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September 15, 2011

The Honorable Dennis G. Eveleigh
Connecticut Supreme Court
231 Capitol Avenue
Hartford, Connecticut 06106

Dear Justice Eveleigh:

On behalf of the Connecticut Bar Association, I am pleased to resubmit proposed rules for Minimum Continuing Legal Education that the CBA House of Delegates approved on March 12, 2007. The CBA respectfully requests that the Rules Committee of the Superior Court consider these proposed rules and recommend them for adoption to the Judges of the Superior Court. The CBA believes that adoption of these Rules will serve to enhance the quality and professionalism of the bar in Connecticut.

Since this proposal was first submitted to the Rules Committee in 2007 the CBA has made significant efforts to engage a wide spectrum of the legal community in a conversation about the importance of minimum continuing legal education for lawyers. We have used our proposal as a framework for discussion but are open to modification. While there remain some lawyers who, for whatever reasons, are unalterably opposed to any continuing legal education requirement, our discussions with colleagues around the State lead us to believe that a significant majority of lawyers support the concept.

The CBA stands ready to answer any questions the Rules Committee may have regarding this proposal. I and members of the CBA's Professionalism and Continuing Legal Education Committee are available to make a presentation to the Rules Committee if that would be helpful and to assist the Rules Committee in any way in this matter.

Thank you for your consideration of our request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Keith Bradoc Gallant", with a long, sweeping flourish extending to the right.

Keith Bradoc Gallant
President

Enclosures

cc: Chief Justice Chase T. Rogers

KBG/jp

Highlights of the Draft MCLE Rules

Approved by the CBA House of Delegates on March 12, 2007

Minimum CLE Requirements

- (1) Thirty-six hours of CLE every three years.
- (2) At least six of the thirty-six hours shall be for ethics/professionalism training.
- (3) Twenty of the thirty-six hours can be self study/remote learning/publishing articles.
- (4) Credit for CLE program instructors (up to six hours of credit for program preparation plus credit for time teaching).
- (5) Exempt categories
 - (a) State and Federal court judges.
 - (b) Inactive/retired Members.
 - (c) Active duty military.
 - (d) Law school faculty (except faculty still required to take the six hours of ethics/professionalism training).
 - (e) Members granted temporary/permanent exempt status.
 - (f) Members 65 years old who have practiced at least 10 years.

Basic Skills Course for New Lawyers

Within two years after graduation from law school, attorneys are to complete a Basic Skills Course. The Basic Skills Course shall be jointly developed by the CLE Commission and the CBA and shall be approved by the Chief Justice.

CLE Commission/Accreditation

- (1) Nine Commissioners appointed by the Chief Justice (members in good standing of the Connecticut bar and a residents of the State).

- (2) The Commission shall formulate written procedures and guidelines for continuing legal education in Connecticut and shall be responsible for program accreditation. Commission shall employ an administrator to run the program.
- (3) The initial list of accredited sponsors shall include the CBA, local and regional bar associations which have been previously approved as general accredited sponsors by the CBA, the Judicial Branch of the State of Connecticut, and the Offices of the Attorney General, Public Defender and Chief State's Attorney.

Funding/Tuition Assistance

- (1) The Commission will be a self-funded entity and charge reasonable fees to support the MCLE program (fees charged to program sponsors and/or members).
- (2) The Commission will establish a tuition assistance fund and will establish procedures for Members to apply for and receive financial assistance to cover some or all of the costs of complying with the rules.

Reporting/Compliance

- (1) Members file with the Commission a report of compliance, in affidavit form, at the end of each reporting period.
- (2) Procedures for extensions and cure period for late filers.
- (3) Failure to comply/cure could lead to fine.

(prepared by the CBA CLE Committee)
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As Approved by CBA House of Delegates on 3/12/07.

