

Rules for Minimum Continuing Legal Education

Article 1

Education Committees

18-101. Purpose and title.

A.

Purpose. It is of primary importance to the members of the New Mexico State Bar and to the public that attorneys continue their legal education throughout the period of their active practice of law. These rules establish the requirements for minimum continuing legal education.

B.

Title. These rules shall be known as the Rules for Minimum Continuing Legal Education.

18-102. Minimum continuing legal education board.

A.

Board established.

(1) There is hereby established a minimum continuing legal education board to be appointed by the supreme court, consisting of nine members. The executive director of the State Bar of New Mexico shall be an ex-officio, non-voting member.

(2) Each member of the board shall be a licensed active member of the State Bar of New Mexico who practices in this state and maintains such member's principal office in this state. The members shall be appointed for staggered three (3) year terms pursuant to Rule 23-106.

(3) The chairperson of the board shall be appointed by the court and shall serve at the pleasure of the court.

B.

Powers and duties of the board.

(1) The board shall have general supervisory authority over implementing and supervising the minimum continuing legal education requirements for members of the

State Bar of New Mexico. The board shall provide the procedure for assuring compliance and enforcement of the requirements set by the board in furtherance of these duties.

(2) The board shall have specific duties and responsibilities, as follows:

(a) to implement practice and procedures for the effective administration of these rules;

(b) to accredit institutions that will provide courses and to approve programs which will satisfy the educational requirements of these rules;

(c) to report annually on the activities and operations of the board to the Board of Bar Commissioners of the State Bar of New Mexico and the supreme court.

C.

Finances.

(1) The board may establish reasonable fees, and such other requirements as may be necessary to carry out the program, subject to approval by the court.

(2) Members of the board shall serve without compensation, but shall be paid mileage and per diem consistent with the guidelines approved by the court for the judicial branch of government. The mileage and per diem shall be paid out of the funds collected by the board.

(3) The board may establish such requirements as may be necessary to implement and carry out this program, including imposition of a reasonable certification fee to provider, all subject to prior approval by the supreme court.

(As amended, effective September 15, 1987, and January 1, 1990.)

The 1987 amendment, effective September 15, 1987, deleted former Paragraph C(1) which read "Funds received by the committee shall be transferred to the state bar and used only for the Minimum Continuing Legal Education Committee" and redesignated former Paragraphs C(2), C(3), and C(4) as present Paragraphs C(1), C(2), and C(3), respectively, deleting "; however, no bar assessments or increase in dues shall be made to fund this program" from the end of present Paragraph C(1).

The 1989 amendment, effective January 1, 1990, substituted references to the minimum continuing legal education board for references to the continuing legal education committee throughout the rule, "such member's" for "his" in Subparagraph (2) of Paragraph A, "to implement practice and procedures" for "to promulgate, with the approval of this court, any necessary regulation(s)" in Subparagraph (2)(a) of Paragraph B, and "institutions that will provide courses and to approve programs" for "courses and

programs pursuant to the committee's regulations" in Subparagraph (2)(b) of Paragraph B.

18-103. Judicial continuing education committee.

A.

Committee established.

(1) There is hereby established a judicial continuing education committee to be appointed by the supreme court, consisting of three members.

(2) One member of the committee shall be an appellate court judge, the other two members shall be district court judges.

(3) The chairperson of the committee shall be appointed by the court and shall serve at the pleasure of the supreme court.

B.

Powers and duties of the committee. The committee shall provide continuing education programs for district and appellate court judges of the State of New Mexico.

(As amended, effective January 1, 1990.)

The 1989 amendment, effective January 1, 1990, rewrote Paragraph B and deleted Paragraph C, which pertained to finances.

Article 2

Continuing Education Requirements

18-201. Minimum educational requirements.

A.

Hours required. Every active licensed member of the state bar shall complete fifteen (15) hours of continuing legal education during each year as provided by these rules.

B.

Legal ethics. At least one (1) hour of the fifteen (15) hours shall be devoted to legal ethics or code of professional responsibility subjects.

C.

