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
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
   iv. Solicitation and chat rooms, texting, and other real-time messaging
   v. Social media contact with prospective clients, current clients, judges and others
   vi. Lawyer blogs, vlogs and trial publicity restrictions