

Mandatory Continuing Legal Education FAQs

Rules at a Glance

- If you are an active member of the bar, beginning January 1, 2010 you are required to complete 3 credit hours of approved Mandatory Continuing Professional Education (MCPE) each calendar year.
- In addition to the mandatory 3 credit hours of MCPE, you are encouraged, but not required, to complete 9 or more credit hours per year of approved Voluntary Continuing Legal Education (VCLE).
- Beginning with the attorney registration statement for 2011, you are required to certify whether you have completed at least 3 credit hours of MCPE and report the number of credit hours of VCLE completed during the 2010 calendar year.
- You may carry forward and certify on your attorney registration statement a maximum of 3 excess MCPE credit hours completed during the previous calendar year.
- Members on inactive status who elect to become active members of the bar are required to complete 3 credit hours of MCPE within 3 months of achieving active status. These 3 credit hours may be used to fulfill the annual MCPE requirement.
- Newly licensed members who elect active status upon admittance to the bar are exempt from the MCPE requirement for the year in which you are admitted. However, you still are required to complete the mandatory HSBA Professionalism course prior to the end of the year following the year you are admitted to the bar.
- All credit hours earned from courses and activities sponsored by the HSBA or the American Bar Association and classified as approved MCPE may be used to fulfill your annual MCPE requirement.
- Failure to comply with the MCPE requirement may result in an administrative suspension until the credit hour deficit is cured. The “catch up” credit hours used to bring a member to compliance may not be used to fulfill the current year requirement.

Anticipated MCPE Questions

1. When do the new MCLE requirements take effect?

Rule 22 of the Rules of the Supreme Court of the State of Hawaii (RSCH) takes effect on January 1, 2010. Rule 22 requires that active members of the bar complete at least 3 credit hours of MCPE, and encourages completion of at least 9 hours of VCLE during each calendar year.

2. How do I report to the bar the total number of MCPE and VCLE credits I completed during the 2010 calendar year?

Active members of the bar must certify on their attorney registration statement for 2011, that they have completed at least 3 credit hours of MCPE, and report the number of VCLE credits completed during the 2010 calendar year.

3. If I earn more than 3 MCPE credits in a calendar year can I carry the excess forward to the next year?

Yes, you may carry forward a maximum of 3 credit hours from the year immediately preceding the current reporting year.

4. I earned CLE credits during the 2009 calendar year. Do these credits carry over to satisfy all or part of my 2010 MCPE requirement?

No. Rule 22 provides that the initial reporting period will be the calendar year beginning January 1, 2010.

5. How do I report the excess credit hours that I intend to carry over into the 2011 reporting calendar year?

Part III of the attorney registration statement will have a space for certifying credit hours completed, and the number of credits (not more than 3) you are carrying over from the prior reporting year to use toward your MCPE credit requirement for the calendar year just completed. There will also be a space for indicating the number of excess credits you will carry over to the next reporting year. For example, on part III of the 2010 registration statement there will be spaces for reporting (optional) the number of CLE hours completed during the 2009 calendar year. On the 2011 registration statement, there will be spaces for reporting the number of MCPE and VCLE credit hours completed during the 2010 calendar year. On the 2012 registration statement, there will be spaces for indicating:

- a) The number of MCPE and VCLE credit hours completed during the 2011 calendar year; and

- b) The number of carry-over MCPE credit hours from the 2010 calendar year you are using toward your 2011 reporting year MCPE credit hour requirement.

6. I am an active member of another state's bar that also has a mandatory CLE credit requirement. Can those credits be used to satisfy Hawaii's MCPE requirement?

The following credits completed out-of-state may be used to satisfy Hawaii's MCPE requirement:

- a) Credits from professionalism courses or activities sponsored by the American Bar Association.
- b) Credits from courses or activities accredited by another state as CLE approved.
- c) Credits from other sources may be used to satisfy Hawaii's MCPE requirement if, prior to attending the course, the member seeks and obtains approval from the HSBA following HSBA review of the course information.

7. Do I need to send in the certificates of attendance I receive from attending approved courses?

No. But you should keep certificates of attendance from approved courses to help you track the credit hours you have taken during the year, and for audit purposes. Tracking forms will be available online.

8. How long must I keep MCPE records?

You are required to keep records for the two most recent reporting years. These records may be subject to audit by the HSBA.

9. What kinds of courses qualify for MCPE credit?

Qualifying professional education topics include:

- a) Hawaii Rules of Professional Conduct
- b) Legal ethics
- c) Law office management
- d) Client trust account administration
- e) Bias awareness and prevention
- f) Access to Justice
- g) Case and client management
- h) Malpractice insurance and prevention
- i) Approved combinations of all of the above.

