

Minutes of Meeting
Rules Committee Task Force to
Study Minimum Continuing Legal Education
December 13, 2012

On Thursday, December 13, 2012, the Rules Committee Task Force to Study Minimum Continuing Legal Education (MCLE) met in the Legal Services Conference Room, 100 Washington Street, 2nd Floor, Hartford, Connecticut from 2:08 p.m. to 4:00 p.m.

Members in attendance were:

Hon. Elliot N. Solomon, Chair
Hon. Barbara N. Bellis
Attorney Victor Allen Bolden
Attorney Michael P. Bowler
Attorney Timothy Diemand
Attorney Douglas Mahoney
Attorney Lenny Rodriguez
Deputy Chief State's Attorney John J. Russotto
Attorney Robert J. Sickinger
Attorney Deborah DelPrete Sullivan, Legal Counsel,
Office of the Chief Public Defender
Attorney James J. Tancredi

Also in attendance were Carl E. Testo, Director of Legal Services, Joseph J. Del Ciampo, Counsel, Legal Services and Denise Poncini, Counsel, Legal Services.

1. The Task Force unanimously approved with technical revisions the minutes of the November 1, 2012, meeting.
2. The Task Force agreed that it will recommend that there be no mandatory MCLE, except that there will be a mandatory basic skills course for new attorneys and a voluntary professionalism day for attorneys. The Task Force's report will note that the Connecticut Bar Association's position is that MCLE be required for all attorneys.
3. Attorney Bowler reported on the New Jersey MCLE program and its funding mechanisms. He distributed the New Jersey fee schedule (attached as Appendix A) and explained the various fees. He stated that the New Jersey MCLE program was designed to be self-funding and that there were issues with regard to obtaining the seed money to set up the program. The program is run by two attorneys and three staff members at a cost in 2011 of about \$400,000.
4. Attorney Bowler discussed in detail the "Basic Skills Course" outline that he was asked to prepare (attached as Appendix B). The one-day Basic Skills Course would be required of all new admittees to the bar to be completed within 24 months from the date of the new attorney's admission to the bar.

Attorney Bowler estimated that approximately 700 new attorneys are admitted to the bar in Connecticut each year. He stated that significant start-up time would be required to design the application to run the program, to hire and train staff and to develop the course curriculum. He noted that the course could be modeled after a similar program recently launched in Rhode Island.

Judge Bellis noted that any programming needed for this program would have to be developed by Judicial Information Systems, which is currently tied up working on multiple other projects for the Branch. Mike Bowler will meet with representatives from JIS to advise them of the basic skills program and find out from them when they would be able to complete the necessary work.

The Task Force agreed that a Basic Skills Course be recommended in the form substantially set out by Attorney Bowler. Attorney Bowler will prepare a budget for the program that will be submitted with the final report of the Task Force.

5. Attorney Bolden discussed the "Professionalism Day" outline that he and Attorney Diemand were asked to prepare (attached as Appendix C). He explained that the program would be largely bar driven. No Practice Book changes would be required but coordination with the Judicial Branch would be necessary since it is contemplated that the courts across the state will be closed so that court facilities could be used for the programs and judges could take part in presenting programs on various issues. The core curriculum would be the same in all locations and would be supplemented by subject matter tailored specifically to each location.

6. Judge Solomon concluded the meeting with the following summary:

- The Task Force does not recommend minimum continuing legal education for all attorneys at this time, but recommends that some level of education is appropriate in lieu of a mandatory approach for all attorneys.
- The Task Force recommends that a Basic Skills Course be developed and be required of all new admittees to the bar and that a Professionalism Day be held for all members of the bar to attend on a voluntary basis.

The Task Force agreed that its report will be drafted by Judge Solomon and Legal Services and distributed to the Task Force by January 10, 2013 for approval. Once approved, the report will be submitted to the Rules Committee in advance of its January 28 meeting.

The next meeting of the Task Force was scheduled for January 17, 2013, at 2:00 p.m. in the Attorneys' Conference Room, 231 Capitol Avenue, Hartford, Connecticut.

Respectfully submitted,



Carl E. Testo
Director of Legal Services

Attachments

SUPREME COURT OF NEW JERSEY
BOARD ON CONTINUING LEGAL EDUCATION

New Jersey Provider Fees

Per Course Approval	\$100
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Approved Service Provider Status (Approved service provider status is valid for a period of two consecutive years. The fees listed below are for that two-year period.)

Government Agencies	exempt
Public Service Organizations**	exempt upon request
State Bar Association	\$400
Local and Specialty Bar Associations	\$300
Inn of Courts	\$350
Others (including law firms and law schools) If offering over a two year period:	
• 10 or less courses	\$400
• 11-20 courses	\$700
• 21-49 courses	\$1,250
• 50-99 courses	\$2,000
• 100+ courses	\$3,500

** Public Service Organizations refer to only those public service organizations that are offering CLE courses to train volunteers providing pro bono services.

