

MCLE and the Lawyers

by Ezarianne Diana Rose J. Gido, Nisa S. Opalla, Maria Janua B. Polinar,
Dyan Aimee M. Rodriguez, and Demrev C. Salazar¹

Introduction

One of the most important maxims that a law student learns in law school is *ignorantia legis non excusat*. Indeed, ignorance of the law excuses no one; it is one of the building blocks of the justice system. Through tri-media and social media platforms, the public know of people who violate these laws because they claim they did not know their existence. When legal battles ensue, lawyers, who possess in-depth knowledge of laws and jurisprudence, play an indispensable role in advancing or defending their clients' case.

A lawyer's education does not end; it continues. Canon 5² of the Lawyers' Code of Professional Responsibility notes the importance of continuing legal education. Responding to this need, the Supreme Court adopted the Mandatory Continuing Legal Education (MCLE) for members of the Integrated Bar of the Philippines (IBP) through Bar Matter No. 850³. Rule 1 Section 1⁴ of Bar Matter No. 850 requires

¹ The authors are First Year students of Legal Research in the College of Law of the Ateneo de Davao University.

² Canon 5. A lawyer shall keep abreast of legal developments, participate in continuing legal education programs, support efforts to achieve high standards in law schools as well as in the practice of training of law students, and assist in disseminating information regarding the law and jurisprudence.

³ See Bar Matter No. 850, Re: MCLE (August 20, 2000).

⁴ Section 1. *Purpose of the MCLE*. Continuing legal education is required of members of the Integrated Bar of the Philippines (IBP) to ensure that throughout their career they keep abreast with law and jurisprudence, maintain the ethics of the profession and enhance the standards of the practice of law.

all members of the IBP to attend and comply if they wish to continue with their legal practice. Rule 7 Section 1⁵ enumerates those who are exempted from MCLE attendance. Clearly, MCLE is a requirement to all members of the IBP which entails their commitment. More than being a requirement, however, lawyers see MCLE as an avenue to equip them with added learning in the face of the “proliferation of legal materials and the emergence of new specialties in law, brought about by the growing complexity of our society.”⁶

However, not all lawyers are interested. A lawyer-writer explains, “Regrettably, only a handful has taken this responsibility seriously. Though programs for continuing legal education have always been available, only a number of lawyers have taken advantage of them. They have always been contented with what they have learned in law schools and their practice.”⁷ Responding to the diminishing interest of lawyers to comply with the MCLE requirement in their practice of the law, in 2008, the Supreme Court issued Bar Matter No. 1922⁸.

⁵ SECTION 1. *Parties exempted from the MCLE.* The following members of the Bar are exempt from the MCLE requirement: (a) The President and the Vice President of the Philippines, and the Secretaries and Undersecretaries of Executive Departments; (b) Senators and Members of the House of Representatives; (c) The Chief Justice and Associate Justices of the Supreme Court, incumbent and retired members of the judiciary, incumbent members of the Judicial and Bar Council and incumbent court lawyers covered by the Philippine Judicial Academy program of continuing judicial education; (d) The Chief State Counsel, Chief State Prosecutor and Assistant Secretaries of the Department of Justice; (e) The Solicitor General and the Assistant Solicitors General; (f) The Government Corporate Counsel, Deputy and Assistant Government Corporate Counsel; (g) The Chairmen and Members of the Constitutional Commissions; (h) The Ombudsman, the Overall Deputy Ombudsman, the Deputy Ombudsmen and the Special Prosecutor of the Office of the Ombudsman; (i) Heads of government agencies exercising quasi-judicial functions; (j) Incumbent deans, bar reviewers and professors of law who have teaching experience for at least 10 years in accredited law schools; (k) The Chancellor, Vice-Chancellor and members of the Corps of Professors and Professorial Lecturers of the Philippine Judicial Academy; and (l) Governors and Mayors

Section. 2. *Other parties exempted from the MCLE.* -- The following Members of the Bar are likewise exempt:

(a) Those who are not in law practice, private or public. (b) Those who have retired from law practice with the approval of the IBP Board of Governors.

⁶ Mendoza, V. , *Focus on the Legal Profession.* in E. Villareal, *Legal Profession* pp. 125-130 (REX Book Store, Inc. 2001)

⁷ Villareal, E. M. , *Legal Profession* (REX Book Store, Inc. 2001)

⁸ See Bar Matter No. 1922 – Re: Recommendation of the Mandatory Continuing Legal Education (MCLE) Board to Indicate in All Pleadings Filed with the Courts the Counsel’s MCLE Certificate of Compliance or Certificate of Exemption (June 3, 2008).

