

Regulations of the Arkansas Continuing Legal Education Board

Section 1.01. Preface.

These regulations are cumulative to and explanatory of the Arkansas Rules for Minimum Continuing Legal Education (hereinafter the Rules) which were adopted by Per Curiam Order of the Arkansas Supreme Court on March 6, 1989, 298 Ark. Appendix (1989). In the event of a conflict between these regulations and the Rules, the provisions of the Rules shall prevail. Rule 6 of the Arkansas Rules of Civil Procedure shall govern calculation of time whenever an action is required to be taken under the Rules or these Regulations unless otherwise provided. Members of the Arkansas Continuing Legal Education Board (hereinafter Board) and the Secretary to the Board (hereinafter Secretary) shall be absolutely immune from suit for all conduct in the course of their official duties in connection with the administration of the Arkansas Minimum Continuing Legal Education Program (hereinafter CLE).

Rule 1.02. Rules Of Procedure.

All proceedings by the Board will be conducted pursuant to Roberts Rules of Order.

Rule 1.03. Meetings.

Meetings will be called as to date, time and place by the Chairman or by five Members of the Board.

Rule 1.04. Official Forms.

The Secretary is authorized to develop appropriate forms, verification procedures, and other administrative procedures as necessary to efficiently administer the CLE program.

Rule 1.05. Prior Board Rulings.

The Secretary shall maintain an index of rulings of the Board, which are not implemented as regulations, and shall make such rulings available to potential sponsors or attorneys upon request.

Rule 1.06. Removal Of Members.

Upon good cause shown, which may include failure to attend meetings on a regular basis, the Board may recommend to the Arkansas Supreme Court that a Board member be removed from office. Upon such recommendation, the Court may declare the position vacant and appoint a replacement pursuant to Rule 1(C).

Rule 1.07. Records Retention.

The Board shall maintain all records in connection with the CLE Program for a period of three (3) years after each approved CLE course or activity is concluded. Further, where Accredited Sponsors have submitted documentation pursuant to Rule 4(B)(2), the Board may discard such documentation after three (3) years, after acquiring satisfactory evidence that the accredited sponsor continues to conduct programs which meet the requirements of Rule 4(C). Fiscal records pertaining to the CLE Program shall be maintained by the Board for a period of five (5) years.

Rule 1.08. Sponsor Records.

Accredited or individual course sponsors shall maintain course records in connection with programs which have been approved by the Board. These records shall be maintained in the possession of the sponsor for a period of one (1) year after the program or activity. Such records shall include: the course outline or brochures; all written materials; the faculty information; the evaluations; and, the attendance records.

Rule 1.09. Amendment.

These regulations may be amended by a majority vote of the Board, subject to subsequent approval by the Arkansas Supreme Court.

HISTORY

Per Curiam July 9, 1990; amended January 13, 1992, effective March 1, 1992; amended June 27, 1994, effective July 1, 1994

Rule 2.01. Non-Resident Attorneys.

An attorney's residence is presumed to be the address the attorney maintains with the Office of the Arkansas Supreme Court Clerk. Attorneys who maintain Arkansas licenses, but reside outside this State and are licensed in the state of their residence, are required to meet the minimum continuing legal education requirements of their resident state. Arkansas licensed attorneys residing in a state which requires continuing legal education but who are not licensed in that state, are inactive in that state, or for any other reason are denied the opportunity to participate in the continuing legal education programs of that state, are considered in compliance with the requirements of their resident state. However, such attorneys who return to the practice of law in Arkansas shall be required to acquire thirty-six (36) hours of approved CLE courses by the end of the first reporting period that succeeds the reporting period in which they return. Notwithstanding this provision, the attorney may choose to remain current in Arkansas pursuant to Rule 2(C). Attorneys who move from a state which does not require minimum continuing legal education to a state other than Arkansas which does require minimum continuing legal education are required to meet the requirements of that state.

HISTORY

Amended November 30, 2006

Rule 2.02. Inactive Status.

The practice of law shall be defined as any service rendered, regardless of whether compensation is received therefor, involving legal knowledge or legal advice. It shall include representation, provision of counsel, advocacy, whether in or out of court, rendered with respect to the rights, duties, regulations, liabilities, or business relations of one requiring the legal services. It shall encompass all public and private positions in which the attorney may be called upon to examine the law or pass upon the legal effect of any act, document, or law. Inactive attorneys may not, at any time, or in any manner, hold themselves out as lawyers to the general public. Nonetheless, it

shall not be considered the practice of law for attorneys to represent themselves or family members to the third degree of consanguinity.

HISTORY

Per Curiam July 9, 1990; amended June 27, 1994, effective July 1, 1994; amended January 1, 2007

Rule 3.01. Enhanced Credit.

