

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 **RULE 11. CONTINUING LEGAL EDUCATION**

2 **RULE 11.1 PURPOSE**

3 It is of primary importance to the members of the Washington State Bar Association (referred to
4 in these rules as the Bar Association) and to the public that lawyers continue their legal
5 education throughout the period of their active practice of law. These rules ~~state~~ establish the
6 minimum requirements for continuing legal education necessary for members of the
7 Washington State Bar Association to remain authorized to practice law in this state.

8 **RULE 11.2 EDUCATIONAL REQUIREMENT**

9 **(a) Minimum Requirement.** Each active member of the Bar Association, and other lawyers
10 who are required by the APRs to complete continuing legal education credits, must complete a
11 minimum of 45 credit hours of accredited legal education (as provided in APR 11.4) by
12 December 31 of the last year of the lawyer's three-year reporting period as assigned by the Bar
13 Association. Specific requirements are the following, and are described in Appendix APR 11 -
14 Regulations of the Washington State Board of Mandatory Continuing Legal Education:

15 (1) A lawyer may earn all of the required credit hours, and must earn at least half of the
16 required credits, as live credits, as described in Regulation 103(b) of Appendix APR 11.

17 (2) A lawyer must earn a minimum of six of the required 45 credit hours of accredited legal
18 education in the area of ethics, as that is defined in Regulation 101(g) of Appendix APR 11.

19 (3) A lawyer may earn a maximum of one-half of the required credit hours for any reporting
20 period through self-study, as defined in Regulation 103(~~h~~)-(k) of Appendix APR 11.

21 (4) A lawyer may earn a maximum of six of the required credit hours for any reporting period
22 as development credit, as defined in ~~credit hours annually through pro bono training and service~~
23 ~~carried out strictly in compliance with~~ Regulation 103(~~f~~d) of Appendix APR 11.

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 (5) A lawyer may earn a maximum of six self-study credits ~~of the required credit hours~~ for any
2 reporting period for participation in law school competitions, moot court, or mock trials
3 programs, as described in Regulation 103(~~g~~i) of Appendix APR 11.

4 (6) A lawyer may earn a maximum of six of the required credit hours for any reporting period
5 as leadership credits, as defined in Regulation 103(e) of Appendix APR 11.

6 (7)(4) A lawyer may earn a maximum of 25.5 ~~six~~ credit hours for any reporting period
7 annually through pro bono training and service with a Washington qualified legal services
8 provider (as defined in APR 8(e)(2)) carried out strictly in compliance with Regulation 103(~~h~~i)
9 of Appendix APR 11. Three credits may be earned for training and 22.5 self-study credits may
10 be earned for service.

11 (8) A lawyer may satisfy the credit requirement by comity in compliance with Regulation 112
12 of Appendix APR 11.

13 **(b) New Admission.** Newly admitted members must complete 45 continuing legal education
14 credits during the period from the date of admission through the next four full calendar years
15 after the member's date of admission. The 45 credits must meet the requirements of APR
16 11.2(a)(1)-(8). Following the new admission period, the member shall complete 45 credits every
17 three years as required by APR 11.2(a).

18 **(c) Late Fee.** – A late fee will be assessed if credits needed for compliance are earned after the
19 end of the reporting period. If a lawyer has already been assessed a late fee for submitting the
20 certification after the due date, no additional late fee will be assessed. Payment of the late fee is
21 due by February 1 or by the date set in the agreement or order extending the time for compliance.

22 **(d)(e) Carryover of excess earned credits.**

23 (1) If a member completes more than the required credits for any one reporting period, up to 15
24 of the excess credits may be carried forward and applied to that member's education requirement
25
26

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 for the next reporting period. Of the 15 credit hours that may be carried forward to the next
2 reporting period, pursuant to sections (a) and (b) of this rule:

3 ~~(A)(1)~~ A maximum of two credit hours may be applied toward the ethics requirement; and

4 ~~(B)(2)~~ A maximum of five credit hours may be applied to self-study credits.