Discussion

This paper presents the perceptions of selected law professors⁹ of the Ateneo de Davao University on the MCLE compliance. Using Key Informant Interviews (KII), the researchers discovered that their respondents see MCLE as important because it updates the lawyers with current developments in the field of law. It refreshes them and helps them become more competent and more efficient in the practice. Making MCLE mandatory compels them to keep themselves abreast of the latest laws and jurisprudence since, every now and then, the Congress pass laws and the Supreme Court has new decisions, rules, and issuances. The existence of an MCLE is better than nothing at all. If it was not made mandatory, the lawyers would most likely rely on the knowledge that they had previously known and they thought they could use. It checks the behavior and disposition of lawyers and reminds them to strictly follow the law and encourage others to follow the law as well.

They believe that MCLE shapes the profession of the lawyers. MCLE helps lawyers with better legal counseling skills and representation and places the legal system on a higher notch. Nevertheless, its significance and usability depend on how lawyers utilize the knowledge they have acquired from the program.

But there they also present arguments against the MCLE compliance. They see that lawyers are required to finish 36 units within a compliance period of three years. This is quite costly for lawyers who are not thriving in their private practice or those who practice outside major cities because they will have to pay a considerable sum to attend the program. Lawyers

xxx The Court Resolved to NOTE the Letter, dated May 2, 2008, of Associate Justice Antonio Eduardo B. Nachura, Chairperson, Committee on Legal Education and Bar Matters, informing the Court of the diminishing interest of the members of the Bar in the MCLE requirement program.

The Court further Resolved, upon the recommendation of the Committee on Legal Education and Bar Matters, to REQUIRE practicing members of the bar to INDICATE in all pleadings filed before the courts of quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records.

⁹ Atty. Arnold Abejaron, Atty Albert Aportadera, Atty. Jezreel Babatid, Atty. January Faye Risonar-Bello, and Atty. Rene Rizza Bernardo-Mamburam

who are working with the government or in private institutions, may not have to pay the MCLE registration fee but they have to travel and pay for their accommodations to cities where an MCLE is held or where a full 36-unit MCLE program is offered. The respondents comment that some lawyers know that attendance in an MCLE will delay their work and most often, they will have to seek for postponement in their hearings and client conferences or appointments.

The respondents suggest that the MCLE should be given free under the sponsorship of the government. Or better yet, MCLE providers should go into alternative modes like utilize Skype or other social media sites to invite foreign speakers to add flavor to the courses or seek provide better ways to enrich the course presentation. Despite a show of disinterest from some, they agree that the MCLE should not be removed; its existence is better than nothing for lawyers to get the latest legal innovations and information to refine their practice for the people they are serving.

Furthermore, they point to lawyer professors who do not have to be compelled to attend an MCLE. They think that there must be unit-credits for lawyer educators because the latter is mandatorily required to constantly update themselves with new laws, legal analytical discussions, latest commentaries, and current legal jurisprudence to help them be more efficient in their teaching. Research and reading complement their teaching effectivity.

Also, they see that it is practical to perform offsetting of the remaining or excess units of the 36-unit credits earned in the last compliance to the subsequent period of compliance. This will ensure a little savings from the expenses they have incurred during the last compliance period.

Conclusion

The importance of an MCLE to lawyers cannot be underestimated. A more profound understanding of the laws and jurisprudence is the lifeblood of success in the legal practice. While legal education obtained under the guidance of competent law professors in any college of law is indispensable, the respondents still see the need for continuing

legal education as not only mandatory but also vital. There is a tacit recognition of the significance of the MCLE as an instrument to compel lawyers to be updated about laws and jurisprudence. Without it, there is no other mechanism structured to require lawyers to commit to continuing legal education. It is better than nothing at all. However, like any other forms of continuing education, the impact of the MCLE as a tool for increasing legal knowledge and know-how depends on the lawyers themselves because the fulfilment of the purpose of an MCLE is dependent on how lawyers utilize the knowledge they get from the program. Hence, a more participatory attendance in an MCLE will help improve the lawyers' skills, benefit the legal system, and make continuing legal education flourish.