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Proposed Changes to the MCLE Rules and Regulations

1. Faculty Course Credit

Modify MCLE Regulations, Sections 5.1-5.1.2 to be consistent with the MCLE Rules (State Bar Rules, Article XII).

- Full-time faculty receive a course credit allowance and automatic addition of 12-hours of credit
- Part-time faculty claim actual hours taught, not to exceed 12 hours

2. Legislative Attorney Course Credit

Modify MCLE Regulations, Section 5.7 to be consistent with Section 81.113 of the Texas Government Code, which allows course credit for attorneys employed by the Texas Legislature only. Attorneys employed by the U.S. Congress are not eligible for a course credit allowance.

3. Authority and Timing of Granting Hardship Exemptions and Extensions

Modify MCLE Rules, Section 9 (A) and MCLE Regulations, Section 5.11.1 to allow the MCLE Department to review and determine extensions and exemptions and to remove the restriction that requires the request for an exemption or extension to be filed prior to the last day of the birth month. In practice, the MCLE Committee has delegated this authority to the MCLE Department.

- The MCLE Department may review and determine extension and exemption requests based upon rules and criteria promulgated by the MCLE Committee
- Members who are dissatisfied with the determination may appeal the decision using the existing appeals process
- Extensions and exemptions may be requested after the birth month/grace period

4. Automatic Deferrals upon Transition to Inactive Member Status

Modify MCLE Rules, Section 9 (A) and MCLE Regulations, Section 5.4.1 to allow automatic initiation of deferrals for completion of MCLE requirements. Currently, a member who elects inactive status must request a deferral of outstanding MCLE requirements.

- The MCLE Department may automatically defer the completion of MCLE requirements for members who change to an inactive membership status during an MCLE compliance year
- Members may elect to complete their requirements before or after inactivation, or within 90 days following reactivation

5. Legislature/Congress Course Credit in Non-Session Years

Modify MCLE Rules, Section 4 (G) to allow course credit to be applied in any compliance year the attorney is a member of the designated legislative bodies. Currently, MCLE Rules grant authority for the application of credit during regular session years only. Since MCLE compliance years are based upon birth month, this results in an uneven application of credit.

6. Exclude Institutions of Higher Education from Accredited Sponsor Fee Exemptions

Modify MCLE Regulations, Section 10.8.5, to exclude institutions of higher education from the exemption for payment of Sponsor Accreditation and Renewal fees.

TEXAS MCLE REGULATIONS

5.0 SPECIAL CASES AND EXEMPTIONS

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

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

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

- ~~5.1.1-2~~ Full-time and Part-time Faculty Members shall ~~give written~~ provide to the MCLE Department notification to the MCLE Director ~~his/her assertion of full-time or part-time teaching status indicating his/her full-time teaching status and at~~ the law school of which he or she is a faculty member. Annually, the member will be required to complete three (3) hours of legal ethics (Article XII, Section 4F) and report this credit as outlined below in Section 6.5.

5.2 Judicial Exemption.

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

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

5.3 Non-practicing Exemption.

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

5.3.2 For purposes of this section, 'practice of law' shall mean: (1) the preparation of any kind of pleading or other paper incident to actions and special proceedings on behalf of a client before judges, courts and administrative agencies, (2) the preparation or presentation of any kind of legal instrument, and (3) in general, the giving of advice to clients and taking any form of action for them in matters connected with the law. All of

these enumerated services shall be considered practicing law regardless of whether a fee is charged or collected. However, a member who renders any of these enumerated services on behalf of his/her own personal or immediate family interests shall not be considered to be practicing law for purposes of this definition.

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

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

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

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

5.6 Legislature/Congress.

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

5.7 Legislature Attorney.

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

5.8 Hardship Exemption.

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

5.9 Age Exemption. (Repealed)

Any member who is 70 year of age or older, shall be exempt from MCLE requirements. Members who are 69 years of age during the compliance year and who turn 70 years of age at the end of the compliance year will be required to comply with MCLE requirements. The age exemption is repealed effective June 1, 2015, with an implementation date of June 1, 2016. Members who are 70 years or older on or after June 1, 2016 will begin their compliance year on the first day of their birth month.

5.10 Self-study Allowance.

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

5.11 Extensions.

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

5.11.1 ~~No extension shall be allowed unless it is requested prior to the last day of the member's birth month.~~ A member seeking an extension shall submit a written request to the MCLE ~~Committee-Department~~ detailing the circumstances for such request. If an extension is granted, ~~related compliance fees incurred may be waived.~~ CLE hours completed during the extension period and used toward meeting requirements for the immediately preceding compliance year, may not be used again toward the next compliance year's requirements. Hours that are completed in excess of the 15-hour minimum requirement shall carry-forward as outlined in Section 3.3. ~~The member shall be promptly notified of the MCLE Department's decision. A written notification of the determination made on each extension request will be sent to the member making such request.~~

10.8.5 Exemptions.

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

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

TEXAS
MINIMUM CONTINUING LEGAL EDUCATION RULES
(Article XII, State Bar Rules)

Section 4. Accreditation

- (G) Credit to meet the minimum educational requirement shall be extended to attorneys who are members of the Senate and House of Representatives of present and future United States and Texas Legislatures for each ~~regular session~~compliance year in which the attorney member ~~shall~~ serve as a member of the legislative body.

Section 9. Review and Appeal

- (A) A member may ~~file a written~~ request ~~for an~~ exemption from compliance with any of the requirements of this Article, an extension of time for compliance, an extension of time to comply with a deficiency notice, or an extension of time to file an annual activity report. Such request for excuse or for extension shall be reviewed and determined by the MCLE Department, based upon the rules or criteria promulgated by the Committee ~~or by such members as the chairperson may, from time to time, designate~~. The member shall be promptly notified of the Committee's MCLE Department's decision. In the case of members who have requested transition to inactive membership status, such extensions or deferrals may be automatically initiated based upon the regulations promulgated by the Committee.

