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July 5, 2011

VIA E-MAIL

Carol Madeja
Director, Bar Relations Outreach
The State Bar of California
1149 S. Hill St., Floor 7
Los Angeles, CA 90015

Re: Provision of Core Curriculum of 25 hours of Free Online MCLE in Legal Ethics

Dear Carol:

I write on behalf of the Beverly Hills Bar Association in advance of the State Bar Board's Member Oversight Committee meeting scheduled for July 22, 2011, during which the committee will discuss the pending proposal for the provision of 25 hours of free online MCLE in legal ethics.

The Beverly Hills Bar Association is the largest metropolitan bar association in California that is not a county bar association. With over 4,000 members, we serve the Westside of Los Angeles, and indeed the entire Los Angeles region. The mission of our bar association is to lead the profession, advocate for justice in the community and serve our members.

The Beverly Hills Bar Association opposes this proposal. We are unaware of any demonstrated need for attorneys to have the ability to satisfy the entirety of their MCLE requirements for free. While there are undoubtedly a number of attorneys who suffer from financial hardship, there are already avenues for them to obtain free and low cost MCLE, including online via the State Bar. And if the goal of the proposal is to make ethics programming in particular more accessible, that can be accomplished with many fewer hours of free MCLE being made available.

We are concerned that so much free MCLE will encourage freeloading by members who can afford other types of MCLE, leading to diminished revenues both for the State Bar, and other providers of MCLE, including local bar associations such as the Beverly Hills Bar Association. Aside from our acknowledged financial interest in this regard, we believe that so much free online MCLE will diminish the demand for live programming, depriving attorneys of the professional collegiality and networking aspects of MCLE events and reducing the number of timely and cutting edge programs.

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July 5, 2011
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With respect to the State Bar, we believe that lawyers and the public would be better served by retaining the revenues that will be lost as a result of this proposal, saving the added costs of providing free MCLE, and using those resources to improve the discipline system. Another way in which those resources could be better applied – and provide valuable ethics information to lawyers -- would be to post State Bar Court decisions for free online in a searchable format.

Thank you for considering the views of the Beverly Hills Bar Association.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen L. Raucher". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stephen L. Raucher
President
Beverly Hills Bar Association

cc: Laila Bartlett, State Bar (via e-mail)
Marc R. Staenberg, BHBA Executive Director
Executive Committee



Pamela J. Jester
Executive Director
pamela.jester@ceb.ucla.edu

June 15, 2011

Laila Bartlett
Office of Member Services
The State Bar of California
180 Howard Street
San Francisco, CA 94105

laila.bartlett@calbar.ca.gov

Re: Provision of Core Curriculum of 25 hours of Free Online MCLE in Legal Ethics

Dear Ms. Bartlett:

On behalf of Continuing Education of the Bar (CEB), I write to oppose the proposal for the State Bar to provide 25 hours of free legal ethics courses.

The implementation of the minimum continuing legal education (MCLE) program in 1992 has generated a robust and highly competitive continuing legal education industry in California. From approximately 1500 certified MCLE providers, California attorneys have access to a wide range of topics, delivery methods and price ranges to meet their educational needs, including courses on legal ethics and law practice management. Given the abundance of available MCLE options, it is unnecessary for the State Bar to expend mandatory dues to provide free MCLE courses.

As the organization that writes the MCLE rules and administers the program, the State Bar risks putting itself in a conflict of interest position by also providing free MCLE courses. The State Bar should not provide 25 hours of free MCLE programs.

CEB, a program of the University of California that is co-sponsored by the State Bar, was founded in 1947 with the mandate to cultivate the professional development of California lawyers.

Very truly yours,

Pamela J. Jester
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June 17, 2011

To Members of the Board of Directors of the California State Bar

The Board of The San Francisco Trial Lawyers Association (SFTLA) hereby responds to the request for public comment on the proposal being considered by The State Bar to offer 25 hours of free MCLE. While applauding the effort to expand access to continuing legal education, SFTLA opposes the current proposal in its present form. SFTLA believes that the current proposal is lacking in sufficient detail and input from concerned stakeholders, such as specialty bar associations like the SFTLA, and as such is not yet ripe for adoption.

The position of the SFTLA is partly based on what is perceived to be a lack of input and dialogue with other stakeholders who also provide MCLE to the legal community.

