Yvonne K. Chapman
Attorney at Law

April 30, 2021

Washington Supreme Court
Olympia, WA

Comment transmitted via email to supreme@courts.wa.gov.

RE: Suggested Amendments ADMISSION AND PRACTICE RULE (APR) 11

To the Honorable Justices of the Washington Supreme Court:

I write to oppose the proposal that suggests amending MCLE rule APR 11 to mandate that an attorney (and other licensed legal professionals) must attend a course providing one of the required ethics credits in the category of *equity, inclusion and the mitigation of bias.*

The stated purpose of the suggested amendment is "to ensure that licensed legal professionals in Washington State are adequately educated in order to protect the public and improve each licensed legal professional's ability to render competent and effective legal services to clients."

Without supporting evidence, proponent claims "that the suggested amendment will not only educate Washington licensed legal professionals on the state of the law on various subjects, but also *improve inter-cultural communication, improve equitable outcomes, and reduce the risk of potential liability*."

Further, proponent alleges, "if this suggested ethics topic is not mandatory, the licensed legal professionals who might benefit most from the training may not receive it" and that only "mandate(d) training ~~to~~ can help licensed legal professionals gain awareness and understanding of these issues." (Edits inserted). This attitude insults legal professionals.

There is no evidence for the proposition that Washington lawyers (or other legal professionals) are racist, exhibit bias (implicit or otherwise) in their professional practices, or discriminate based upon personal factors such as race, gender, and the like.

Evidence *does* support the fact that Washington lawyers *are* leaders in addressing social concerns, *are* mindful of the history of race relations, discrimination, and inequality in our country and *are* committed to programs supporting equal justice.

The Washington legal community already leads in access to justice and collegiality among legal professionals as evident in the diverse bar associations and legal organizations that exist statewide. Access-to-justice (ATJ) and pro bono opportunities are prevalent throughout the state. In fact, WSBA members participate in and promote diversity and inclusion programs in support of WSBA programs that "promote diversity and equality in the courts and the legal profession and promote an effective legal system accessible to all." [See https://www.wsba.org/about-wsba/equity-and-inclusion for a representative listing of these programs.] As a Washington attorney who no longer resides within the state, I can attest that other states in which I hold licenses are abundant in such programs, as well.

Aside from formalized pro bono or ATJ programs, many lawyers are involved with sociopolitical concerns, community needs, and the like in their personal lives; while others simply represent clients in legal matters in which they find themselves for various reasons, including civil rights issues safeguarded by a plethora of existing civil rights laws and constitutional guarantees.

Additionally, as proponents argue, numerous organizations, corporations, bar association, and the like already offer CLE courses on issues of diversity, race relations, and bias. Furthermore, the WSBA has committed to offer these courses free.

*There is **no** evidence that Washington lawyers engage in systemic discriminatory behavior*, either affecting the administration of justice or within the profession against their colleagues. There is no demonstrated need to amend the CLE Rules to mandate attendance in the course requested by proponent. The arguments set forth to justify the proposal are not supported.

The proposal indicates that references to equality will be amended to "equity." In the law, equity is the exception, not the rule; equitable outcomes are few, restricted to courts of equity. Otherwise, participants in the system of justice deserve equality in the administration of justice. Any provision mandating equity in the system of justice will impose impossible client expectations upon legal practitioners. This issue requires a more substantial debate, but in a different forum.

Should the court mandate "bias elimination" courses, there is the expectation that anticipated programs will not be content neutral but will be politically divisive, discriminatory, and not unifying to the bar. It is common knowledge within our current culture across the country that training which claims to be anti-racist or to promote social justice (critical race theory, for example), presents politically based liberal propaganda; prevalent viewpoints are stereotypically anti-white and anti-conservative. Such training is looked upon as indoctrination; those who disagree with the premises of the curricula are shamed and humiliated for opposing the viewpoints presented. Dissenters face retaliation, including termination of employment, being "canceled by culture" or both. In other jurisdictions that are considering similar CLE courses, lawyers who have submitted comments expect retaliation for simply opposing such CLE programs – a significant exclamation about the conceptions of so-called "bias elimination" training. Proponent's assertions otherwise are naive and erroneous.

There are legitimate concerns that sincerely held religious beliefs about human sexuality and other traditional beliefs will be ridiculed and condemned should "bias elimination" be the rule.

Washington attorneys are mindful of the provisions of the oath set forth in APR 5 (f). Mandated "training" on cultural viewpoints and sociopolitical opinions, which are subject to change on a whim, are not necessary and will not solve society's current issues.

Recently, U.S. Senator Tim Scott an African American from the State of South Carolina said[1] it well:

> When America comes together, we've made tremendous progress. But powerful forces want to pull us apart. A hundred years ago, kids in classrooms were taught the color of their skin was their most important characteristic — and if they looked a certain way, they were inferior. Today, kids again are being taught that the color of their skin defines them — and if they look a certain way, they're an oppressor. From colleges to corporations to our culture, people are making money and gaining power by pretending we haven't made any progress. By doubling down on the divisions we've worked so hard to heal. You know this stuff is wrong. Hear me clearly: America is not a racist country. It's backwards to fight discrimination with different discrimination. And it's wrong to try to use our painful past to dishonestly shut down debates in the present.

Senator Scott was referring to the dream of Dr. Martin Luther King, Jr. that we will "live in a nation where (people) will not be judged by the color of their skin, but by the content of their character."

I suggest the sentiment of Thomas Jefferson[2] applies. The solution to society's wails is civic education on the provisions of the United States and state Constitutions, plus the Declaration of Independence proclaiming: "We hold these truths to be self-evident, that all men are created equal."

MCLE must continue to focus on legal education, including ethics and professionalism, not ideological training. As lawyers, we will continue serving our legal communities and the public; some of us will continue to provide public civic education in our local communities.

Thank you for the opportunity to comment.

Respectfully,

Yvonne K. Chapman, BPR #33682

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[1] https://www.cnn.com/2021/04/28/politics/tim-scott-response-transcript/index.html

[2] I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education. This is the true corrective of abuses of constitutional power. Thomas Jefferson Letter to William Charles Jarvis (28 September 1820).

From: OFFICE RECEPTIONIST, CLERK
To: Linford, Tera
Subject: FW: Response to suggested amendments to APR 11
Date: Friday, April 30, 2021 2:56:55 PM
Attachments: YKC response WSBA APR 11 amendment.pdf

From: Yvonne Chapman [mailto:chapmanyvonnek@yahoo.com]
Sent: Friday, April 30, 2021 2:52 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Yvonne K Chapman <chapmanyvonnek@yahoo.com>
Subject: Response to suggested amendments to APR 11

Attached is my response in opposition to the proposed amendment to MCLE APR 11.

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Licensed in Tennessee, Mississippi, and Washington