

## SEMINAR

# Breathe Easy: Breath Testing in Court

*Hear the evidence, be the jury, discuss the strategy*

Due to a state-wide moratorium over the last five years, there have been no breath tests offered as evidence in Massachusetts courts. More recent issues spurred a court order banning their use in late 2021. With this coming to an end, now is the time to take the opportunity to learn or refresh your knowledge about breath testing and its use for prosecution and at trial.

This program covers the basic science behind breath tests. Learn about breath test measurement and alcohol absorption. Discover how breath test machines work and how they are calibrated.

The program then covers the discovery aspects of breath tests. We focus on the eDiscovery portal, learning how to read, interpret the documents, and determine what their importance will be at trial.

Finally, the program looks at the Constitutional and legal issues regarding breath testing. What are the fundamental underpinnings of a prosecution and what are the evidentiary foundations needed to introduce a breath test measurement. In the alternative, what does the defense lawyer need to look for as an objective for a trial with a breath test case.

Breath tests are coming back, but breathe easy, this program has you covered!

## Agenda

- Breath Test Measurement—the Science
- How Breath Test Machines Work
- Discovery and the New eDiscovery Portal
- The Defense and Prosecutor's Perspective
- Constitutional and Legal Issues Regarding Breath Testing
- "Ask the Experts" Q&A Session

## Faculty

Joseph D. Bernard, Esq., *Law Offices of Joseph D. Bernard, PC, Springfield*, Chair

Joseph C. Anderson, Ph.D., *Anderson Bioscience, Seattle, WA*

Hon. Robert S. Murphy, Jr., *Springfield District Court, Commonwealth of Massachusetts*

Michael J. Russo III, Esq., *Northwestern District Attorney's Office, Commonwealth of Massachusetts*

Jimmie L. Valentine, Ph.D., *Steven Epstein DWI Defense Institute, New York, NY*

## Dates & Location

Register at [www.mcle.org](http://www.mcle.org)

### LIVE WEBCAST

Wednesday, May 25, 2022

12:00 noon–4:00 pm

Program Number: 2220249WBC

### REBROADCAST

Thursday, June 9, 2022

1:00 pm–5:00 pm

Program Number: 2220249RBC

### REBROADCAST

Friday, June 17, 2022

9:30 am–1:30 pm

Program Number: 2220249RB1

### ON DEMAND WEBCAST

View after Friday, June 17, 2022

Program Number: 2220249WBA

## Tuition *(includes written materials)*

- \$195
- \$175.50 MCLE Sponsor Members
- \$146.25 New Lawyers admitted to law practice after 2019, Pending Admittees, Law Students, and Paralegals
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To apply for a need-based scholarship, email [scholarships@mcle.org](mailto:scholarships@mcle.org).

## Materials

The materials for this program are available *online only* and can be downloaded via the link emailed to you upon registration.

Also, there is no need to take extensive notes. Two weeks after the live webcast, all registrants receive a link to a verbatim transcript of this program.

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Earn up to 4 CLE credits



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## Register early!

For course agendas, hours, fees, and discounts, please refer to the respective seminar pages. The fee includes program instruction and all electronic written materials unless otherwise noted.

To gain early access to online materials, please register in advance of the program.


Upon registration, MCLE will e-mail a confirmation.

Day-of-the-program registrations are welcome, with the exception of limited enrollment programs, or as otherwise noted.

We accept cash, checks, MasterCard, Visa, American Express, and Discover.

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## Mandatory CLE credits

Individual attorneys are responsible for checking with their particular state CLE accreditation authority about whether and how much credit will be granted. Although MCLE does not pursue state-based credit, MCLE programs are regularly approved in many jurisdictions. It is the responsibility of the individual attorney to submit the information and certifications required under the respective state rule to the appropriate authorities in the jurisdictions in which they seek credit.

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If you're unable to participate in a program on the date for which you registered, you will receive an email about how to access the program on demand via webcast and/or downloadable mp3 file, including the written materials in electronic form, in full satisfaction of the tuition paid. If you prefer a refund, let us know by the end of the business day prior to the program and we'll refund your tuition after deducting a \$35 processing fee. Note that limited enrollment programs are an exception, cancellation of which require two weeks notice and are subject to a \$55 processing fee.

## New lawyer discounts— always the lowest price

For the first three years of practice, MCLE offers new lawyers a 25% discount on all of its products, including programs, books, audio CDs and mp3 recordings. If you were admitted to the bar after 2018, take advantage of the new lawyer prices listed throughout the catalog.

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corporate law department, or agency membership is calculated based on the number of Massachusetts admittees within the organization. Benefits of membership extend to all lawyers and non-lawyer professionals associated with the organization.

- Solo Practitioners ..... \$95
- Firms by number of Massachusetts attorneys:
  - 2-5 .... \$ 150    ■ 76-150 ... \$ 2,500
  - 6-10 .... 250    ■ 151-250 .. 3,500
  - 11-25 ... 500    ■ 251+ ..... 4,500
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REFERENCE # 22-022

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