Judges. Judges and retired judges who are active licensed members of the state bar shall be required to complete the same number of hours of continuing legal education as other active licensed bar members but may satisfy such requirement by attending judicial education programs:

(1) provided by the Judicial Continuing Education Committee in addition to programs approved by the Minimum Continuing Legal Education Board; or

(2) approved by the Administrative Office of the Courts pursuant to the Rules Governing Judicial Education.

D.

Practice skills. Of the fifteen (15) hours required each year, all members newly admitted to the practice of law after the effective date of these rules shall be required to take a minimum of ten (10) hours in practice skills courses during their first two (2) compliance reporting years, which shall be applied to their minimum educational requirements. Practice skills courses are those approved by the board which emphasize either basic skills techniques or law office management.

E.

Carry-over. Any member may carry up to fifteen (15) hours of credits earned in one (1) compliance year over to the next. However, not more than fifteen (15) hours shall be carried over from the prior year.

F.

Initial reporting year.

(1) For members admitted prior to January 1, 1990 the initial reporting year shall be the year ending September 30, 1990. Every such member shall receive credit for carryover credit for 1988 and for approved programs attended in the period January 1, 1989 through September 30, 1990.

(2) For members admitted on or after January 1, 1990 the initial reporting year shall be the first full reporting year following the date of admission.

(As amended, effective January 1, 1990.)

The 1989 amendment, effective January 1, 1990, deleted "mininum" preceding "continuing legal education" and "and committee regulations" following "rules" in Paragraph A; inserted "or" in Paragraph B; rewrote former Paragraph E as present

Paragraph C; redesignated former Paragraphs C and D as present Paragraphs D and E, respectively; substituted "approved by the board" for "accredited by the committee" in the second sentence of present Paragraph D; and rewrote Paragraph F.

Compiler's notes. - The term "effective date of these rules" referred to in Paragraph C and Subparagraphs (1) and (2) of Paragraph F means January 1, 1987, the effective date of the Rules for Minimum Continuing Legal Education.

18-202. Exemptions and waivers.

A.

Inactive members. An inactive member of the state bar shall be exempt from continuing legal education and reporting requirements of these rules.

B.

Waivers. Upon petition, the board, with approval by the supreme court, may exempt an active licensed member from continuing legal education, but not the reporting requirements of these rules, upon a finding by the board of special circumstances constituting undue hardship.

(As amended, effective January 1, 1990.)

The 1989 amendment, effective January 1, 1990, rewrote the rule catchline and Paragraph B heading; deleted "minimum" preceding "continuing legal education" and "the" preceding "reporting requirements" in Paragraph A; substituted "board" for "committee" in two places and deleted "minimum" preceding "continuing legal education" in Paragraph B, and deleted Paragraph C, relating to judges.

18-203. Accreditation; course approval.

A.

Accreditation. The board shall:

(1) accredit institutions that have a history of providing quality continuing legal education;

(2) approve individual programs of continuing legal education. The content of the instruction provided may include, but not be limited to, live seminars, audiotapes and videotapes; and

(3) periodically review accredited institutions.

B.

Accredited institutions and program provider requirements. Accredited institutions and program providers shall:

(1) assure that each program addresses the ethical or code of professional responsibility implications where appropriate; provided, however, that only those portions of a program specifically approved or specified as granting ethics credit shall be used to fulfill the attorneys' ethics requirements;

(2) assure that the course has significant intellectual or practical content and that its primary objective is to increase the participant's professional competence as an attorney;

(3) assure that the curriculum offered relates to legal subjects or subjects which relate to the individual attorney's practice of law, including professional conduct, legal ethics, or law office management;

(4) assure that presenters for all programs are qualified by practical or academic experience to teach the subject to be covered. Legal subjects should normally be taught by attorneys; and

(5) assure that thorough, high quality, current, readable, carefully prepared written materials are distributed to all participants at or before the time the course is offered.

C.

Announcement of approval. Providers shall announce, as to a program that has been given approval, that: "This course has been approved by the New Mexico Minimum Continuing Legal Education Board for hours of credit".

D.

Self-study credit. Self-study credit may be given for viewing videotapes or listening to audiotapes, provided:

(1) board approval is received prior to viewing or listening;

(2) the materials are from an accredited provider; or

(3) the materials are from an approved program.

