



NYSBACLE

Friday, September 8, 2017
Buffalo/Amherst

Thursday, September 14, 2017
New York City

Thursday, September 28, 2017
Albany & Webcast

Webcast

This program will also be streamed
as a live webcast.



INCLUDES
1.0 ethics credits

Defending DWI Cases – The Critical Issues

Topics to be covered include:

- Refusal Issues and Use of Refusal at Trial
- Breath Test Issues
- Bad Stops and Arrests
- Blood Test Issues
- Out-of-State Defendants and Youthful Offenders
- DWAI Drugs Issues
- Ethics, Including Prior Convictions & Pending Charges

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Program Description

DWI dispositions rise and fall with the factual, constitutional, and statutory issues that arise in every case. It is the ability to spot, understand, and argue these issues that makes the difference for both the prosecution and the defense. This DWI program will focus on the critical issues that determine the ultimate disposition of these cases.

Who Should Attend: Attorneys who handle DWI Defense; Attorneys who want to expand their practice to include DWI Defense; Prosecutors; Personal Injury Attorneys; Criminal Defense Attorneys.

Agenda

8:30-9:00 a.m. Registration

9:00-9:10 a.m. Welcome and Introduction

9:10-10:25 a.m.

I. Refusal Issues (1.5 MCLE Credit in Skills)

- (a) Right to Counsel
- (b) Report of Refusal Analysis
- (c) Effect on Conditional Licenses & 20-Day Order
- (d) Use of Refusal at Trial
- (e) Commercial Driver's Licenses
- (f) PSD Refusals & the 2-Hour Rule

Speaker:
Peter Gerstenzang, Esq.
Gerstenzang, Sills, Davis, Cohn & Gerstenzang, Albany, NY

10:25-10:35 a.m. Refreshment Break

10:35-11:25 a.m.

II. Breath Test Issues (1.0 MCLE Credit in Skills)

- (a) Mouth Alcohol & Slope Detector
- (b) Partition Ratio
- (c) Body Temperature
- (d) 2-Hour Rule

Speaker:
Steven Epstein, Esq.
Barket, Marion, Epstein and Kearon, LLP, Garden City, NY

11:25-12:15 p.m.

III. Stop and Arrest Issues (1.0 MCLE Credit in Professional Practice)

- (a) Hollman & DeBour
- (b) Anonymous Tips vs. Known Informant
- (c) Mistake of Fact vs. Mistake of Law
- (d) Bad Stops and Arrests

Speaker:
Eric H. Sills, Esq.
Gerstenzang, Sills, Davis, Cohn & Gerstenzang, Albany, NY

12:15-1:15 p.m. Lunch (on your own)

1:15-2:05 p.m.

IV. Blood Test Issues (1.0 MCLE Credit in Skills)

- (a) Extrapolation
- (b) Blood Test Kit Issues
- (c) The Compulsory Chemical Test
- (d) Physician-Patient Privilege
- (e) Admissibility

Speaker:
Edward L. Fiandach, Esq.
Fiandach & Fiandach, Rochester, NY

2:05-3:20 p.m.

V. Disposition Issues (1.5 MCLE Credit in Professional Practice)

- (a) Ignition Interlock Device
- (b) DMV Regulations
- (c) Out-of-State Defendants
- (d) Youthful Offender & Zero Tolerance

Speaker:
Jonathan D. Cohn, Esq.
Gerstenzang, Sills, Davis, Cohn & Gerstenzang, Albany, NY

3:20-3:40 p.m. Refreshment Break

3:40-4:30 p.m.

VI. DWAI Drugs Issues (1.0 MCLE Credit in Professional Practice)

- (a) Impairment - Drugs or Something Else
- (b) Drugs & HGN
- (c) Drug Concentration & Impairment
- (d) Blood vs. Urine
- (e) The DRE & The Rolling Log

Speaker:
Joseph M. Gerstenzang, Esq.
Gerstenzang, Sills, Davis, Cohn & Gerstenzang, Albany, NY

4:30-5:20 p.m.

VII. Ethics Issues (1.0 MCLE Credit in Ethics)

- (a) Prior Convictions & Pending Charges
- (b) Client Relations - - Calls, Emails, and Letters
- (c) Nasty Judges & Lawyers
- (d) Judicial Policies

Speaker:
Peter Gerstenzang, Esq.
Gerstenzang, Sills, Davis, Cohn & Gerstenzang, Albany, NY

Program Faculty



Overall Program Chair
Peter Gerstenzang, Esq.
Gerstenzang, Sills, Davis, Cohn & Gerstenzang
Albany, NY



Joseph M. Gerstenzang, Esq.
Gerstenzang, Sills, Davis, Cohn & Gerstenzang
Albany, NY



Steven Epstein, Esq.
Barket, Marion, Epstein and Kearon, LLP
Garden City, NY



Jonathan D. Cohn, Esq.
Gerstenzang, Sills, Davis, Cohn & Gerstenzang
Albany, NY



Edward L. Fiandach, Esq.
Fiandach & Fiandach
Rochester, NY



Eric H. Sills, Esq.
Gerstenzang, Sills, Davis, Cohn & Gerstenzang
Albany, NY

8.0 MCLE CREDITS:
3.5 Professional Practice; 3.5 Skills; 1.0 Ethics

This program provides **transitional** credit to all attorneys.
For information about New York MCLE requirements, visit www.nycourts.gov/attorneys/CLE.

This program has also been approved for MCLE credit by the **State Bar of California** and the **Pennsylvania Continuing Legal Education Board** for 5.5 credit hours of substantive law and **1.0** credit hours of ethics. All inquiries regarding MCLE credits may be directed to **(518) 487-5606**.

This program has been approved by the **Board on Continuing Legal Education of the Supreme Court of New Jersey** for 8.0 hours of total CLE credit. Of these, 1.0 qualify as hours of credit for ethics/professionalism, and 0 qualify as hours of credit toward certification in civil trial law, criminal trial law, workers' compensation law and/or matrimonial law. This course does not qualify under any of the nine specified new admit areas, in five of which New Jersey attorneys admitted in 2009 or thereafter, in their first full two-year compliance period, must take 15 of their 24 required credit hours (see [BCLE Reg. 201:2](#)).

The New York State Bar Association has been certified as an accredited provider of Continuing Legal Education in the states of New York, New Jersey, Pennsylvania and California.

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(F) September 8, 2017 **Hyatt Place Buffalo/Amherst**
Buffalo
PC: 0ET72 5020 Main Street
Amherst, NY 14226

(Th) September 28, 2017 **New York State Bar Association**
Albany & Webcast
PC: 0ET71 One Elk Street
Albany, NY 12207

(Th) September 14, 2017 **Radisson Martinique on Broadway**
New York City
PC: 0ET74 49 West 32nd Street
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