

RULE 1. CLE Commission.

There is hereby established the Continuing Legal Education Commission. The Commission shall consist of nine (9) members, who shall be chosen from the members of the Board of Bar Commissioners. The members of the Commission shall be elected by the Board of Bar Commissioners and shall serve at its pleasure.

The Commission shall have the following duties:

- A. To exercise general supervisory authority over the administration of these rules.
- B. To adopt regulations consistent with these rules.

REGULATIONS

1.1 The chairman of the Alabama Bar Commission on Mandatory CLE shall be appointed by the president from among the nine (9) members of the commission elected by the board.

1.2 The Commission on Mandatory CLE shall elect a vice chairman and secretary from among its members.

1.3 The commission may organize itself into committees of not fewer than three (3) voting members for the purpose of considering and deciding matters submitted to them, except five (5) affirmative votes shall be necessary for any action under Rule 6.

1.4 Members of the commission shall be reimbursed for their actual direct expenses incurred in travel when authorized by the board of bar commissioners or the president.

1.5 The commission may designate an executive director and such other staff as may be necessary and, further, may delegate executive authority to such director or staff to conduct the business of the commission within the scope of the rules and regulations, subject at all times, however, to continual review by the commission.

RULE 2. Scope and Exemptions.

A. These Rules shall apply to every person whose qualification to practice law is subject to *Code of Alabama* (1975), Section 40-12-49.

B.1. An attorney who has reached the age of 65 years or an attorney who has reached the age of 62 years and is receiving Social Security retirement benefits, is exempt from the continuing legal education (CLE) requirement of these rules.

B.2. An attorney is exempt from the requirement of these rules for the year during which he or she was first admitted to practice.

C.1. All persons who are by Constitution, law or regulation prohibited from the private practice of law by virtue of their occupation of public office shall be exempt from these rules during each calendar year during which they hold such office; also exempt are members of the United States Senate, the United States House of Representatives, the Armed Forces, the Senate of Alabama and its secretary, and the Alabama House of Representatives and its clerk.

C.2. In any event, however, assistant or deputy attorneys general and district attorneys, assistant or deputy district attorneys, and public defender are not so exempt, and Rule 2.C.1. shall have no application to them..

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- 2.1 Nonresident attorneys from other jurisdictions who are temporarily admitted to practice for a case or proceeding shall not be subject to these rules.
- 2.2 An attorney who is exempt from the requirement on the basis of age may endorse and claim the exemption on the annual report as provided under Regulation 5.1. This exemption shall extend from and include the calendar year in which he or she becomes sixty-five (65) years of age.
- 2.3 An attorney who is exempt during the calendar year in which he or she was first admitted to the Alabama State Bar may endorse and claim the exemption on the annual report required by Rule 5. Credits earned during the calendar year of admission may be carried over to the next compliance year if attorney reports them on the annual report of compliance no later than January 31. Credits earned prior to admission date to the Alabama State Bar may not be claimed.
- 2.4 Special, nonpracticing members, as defined in Sections 34-3-17 and 34-3-18 *Code of Alabama* (1975), are not subject to the CLE requirement, subject to the provisions of Regulation 2.5., except as provided in Rule 2.C.2., Rules for Mandatory Continuing Legal Education.
- 2.5 Attorneys who hold an occupational license during any part of a calendar year are required to earn and report twelve (12) hours of continuing legal education, 1 hour of which shall be ethics or professionalism, by December 31 of the year the license is held, even if attorney has changed to special status or inactive status or recently changed from special status or inactive status, except as provided by Rule 2.C.1.
- 2.6 Attorneys serving as judicial law clerks or judicial staff attorneys who are prohibited from the private practice of law for any part of a calendar year are exempt from the CLE requirement.
- 2.7 An attorney who resides and maintains a principal office for the practice of law in another state that requires Mandatory Continuing Legal Education (MCLE) and who can demonstrate compliance with the MCLE requirements of his or her principal state of practice is exempt from these rules, except as provided in Rules 5 and 9.

RULE 3. CLE Requirement

Each attorney admitted to practice in this state whose qualification to practice law is subject to *Code of Alabama* (1975), Section 40-12-49, shall attend, or complete an approved substitute for attendance, a minimum of 12 actual hours of approved continuing legal education, 1 hour of which shall be ethics or professionalism, each calendar year, beginning January 1, 2004.

