

Proposed MCLE Opinion 18—Law Firm-Sponsored Courses and Programs

The Virginia Mandatory Continuing Legal Education (MCLE) Board solicits comments from members regarding proposed MCLE Opinion #18 concerning approval standards for law firm-sponsored courses. The MCLE Board will receive input or comments at the following address through July 30, 2005, for consideration at its August meeting: MCLE Board, 707 East Main Street, Suite 1500, Richmond, VA 23219, or Cartwright@vsb.org.

The MCLE Board has observed an increasing trend in the number of courses and programs submitted for accreditation by law firms. Some of these courses and programs are directed to firm attorneys and some are directed at a client audience. Such courses and programs (hereinafter referred to as “Law Firm Programs”) must have the primary objective of increasing an attendee’s professional competence and skills as an attorney, rather than instructing the attendee in the internal policies and procedures of the law firm or to market the firm’s capabilities to clients. The Board further will examine the attendee counts to determine whether the program is focused at an attorney or nonattorney audience. For all such Law Firm Programs, the sponsor must submit an accurate count of attorney attendees and nonattorney attendees.

In determining whether law firm-sponsored courses and programs will be accredited, consideration will be given to the following factors:

1. Where the Law Firm Program is taught in-house, whether the purpose of the course focuses on education of attorneys in an area of substantive law, professionalism or ethics, or whether the course focuses on teaching attendees the firm’s particular internal policies and procedures.
2. Where the Law Firm Program is taught in-house, whether the presentation is directed to an attorney audience or a nonattorney audience (i.e., paralegals, legal assistants, secretaries). The Board will examine the attendance count in evaluating this factor.
3. Where the Law Firm Program is taught by law firm attorneys and directed at a client audience, whether the purpose of the course focuses on education of attorneys in an area of substantive law, professionalism or ethics, or whether the course focuses on marketing the law firm and the firm’s attorneys to clients.
4. Where the Law Firm Program is taught by law firm attorneys and directed at a client audience, whether the presentation is directed to an attorney audience or a nonattorney audience. For example, an annual law firm-sponsored employment law update seminar focused at an attorney-only audience, which otherwise meets the Board’s regulations, would be approved.
5. Typically, teaching credit will not be given where the presentation is primarily directed to a client or potential client audience, or is done in the ordinary course of the practice of law.

The MCLE Board will weigh the factors above to determine whether the Law Firm Program should be accredited. Law Firm applications must accurately report the audience for each program, including the number of firm attorneys, attorney clients or potential clients and nonattorneys. The burden of demonstrating that a Law Firm Program qualifies for

accreditation shall be upon the Law Firm Program sponsor or the individual attendee seeking accreditation.

[Paragraph 17(H)(1) of Section IV, Part 6, Rules of the Supreme Court of Virginia; MCLE Regulation 103(b), (i)]