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I. Statutory Changes

a. System Structure
    i. Brand Change: Office of Public Defense (OPD)
        1. MCILS brand should change to the Office of Public Defense to better align with the anticipated changes to the agency including the incorporation of various public defender offices and the change in the relationship between the agency and indigent persons who receive its services.
    ii. Defense Counsel Structure
        1. Personnel
            a. Administrative Authority to:
                i. Establish public defender office;
                ii. Employ staff defense counsel and define counsel roles as necessary;
                iii. Employ public defender office staff as necessary;
                iv. Allocate employed and contract / assigned counsel according to operational need across geographic and practice areas;
                v. Establish
        2. Contract Counsel Payment
            a. OPD Ability to:
                i. Establish contract / assigned counsel payment rules and requirements;
                ii. Establish rules regarding contract / assigned counsel payment during OPD investigations regarding counsel;
                iii. Establish billing and invoicing standards for contract / assigned counsel
        3. Biennial Budget
            a. Sufficient headcount funds to staff public defender offices at sufficient levels
    iii. Appointments
        1. Establish clear authority to
            a. appoint counsel in any and all indigent cases;
            b. vacate any appointment;
        2. Changes to Court Appointment Process
            a. The proposed changes to the appointment process outlined below will require statute changes limiting the court's ability to appoint counsel
    iv. Statute Structure
        1. Commission Responsibilities § 1804
            a. Separate Standards, Duties, and Powers into separate individual sections possibly further by subject matter;
            b. Redefine statute to accurately describe the responsibilities of the 9 member commission rather than the agency's responsibilities and powers generally;

        2. Renumber §1805-A so statutes are numerically consistent §1807 or similar

b. Definitions
    i. Generally
        1. Move all definitions to §1802
            a. Definitions from §1806
                i. Individual Client Information
                ii. Personal Contact Information
                iii. Request for Funds for Expert or Investigative Assistance
                iv. Case Information
        2. Simplify existing definitions
            a. Remove unnecessary semantic differences
                i. Assigned Counsel
                ii. Appellate Counsel
                iii. Contract Counsel
            b. Simplify redundant or unnecessary language
    ii. Redefine
        1. Individual Client Information
            a. Make definition more accessible
            b. Expand concept of which information is client information to include any identifiable information
        2. Personal Contact Information
        3. Request for Funds for Expert or Investigative Assistance
            a. Simply on Redefinition (Non-Counsel Vendor Funds Request or similar)
        4. Case Information
            a. Expand the definition to more accurately reflect the case information received and maintained by the OPD
            b. Clarify that only applies to de-identified data
            c. Remove Docket Number
    iii. Add Definitions for
        1. Public Defenders
        2. Supervisors
        3. Employed Counsel
        4. "Flying Squad"
        5. Public Defender Office Staff

c. Investigative Ability / Authority
    i. Redefine nature and extent of audit / investigative authority

d. Confidentiality Expansion
    i. Privilege Protection
        1. Provide continuing attorney-client privilege protection to information communicated or provided to OPD administrative staff
    ii. Confidentiality Statute §1806 Update

        1. Clarity regarding the extent of confidentiality not only applicable to FOAA, but consistent with RPC 1.6 secret keeping requirements.

e. Nature of Relationships
    i. Clients
        1. Create new statute redefining relationship between OPD and indigent persons receiving OPD services
    ii. Attorneys
        1. Create a new statute redefining the relationship between OPD and counsel
            a. Appointed / Assigned Counsel
                i. Contracts
                ii. Agreement to comply with rules as established by OPD according to its rule making authority
                iii.
            b. Employed Counsel / Public Defenders
                i. Establish relationship between OPD and employed counsel through State of Maine HR policies
    iii. Non-Counsel Vendors
        1. Rules regarding compensation scheme for non-counsel vendors
    iv. Judicial Branch
        1. Redefine interaction with Judicial Branch
            a. Exchange of Information
            b. Change reporting requirements

f. Agency Response to Rules Noncompliance
    i. OPD to establish rules regarding:
        1. Attorney non-compliance with investigations;
        2. Non-payment or payment freezes;
            a. During investigations;
            b. Upon suspected fraudulent billing;
            c. Non-compliance with investigations or audits;
    ii. OPD ability to file suit against contract / assigned counsel to:
        1. Recoup overpayments whether due to fraud or error
        2. Compel production of evidence

g. Indigency Guidelines
    i. Responsible Agency Designation
        1. Redefine agency responsibility for
            a. indigency determinations
            b. eligibility criteria establishment
            c. funds collection from indigent defendants
    ii. Eligibility Criteria
    iii. Collections

II. Rule Changes

h. Systemic Changes
    i. Numbering Scheme
        1. Redefine numbering scheme to make it more logical and consistent
        2. Renumber existing rules as necessary to accommodate rule changes and additions
    ii. Structure
        1. Reorganize and Rename rules as necessary and appropriate to accommodate new rule changes and additions
        2. Change spacing between rules and order rules in logical progression
    iii. Appointments
i. Attorney Qualification/Eligibility Rules
    i. Attorney qualifications and eligibility rules will be established by the Training and Supervisions Division. The concept is listed here to signal that attorney qualifications and eligibility requirements will be established or revised by formal rule. The anticipated rules are described further below. Including changes in methods for rostering / certification.
j. Financial Reporting Framework/Billing Requirements
    i. The financial reporting framework / billing requirements are outlined in the Audit Division section as the Audit Division will develop and establish the framework. However, it is listed here to indicate that the framework will be incorporated by rule. The financial reporting framework is outlined further below.
k. Pay Rate and Rules
    i. Generally
        1. Billing rules will be substantially established by the financial reporting framework which will define billing requirements for contract / assigned counsel. However, the financial reporting framework will primarily address how to bill rather than what is billable / payable.
        2. Therefore, OPD / MCILS will use separate rules to establish payment rates and rules.
    ii. Payment for all Work Performed
        1. Clarify OPD / MCILS will pay counsel for all work actually performed in providing indigent defense services to OPD / MCILS clients.
        2. Clarify that contract counsel are encouraged to seek payment for all the work they perform for indigent defendants.
            a. (Note: the financial reporting framework is anticipated to require contract counsel to record and report all work performed.)
    iii. Duty LOD
        1. Independent minimum fee schedule based on work
            a. Interim before arranging permanent dedicated services
        2. Permanent / Dedicated Services
            a. RFP fees and structure

            b. Full time employee costs
    iv. Expense Reimbursement Rules
        1. Clarify what is reimbursable
            a. Blacklist and Whitelist reimbursable expenses
            b. Create discretion for reimbursing expenses that fall within the unestablished Graylist
        2. Establish what expenses require pre-authorization before incurring expenses with the expectation that they be paid
            a. i.e. items purchased for client, expensive purchases of goods above a threshold amount,
    v. Non-Counsel Vendor Funds
        1. Establish non-counsel vendor rates
        2. Funds request and approval process to be changed by Audit Division staff
    vi. Paralegal Funds
l. Investigative Rules
    i. Cooperation Requirements
        1. Clarify language regarding attorney cooperation from Chapter 2
        2. Remove or alter language regarding fitness to remain on the roster to include non-compliance with financial reporting framework, investigations, audits, or performance evals.
    ii. Response Timeliness
        1. Direct Inquiries
        2. Automated Alerts and Inquiries
m. Agency Response to Rules Noncompliance
    i. Graduated Sanctions
        1. Payment Freeze
        2. Suspension
            a. Administrative
            b. Temporary
            c. Permanent
        3. Repayment for Overpayment
        4. Other
    ii. Discretion
        1. Discretion belongs exclusively to the Executive Director or comparable position upon rebranding
        2. Recommendations made by staff
    iii. Delegation
        1. Imposition of Sanctions may not be delegated to OPD administrative staff
n. Indigency Guidelines

