

O'Donnell, Shanna

From: Bowler, Michael
Sent: Thursday, January 9, 2020 9:21 AM
To: Del Ciampo, Joseph
Cc: Bozzuto, Elizabeth
Subject: RE: MCLE Proposal Regarding Administrative Suspension

Item 05-05i
(011320)

Dear Attorney Del Ciampo,

I spoke with the Honorable Elizabeth Bozzuto, Deputy Chief Court Administrator, regarding your email of January 2, 2020 and the Judicial Branch administration's response. The administration appreciates that attorneys who are not in compliance with Connecticut's MCLE or registration requirement should be given an appropriate period to come into compliance before the imposition of an administrative suspension. The proposed rule provides for a sixty day grace period and the Rules Committee requested the administration's position on a one year grace period. The administration believes that a one year grace period is too long, and would become difficult to enforce. As a practical matter, an attorney who did not comply with the MCLE or registration requirement would have well over a year to comply following the non-complying year. The administration noted that a full year of free MCLE is currently available at the Judicial Branch website through the Branch's Calendar Call podcast, found at <https://www.jud.ct.gov/podcast/>. New episodes are published biweekly and provide attorneys with an easy and free way to receive CLE on a variety of relevant topics. The attorney registration requirement, which is satisfied through E-Services, takes no more than five minutes of an attorney's time. The administration suggested amending its proposal to allow for a one-hundred twenty (120) day grace period, instead of the sixty day period currently in the proposal or the one year grace period suggested by the Rules Committee.

Regarding the Rules Committee's concern about a "random audit" provision in the proposal, the administration asked me to stress to you that nothing in the proposal is intended to confer upon Connecticut's disciplinary authorities the power to conduct random audits of attorneys' MCLE compliance. Currently, the practice of disciplinary authorities investigating attorneys for other matters such as a grievance complaints, overdrafts, or random audits of trust account, is to employ a checklist ensure the attorneys are in compliance with their obligation to register, pay the Client Security Fund fee, and comply with the MCLE requirement. In the course of reviewing, investigating, prosecuting, and adjudicating a grievance complaint, this checklist is of vital importance, especially if a complaint will result in a proposed disposition (a stipulated agreement) where the attorney swears that he or she is in compliance and the dispositions often impose additional CLE on the attorney. Ensuring that the attorney is not "double dipping" by applying required MCLE to his or her disciplinary CLE, is critical to the effective enforcement of the MCLE and disciplinary rules. During an overdraft or trust account audit, we believe it is also necessary to apply this checklist to ensure that a complete and thorough investigation is undertaken. The primary goal in these cases is not to discipline the attorney, but to help him or her come into compliance with the rules.

It appears that this portion of the proposal concerns the Rules Committee:

(d) Attorneys shall retain records to prove compliance with this rule for a period of seven years. Such records shall be made available to the statewide grievance committee or its counsel, the minimum continuing legal education commission, or the disciplinary counsel upon request.

Again, the purpose of this proposal is not to begin a random audit of MCLE compliance on its own, but to codify existing practice to ensure that attorneys who are in a disciplinary investigation, including an overdraft or trust account audit investigation, have complied with the MCLE rule among others. Information regarding an attorney's MCLE compliance is already public, but the rule provides that documentation of compliance may also be shared among the various

interested stakeholders in the MCLE process. Having said this, however, if the Rules Committee determines that the proposed new language should be removed from the proposal then the administration has no objection.

Please let me know if you have any questions.

Mike

Michael P. Bowler

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From: Del Ciampo, Joseph <Joseph.DelCiampo@jud.ct.gov>

Sent: Thursday, January 2, 2020 3:42 PM

To: Bowler, Michael <Michael.Bowler@jud.ct.gov>

Subject: MCLE Proposal Regarding Administrative Suspension

Dear Attorney Bowler,

At its meeting on December 16, 2019, the Rules Committee considered the proposal from Judicial Branch Administration to amend Sections 2-27, 2-27A, and 2-65 and to adopt new Section 2-27B regarding administrative suspension of attorneys who fail to register or comply with Connecticut's Minimum Continuing Legal Education requirements. Attorney Louis Pepe was present and addressed the Committee regarding this proposal, appearing before the Committee in his individual capacity.

After discussion, the Committee tabled the proposal until its meeting scheduled for January 13, 2020. The Committee asked Attorney Pepe to contact the Fairfield County Bar Association and Connecticut Bar Association to obtain additional information about their members' concerns with the proposal. The Committee instructed me to contact you to request that you coordinate with the Judicial Branch Administration to determine if they would be opposed to amending the proposal to allow a one year grace period for compliance with the MCLE requirement and removal of the random audit provisions from the proposal.

Please discuss these topics as directed and let me know the outcome of those discussions. Thank you.

Joseph J. Del Ciampo
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