**PROPOSED RULES FOR
MINIMUM CONTINUING LEGAL EDUCATION IN CONNECTICUT**

Sec. 1. – Purpose

The interests of the public and of the judicial system being served by a highly-trained, ethical and informed legal community, it is the determination of the Supreme Court of Connecticut that attorneys active in the practice of law in Connecticut pursue a course of continuing legal education throughout his or her career. These rules establish the minimum requirements for continuing legal education.

Sec. 2. – Definitions

- (a) “Accredited Activity” is a continuing legal education activity accredited by the Commission for purposes of these rules.
- (b) “Accredited Sponsor” is any organization or person who receives approval from the Commission to conduct legal education programs that satisfy the requirements of minimum continuing legal education in Connecticut.
- (c) “Commission” is the commission on minimum continuing legal education established by these rules.
- (d) “Member” means an individual who is admitted to practice law in the state of Connecticut.
- (e) “Reporting Period” is a period of time as defined herein.

Sec. 3. – Commission on Minimum Continuing Legal Education

(a) There is hereby established a Commission on Minimum Continuing Legal Education, which shall consist of nine Commissioners. The Commissioners shall be appointed by the Chief Justice of the Supreme Court. Each Commissioner shall be a member in good standing of the Connecticut bar and a resident of this State.

(b) Of the Commissioners first appointed, three shall serve for one year; three for two years; and three shall serve for three years. Thereafter, Commissioners shall serve a term of three years and shall be appointed, or reappointed annually. No individual shall be appointed to serve more than three consecutive three year terms.

(c) Any Commissioner may be revoked or suspended by the Chief Justice for good cause. In connection with such revocation or suspension, the Chief Justice shall appoint an individual to fill the vacancy for the remainder of the term. In the event that a vacancy arises before the end of a term of a Commissioner by reason other than revocation or suspension, the Chief Justice shall fill the vacancy for the balance of the term.

(d) The Chief Justice shall have the power to appoint ex-officio, non-voting members of the Commission.

(e) The Commission shall formulate written procedures and guidelines for continuing legal education in Connecticut, shall prepare forms consistent with these rules, and may modify or amend the same from time to time. All such written procedures, guidelines and forms, and any modifications or amendments thereto, shall be submitted to the Rules Committee of the Superior Court for approval. Any procedure, guideline or form shall be effective ninety days after publication in the Connecticut Law Journal.

(f) The Commission shall employ an administrator and such other personnel as may be necessary to assist the Commission in carrying out its duties under these rules. Such personnel shall be assigned to the Office of the Chief Court Administrator.

(g) The Commission shall submit an annual report to the Chief Justice evaluating the continuing legal education program and, if warranted, recommending any changes to these rules that the Commission deems appropriate.

(h) Commissioners shall not receive compensation for their service, but shall be reimbursed for their reasonable and necessary expenses.

Sec. 4. – Accreditation

(a) The Commission shall develop criteria for the accreditation of continuing legal education programs presented within or without Connecticut (including self-study material such as audiotapes, videotapes, DVDs, or CDs). In order for an activity to be accredited, the subject matter must directly relate to legal subjects or the legal profession, including professional responsibility, legal ethics, or law office management. The Commission may extend blanket accreditation, subject to periodic review, to the continuing legal education activities of Accredited Sponsors.

(b) An individual who attends an Accredited Activity shall be credited with the number of hours of actual attendance, not to exceed the number of hours assigned to the activity at the time of accreditation.

(c) Self-study credit may be given for activities such as viewing videotapes/DVDs or listening to audiotapes/CDs, provided these activities are accredited in advance. Members seeking credit for individual self-study for these types of activities must submit an affidavit

attesting to the completion of the course of study, including review and study of the accompanying course materials.

(d) Instructors of accredited activities shall receive credit for preparation time, as well as instruction time, as set forth in these rules.

(e) Members who serve as full-time faculty members at a law school accredited by the American Bar Association may be credited with meeting the minimum continuing legal education requirements, except for the ethics/professionalism requirement which must be met in the same fashion as required of other Members. Members who serve as part time or adjunct faculty members at a law school accredited by the American Bar Association may be credited for such teaching at the rate of one hour for each hour of classroom instruction, except for the ethics/professionalism requirement which must be met in the same fashion as required of other Members.

