

**ALABAMA STATE BAR
RULES FOR MANDATORY CONTINUING LEGAL EDUCATION**

RULE 1. MCLE Commission

There is hereby established the Mandatory Continuing Legal Education Commission of the Alabama State Bar (the "MCLE Commission"). The MCLE Commission shall consist of nine members. The members shall be chosen from, and elected by, the members of the Board of Bar Commissioners, and shall serve at its pleasure.

The MCLE Commission shall have the following duties:

- A. To exercise general supervisory authority over the administration of these rules.
- B. To adopt regulations consistent with these rules.

REGULATIONS

1.1 The chairman of the MCLE Commission shall be appointed by the President of the Alabama State Bar ("ASB") from among the nine members of the MCLE Commission elected by the members of the Board of Bar Commissioners. The members of the MCLE Commission may select a member to be recommended to the president as chairman.

1.2 The MCLE Commission shall elect by majority vote a vice chairman and secretary from among its members.

1.3 The MCLE Commission may organize itself into committees of not fewer than three voting members for the purpose of considering and deciding matters submitted to them, except five affirmative votes shall be necessary for any action under Rule 8 (Noncompliance and Sanctions; Late Fees).

1.4 Replacement members, if and as necessary, shall be voted upon and recommended by the MCLE Commission to the nominating committee of the Board of Bar Commissioners for approval by the Board of Bar Commissioners.

1.5 The MCLE Commissioners shall meet no fewer than four times per year, and at any other time or times deemed necessary or advisable, upon reasonable notice of such meeting.

1.6 Members of the MCLE Commission shall be reimbursed for their actual direct travel expenses to the same extent as ASB employees when such travel is authorized by the Board of Bar Commissioners or by the president of the ASB.

1.7 The MCLE Commission shall designate an executive director and such other staff as may be deemed necessary and, further, may delegate executive authority to such director or staff to conduct the business of the MCLE Commission within the scope of these rules and regulations, subject at all times, however, to continuing review by the MCLE Commission.

RULE 2. Scope of these Rules; Waivers and Exemptions.

A. Scope.

Except as provided herein, these rules shall apply to every person whose qualification to practice law is subject to the *Code of Alabama* (1975), § 40-12-49 (occupational licenses), § 34-3-17 (qualified lawyers holding public office), and § 34-3-18 (lawyers not engaged in active practice), and shall be applicable for the compliance year beginning January 1, 2013.

B. Waivers.

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. Upon expiration of the waiver, the MCLE Commission may impose any additional MCLE requirements as may be deemed appropriate under the circumstances.

C. Exemptions.

1. **New Admittee.** An attorney holding an occupational license is exempt from the requirement of these rules for the balance of the year during which he or she was first admitted to practice.

2. **Public Office.** All attorneys who by Constitution, law or regulation, are prohibited from the private practice of law by virtue of their occupation of public office, shall be exempt from these rules for the entire calendar year(s) during which they hold such office. Also exempt are members of the United States Senate, the United States House of Representatives, the Armed Forces, the Senate of Alabama (and its secretary), and the Alabama House of Representatives (and its clerk). This exemption DOES NOT apply to those attorneys serving as assistant or deputy attorneys general and district attorneys, assistant or deputy district attorneys, and public defenders.

3. **Age.** An attorney holding an occupational license is exempt from the requirements of these rules for the year in which he or she begins receiving Social Security Benefits, or reaches the age of 65, whichever occurs first.

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2.1 Nonresident attorneys from other jurisdictions who are temporarily admitted to practice in Alabama pursuant to *Rule VII of the Rules Governing Admission to the Alabama State Bar (pro hac vice rules)* shall not be subject to these rules.

2.2 An attorney who is exempt during the calendar year in which he or she was first admitted to the Alabama State Bar may earn up to 12 MCLE credits during the calendar year of admission, which may be carried over to the next compliance year if the attorney reports the credits on his or her annual report of compliance no later than February 15. Credits earned prior to the attorney's admission date to the Alabama State Bar may not be claimed.

2.3 Attorneys serving as judicial law clerks or judicial staff attorneys who are prohibited from the private practice of law for any part of a calendar year are exempt from the MCLE requirement for that year.

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2.4. An attorney who is exempt from these rules on the basis of age shall notify the MCLE Commission in writing of his or her claim of such exemption.

2.5. Special Members of the Alabama State Bar are not subject to the MCLE requirement except as provided in Rule 2.C.2.

2.6. An attorney seeking a waiver of these rules shall submit such request in writing on forms approved by the MCLE Commission.

2.7. An attorney who maintains a residence and a principal office for the practice of law in a state other than Alabama which requires Mandatory Continuing Legal Education (MCLE), and who can demonstrate compliance with the MCLE requirements of that state, is exempt from these rules, except as provided in Rules 7 and 9.