No more than five (5) hours of credit may be given during any reporting year for self-study activities.

E.

Live program credit. Live program credit can also be attained for time spent viewing videotapes at an organized open enrollment program provided there is a moderator assigned to supervise the program and foster discussion among participants and provided the original course or program is approved as provided for in these rules. These programs are not subject to the self-study limitations.

F.

Speakers. Speakers who participate at an accredited providers' program or an approved program may receive credit for preparation time and presentation time, including credit for repeated presentations.

G.

Publications. Credit may be earned of one hour for each fifty (50) minutes spent preparing an article which is actually published in a legal periodical or journal which is approved by the administrator or the board.

H.

Hours earned. Credit for approved programs shall be based on one hour of credit for each fifty (50) minutes of actual instruction time, which may include lecture, panel discussion, question-and-answer periods and video or film presentation.

I.

Provider attendance lists. Pursuant to practices and procedures to be adopted by the board, all continuing legal education providers must, as a condition of accreditation or program approval, agree to provide the committee a list of all New Mexico lawyers and judges who attended the continuing legal education program and the number of hours claimed by each participant. Such list shall be provided within thirty (30) days of the program being held.

J.

Other reporting procedures. An attorney wishing to obtain approval for a program, for which the provider has not sought accreditation or has not properly reported attendees, shall comply with the practices and procedures established by the board.

(As amended, effective January 1, 1990.)

The 1989 amendment, effective January 1, 1990, rewrote the rule.

Article 3

Reporting

18-301. Compliance.

A.

Reporting year. The MCLE reporting year is October 1 - September 30. As soon as practicable after December 1 of each year, commencing December 1, 1990, the board shall prepare an annual report statement for each licensed active member of the state bar for the previous reporting year which shall be mailed to each such member with the state bar's annual registration statement forms. This report shall include reference to hours earned during the reporting year which have been reported by the providers and carryover hours.

B.

Verification of statement by member. Prior to January 1 of each year, each licensed active member of the state bar shall verify the annual report statement as received, or shall amend the report if incomplete. Each member shall return a verified or amended annual report statement to the state bar with the members's annual registration statement.

C.

Notification of deficiency. The board shall annually compile and certify to the supreme court a list of those members of the state bar who prior to March 1 have:

(1) failed to file a verified or amended annual report statement for the prior calendar year;

(2) filed a verified or amended annual report statement indicating they have not complied with the requirements of these rules; or

(3) failed to pay the annual administrative fee prescribed by the board.

Whenever the board shall certify to the supreme court that any member of the state bar has failed or refused to comply with the provisions of these rules, the clerk of the supreme court shall issue a citation to such member requiring the member to show cause before the court, within fifteen (15) days after service of such citation, why the member should not be suspended from the right to practice in the courts of this state. Service of such citation may be personal or by registered or certified mail. Compliance with the provision of these rules on or before the return day of such citation shall be deemed sufficient showing of cause and shall serve to discharge the citation.

(As amended, effective January 1, 1990.)

The 1989 amendment, effective January 1, 1990, rewrote the rule.

18-302. Review and appeal.

A.

Hearing. An attorney may petition the board for a hearing in regard to a failure to comply with the provisions of these rules.

B.

Decision. The board shall review the petition upon its receipt and shall notify the petitioner of its decision.

C.

Appeal. An attorney may petition the supreme court for modification or reversal of action of the board.

(As amended, effective January 1, 1990.)

The 1989 amendment, effective January 1, 1990, rewrote the rule.

18-303. Reinstatement.

If an attorney whose license to practice law has been suspended pursuant to these rules thereafter files a report with the board showing compliance with the requirements of Rule 18-301, the board shall promptly notify the clerk of the supreme court, and recommend reinstatement.

(As amended, effective January 1, 1990.)

The 1989 amendment, effective January 1, 1990, substituted "board" for "committee" in two places, "Rule 18-301" for "Rule 18-102 then," and "and recommend reinstatement" for "who shall promptly reinstate the member and notify him of such reinstatement, unless other disciplinary action has been undertaken".