5 (2) Carryover credits can only be applied to the next consecutive reporting period. If, for the
6 next reporting period, a member reports by comity or is exempt from reporting, then the
7 previous carryover earned will not be carried forward to any future reporting period.

8 **RULE 11.3 BOARD OF MANDATORY CONTINUING LEGAL EDUCATION**

9 **(a) Composition and appointment.** There is hereby established a Board of Mandatory
10 Continuing Legal Education (referred to herein as the MCLE Board) consisting of seven
11 members. Six of the members of the MCLE Board must be active members of the Bar
12 Association. The seventh member shall not be a member of the Bar Association. The Supreme
13 Court shall designate a chairperson of the MCLE Board, who shall serve at the pleasure of the
14 Court and shall serve no more than two consecutive one-year terms as Chair. The members of
15 the MCLE Board shall be nominated by the Board of Governors of the Bar Association and
16 appointed by the Supreme Court. Appointments shall be staggered for a 3-year term. No
17 member may serve more than two consecutive terms. Terms shall end on September 30 of the
18 applicable year.

19 **(b) Appointment to fill an MCLE Board vacancy.**

20 (1) If a vacancy occurs on the MCLE Board and 12 months or less remain in the vacant
21 position's term, then in the MCLE Board's sole discretion, the position may be:

22 (A) Left open for the remainder of the term; or

23 (B) A former Board member may be nominated to fill the remaining term; or

24 (C) The regular process and schedule to fill an open position will be followed.

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 (D) Nothing in this section shall prevent the Board, in its discretion, of making a temporary
2 appointment under sub-section (B) while at the same time proceeding under sub-section (C) to
3 appoint and confirm a regular replacement. In such event the appointment will terminate upon
4 confirmation of the regular replacement.

5 (2) If more than twelve months remain in the term of the vacant position, or the MCLE Board
6 determines that a vacant term of 12 months or less should be filled, the application period shall
7 be for no less than 30 days and shall, at a minimum, be prominently posted on the WSBA web
8 site. The appointment process will be consistent with that used to fill a regular term opening,
9 and the member so appointed may serve two additional consecutive terms beyond the term the
10 member is appointed to complete.

11 (c) **Quorum.** Four Board members, which may include the Chair, constitute a quorum for the
12 transaction of business.

13 **RULE 11.4 POWERS OF THE MCLE BOARD**

14 The MCLE Board shall:

15 (a) Accredite and determine the number of credit hours to be allowed for all or portions of
16 individual courses that satisfy the education requirements of these rules and Appendix APR 11
17 Regulations;

18 (b) Accredite all or portions of ~~the~~ an entire legal educational program or programs of a given
19 organization that satisfy the education requirements of these rules and Appendix APR 11
20 Regulations;

21 (c) Adopt regulations pertinent to these powers subject to the approval of the Board of
22 Governors (in accordance with Appendix APR 11 Regulation 110) and the Supreme Court;

23 (d) Adopt policies pertinent to the administration of the MCLE process subject to the approval
24 of the Board of Governors (in accordance with Appendix APR 11 Regulation 110);

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 (e) Set and adjust fees and fines for failure to comply with these rules and to defray the
2 reasonably necessary costs of administering these rules with the approval of the Board of
3 Governors; ~~and~~

4 ~~(f)(d)~~ Waive or modify individual compliance with the educational or time requirements of
5 these rules upon a petitioner's showing of undue hardship, ~~age, or infirmity~~;

6 ~~(g)(f)~~ Waive or reduce fees or fines on a proper showing by the petitioner; and

7 (h) Hold hearings on denied petitions in accordance with APR 11.6(d)(4)(C) for members due
8 to be suspended.

9 **RULE 11.5 EXPENSES OF THE MCLE BOARD**

10 **[no change]**

11 **RULE 11.6 REPORTS AND ENFORCEMENT**

12 **(a) Reporting and Other Activities.**

13 **(1) Sponsor Reports.**

14 (A) The sponsor of each approved live program or each live program for which approval is
15 sought must:

16 (i) Make available attendance reports to be completed by those lawyers in attendance to
17 show the actual time spent by each lawyer in attendance. The form of the reports will be
18 determined by the MCLE Board; and-

19 (ii) Submit ~~send~~ a an attendance report to the Bar Association, consisting of a compilation
20 of the information contained in ~~the these~~ lawyer course attendance records in a manner
21 acceptable to the Bar Association, ~~forms, to the Bar Association~~ not later than 30 days after the
22 conclusion of the program.