As part of its opposition the SFTLA requests that the State Bar develop a working group including the SFTLA and other specialty bar associations, so as to explore this proposal further. SFTLA is concerned that this proposal raises many unanswered questions concerning the impact of this program change. While it is indeed laudatory to provide greater access to MCLE through a reduction in cost, there is a concern regarding both the implementation of such a program and the unintended impacts that may accompany such a change.

For example, how would the costs of such programming be born? Just because the program is offered for free, it does not mean that it is produced for free. As MCLE providers we are familiar with the staffing, printing, advertising, and other costs associated with providing MCLE services.

What fiscal impact would such a change have on the State Bar? Would such a change result in diminished services to the public or Bar members in some fashion?

Who would determine the content of the MCLE? Would the programming be fair and balanced in its approach and perspective (i.e., plaintiff v. defense)? Would specialty bars be given the opportunity to provide programming to present and advance their perspective on access to justice and legal education?

How would such programming affect the currently scheduled and/or future educational offerings and programs now planned by the specialty bars?



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While opposing this current proposal, the SFTLA, with its long tradition of providing quality legal education with the goal of access to justice, welcomes a broader, more complete, dialogue that is not rushed or unnecessarily truncated. SFTLA feels that the interests of the both the public and legal community are better served by such a participatory process. Our Executive Board and Education Committee stand ready to work with the State Bar to provide this proposal the consideration that it deserves.

Respectfully,

The Board of the San Francisco Trial Lawyers Association

by and through its Parliamentarian,
Christopher B. Dolan Esq.



June 17, 2011

State Bar of California
Office of Membership Oversight
c/o Laila Bartlett, Staff Liaison
The State Bar of California
180 Howard Street
San Francisco, CA 94105

Re: Proposal that State Bar Provide Free Ethics MCLE Courses

Dear Members:

I write on behalf of the Santa Clara County Bar Association (SCCBA) to comment upon the proposal that the State Bar of California provide free ethics MCLE to attorneys practicing in California. As you may know, SCCBA is a professional voluntary legal association of nearly 3,500 members. One of the Association's top priorities is to promote excellence in the legal profession and advance professional growth and education.

We fully support the policy goal of this proposal: to ensure public protection by ensuring that attorneys are able to meet their ethical obligations to their clients and the public. The SCCBA has had an active ethics and professionalism initiative for decades. That commitment is exemplified by the SCCBA Code of Professionalism adopted in 1991 by the Association as well as our local state and federal courts. Our Code was the model for the State Bar's Professionalism Code adopted nearly a decade later. In addition, the SCCBA offers a full array of ethics and professionalism seminars sponsored over the course of each year.

We have some concern that the approach of this proposal will, in practice, undermine that policy goal of public protection by making it more difficult if not impossible for the SCCBA and other local, specialty and State Bar sections to offer ethics seminars that specifically address focused ethical issues and not just generalized ethics education.

As with many areas of the law, ethics issues are ever evolving and the resolution of them turns on a variety of situation specific facts. Often, the best ethics education is that which focuses on local issues, taught by local attorneys and local judges, where the substance is crafted to address issues raised by the local practice of law. It is local attorneys and local judges who can provide that unique perspective. This is the type of ethics education that the SCCBA has been providing on an ongoing basis for over 20 years. As noted above, we provide ethics education numerous times over the year by live seminars, webinars, streaming video on demand and podcast so it is available all year round.

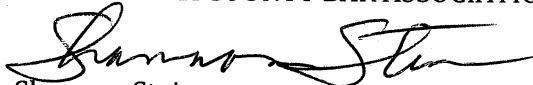
In contrast, the State Bar now only provides educational programming once each year, at its annual meeting, that is then put on line. In addition, the ethics programming must be produced to apply to a wide audience with no local perspective provided.

The economic reality for local bar associations is that the education programming must pay for the costs of presenting it. Thus, it is not an option for local bar associations to provide free cle. We are concerned that the SCCBA may be forced to stop providing its traditional ethics programming because the availability of free cle programming will undermine the attendance at local, fee based programs, including those of the State Bar sections.