    To the extent that indigency determinations and screening remains the OPD / MCILS responsibility:

i. Definitions
    1. Simplify Definitions to improve clarity
    2. Reconsider appropriateness of definitions given anticipated rule changes
    3. Income
        a. Adjust to remove any means-tested benefits
    4. Cash Assets
    5. Other Assets
    6. Necessary Monthly Expenses
        a. Redefine debts to include all debts
ii. Eligibility Criteria
    1. Reconsider appropriate income and asset levels for indigency determination
        a. Cash Assets
        b. Relevant of federal poverty guidelines
        c. Cost of living increases
        d. Inflation
    2. Reconsider partial indigency
        a. Appropriateness of partial indigency determinations in general
    3. Presumption of Indigency
iii. Determinations and Screening
    1. Personnel
        a. Who physically conducts the screenings and makes the indigency determinations
    2. Timing
        a. When screening happens
        b. When appointments are made following screening
    3. Substance
        a. How are people determined to be indigent based on the eligibility criteria
iv. Collections
    1. Reconsider extent to which MCILS should be engaged in collecting funds from indigent people constitutionally entitled to counsel;
    2. Reconsider extent to which cash bail is offset against the cost of providing indigent people with constitutionally required counsel;

III. Training and Supervision Division

Structure of Indigent Defense System

Criminal:

1. Appellate Level: the structure for the appellate indigent criminal defense system will be comprised of appellate defender offices, which will handle all criminal appeals, except in the case of a conflict of interest. If there is a conflict of interest, qualified assigned counsel will represent the defendant.

2. Trial Level: the structure for the trial level indigent criminal defense system will be comprised of both public defender offices and contracted assigned counsel. The public defender offices are expected to represent approximately 20% of indigent defendants throughout the state. Assigned counsel will represent the other 80% of indigent defendants.

    a. **Public Defender System**
        i. Appellate Defender Office
        ii. Trial Level Defender Office
        iii. Attorney Staff:
            1. District Public Defenders
                a. Serve in a supervisory capacity. Supervise deputy and assistant public defenders.
                b. Supervise the office manager and indirectly supervise all PD office staff.
                c. Do not maintain a caseload, but a significant portion of their work is dedicated to serving as co-counsel for deputy and assistant public defenders.
                d. Experienced criminal defense attorneys who are fully certified in all MCILS criminal panels.
                e. Report to MCILS.
                f. Representatives for the defense at meetings with the judiciary, prosecutors, and other interested parties.
            2. Deputy Public Defenders
                a. Assist the district public defender in supervisory duties.
                b. Supervise a maximum of 10 assistant public defenders.
            3. Assistant Public Defenders
                a. Represent indigent criminal defendants under the supervision of deputy and district public defenders.
        iv. Support Staff:
            1. Office Manager
                a. Supervises support staff
                b. Deals with HR and administrative tasks for office
            2. Secretaries
                a. Administrative work. Answers phones, prepares form client letters for attorneys, schedules client appointments, etc.

3. Paralegals
    a. Assists public defenders in:
        i. Legal research
        ii. Drafting motions, orders, and correspondence
        iii. Preparing sentencing memoranda
        iv. Trial preparation.
4. Investigators
    a. Trial level defender offices only
5. Mitigation Specialists
    a. Trial level defender offices only
    b. Assists in gathering mitigating information, collecting letters in support of clients, preparing sentencing memoranda, and coordinating witnesses for sentencing hearings.
    c. Keeps track of all clients who have been ordered to undergo IST or NGRI evaluations. Assists in connecting clients with evaluators. Stays current on the status of all such cases and evaluations, including and MH docket clients.
    d. Helps connect clients with services needed for reentry into society (*e.g.* health insurance, halfway houses, treatment providers, housing, and employment).
    e. Maintains a database of all relevant treatment providers and other services which support clients in reentry.

b. Assigned Counsel System

i. District Supervisors
    1. Supervises all assigned counsel supervisors.
    2. Representative for the defense at meetings with the judiciary, prosecutors, and other interested parties.
    3. Are state employees.
    4. Reports to MCILS.

ii. Assigned Counsel Supervisors
    1. Supervises a maximum of 10 assigned counsel attorneys who primarily practice criminal law.
    2. Are state employees.
    3. Cannot maintain an independent caseload (retained or appointed).

iii. Assigned Counsel
    1. Represents indigent defendants in trial level cases.
    2. Assigned to cases by MCILS.
    3. Contractors, not employees, paid hourly.

iv. Contractors
    1. Investigators
    2. Mitigation Specialists

Child Protective:

1. Appellate Level: the structure for the appellate child protective defense system will be comprised of an appellate defender office, which will handle all child protective appeals, except in the case of a conflict of interest. If there is a conflict of interest, qualified assigned counsel will represent the defendant.

2. Trial Level: The structure for the trial level indigent child protective defense system will be comprised of both public defender offices and contracted assigned counsel. The public defender offices are expected to represent approximately 20% of indigent defendants throughout the state. Assigned counsel will represent the other 80% of indigent defendants.

    a. Public Defender System
        i. Appellate Defender Office
        ii. Trial Level Defender Office
        iii. Attorney Staff:
            1. District Public Defenders
                a. Serve in a supervisory capacity. Supervise all deputy and assistant public defenders and PD office support staff in that region.
                b. Do not maintain caseloads, but a significant portion of the district public defender's work is dedicated to serving as co-counsel for deputy and assistant public defenders.
                c. Are experienced PC attorneys who are fully certified in the PC panel.
                d. Report to MCILS.
                e. Representatives for the parents' bar at meetings with the judiciary, prosecutors, and other interested parties.
            2. Deputy Public Defenders
                a. Assist the district public defender in supervisory duties.
                b. Supervise up to 5 assistant public defenders.
            3. Assistant Public Defenders
                a. Represent criminal indigent parents in PC cases under the supervision of deputy and district public defenders.
        iv. Support Staff:
            1. Office Manager
                a. Supervises support staff.
                b. Deals with HR and administrative tasks for office
            2. Secretaries
                a. Administrative work. Answers phones, prepares form client letters for attorneys, schedules client appointments, etc.
            3. Paralegals
                a. Assist public defenders in:

i. Legal research
ii. Drafting motions, orders, and correspondence
iii. Preparing sentencing memoranda
iv. Trial preparation.

4. Parent Advocates
    a. Maintain regular contact with clients to help them stay on track with their obligations pursuant to reunification plans. This can include assisting clients with arranging transportation, scheduling appointments, appointment reminders, court date and FTM reminders, and other related services.
    b. Maintain regular contact with GAL and DHHS caseworker to get updates on the case, relays this information to attorney.
    c. Helps connect clients with services to support reunification (*e.g.* health insurance, treatment providers, housing, employment, parenting classes).
    d. Maintains an up-to-date database of all the relevant treatment providers and other services which benefit parents.

b. Assigned Counsel System

i. Assigned Counsel
    1. Contractors, not employees.
    2. Attorneys are assigned to cases by MCILS.

ii. Assigned Counsel Supervisors
    1. Supervise a maximum of 5 assigned counsel attorneys who primarily represent parents in PC cases.
    2. Are state employees.
    3. Cannot maintain an independent caseload (retained or appointed).

<u>Probate:</u>

1. Assigned Counsel (100%)

Assignment of Counsel:

Criminal:

1. **Screening:**
    a. Defendants to be screened for eligibility by an employee of the judiciary (not MCILS)

2. **Appointments by a Court:**
    a. If a court determines that a defendant is eligible for counsel, the court will appoint unnamed counsel, and forward that appointment to MCILS the same day of the appointment.

    b. MCILS will then assign counsel. MCILS will distribute approximately 20% of the appointments to the Public Defender Office. The remaining cases will be distributed to assigned counsel by MCILS based on eligibility.
        i. Public Defender System
            1. Once MCILS assigns a case to the Public Defender Office, the Public Defender Office will be responsible for assigning the case to an assistant or deputy public defender.
            2. If the PD office has a conflict of interest and cannot represent the client, the PD office will immediately notify MCILS. MCILS will then assign the case to an assigned attorney.
        ii. Assigned Counsel System
            1. Cases will be distributed by MCILS directly to counsel.
            2. If counsel has a conflict, they will immediately notify MCILS and MCILS will assign the case either to the PD office or to another assigned counsel.

