

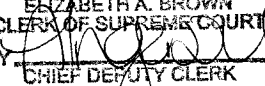
STATE BAR OF NEVADA

February 21, 2017

Chief Justice Michael Cherry
Nevada Supreme Court
201 South Carson Street
Carson City, NV 89701-4702

FILED

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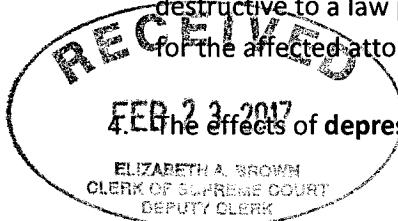
Re: ADKT 0478: CLE Curriculum and Regulations

Dear Chief Justice Cherry:

I would like to thank the Court for its continued attention and consideration of ADKT 0478, which, if adopted, would mandate one hour of continued education (CLE) credit in substance abuse, addictive disorders and/or mental health each year. We can appreciate the Court's concern about the availability and variety of CLE programs to meet this requirement and have taken this opportunity to lay out a plan for delivery of quality CLE programming over the next two years. The Nevada Board of Continuing Legal Education has considered the proposal that follows and provided feedback, which is included in this report.

We have taken several steps to address the Court's concerns, beginning with an attempt to identify any potential gaps in programming. The CLE Board provided us with a list of 193 MCLE Board-approved CLEs meeting the substance abuse/mental health requirement. Our review of this list has helped us to identify five core topics that were vetted by our Continuing Legal Education Committee and primarily focus on:

1. The **economic impact** of addiction on a firm and the financial consequences a firm may experience when a partner/associate/staff person has an addiction issue and the impact the addiction has on clients and the public.
2. The **science of addiction**, including clinical perspectives showing how addiction and mental health issues can affect brain and critical thinking. What makes attorneys at higher risk for substance abuse/mental health issues?
3. How to **identify and prevent** addiction, including how preventative measures such as mindfulness and meditation can help prevent addictive behaviors that are destructive to a law practice. Warning signs, coping skills and treatment options for the affected attorney and/or staff.
4. The **effects of depression and mental health** on a law practice, whether co-



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occurring with addiction or alone.

5. The **personal stories** of attorneys who have suffered from addiction. These stories are still a powerful tool to reach attorneys who think addiction does not affect them and provide practical tools, including steps the attorney took to overcome the issue. We plan to broaden this topic by including a representative from the bar's LCL and/or NLAP programs to follow through with available treatment options and resources available through the bar.

Each of these topics, will incorporate one or more core elements from the outline provided in the attached Curriculum Outline. We refer to this outline as the "backbone" of all programming as it includes three basic learning objectives: *Recognition, Resources and Recovery*. An example our CLE Curriculum is provided in Attachment A.

We anticipate providing these courses via live formats (in-person and webinars) and record them for future use. They will be added to the bar's library of on-demand programs categorized under Substance Abuse/Addiction/Mental Health.

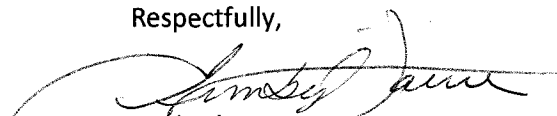
Secondly, we proposed amendments to Nevada MCLE Board Regulation 3 and Regulation 19, which would provide clarification to CLE providers about substance abuse and mental health courses which may be approved for credit. The CLE Board has provided thoughts regarding the following revisions which substantially follow the opinion issued by the Virginia MCLE Board. These amendments, which include feedback from the MCLE Board are enclosed in Attachment B.

Next, as reported to the Court at our January meeting, the State Bar of Nevada has contracted with a new clinical services provider for its Nevada Lawyer Assistance Program. As part of our transition to the new provider, we will be updating our informational hand-outs to include contact information for NLAP and LCL. This hand-out will also include basic facts about *Recognition, Resources and Recovery*.