To ensure that the goal of public protection is met in practice and not theory, practitioners must have access to and avail themselves of the most current guidance regarding ethical issues they may face. Unfortunately, annual programming cannot hope to provide the type of currency necessary to ensure that practitioners are properly versed in new and changing ethics matters. Yet offering dated programming to attorneys at no cost provides a powerful incentive for attorneys to use only the free ethics programming to comply with the State Bar's ethics MCLE requirements. That result is bad for the profession, bad for clients, and bad for the public interest.

It is for these reasons that we ask the State Bar of California not to implement this proposal.

Sincerely,
SANTA CLARA COUNTY BAR ASSOCIATION



Shannon Stein
President

cc Joe Dunn
Carol Madeja



SOLO AND SMALL FIRM PRACTICE SECTION

THE STATE BAR OF CALIFORNIA

June 8, 2011

Via E-Mail

Laila.bartlett@calbar.ca.gov

Ms. Laila Barlett
Office of Member Services
State Bar of California
180 Howard Street
San Francisco, Ca 94105

RE: Solo and Small Firm Executive Committee Position on Free MCLE

Dear Ms. Barlett:

The Executive Committee of the Solo and Small Firm Section of the State Bar of California recently discussed at length the proposal of the Board of Governors regarding the provision of free Online CLE to all bar members, which proposal is currently pending before the Member Oversight Committee. The Solo and Small Firm Section Executive Committee, by this letter, presents our position of opposition in relation to this proposal for the reasons set forth below.

First, the State Bar currently provides a multitude of opportunities for State Bar members to obtain free and low cost CLE without now having to provide additional free or low cost CLE credits. Members do not have to resort to the programs offered by private companies which can be very costly. For example, if a member were to join the Solo and Small Firm Section, at a very low cost, we offer many programs in ethics which would provide the necessary hours for compliance with the State Bar's MCLE obligations. Further, if the members take advantage of our "Tool Box" this contains valuable programs, including ethics, at no or low cost to members.

Second, if the State Bar is required to offer all of the programs currently in section libraries at no cost instead of making them available through membership in the sections, each section would be detrimentally affected by the loss of revenue which is generated by Section sales of audio and video tapes, the Tool Box, and live participation in our other self study MCLE programs. The revenue generated by these programs is vital to the continued successful operation of the Solo and Small Firm Section, and it would be difficult to overcome the loss of such revenue.

In addition, if these programs are offered for free, it will likely detract from the attendance at the State Bar Annual Meeting which would have severe economic consequences affecting all sections and all members of the State Bar.

For these reasons, the Solo and Small Firm Section of the State Bar of California strongly opposes the proposal to offer additional free or low cost CLE programs on a dedicated page on the state bar's web site. Thank you for your consideration of our position.

Very truly yours,

Teresa A. McQueen, Esq.

Chair, Solo and Small Firm Section



WORKERS' COMPENSATION SECTION

THE STATE BAR OF CALIFORNIA

DATE: June 16, 2011

TO: Laila Bartlett, Office of Member Services
CC: Board Committee on Member Oversight

FROM: Workers' Compensation Executive Committee

The Worker's Compensation Section believes in providing low and no cost MCLE courses for its members, and in fact our section has been providing same for some time. The Workers' Compensation Section believes in principle that the proposal offered by the Oversight Committee has some merit. However, before the Workers' Compensation Section can fully support such a plan, the proposed alternatives by the Council of Sections should also be considered, along with the following additional concerns.

As mentioned repeatedly during the teleconference last week, it is not clear why 25 free hours of ethics MCLE class are needed. While it is undoubtedly true that most complaints made to the State Bar involve issues related to professional responsibility (fees, client trust accounting, and communications to clients), it does not necessarily follow that 25 free ethics courses would change the number of those complaints. The participation rate for ethics classes by members cannot be below the minimum required for MCLE certification (4 hours), so all attorneys are obtaining that amount. If the State Bar believes more ethics training needs to be provided, then it should consider raising the minimum requirements for ethics. To offer 25 free hours of MCLE in ethics, such that an attorney can satisfy all of his or her MCLE requirements, could lead many attorneys to do nothing else and avoid continuing education on substantive topics, which is just as necessary for attorneys and is the primary purpose of the sections' existence.

