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Subject: FW: Comment opposing proposed changes to APR 11
Date: Friday, April 30, 2021 10:42:51 AM

From: Rachel Morrison [mailto:rachelnmorr@gmail.com]
Sent: Friday, April 30, 2021 10:42 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Rachel Morrison <rachelnmorr@gmail.com>
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Hello,

I write in **opposition** (again) to the suggested amendment to APR 11, requiring a mandatory continuing legal education (MCLE) credit in "equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law."

Equity and inclusion—even if laudable goals—are not the law. Rather nondiscrimination and equal protection are. Specialized MCLE topics in *non-legal* ethics should not be mandated by the Bar.

The suggested MCLE amendment appears to be virtue signaling and a political response to claims of “systemic inequalities.” Yet the proposal does not explain what *systems* are creating these inequalities and how the mandatory credit on equity, inclusion, and bias will fix those systems.

Proponents (e.g., the MCLE Board) point to the lack of equity in the legal professional as a reason for such a requirement. But it is unclear how requiring existing attorneys taking such an MCLE will increase the diversity of those choosing to attend law school and become WSBA members. Moreover, if law firms are not promoting women or racial minorities to partner because of their sex or race, that is already illegal under Title VII and better addressed through an EEOC charge of discrimination and at the firm level.

The underlying assumption of the proposed amendment is that WSBA members are inherently biased and that a required MCLE is needed to enlighten them. But no evidence is provided to this effect and I find it highly offensive and in bad faith that the Committee believes this of WSBA members as a whole. Moreover, implicit bias theory has been criticized as pseudoscience, both in its existence and the ability to mitigate it, and should not be mandated by WSBA. To the extent WSBA members discriminate on a protected basis that is already prohibited and there are existing avenues for a remedy.

There are no specific topics for any other MCLE credits (other than the general subcategory of “ethics”), and WSBA should not start now. MCLEs should be available in a broad range of topics and WSBA members should be trusted to choose the MCLEs that are most relevant to their "good moral character" and "fitness to practice law."

It is preposterous to think that a one-hour forced MCLE credit every three years will do much to solve the alleged issues underlying this proposal. Rather the proposed MCLEs will likely become highly politicized efforts to push a progressive agenda to “indoctrinate” and “reeducate” those who have different political, social, and religious views. At best, this is a misguided attempt that will not fix the alleged problems, and at worst it is WSBA mandating political viewpoints on its members, which it has no business doing. The proposed amendment to APR 11 should be rejected by the Court.

Sincerely,
Rachel N. Morrison, Esq.
WSBA #50388