

UNANNOTATED

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, or “MCLE.”

B. **Title.** These rules shall be known as the Rules for Minimum Continuing Legal Education, or “MCLE Rules.”

[As amended by Supreme Court Order No. 21-8300-030, effective for all cases filed or pending on or after December 31, 2021.]

18-102. Administration of MCLE Program.

A. Board of Bar Commissioners.

The Board of Bar Commissioners of the State Bar of New Mexico (BBC or board) or its designee shall be responsible for administering the MCLE program as required under these rules.

B. Powers and duties of the board.

(1) The board shall have general supervisory authority over implementing and supervising the MCLE requirements for members of the State Bar of New Mexico.

(2) The board shall do the following in furtherance of its responsibility to administer the MCLE program:

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

(b) accredit institutions and approve CLE programs that will satisfy the educational requirements of these rules in accordance with Rule 18-203 NMRA;

(c) report annually to the Supreme Court on the activities and operations of the board under these rules; and

(d) develop options to encourage low cost or free CLE programs that would qualify for MCLE credit under Rule 18-201 NMRA.

C. **MCLE fees; uses.** The board may establish reasonable fees as may be necessary to operate the MCLE program required under these rules.

[As amended, effective September 15, 1987; January 1, 1990; November 1, 1991; as amended by Supreme Court Order No. 06-8300-033, effective January 1, 2007; as amended by Supreme Court Order No. 18-8300-019, effective November 1, 2018; as amended by Supreme Court Order No. 21-8300-030, effective for all cases filed or pending on or after December 31, 2021.]

18-103. Withdrawn.

ARTICLE 2

Continuing Education Requirements

18-201. Minimum educational requirements.

A. **Hours required.** Every member of the state bar in active status, beginning in the first full year after the date of admission, shall complete twelve (12) hours of CLE during each year as provided by these rules. One (1) hour of CLE is equivalent to sixty (60) minutes of instruction. This rule sets forth the requisite hours and categories of CLE. Rule 18-204 NMRA sets forth the means by which the hours may be acquired.

B. **Legal substantive credits.** Nine (9) of the required twelve (12) hours may include legal subjects or subjects which relate to the individual attorney's practice of law. The hours shall be defined as general credits.

C. **Legal ethics and professionalism credits.** At least two (2) hours of the twelve (12) hours shall be devoted to board approved subjects dealing with legal ethics or professionalism. Excess ethics and professionalism credits shall be applied as follows:

first, to any deficit in general credits in the current licensing year;

second, to the next licensing year as carry-over ethics and professionalism credits;
and

third, to the next licensing year as carry-over general credits, subject to the limitations set forth in Paragraph E of this rule.

D. **Equity in justice credits.** At least one (1) hour of the twelve (12) hours shall be devoted to board approved subjects dealing with equity in justice. Excess equity in justice credits shall be applied as follows:

first, to any deficit in general credits in the current licensing year;

second, to the next licensing year as carry-over equity in justice credits; and

third, to the next licensing year as carry-over general credits, subject to the limitations set forth in Paragraph E of this rule.

E. Carry-over. Any member may carry up to twelve (12) hours of excess credits earned in one (1) licensing year over to the next licensing year only. Only two (2) hours of ethics and professionalism credit may be carried over as part of the twelve (12) hours of credits. Only one (1) hour of equity in justice credit may be carried over as part of the twelve (12) hours of credits. Excess ethics, professionalism, and equity in justice credits can be converted to be used toward the substantive (general) requirement. Only four (4) self-study credit hours may be carried over as part of the twelve (12) hours of credits. No credit may be carried over for more than one (1) licensing year.

F. Judges. All state and federal judges, retired judges, and other judicial officers who are members of the state bar on active status or who are honorary judicial members shall be required to complete the same number of hours of CLE as other bar members in active status. The means by which these individuals may satisfy their CLE requirements are set forth in Rule 18-204 NMRA.

[As amended, effective January 1, 1990; November 1, 1991; February 1, 1992; March 23, 1998; January 1, 2001; as amended by Supreme Court Order No. 05-8300-007, effective January 1, 2006; by Supreme Court Order No. 06-8300-033, effective January 1, 2007; by Supreme Court Order No. 11-8300-020, effective May 1, 2011 for compliance year ending December 31, 2011, and subsequent compliance years; as amended by Supreme Court Order No. 20-8300-015, effective December 31, 2020; as amended by Supreme Court Order No. 21-8300-030, effective for all cases filed or pending on or after December 31, 2021; as amended by Supreme Court Order Nos. S-1-RCR-2023-00032 and S-1-RCR-2023-00034, effective January 1, 2024.]

Committee commentary. —

Equity in Justice Education

[1] Equity in Justice content focuses on ensuring that all persons will be treated fairly under the laws of New Mexico and promotes full and equal participation by all in the profession through identifying and eliminating the effects of prejudice, bias, and racism. Addressing topics on race, gender, national origin, sexual orientation, disability, and other issues of disparity and inequity will underscore and define how shortfalls can be addressed and dismantled. The practice of law is a profession in service to others and members of the Bar must have a clear understanding of the changes that are needed to truly be in service to others. The result of these changes will be equitable access to justice for the community and a more equitable Bar.

