

# MCLE Opinion 19

## MCLE Opinion 19 – Programs Promoting Lawyer Well-Being.

In 2009, the MCLE Board issued the first edition of this Opinion, which was entitled “Substance Abuse, Mental Health Disorders, Stress, and Work/Life Balance Topics.” In that edition of this Opinion the MCLE Board noted the following:

The MCLE Board is concerned about the effects of substance abuse, mental health disorders, stress and work/life balance on legal practitioners in the Commonwealth of Virginia and on the quality of legal services provided to the public. Because the MCLE Board believes that education on these topics will be beneficial in addressing these issues, it will consider topics pertaining to substance abuse, mental health disorders, stress management and work/life balance for CLE credit under certain circumstances.

In August 2017 the ABA National Task Force on Lawyer Well-Being (the “Task Force”) issued a report entitled “*The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*” (the “Lawyer Well-Being Report”). In the Report, the Task Force correctly found the following:

To be a good lawyer, one has to be a healthy lawyer. Sadly, our profession is falling short when it comes to well-being. . . [T]he current state of lawyers’ health cannot support a profession dedicated to client service and dependent on the public trust.

While the MCLE Board has in the past granted credit for lawyer well-being programs, the MCLE Board hereby emphasizes that programs promoting lawyer well-being may be approvable for CLE credit, so long as other requirements applicable to all CLE programs are met. In addition, programs must be clearly and primarily designed, directed to, and intended for attorneys, not a general audience.

By way of example, and not limitation, topics that may be approvable for CLE credit include the following:

- Substance abuse
- Mental health disorders
- Stress, sources of stress, recognizing stress, the effects of stress, minimizing stress, and stress avoidance
- Work/life balance
- Navigating the practice of law in a healthy manner
- Cognitive impairment
- Process addictions
- Burnout
- Depression
- Suicide awareness and prevention

- Promotion of civility in the profession<sup>[1]</sup>
- Promotion of mentoring
- Promotion of lawyer autonomy and control over lawyers' schedules and lives
- Enhancement of optimism
- Promotion of resilience
- Promotion of diversity in the profession

As in the general population, the legal profession is aging and lawyers are practicing longer, which raises unique lawyer well-being issues. In order to promote the profession and provide quality legal services, the following programs are examples of topics that may be approvable for CLE credit when dealing with aging attorneys:

- Programming for detecting and addressing cognitive decline in oneself and colleagues
- Development of succession plans
- Options available to guide and support transitioning lawyers

Training for the legal profession in identifying, addressing, and supporting fellow professionals with mental health and substance abuse disorders is vital. Acknowledging this, the following topics are examples that may be approvable for CLE credit:

- The warning signs of substance abuse or mental health disorders, including suicidal thinking
- How, why, and where to seek help at the first signs of difficulty
- The relationship between substance abuse, depression, anxiety, and suicide
- How to approach a colleague who may be experiencing problems with mental health, depression, or substance abuse
- How to thrive in practice and manage stress without reliance on alcohol or drugs
- Self-assessment or assessment of others of mental health or substance abuse risk
- Lawyer assistance programs

The Task Force has further found the following:

[G]enuine efforts to enhance lawyer well-being must extend beyond disorder detection and treatment. Efforts aimed at remodeling institutional and organizational features that breed stress are as crucial, as are those designed to cultivate lawyers' personal resources to boost resilience. All stakeholders should participate in the development and delivery of educational materials and programming that go beyond detection to include causes and consequences of distress.

Such topics may be appropriate for CLE credit, among others.

Programs on lawyer well-being that focus the presentation and written instruction materials on ethics or professionalism may receive ethics credit. By way of example, and not limitation, ethics credit may be provided for the following topics:

- Well-being presentations that focus on ethical considerations addressed in the Rules of Professional Conduct
- Lawyer well-being programs that address issues that may trigger the reporting requirements of the Rules of Professional Conduct
- Programs designed to help lawyers reconnect with, strengthen, and apply their values, strengths of character, and sense of purpose toward achieving outstanding professionalism
- Programs designed to support the development of organizational cultures within firms, law departments, and legal agencies that recognize, support, and encourage outstanding professionalism

Credit will only be provided for programs clearly and primarily designed, directed to, and intended for attorneys, not a general audience.

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