RULE 3. CLE Requirement

Each attorney subject to these rules shall complete a minimum of 12 hours of approved continuing legal education annually, 1 hour of which shall be on the subject of ethics or professionalism.

This requirement may be satisfied either by attendance at an ASB-approved course or by completion of any other ASB-approved continuing legal education activity.

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3.1 A minimum of 6 credit hours of the 12 credit hours required annually must be earned through attendance at live ASB-approved programs.

3.2 This requirement may be satisfied through teaching an approved continuing legal education activity. Presentations supported by thorough, high quality, readable and carefully prepared written materials qualify for MCLE credit on the basis on six credits for each hour of presentation. Presentations accompanied by brief outlines, or not accompanied by substantial written materials, shall not satisfy this requirement. When a presentation is made by a panel, the credit will be divided equally among the panel members, unless the MCLE Commission is advised otherwise.

3.3 Repeat presentations shall satisfy this requirement to the extent of one-half the credits available for an initial presentation, provided each lawyer shall receive at least one credit for each hour of individual presentation or service on a panel.

3.4 This requirement may be satisfied through teaching a course in an ABA- or AALS-approved law school or any other law school approved by the MCLE Commission. The MCLE Commission will award six hours of MCLE credit for each hour of academic credit awarded by the law school for the course. For purposes of these rules, Miles College of Law and Birmingham School of Law are considered approved law schools.

3.5 This requirement may be satisfied by authoring a significant research article that is accepted for publication in a national law journal. Whether the article is significant will be determined by the executive director. The MCLE Commission will award twelve hours of MCLE credit upon publication of the article.

3.6 This requirement may be satisfied through service as a bar examiner in Alabama or in any the sister state. The MCLE Commission shall award twelve hours of MCLE credit annually for such service during a given year.

3.7 This requirement may be satisfied through formal enrollment and education of a postgraduate nature, either for credit or by audit, in an accredited law school. The MCLE Commission will award one credit for each credit hour so earned.

3.8 The MCLE Commission shall award two hours of MCLE credit to attorneys who attend the annual business meeting of the Alabama State Bar.

3.9 This requirement may be satisfied through the provision of pro bono legal assistance exclusively through an Approved Pro Bono Provider. For purposes of these rules, an Approved Pro Bono Provider is a not-for-profit legal aid organization, bar, or court sponsoring a pro bono program that is approved by the Alabama State Bar as set forth in Rule 6.6 of the Alabama Rules of Professional Conduct. The MCLE Commission shall award one hour of MCLE credit for every

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six hours of pro bono work completed for a maximum of three MCLE credits in a 12 month period running from October 1st through September 30th. If less than 6 hours of pro bono work is completed between October 1st and September 30th of the reporting year, no MCLE credit shall be awarded. On October 1 of each year, the Approved Pro Bono Providers shall report the name of each attorney who meets these requirements to the MCLE Commission along with the number of credits awarded. Self-reporting shall not be permitted under this provision. Credit earned through this provision may not be used to complete a deficiency plan or to satisfy requirements for reinstatement, reactivation or readmission.

RULE 4. Qualification of Course Sponsors

- A. To be eligible for accreditation, all MCLE course sponsors shall have been engaged in approved continuing legal education activities during the two years immediately preceding any application for accreditation and shall have sponsored at least five separate courses which would qualify for course approval under these rules.
- B. A qualifying sponsor shall apply to the MCLE Commission for approval of an individual MCLE activity that meets the standards set forth in these Rules.
- C. A qualifying sponsor may apply to the MCLE Commission for accreditation as a pre-approved sponsor. Such accreditation shall constitute prior approval of all MCLE activities to be offered by that sponsor, provided the sponsor and the activity meet the standards set forth in these rules.
- D. The MCLE Commission shall promulgate regulations to establish the procedures whereby sponsors are accredited, for imposing sanctions including amendment, revocation or suspension of accreditation, and to establish additional minimum standards for sponsors and activities as may be deemed necessary from time to time. A sponsor's status shall be subject to ongoing review by the MCLE Commission.

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- 4.1 Applications for status as a pre-approved sponsor shall be accompanied by a fee of \$250.00
- 4.2 Sponsors other than pre-approved sponsors shall submit a fee of \$50.00 with each application for accreditation of an MCLE activity.
- 4.3 An attorney may submit an application for accreditation of an MCLE activity for which accreditation was not sought by the sponsor. Such an application shall be accompanied by a fee of \$25.00.
- 4.4 Sponsors of approved MCLE activities shall refrain from advertising or encouraging the use of their products or services during the activity. Sponsors shall seek participants' opinions regarding their adherence to this policy. Failure to adhere to this policy shall be ground for withdrawal of accreditation of the MCLE activity.
- 4.5 Program sponsors may advertise in their informational brochures and program materials that the activity has been accredited by the MCLE Commission.
- 4.6 At the conclusion of an approved activity, each participating attorney shall complete an evaluation questionnaire addressing the quality, effectiveness and usefulness of the particular activity. If requested, copies of the questionnaires shall be forwarded to the MCLE Commission. Sponsors shall maintain the questionnaires for a period of 90 days following a program.