3. **Internal Assignments:**
    a. MCILS will retain its authority to assign counsel to a case, regardless of whether a court appoints counsel to a case. This will most frequently, though not exclusively, occur through the Duty LOD Program. MCILS will assign counsel in accordance with the assignment procedures outlined above.

    b. Internal assignment process:
        i. Client requests counsel from Duty LOD;
        ii. Duty LOD finds eligible counsel who agrees to represent client;
        iii. Duty LOD notifies MCILS;
        iv. MCILS provides Duty LOD with conditional assignment of counsel form;
        v. Duty LOD obtains signatures of counsel to be assigned and client on the assignment of counsel form;
        vi. Duty LOD returns executed assignment of counsel form to MCILS;
        vii. Assigned counsel enters an appearance with the appropriate court(s); and

viii. Client will be screened by financial screener at their initial appearance, or within 60 days of the internal assignment if there is no future initial appearance scheduled.

Child Protective:

1. **Screening:**
    a. Individuals to be screened for eligibility by an employee of the judiciary (not MCILS)

2. **Appointments by a Court:**
    a. If a court determines that a defendant is eligible for counsel, the court will appoint unnamed counsel, and forward that appointment to MCILS the same day of the appointment.

    b. MCILS will then assign counsel. MCILS will distribute approximately 20% of the appointments to the Public Defender Office. The remaining cases will be distributed by MCILS to assigned counsel based on eligibility.
        i. Public Defender System
            1. Once MCILS assigns a case to the public defender office, the public defender office will be responsible for assigning the case to a qualified assistant or deputy public defender.
            2. If the PD office has a conflict of interest and cannot represent the client, the PD office will immediately notify MCILS. MCILS will then assign the case to an assigned attorney.
        ii. Assigned Counsel System
            1. Cases will be distributed by MCILS directly to counsel.
            2. If counsel has a conflict, they will immediately notify MCILS and MCILS will assign the case either to the PD office or to another assigned counsel.

3. **Internal Assignments:**
    a. MCILS will retain its authority to assign counsel to a case, regardless of whether a court appoints counsel to a case. This will happen in accordance with the assignment procedures outlined above.

Probate:

1. **Screening:**
    a. Individuals to be screened for eligibility by an employee of the judiciary (not MCILS)

2. **Appointments by a Court:**
    a. If a court determines that a person is eligible for counsel, the court will appoint unnamed counsel, and forward that appointment to MCILS the same day of the appointment.

    b. MCILS will then assign counsel pursuant to the assigned counsel system:
        i. Cases will be distributed by MCILS directly to counsel.
        ii. If counsel has a conflict, they will immediately notify MCILS and MCILS will assign the case to another assigned counsel.

3. **Internal Assignments:**
    a. MCILS will retain its authority to assign counsel to a case, regardless of whether a court appoints counsel to a case. This will happen in accordance with the assignment procedures outlined above.

Attorney Qualification:

1. **Panels:**
    a. Criminal:
        i. Misdemeanor
        ii. Felony
        iii. Sex Offense
        iv. Murder
        v. Post-Conviction Review
        vi. Appeals
        vii. Juvenile

    b. Child Protective

    c. Probate:
        i. Emancipation
        ii. Guardianship
        iii. Civil Commitment

2. **Certification:**
    a. In General:
        i. All certification and recertification to be approved by MCILS staff.
        ii. Applications are required for provisional and full certification in each panel.
        iii. Applicant to submit a complete application package to MCILS. Incomplete applications will not be considered.
        iv. Certification, recertification, and participation in any or all panels or individual cases is at the Executive Director's discretion.
        v. During a period of provisional certification for any panel, the attorney must meet with their supervising attorney a minimum of one time weekly.
        vi. Once an attorney is fully certified, they must meet with their supervising attorney a minimum of one time monthly.

    b. Waivers:
        i. No waivers of any requirement will be permitted for new applicants.
        ii. For existing rostered attorneys, a waiver of the provisional and/or full certification processes for any panel may be granted at the discretion of the Executive Director or their designee if:
            1. The attorney submits a written request using a designated waiver request form to MCILS@maine.gov on or before [deadline];
            2. The attorney has been a licensed Maine attorney for a minimum of 2 years;
            3. The attorney has conducted a minimum of 2 trials;

4. The Executive Director or their designee determines that the attorney has demonstrated sufficient competency to practice law in each panel for which a waiver is requested;
5. Is currently a rostered attorney in good standing with MCILS; and
6. Meets all additional panel-specific waiver criteria outlined herein:
    a. Misdemeanor:
        i. Is currently eligible for OUI and DV case assignments; and
        ii. Has tried a minimum of 2 criminal cases in the past 5 years.
    b. Felony:
        i. Is currently eligible for serious violent felony (SVF) case assignments; and
        ii. Has tried a minimum of 2 criminal cases in the past 5 years.
    c. Sex Offense:
        i. Is currently eligible to receive sex offense cases; and
        ii. Has tried a minimum of 1 felony sex offense case in the past 5 years.
    d. Murder:
        i. Has tried a minimum of 1 murder case in the past 5 years.
    e. Post-Conviction Review:
        i. Is currently eligible to receive PCR case assignments; and
        ii. Has represented clients in a minimum of 3 post-conviction review cases in the last 5 years.
    f. Appeals:
        i. Is currently eligible to receive appeals case assignments; and
        ii. Has represented clients in a minimum of 3 appeals in the last 5 years.
            1. If applying for a waiver to handle PC and criminal appeals, applicant must have represented clients in a minimum of 3 appeals in the past 5 years for each case type.
    g. Juvenile:
        i. Is currently eligible to receive juvenile misdemeanor, felony, and sex offense case types; and

ii. Has represented a minimum of 10 clients in juvenile proceedings from the beginning to the conclusion of the cases in the last 5 years.

h. Child Protective:

i. Is currently eligible to receive child protective case assignments;

ii. Has conducted a minimum of 3 contested jeopardy hearings in the last 5 years; and

iii. Has conducted a minimum of 3 contested termination of parental rights hearings in the last 5 years.

i. Probate:

i. Emancipation, guardianship, civil commitment experience requirements?

iii. Anyone granted a waiver of either or both the provisional and full certification processes will not be exempt from recertification processes.

iv. Anyone granted a waiver of the provisional and/or full certification processes must complete the relevant minimum standards training(s) no later than their first recertification deadline.

v. Waivers are not available to assistant public defenders.

c. General Requirements:

i. In addition to all panel-specific certifications outlined in (d) below, all applicants must satisfy the following requirements to be eligible for provisional or full certification for any panel:

1. Licensed to Practice

a. The attorney must be licensed to practice law in the State of Maine and be in good standing with the Maine Board of Overseers of the Bar.

b. The attorney must promptly inform the Commission, in writing, of any complaint against the attorney filed with the Maine Board of Overseers of the Bar, or with the entity responsible for governing attorney conduct in any other jurisdiction. Failure to comply with this requirement is grounds for revoking the attorney's MCILS certification.

c. The attorney must inform the Commission, in writing, within 5 calendar days of any criminal charge filed against the attorney in any jurisdiction and promptly inform the Commission of any disposition of such charge. Failure to comply with this requirement is grounds for revoking the attorney's MCILS certification.

2. Office, Telephone, and Electronic Mail
    a. The attorney must maintain an office or have the use of space that is reasonably accessible to clients and that permits the private discussion of confidential and other sensitive matters.
    b. The attorney must maintain a telephone number, which shall be staffed by personnel available for answering telephone calls or an answering service, an answering machine or voicemail capability that ensures client confidentiality.
    c. The attorney must maintain a confidential working e-mail account as a means of receiving information from and providing information to the Commission.
    d. The attorney must keep the Commission and the courts in which the attorney represents indigent clients apprised of the attorney's work telephone number and postal and electronic mail addresses. The attorney must ensure that the courts have the ability to contact the attorney by mail and by telephone.