(1) Solo Speakers. An attorney who presents a speech or program at an approved CLE course shall be allowed four (4) hours credit for each hour of the initial presentation and two (2) hours credit for each hour of each subsequent presentation of the same material.

(2) Panel Discussions. A participant in a panel presentation shall receive three (3) hours credit for every one (1) hour of the panel presentation in which he or she participates.

(3) Question and Answer Sessions. Question and answer sessions following individual or panel presentations shall be counted as part of the presentation time for which credit is to be given.

(4) Written Materials. To serve as a basis upon which credit for an individual or panel presentation is given, accompanying written materials must comply with Rule 4(C)(3).

Rule 3.02. Ethics.

Ethics presentations shall be distinct segments no less than one hour in length, shall be specifically designated separately on the program application and shall be accompanied by appropriate documentation. Likewise, claims for ethics credit shall be designated separately on certificates of attendance submitted to the Secretary.

Ethics shall be defined as follows: "Legal ethics includes, but is not necessarily limited to, instruction on the Model Rules of Professional Conduct and the Code of Judicial Conduct."

Ethics may include professionalism courses addressing the principles of competency, dedication to the service of clients, civility, improvement of justice, advancement of the rule of law, and service to the community.

Professionalism courses may include a lawyer's responsibility as an officer of the Court; responsibility to treat fellow lawyers, members of the bench, and clients with respect and dignity; responsibility to protect the image of the profession; responsibility generally to the public service; the duty to be informed about methods of dispute resolution and to counsel clients accordingly; and misuse and abuse of discovery and litigation.

Legal ethics does not include such topics as attorney fees, client development, law office economics, and practice systems except to the extent professional responsibility is directly discussed in connection with these topics.

In accord with Rule 2(C) non-resident attorneys shall not be subject to the one hour ethics requirement set forth in Rule 3(A) except insofar as their resident state require ethics credits.

HISTORY

Amended Mar. 22, 2001

Rule 3.03. Hardships.

In cases of extreme hardship due to mental or physical disability which substantially inhibit the ability of an attorney or Judge to participate in extended seminar presentations, the Secretary shall, in cooperation with the affected party, develop an appropriate program of substituted compliance. Such programs shall, to the extent possible, comply with relevant sections of Rule 4(C) and must be approved by the Board.

HISTORY

Per Curiam July 9, 1990; amended June 27, 1994, effective July 1, 1994

Rule 4.01. Accredited Sponsors.

The Secretary of the Board shall keep a current list of accredited sponsors and include thereon the date of accreditation by the Board, current address, and phone number of each sponsor.

Rule 4.02. Program Adjustments.

(1) The Secretary is authorized to make adjustments in the number of approved CLE credit hours or approved substitute program content where, during the presentation of a program previously approved by the Board, there is a deviation from the program content or length. If a program segment is abbreviated due to illness or other emergency and is 90% or more completed, it shall be given full credit. Otherwise, the credit time allowed for that particular program segment shall be adjusted to the nearest one-quarter (1/4) hour. In such event it is the obligation of the sponsor to notify attendees immediately and amend the certificates of attendance, if possible, and when submitting the certificates of attendance, advise the Secretary of the diminished hours available for the particular program segment in question.

(2) The Secretary is authorized to adjust hours when determining the number of hours for which programs are to be submitted for credit. In such cases courses are to be adjusted to the nearest one-quarter (1/4) hour.

(3) In addition, it is the obligation of the Sponsor to notify attendees immediately when any previously approved program segment fails to meet the minimum course standards set out in Rule 4(C) and advise the attendees that credit may not be available for that particular program segment due to the deficiency. The Sponsor shall also notify the Secretary of such deficiencies.

Rule 4.03. Reciprocal Accreditation - Individual Attendance.

Upon receipt of a completed certificate of attendance form or other documentation by the Secretary from an Arkansas attorney confirming attendance at an out-of-state continuing legal education program approved by the situs state, the attorney shall be entitled to CLE credits in Arkansas. The Secretary shall verify the program's approval by the situs state's continuing legal education agency.

Rule 4.04. Approved Cle Activities.

(1) [Abolished, effective July 1, 1998.]

(2) Authorship of Law Articles. In accordance with objective standards to be developed and applied by the Board, up to twelve (12) hours of credit may be earned through the authorship of a law related article published by an American Bar Association accredited law school, a state bar journal, an official publication of the American Bar Association, or through authorship of a published book on legal matters. Any attorney may petition the Board for credit for the authorship of an article or book. Entitlement to credit will accrue as of the date of publication of the article or documented date of acceptance for publication.

(3) Law School Courses. Credit may be earned through part-time teaching, formal enrollment for credit, or official audit and attendance at a course offered by a law school accredited by the American Bar Association. Twelve (12) credit hours will be awarded for each academic credit hour taught, officially audited, or successfully completed, provided the applicant certifies attendance of at least seventy-five percent (75%) of the class sessions. For the purpose of this regulation, "part-time teaching" is defined as teaching one course which awards four or fewer hours of academic credit.