RULE 5: Minimum Standards for Approval

- A. To be approved for credit, MCLE activities must meet the following requirements:
1. Applications for approval of an MCLE activity must be submitted at least thirty (30) days in advance of the activity.
 2. The activity must have significant intellectual or practical content and its primary objective must be to increase the participant's professional competence as an attorney. The activity may not be designed primarily for non-lawyers.
 3. The activity must deal primarily with substantive legal issues, practice management, professional responsibility or ethical obligations of attorneys. Whenever possible, ethical implications of practice management subject matter shall be included.
 4. The activity must be offered by a sponsor having substantial, recent experience in providing mandatory continuing legal education activities or a demonstrated ability to organize and effectively present mandatory continuing legal education activities. Demonstrated ability arises partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction and supervision of the activity.
 5. The activity must be conducted by an individual or group qualified by practical or academic experience. The program must be conducted substantially as planned, including the named advertised participants, subject to emergency withdrawals and alterations.
 6. Thorough, high-quality, readable, and carefully prepared written materials must be made available to all participants, in hard copy or electronic medium, at or before the time of presentation of the activity, unless the absence of such materials is reasonable and has been pre-approved by the MCLE Commission.
 7. The activity must be conducted in an appropriate and suitably equipped physical setting, conducive to learning.
 8. The cost of the activity must be reasonably related to the subject matter, instructional level, and location.
- B. Approval may be given for activities where electronically recorded or reproduced material is used only if a qualified instructor is available to comment and answer questions at the time of the broadcast. Satellite and teleconference programs must have either telephone connections to instructors at the broadcast location or an instructor present at the receiving site to comment and answer questions.
- C. Web-based programs will be eligible for approval only if the participant's attendance is randomly monitored and verified by the sponsor during the program.
- D. No MCLE credit will be awarded for self-study programs.

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5.1 The MCLE Commission will advise the applicant seeking accreditation whether the activity is approved or disapproved within 30 days of the receipt of the completed application and fee. Applicants denied accreditation may appeal the decision by submitting a letter of appeal to the MCLE Commission within 15 days of receipt of notice of denial.

5.2 No application for accreditation by either sponsor or a participant will be approved more than sixty (60) days after the close of the program year (December 31).

5.3 Web-based MCLE programs shall be limited to six hours of MCLE credit per year. On-demand web-based programs, which are not offered in real-time, shall be subject to the 6 credit hour limit. Synchronous, real-time webcasts and webinars may be considered live programs under these rules, and not subject to the 6 credit hour limit, only if the program allows instructors and participants to communicate directly via text or teleconference. Teleconferences shall be treated as live programs under these rules.

5.4 Attorneys desiring credit for an activity attended outside Alabama may be required to complete an evaluation questionnaire furnished by the MCLE Commission and to return it within a reasonable time following the conclusion of the activity.

5.5 Activities that cross academic lines, such as accounting-tax seminars, may be considered for approval.

5.6 When a law firm is the course sponsor, at least 50% of the instruction must be provided by persons not affiliated with the law firm sponsor. A qualified instructor not affiliated with the law firm sponsor must be present for all audio or videotaped replays of the live program.

5.7 Program materials without legal citations or explanatory notations shall be considered deficient.

5.8 Attorneys who have a permanent physical disability or limitation that makes attendance at approved MCLE activities inordinately difficult may file a request for a permanent substitute activity in lieu of attendance and shall set out in that request continuing legal education plans tailored to the attorney's specific interests and physical abilities. Any such request shall be accompanied by a physician's statement addressing the necessity for such alternative activity. The MCLE Commission shall review and approve or disapprove the proposed plan on an individual basis and in an expeditious manner.

RULE 6. Application of MCLE Credits

- A. Credit will be awarded only for participation in MCLE activities that have been approved by the MCLE Commission.
- B. A maximum of 12 hours, including 1 ethics hour, in excess of the minimum annual requirement may be carried forward for credit in the succeeding year. Credits may be carried forward for one year only.
- C. An instructional hour will, in all events, contain at least sixty (60) minutes.

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6.1 Program attendance and the number of program hours attended shall be confirmed by program sponsors for each attorney attending an accredited activity. Attorney attendance must be reported to the executive director within 30 days of the conclusion of the activity.