3. Application
    a. The attorney must complete the application in its entirety.
    b. The attorney must swear to the accuracy of the application package.
    c. The attorney must certify that they have read, understood, and agree to be bound by the Commission Rules.
    d. The attorney must agree to fully cooperate with all Commission assessments, investigations, evaluations, audits, reviews, and requests for information.

d. <u>Panel-Specific Certification Requirements:</u>
    i. Criminal:
        1. Misdemeanors:
            a. Provisional Certification:
                i. Complete criminal minimum standards training and meet all other current application requirements; and
                ii. Must have fully certified co-counsel for all substantive motions and first 3 trials.
            b. Full Certification:
                i. Minimum 12 months of practice under provisional certification;
                ii. Completed minimum 3 misdemeanor trials under provisional certification;

iii. Recommendation of direct supervisor, certified in writing; and
iv. Completed trial bootcamp.

2. Felonies:
    a. Provisional Certification:
        i. Complete criminal minimum standards training and meet all other current application requirements; and
        ii. During provisional certification period, must have fully certified co-counsel for all substantive motions and first 5 felony trials.
    b. Full Certification:
        i. Must submit a writing sample from one of applicant's cases which demonstrates zealous, effective, high-quality representation;
        ii. Minimum 1 year of practice under felony provisional certification;
        iii. Must be fully certified for misdemeanors;
        iv. Completed minimum 5 felony trials under felony provisional certification;
        v. Written recommendation of direct supervisor; and
        vi. Completed trial bootcamp.

3. Sex Offenses:
    a. Provisional Certification:
        i. Complete criminal law and sex offense minimum standards trainings;
        ii. Meet all current application requirements; and
        iii. Must have fully certified co-counsel for all substantive motions for sex offense cases and on first 3 sex offense trials.
    b. Full Certification:
        i. Must submit a writing sample from one of applicant's cases which demonstrates zealous, effective, high-quality representation;
        ii. Minimum 18 months of practice under sex offense provisional certification;
        iii. Completed minimum 3 sex offense trials under sex offense provisional certification;
        iv. Must be fully certified in felony panel;
        v. Letters of support from 3 Maine licensed attorneys;
        vi. Written recommendation of direct supervisor; and
        vii. Completed trial bootcamp.

4. Murder:
    a. Provisional Certification:
        i. Complete murder minimum standards training;
        ii. Meet all current application requirements;
        iii. Must be fully certified in felony panel; and
        iv. Must have fully certified co-counsel for all substantive motions on murder cases and first 3 murder trials.
    b. Full Certification:
        i. Must submit a writing sample from one of applicant's cases which demonstrates zealous, effective, high-quality representation;
        ii. Minimum 2 years of practice under provisional certification;
        iii. Completed minimum of 3 murder trials under murder provisional certification;
        iv. Letters of support from 3 Maine licensed attorneys;
        v. Written recommendation of direct supervisor; and
        vi. Completed trial bootcamp.

5. Post-Conviction Review:
    a. Provisional Certification:
        i. Complete PCR minimum standards training;
        ii. Meet all current application requirements;
        iii. Must be fully certified in misdemeanors and felonies; and
        iv. Must have fully certified co-counsel for the first 3 PCR cases.
    b. Full Certification:
        i. Requires application;
        ii. Must submit a writing sample from one of applicant's PCR cases which demonstrates zealous, effective, high-quality representation;
        iii. Minimum 2 years of practice under provisional certification;
        iv. Completed minimum 3 PCR cases under provisional certification;
        v. Letters of support from 3 Maine licensed attorneys; and
        vi. Written recommendation of direct supervisor.

6. Appeals:
    a. Provisional Certification:
        i. Complete appeals minimum standards training;
        ii. For PC appeals, must be fully certified for the PC panel;
        iii. For criminal appeals, must be fully certified in misdemeanor, felony, and sex offense panels; and
        iv. Must have fully certified co-counsel for first 3 appeals.
    b. Full Certification:
        i. Completed a minimum of 3 appeals from initiation of the appeal through conclusion;
            1. If seeking certification for both PC and criminal appeals, applicant must have completed a minimum of 3 appeals from each case type;
        ii. Must submit a brief from one of applicant's appellate cases which demonstrates zealous, effective, high-quality representation;
        iii. Minimum 2 years of practice under appeals provisional certification;
        iv. Letters of support from 3 Maine licensed attorneys; and
        v. Written recommendation of direct supervisor.

7. Juvenile:
    a. Provisional Certification:
        i. Completed criminal and juvenile law minimum standards trainings;
        ii. Must meet all other current application requirements;
        iii. Must have fully certified co-counsel at all court appearances and client meetings until the attorney has represented at least 5 juvenile clients in cases from the beginning through the conclusion of those cases.
    b. Full Certification:
        i. Must have been provisionally certified for juvenile offenses for a minimum of 1 year;
        ii. Must have represented at least 10 juvenile defendants from the beginning through the conclusion of their cases;

1. This must include at least 2 felony and 2 sex offense cases;

iii. Written recommendation of direct supervisor; and
iv. Completed trial bootcamp.

ii. Child Protective:
1. Provisional Certification:
a. Complete PC minimum standards training and meet all other current application requirements to become provisionally certified;
b. Must have fully certified co-counsel for the first 10 contested hearings; and
c. Must have fully certified co-counsel for the first 3 TPR hearings.
2. Full Certification:
a. Minimum 12 months of practice under provisional certification;
b. Completed minimum of 10 contested hearings and 3 contested TPR hearings under provisional certification;
c. Written recommendation of direct supervisor; and
d. Completed trial bootcamp.

iii. Probate:
1. Provisional Certification:
a. Must complete the probate minimum standards training;
b. Must meet all other current application requirements; and
c. Must have fully certified co-counsel for all court appearances for the first 2 cases of each case type (emancipation, guardianship, civil commitment, and NCR).
2. Full Certification:
a. Minimum 1 year of practice under provisional probate certification;
b. Completed a minimum of 2 cases of each case type for which the applicant is seeking case assignments;
c. Written recommendation of direct supervisor; and
d. Completed trial bootcamp.

3. **Recertification:**
    a. Attorneys must recertify for each panel for which they have previously certified every 3 years.

    b. Will review prior 3 years' evaluations.

    c. Must be recommended by direct supervisor to recertify.

    d. Must demonstrate competency, zealous advocacy.

    e. Provide a writing sample from a case the attorney handled within the past 3 years.

    f. Provide brief synopsis of all cases the attorney tried in the past 3 years.

    g. Must provide proof of completion of all required CLEs for each panel.

4. **Annual Renewal:**
    a. Attorneys must continue to renew annually.

    b. Certification that they have completed all required CLEs, with proof (Board of Overseers printout, or other verification).

    c. Annual renewals will be due at the same time as annual evaluations.

Training:

1. **In General:**
    a. Once an attorney is provisionally certified in any panel, they are to be paid for attending all CLEs which are required by the Commission. This includes attendance at minimum standards trainings required for certification in other panels, trial bootcamp, and the annual conference.

2. **Minimum Standards Trainings:**
    a. Topics:
        i. Criminal Law
            1. Required for provisional certification in every criminal law panel.
            2. Satisfies the minimum standards training, in full, for the misdemeanor and felony panels
        ii. Sex Offense
        iii. Murder
        iv. Post-Conviction Review
        v. Appeal
        vi. Juvenile Law
        vii. Child Protective
        viii. Probate

    b. MSTs are required to become provisionally certified in any panel

    c. MCILS to offer each MST at least quarterly

3. **Trial Bootcamp:**
    a. Week-long

    b. In-person

    c. Must be completed as a prerequisite to full certification for any trial panel

    d. Offered by MCILS at least bi-annually (October and April)

4. **CLE Requirements:**
    a. CLEs throughout the year to satisfy MCILS annual CLE requirement

    b. Annual conference (during prosecutor's conference)
        i. Suppression issues (for all criminal law, juvenile)
        ii. Attorney wellness
        iii. Case law updates
        iv. Legislative updates

5. **On-Demand Training Resources:**
    a. Website where attorneys can go for on-demand training videos

    b. All MCILS-sponsored CLEs to be recorded to add there

    c. Brief bank, including template motions, orders, etc.

