March 7, 2006

Thomas M. Golden, Esquire  
Chair  
The Pennsylvania Continuing Legal Education Board  
5035 Ritter Road, Suite 500  
Mechanicsburg, PA 17055

Re: PA CLE Requirement for Lawyers Returning from Active Military Service

Dear Mr. Golden:

On Tuesday, March 7, 2006, the Allegheny County Bar Association’s Military and Veterans Affairs Committee appeared before the Board of Governors and raised concerns regarding the Continuing Legal Education requirements for lawyers returning to practice after having been ordered to active military duty.

While the Pennsylvania Rules for Continuing Legal Education do not expressly address the issue of CLE requirements for attorneys returning from active military duty, it appears that PA R.C.LE. Section 113(d) provides that the "Board may grant an extension of time for the completion of a lawyer’s CLE requirements upon such terms as the Board shall require." In practice, the Board has required returning service members to satisfy not only the CLE requirements for the compliance year within which they return, but also for the compliance year (or years) that they were not practicing as a result of their activation to military duty, all within twelve months of their return.

We believe this policy has the unintended consequence of forcing the returning Reserve Forces servicemember who has been ordered to active duty to expend significant amounts of time and costs associated with satisfying their CLE obligations—all within a much shorter time frame than their non-military colleagues from across the Commonwealth. Many of these individuals have also suffered significant pay cuts during their period of service with the military.

In order to avoid this apparent unintended consequence to members who are in the military, we request that the Board consider changing its current policy by adopting a new rule pertaining exclusively to activated reserve forces members and active duty military members, waiving CLE requirements for lawyers activated to military service for the period during which the servicemember is on active duty. To further support
March 7, 2006
Page 2

our position, please see enclosed memorandum of specific scenarios which have affected our servicemembers.

The Board of Governors of the Allegheny County Bar Association urges the CLE Board to consider the proposed position.

You may further discuss this matter with either Charles L. Holsworth, Chair of the Military and Veterans Affairs Committee at (412) 653-2556 or cholsworth@acba.org or Robert V. Racunas, President, at (412) 586-6100 or racunas@nauticom.net.

Respectfully,

[Signature]
Charles L. Holsworth, Chair
Allegheny County Bar Association
Military and Veterans Affairs Committee

[Signature]
Robert V. Racunas, President
Allegheny County Bar Association

CLH/RVR/jmd
Enclosure

cc: Barry Simpson, Executive Director, Pennsylvania Bar Association
Kenneth Shear, Executive Director, Philadelphia Bar Association
David K. Trevaskis, Esquire, PBA Pro Bono Coordinator
Memorandum

To: Pennsylvania Continuing Legal Education Board
From: Allegheny County Bar Association Military and Veterans Affairs Committee
Date: 3/7/2006
Re: Pennsylvania Continuing Legal Education Requirements for Pennsylvania Lawyers Activated for Military Service

Current CLE policy works an undue hardship on attorneys who serve as members of the Reserve Armed Forces and are ordered to Active Duty for a period of time is not in accord with the overarching polices behind CLE. PA R.C.L.E. Section 113(d) provides that the "Board may grant an extension of time for the completion of a lawyer's CLE requirements upon such terms as the Board shall require." The current regulation is as follows

SECTION 6(d) Members of the Armed Forces. Compliance with these regulations shall be deferred for members of the Armed Forces on active duty outside of Pennsylvania during the period of their active duty. Within thirty (30) days after termination of active duty, the lawyer shall notify the Board. The lawyer will have twelve (12) months to complete the deferred CLE requirements, not to exceed two (2) times the current requirement, in addition to the CLE credit required for the current year.