6.2. No credit will be awarded for introductory remarks, meal breaks or business meetings during an accredited activity.

RULE 7. Annual Reporting

A. As soon as practicable after January 31 of each year, the executive director shall cause to be prepared an annual report of compliance for each attorney subject to these rules for the prior year.

B. By February 15 of each year, each attorney subject to these rules shall certify the accuracy of his or her individual annual report of compliance to the MCLE Commission, in such form as shall be prescribed by the MCLE Commission.

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7.1 Any report sent by regular, certified, registered or express mail of the United States Postal Service and postmarked by February 15 (or the next business day if February 15 is a Saturday, Sunday or holiday) will be considered timely filed. Untimely reports received without the required late filing fee will be returned to the submitting attorney, who shall continue to be deemed non-compliant until all applicable late fees are paid.

7.2 The MCLE Commission may permit amendments of annual reports of compliance through March 1 of the year immediately succeeding the compliance year. Requests for such amendments must be in writing and must provide specific details of each proposed amendment. All credits, however, must be earned by December 31 of the reporting year, unless a deficiency plan is filed.

7.3 Requests for late amendments (after March 1 of the year immediately succeeding the compliance year) may be considered by the MCLE Commission on a case-by-case basis. Such requests must be in writing and must comply with the requirements of Regulation 7.2 above. Successive requests for late amendments will not be considered without a showing of good cause.

7.4 On or before February 15 of each year, each attorney who is exempt from these rules but who wishes to receive credit for courses attended, shall submit a report, in such form as the MCLE Commission shall prescribe, detailing such attorney's completion of any hours of instruction, including reference to hours earned during the preceding calendar year and hours to be carried forward for the current year.

7.5 The files and records of the MCLE Commission are confidential and shall not be disclosed except in furtherance of the duties of the MCLE Commission; however, strictly statistical abstracts may be compiled from those records for public information.

RULE 8. Noncompliance and Sanctions; Late Fees

- A. An attorney who fails to earn twelve hours of approved MCLE credits by December 31 of a particular year will be deemed noncompliant for that year.
- B. On or before February 15, any attorney deemed non-compliant for the prior compliance year shall submit to the MCLE Commission a plan for curing the deficiency by March 1, on the form prescribed by the MCLE Commission.
- C. Completion of an approved deficiency plan shall be reported by the non-compliant attorney to the MCLE Commission no later than March 15. Failure to complete an approved deficiency plan by March 1 and/or to submit the required report and fee by March 15 shall result in the imposition of sanctions.
- D. As soon as practicable after April 15 of each year, the executive director shall furnish to the Office of General Counsel of the Alabama State Bar a list of those attorneys who have failed to comply with Rule 3 and/or Rule 8 for further discipline.
- E. Successive requests for approval of a deficiency plan will not be considered without a showing of good cause.
- F. As soon as practicable after January 31 of each year, the executive director shall cause to be furnished to the Office of General Counsel of the Alabama State Bar a list of those attorneys who have failed to complete the professionalism course required by Rule 9 for further discipline.

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- 8.1 Deficiency plans submitted pursuant to this rule shall be subject to the provisions of Regulation 7.1.
- 8.2 Any attorney who is deemed non-compliant shall pay a \$100 Late Compliance Fee.
- 8.3 Any attorney who certifies his or her annual report of compliance after the February 15 deadline shall pay a \$100 Late Filing Fee. This payment shall accompany any report submitted by mail, or in the case of online certification, such late filing fee must be received within 10 days of the late certification date.
- 8.4 Any attorney who fails to timely complete an approved deficiency plan, or who fails to timely report the completion of an approved deficiency plan, shall pay a \$100 Late Reporting Fee.
- 8.5 A request for an extension of the March 15 deadline for earning credits under an approved deficiency plan may be considered if: (1) the request is made in writing and good cause is shown, as determined by the MCLE Commission, in its sole discretion, and (2) the request is accompanied by a fee of \$100.00. This fee is in addition to the late compliance fee, the late filing fee, and any other late fee that may be due. No extensions will be granted beyond April 1.
- 8.6 In order to make a showing of good cause pursuant to Rule 8.E, after the approval of two successive deficiency plans, an attorney shall appear before a panel consisting of the executive director, a representative of the MCLE Commission and a representative of the Office of General Counsel, to explain why a further deficiency plan should be granted. The attorney shall be notified in writing of the decision of the panel.

Rule 9. Professionalism

- A. Within twelve months of being admitted to the Alabama State Bar, every lawyer subject to these Rules shall complete a three hour course in professionalism.
- B. Lawyers claiming an exemption under Rule 2 shall likewise be exempt from the requirements of this rule so long as they remain exempt. Lawyers must complete the course in professionalism during the calendar year following the year in which the exempt status ends.
- C. This rule shall be waived for any attorney serving on active duty with the United States Armed Forces.
- D. Violations of this Rule shall be governed by Rule 8.