Finally, as the state bar's budget permits, we anticipate producing short video vignettes that highlight how to recognize a fellow attorney in need of assistance, the resources available and the steps to get help. It is our intent to make these videos available on the bar's website. We will work with the MCLE Board to disseminate the vignettes for use among all CLE providers.

Again, we would like to thank the Court for its continued discussion and consideration of this important topic. Should you have any questions or concerns, please do not hesitate to contact me.

Respectfully,



Kimberly K. Farmer
Executive Director

Enclosures: Attachment A: CLE Curriculum

Attachment B: Amendments to MCLE Board Regulations

cc: Bryan K. Scott, President, State Bar of Nevada

Jenny Hubach, Chair, Nevada Board of Continuing Legal Education

ATTACHMENT A

CLE CURRICULUM

Subjects: Substance Abuse, Addiction and Mental Health

Title: **The Broad Reaching Effects of Attorney Substance Abuse and Addiction**
RE: Economic Impact
Core Curriculum: (I) Recognize and (II) Resources
Speaker: Attorney member(s) from varying sized firms with firsthand experience.

Description: We've all heard the stories of the harmful effects of substance abuse and addiction disorders on an individual and those closest to the addicted person. However, the economic consequences of addiction can be much more pervasive on law practices than perhaps imagined. During this seminar, you will hear firsthand about the harmful effect of addictive behaviors to a practice – ranging from poor client communication to defending against claims of client theft –and the steps you can take to protect your practice and get help for those in need.

Objectives:

1. Understand why it is important that attorneys look out for one another and seek help for those suffering with substance abuse and addiction.
2. Realize the relationship between a few attorneys with a problem and the impact on the legal community.
3. Motivate attorneys to act to halt the epidemic.

Title: **Functionality of the Addicted Brain**
RE: Science of Addiction
Core Curriculum: (I) Recognize and (III) Recovery
Speaker: Clinical experts, including M.D., Ph.D. and Master's Level therapists

Description: Regardless of type of addiction – alcohol, prescription medication, or illicit/illegal drugs – there is a direct and long lasting effect on a person's brain that can alter cognitive processes and decision making skills necessary to the practice of law. Recent studies have confirmed a prevalence of addiction in the legal profession, which necessitates increased awareness of the issue, education about how to recognize addiction in our colleagues, and eliminate the stigma often associated with this serious disease. This seminar provides a window inside the addicted brain and provides the tools necessary to recognize the signs in yourself or of a fellow lawyer who may be suffering.

Objectives:

1. Gain an understanding of what the addicted brain looks like and how it effects lawyers.
2. Be more confident in personal ability to identify your issue or that of a fellow attorney suffering from addiction.
3. Realize how recovery helps those with addiction and the legal community.

Title: Nip it in the Bud
RE: Prevention
Core Curriculum: (II) Resources and (III) Recovery
Speaker: Mindfulness expert and NLAP representative

Description: Beginning January 1, 2017, Nevadans adopted a ballot measure legalizing recreational marijuana use, making the availability of mind-altering substances more prevalent than ever. This program explores alternatives to legal substances for coping with the inherent stress in the profession, including preventative measures such as mindfulness, meditation and exercise. We will also explore resources available to those in need of professional assistance.

Objectives:

1. Understand the importance of taking preventative measures in warding off addiction and mental health disorders.
2. Gain and practice some techniques to manage stress and promote a healthy mental outlook.
3. Learn about the professional and confidential resources available to members of the bar.

Title: Maxed Out Mental Health
RE: Depression/Mental Health
Core Curriculum: (I) Recognize, (II) Resources and (III) Recovery
Speaker: Attorney with firsthand experience

Description: The legal profession is not the only high stress profession; however, it is one of the few where adversity is a core tenant. On a regular basis, attorneys deal with conflicts with opposing counsel, the court, and clients. During this seminar, attorneys will gain insight into the effects of stress and how it can manifest into depression, addiction and other co-occurring mental health problems. This program will also provide techniques to manage stress and adversity in an attorney's professional life.