[2] Equity in Justice CLEs can incorporate topics that are relevant to the practice of law such as: implicit and explicit bias, systemic and structural oppression; equal access to justice; competent representation of diverse populations; diversity and inclusion initiatives in the legal profession; recognition, mitigation, or elimination of bias in the legal profession or the legal system; anti-racism; cultural competency in the practice of law or the administration of justice; and the historical and contemporary context of all of the preceding issues. Effective CLE content will include education as well as promote discussion and reflection. Instructors or lecturers must be either attorneys or judges with content expertise or other experts in the subject area based on their education and background.

Professionalism Education

[3] Lawyer professionalism includes basic compliance with the Rules of Professional Conduct, such as acting with competence and diligence, effectively communicating with clients, maintaining client confidences, and safeguarding client property. Professionalism also includes acting with honor, integrity, honesty, dignity, and objectivity. It involves a commitment to upholding the rule of law and the legal system, promoting fairness and just results, respecting courts, clients, other lawyers, witnesses, and self-represented persons. It means demonstrating a commitment to serving others, promoting the public good, and striving to provide all persons, regardless of their means, backgrounds, or beliefs with equal access to the law and the justice system.

[4] Professionalism CLE topics can include: mentoring; practicing with civility; the tension between client duties, duties to courts, and duties to the profession and the public; how to effectively work with opposing counsel in highly emotional or contentious matters; use and misuse of the discovery process; the intersection of lawyer well-being and effective advocacy; incorporating cultural competency in client representation and interactions with counsel and courts; the importance of pro bono and low bono representation in providing access to justice; and the challenges and rewards of representing unpopular clients or causes. Effective CLE content will include education as well as promote discussion and reflection. Instructors or lecturers must be either attorneys or judges with content expertise or other experts in the subject area based on their education and background.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00032, effective January 1, 2024.]

18-202. Withdrawn.

18-203. Accreditation; course approval; provider reporting.

A. **Accreditation.** The board shall do the following:

- (1) accredit and periodically review institutions

- (a) that have a history of providing quality CLE courses; and
 - (b) that meet current accredited provider standards established by the board;
- and
- (2) approve individual programs of continuing legal education.

B. Accredited institutions and program provider requirements. Accredited institutions and program providers shall do the following:

- (1) assure that each program addresses the ethical or professionalism implications where appropriate; provided, however, that only those portions of a program specifically approved or specified as granting ethics and professionalism credit shall be used to fulfill the attorney's ethics and professionalism requirement;

- (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 legal ethics and professionalism;

- (4) assure that presenters for all programs are qualified by practical or academic experience to teach the subject to be covered;

- (5) assure that legal subjects are normally taught by attorneys;

- (6) assure that, with the exception of wellness programs submitted by the New Mexico Lawyers and Judges Assistance Program, program faculty include at least one (1) lawyer, judge, or full-time law professor;

- (7) 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; and

- (8) assure that a level of activity is noted on the promotional materials following the guidelines listed below:

- (a) *Advanced.* An advanced CLE course should be designed for the practitioner who specializes in the subject matter of the course;

- (b) *Intermediate.* An intermediate course is designed for the practitioner experienced in the subject matter, but not necessarily an expert. A survey course in which there have been recent, substantial changes will be deemed intermediate. In an intermediate course, some segments may be low intermediate or basic and others high

or advanced. In those instances, the course taken as a whole will be considered intermediate;

(c) *Basic*. A basic course is designed for the practitioner with no experience or limited experience in the area of law with which the course deals. A survey course will be considered basic unless there are recent, significant changes in the law.

C. Announcement of approval. Providers shall announce, for a program that has been given approval, that: "This course has been approved by the Board of Bar Commissioners of the State Bar of New Mexico for _____ hours of credit."

D. Provider attendance lists. All CLE providers must, as a condition of accreditation or program approval, agree to provide the board a list of all New Mexico attorneys and judges who attended the CLE program and the number of hours claimed by each participant. The list and any required credit filing fees shall be provided within thirty (30) days of the program being held. CLE providers who fail to meet the thirty (30) day deadline may be subject to fines established by the board and loss of accredited status.

[As amended, effective January 1, 1990; November 1, 1991; January 1, 1994; January 16, 1996; February 18, 1998; January 1, 2001; January 1, 2001; as amended by Supreme Court Order No. 05-8300-007, effective January 1, 2006; by Supreme Court Order No. 06-8300-033, effective January 1, 2007; by Supreme Court Order No. 08-8300-049, effective December 31, 2008; by Supreme Court Order No. 11-8300-020, effective May 1, 2011 for compliance year ending December 31, 2011, and subsequent compliance years; as amended by Supreme Court Order No. 17-8300-010, effective September 11, 2017; as amended by Supreme Court Order No. 21-8300-030, effective for all cases filed or pending on or after December 31, 2021.]

18-204. Earning credits; credit types.

