

Attachment C: Basic Skills Subjects Outline

Basic Skills Subjects for the 10-Hour New Admittee MCLE Curriculum **Draft Learning Objectives**

(Rev. 8-3-17)

1. The Lawyer as an Officer of the Court Sworn to Uphold the Dignity, Courtesy and Integrity of the Legal Profession

Course Objectives:

Participant will appreciate the role of a lawyer as an officer of the court in the administration of justice and the characteristics of attorney professionalism and civility.

Learning Outcomes:

- Distinguish between legal ethics rules that are causes for discipline and aspirational standards of professionalism and civility that may lead to peer disapprobation as well as contempt orders and sanctions when appearing before a tribunal
- Apply civility guidelines to exercise discretion in scenarios that challenge a lawyer's trained disposition toward zealous advocacy at all costs
- Analyze the practical considerations and significant benefits of voluntary pro bono services to the administration of justice, including identification of specific activities and monetary contributions that fulfill a lawyer's responsibility for supporting access to justice through voluntary pro bono service

Course Outline:

A. Civility and Professionalism

- i. The attorney oath
- ii. The importance of public confidence in the administration of justice
- iii. How incivility can harm a client's representation
- iv. The State Bar's "Attorney Guidelines of Civility and Professionalism"
- v. Guidelines adopted by bar associations and courts
- vi. Contempt and sanctions, including the duty to self-report to the State Bar
- vii. Duties under the State Bar Act and the potential for Bar discipline

B. Pro Bono Legal Services

- i. The access to justice crisis
- ii. Statutory declaration that pro bono services are an ethical commitment of every lawyer who has the privilege of practicing law
- iii. State Bar of California Board of Trustees Pro Bono Resolution
- iv. Definition of pro bono legal services
- v. Contributions of financial support to not-for-profit organizations that provide free legal services to the poor, especially those attorneys who are precluded from directly rendering pro bono services
- vi. Pro bono duty under the American Bar Association's Model Rules of Professional Conduct

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- vii. [Statutory requirement for annual reporting of pro bono activity to the State Bar]¹

2. Basic Conflict Resolution, Negotiation and Interpersonal Skills that All Lawyers Must Have in the Practice of Law

Course Objectives:

Participant will gain an understanding of how to recognize conflicts and differentiate between behaviors that will effectively resolve the conflict rather than escalate it. Participant will improve their basic understanding of negotiation concepts and how to negotiate effectively as an advocate.

Learning Outcomes:

- Identify and assess different strategies for conflict resolution strategies
- Apply negotiation techniques to achieve a desired outcome
- Understand effective interpersonal and communication skills to support your negotiation techniques

Course Outline:

A. Conflict Resolution

- i. Objective dispute assessment including research and analysis of facts and applicable law
- ii. Identification of common ground and clarification of areas of disagreement
- iii. Determination of the strengths and weaknesses of each party's position
- iv. Critical evaluation of a client's desired outcome
- v. Preparation of persuasive arguments using applicable law and public policy
- vi. Articulation of a cogent and provable factual narrative
- vii. Evaluation of dispute resolution options and development of a strategic plan for achieving an acceptable result
 - a) Negotiation
 - b) Conciliation
 - c) Mediation
 - d) Arbitration
 - e) Collaborative law
 - f) Litigation including settlement contingencies

B. Interpersonal Skills

- i. Active listening and issue spotting
- ii. Detail orientation
- iii. Reading comprehension

¹ See Senate Bill No. 316 (Wieckowski) [requiring all active members of the State Bar to report the hours of pro bono legal aid services performed and the amount of money contributed financial contributions to California legal aid organizations and nonprofit public benefit corporations on an annual basis through the member's My State Bar online profile.] This sub-topic will be included only if Senate Bill No. 316 is enacted and includes a reporting requirement similar to terms of the presently pending version of the bill.

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- iv. Oral and written expression including being succinct
- v. Critical and analytical thinking
- vi. Deductive and inductive reasoning
- vii. Persuasion and creativity
- viii. Cooperation, adaptability and flexibility
- ix. Self-awareness and self-control
- x. Decisiveness
- xi. Recognition of implicit and explicit bias

3. Basic Law Practice Management Skills that Help Avoid Malpractice and State Bar Discipline

Course Objectives:

Participant will gain an understanding of the practical aspects of organizing and managing a law practice as a business. Participant will learn to identify administrative, technological, or other business systems and procedures designed to avoid errors in the practice of law or violations of the Rules of Professional Conduct.