The Workers' Compensation Section has a healthy balance sheet today, primarily because of the educational classes that are offered to our section members and our section does offer no cost classes to our members. If each section were to make additional no or low cost classes available, revenue from the sale of classes will be impacted. The full extent of the impact of the loss of revenue both for on-line classes, as well as the live classes, would need to be fully developed.

Perhaps a larger concern is the true cost of the proposal. It was suggested by the Chair of the Membership Oversight Committee that a "Harvard intern" in his office could create and install a website for the no cost MCLE ethics classes in less than three hours. To be fair, the Workers' Compensation Section would like a true estimate of the cost to create and install such an online program and how the costs for this program will be allocated. Further, the proposal failed to address the costs of maintaining the proposed program. Whether or not the sections' annual assessment will be increased and by how much is of additional concern and should not be overlooked.

Finally, the selection of the coursework was not addressed by the proposal. As there are sixteen sections in varying membership size, the decision as to which section will produce new ethics hours is critical. It is not clear if a particular section will be asked to bear a disproportionate share of the coursework made available. The Workers' Compensation Section also believes that the ethics coursework developed through any new proposal should also include instruction taught from the perspective of a practitioner in the specialized fields, as we believe that such a perspective offers an attorney the opportunity to see how the professional responsibility rules can apply to particular situations that an attorney is likely to encounter in his or her daily practice.

The Workers' Compensation Section requests the Membership Oversight Committee, as well as the Board of Governors, to consider the alternative offered earlier and this section's concerns, and to further explore the true fiscal impact both in lost revenue, as well as the true cost of creating and maintaining the proposed plan. At the very minimum, we ask that such a decision not be immediately made so that more time can be spent in cooperatively creating a plan that will address the number of ethics complaints as well as the long-term fiscal health of the sections.

From: [David Clark](#)
To: [Bartlett, Laila](#)
Subject: Agenda Item III.D., Attachment 1 - Analysis of Free Online MCLE in Ethics
Date: Monday, June 06, 2011 1:29:36 PM

Public comment:

After examining Agenda Item III.D., Attachment 1 - Analysis of Free Online MCLE in Ethics, I noticed that the free training did not include, California Rules of Professional Conduct Rule 5-220 or ABA Model Rule 3.8(d).

After participating in a trial involving a traffic infraction, I have come to believe that every California driver and other persons who may become subject to prosecutorial misconduct could benefit from a better educated prosecutor. Therefore, please consider including material such as California Rules of Professional Conduct Rule 5-220 or ABA Model Rule 3.8(d) in the current or future "Free Online MCLE in Ethics."

Thank you,

David Clark
(530) 623-6447
dsp@snowcrest.net

This message was sent using SnowCrest WebMail.
<http://www.snowcrest.net>



COUNCIL OF STATE BAR SECTIONS

THE STATE BAR OF CALIFORNIA

DATE: June 15, 2011

TO: Laila Bartlett, Office of Member Services

CC: Board Committee on Member Oversight (via e-mail)

FROM: Council of State Bar Sections

RE: Comment on Provision to Offer 25 hours of Free Online MCLE in Legal Ethics

Representatives from the Council of State Bar Sections recently became aware of, and met to review, the proposal being submitted for consideration to the Member Oversight Committee (MOC) at its July meeting. The Council thanks MOC for the opportunity to weigh in on this important issue and encourages the Committee to carefully consider both the issues and the recommendations identified below:

ISSUES RELATED TO THE PROVISION OF FREE MCLE AND PUBLIC PROTECTION

The purpose of the proposal before MOC appears to be twofold: first, it purports to bring the Bar into compliance with the statute requiring that the Bar provide “no-cost and low-cost MCLE to its membership”. Second, as stated in the minority report segment of the Report of the Task Force on State Bar Governance, it suggests that the provision of free MCLE in the ethics area will lower the number of cases entering the discipline system (thereby furthering the Bar’s overall mission of public protection).

Low-Cost or No-Cost MCLE

For many years, even prior to the original legislation in 1990 requiring mandatory MCLE compliance, Sections have served as the educational arm of the Bar providing quality programs and publications in a variety of substantive practice areas and legal ethics and after 1990, training in the elimination of bias, and prevention of substance abuse.

The State Bar Sections have delivered thousands of hours of low-cost and free MCLE to assist the State Bar in meeting its statutory mandate outlined in Section 6070(d) of the State Bar Act (see paragraph 5 below).

