Dear Chief Justice and Justices of the Washington Supreme Court,

I am writing to update and advise you about action by the WSBA Board of Governors regarding the MCLE Board’s proposal to amend APR 11. As you may already be aware, the MCLE Board has proposed an amendment to APR 11 requiring legal professionals to take three specific topics for three of the six mandated ethics credits per each reporting cycle. Those topics are: Inclusion and anti-bias, mental health and addiction, and technology security.

While the MCLE Board reports and makes recommendations directly to the Court, it is my understanding that the Court appreciates feedback from the Board of Governors on any MCLE proposal, with alignment between the two entities the preferred outcome. As such, the MCLE Board brought its proposed APR 11 amendment to the Board of Governors for review at our September meeting.

Ultimately, the Board of Governors crafted an alternative effective solution to address the underlying problem that we believe the MCLE Board has accurately diagnosed. The Board of Governors held a robust conversation, with several themes: We fully support efforts for members to be knowledgeable and accountable in the proposed MCLE topics, which the Board views as important subjects in this day and age; based on the many comments to the MCLE Board, we are aware there is a significant proportion of members who disfavor having a prescribed menu of ethics topics, especially when some have concerns about their ability to find high-quality CLEs in those topics, much less find CLEs to meet their ethics requirements in general; and, as it is strongly opposed, we have concerns about the actual effectiveness of forced ethics education (the sentiment “you can lead a horse to water…” came up several times.).

All things considered and in lieu of endorsing the MCLE’s proposal, the Board of Governors approved a course of action that we believe addresses many of the concerns identified, honors the spirit of the proposal, and offers members welcome opportunities and incentives. Starting this year, the WSBA commits to annually producing and providing members three credit hours of free CLE offerings covering each of the ethics topics in the proposal— inclusion and anti-bias; mental health, addiction, and stress; and technology focused on digital security—in both live and on-demand formats (meaning they can be accessed at any time by members at their convenience).
WSBA’s CLE team will now get to work developing a rigorous course of ethics offerings, which we will actively market to all members as a free source of relevant ethics credits—we believe this is a great and effective step forward for member education, without making it more difficult to comply with ethics reporting requirements. Indeed, we believe this will make it easier for members to comply as there will be permanent on-demand offerings on these three topics.

After our meeting, the MCLE Board met and voted to continue with sending the suggested amendment to you, as is their right to do. The WSBA Board of Governors appreciates the work of the MCLE Board and believes they have identified an important need for our members, but we do not endorse their proposal. We believe our solution is the stronger alternative and a true win-win for the public, our members, and the integrity of the legal profession.

I wanted you to have this information alongside the MCLE Board’s proposed amendment so you have feedback from the WSBA Board of Governors as you determine how to best move forward.

In service,

\[Signature\]

Rajeev Majumdar
WSBA President