

MANDATORY CONTINUING LEGAL EDUCATION RULES APPROVED BY NBA NEC ON 15TH FEBRUARY 2007 PURSUANT TO RULE 11 RULES OF PROFESSIONAL CONDUCT FOR LEGAL PRACTITIONERS

OBJECTIVES OF THE RULES

The public contemplates that Lawyers will maintain certain standards of professional competence throughout their careers in the practice of law. The following rules regarding Minimum Continuing Legal Education are intended to assure that those lawyers enrolled to practice law in Nigeria remain current regarding the requisite knowledge and skills necessary to fulfil the professional responsibilities and obligations of their respective practices and thereby improve the standards of the profession in general.

Rule

1. These rules shall be known as the Mandatory Continuing Legal Education Rules ("Rules"). The purpose of the Rules is to establish a programme for Minimum Continuing Legal Education ("MCLE"), which shall operate under the Institute of Continuing Legal Education established by the Nigerian Bar Association.

Persons Subject to MCLE Requirements

Scope and Exemptions

2. (1) These Rules shall apply to every lawyer enrolled to practice law in Nigeria, except for the following persons, who shall be exempt from the Rules' requirements:

- (a) All lawyers serving in the office of justice, judge, kadi or magistrate of any federal or state court;
- (b) All Attorneys-General during their tenure in office.
- (c) All lawyers enrolled to practice law in Nigeria who are on active duty in the Armed Forces of the Nigeria, until their release from active military service and their return to the active practice of law;

(2) In rare cases, upon a clear showing of good cause, the Board may grant a temporary exemption to a lawyer from the Minimum Continuing Legal Education ("MCLE") requirements, or an extension of time in which to satisfy them. Good cause for an exemption or extension may exist in the event of illness, financial hardship, or other extraordinary or extenuating circumstances beyond the control of the lawyer.

The MCLE Board

Establishment of MCLE Board

3. (1) The administration of the program for MCLE shall be under the supervision of the Minimum Continuing Legal Education Board ("Board").

Selection of Members; Qualifications; Terms

(2) The Board shall consist of:

(a) A chairman who shall be a lawyer of not less than twenty years post call experience and who shall be an active member of the Association appointed by the National Executive Committee of the Association;

(b) The President of the Association;

(c) The General Secretary of the Association;

(d) The Director General of the Institute of Continuing Legal Education of the Association.

(e) Six other members who are lawyers of not less than fifteen years post qualification experience in legal practice or legal education training and who are active members of the Association appointed by the National Executive Committee of the Nigerian Bar Association.

(4) Three members, and the Chairman, shall initially be appointed to a three-year term. Three members shall be appointed to an initial two-year term. On the expiration of each initial appointment all subsequent appointments or re-appointments shall be to a four years term.

(5) Board members shall be limited to serving two consecutive terms.

(6) Should a vacancy occur, the National Executive Committee of the Association shall appoint a replacement to serve for the unexpired term of the member.

(7) Board members shall serve without compensation, but shall be reimbursed for reasonable and necessary expenses incurred in performing their official duties, including reasonable travel costs to and from Board meetings.

(8) The Board shall appoint its Secretary.

(9) Quorum for the meeting of the Board shall be four members.

Powers and Duties of MCLE Board

4. The Board shall have the following powers and duties:

(a) To make rules and regulations for MCLE, including fees sufficient to ensure that the MCLE program is financially self-supporting; to implement MCLE rules and regulations adopted by the Association; and to adopt forms necessary to insure lawyers' compliance with the rules and regulations.

(b) To meet at least twice a year, or more frequently as needed, either in person, by conference telephone communications, or by electronic means. Five members of the Board shall constitute a quorum for the transaction of business. A majority of the quorum present shall be required for any official action taken by the Board.

(c) To accredit commercial and non-commercial continuing legal education ("CLE") courses and activities, and to determine the number of hours to be awarded for attending such courses or participating in such activities.

(d) To review applications for accreditation of those courses, activities or portions of either that are offered to fulfill the professional responsibility requirement for conformity with the accreditation standards and hours enumerated in these rules exclusive of review as to substantive content.