Standards of Practice:

1. **General:**
    a. Mission statement

    b. Client relationships

    c. Zealous advocacy

    d. Professionalism standards

    e. Documentation standards

    f. Caseload limits
        i. Caseload limits will be established
        ii. The limits will be the same for public defenders and assigned counsel

    g. File retention guidelines

    h. defenderData guidelines

    i. Contemporaneous billing

    j. Mandatory use of standards forms:
        i. Client intake sheet
        ii. Client meeting checklist
        iii. Advice of rights letters
        iv. Opening letters
        v. Next court date letters
        vi. Closing letters

2. **Criminal**

3. **Juvenile**

4. **Child Protective**

5. **Probate**

Supervision & Compliance:

1. **In General:**
    a. This section applies to all supervisors, both in the public defender system and the assigned counsel system.

    b. At any given time, supervisors cannot supervise more than:
        i. Criminal: 10 supervisees.
        ii. Child Protective: 5 supervisees
        iii. Probate: 10 supervisees

    c. District public defenders and district supervisors will supervise fewer than 10 attorneys who primarily practice criminal law and fewer than 5 attorneys who primarily represent parents in child protective cases to allow sufficient time to adequately supervise and to attend to administrative obligations.

    d. Supervisors cannot maintain an independent caseload. One of the primary responsibilities of supervisors is to serve as co-counsel in their supervisee attorneys' cases.

    e. If a supervisor is unable to serve as co-counsel in a supervisee attorney's case, the supervisor is responsible for finding qualified co-counsel for that case.

2. **Methods of Supervision:**
    a. Direct observation
        i. Supervisors will perform in-court observation of all supervisees
            1. This is in addition to in-court observations the supervisor makes in cases in which the supervisor is serving as co-counsel
        ii. Supervisors will also observe supervisees in meetings with client when required for certification and whenever else deemed appropriate by the supervisor.
        iii. Supervisors will report to MCILS staff any violations of the standards of practice or Commission rules they observe of any MCILS certified attorney.

    b. Regular supervisor-supervisee meetings
        i. Supervisors must meet with supervisees who are provisionally certified for any panel at least one time weekly.
        ii. Supervisors must meet with supervisees who are fully certified in all panels for which they have applied a minimum of one time monthly.
        iii. During supervisor-supervisee meetings, at a minimum, the following issues must be addressed:

1. A review of the supervisee's files, including upcoming court appearances, plea negotiations, and motions;
2. Whether the supervisee has qualified co-counsel in all cases where co-counsel is required by Commission rules, and in all other cases which the supervisor deems co-counsel appropriate;
3. Supervisee's trial preparation and strategy;
4. Verification that the supervisee's caseload is within the established caseload limits; and
5. Supervisee attorneys must review with their supervisor all offers made in cases for which the supervisee is provisionally certified.

c. Evaluations
   i. Supervisors will complete annual evaluations of supervisees on forms provided by MCILS
      1. Supervisors will then have a meeting with the supervisee to discuss the evaluation
      2. Evaluations are to be signed by both supervisor and supervisee, and then submitted to MCILS for review
   ii. Supervisees will complete an annual evaluation of their supervisor on a form provided by MCILS and submit it directly to MCILS for review.
   iii. MCILS review of evaluations:
      1. Supervisee scores poorly:
         a. Low score parameters will be established
         b. Scores within those parameters will lead to either an internal referral for training and supervision assessments or in extreme cases Executive Director investigations.
         c. Where appropriate remediation plans will be developed and implemented with the assistance of the appropriate supervisor.
      2. Supervisor scores poorly:
         a. Low score parameters will be established
         b. Scores within those parameters will lead to either an internal referral for training and supervision assessments or in extreme cases Executive Director investigations.
         c. Where appropriate remediation plans will be developed and implemented with the assistance of the District Defender or District Supervisor.

d. Passive observation using automated processes
   i. This section will be applicable once the new case management system is operational
   ii. Automated case entry

1. MEJIS will automatically open cases in the MCILS case management system
2. MEJIS will automatically enter all pertinent case details into the case management system
3. MEJIS will automatically enter all court appearances for each case in the case management system

iii. Contemporaneous billing requirements
1. All attorneys will be required to enter their time in the case management system contemporaneously.
2. This will include activity-specific entries that allow MCILS to monitor how time is spent on individual cases.
a. This information will be used, in part, to track compliance with practice standards and supervision requirements.
3. Assigned counsel will submit time vouchers through the case management system. Public defenders will only enter their time, but not submit vouchers, in the case management system.

iv. Prompts will be sent to attorneys and their supervisors for real time monitoring and correction of any deviation from standards of practice.

v. Flagged events can be tracked and aggregated over time and analyzed as part of an attorney's annual evaluation.

vi. Data tracking will allow MCILS to assess where additional training and education opportunities might be needed.

vii. Case management system will be used to enforce caseload limits.
1. Attorneys will have access to both their point totals I the case management system.
2. Case management system will automatically manage roster status for attorneys who meet or exceed caseload limits.

e. Established complaint process

i. Applicability:
1. These procedures apply to complaints concerning any MCILS certified attorney, including but not limited to:
a. Complaints that the attorney has failed to provide competent representation to a client to whom they are or were assigned.
b. An allegation that the attorney has engaged in misconduct.
c. An allegation that the attorney has failed to comply with performance standards, guidelines, policies, or Commission rules and the complaint relates to representation in an MCILS assigned case.

ii. In General:
1. All such complaints and allegations referenced in "Applicability" above, are hereafter referred to collectively as "complaints."

2. Notwithstanding these procedures, participation in any and all MCILS panels or cases is at the discretion of the Executive Director.
3. As used in this procedure, the term "Executive Director" includes any designee of the Executive Director, except as prohibited by law, or MCILS rule or policy.
4. "Attorney" as used herein references an MCILS certified attorney who is the subject of a complaint assessment or investigation.
5. Any activity taken by MCILS Training and Supervision staff in response to a complaint will be referred to as an "assessment". Any activity taken directly by the Executive Director will be referred to as an "investigation".

iii. Procedure:

1. Handling of Complaints:
    a. In general:
        i. MCILS staff shall consider any complaint, regardless of the manner in which, or the person by whom it is submitted. Complaints will be handled to the extent and in the manner deemed appropriate by the Executive Director.
    b. Process:
        i. Upon receipt, the complaint will be assigned to an MCILS Training and Supervision staff member for review and processing.
        ii. The staff member will then document the complaint and conduct a preliminary assessment in accordance with this policy using the MCILS Attorney Assessment Intake Form ("intake form").
            1. Alternatively, the staff member may decide to delegate the assessment to the district public defender or district supervisor. In that event, the district public defender or district supervisor will promptly complete the assessment and return the intake form, along with any documents pertinent to the assessment, to Training & Supervision staff.
        iii. At the conclusion of the assessment, if Training & Supervision determine that the complaint is without merit, the assessment will be closed as unfounded.
        iv. If, at the conclusion of the assessment, Training & Supervision staff determine that the complaint may be meritorious, staff will forward the completed intake form and documents related to the assessment to the Executive Director for review. This will

include a recommendation to the Executive Director as to the appropriate disposition or further action to be taken.

v. The Executive Director will then determine what further action, if any, is needed, including opening a formal investigation.

c. Timing:

i. Complaints alleging that an attorney is rendered unable to provide proper client representation due to any of the following will be prioritized whenever practicable:

1. An attorney is suffering from a physical or mental condition, illness, or impairment.
2. An attorney is suffering from substance abuse issues.
3. An attorney has pending criminal charge(s) or recent criminal convictions(s).
4. An attorney is subject to a decision by the Board of Bar Overseers, of any jurisdiction, to impose discipline.

ii. All other complaints will be investigated as expeditiously as possible.

iii. An investigation or assessment is deemed to have commenced on the date when MCILS received the complaint. An investigation or assessment is concluded when the Executive Director has made a written decision as to the appropriate disposition of a complaint.

iv. Remedial Measures and Resolutions

1. Interim Remedial Measures

a. If, at any time, the Executive Director determines that interim remedial measures are warranted, they may take any actions not prohibited by law, Commission rules, or Commission policy on a temporary basis pending final resolution of the complaint.

