

TEXAS MCLE REGULATIONS CHANGES

July 2011 is the first time attorneys will be required to comply under new MCLE Regulations that were approved by the State Bar Board of Directors in January 2010 and published in the April 2010 *Texas Bar Journal*. Under the new Regulations, 12 hours of “accredited CLE” courses are required for compliance, with only three hours of self-study allowed toward meeting the total 15-hour requirement.

Annual verification reports for attorneys with July birth/reporting months were mailed in early April and reminder notices will be sent the first week of July to attorneys who still need MCLE credits for compliance by July 31. Changes to the regulations and credit hours needed for compliance are reflected in the *Summary of CLE Hours* found in the middle of the annual verification report and on the reminder notice. It is also possible for each attorney to review the current MCLE compliance status online at any time by logging onto MyBarPage (texasbar.com) and clicking on “View/Report Credit.”

If you have additional questions or concerns about MCLE Regulations changes to your individual MCLE compliance record, contact the MCLE Department at (800) 204-2222, ext. 1806 or by email at mcle@texasbar.com.

MCLE REGULATIONS FREQUENTLY ASKED QUESTIONS

What changes have been made to the MCLE Regulations and how will this affect my MCLE compliance?

The changes to the MCLE Regulations include: 1) the elimination of the definitions and distinctions between “Group Participatory” and “Interactive Participatory”; and 2) a change from five to three hours of allowable self-study per compliance year.

On June 1, 2010, changes that eliminated the definitions of “group and interactive participatory” credit became effective. Downloadable programs that could previously be used for self-study credit only, including podcasts, DVD, and CD programs are now allowed for full MCLE credit.

On June 1, 2011, changes that require at least 12 hours of “accredited” CLE and allow only three hours of self-study become effective. The first group of attorneys who will be required to comply with this requirement are those born in July or have been assigned a reporting month of July.

Why eliminate the definitions and distinction between “Group Participatory” and “Interactive Participatory” CLE?

These definitions were intended to distinguish accredited CLE programs from self-study and were based upon the premise that attorneys learn best in a group setting. When online and on-demand CLE were introduced to MCLE requirements in 1996, an attempt was made to ensure that attorneys received the same learning experience, whether attending live or pre-recorded CLE, or attending in-person or online. The focus under the outdated “participatory” definitions is on conduit and not content. Today, with advances in technology, these definitions limit the availability of quality CLE programming and

make it confusing and difficult for attorneys to comply with MCLE requirements. The elimination of the “participatory” definitions are an attempt to provide low-cost options for attending CLE and focus on quality of CLE presentations and materials and preserving live CLE for those who want the option of attending live CLE activities.

Does this mean that I can receive MCLE credit for CLE that I download to my iPod?

Yes, provided that the program has been pre-approved for MCLE credit. Under the new MCLE Regulations, the restrictions that require chat rooms, bulletin boards, or other discussion elements have been lifted. This means that you will have access to accredited CLE 24-7 via your MP3 player, whether you’re traveling, working out on the treadmill, in the office, or at home. You will receive the same MCLE credit for listening to an approved presentation that has been downloaded to your MP3 player as you would if you had attended the live presentation.

Will the cost of complying with MCLE requirements increase since I will need to complete an additional two hours of Accredited CLE each year?

The cost of complying with MCLE should remain the same. You will not need to spend more to comply each year with MCLE requirements unless you choose to do so. The cost of downloadable CLE is generally less than live CLE. Costs associated with travel and taking time out from work will not be necessary in order to fulfill MCLE requirements. You can also take advantage of the multitude of free CLE opportunities

that are available each year. Most attorneys should be able to complete some, if not all, of the MCLE requirements through attendance at free or low-cost CLE.

Where can I find free or low-cost CLE options?

Three full hours of free CLE can be completed through TexasBarCLE each year. One-half hour of free online CLE is offered every other month via the Internet (or via downloadable MP3 file under the new regulations). To find the free course, log on to texasbarcle.com and click on the "free online class" link (texasbarcle.com/CLE/OCFree.asp), located in the middle of the page.

A variety of other providers, including national and commercial CLE providers, local bar associations, and legal aid offices also offer free or low-cost CLE throughout the year and on-demand at various online sponsor sites. Contact your local bar association, legal aid office, or the MCLE Department to find out when and where these activities are presented.

Why has the number of allowable self-study hours decreased from five to three hours per year?

Self-study was added to the MCLE program 25 years ago because at that time, the only CLE options available were live CLE activities held in the major metropolitan areas of the state. To defray the cost of travel and attending live CLE, self-study was added as an option for completing one-third of the requirement. Texas was (and still is) one of a handful of states that allows self-study to be used to complete part of the MCLE requirement.

The new MCLE Regulations give attorneys greater flexibility and variety for selecting the appropriate CLE materials to complete MCLE requirements. Many of the formats and materials that were previously approved for self-study credit are now available as accredited CLE under the new Regulations and without limitations on the total hours that can be completed per year. Under the old Regulations, an attorney was able to receive only five hours of self-study credit for listening to or watching a program on a DVD or on an MP3 or MP4 player, regardless of the length or quality of the materials. Under the new Regulations, attorneys are able to complete all of their CLE by using accredited CLE materials, including CDs, DVDs, and other downloadables.

What is considered self-study under the new Regulations?

The definition of self-study credit has not changed. The same materials as before can be used for self-study credit including receiving credit for reading materials specifically prepared for an accredited CLE activity, reading legal articles digests, advance sheets, cases, treatises, statutes, and regula-

tions. You will also be able to claim self-study credit for attending non-accredited legal education activities and non-legal professional education activities that are relevant to specific areas of law or to the legal practice. How these activities are attended (via a live program or by listening to or watching a pre-recorded presentation) will be up to each attorney.

Will I still be able to complete legal ethics credit through self-study?

Yes. You will still be able to complete one hour of legal ethics through self-study.

Where can I find additional information about the changes to the MCLE Regulations?

Additional information about the new MCLE requirements, including a redline version of amendments to the MCLE Regulations (Sections 2.0–4.3), can be found at texasbar.com/mcle. ❖



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October 5-7, 2011

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- ▶ Opportunity to earn up to 14 CLE hours
- ▶ Career advancement through education
- ▶ Professional development opportunities
- ▶ Exhibit Hall and Door Prizes
- ▶ Wednesday Welcome Social, Thursday Networking Social, and Friday Luncheon



See www.txpd.org in June 2011 for complete registration packet.