Other Fees

Late Fee	\$150
Extension of Time of Compliance	\$50
Waiver of CLE Requirement	\$50
Reinstatement From Non-Compliance	\$400

Basic Skills Course Outline

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I. Scope

- A. Absent exception or deferment, a mandatory one day course to be completed by all new admittees to the Connecticut Bar.
 - I. A free course produced and developed by the State of Connecticut Judicial Branch.
 - II. To be completed within 24 months from the date of admission beginning January 1, 2015. Also to be completed by any attorney who has been inactive for any reason, including administrative suspension, suspension, disbarment, resignation, inactive status or retirement for 5 years or more and is then reinstated to active status.
 - III. All day in person course for in state attorneys (online option for out of state attorneys) worth 6 CLE credits.
 - IV. Topics to include professionalism and ethics, law office management including trust account maintenance, technology, time management including work/life balance, basic practice skills, available resources such as bar associations, LCL and mentoring.
 - V. Plenary sessions and smaller breakout groups that are practice specific, such as civil, family, criminal, transactional and probate.
 - VI. Taught by Judicial Branch personnel in conjunction with volunteer members of the Connecticut bar.
 - VII. Other states' Basic Skills or comparable courses may not be substituted.
 - VIII. A Certificate of Completion will be provided to the attorney at the end of the in person course or at the end of the online session. The Certificate will be proof that the attorney attended the course and must be kept by the attorney for a period of three years
 - IX. Information about an attorney's compliance status will be public information.

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- X. The course materials will be available for free by download. A fee may be charged to provide the attorney with a bound booklet.

- XI. Attorneys who take the course online may be required to pay a technology access fee; they can download the course materials for free.

II. Exceptions and Deferments

- A. The course must be taken in person by newly admitted attorneys who practice in Connecticut or are not practicing but active and living in Connecticut. For good cause, these attorneys may receive permission to take the course online.

- B. The course may be taken in person or online by attorneys who practice outside of Connecticut or who are not practicing but active and living outside of Connecticut. No good cause requirement necessary.

- C. Newly admitted attorneys who are admitted but become inactive within the 24 month period due to retirement are deferred from the course requirement until such time as they revoke their retirements.
 - I. In determining the compliance time period for an attorney who retires within 24 months of admission then revokes the retirement, the period will be calculated on a pro rated basis. For example, an attorney who retires 6 months after being admitted would have 18 months to complete the basic skills course after revoking the retirement and becoming active again.

- D. Newly admitted attorneys who are on active duty in the United States Armed Forces within the 24 month period may take the course online or receive a complete deferment until discharged from active duty. These personnel would have the full 24 months following discharge to complete the course.

- E. Newly admitted attorneys who waive into Connecticut on motion (see Practice Book Section 2-13) will not need to take the course.

- F. Newly admitted attorneys who become inactive for any other reason prior to taking the course will need to take the course prior to reinstatement to the bar. If the attorney is required to

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apply for reinstatement, he or she will need to take the course prior to applying for reinstatement.

- G. Attorneys who are certified as authorized house counsel, permitted to appear pro hac vice or participate in the multi-jurisdictional practice program will not be required to take this course.
- H. New admittees employed by certain organizations such as the Chief State's Attorney's Office or the Chief Public Defender's Office will not have to complete the Basic Skills Course provided they are required to complete a comparable course in house. Other organizations would have the right to seek similar status.

III. Enforcement

- A. Administrative Suspension for non-compliance.
- B. At least 60 days before the end of the 24 month period, the non-complying attorney will be sent written notice, via certified mail, to his or her last registered address, regarding the non-compliance and the repercussions.
- C. If the non-complying attorney thereafter completes the Basic Skills Course prior to the end of the 24 month period, he or she will be marked in full compliance. If within the 24 month period the non-complying attorney registers to attend the next available Basic Skills course after the 24 month period expires, enforcement will be held in abeyance until after that course.
- D. If the attorney fails to comply by the end of the 24 month period and fails to register for and complete the next available course, he or she will automatically be placed on administrative suspension until such time as the attorney complies. The attorney shall be sent written notice of the administrative suspension via certified mail to his or her last registered address.
 - I. If the administratively suspended attorney thereafter completes the Basic Skills course within the first 6 months following the administrative suspension, the attorney will be automatically reinstated upon payment of a reinstatement fee to be established by the Chief Court Administrator.
 - II. If the administratively suspended attorney does not complete the Basic Skills course within the first 6