2. Attorney Cooperation

a. The subject attorney shall cooperate fully with requests and inquiries from the Executive Director or MCILS staff regarding any assessment or investigation. Full cooperation includes responding to all requests and inquiries within the timeframes provided by MCILS in any such request or inquiry.

b. If the attorney fails to comply with a Training and Supervision assessment, as directed by MCILS staff, it will result in an immediate recommendation to the Executive Director that a formal investigation be opened.
c. If the attorney fails to cooperate fully with an investigation the Executive Director may take any action not prohibited by law, Commission rule, or Commission policy.
d. Any failure to fully cooperate with an investigation will serve as justification for the Executive Director to issue subpoenas for information regarding the investigation pursuant to Title 4 M.R.S.A. §1804(3)(O).

3. Complaint Dispositions
    a. Following the assessment or investigation, the Executive Director may do any of the following:
        i. Conclude that no further action is warranted, in which case the matter shall be closed and remain confidential.
        ii. Require remedial actions which may make the attorney's certification conditional and contingent upon completing any condition(s) deemed necessary by the Executive Director.
            1. If the Executive Director requires the attorney to undergo remedial action, remediation may be overseen by:
                a. Training & Supervision staff;
                b. A District or Deputy Public Defender; or
                c. A District Supervisor.
        iii. Suspend the attorney for a definite or indefinite term, or remove the attorney from one or more panels, while permitting the attorney to retain some or all their current cases.
        iv. Suspend the attorney for a definite or indefinite term, or remove the attorney from one or more panels and reassign all the attorney's cases to other counsel.
        v. Take any other action not prohibited by law, Commission rules, or Commission policy.
4. Notice
    a. The attorney shall be promptly notified of any adverse actions taken by the Executive Director.
    b. Any notice required under this subsection shall be by certified mail and email.
5. Scope of Review

a. An attorney who is the subject of a suspension or removal under subsection may appeal said suspension or removal to the full commission pursuant to Title 4 M.R.S.A. § 1804(3)(J) and Commission Rule 94-649 Chapter 201. Any failure to exhaust administrative remedies may result in a bar to future challenges to a decision.

IV. Audit Division

1. Audit Program

The audit program establishes the back-end policies and procedures that will be used by the Audit Division / Audit Team when conducting audit operations. The audit program establishes three distinct audit types. Each audit type has a slightly different purpose and implementation. Additionally, the audit types are separated by their respective roll out dates. Because some audits will require additional infrastructure acquisition or rule changes, the program will roll out gradually as infrastructure is acquired or developed and as the MCILS rules and statutes change as necessary.

a. Generally
    i. At this stage, drafting is nearly complete; however, we have experienced some development delays due to operational needs. In early March, we will begin the division substantive review. Operational needs have put development behind a couple of days. As a result, the some working documents and program sections have not yet been drafted. This is particularly true for more complex portions of the program including the audit criteria. Notwithstanding those delays, we anticipate that the program drafting will be completed on schedule on March 31, 2022.

2. Remaining Tasks
    i. Criteria Development – Behind Schedule but in Development
        a) Data Science Approach
        b) Human Judgment Approach
    ii. First Draft Deadline: Approx. 3/4/2022
    iii. Contact Auditor's Office and OPEGA for program review
        a) Auditor's Office –Dunlap
        b) OPEGA – Kruk
    iv. Audit Division Substantive Review
        a) Division Review Deadline: Approx. 3/10/2022
        b) Structure Changes
            1) Logical Progression
            2) Rearrange Components as Necessary
        c) Substance Changes
            1) Finalize Audit "Types"
            2) Vocabulary Consistency Adjustments
            3) Fill in Placeholders with Correct Content
            4) Insert Internal Section References
        d) Additional Working Docs as Required
            1) Determine whether any additional working docs are needed
            2) Draft as working docs as necessary
        e) Style and Grammar Adjustments

v. Executive Substantive Review
    a) Executive Review Start: Approx. 3/11/2022
    b) Executive Review End: 3/25/2022
    c) Implementable/Publishable Product: Approx. 3/31/2022

b. Records Retention Infrastructure
    1. Central Digital Storage Solution
        i. Redundancy
        ii. Access Controls
        iii. Storage Space
        iv. Centrality
    2. Physical Filing System
        i. Resources
            a) Shelving Infrastructure
            b) Binders (1-2")
            c) Dividers (Plain Dividers)
            d) Tabs (Select Tabs for Binder Organization)
            e) Paper
        ii. Example File Binder

c. Audit Rollout
    1. Generally:
        i. Roll-out will be gradual due to the various requirements for each audit type as described above.
    2. Annual Billing Audits: 1/1/2024
        i. Annual audits cannot occur until after the financial reporting framework is developed and established by rule. We anticipate development to begin and end this year so that contract counsel will have an opportunity to adjust their billing practices before 2023. In 2024 we will be in a better position to conduct our annual audits because contract counsel would have been following the required financial reporting framework for the entire year of 2023.
    3. Continuous Compliance Audits: Implementable with the new Case Management Software
    4. Targeted Audits: Immediately Implementable with Auditing and Investigative Authority
        i. Auditing will be exclusively targeted until the financial reporting framework is developed and implemented and until the MCILS receives its new case management software.
        ii. We will rely on our current investigative authority under the MCILS rules

d. Analytical Procedures and Infrastructure Development
    1. Anomaly Detection

2. Trend Analysis
3. Regression Analyses
4. Visualizations
    i. Data Science Approach
        a) Development Tools
        b) Necessary Libraries
    ii. Low Tech Approach
        a) Excel Proficiency Development
        b) Pre-cook Spreadsheets and Workbooks to generate typical visualizations
5. Improve Database Views
    i. Historical / Legacy Data
    ii. Regular Views Updates

2. Non-Counsel Vendor Program

Upon completion of the audit program, audit staff will reevaluate the how the agency handles non-counsel vendors. We anticipate redesigning the methods for requesting funds non-counsel vendor funds and for submitting corresponding invoices. Additionally, we anticipate reevaluating our relationships with certain vendors including by exploring options for retaining dedicated services for some non-counsel vendors through the RFP process where possible.

a. Timeline:
    1. Start 4/1/2022

b. Nature of Relationships
    1. Clients and Vendors
        i. Whether clients should be involved in the vendor selection process
        ii. To what extent should they be involved
        iii. Obtaining Client Consent
    2. Vendors and MCILS
        i. Fungible Vendors
            a) Translators
            b) Transcriptionists
            c) Non-Specialty Providers
        ii. Non-Fungible Vendors
            a) Specialty Providers
        iii. Payment Timing and Approval Process
        iv. Records Review
    3. Board and MCILS
c. Funds Requests and Approvals
    1. Contracting with Non-Counsel Vendors
        i. Justification for Funds Request by Counsel
        ii. Statement of Work to be Done
        iii. Statement of Qualifications
        iv. Acknowledgment of Master Terms
            a) MCILS Right to Review Product
            b) MCILS Right to Review Notes
            c) Compliance with Auditing
    2. Funds Requests Infrastructure
        i. Form Submissions
        ii. Form Forwarding
    3. Approvals Infrastructure
        i. Delivering Approvals
d. Invoicing and Approvals
    1. Counsel Review of Vendor Work
    2. Description of Vendor Work from Counsel

    3. Vendor's Description of their Own Work
e. Record-Keeping and Records Retention
    1. Policy / Practice
    2. Storage Infrastructure
    3. Method for Storing
        i. "File" Structure
        ii. Folder Naming Convention

3. Assigned Counsel Education

We anticipate providing several forms of business and financial education for attorneys and law students. Specifically, we plan to develop and publish persistent content on our website that will assist people in improving their business and financial practices. We also plan to host traditional style CLEs to provide counsel with CLE credits, but will be available to anyone regardless of their eligibility status. Those CLEs will also be recorded and published on our site for future reference.

