of Continuing Legal Education)	involving hardship, grant waivers of the continuing legal educational requirements, including the delinquency fee, or extensions of time. Hardship may be shown by illness, medical disability or other extraordinary or extenuating circumstances beyond the control of the attorney, but generally will not include financial hardship or lack of time due to a busy professional or personal schedule.		
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**DISCUSSION:
MCLE Updates**

The MCLE Staff Liaison will provide general updates to the MCLE Board

Discussion Topics:

- **MCLE Certification**

An extension of the deadline to June 24 was granted to 14 licensed legal professionals in the 2022-2023 reporting period. Out of the 14, one remains not compliant, and a presuspension notice was sent via certified mail to the lawyer on July 3rd. Two lawyers were granted an extension of the deadline to August 5.

On June 18, MCLE staff sent notice of upcoming MCLE deadlines to 11,374 licensed legal professionals in the 2022-2024 reporting period. The notice was sent in accordance with APR 11 (i)(2) "Notice. Not later than July 1 every year, the Bar shall notify all lawyers, LLLTs, and LPOs who are in the reporting period ending December 31 of that year that they are due to certify compliance." Typically, MCLE certification opens as part of license renewal in November. This year, to ensure all of the recent updates to the online system are functional before licensing opens in November, we have opened certification through the MCLE online system allowing licensed legal professionals to certify for the 2022-2024 reporting period. As of July 29, 2024, 451 licensed legal professionals are compliant for the 2022-2024 reporting period.

- **MCLE Online System**

The new MCLE system went live on October 16, 2023. The MCLE staff continues to work with WSBA IT on fixing postproduction bugs and on developing the remaining features for the system. The remaining features of the system are projected to be completed by the end of this fiscal year.

- **Suggested Amendments to APR 11 re Mental Health and Technology Security**

The MCLE Board’s suggested amendments to APR 11 for a new MCLE credit requirement in both mental health and technology security were submitted to the Washington Supreme Court together with the GR 9 cover memo. The court comment period originally closed on April 30, 2024. Consideration on the MCLE Board’s proposed amendment to APR 11 was deferred until the WA Supreme Court September en banc. The Supreme Court has deferred consideration because it is possible that some public comments on the proposed rule may not have been received by the Court due to a technical problem with a new feature on the Court Rules website. The Court issued this announcement, which gives people until August 23rd to resubmit comments that were not received by the Court:

<https://www.courts.wa.gov/newsinfo/?fa=newsinfo.internetdetail&newsid=50453>

- **Annual Supreme Court Meeting**

Please make sure to reserve time on your calendars for the MCLE Board’s annual meeting with the Justices from 10:00 a.m. – 11:00 a.m. on September 6, 2024. The meeting will be a hybrid in-person and remote meeting.

- **MCLE Board Meeting Schedule for the 2024-2025 term**

Meeting #	MCLE Board Meeting Date
1	October 25, 2024 (in-person/remote hybrid)
2	January 10, 2025

3	April 11, 2025 (in-person/remote hybrid)
4	May 9, 2025
5	August 8, 2025

- **MCLE Status Change Requirements**

MCLE staff along with RSD Counsel and RSD Associate Director drafted proposed changes to the current WSBA bylaws regarding MCLE requirements for those returning to active status. This proposal streamlines and provides consistency to return to active requirements. Additionally, the proposal aligns with proposal for admission by motion, which will make it so that is not more difficult to return to active status than to be admitted. The proposed changes would also make it easier for members to understand and complete the requirements, and it reduces the wait time for members to return to active by reducing staff time for processing return to active applications.

Renata and Bobby presented the proposal for first read at the July Board of Governors meeting ([Meeting materials](#)- proposed bylaw amendments located on page 237).

- **Budget**

The MCLE Board Staff Liaison will provide a brief overview of the current MCLE Budget Summary and the proposed MCLE Budget.

Attachments:

- MCLE Budget Summary
- Proposed MCLE Budget
- Notice of upcoming MCLE deadlines to those in the 2022-2024 reporting period