Objectives:

1. Realize how personal stress and mental health issues can take a toll on a lawyer's career.
2. Identify the impact on the law firm when a lawyer has poor mental health.
3. Ability to help yourself or fellow attorney get the help they need.

Title: Overcoming Addiction and Mental Health Disorders

RE: Personal stories

Core Curriculum: (I) Recognize and (II) Resources

Speaker: Attorney who suffers from addiction/mental health disorder and NLAP representative

Description: "It can't happen to me." For most attorneys, the concept of developing an addictive behavior or enduring mental health problems that tear apart a successful law practice or result in a loss of license is unfathomable. This seminar will explore that concept and the personal stories of attorneys who thought the same thing – and lost it all.

Objectives:

1. Discover the astonishing statics in the legal field.
2. Understand that the disease/disorder can get a hold of your lawyer friends and even you.
3. Become committed to doing your part to help.

Core Curriculum Outline ("Backbone")

This outline provides the backbone to any CLE in abuse, addiction and/or mental health issues and frames the 3R's to be discussed.

- I. **RECOGNIZE**
 - a. Definitions
 - i. Disorder
 - ii. Substance Abuse
 - iii. Addiction
 - b. Lawyers at risk
 - i. Background and susceptibility
 - ii. Stats
 - iii. Nevada attorney discipline
 - c. Clinical insights
 - i. Signs, symptoms, indications
 - ii. Diagnosis
 - iii. The Brain

- II. **RESOURCES**
 - a. Duty to report
 - i. NRPC 8.3
 - ii. Responsibility to legal community
 - b. Lawyers Concerned for Lawyers (LCL)
 - i. Peer to peer, confidential
 - ii. Reporter's identity is never revealed
 - iii. Lawyer in trouble can choose to accept help or not
 - iv. Bar is not involved
 - v. Help is offered in the attorney's community
 - c. Nevada Lawyer Assistance Program (NLAP)
 - i. Clinical provider, confidential
 - ii. Mandatory: Bar Counsel can refer attorney through court rule
 - iii. Volunteer: Attorneys self-report
 - iv. Free assessment: bar covers costs but does not know identity
 - v. Help is offered in the attorney's community
 - vi. Handles mental health concerns too

- III. **RECOVERY**
 - a. LCL: Peer to peer community support
 - b. NLAP
 - i. Clinical support
 - ii. Personalized plan
 - iii. 12-step program
 - iv. Counseling
 - v. Screening
 - vi. Monitoring
 - vii. Advocacy

ATTACHMENT B
PROPOSED AMENDMENTS TO NEVADA MCLE BOARD REGULATIONS

Regulation 3: Academic Standards; Section 6

(6) Substance abuse/ addiction/mental health credits may be approved for courses which focus on developing awareness of substance abuse or mental health issues and related problems in the practice of law. This includes, but is not limited to: recognizing the signs of substance abuse, addiction and mental health disorders in oneself or one's colleagues, impairment, intervention, treatment and available lawyer assistance programs. This also includes steps to be taken in reporting an affected attorney and in assisting the affected attorney.

Stress management courses as they relate to the practice of law are also eligible for credit if they focus on developing awareness of stress-related problems in the practice of law, including programs that focus on personality traits susceptible to stress, work/life balance, recognizing signs of stress in oneself or one's colleagues, instituting preventative measures individually, and the development of policies with the law firm or legal department for dealing with stress-impaired attorneys.

Credit will not be given to courses in which the sole focus is personal stress reduction techniques such as breathing exercises, meditation and yoga.

Regulation 19: Ethics and Professional Conduct; Section (1)(j)

1. Ethics and Professional Conduct as specified in SCR 210(2), includes but is not limited to instruction in any of the following areas:

...

(j) The prevention, detection, reporting and treatment of substance abuse, addictive disorders and/or mental health issues and the available assistance for impaired attorneys.