(e) To submit an annual report to the Association evaluating the effectiveness of the MCLE Rules and the quality of the CLE courses, and presenting the Board's recommendations, if any, for changes in the Rules or their implementation, a financial report for the previous fiscal year, and its recommendations for the new fiscal year. There shall be an independent annual audit of the MCLE fund as directed by the Association, the expenses of which shall be paid out of the fund. The audit shall be submitted as part of the annual report to the Association.

(f) To coordinate its administrative responsibilities with the Body of Benchers and Disciplinary Committees and to reimburse expenses incurred by the Disciplinary Committees of the Body of Benchers attributable to enforcement of MCLE requirements.

(g) To take all action reasonably necessary to implement, administer and enforce these rules and the decisions of the Institute for Continuing Legal Education Director, staff and Board.

Administration

5. The Board shall appoint, with the approval of the Association, a Director General of the Institute for Continuing Legal Education ("Director General") to serve as the principal executive officer of the MCLE program. The Director, with the Board's authorization, will hire sufficient staff to administer the program. The Board will delegate to the Director General and staff authority to conduct the business of the Board within the scope of this Rule, subject to review by the Board. The Director and staff shall be authorized to acquire or rent physical space, computer hardware and software systems and other items and services necessary to the administration of the MCLE program. The terms of the appointment of the Director General shall be set out in a written contract.

Funding

6. The MCLE program shall initially be funded in a manner to be determined by the Association. Thereafter, funding shall be derived solely from the fees charged to CLE providers and from fees charged to individual lawyers. The schedule of CLE provider fees and fees to individual lawyers shall be the schedule of fees approved by the Board.

Basic Skills Course Requirement

Scope

7. (1) Every person enrolled to practice in Nigeria after the date this Act comes into effect, to be entitled to practice before any court or tribunal as a legal practitioner must obtain a certificate from the

Institute of Continuing Legal Education established by the Association after completing a basic course on trial advocacy totalling at least 24 actual hours of instruction. The course shall cover such topics as client interviewing and counselling, case analysis, the skills of trial advocacy, expert witnesses, the skills of applications advocacy, and ethics for trial advocates.

(2) Every person enrolled to practice in Nigeria after this Act comes into effect, to be entitled to teach in any law course in any recognised Nigerian Law Faculty or Law School as a full-time or part-time law teacher must obtain a certificate from the Institute of Continuing Legal Education established by the Association after completing a basic course on law teaching skills totalling at least 24 actual hours of instruction. The course shall cover such topics as curriculum development, clinical legal education, teaching methods, assessment methods and ethics for law teachers.

Minimum Continuing Legal Education Requirement

Hours Required

8. (1) Except as provided by Rules 2 and sub-rule (2) of Rule 8, every lawyer enrolled in Nigeria shall be required to complete 30 hours of CLE activity during every two-year reporting period. The two-year reporting period shall begin on October 1.

(2) Every Senior Advocate of Nigeria shall be required to complete 24 hours of CLE activity during every three-year reporting period. The three-year reporting period shall begin on October 1.

(3) All CLE activity hours may be earned in one year or split in any manner between the two-year or three-year reporting period. No credit shall be carried over from one reporting period to another reporting period.

Professional Responsibility Requirement

(4) A minimum of four of the total hours required for any two-year or three-year period must be in the area of professionalism, legal ethics and corruption issues.

Accreditation Standards and Hours

Standards

9. Eligible CLE courses and activities shall satisfy the following standards:

(a) The course or activity must have significant intellectual, educational or practical content, and its primary objective must be to increase each participant's professional competence as a lawyer.

(b) The course or activity must deal primarily with matters related to the practice of law.

(c) The course or activity must be offered by a provider having substantial, recent experience in offering CLE or demonstrated ability to organize and effectively present CLE. Demonstrated ability arises partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction and supervision of the activity.

(d) The course or activity itself must be conducted by an individual or group qualified by practical or academic experience. The course or activity, including the named advertised participants, must be conducted substantially as planned, subject to emergency withdrawals and alterations.

(e) Thorough, high quality, readable and carefully prepared written materials should be made available to all participants at or before the time the course is presented, unless the absence of such materials is recognized as reasonable and approved by the Board.