Section educational programs are low-cost. The average fee charged for a one hour MCLE class is significantly lower than that offered by other MCLE providers. Sections currently offer low-cost participatory MCLE through their in-person programs and their online education catalog at a rate significantly lower than fees charged by other organizations. In addition Sections charge only \$15 per hour for self-study MCLE credit (the rate identified in the legislative mandate.)

Many Sections also offer free MCLE. In 2010, the Sections offered more than 35 hours of free *participatory* MCLE to Section members. Non-Section members were given the

opportunity to obtain the free MCLE by simply joining a Section (@ \$75 for a full year membership, which also entitled them to the major educational benefits represented by quarterly journals and regular electronic case alerts, practice tips, and legislative updates).

Finally, as a point of clarification, the Sections are concerned that the proposal which was distributed for public comment did not contain the full language of the statute (specifically, Section 6070(d) of the State Bar Act), which is detailed below. Of significance in this language, the State Bar through its Sections already is offering the mandatory \$15/hour rate on a 24/7 basis to all Bar members, which fact is not recognized in the proposal that went out for public comment.

*“The State Bar shall provide and encourage the development of low-cost programs and materials by which members may satisfy their continuing education requirements. Special emphasis shall be placed upon the use of internet capabilities and computer technology in the development and provision of no-cost and low-cost programs and materials. Toward this purpose, the State Bar shall ensure that by July 1, 2000, any member possessing or having access to the internet or specified generally available computer technology shall be capable of satisfying the full **self-study portion** of his or her MCLE requirement at a cost of fifteen dollars (\$15) per hour or less.”*

Public Protection

The proposal by MOC focuses on free MCLE in the ethics area, the assumption being that attorneys who take ethics courses will be less likely to be disciplined. However, no statistical analysis has ever been done to validate this premise. Indeed, all State Bar members are already required to take at least 4 hours of ethics per compliance period and the proposal does not suggest that this statutory requirement should be increased; rather, it proffers the unsubstantiated premise that “taking more ethics courses will result in more ethical conduct” and ergo result in public protection.

Statistics compiled by former Chief Trial Counsel Scott Drexel in 2008 revealed that there is an *inverse correlation* between attorneys in the discipline system and attorneys who are members of Sections. For this reason, it would seem that the Bar would be better served in directing its energy toward expanding membership in Sections rather than establishing a system that would compete with Section education offerings and ultimately be financially unsustainable for the State Bar as an organization.

ISSUES RELATED TO FISCAL IMPACT

The Council is concerned that the proposal does not address the fiscal implications both for the overall organization and for the Sections. As a result, they urge the MOC to do further analysis before proceeding with such a proposal.

Fiscal Impact on Sections

Although the majority of Section revenues come from Section member dues, those revenues are subject to fluctuations in the economy and the State Bar's political status in relation to its dues legislation. For instance, following both State Bar funding crises, there was a dramatic drop in Section membership revenues across the board. For this

reason, revenues from MCLE offerings (particularly in the Online MCLE area) are crucial to the Sections.

Any proposal that might impact this critical revenue stream could result in the demise of smaller Sections and a reduction in services that mid-to-large size Sections can currently provide.

It can be demonstrated that offering 25 hours of free MCLE available 24/7 would have a direct and detrimental impact on the Sections, and therefore the State Bar.

For instance, in 2010 the Business Law Section offered a free 13-week MCLE series (featuring 1 free hour webinar per week). Average attendance at each session ranged from 250-350 participants. In 2011, the Section offered another webinar series – this time charging only the actual cost. Average attendance ranged from 19-25 participants.

For obvious reasons, State Bar members (like all consumers) will opt for a free product rather than having to pay even a nominal price.

If MOC supports a proposal allowing members to fulfill nearly all of their MCLE requirements at no charge, it should do so with the understanding that the fiscal impact on the educational arm of the State Bar could be cataclysmic.

It should further be emphasized that offering fairly generic MCLE ethics courses (at no charge) will sway practitioners – particularly solo practitioners for whom costs are a key issue – away from the very courses that they need to take in order to avoid being disciplined by the Bar (e.g. those in substantive and law practice management areas). In other words, the likely result may be exactly the opposite of what is intended in the MOC proposal.