23 (B) The sponsor of a pre-recorded course for which sponsor attendance reporting is required
24 or allowed by permission from the Bar Association must follow the same requirements as for
25 live program attendance reporting in APR 11.6(a)(1)(A).

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 **(2) Other Activities.** Consistent with the provisions of Appendix APR 11 Regulations, in the
2 case of some programs for which approval has not been sought or obtained by the sponsor, or
3 for other activities which may qualify for CLE credit under these rules, individual lawyers may
4 apply for credit by direct application to the MCLE Board, using the form or forms specified by
5 the MCLE Board for that purpose.

6 **(3) Lawyer Member Credit Status Reports.**

7 (A) Not later than July 1 of each year, the Bar Association shall advise each active member
8 and other lawyers required to report in the current reporting cycle of the number of earned credit
9 hours reflected in that lawyer's records with the Bar Association.

10 ~~(i) If the lawyers do not request changes to their records within forty-five days of the mailing of~~
11 ~~the report, the reported credits will be deemed correct.~~

12 ~~(ii) After 45 days, the records may be changed upon a showing of good cause.~~

13 (B) By not later than December 15 of each year, a similar report shall be provided to all
14 active members and other lawyers required to report continuing education credits.

15 **(b) Compliance Certification.**

16 (1) Each active member or other lawyer required to complete ~~and report~~ continuing legal
17 education requirements must certify ~~submit an~~ MCLE credit compliance – in a manner
18 prescribed by the Bar Association – certification form by February 1 following the end of the
19 lawyer's three-year reporting period. ~~or as approved by the MCLE Board pursuant to rule 11.4.~~

20 (2) If a lawyer has not completed the minimum education requirement for that lawyer's
21 reporting period, the lawyer may complete and return to the MCLE Board a petition, which
22 shall be accompanied by a declaration(s) or affidavit(s) in support of the request, for an
23 extension of time to complete the requirements.

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 (3) If the petition is approved, the lawyer shall make up the deficiency, file a supplemental
2 certification report with in a manner prescribed by the Bar Association, and pay a any late filing
3 fee due by the date set forth in the agreement or order extending the time for compliance.

4 **(c) Late Fee.** A late fee will be assessed if a lawyer submits the first certification after
5 February 1 following the end of the lawyer's three-year reporting period. Payment of the late
6 fee is due upon assessment or by the date set in the agreement or order extending the time for
7 compliance.

8 (1) No late fee will be assessed for supplemental certifications submitted after the first one.

9 (2) Only one MCLE late fee per reporting period will be assessed.

10 **(d)(e) Delinquency.** Any lawyer required to do so who has not complied by the certification
11 deadline, or by the date set forth in an agreement or order extending the time for compliance,
12 may be ordered suspended from the practice of law by the Supreme Court.

13 **(1) Pendency of Suspension Notice.**

14 (A) The MCLE Board shall send a written notice of the pendency of suspension proceedings
15 by certified mail to any lawyer who has not complied with one or more of the following by the
16 deadlines for the lawyer's reporting period or any extension deadline set by the MCLE Board:

17 (i) Educational requirements of APR 11.2;

18 (ii) Certification requirements of APR 11.6(b); and/or

19 (iii) Late fee assessment of APR 11.2(c) or 11.6(c).

20 ~~either the educational or certification requirements of APR 11 and the Appendix APR 11~~
21 ~~Regulations by the certification deadline for that lawyer's reporting period or extended deadline~~
22 ~~granted by the MCLE Board.~~

23 (B) The pendency of suspension notice ~~it~~ will be sent to the lawyer's address of record with
24 the Bar Association.