(4) In-house Programs. In-house programs are available as a means of acquiring CLE credits provided: (a) The program complies with Rule 4(C) of the Arkansas Rules for Minimum Continuing Legal Education; and, (b) The application and documentation for in-house programs conducted in Arkansas must be submitted to the Secretary in advance of the scheduled event and be approved thirty (30) days before the scheduled event. In addition, private law firms which conduct in-house programs shall be subject to the following requirements: (c) A minimum of three (3) 'out-of-firm' attorneys must be allowed to attend such programs. Each firm may set reasonable limits on the total number of such 'out-of-firm' attendees. (d) Any "out-of-firm" attorney who desires to attend an in-house CLE program may be responsible for a proportionate share of the costs of the program; and, (e) Attorneys may receive a maximum of six (6) hours CLE credit for in-house programs conducted during any reporting period.

(5) Satellite Programs. All satellite television programs which otherwise comply with the Rules may be approved.

(6) Video Programs. Approval may be given for programs where audiovisual recorded or reproduced material is used. Audio and video CLE programs are an acceptable means of obtaining CLE credits, provided:

(a) The program is approved by the Board, or the original program upon which the audio or video program is based has been approved by the Board;

(b) The application and documentation for the audio or video program must be submitted to the Secretary and be approved.

(c) The program must have the original faculty members present or the original faculty members must make known their addresses, phone numbers, or email addresses in order that they can respond to written or phoned inquiries subsequent to the program;

(7) Live Telephone Conferences. CLE programs presented via live telephone conferences and live computer interactive programs are acceptable provided such programs comply with relevant portions of Rule 4.(C). For the purpose of this regulation, 'live' means that the attorney is participating in the CLE program contemporaneous with its live presentation.

(8) Short Courses. No course shall be approved unless it contains at least one continuous hour of instruction accompanied by written materials consistent with Rule 4(C)(3), and is conducted in a suitable educational environment.

(9) Advance Sheet Review Groups. Programs consisting of review of advance sheet court opinions shall be approved, provided written materials consisting of analysis in addition to the advance opinions themselves, are provided by the persons responsible for the discussion of a case or cases, and regular and special group meeting times and places are published to the Board at least two weeks in advance to assure compliance with the evaluation requirement of Rule 4(C)(8).

(10) *Pro Bono* Credit. An attorney may earn general CLE credit hours at a rate of one (1) hour of credit for every three (3) hours of *pro bono publico* service performed, with a maximum of three (3) credit hours for *pro bono publico* service in each reporting period. Hours claimed must be rounded down to the nearest quarter of an hour.

(a) As used in this rule, “*pro bono publico* service” means legal service provided without fee or expectation of fee to a person of limited means. The case must be assigned and verified by one of the following:

- (i) An organization which receives funding for *pro bono* programs or services from the Legal Services Corporation or the Arkansas Access to Justice Foundation;
- (ii) The Arkansas Access to Justice Commission;
- (iii) The Arkansas Bar Association or a local bar association;
- (iv) Any state or federal court in Arkansas; or
- (v) Any other organization recognized by the Board as providing legal services to persons of limited means in Arkansas without fee or expectation of fee.

(b) Attorneys seeking CLE credit for *pro bono publico* service shall complete and return to the Office of Professional Programs an “Application for CLE Credit for *Pro Bono Publico* Service” form. Such application shall, at a minimum, include:

- (i) The attorney’s name;
- (ii) The attorney’s address;
- (iii) The attorney’s bar number;
- (iv) The name of the entity which assigned the case;
- (v) Verification from a representative of the entity assigning the case that the case was assigned by the entity and accepted by the attorney;

(vi) A statement by the attorney of how many *pro bono publico* service hours they have provided and the number of CLE credit hours they are entitled to for that service; and

(vii) The attorney's signature, verifying the accuracy of the information in the application.

(11) Service as an active member of a Supreme Court of Arkansas Board, Commission, or Committee during a specific reporting period.

HISTORY

Amended April 16, 1998, effective July 1, 1998; amended November 30, 2006; amended and effective November 20, 2014; amended and effective March 7, 2019; amended June 18, 2020, effective July 1, 2020; amended October 6, 2022, retroactive to July 1, 2022.

Rule 4.05. Unapproved Cle Activities.

(1) Public presentations. No CLE credits are available for attorneys speaking or presenting any program to the lay public without prior approval of the Board.

(2) Self-study. Self-study courses are not approved as a means of acquiring CLE credits.

(3) Audio Tapes. Audio tape programs are not approved as a means of acquiring CLE credit.

(4) Law Professors. No full-time or adjunct law school professors may obtain CLE credits for teaching regularly scheduled courses, subject to the exception of Regulation 4.04(3).