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3.1. Attorneys who have a permanent physical disability which makes attendance of CLE programs inordinately difficult may file a request for a permanent substitute program in lieu of attendance and shall therein set out continuing legal education plans tailored to their specific interests and physical abilities. Such request shall be accomplished by a physician's statement addressing the necessity for such a program. The commission shall review and approve or disapprove such plans on an individual basis and without delay. Rejection of any requested substitute for attendance will be reviewed as provided in Rule 6. prior to any sanction being imposed.

3.2. Other requests for substituted compliance, partial waivers or other exemptions for hardship or extenuating circumstances may be granted by the commission upon written application of the attorney and may likewise be reviewed as provided in Rule 6. Requests based on physical limitations shall be accompanied by a physician's statement addressing the attorney's inability to meet the CLE requirement in the usual manner.

3.3. Credit will be given only for continuing legal education activities approved by the commission. Such approval normally must be sought and granted at least 30 days prior to the occurrence of the activity but may be given retroactively. No program submitted more than 60 days after December 31 of the compliance year will be approved.

3.4 Credit may be earned through teaching in an approved continuing legal education activity. Presentations accomplished by thorough, high quality, readable and carefully prepared written materials qualify for CLE credit on the basis on six (6) credits for each hour of presentation. Presentations accompanied by one or two page outlines, or not accompanied by written materials, do not qualify for extra credit. When a presentation is made by a panel, the credit will be divided equally among the panel members, unless they advise the Commission otherwise.

Repeat presentations qualify for half the credits available for an initial presentation, provided each lawyer shall receive at least one (1) credit for each hour of individual presentation or service on a panel.

Credit also may be earned through teaching a course in an ABA or AALS approved law school or any other law school approved by the commission. The commission will award six (6) hours of CLE credit for each hour of academic credit awarded by the law school for the course. For purposes of these rules, Jones School of Law, Miles College of Law and Birmingham School of Law are considered approved.

3.5. The number of hours required means that the attorney must actually attend twelve (12) instructional hours of CLE per year with no credit given for introductory remarks, meal breaks or business meetings. An instructional hour will, in all events, contain at least sixty (60) minutes.

3.6. Hours of credit in excess of the minimum annual requirement may be carried forward and applied to succeeding calendar year's requirement only; however such hours must be reported on the annual report of compliance for the year in which they were completed and must be designated as hours to be carried forward.

3.7. Credit may be earned through service as a bar examiner in Alabama or in any of the sister states. The commission will award twelve (12) hours of CLE credit annually for the preparation and grading of one or more bar examination questions during a given year.

3.8. Credit may be earned through formal enrollment and education of a postgraduate nature, either for credit or by audit, in an accredited law school. The commission will award one (1) credit for each hour of class attendance.

3.9 Any bar member earning fifty (50) or more credits in a given year, excluding credits brought forward from the previous year and teaching credits earned, shall qualify for a continuing legal education recognition award.

RULE 4. Credits

A. Credits will be given for CLE programs approved by the CLE Commission or sponsored by the Alabama State Bar. Two hours' credit shall be given for attendance of the annual business meeting of the Alabama State Bar.

B. Hours in excess of the minimum annual requirement may be carried forward for credit in the succeeding year.

C. Credit may be earned through teaching an approved CLE course or teaching a course in a law school approved by the CLE Commission

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4.1.1. The following standards will govern the approval of continuing legal education activities by the commission.

4.1.2. The activity must have significant intellectual or practical content and its primary objective must be to increase the participant's professional competence as an attorney. It must not be designed primarily for nonlawyers.

4.1.3. The activity must deal primarily with substantive legal issues, practice management, professional responsibility or ethical obligations of attorneys. Whenever possible, ethical implications of practice management subject matter shall be included. Activities designed solely to sell services or equipment will not be approved.

4.1.4. The activity must be offered by a sponsor having substantial, recent experience in offering continuing legal education or demonstrated ability to organize and present effectively continuing legal education. Demonstrated ability arises partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction and supervision of the activity. Self-study or home study courses do not qualify for credit, except see Regulation 4.1.16.

4.1.5. The activity itself must be conducted by an individual or group qualified by practical or academic experience. The program, including the named advertised participants, must be conducted substantially as planned, subject to emergency withdrawals and alterations.

4.1.6. Thorough, high quality, readable, and carefully prepared written materials must be made available to all participants at or before the time the course is presented, unless the absence of such materials is recognized as reasonable and approved by the commission. A mere outline without citations or explanatory notations will not be sufficient, subject, however, to Regulation 8.1. affecting activities sponsored directly by the Alabama State Bar, its committees or sections.