(f) Traditional CLE courses or activities shall be conducted in a physical setting conducive to learning. The course or activity may be presented by remote or satellite television transmission, telephone or videophone conference call, videotape, film, audio tape or over a computer network, so long as the Board approves the content and the provider, and finds that the method in question has interactivity as a key component. Such interactivity may be shown, for example, by the opportunity for the viewers or listeners to ask questions of the course faculty, in person, via telephone, or on-line; or through the availability of a qualified commentator to answer questions directly, electronically, or in writing; or through computer links to relevant cases, statutes, law review articles, or other sources.

(g) The course or activity must consist of not less than one-half hour of actual instruction, unless the Board determines that a specific program of less than one-half hour warrants accreditation.

(h) A list of the names of all participants for each course or activity shall be maintained by the provider for a period of at least three years. The provider shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the number of CLE hours, including professionalism, or legal ethics and corruption issues CLE hours, earned at that course or activity.

Accredited CLE Provider

10. The Board may extend presumptive approval to a provider for all of the CLE courses or activities presented by that provider each year that conform to Rule 9, upon written application to be an "Accredited Continuing Legal Education Provider." Such accreditation shall constitute prior approval of all CLE courses offered by such providers. However, the Board may withhold accreditation or limit hours for any course found not to meet the standards, and may revoke accreditation for any organization which is found not to comply with standards. The Board shall assess an annual fee, over and above the fees assessed to the provider for each course, for the privilege of being an "Accredited Continuing Legal Education Provider."

Accreditation of Individual Courses or Activities

11. (1) Any provider not included in Rule 10 desiring advance accreditation of an individual course or other activity shall apply to the Board by submitting a required application form, the course advance accreditation fee set by the Board, and supporting documentation no less than 45 days prior to the date for which the course or activity is scheduled. Documentation shall include a statement of the provider's intention to comply with the accreditation standards of this Rule, the written materials distributed to participants at the two most recently produced courses or activities, if available, or an outline of the proposed courses or activities and list of instructors, and such further information as the Board shall request. The Board staff will advise the applicant in writing by mail within 30 days of the receipt of the completed application of its approval or disapproval.

(2) Providers denied prior approval of a course or activity or individual lawyers who have attended such course or activity may request reconsideration of the Board's initial decision by filing a form approved by the Board. The Board shall consider the request within 30 days of its receipt, and promptly notify the provider and/or the individual lawyer.

(3) Providers who do not seek prior approval of their course or activity may apply for approval for the course or activity after its presentation by submitting an application provided by MCLE staff, the supporting documentation described above, and the accreditation fee set by the Board.

(4) A list of the names of participants shall be maintained by the provider for a period of three years. The provider shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the number of CLE hours, including professionalism, legal ethics and corruption issues CLE hours, earned at that course or activity.

Bar Association Meetings

12. Attendance at bar association or professional association meetings at which substantive law, matters of practice, professionalism, legal ethics and corruption issues are discussed, subject to the requirements for CLE credit defined in paragraphs 8 above may be accredited by the Board. The bar or professional association shall maintain a list of the names of all attendees at each meeting for a period of three years and shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the number of CLE hours, including professionalism, legal ethics and corruption issues CLE hours, earned at that meeting.

Cross-Disciplinary Programs

13. Attendance at courses or activities that cross academic lines, such as accounting-tax seminars or medical-legal seminars, may be considered by the Board for full or partial credit. Purely non-legal subjects, such as personal financial planning, shall not be counted towards CLE credit. Any mixed-audience courses or activities may receive credit only for sessions deemed appropriate for CLE purposes.

Teaching Continuing Legal Education Courses

14. Teaching at CLE courses or activities during the two-year or three-year reporting term, subject to the following:

(a) Credit may be earned for teaching in an approved CLE course or activity. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same

material shall be counted at one-half; no further hours may be earned for additional presentations of the same material.

(c) Authorship or co-authorship of written materials for approved CLE activities shall qualify for CLE credit on the basis of actual preparation time, but subject to receiving no more than 10 hours of credit in any two-year or three year reporting period.