Fiscal Impact on the State Bar

The Sections are also concerned about the overall fiscal impact of this proposal on the State Bar as an organization in two specific areas:

1. Revenues from Sections

Sections are required to be 100% self-funded and are charged an allocation of the Bar's overall overhead cost. As a result, the Bar collects roughly 57% of each Section member's dues in an annual assessment which currently totals just under \$3,000,000. A decline in Section membership by even 20% (which is conservative) would result in a net loss of \$600,000 to the Bar. This would likely increase over time as smaller Sections went out of business, while larger Sections were increasingly unable to provide services due to fiscal constraints.

2. Costs Related to Creating and Sustaining "Free MCLE"

The Sections are unaware of any detailed cost study that has been done in relation to this proposal, and would urge MOC to withhold a vote until such a study has been completed and widely distributed. The presumption is that General Fund monies will be used toward this end; however, it appears that the fiscal impact on the General Fund has not been fully evaluated.

Clearly, the State Bar could easily offer a dedicated website with free *self-study courses* (since these require no monitoring or record keeping). However, as Sections well know from direct experience, the cost of offering and monitoring *participatory* MCLE can be significant due to the provider requirements for participatory credit.

SUMMARY OF KEY ISSUES

1. The Sections already offer (to all State Bar members) low cost and no cost education pursuant to the legislative mandate, which should satisfy the intent of this proposal. It appears that this proposal is attempting to offer a solution in the absence of a problem.
2. There is no evidence to support the premise that providing free ethics education will have any impact on the number of cases in the discipline system or on the Bar's mission related to public protection.
3. There is evidence to suggest that the number of Section members in the discipline system is lower than that in the general population of State Bar members.
4. Since a significant majority of State Bar members are solo practitioners, the benefit of obtaining low-cost substantive MCLE (and MCLE related to law practice management) is far greater than that represented by free "generic" ethics credit.
5. The competition from "free offerings" would have the potential to drive small Sections out of business and inhibit larger Sections from providing a full spectrum of educational offerings.
6. The proposal fails to take into account the non-monetary benefits that live programming provides to the members of the State Bar including (but not limited to) live questions and answers, audience participation, and networking.
7. The proposal fails to address to what extent the offering of 25 hours of free MCLE hours will impact Section activities, including attendance at Section educational events and the State Bar Annual Meeting and California Solo & Small Firm Summit.
8. Offering 25 hours of free legal ethics MCLE may lead attorneys to fulfill all their regular MCLE requirements with a majority of general ethics courses, thereby effectively opting out of educational courses in their respective practice areas, which is counter to the intent of the continuing legal education requirements.
9. The Sections are concerned that the State Bar has not distributed a detailed fiscal impact study in relation to this proposal.

ALTERNATIVE SUGGESTIONS

As the education arm of the State Bar, the Sections are perfectly positioned to assist the Board of Governors in developing and implementing a reasonable proposal that would be beneficial to all. The volunteers on the Council and Section leadership possess a great deal of expertise and collective wisdom about what works and what doesn't work when providing MCLE programs to the State Bar membership.

To that end the Sections have already begun to develop suggestions to assist the Board of Governors. A very preliminary list of suggestions includes the following:

1. MOC consider offering free ethics MCLE on a purely *self-study basis*, which would have a marginal impact on the Bar's budget and not interrupt Section operations. Or;
2. MOC consider offering 1 hour of free electronic MCLE each month on a specific day and time for predictability (such as the first Wednesday of the month at Noon). Or;
3. MOC consider offering 4 hours of free participatory ethics (the current requirement) to be sponsored by the State Bar, thereby reducing financial exposure for the Bar and minimizing the impact on the Sections' ability to provide a broad spectrum of offerings. Or;
4. MOC consider requesting each Section to provide a free one hour webinar per year that includes ethics within the Section's area of expertise. (This would provide 16 hours offered annually and would address the substantive and law practice management needs of solo and small firm practitioners.) And;
5. MOC consider implementing any final plan that is developed on a one-year trial basis, so that a full fiscal study can then be completed to determine the impact on the Bar and the Sections as well as the proposals ultimate effectiveness in relation to State Bar member satisfaction. (The Board could then revise the plan pursuant to feedback received on all levels.)