4.1.7. The activity, including online seminars, must be conducted in a comfortable physical setting, conducive to learning, and equipped with suitable writing surfaces.

4.1.8. Approval may be given for activities where electronically recorded or reproduced material is used only if a qualified instructor is available to comment and answer questions. Satellite and teleconference programs must have either telephone hook-ups to instructors at the broadcast location or an instructor present at the receiving site, to comment and answer questions. The use of audio tapes, videotapes or material for self-study or home study courses do not qualify for credit, except as specifically approved under Regulation 3.1 or Regulation 3.2 and Regulation 4.1.16.

4.1.9 Activities that cross academic lines, such as accounting-tax seminars, may be considered for approval.

4.1.10. At the conclusion of an approved in-state program or activity, each participating attorney must be given the opportunity to complete an evaluation questionnaire addressing the quality, effectiveness and usefulness of the particular activity. Within thirty (30) days of the conclusion of the activity, a summary of the results of the questionnaires must be forwarded to the commission. If requested, copies of the questionnaire also must be forwarded to the commission. Sponsors must maintain the questionnaires for a period of 90 days following a program pending a request for submission of them to the commission.

Attorneys desiring credit for an activity attended outside of Alabama may be required to complete an evaluation questionnaire furnished by the commission and to return it within a reasonable time following the conclusion of the activity.

4.1.11 The cost of the program itself to the participating attorneys, apart from optional meals, lodging, travel, etc., must be reasonable considering the subject matter, instructional level, etc.

4.1.12 Repealed (December 4, 1998)

4.1.13 Sponsors of approved CLE activities must refrain from advertising or encouraging the use of their products or services during accredited CLE activities. Sponsors also must seek participants' opinions regarding their adherence to this policy. Failure to adhere to this policy shall be grounds for withdrawal of accreditation of the course in question.

4.1.14 Courses sponsored by law firms and corporations may be approved if the standards for accreditation are met and if the following additional requirements are met. Applications for approval must be submitted at least thirty (30) days in advance. At least half the instruction must be provided by persons from outside the firm or corporation. A qualified instructor from outside the firm or corporation must be present for audio and videotaped presentations.

4.1.15 Sponsors of approved programs must agree to submit to the commission a list of Alabama State Bar members attending each program.

4.1.16 Participatory On-Line CLE programs may be approved for a maximum of 6 CLE credit hours per year.

Each online seminar will be reviewed for approval on a case by case basis. The course content, interactivity, as well as the effectiveness of the delivery method will be considered in the approval process. Applications for approval must be submitted by the sponsor and submitted 30 days prior to the beginning date of the program. Applications will not be approved retroactively. Sponsors must provide a method for participant evaluation of the program. Sponsors must also be able to verify attorney attendance and the number of hours attended. Attorney attendance must be reported to the Alabama State Bar CLE Department immediately following the conclusion of the program.

4.2 A list of organizations whose continuing legal education activities are presumptively approved for credit and the organization has paid the required annual sponsor fee of two hundred fifty (\$250) dollars, shall be compiled and published annually by the MCLE Commission. A list of approved sponsors is available upon request. Other organizations may be added to the list as their identities and programs are confirmed by the commission by application and upon payment of an annual sponsor fee of two hundred fifty (\$250) dollars.

4.3 Approved seminars may be advertised in informational brochures and program material provided by the sponsoring body.

4.4 The commission may at any time re-evaluate a program and revoke approval of the provider or of any particular seminar.

4.5 Any organization not included in Regulation 4.2 above, desiring approval of a course, program or other activity, will apply to the commission by submitting the required application and supporting documentation at least thirty (30) days prior to the date on which the course or program is scheduled. The commission will advise the applicant whether the activity is approved or disapproved in writing by mail within thirty (30) days of the receipt of the completed application. Applicants denied approval of a program or activity may appeal such a decision by submitting a letter of appeal to the commission within fifteen (15) days of the receipt of the notice of disapproval.

Any attorney may request approval in advance of a course, program or other activity to be held outside Alabama by completing and submitting an application form available from the commission.

No application submitted more than sixty (60) days after the close of the program year (December 31) will be approved.

4.6 The provider of an approved continuing legal education activity may announce or indicate as follows:

This course or a portion thereof has been approved by
the Alabama State Mandatory Continuing Legal
Education Commission for a maximum of __ hours credit.