a. Timeline
    1. Start Publishing Content: 5/31/2022
    2. CLEs in the Fall (Admin Week)

b. Content Types
    1. Written Products
        i. Guides
        ii. Articles
        iii. Forms
        iv. Templates
        v. Examples
    2. Traditional CLEs
        i. Webinars and Zoom Conferences
        ii. In-Person CLEs (in the future)
    3. Recorded Audio-Visual Content
        i. Recorded Webinars and Zoom Conferences
        ii. Pre-Recorded Videos
        iii. Institutional CLEs through a Contract

c. Approach
    1. In Demand Issues
        i. Written Content
        ii. Traditional CLE Model
    2. Practice Management Series
        i. Written Content
            a) Guides
            b) Templates
            c) Articles
        ii. Resources and External References
        iii. CLEs
    3. Solo Practice Series
        i. Targets
            a) Law Students

b) Existing Rostered Attorneys
c) Un-rostered Associates
d) Any Other Curious People

ii. Written Content
iii. CLEs
iv. External Resources and References

4. Finances and Financial Management
   i. Content Presented in Order of Availability

d. Topics
   1. Practice Management
      i. Business Planning
      ii. Marketing
      iii. Record-Keeping
      iv. Virtual Practices
      v. Financial Health and Budgeting
      vi. Client Management
      vii. Billing
      viii. Collecting Fees and Retainers
   2. Solo Practice and Start-up
      i. Business Planning
      ii. Budgeting for the First Year
      iii. Obtaining a Business Loan
      iv. Getting Clients
      v. Marketing and Making a Marketing Plan
      vi. Building Competence
      vii. Specializing
      viii. Expanding Your Practice
      ix. Hiring Staff
   3. Finances and Financial Management
      i. Business Tax Basics
      ii. Accounting Basics
      iii. IOLTA Management
      iv. Financial Planning and Goal Setting
      v. Saving for Vacation as a Business Owner
      vi. Knowing how much your Services are Worth
      vii. Paying Yourself First
      viii. Planning for Retirement

e. Infrastructure
   1. Central File Storage
   2. MCILS Site Changes
      i. Design Changes

            a) Structure Changes
            b) Content / Page Changes
            c) Usability Considerations
        ii. Content Management
            a) Written Content Pages
            b) Embedded Video
            c) References and External Resources

f. Accessibility
    1. CLE Participation
        i. Eligibility Designations Unnecessary for CLE participation
            a) CLE Participation should generally be available to the public including law students and ineligible attorneys or attorneys not currently accepting court appointments.
        ii. Limits Subject to Venue Capacity
    2. Publicly Available
        i. Written Content
            a) All written content will be publicly available to anyone. This content will not exist behind any paywall or access control.
        ii. References and External Resources
        iii. Embedded Audio and Video
    3. Stored but Unavailable
        i. Some Prior CLEs
            a) It is possible that some prior CLEs will be made unavailable publicly. For example, when CLEs become outdated they may be removed from the site, but retained by the MCILS generally.

g. Law Firm Tax CLE
    1. Speakers
        i. Tax Attorney or CPA
        ii. Criminal Defense Lawyer in business for a while
    2. Content
        i. Business Deductions
        ii. Capitalizing Costs
        iii. Choosing an Accountant or CPA

4. Benefits to Assigned Counsel

Contract counsel have regularly indicated a need for group benefits as individual benefits are generally too expensive for the solo or small firm. Consequently, assigned counsel either spend too much on benefits or simply go without. The audit division anticipates investigating the feasibility of providing those desired benefits to assigned counsel. Doing so will require a substantial time commitment to thoroughly research the available options and arrange implementation. Further, resource availability may prevent or hinder providing some or all the desired benefits. Consequently, these programs are currently at the concept stage and have not been reduced to implementable structures.

a. Student Loan Repayment Assistance Program
    1. Eligibility
        i. Work Commitment
            a) Contract
            b) History
        ii. Income Eligibility Limit (Maybe)
    2. Assistance
        i. Assistance Cap
            a) Based on Income
        ii. Based on IBR Payments
    3. Administration
        i. Additional Personnel
        ii. Infrastructure
            a) Applications to the Program
            b) Recertifications
            c) Payment Processing

b. Administered Group Health Insurance
    1. Research
        i. Substance
        ii. Programs
        iii. Availability
        iv. Internal Administration
        v. Necessary Resources
    2. Planning
    3. Implementation

c. Administered Group Benefits
    1. Research
        i. Substance
        ii. Programs
        iii. Availability

iv. Internal Administration
v. Necessary Resources
2. Planning
3. Implementation

d. Retirement
1. Available Retirement Plans
i. Research
2. Board Pension Plans
i. Research
3. Retirement Options Generally
i. IRA
a) Direct Deposit into an IRA?

e. Voluntary Business Performance Audits
1. Description
i. Starting in 2024 or 2025 we plan to expand our audit capabilities, assuming there are sufficient resources, to include a voluntary business performance audit program. This program is intended to provide attorneys with actionable insights regarding the business side of their practice. It will not address the attorney's substantive performance in the actual practice of law. Further, the program is entirely voluntary, any rostered attorney may request a performance subject to MCILS resource limitations. Finally, there may be some eligibility requirements to ensure that the benefit is provided to attorneys who provide substantial service to indigent clients.
2. Audit Program Expansion
i. Performance Audit
a) The audit program is not currently designed for the type of audit contemplated by this program.
b) As a result, substantial changes or additions will be required to implement performance audits.
ii. Framework Adjustments / Adaptations
3. Program Substance
i. Scope and Limits
ii. Attorney Agreement
1) Timing
2) Substance
I. Access to information and people
II. Cooperation
III. Scope of Engagement (including limits)
IV. Audit Reporting to Attorney
iii. Record-Keeping
iv. Privacy

4. Capacity Limits and Feasibility
    i. Resource Limits
        a) Time
        b) Funds
        c) Staffing
    ii. Capacity Limits
        a) Time
        b) Staffing
        c) Interest
5. Eligibility Requirements
    i. Appointment Commitment
    ii. Firm Size
6. Regularity
    i. Regularity / Frequency dependent on resources and interest

5. Audit Team Education

Professionals are generally expected, if not required, to take continuing education. This is true for attorneys who are required to take CLEs every year. CPAs, who comprise the majority of the auditing profession, are required to take 80 hours of CPE every year. Because the audit team is comprised generally of lawyers, we are not subject to that 80-hour requirement; however, lawyer-auditors and their staff still need to maintain auditing competence. We have instituted a reduced continuing professional education (CPE) requirement which reflects the need to maintain competence and the resource constraints faced by the MCILS including time and personnel resources.

a. Requirement:
    1. Time
        i. Lawyer-Auditor: 40 hours of CPE per year
        ii. Audit Team Staff: 20 hours of CPE per year
    2. Substance
        i. Focus on Core Auditing Areas
        ii. Must be Relevant to Auditing
            a) Analytics
            b) Sampling
            c) Visualizations, etc.
    3. Auditing Standards
        i. Auditors must also maintain familiarity with relevant auditing standards including changes to those auditing standards. The mere fact that the CPE requirement has been met does not relieve any audit team member of their responsibility to stay current with rule changes. Consequently, audit division staff will maintain familiarity with auditing standards by referring to those standards as necessary and by monitoring any changes.

b. Topics
    1. Auditing Basics
    2. Changes to Auditing Standards
    3. Financial Statement Audits
    4. Performance Audits
    5. Data Analytics
    6. Data Science
    7. Sampling
    8. Accounting
    9. Risk Assessments
    10. Fraud Detection
    11. This list of topics is not exclusive and audit staff may pursue other topics so long as they are relevant to auditing.

c. Forms of Training
    1. Open Source
        i. Manuals and Guides
        ii. Books – PDF
        iii. Free Webinars
    2. Paid Programming
        i. AICPA CPE trainings
        ii. Proprietary Guides and Books
        iii. Webinars
    3. Audit Standard Review
        i. Standard Change Updates

d. Tracking
    1. Data
        i. By Auditor and Year
        ii. CPE Hours
        iii. Subject Matter
        iv. Course Name
        v. Course Completion Date
    2. Infrastructure
        i. Excel
    3. Proof of Attendance
        i. Self-Certify
        ii. Certification of Completion or Similar Item from CPE Provider

e. Operational Update:
    1. The audit team staff have each arranged to attend approximate 49.5 hours CPE on essential audit topics offered by the AICPA. That educational material has been made available to the audit team and they are currently in the process of completing that material.