Application of the above Rule and Regulation results in the requirement for returning servicemembers to satisfy not only the CLE requirements for the compliance years of their departure and return, but also satisfy within twelve months of their return from active duty the compliance year (or years) that they missed as a result of their activation. Moreover, a lawyer returning from active service may shortly thereafter have to satisfy the CLE requirements for the next occurring compliance year. These facts work an undue hardship on such members of our Bar both in time and expense, as reflected in the following actual examples:

Servicemember A has a CLE compliance period ending December 31st. He is activated for service on July 1, 2005 having completed no CLE credit hours upon his activation. Upon his return from active service on July 1, 2005, he must complete: 1) 12 CLE credit hours by 12/31/05; 2) 12 CLE credit hours by 7/1/06; and 3) 12 CLE credit hours by 12/31/06. Thus, servicemember A must complete 24 credit hours in 12 months after his return, and 36 credit hours in 18 months after his return.

Servicemember B has a CLE compliance period ending August 31st. He was activated for service on January 1, 2003 through December 2003 and then again from June 2004 through May 2005 he completed 8 CLE credit hours during the interim period and
fortunately had accumulated enough credits during 2001 and 2002
to satisfy his 2003 requirements. Therefore upon his return from
active service on June 30 2005, he had to complete 16 CLE credit
hours by 8/31/05 or within 2 months of his return. However one
can easily conceive of a scenario wherein this service member
would have had to complete from 28 to 36 credits in just a 2 month
period.

Servicemember C has a CLE compliance period ending August
31st. She is activated for service for three years from January
1996 through January 1999. During this time, her CLE
requirements are deferred. Upon returning to civil practice in
January 1999, she must complete: 1) 12 CLE credit hours by
8/31/99; 2) 24 deferred CLE credit hours by 1/20/00; and 3) 12
CLE credit hours by 8/31/00. Thus, servicemember C must
complete 48 credit hours in approximately 20 months after her
return.

As these examples reflect, the Board's policy for addressing the CLE status of activated
servicemembers severely compresses the time within which they are required to complete their
Pennsylvania CLE obligations after their return from service to our country. This policy has the
unintended consequence of forcing the returning servicemember not only to expend significant
amounts of time satisfying their CLE obligations, but also to expend substantial amounts of
money in paying the fees associated with these courses - all within a much shorter time frame
than their non-military colleagues from across the Commonwealth.

The time and cost considerations are particularly onerous for those lawyers in private
practice who, upon returning from their service, are attempting to reconnect and serve those
clients who were serviced by other lawyers in their absence, or who are in solo or small-firm
practice. The cost to these attorneys, moreover, is not limited to the fees paid for these courses.
Rather, these costs extend to lost billing opportunities while these lawyers are spending multiple
days attending CLE - exacerbated by the fact that this must all occur with a relatively short, and
compressed, time frame.

Beyond these hardships is the fact that the rationale behind such courses of instruction -
keeping lawyers current in their practice of the law - is not satisfied by the existing policy.
Under this rationale, the assumption upon which the Board's policy is based appears to be that
the servicemember must "catch-up" to his or her peers by increasing by two or even three times
the number of CLE credits taken in a given period in order to continue to competently practice
law. This rationale merely elevates form over substance by forcing returning servicemembers to
find multiple CLE courses at convenient times or with inexpensive tuition costs (that may have
little to do with their areas of practice) merely to satisfy a requirement that, under these
circumstances, is not connected to lawyer competence.

Based on this discussion, the Military and Veterans Affairs Committee of the ACBA
requests that the current policy regarding CLE requirements for lawyers who are members of the
Reserve Armed Forces returning from activation for active military service be amended by either changing the existing policy, or adopting a new rule pertaining exclusively to activated reservists. The ACBA Military and Veterans Affairs Committee proposes that the Board waive CLE requirements for lawyers activated to military service for the period during which the servicemember is on active duty.

Further, as to CLE credit hours upon return to practice of the activated servicemember, the Board can either require the activated reservist to “pick-up” where he or she left off by obtaining the appropriate number of CLE credit hours by the end of the servicemember’s next regularly occurring compliance period after his or her return.