(f) Credit may be given for publishing articles in legal publications. Members seeking such credit may petition the Commission for such credit.

(g) The Commission shall designate the number of hours to be earned by participation in any accredited activity. Credits will be given only for an activity approved by the Commission.

(h) The Commission shall adopt standards and procedures necessary for approving sponsors who meet continuing legal education standards. The initial list of accredited sponsors shall include the Connecticut Bar Association, local and regional bar associations which have been previously approved as general accredited sponsors by the Connecticut Bar Association, the Judicial Branch of the State of Connecticut; and the Offices of the Attorney General, Public Defender and Chief State's Attorney.

Sec. 5. – Minimum Educational Requirements

(a) Except as otherwise provided herein, every Member shall complete thirty-six hours of accredited activities during each reporting period.

(b) At least six hours of the thirty-six hours required by paragraph (a) of this section shall be dedicated to legal ethics/professionalism training.

(c) During any reporting period, a Member may satisfy up to twenty hours of his or her thirty-six hours of accredited activities through self-study or through attending an accredited activity by remote means (such as participating in a telephone or video conference or participating in a web cast program).

(d) Within two years after graduation from law school, Members must complete a Basic Skills Course. Participation in the Basic Skills Course shall count toward the Member's minimum education requirements required by paragraphs (a) and (b) of this section. The Basic Skills Course shall be jointly developed by the Commission and the Connecticut Bar Association and shall be approved by the Chief Justice.

Sec. 6. – Reporting Period

(a) Except as provided in paragraph (b) in connection with initial reporting periods, a reporting period shall be a period of thirty-six consecutive months. The Commission shall assign to each Member the date on which that Member's reporting period shall commence.

(b) The Commission shall divide all attorneys who are Members as of the effective date of these rules into three groups of approximately equal numbers. The first group shall be required to complete twelve hours of accredited activity during the first year, which shall be that

group's initial reporting period, and thereafter all Members in the first group shall complete thirty-six hours of accredited activity during each subsequent three year reporting period. The second group shall be required to complete twenty-four hours of accredited activity during the first two years, which shall be that group's initial reporting period, and thereafter all Members in the second group shall complete thirty-six hours of accredited activity during each subsequent three year reporting period. The third group shall be required to complete thirty-six hours of accredited activity during the first three years, which shall be that group's initial reporting period, and thereafter all Members in the third group shall complete thirty-six hours of accredited activity during each subsequent three year reporting period.

Sec. 7. – Credit Computation

(a) Credit for an accredited activity shall be based on actual instruction time, which may include lecture, panel discussion, question-and-answer periods.

(b) Self-study credit for viewing videotapes/DVDs, listening to audiotapes/CDs, participating in telephone or web cast programs, or attending in-house programs shall be based on the running time of the program.

(c) Credit for instructors preparing for and presenting programs shall be based on one hour of credit for each two hours of preparation. A maximum of six hours of credit may be credited for preparation of a single program. Credit for presentation shall be on an hour-for-hour basis. Credit may not be earned more than once for the same course given during a twelve-month period.

Sec. 8. – Compliance, Hearing on Failure to Comply

(a) Within thirty days after the end of the reporting period, each Member shall file with the Commission a report of compliance, in affidavit form, on a form prescribed by the

Commission. Attendance at an accredited activity shall be claimed by listing the sponsor, title, date, location and actual number of hours in attendance. Credit for self-study shall be claimed by listing the sponsor, title, and number of hours involved. Instructors at accredited activities shall claim credit by listing preparation and speaking time, as well as sponsor, title, date and location of the program. Members who wish to claim credit for teaching as a full-time faculty member or as an adjunct faculty member at an American Bar Association accredited law school shall list the name and location of the law school, the title or subject matter of each course taught and the number of hours in each course the Member taught.