1 months following administrative suspension, then the
2 attorney may not be reinstated without applying for
3 reinstatement in accordance with Practice Book Section
4 2-53.
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6 **IV. Logistics**
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- 8 A. A website will be developed by the Judicial Branch for attorneys
9 to review information about the program, available dates for the
10 in person course, forms for seeking exception or deferment, a
11 registration system for signing up for courses, and the ability to
12 view the course online. The online course may only be viewed
13 by those attorneys given permission to complete the course
14 online and to receive credit for it. To that end, permitted
15 attorneys will receive the necessary Certificate of Completion for
16 viewing the course online at the end. We envision a passcode
17 provided to these attorneys that they will enter to trigger the
18 system to start the online program and to produce the
19 Certificate at the end.
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- 21 B. An internal database will be created that interacts with the newly
22 created website and the preexisting Judicial BarMaster
23 database to track compliance with the rule.
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- 25 C. The in person course will be at a facility that holds at least 200
26 people. Attorneys will register online for a course, which will be
27 offered first come, first served.
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- 29 D. The current plan is for Judicial to hold the program 3 times per
30 year.
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- 32 E. The Basic Skills course will begin promptly at 9:00 a.m. with a
33 registration time beginning at 8:30. Any late arriving attendees
34 may be denied access. The full day course must be completed
35 to earn credit for it.
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- 37 F. Bar Associations, LCL, and other vendors and providers will be
38 allowed to set up booths and displays provided they coordinate
39 their plans with Judicial.
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- 41 G. There will be a minimum of 1 year required to develop the
42 necessary program and affiliated technological support system.
43 This assumes adequate staffing and resources.
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- 45 H. The Judicial Branch will need to determine whether it will graft
46 this program, including its development, onto a preexisting entity

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such as the Statewide Grievance Committee, or will appoint a separate Commission with separate staff to develop and implement the program. All other states that have MCLE programs have gone the latter route with a separate Commission and staff. The Statewide Grievance Committee and its staff cannot absorb this program into their preexisting workforce without staffing increases and additional work space to be determined.

- I. The retirement and reinstatement rules will need to be revised to be compatible with this rule.

PROFESSIONALISM DAY PROPOSAL

Following in the tradition of successful bench-bar conferences (including the Federal Practice Section's St. Clement's event and the yearly CBA bench-bar symposium held in various judicial districts), an annual "Professionalism Day" would be sponsored by the Judicial Branch and the various state and local bar associations. For that day, the State's Judicial Branch and, where appropriate, executive branch administrative agencies, as well as, if feasible, the State's federal courts, would suspend operations for the day to allow attorneys throughout the State to attend continuing education and professional development programs.

The state-wide program would be developed jointly by the bar and the judiciary. All of the courthouses around the State would serve as venues for programming. Judges and lawyers from each Judicial District, in conjunction with the Office of the Chief Disciplinary Counsel and the Statewide Bar Counsel, would develop courses for the sessions each year, updating the bar and the bench on developments in the area of ethics, major court rulings, procedural developments (i.e., new or revised Practice Book rules), new legislation and substantive and practical tips for practitioners.

Here is a sample schedule of a "Professionalism Day" program in one of the Judicial District's courthouses:

10 a.m. to 11 a.m. Plenary Session: Ethics Update (Current and recurring issues for the bar on legal ethics).

11 a.m. to 1 p.m. Beginning of Breakout Sessions (Civil, Criminal, Family and Probate).

During the breakout sessions, there would be discussions of "hot topics" of interest to all practitioners in each of the four areas, discussion of issues arising between the bench and the bar, and practical tips in handling specific matters.

1 p.m. to 2 p.m. Lunch

2 p.m. to 3:30 p.m. Continuation of Breakout Sessions (Civil, Criminal, Family and Probate).

3:45 p.m. to 5 p.m. Single Plenary Session or Breakout Sessions on the following topics: Major Court Rulings/Legislative Developments and/or Practice Book Revisions/Updates.

To facilitate professional development in practice areas focused on transactional matters and specialty practices within private law firms, public agencies and corporations, in-house programs could be developed for "Professionalism Day" and take place outside of the local courthouse.

Here are some examples of these activities:

- large "anchor" corporations could be identified to host training sessions geared toward corporate lawyers.

- the State's Commission on Human Rights and Opportunities Commission ("CHRO") could host a day of workshops providing an opportunity for lawyers working there and practicing there to understand the processes of the CHRO better as well as to understand the most recent developments in employment law and how they may impact legal practice going forward. Alternatively, an agency, such as CHRO, could use "Professionalism Day" as a continuing legal education opportunity for its own staff.

- a municipal law department could develop an in-house program for the training and development of its staff.