Learning Outcomes:

- Understand that the ethical obligation of providing competent representation to clients includes effective law practice management
- Understand basic principles of organization and management of legal work, including available technology
- Identify strategies or technologies available concerning management of documents, calendaring systems, and client communication

Course Outline:

A. Personal Organizational Skills

- i. Personal planner/schedule/data assistant
- ii. Prioritization/deadline tracking
- iii. Automated reminders
- iv. Action plans, goal setting, delegation and progress assessment
- v. Protocol for e-mail/voice mail responses
- vi. Contacts/personal networking maintenance
- vii. Special project planning
- viii. Pre-meeting prep and post-meeting debriefing
- ix. Electronic document management
- x. Note taking, filing and record-keeping
- xi. Continuing education/licenses, Client Security Fund and certifications
- xii. News and recent developments alerts
- xiii. Office, workstation and desk organization
- xiv. Personal device OS and application updating
- xv. Portable computer memory device management
- xvi. Password security/management
- xvii. Strategic distraction avoidance including limits on social media activity while working

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B. Office Management Skills

- i. Calendaring
- ii. Case management systems
- iii. Client intake and conflicts screening
- iv. Commercial accounting/finance/billing/collection
- v. Mandatory Fee Arbitration
- vi. Client trust accounting/IOLTA
- vii. Human resources compliance/payroll
- viii. Standard operating procedures
- ix. Policy and practice training manuals, including ADA compliance and required discrimination and harassment avoidance training
- x. Org chart, succession planning and hiring practices
- xi. Facility, services (including ISP, court reporting, etc. . .), software licensing and subscriptions
- xii. Word processing, document imaging, printing
- xiii. Document management, archiving, retention and destruction policy
- xiv. IT, A/V, web-master, and computer networks management
- xv. Legacy systems, vendor support and EOL
- xvi. Marketing, trending and reputation management
- xvii. Certified Lawyer Referral Services
- xviii. Intellectual property management
- xix. Risk assessment and management
- xx. Quality control measures/client feedback
- xxi. Corporate/partnership compliance
- xxii. Restrictive covenants/anti-compete/mergers/withdrawals
- xxiii. Contract attorney, consultants and other contractor management
- xxiv. Bench-bar, local or specialty bar relations
- xxv. Pro bono and legal services opportunities

4. The Risks and Rewards of Using Modern Technology in the Practice of Law

Course Objectives:

Participant will gain a basic understanding of the intersection of information technology and the practice of law. Participant will learn how to assess the risks and benefits of using technological advances, including data storage and communication methods.

Learning Outcomes:

- Identify technology tools that help establish successful practices and serve clients in an efficient and ethical manner
- Identify technology tools that help mitigate risks to client confidential information
- Recognize the ethical and regulatory issues one may face in using technology as part of his or her law practice

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A. Information and Data Security

- i. E-tools for lawyers including free legal research sites (Google Scholar, etc...)
- ii. Email encryption, computer and network firewalls
- iii. Use of public WIFI networks
- iv. Cloud storage
- v. Software-as-a-Service
- vi. Document metadata
- vii. Network protection
- viii. Archiving and back-ups
- ix. Storage media and portable computer memory device security
- x. Virus checking software
- xi. Passwords and keys
- xii. Online contact with prospective clients, current clients, judges and others
- xiii. Phishing and other online scams targeting law firms
- xiv. Browser privacy, online search history
- xv. Device or app location tracking
- xvi. TSA and border searches
- xvii. Auto and remote kill safeguards
- xviii. Breach notification

B. Other Issues

- i. Online legal directories/rating services
- ii. Use of personal devices for client communications or other business purposes
- iii. VLO (virtual law office)
- iv. E-discovery
- v. Solicitation and chat rooms, texting, and other real-time messaging
- vi. Social media contact with prospective clients, current clients, judges and others
- vii. Lawyer blogs, vlogs and trial publicity restrictions