4.7 Any organization that has not been designated an approved sponsor by the commission must pay an application fee of \$50.00 for each application submitted during a

calendar year. This application fee must be attached to the application form in order for the application to be considered.

Attorneys who submit applications also must pay an application fee of \$25.00 for each application submitted during the calendar year. This application fee must be attached to the application form in order for the application to be considered.

RULE 5. Annual Report

A. On or before January 31 of each year, each attorney admitted to practice in the state shall make a written report to the Commission, in such form as the Commission shall prescribe, concerning his or her completion of accredited legal education during the previous calendar year.

B. An attorney who, for whatever reason, files the report after January 31 shall pay a one hundred (\$100) dollar late filing fee. This payment shall be attached to and submitted with the report.

REGULATIONS

5.1 On or before January 31 of each year, each attorney subject to the CLE requirement and each attorney exempt from the requirement who wishes to receive credit for courses attended will submit a report on a form as the commission shall provide concerning such attorney's completion of the minimum hour of instruction, including reference to hours earned during the preceding calendar year and hours to be carried forward for the current year.

Any report sent by regular, certified, registered or express mail of the United States Postal Service and postmarked January 31, or the next business day if January 31 is a Saturday or Sunday, will be considered timely filed. All others must be accompanied by the one hundred (\$100) dollar late filing fee in the form of a check made payable to the Alabama State Bar. Reports not so accompanied will be returned to the attorneys filing them and those attorneys will be deemed not in compliance until the fee is paid.

5.2 The commission will permit amendments of reports of compliance through March 1 of the year immediately succeeding the compliance year. Requests for amendments must be written and must specify the titles, sponsors, dates and locations of the additions, as well as the credits earned. All credits, however, must be earned by December 31 of the reporting year, unless a deficiency plan is filed.

Requests for late amendments (after March 1 of the year immediately succeeding the compliance year) may be requested and, if granted by the commission, will be granted on a one-time basis only. Requests for late amendments must be written and must specify the titles, sponsors, dates and locations of the additions, as well as the credits earned.

5.3 The files and records of the commission are deemed confidential and shall not be disclosed except in furtherance of the duties of the commission; statistical abstracts, however, may be drawn there from in an anonymous fashion.

RULE 6. Noncompliance and Sanctions

6.A. An attorney who fails to earn twelve (12) approved CLE credits by December 31 of a particular year will be deemed not in compliance for that year. A plan for making up the deficiency by March 1 will be accepted if approved courses are listed and if the plan is received by January 31. Completion of the requirement shall be reported no later than March 15, and a one hundred (\$100) dollar late compliance fee shall be attached to the report. Failure to complete the plan by March 1 and to submit the report and fee by March 15 shall invoke the sanctions set forth in Rule 6.B.

A requests for an extension of the March 1 deadline for earning credits under a deficiency plan may be considered if: (1) the request is in writing and a good cause is shown, as determined by the commission, and (2) the request is accompanied by a fee of \$100.00. This fee is in addition to the \$100.00 late compliance fee and any late filing fee that may be due. No extensions will be granted beyond April 1.

6.B. As soon as practical after January 31 of each year, the Chairman of the Commission on Continuing Legal Education shall furnish to the Secretary of the Alabama State Bar a list of those attorneys who have failed to file either an annual report for the previous calendar year, as required by Rule 5, or a plan for making up the deficiency as permitted by Rule 6.A. in addition, as soon as practicable after the first anniversary of an attorney's admission to the Bar or of an attorney's being licensed to practice law in Alabama, the Chairman shall furnish to the Secretary of the Alabama State Bar a list of those attorneys who were required to complete, but failed to complete, the professionalism course required by Rule 9.A.

The Secretary shall thereupon forward these lists of attorneys to the Chairman of the Disciplinary Commission.

The Chairman of the Disciplinary Commission shall then serve, by certified mail, each attorney whose name appears on those lists with an order to show cause, within sixty (60) days (i.e., within 60 days from the date of the order) why the attorney's license should not be suspended at the expiration of the sixty (60) days. Any attorney so notified may within the 60 days furnish the Disciplinary Commission with an affidavit (a) indicating that the attorney has in fact earned the 12 required CLE credits during the preceding calendar year or has since that date earned sufficient credits to make up any deficiency for the previous calendar year, or (b) indicating that the attorney has in fact completed the professionalism course required by Rule 9.A; or (c) setting forth a valid excuse (illness or other good cause) for failure to comply with either requirement. Payment of a penalty in the amount of \$300 must accompany the affidavit. This sum is in addition to all late fees incurred before compliance.