RECOMMENDATION

WHEREAS low-cost education is the major mission of the State Bar Sections and is already being offered to all State Bar members in compliance with Section 6070(d) of the State Bar Act; and

WHEREAS the State Bar has not completed and provided a full cost analysis relating to the implementation of elements outlined in the MOC proposal; and

WHEREAS the State Bar has not yet demonstrated a direct connection between the accrual of ethics credit and the impact on the number of attorneys in the discipline system; and

WHEREAS the implementation of the MOC proposal (as written) would potentially have a devastating financial impact on Sections that could greatly inhibit their ability to provide the broad substantive and law practice management education essential for the majority of State Bar members who are solo practitioners; the Council of State Bar Sections submit the following resolution for consideration:

RESOLVED: The Council of State Bar Sections urge MOC and the Board of Governors, in lieu of approving the proposal as written, to work with the Sections to provide meaningful input into the substance and implementation criteria of providing free MCLE to members of the State Bar.



CALIFORNIA YOUNG LAWYERS ASSOCIATION
THE STATE BAR OF CALIFORNIA

June 15, 2011

Via E-Mail

Laila.bartlett@calbar.ca.gov

RE: California Young Lawyers Association Position on Free MCLE

Dear Board of Governors:

Please accept this letter as California Young Lawyers Association's (CYLA) comment to the project titled "Provision of Core Curriculum of 25 hours of Free Online MCLE in Legal Ethics." As discussed further below, CYLA supports the proposal to the extent that these 25 hours are available for free or at a low-cost by the State Bar on a dedicated website.

As way of background, unlike the many bar associations or groups, CYLA is a mandatory membership. That is, once a new attorney becomes a member of the State Bar, they are automatically a member of CYLA. A member of CYLA is described as an attorney who is under the age of 36 or engaged in the practice of law for five (5) years or less. Presently, CYLA's membership is approximately 44,000 attorneys.

Part of CYLA Board's mission and charge includes "facilitating the development of programs and services that would assist young lawyers in their profession and leadership advancement and programs that benefit the public." This includes developing and implementing "regular public service projects that utilize the skills of the state's young lawyers that would measurably benefit the public. Upon reviewing the project proposal, CYLA Board notes that the proposed 25 hours of continuing legal education courses in Legal Ethics would help assist and advance new lawyers to the public's benefit and protection. Accordingly, the proposal furthers CYLA's mission and charge.

Presently, new lawyers in their first year of practice have recently completed law school where Legal Ethics is a required course. They have also recently taken the Multistate Professional Responsibility Exam (MPRE), on which a scaled score of 86 out of 100 is required in order to sit for the bar exam. And, they have recently passed the bar exam, which frequently tests on topics of Legal Ethics. In addition, all attorneys must already complete four (4) ethics credits and one (1) elimination of bias credit during each three year compliance period.

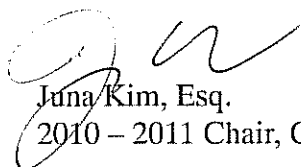
However, due to the economic down turn, many new lawyers (in particular those that are practicing in their first year of practice) are financially vulnerable. In his or her first year of practice, a new lawyer will have already spent at least \$1,500.00 (\$584.00 – fee to write the exam; \$476.00 – fee for moral character

application; \$63.00 – fee to write the MPRE; \$410.00 – bar dues). This, of course, does not consider a young lawyer's staggering law school loans. Thus, CYLA supports the proposal as it would increase an attorney's access to Legal Ethics credits.

If the project is approved, CYLA would take affirmative steps to advertise the availability of these 25 free legal credits to its members via its website, Facebook, Twitter, and e-newsletter, which is sent to CYLA's 44,000 members. CYLA anticipates these steps will ultimately be to the benefit of the public and its protection.

CYLA looks forward to addressing the questions posed by the BOG, if any.

Sincerely,



Juna Kim, Esq.
2010 – 2011 Chair, CYLA Board Member



ENVIRONMENTAL LAW SECTION

THE STATE BAR OF CALIFORNIA

June 15, 2011

Laila Bartlett
Office of Member Services
The State Bar of California
180 Howard Street
San Francisco, CA 94105

Re: Proposal to Offer 25 Hours of Free Online MCLE in Legal Ethics

Dear Ms. Bartlett,

At its regular meeting on June 10, 2011, the Executive Committee of the Environmental Law Section (ELS) discussed and considered the pending proposal that the State Bar offer 25 hours of online MCLE courses in legal ethics, at no charge to members. After due consideration, the Executive Committee determined that while the ELS strongly supports providing programs of benefit to the Bar, it does not take a position on this specific proposal at this time.