(b) If a Member files a compliance report which meets the requirements of the rule, the Commission shall so indicate in its record.

(c) If a Member files a compliance report which is found by the Commission to fail to meet the requirements of this rule, or if a Member fails to file a compliance report when due, the Commission shall notify the Member. The notice, which shall be by certified mail return receipt requested to the address last registered by the Member pursuant to **[cite statute governing attorney registration/address]**, shall inform the Member that, within sixty days from the date of the notice, the Member must either request a hearing or must file a compliance report which meets the requirements of the rule. If such Member fails to report compliance or to request a hearing within the sixty day period, the Commission shall set a date for a hearing and notify such Member to attend. If such Member fails to attend, or fails to request and obtain an alternate hearing date, the Commission shall file an application with the Superior Court for the Judicial District of Hartford/New Britain for an order to show cause why the Member should not be fined [**\$ _____**] for failure to comply with these rules.

Sec. 9. – Extensions

(a) A Member may file with the Commission a request for an extension of time to meet the requirements of these rules with respect to any reporting period. Such request shall be in writing, must be received before the expiration of the applicable reporting period, and shall state the cause or causes for such request.

(b) The Commission shall act on the request within sixty days from the date of receipt. If the request is granted, the Member shall be given a reasonable time for compliance. If the request is denied, the Member shall have sixty days to meet the requirements of these rules with respect to the applicable reporting period.

Sec. 10. – Hearing

(a) All hearings of the Commission shall be governed by the Connecticut Administrative Procedure Act and all portions of the Commission's files and/or records as relate to the Member shall be made publicly available for copying and inspection.

(b) Each hearing shall be conducted by not less than three Commissioners. The hearing panel shall decide whether the Member has complied with the minimum continuing legal education requirements of these rules and will issue a written order setting forth its decision and its reasons for reaching such conclusion. Unless the Member complies with the minimum continuing legal education requirements within sixty days from the date of issuance of a decision which is adverse to such Member, the Commission shall file an application for an order to show cause pursuant to these rules.

Sec. 11. – Exempt Status

- (a) These rules shall apply to all Members, except for the following:
 - (i) state or federal court judges;
 - (ii) Members who are inactive or retired;
 - (iii) Members who are on active duty in the Armed Forces of the United States;
 - (iv) Members who reach the age of 65 and have been engaged in the practice of law for at least 10 years; and
 - (v) Members who, for good cause, have been granted temporary or permanent exempt status by the Commission.

Sec. 12. – Fees and Funding

(a) The Commission shall be a self-funding entity, and shall charge reasonable fees to support the activities described herein. It shall, prior to the start of the fiscal year, approve an operating budget which it may revise during the fiscal year.

(b) The Commission shall have the power to establish and collect an annual minimum continuing legal education program fee from Accredited Sponsors and/or each Member which it may modify from time to time as needed to adequately fund the program. If a Member fails to remit such fee as prescribed, the Commission may file with the Superior Court for the Judicial District of Hartford/New Britain an application for an order to show cause why the Member should not be fined in accordance with these rules.

(c) The funds remaining in the minimum continuing legal education account at the end of each fiscal year shall automatically be carried forward for use in subsequent fiscal years.

(d) All funds shall be deposited by the Commission in a depository designated by the Office of the Chief Court Administrator. Such funds, together with any interest earned thereon,

shall be applied to the payment of the necessary and reasonable expenses incurred by the Commission and the administrative staff, and to the salaries and benefits of such staff. Expenses shall not be paid except upon authorization of the Chairman of the Commission, who may designate the Administrator to sign invoices and requisitions for such expenses. The Commission shall follow established judicial branch guidelines, directives and policies with regard to fiscal, personnel and purchasing matters.

(e) The Commission shall establish a tuition assistance fund and shall establish procedures for Members to apply for and receive financial assistance to cover some or all of the costs of complying with these rules.

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