As soon as practical after March 15 of each year, the Chairman of the Commission on Continuing Legal Education shall furnish to the Secretary of the Alabama State Bar a supplemental list of any attorneys who filed a deficiency plan as permitted by Rule 6.A. but who have failed either to carry out such plan or to meet the reporting requirements of Rule 6.A. The same procedures, requirements, and sanctions applicable to the attorneys on the initial delinquent list shall apply to the attorneys on this supplemental list.

At the expiration of sixty (60) days from the date of the order to show cause, the Disciplinary Commission shall enter an order suspending the law license of each attorney who has not, pursuant to the third paragraph of this Rule 6.B. filed an affidavit that the Disciplinary Commission considers satisfactory.

At any time within ninety days (90) after the order of suspension, an attorney may file with the Disciplinary Commission an affidavit indicating that the attorney has earned 12 approved CLE credits (or the number of credits the attorney was deficient) and wants those credits assigned to the year for which the attorney was in noncompliance with Rule 3, or indicating that the attorney has completed the professionalism course required by Rule 9. A. If the Disciplinary Commission finds the affidavit satisfactory, it shall forthwith enter an order reinstating the attorney.

At any time beyond ninety days (90) days from the order of suspension, an attorney shall file with the Disciplinary Board an affidavit like that described in the preceding paragraph, but such an attorney must file with that affidavit a petition for reinstatement (see Rule 28, Alabama Rules of Disciplinary Procedure).

An attorney may appeal to the Disciplinary Board from an order of suspension or an order denying reinstatement entered by the Disciplinary Commission. Additionally, any affected attorney may appeal any action of the Disciplinary Board to the Supreme Court in accordance with the Rules of Disciplinary Procedure.

(Adopted March 20, 1981; amended March 19, 1986; amended January 9, 2004)

Note: All actions wherein discipline may be imposed are reviewable by the Supreme Court.

REGULATION

6.A. 1. Any deficiency plan that is received by the Alabama State Bar and postmarked after January 31, or the next business day if January 31 is a Saturday or Sunday, shall not be accepted and the sanctions set forth in Rule 6. B shall apply.

RULE 7. Contents and Presentation

The Alabama State Bar through its Continuing Legal Education Advisory Committee, the Commission on Continuing Legal Education, or such other committee or division that may be from time to time established, shall and must provide continuing legal education courses at reasonable times and places, not less frequently than once a year,

at which programs covering the following subjects are available:

1. Appellate Court decisions of general interest.
2. Federal and State legislation of general interest to the practicing bar.
3. Presentation of an explanation of changes in the Rules of Conduct Governing Attorneys and all opinions thereon, indicating a summary of the most numerous violations of the Disciplinary Rules for the prior twelve (12) months.

RULE 8. Additional Policies

1. No purchase of material shall be required at any activity sponsored by, in whole or in part, the Alabama State Bar or its various committees.
2. No examination or testing shall be required.
3. Charges made for activities, if any, shall not be of greater cost than necessary to maintain the programs.

REGULATION

8.1 Material may be offered for sale at activities sponsored by the Alabama State Bar or its committees, but no purchase shall be required. The cost of the seminar or other activity may include custom designed, brief, inexpensive outlines, charts, graphs, case citations or other material of educational value. This regulation applies only to activities sponsored by the Alabama State Bar, its committees or section.

Rule 9. Professionalism

- A. Within twelve (12) months of being admitted to the Bar, or within twelve (12) months of being licensed to practice law in Alabama, whichever shall last occur, each lawyer shall complete a six (6) hour course in professionalism; provided, however, that lawyers who are exempt from these Rules pursuant to Rule 2. C.1. shall also be exempt from the provisions of this Rule 9.A. while they are so exempt. Once a lawyer's exemption under Rule 2.C. 1. ends, the lawyer must complete the course in professionalism during the calendar year following the year in which the exempt status ends.
- B. The Alabama State Bar shall provide the materials and instruction for the course in professionalism, which shall be offered at least four times each year.

- C. The charge made for the course shall be not more than the actual direct costs of conducting the course, including securing and reproducing printed materials, paying the instructors, and paying for the meeting room.
- D. The sanctions for violating Rule 9 are contained in 6.B.