

PROPOSED AMENDMENTS TO MCLE OPINION #14 REQUIREMENT FOR WRITTEN INSTRUCTIONAL MATERIAL

The Supreme Court of Virginia has required by Rule of Court that courses or programs qualifying for MCLE credit must provide attendees with written educational materials which reflect a thorough preparation by the provider of the course and which assist course participants in improving their legal competence. Paragraph 17(H)(3) of Section IV, Part Six, Rules of the Supreme Court of Virginia. In compliance with this mandate, the MCLE Board has promulgated Regulation 103(g). That provision provides:

Thorough, high quality instructional materials which appropriately cover the subject matter must be distributed to all attendees at or before the time the course is presented. A mere agenda or topical outline will not be sufficient.

Although courses of shorter duration may require less lengthy materials, this requirement must be satisfied by courses of any length in order for MCLE credit to be granted.

The purpose of the requirement of written materials is ~~threefold~~ fourfold. First, it insures thorough course preparation by the ~~provider~~ presenter. Second, it minimizes the need for attendees to take extensive notes, whether written or electronic, during the presentation thereby allowing attendees to focus their attention on the presentation. ~~Generally, the provider must furnish materials prepared specifically for the course and the subject matter addressed. The distribution of copies of cases or statutes without customized materials is not acceptable. A second purpose of this requirement is to~~ Third, it insures that the attendees will be provided with materials that~~which~~ are useful after the course is completed. Materials provided should be sufficient to assist the attendee when questions regarding the particular subject matter covered are raised at a later date and to serve as a general resource after course completion. The ~~fourth~~third reason for this requirement is to allow the MCLE Board to evaluate the quality and nature of the course and the actual subject matter being covered. Occasionally neither the title of the course submitted on an application nor the agenda for the presentation provides sufficient information about course content to allow evaluation. The review of the written materials provided to course attendees allows the Board to assess the quality and subject matter of the course and ~~to insures~~ insures that the topics addressed are appropriate for accreditation purposes.

Generally, the provider must furnish materials prepared specifically for the course and the subject matter addressed. However, an article written by a presenter directly on point to the presentation as reflected on the course agenda may satisfy this requirement. A distribution of copies of statutes, regulations, cases, briefs, pleadings, motions or a compilation of articles and informational resources alone will not meet the requirement of high quality written materials.

In determining whether written materials are adequate, the Board will also consider the teaching method employed. For example, materials appropriate to participatory skills development courses, such as a trial advocacy course, will differ from a course where a straight lecture method is employed. Moreover, courses in which role-playing or other interactive teaching methods are employed will have varied materials. However, in all such cases, high quality instructional materials must be provided.

Several recurring problems regarding the provision of instructional materials, however, have come to the Board's attention.

a) Presentation slides, such as PowerPoints, may satisfy the requirement for high quality written materials so long as the other requirements set forth in this opinion have been met. To be considered as written materials, an electronic or paper copy of the presentation slides must be provided to the individual attendees before the presentation. Presentation slides which were not provided to attendees before the presentation will not be considered when evaluating instructional materials.

ab) Written materials which contain only hypotheticals will not satisfy this requirement. While the discussion of hypotheticals can be an appropriate teaching method, written materials including only hypotheticals to be discussed will not suffice as thorough, high quality instructional material. On the other hand written materials in which the hypotheticals are accompanied by (1) course materials which assist the understanding of the subject matter and have reference value to the participants or (2) course materials which provide a thorough written discussion and/or responses to such hypotheticals may satisfy this requirement. Such written discussion or responses to hypotheticals may be provided to the participants separately at any time up to the time of the conclusion of the course.

bc) Bibliographies or a list of other reference materials, such as internet sites, standing alone, will generally not suffice as thorough, high quality instructional

material. Similarly, sample pleadings, without instructional materials are inadequate to satisfy this requirement.

d) Instructional materials provided after the course do not comply with Virginia's MCLE requirement.

The requirement to provide written materials can be satisfied by providing printed copies or copies stored on electronic media. It may also be satisfied by allowing attendees access to a web_site or other area where electronic copies are available for downloading. To ensure easy access and identification by the attendee and the board, instructional materials (whether in written or electronic format) must be readable, arranged in agenda order, and labeled or bookmarked by presentation session. ~~In the event that a provider does not provide printed copies to all course participants, such copies must be made available to any attendee who requests them.~~

[Paragraph 17(H)(3) of Section IV, Part Six, Rules of the Supreme Court of Virginia; MCLE Regulation 103(g)].

Effective 07/01/95

Revised 02/11/02

Revised 8/15/13 to change reference to MCLE Regulation 103(f) to 103(g).

Proposed amendments 4/25/17