We are aware that the Council of State Bar Sections and other individual sections may submit written comments on the proposal (including a letter from the Council of State Bar Sections dated June 15, 2011). Notwithstanding that the ELS is a member Section of the Council of State Bar Sections, it does not join in, or endorse, any of such written comments.

Please feel free to contact me at (530) 400-5909 or lairfan@yahoo.com.

Sincerely,

A handwritten signature in cursive script that reads "Marilee Hanson".

Marilee Hanson
Chair, Environmental Law Section

From: [Peter H. Flournoy](#)
To: [Bartlett, Laila](#)
Subject: COMMENT ON MCLE
Date: Tuesday, May 17, 2011 4:45:02 PM

To Whom It May Concern:

I guess I should spend more time reading the statutes that govern the State Bar. I had no idea the Bar was under a legal obligation to provide free MCLE. Four courses out of over 900 hardly seems to meet the letter, much less the spirit, of the law. My comment goes beyond the subject of offering ethics MLCE courses on a free basis, which by the way I favor. I think it is time the entire MCLE process is examined from a cost benefit point of view. Even the American Bar Association, as high a priced organization as that it offers at least 15 hours of free MCLE! Thank you, Peter H. Flournoy

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PETER H. FLOURNOY INTERNATIONAL LAW OFFICES OF SAN DIEGO 740 NORTH HARBOR DRIVE SAN DIEGO CA. 92101-5806 phf@international-law-offices.com
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From: [Louise Greene](#)
To: [Bartlett, Laila](#)
Cc: [Louise Greene](#); [Alexander S. Gareeb](#); [Fadi Rasheed](#); [Rangi Perera](#)
Subject: Provision of Core Curriculum of 25 hours of free online MCLE in Legal Ethics
Date: Wednesday, May 18, 2011 11:50:25 AM

I think this is an excellent proposal. Although this may decrease the income to the Bar, there will be no excuse for attorneys not knowing what is expected and required when it comes to ethics. Further, one purpose of the bar is to provide services to attorneys, and there is no more basic service than to provide current information and training to California attorneys.

I strongly support the provision of 25 hours of free online MCLE in Legal Ethics and request our representative approve this proposal.

Very Truly Yours,



Louise L. Greene, Esq.
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From: [Erin Hustings](#)
To: [Bartlett, Laila](#)
Subject: Free online MCLE proposal
Date: Thursday, June 16, 2011 2:25:57 PM

Ms. Bartlett,

I wanted to send a quick note in support of the proposal to offer free online ethics MCLE courses (from the Board Committee on Member Oversight). As is the case with all of the expenses associated with maintaining a license, I do not receive any financial assistance from my employer with meeting MCLE requirements, and I already make quite substantially less than colleagues employed by the kinds of businesses and organizations most likely to support those costs. Anything that can be done to ease the burden would be much appreciated by me and, I'm confident, thousands of other California lawyers in public interest work.

Thank you,

Erin Hustings (CA Bar # 249925)
Asylum Advocacy Associate | Physicians for Human Rights
1156 15th St. NW, Suite 1001 | Washington, DC 20005
(202) 728-5335 x. 302 | (202) 728 3053 (f)
ehustings@phrusa.org | www.physiciansforhumanrights.org

From: reilley@ix.netcom.com
To: [Bartlett, Laila](#)
Subject: Comment on proposed change: Provision of Core Curriculum of 25 hours of Free Online MCLE in Legal Ethics
Date: Wednesday, June 01, 2011 5:17:11 PM

This is an excellent idea! I do hope it is enacted. Not every attorney is able to swing the cost of MCLE, and the current system has a number of different providers of varying quality and cost, and it is difficult to determine how to pick which classes are needed to keep up. Having a core curriculum that is cost free [or basically included in bar dues] is an excellent idea. It would certainly have helped me in this last year, after not working for a few years. I also think it will lower the cost of attorney discipline, and protect the public better, because everyone will have access to the information they need to serve their clients.

Kathleen Reilley
California State Bar #95884