(5) Law Firm Operations. Individual programs which deal solely with the internal financial operations of a law firm will not be considered acceptable as a means of acquiring CLE credits in Arkansas.

HISTORY

Per Curiam July 9, 1990; amended April 1, 1991; amended January 13, 1992, effective March 1, 1992; amended June 27, 1994, effective July 1, 1994

Rule 5.01. Late Filings/Deficiency Plans.

After a reporting period has ended, and at any time prior to a vote of suspension by the Board, an attorney may file:

(1) Documentation to establish compliance with the provisions of Rule 3(A). If filed between July 1 and August 31, such documentation shall be accompanied by a deficiency fee of \$75.00 if the documents submitted are for CLE credits acquired after July 1;

(2) An acknowledgment of deficiency form. If filed between July 1 and August 31, such a filing shall be accompanied by a deficiency fee of \$75.00;

(3) An acknowledgement of deficiency, if filed after August 31, shall be subject to the \$75.00 deficiency fee set out in paragraph (2) above, and a late filing fee of \$25.00. After timely filing of

an acknowledgment of deficiency and payment of the required fee, no late filing fee will be assessed for hours submitted to cure timely the deficiency. However, documentation of hours obtained after December 1 to cure a deficiency shall be accompanied by a late filing fee of \$100.00. Documentation to establish compliance with Rule 3(A) for CLE credits acquired before July 1, but filed after August 31, shall be subject to a \$25.00 late filing fee;

(4) An out of state certification pursuant to Rule 2(C); or, an inactive renewal pursuant to Rule 2(D). Such filings shall be accompanied by a late filing fee of \$25.00 if filed after October 31; and,

(5) Documentation tendered in accord with the preceding paragraphs will not be accepted unless accompanied by the appropriate filing fee and unless all other applicable requirements have been met.

Rule 5.02. [Payment Of Fees].

All fees shall be made payable to the Bar of Arkansas.

HISTORY

Per Curiam July 9, 1990; amended January 13, 1992, effective March 1, 1992; amended June 27, 1994, effective July 1, 1994

Rule 6.01. [Procedure And Fees].

(1) In the absence of the Chairman of the Board, the remaining voting members of the Board shall elect from among its number, by a majority vote, a presiding officer for the hearing in question.

(2) The expense of a court reporter's attendance, if a record is requested, shall be paid by the affected attorney.

(3) The burden of proof as to compliance with the Rules shall remain with the attorney.

(4) Not less than ten days before a hearing, at the request of either the Board or the attorney, each shall apprise the other of the names, addresses, and phone numbers of witnesses and provide copies of all exhibits each intends to present at the hearing.

(5) The Rules of Evidence shall apply subject to the exercise of reasonable discretion by the majority of the Board.

(6) In addition, pursuant to Rule 6, the Board may assess a reinstatement fee not to exceed TWO HUNDRED FIFTY DOLLARS (\$250.00). Such fees shall be payable to the Bar of Arkansas.

HISTORY

Per Curiam July 9, 1990; amended June 27, 1994, effective July 1, 1994

Rule 7.01. Right To Review.

An attorney who is suspended by the Board shall have the right to review of the ruling by the Arkansas Supreme Court.

Rule 7.02. Obtaining The Record.

To effect such a review, the suspended attorney, within ten (10) days of receipt of notice of suspension shall, in writing, request a copy of the record of the proceedings from the Secretary. Such record shall include all pertinent documents on file with the Board and the transcript of any pertinent hearings conducted by the Board. The Secretary shall promptly respond to such requests. The Secretary shall deliver, by registered mail, a single copy of such record to the suspended attorney.

Rule 7.03. Costs.

The suspended attorney shall be responsible for the costs attendant to record preparation and filing, including the expense of preparing the transcript of any hearings.

Rule 7.04. Filing.

Thereafter, the suspended attorney shall have ten (10) days from receipt of the record to file same with the Clerk of the Arkansas Supreme Court. A single copy of the record shall be filed, accompanied by eight (8) copies of the attorney's motion for further review by the Arkansas Supreme Court. The motion and record shall be filed pursuant to Arkansas Supreme Court Rule 2-1, and the Clerk's Office will process such motions for review pursuant to procedures established under said Rule 2-1, or its successor rule.

Rule 7.05. Memorandum.

The suspended attorney may accompany the motion with a brief memorandum setting out grounds for reversal of the decision of the Continuing Legal Education Board. The Board may file a response as authorized by Rule 2-1.

Rule 7.06. Decision By The Arkansas Supreme Court.

The findings of the Board shall not be reversed unless the Arkansas Supreme Court finds them to be clearly erroneous. The Arkansas Supreme Court shall review the case de novo upon the record presented.

HISTORY

Per Curiam July 9, 1990; amended June 27, 1994, effective July 1, 1994