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 (C) The notice shall advise the member of the pendency of suspension proceedings and state
2 that the MCLE Board will recommend suspension of the lawyer's license to practice law unless
3 the lawyer becomes compliant or completes and returns to the MCLE Board a petition for
4 extension, modification, waiver, or finding of compliance ~~of time, exemption from compliance,~~
5 ~~or ruling of complete compliance~~ as set forth below.

6 (D) A minimum of 10 days will be allowed in the pendency of suspension notices for
7 compliance or submission of a petition.

8 (E) The MCLE Board shall include with the pendency of suspension notice a copy of the
9 form of petition to be used.

10 **(2) Petition for extension, ~~waiver, modification, waiver~~ or finding of compliance.**

11 (A) **Timing Petition.** If a lawyer cannot complete the compliance deficiencies noted in the
12 pendency of suspension notice by the due date stated in the notice, ~~Within 10 days of receipt of~~
13 the pendency notice, a lawyer may complete and return to the MCLE Board by the due date
14 stated in the notice a petition requesting: ~~an extension of time, a waiver of compliance,~~
15 ~~modifications to the requirements, or ruling by the MCLE Board of compliance with the~~
16 ~~standard requirements.~~

17 (i) An extension of time (if not previously ordered that no further extensions would be
18 granted); and/or

19 (ii) Modifications to the requirements; or

20 (iii) An exemption from compliance; or

21 (iv) A ruling of complete compliance with the standard requirements.

22 **(B) Supporting documents.** The petition may be accompanied by supporting affidavit(s) or
23 declaration(s).

24 **(3) No timely petition filed; suspension recommendation.** Unless such petition is filed, the
25 noncompliance is deemed agreed. The MCLE Board shall report the lawyer's noncompliance to
26

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 the Supreme Court with its recommendations for appropriate action. The Supreme Court shall
2 enter such order as it deems appropriate. The provisions of RAP 17.4 and RAP 17.5 shall apply
3 to any motion for reconsideration of such order.

4 **(4) Petition timely filed Filed.** If such petition is timely filed, in its consideration of the
5 petition, the MCLE Board shall consider factors which create an of undue hardship, ~~age, or~~
6 ~~disability~~. One of the following shall result from consideration of a petition:

7 **(A) Approval without hearing.** The MCLE Board may, in its discretion, approve the
8 petition without hearing;² or

9 **(B) Agreement with lawyer.** The MCLE Board may enter into agreement on terms with
10 such lawyer as to time and requirements for achieving compliance with the provisions of APR
11 11.2(a) and APR 11.6(b); or

12 **(C) Hearing on petition.** If the MCLE Board does not approve such petition or enter into an
13 agreement with terms, the MCLE Board (or a subcommittee of one or more MCLE Board
14 members) shall hold a hearing upon the petition.

15 (i) The Board shall give the lawyer at least 10 days notice of the time and place thereof.

16 (ii) Testimony taken at the hearing shall be under oath, ~~and an audio or stenographic record~~
17 ~~will be made at the request and expense of the lawyer.~~ The oath shall be administered by the
18 chairperson of the MCLE Board or the chairperson of the subcommittee.

19 (iii) The hearing shall be audio recorded. A copy of the recording will be provided at no
20 charge upon the lawyer's request, within a reasonable time following the hearing. In addition to
21 such audio recording, the lawyer may have a stenographic record of the hearing made by a
22 certified court reporter if the lawyer so desires. All arrangements for the attendance of such
23 court reporter at the date, time, and place set for the hearing shall be the responsibility of the
24 lawyer, and at the lawyer's own expense.

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 ~~(iv)~~~~(iii)~~ For good cause shown the MCLE Board may rule that the lawyer has substantially
2 complied with these rules for the reporting period in question or, if he or she has not done so, it
3 may grant the lawyer an extension of time within which to comply upon terms it deems
4 appropriate.

5 ~~(v)~~~~(iv)~~ For each hearing, the MCLE Board shall enter written findings of fact and an
6 appropriate order. The MCLE Board shall mail a copy of the findings and order forthwith to the
7 lawyer at the address on file with the Bar Association.