10. What kinds of activities qualify for MCPE credit?

Qualifying activities include:

- a) Preparing for and teaching approved MCPE courses
- b) Conducting approved presentations in-house, for Inns of Court, bar sections, professional legal organizations etc.
- c) Studying approved audio, video or other technology-delivered professional education courses.
- d) Other HSBA approved activities.

11. How much credit do I receive for teaching an approved MCPE or VCLE course?

You may count two hours of preparation time for each hour spent teaching. In other words, you may claim three credit hours for preparing and teaching a one hour course.

12. What if I have not earned 3 credit hours of MCPE during the 2010 calendar year?

You may be administratively suspended from practicing law until you fulfill your MCPE credit hour requirement for the 2010 calendar year.

13. If I will be earning MCPE “catch up” credits in 2011 to fulfill my 2010 requirement in order to be reinstated to active status, can I use these “catch up” credits toward my 2011 MCPE requirement?

No. Only the credits hours completed in excess of the amount needed to fulfill your 2010 requirement may be used to fulfill your 2011 requirement.

14. Can I continue to practice law if I don’t complete 3 credit hours of MCPE by December 31, 2010?

Yes. You may practice law unless or until you have been administratively suspended. Active attorneys who certify on their attorney registration statement for 2011 that they have not completed 3 MCPE credit hours during the 2010 calendar year:

- a) Will be sent a certified notice of noncompliance within 60 days following the registration filing deadline.
- b) Within 15 days from the date the certified notice was mailed, attorneys receiving the notice may submit evidence to the bar that they have subsequently completed the required MCPE credit hours (a reporting form will be available online), or that the notice of noncompliance was issued to them erroneously.
- c) If an attorney fails to prove that he or she has subsequently completed the required MCPE credit hours during those 15 days, the attorney will be automatically suspended from practicing law.

15. What must I do to be reinstated to active status with the bar?

You will be reinstated if you:

- a) Prove that you have completed 3 credit hours of MCPE (a reporting form will be available online);
- b) Paid the reinstatement fee set by HSBA; and
- c) Paid all required fees and dues.

16. The HSBA has suspended me for not completing my MCPE requirement or reporting my MCPE/VCLE credit hours for the calendar year. Is there a review process?

Yes. You may petition the Hawaii Supreme Court for review of the HSBA's determination that you failed to complete your MCPE requirement, or that the notice of noncompliance was issued to you erroneously. However, a petition to the Supreme Court will not stay the effective date of your suspension.

17. Do MCPE requirements apply to fulltime judges?

State judges are required to participate in and report at least 3 hours of an approved Judicial Education program, or comply with their requirement by such other means approved by the Supreme Court. Federal judges are exempt from rule 22.

18. I am a newly admitted member of the bar electing active status, must I comply with the MCPE requirement this year?

No. The MCPE requirement is waived for the calendar year you are admitted to the bar. However, this waiver does not modify the requirement that you complete the HSBA course on Professionalism prior to the end of the year following the year you are admitted to the bar pursuant to RSCH Rule 1.14.

19. I am an inactive member now electing active status, what are my requirements?

You are required to complete and report to the HSBA that you have completed 3 hours of MCPE within 3 months of electing active status (a reporting form will be available online). These 3 credit hours may be used to satisfy your MCPE requirement for the year.

20. Is the HSBA doing anything to help members meet their MCPE requirement?

Yes. The HSBA is committed to ensuring that members will be able to fulfill their MCPE requirement for an annual cost of not more than \$50. Moreover, all MCPE courses will be updated semiannually ensuring that course content is current and relevant. The HSBA provides the following MCPE approved courses:

- a) A 5 credit Mandatory Professionalism course for new admittees is offered twice a year.

- b) At least once a year a 3 credit general ethics/professionalism course will be offered on Oahu, Kauai, Maui and Hawaii, and made available later online and on DVD.
- c) Various specialized ethics courses will be offered in various locations and made available later online and on DVD.

21. Can I receive MCPE credit from attending courses sponsored by providers other than the HSBA?

Yes. You can receive MCPE or VCLE credit by completing a course or activity that has been approved for credit by the HSBA. The HSBA is in the process of developing regulations and standards to ensure that:

- a) Providers seeking accreditation for their course or activity are able to effectively conduct a professional learning session.
- b) The course or activity content qualifies substantively for MCPE or VCLE credit.

In all likelihood these regulations and standards will not be ready for publication until late 2009.