Part-Time Teaching of Law Courses

15. Teaching at a Council of Legal Education accredited law course at a university, or Law School in Nigeria:

(a) Teaching credit may be earned for teaching law courses offered for credit toward a degree at a law school/Law faculty accredited by the Council of Legal Education, but only by lawyers who are not employed full-time by the law school/law faculty. Full-time law teachers who choose to maintain their licenses to practice law are fully subject to the MCLE requirements established herein, and may not earn any credits by their ordinary teaching assignments. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material. Teaching credit may be earned by appearing as a guest instructor, moderator, or participant in a law school/law faculty class for a presentation which meets the overall guidelines for CLE courses or activities, as well as for serving as a judge/moderator/assessor at a law school/law faculty moot/mock court, mediation competitions and client interviewing and counseling competitions. Time spent in preparation for an eligible law school/law faculty activity shall be counted at three times the actual presentation time. Appearing as a guest speaker before a law school/law faculty assembly or group shall not count toward CLE credit.

(b) Teaching credit may be earned for teaching law courses at a university by lawyers who are not full-time teachers if the teaching involves significant intellectual, educational or practical content, such as a civil procedure course taught to paralegal students or a commercial law course taught to business students. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material.

Legal Scholarship.

16. Writing law books and law review articles, subject to the following:

(a) A lawyer may earn credit for legal textbooks, casebooks, treatises and other scholarly legal books written by the lawyer that are published during the two-year or three-year reporting period.

(b) A lawyer may earn credit for writing law-related articles in responsible legal journals or other legal sources, published during the two-year or three-year reporting period, that deal primarily with matters related to the practice of law, professionalism, and ethical obligations of lawyers. Republication of any article shall receive no additional CLE credits unless the author made substantial revisions or additions.

(c) A lawyer may earn credit towards MCLE requirements for the actual number of hours spent researching and writing, but the maximum number of credits that may be earned during any two-year or three-year reporting period on a single publication shall be half the maximum CLE hours required. Credit is accrued when the eligible book or article is published, regardless whether the work in question was performed in the then-current two-year or three-year reporting period.

Pro Bono Training

17. Attendance at courses or activities designed to train lawyers who have agreed to provide pro bono services shall earn CLE credit to the same extent as other courses and seminars.

Credit Hour Guidelines

18. Hours of CLE credit will be determined under the following guidelines:

(a) Sixty minutes shall equal one hour of credit. Partial credit shall be earned for qualified activities of less than 60 minutes duration.

(b) The following are not counted for credit: (i) coffee breaks; (ii) introductory and closing remarks; (iii) keynote speeches; (iv) lunches and dinners; (v) other breaks; and (vi) business meetings.

(c) Question and answer periods are counted toward credit.

(d) Lectures or panel discussions occurring during breakfast, luncheon, or dinner sessions of bar association committees may be awarded credit.

(e) Credits merely reflect the maximum that may be earned. Only actual attendance or participation earns credit.

Financial Hardship Policy

19. The provider shall have available a financial hardship policy for lawyers who wish to attend its courses, but for whom the cost of such courses would be a financial hardship. Such policy may be in the form of scholarships, waivers of course fees, reduced course fees, or discounts. Upon request by the Board, the provider must produce the detailed financial hardship policy. The Board may require, on good cause shown, a provider to set aside without cost, or at reduced cost, a reasonable number of places in the course for those lawyers determined by the Board to have good cause to attend the course for reduced or no cost.

Enforcement of MCLE Requirements

Issuing of licence, Reporting Compliance

20. (1) On completion of CLE within a reporting period and completion of MCLE forms issued by the Board, the lawyer shall immediately submit the completed MCLE forms to the Director General of the Institute for Continuing Legal Education. The Director General shall mail the lawyer, at the most recent address the lawyer has provided a licence certifying that the lawyer, with respect to that reporting period, has complied with these Rules and entitled to practice under section 10 of the Legal Practitioners Act or notify the lawyer that he has not complied. A certification need not be sent to a lawyer known by the Director General to be exempt from these Rules.

(2) Every lawyer who is subject to these Rules shall file an MCLE return not more than 31 days after the end of the reporting period.

(3) The Director General shall publish a list of lawyers who complied with the Rules and are licensed to practice for another reporting period within 60 days from the date of the reporting periods.