A. **Scope.** This rule sets forth the means by which a member may acquire the credits required by Rule 18-201 NMRA.

B. Live program credit.

(1) Credit for attending approved live programs shall be based on one (1) hour of credit for each sixty (60) minutes of actual instruction time, which may include the following:

- (a) lecture;
- (b) panel discussion;
- (c) question-and-answer periods;

(d) film presentation; or

(e) time spent viewing video or listening to audio at an organized open enrollment program at which there is a moderator assigned to supervise the program and to foster discussion among participants, and provided that this program is approved as provided for in these rules.

(2) The individual seeking live program credit must not have previously received credit for the same program.

C. Self-study credit. Self-study credits may be earned by participating in legal activities or participating in previously recorded courses, providing the following conditions are met:

(1) **Legal activities.** The Board of Bar Commissioners of the State Bar of New Mexico shall establish policies and procedures for accrediting the legal organizations to award CLE credits to attorneys who engage in certain legal activities. To receive CLE credit, attorneys must perform the legal activity through a BBC-accredited legal organization and receive a certificate of completion from that organization. Legal activities that may qualify for CLE credit include serving on BBC-accredited boards, committees, and commissions that perform legal work such as drafting rules, investigating cases, or participating in hearings; or performing pro bono legal services through a BBC-accredited legal service provider.

(2) **Previously recorded courses.** To be eligible for credit, the previously recorded course must be pre-approved by the board and must include procedures and/or technology that allows the course provider to independently verify an attorney's attendance and attentiveness during the program. The attorney seeking self-study credit must not previously have received self-study or live program credit for the same program.

D. Speakers. Speakers who participate in an accredited provider's program or an approved program may receive credit for preparation time and presentation time, including credit for repeated presentations, within the following parameters:

(1) Speakers may receive credit for the actual presentation time.

(2) Speakers may receive up to three (3) hours of credit for preparation time for each presentation hour.

(3) For repeat presentations, the speaker may only receive credit for presentation time.

E. Publications.

(1) Credit for one (1) hour may be earned for each sixty (60) minutes spent authoring or co-authoring written material that is actually published in a legal periodical, journal, book, or treatise approved by the board, provided that the following conditions are met:

(a) the material substantially contributes to the legal education or competency of the attorney and other attorneys; and

(b) the work is not done in the ordinary course of the attorney's practice of law or the performance of regular employment.

(2) Credit is given for the licensing year the work is accepted for publication, or in which publication actually occurs.

(3) The maximum number of credits an attorney can earn for a publication is ten (10) general credits.

F. Attorney self-reporting procedures.

(1) An attorney may self-report credits only for courses that were not pre-approved by the board. If a course has been pre-approved by the board, the course provider will report credits and pay filing fees for program attendees.

(2) To self-report credits, the attorney must first submit the course for approval under Rule 18-203(A)(2) NMRA and pay any required course approval fees. If the course is approved, the attorney may then file the credits and pay the filing fees.

[Approved by Supreme Court Order No. 06-8300-033, effective January 1, 2007; as amended by Supreme Court Order No. 11-8300-020, effective May 1, 2011, for compliance year ending December 31, 2011, and subsequent compliance years; as amended by Supreme Court Order No. 20-8300-015, effective December 31, 2020; as amended by Supreme Court Order No. 21-8300-030, effective for all cases filed or pending on or after December 31, 2021; as amended by Supreme Court Order No. S-1-RCR-2023-00002, effective for all cases filed on or after January 1, 2024.]

ARTICLE 3

Reporting

18-301. MCLE compliance and reporting; state bar annual statement; waiver.

A. **Compliance year; reporting.** As a precondition to license renewal under Rule 24-102 NMRA, all members of the state bar in active status shall complete the required hours of MCLE under Rule 18-201 NMRA between January 1 and December 31 of the

prior year. This period shall be known as the “compliance year.” The board shall verify that active members have completed the required MCLE credits.

B. Compliance review. The board updates each member’s MCLE record in real-time as credits are reported. Members may access their MCLE records through the state bar’s website or by contacting MCLE staff. Each member of the state bar in active status is responsible for periodically reviewing the member’s MCLE record and reporting any errors or omissions for the compliance year no later than March 1 of the current licensing year. Failure to timely report errors or omissions in the MCLE record may result in penalties.

C. Waiver of MCLE requirements. A member may request a waiver of MCLE requirements under Rule 24-102(D) NMRA.

D. Failure to comply with MCLE requirements. If a member fails or refuses to comply with the member’s MCLE requirements, the member may be subject to late fees, a suspension, or other sanctions under Rule 24-102(E) NMRA.

[As amended, effective January 1, 1990; November 1, 1991; July 18, 1994; September 4, 2001; March 5, 2002; October 30, 2002; as amended by Supreme Court Order No. 05-8300-007, effective January 1, 2006; by Supreme Court Order No. 06-8300-033, effective January 1, 2007; as amended by Supreme Court Order No. 21-8300-030, effective for all cases filed or pending on or after December 31, 2021.]

18-302. Withdrawn.

18-303. Withdrawn.

Appendix A — Withdrawn.

Appendix B — Withdrawn.