



## Article 81 of the Mental Hygiene Law

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Tuesday, December 4, 2018

NYC

Wednesday, December 12, 2018

Albany

Program time is from 9:00 a.m. – 5:00 p.m. at both locations

*Sponsored by the Trusts & Estates Law Section, the Elder Law & Special Needs  
Section and the Committee on Continuing Legal Education of the New York State Bar  
Association*

This program is offered for educational purposes.

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## **Program Description**

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Under Article 81 of the Mental Hygiene Law, persons appointed as a court evaluator or guardian, in almost all cases, must receive training approved by the Office of Court Administration. This program has been approved by the Office of Court Administration for such purposes. The highly qualified and experienced practitioners in the health, elder and guardianship law fields on the faculty will highlight the latest legal and regulatory developments in this area as well as the fundamentals of how to serve as an effective guardian or court evaluator. This program fulfills the training requirements for enrollment on the Part 36 Fiduciary Eligibility List as guardian, court evaluator, and attorney for alleged incapacitated persons.



## Program Agenda

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8:30 a.m. – 9:00 a.m. Registration

9:00 a.m. – 9:10 a.m. Introductory Remarks

9:10 a.m.–10:00 a.m. **Part 36 of the Rules of the Chief Judge**

- Review of Part 36 as to applies to Article 81
- Part 36 Procedural Requirements
- Disqualification Requirement
- Compensation Limits

*(1.0 MCLE credit; 1.0 Areas of Professional Practice)*

10:00 a.m.–10:50 a.m. **Introduction to Topic and Background**

- Article 81 comparison with SCPA 17-A
- Orientation to medical terminology including capacity determination, medical assessments and extent of impairment

*(1.0 MCLE Credits; 1.0 Areas of Professional Practice)*

10:50 a.m. –11:00 a.m. Break

11:00 a.m.–11:50 a.m. **The Proceeding**

- Commencing a Guardianship proceeding including emergency relief, single transactions and ethical issues
- Court Evaluator Educational Requirements
  - Legal Duties and Responsibilities of the Court Evaluator
  - Rights of the Incapacitated Person
  - Available Resources to the Incapacitated Person
- Hearing and Order: Drafting the Order and Judgment

*(1.0 MCLE Credits; 1.0 Areas of Professional Practice)*

11:50 a.m.–12:50 p.m. Lunch (on your own)

12:50 p.m.–2:30 p.m. **Guardianship**

- Legal Duties and Responsibilities of a Guardian
    - Legal Duties and Responsibilities of the Guardian
    - Rights of the Incapacitated Persons
    - Available Resources to the Incapacitated Person
  - Entitlements
  - Health Care Decision Making
  - Resources
  - Annual and Final Reports
- (2.0 MCLE Credits; 2.0 Skills)*

2:30 p.m.–2:40 p.m. Break

2:40 p.m. -4:45 p.m. **Representation**

- Counsel for the AIP
  - Legal Fees: Fee Application
  - “Who is the Client?”
  - Psychological and Social Concerns Relating to the Disabled and Frail Older Adults
  - Ethical Considerations for Guardians
  - Role of MHLS
- (2.5 MCLE Credits; 2.5 Ethics)*

4:45 p.m. Adjournment

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## Accessing the Online Course Materials

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Below is the link to the online course materials. These program materials are up-to-date and include supplemental materials that were not included in your course book.



[www.nysba.org/Article81ECM](http://www.nysba.org/Article81ECM)

All program materials are being distributed online, allowing you more flexibility in storing this information and allowing you to copy and paste relevant portions of the materials for specific use in your practice. WiFi access is available at this location however, we cannot guarantee connection speeds. This CLE Coursebook contains materials submitted prior to the program. Supplemental materials will be added to the online course materials link.



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# **New York Rules of Professional Conduct**

These Rules of Professional Conduct were promulgated as Joint Rules of the Appellate Divisions of the Supreme Court, effective April 1, 2009, and amended on several occasions thereafter. They supersede the former part 1200 (Disciplinary Rules of the Code of Professional Responsibility).

The New York State Bar Association has issued a Preamble, Scope and Comments to accompany these Rules. They are not enacted with this Part, and where a conflict exists between a Rule and the Preamble, Scope or a Comment, the Rule controls.

This unofficial compilation of the Rules provided for informational purposes only. The official version of Part 1200 is published by the New York State Department of State. An unofficial on-line version is available at [www.dos.ny.gov/info/nycrr.html](http://www.dos.ny.gov/info/nycrr.html) (Title 22 [Judiciary]; Subtitle B Courts; Chapter IV Supreme Court; Subchapter E All Departments; Part 1200 Rules of Professional Conduct; § 1200.0 Rules of Professional Conduct).

**[http://nycourts.gov/rules/jointappellate/  
NY-Rules-Prof-Conduct-1200.pdf](http://nycourts.gov/rules/jointappellate/NY-Rules-Prof-Conduct-1200.pdf)**



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