

## **ACTIVITIES THAT QUALIFY FOR MCLE CREDIT**

### **Factors used in evaluating an activity**

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To be approved for MCLE credit, a single activity is evaluated using the following criteria:

- The activity must relate to legal subjects relevant to members of the State Bar or must have significant and current professional or practical content.
- The presenters or faculty must have significant professional or academic experience related to the topic being presented.
- The intended audience must be primarily members of the State Bar (for example, courses intended for paralegals or other professionals do not qualify).
- The written or electronic materials that accompany the activity must be suitable and easily understood; for all activities that are one hour or more in length, substantive written materials must now be made available either before or during the activity.
- Any materials provided online must remain online for at least thirty calendar days following the MCLE activity.

### **Examples of activities that do NOT qualify for MCLE credit**

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- A legal subject taught to non-attorneys
- Programs or portions of an activity designed to teach attorneys how to improve marketing, develop new clients or increase revenue
- Writing for, to or on behalf of a client in the regular practice of law
- Jury duty
- Programs designed to teach or enhance a person's ability to prepare and present an MCLE activity
- Reviewing and evaluating the legal work of associates or other attorneys by more experienced attorneys (for example, performance evaluations or a mentor program)
- Grading the California Bar Exam
- Acting as a judge pro tem, mediator, arbitrator (public or private)
- Acting as a supervising attorney in the State Bar's Law Office Study Program
- Programs that discuss pending court case or litigation, an appeal or any client matter by the participants in the pending case, litigation appeal or client matter
- Activities primarily intended to market or sell the presenter's technology, products, services or skills
- Time spent in conducting a roll call or connecting to the teleconference
- Online discussions or written comments posted on public forums
- Courses on general business writing or basic English grammar
- Informal discussion groups

- Preparation for admission to practice law in any state, the District of Columbia, and territory of the U.S., or any foreign jurisdiction, or for time spent actually taking such examinations
- Time spent in reading or studying published or printed material before taking a self-assessment test
- Participating in or judging a moot court or mock trial activity
- Educational programs on mentoring new attorneys

### **Examples of activities that qualify for MCLE credit**

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Activities relating to the management of a law practice or law office are eligible for approval if they have significant practical content, are directly relevant to members and are related to the practice of law, including, but not limited to:

- Case management and effective calendaring
- Malpractice avoidance
- Maintenance of ethical attorney communications and attorney-client relationships
- Ethical management of client trust funds and other law office financial affairs
- Operational management of a solo law office, law firm or corporate law department

### **Additional Information**

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In addition to requesting approval for the legal content of a program or activity, a provider may request MCLE credit for welcoming remarks, introductions of speakers, closing remarks and question and answer periods. However, providers may NOT issue MCLE credit for time spent registering for a program or viewing vendor exhibits, demonstrations, breaks or rest periods over five minutes, mealtimes without a scheduled speaker, receptions, evaluations, tours, certificates and/or awards or vendor demonstrations.

Approved MCLE activities cannot include topics relating to marketing, finding new clients, increasing a law firm's income, networking, the use of social media to network or for marketing, or non-legal functions such as business development, team building, committee meetings or any recreational activity. For a program or activity to be approved that is one hour or more in length, substantive written materials relevant to the program or activity must be prepared and made available to attendees, either before or during the activity.

Such materials must be relevant to the subject matter of the program and will be considered sufficiently substantive if they offer citations to or a discussion of any legal authority, published case law, statutes, law review articles or other published research or commentary that augment the educational experience of those attorney the approved program or activity.

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## **Qualifying an activity for special credit hours**

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Licensed California attorneys are required to complete at least 25 hours of continuing legal education every three years. This requirement includes: a minimum of four hours of legal ethics, at least one hour of education regarding the recognition and elimination of bias in the legal profession or society, and at least one hour of education addressing substance abuse or other mental and physical issues that may impair an attorney's ability to perform legal services with competence.

## **Legal ethics**

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Legal ethics must focus on the professional responsibility of attorneys and not on the ethics of business, corporate or government affairs or society in general. For example, activities that educate attorneys on the California Rules of Professional Conduct are eligible for ethics credit, but activities that focus on ethical dilemmas encountered in society, a business or a non-legal profession do not qualify for MCLE legal ethics credit.

If you request legal ethics credit, please cite the specific rules of professional conduct for attorneys that the program relates to or discusses. The California Rules of Professional Conduct may be found on the State Bar website. The American Bar Association's Model Rules of Professional Conduct may be found on the ABA website.

## **Recognition and elimination of bias in the legal profession and society**

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Activities that qualify for such credit now include the any form of bias found in either the legal profession or in society in general. Activities that now qualify for credit include education in the recognition and elimination of impermissible bias in the courtroom, law office, attorney-client relationships and relationships with other attorneys, legal and non-legal employment, the workplace, the hiring, management and termination of employees and in housing, accommodations and services. Courses required by AB1825 (mandatory sexual harassment awareness and prevention training for personnel managers) will now be approved for credit regarding the recognition and elimination of bias.

## **Education regarding substance abuse, mental or physical issues that impair professional competence**

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Approved activities must consist of education that identifies and discusses the detection of substance abuse, mental illness or other mental or physical issue that impairs a member's ability to perform legal services with competence. Courses designed and offered that discuss or provide treatment for any of the mental, emotional or physical issues that affect professional competence

do not qualify for credit in this subfield (e.g. alcohol and drug treatment, meditation or other forms of stress management.)

### **Participatory credit vs. self-study credit**

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All credit hours are classified as “participatory” credit or “self-study” credit. Participatory credit is awarded only if the provider is able to verify an attorney’s attendance. A Record of Attendance must be maintained and a Certificate of Attendance must be issued to the attorney once the attorney completes the MCLE activity. Self-study credit refers to self-verified participation. The provider is not required to maintain a Record of Attendance and may not issue a Certificate of Attendance or a Certificate of Completion to the attorney. The attorneys are required to maintain their self-study hours on their self-study log.

### **Qualifying online activities**

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Online activities may be eligible for either self-study or verified (participatory) credit.

- Activities must offer attendees a reasonable opportunity to both view and participate in the program.
- Credit is limited to the actual time spent in an online legal education activity.
- Members may claim MCLE credit for speaking at or instructing an approved online educational activity generally in accordance with Rule 2.81 (for example, a member who is an instructor of an online course may receive credit for the actual time spent speaking, multiplied by four).
- Written materials are required for all activities that are one hour or more in length.
- Evaluation forms must be provided to attendees for all activities.
- Certificates of attendance can be provided online in printed form.
- Attendees must receive adequate advance written or electronic notification concerning how to access these materials, and, in the case of evaluation forms, how to return them.
- Materials provided online must be available online for at least 30 calendar days following the activity.
- The provider of an online activity may obtain signatures electronically.
- The provider must retain copies of all electronic signatures (including all attendee’s bar identification number), written material, evaluation forms and records of attendance in a manner that is open and available for audit.