8 ~~(vi)~~~~(v)~~ The MCLE Board's order is final unless within 10 days from the date thereof the
9 lawyer files a written notice of appeal with the Supreme Court and serves a copy on the MCLE
10 Board ~~Washington State Bar Association~~. The lawyer shall pay to the Clerk of the Supreme
11 Court a the applicable docket fee of ~~\$250.00~~.

12 ~~(e)~~~~(d)~~ **Review by the Supreme Court.** Within 15 days of filing a notice with the Supreme
13 Court for review of the MCLE Board's findings and order, ~~after such a non-compliance petition~~
14 ~~hearing~~, the lawyer shall cause the record or a narrative report in compliance with RAP 9.3 to be
15 transcribed and filed with the Bar Association.

16 (1) The MCLE Board chairperson or chairperson of the subcommittee shall certify that any
17 such record or narrative report of proceedings contains a fair and accurate report of the
18 occurrences in and evidence introduced in the cause.

19 (2) The MCLE Board shall prepare a transcript of all orders, findings, and other documents
20 pertinent to the proceeding, before the MCLE Board, which must be certified by the MCLE
21 Board chairperson or chairperson of the subcommittee.

22 (3) The MCLE Board shall then file promptly with the Clerk of the Supreme Court the record
23 or narrative report of proceedings and the transcripts pertinent to the proceedings before the
24 MCLE Board.

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 (4) The matter shall be considered by ~~heard in~~ the Supreme Court pursuant to procedures
2 established by order of the Court.

3 ~~(f)(e)~~ **Time.** The times set forth in this rule for filing notices of appeal are jurisdictional. The
4 Supreme Court, as to appeals pending before it, may, for good cause shown:

5 (1) Extend the time for the filing or certification of said record or narrative report of
6 proceedings and transcripts; or

7 (2) Dismiss the appeal for failure to prosecute the same diligently.

8 ~~(f) Costs.~~ ~~If the lawyer prevails in his or her appeal before the Supreme Court, the lawyer shall~~
9 ~~be awarded costs against the Bar Association in an amount equal to his or her reasonable~~
10 ~~expenditures for the preparation of the record or narrative report of proceedings.~~

11 **(g) Change of Status.** Once a lawyer has been ordered suspended from practice for
12 noncompliance with these rules, the lawyer affected must comply with the then applicable
13 regulations of the MCLE Board and the WSBA Bylaws in order to return to Active ~~active~~
14 status.

15 **(h) MCLE Compliance Audits.**

16 (1) The MCLE Board may audit MCLE compliance certifications selected because of facial
17 defects or other appropriate cause.

18 (2) For the purpose of conducting audits, the MCLE Board may request and review records of
19 participation in CLE activities by lawyers.

20 (3) Failure to substantiate participation in CLE activities in accordance with applicable rules
21 and regulations after request by the MCLE Board shall result in disallowance of credits for the
22 reported activity or activities and assessment of a late filing fee if one was not previously
23 assessed for the reporting period.

**PROPOSED AMENDMENTS TO
ADMISSION TO PRACTICE RULE 11**

1 (4) A lawyer shall be referred to the Bar Association’s Office of Disciplinary Counsel for
2 further action where facts exist that indicate dishonesty by the lawyer in reporting or certifying
3 credits or in completing or pursuing a petition.

4 **RULE 11.7 CONFIDENTIALITY**

5 The files and records of the Bar Association, as they may relate to or arise out of any failure of a
6 member of the Association, or other lawyers, to satisfy these continuing legal education
7 requirements, shall be deemed confidential and shall not be disclosed except in furtherance of
8 its duties, or upon request of the lawyer affected, or pursuant to a proper subpoena duces tecum,
9 or as directed by ~~this~~ the Supreme Court. The records and information contained therein shall
10 ~~should~~ not be available to any sponsoring organization, including the continuing legal education
11 department ~~Continuing Legal Education Department~~ of the Bar Association. In any matter
12 referred to the Supreme Court under these rules, the file, record, briefs, and arguments shall not
13 be subject to this confidentiality rule.