6. High Daily Alerts

The Defender Data system sends MCILS staff alerts daily when attorneys record 12 or more hours worked in a day. Those alerts are tracked and logged by audit division staff who review those alerts daily. The method for handling the alerts themselves and the attorney responses will be changed by audit division staff to make the system more effective and efficient. As a result, the technical means of handling the alerts and responses as well as the response requirements must be updated.

a. Timeline:
    1. Start Date: 2/14/2022
    2. Email Handling Date: 3/10/2022

b. Email Handling

Although Audit Division currently review and track all high daily hours alerts emails, the process is highly inefficient. As a result, Audit Division staff are adjusting how these emails are generated and distributed to staff. Much of this work requires collaboration with Justice Works and OIT. We anticipate arranging all technical requirements, except automation, and instituting the new system by 3/10/2022.

1. High Alerts
    i. Content
        a) Extent to which Content can or must change
    ii. Receipt
        a) Recipients
        b) Method for Changing Recipients
2. Assigned Counsel Reply
    i. Requirements
        a) Timeliness
        b) Content
    ii. Receipt
        a) Recipients
        b) Receipt Frequency
    iii. Receipt Method / Change reply_to
        a) establish alias alerts.mcils@maine.gov
        b) determine recipients of reply
        c) establish mail forwarding from alias
        d) change reply_to in DD
3. MCILS Follow-Up
    i. Content
        a) Form Follow-Up

ii. Timing
    a) First Follow-Up
    b) Repeated Follow-Ups
    c) Limit on Follow-Ups

4. Record-Keeping
    i. Master Spreadsheet
        a) Structure
            1) Alert and Reply Tracking
            2) Time Tracking (between alert and response)
    ii. Tracking Growth
        a) Automate Tracking if Possible or Feasible

c. Automation
    1. Current State
        i. The process of reviewing and tracking high daily hours alerts is entirely manual and extremely inefficient.
        ii. To view the relevant time entries audit staff must manually search for each case by docket number; an extremely slow process given the processing speed of the software.
        iii. The time entries must then be manually entered into a spreadsheet for tracking.
        iv. We use these spreadsheets to help counsel verify the accuracy of their time entries; we have received some positive feedback from this practice.
        v. Unfortunately, the time commitment required to respond to every alert prohibits that practice. As a result, audit staff prioritize the most anomalous alerts when determining where to follow-up.
    2. Anticipated Direction – Automating
        i. Audit Counsel anticipates pre-cooking queries to quickly pull these time entries directly from the underlying database.
        ii. Given the time and tools, we anticipate automating the process of pulling the data and generating a report to provide the respective attorney to make time verification easier. Doing so should drastically reduce the follow-up time commitment thereby allowing audit staff to follow-up with substantially more attorneys.

d. Rule Changes
    1. Response Requirements
        i. Timing – 14 days from alter to respond to automated alert
        ii. Content
            a) Reasons more than 12 hours were billed on that day; AND
            b) Description of any inaccuracies or confirmation that the time billed is accurate;
            c) A statement as to whether and where any corrections were made;

2. Correction Requirements
    i. Simple Corrections
        a) Timing – 14 days from alert to make corrections
    ii. Reimbursement for Overpayments
        a) Timing – 14 days from discovery of error (no later than 28 days after alert) to contact the OPD / MCILS
        b) Reimburse OPD / MCILS for any overpayment as directed by agency staff
3. Timing Exceptions
    i. Bases:
        a) Situation / Reasons beyond attorney actual or constructive control cause delay;
        b) Delay caused by OPD / MCILS Staff
    ii. Discretion
        a) Executive Director; OR
        b) Designee
4. Sanctions for Not Replying
    i. Sanctions should be consistent with sanctions for non-compliance with other agency rules up to and including suspension from receiving court appointments

7. Financial Reporting Framework / Billing Requirements

The Financial Reporting Framework will redefine both how attorneys record the time they spend working on their court appointed cases and how those attorneys report that time to the MCILS. The requirements in the framework will not only provide more reliable billing records, but it will likely increase revenue for contract counsel by facilitating frequent and consistent billing. Additionally, the Financial Reporting Framework will provide the basis for our ability to conduct effective audits.

a. Timing
    1. Roll-Out Deadline: 12/1/2022
    2. Effective Date: 1/1/2023
b. Requirements
    1. Independent Billing Records
    2. Contemporaneity
        i. Frequency: Weekly
    3. Time Entry Details
        i. The financial reporting framework will standardize how contract counsel record the time they spend working on the court appointed cases.
    4. Expense Request Details and Record
c. Rule-Making Process
    1. Determine Rule-Making Timeline
    2. Determine Project Start Date based on Rule-Making Timeline
d. Publishing
    1. Timing: 12/2022
    2. Formal Rule
        i. Published through the rule-making process
    3. Billing Section of Site
        i. Site Content
            a) We anticipate developing direct content on our site that provides the content of the Financial Reporting Framework directly on the site, much like reading any other article. This should increase transparency and accessibility.
        ii. Site Update
            a) Structural changes to the site are necessary to publish as site content.
            b) Likely these changes will occur at the same time as other planned site changes.
        iii. Original pdf Available for Download
    4. Mass Email to Contract Counsel
e. Implementation
    1. Forms and Templates
    2. Internal Process Suggestions

8. Vouchers

a. Operations
    1. Changes to Review
        i. We have made substantial changes to voucher review since October 2021 such as:
            a) Strictly enforcing the 90-day rule;
            b) Verifying time entries that appear erroneous;
            c) Verifying that expenses are compensable;
            d) Encouraging attorneys to bill for all time spent working for their indigent clients;
            e) Encouraging interim vouchers at regular and reasonable intervals;
            f) Ensuring disposition data is included in vouchers where appropriate;
    2. Time Consumption
        i. Takes Approximately 40 % of our time
        ii. Should take up no more than 20% of our time
        iii. Ideally should be a 10% resource draw

b. Reconsideration Process
    1. Continuity Plan
        i. Although the reconsideration window has closed, attorneys will continue to "Request Reconsideration"
        ii. Under Chapter 301 Section 6 attorneys may request an exception to the 90-day rule where the voucher could not have been submitted for reasons outside the actual or constructive control of counsel
        iii. Those vouchers may be paid or rejected in the Executive Director's discretion
    2. Communication with Counsel RE: Continuity
        i. Audit Division staff will draft an email describing to counsel how to continue to request exceptions to the 90-day rule going forward

c. Automation
    1. Much of voucher review should be audited; however, vouchers are too inconsistent to effectively automate voucher approvals given our current resources.

9. Site Redesign and Administration

a. Projects
    1. Substantive Training and Education
    2. Business and Financial Education
    3. External Resources Development
    4. Financial Reporting Framework and Billing Guidance
    5. Attorney Certification Applications and Recertifications
    6. Vendor Funds Requests

b. Redesign
    1. Planning
        i. Structure
            a) Navigation Changes
                1) Main Menu
                2) Side Bar Menus
                3) View Creation and Configuration
            b) Content Type Changes
            c) Content Structure Changes
                1) Page Layouts
        ii. Content
            a) Content Pages
            b) Embedded Content
            c) Accessibility
        iii. Collaboration
            a) Final Design Collaboration
    2. Incremental Development

c. Administration
    1. Trainings and CLEs
    2. Hearings and Other News
    3. Additional Functionality and Maintenance