

Rules for Minimum Continuing Legal Education

Rule 1. Continuing Legal Education Board.

(A) There is hereby established the Arkansas Continuing Legal Education Board (hereinafter referred to as the Board). The Board shall be composed of nine voting members, appointed by the Arkansas Supreme Court, all of whom are resident members of the Bar of Arkansas. In addition, the Dean of each Arkansas law school accredited by the American Bar Association shall be an ex-officio member, without vote.

(B) There shall be at least one Board member from each of the four congressional districts.

(C) All subsequent appointments shall be made by the Arkansas Supreme Court for terms of three years. Board members may be reappointed, but may serve no more than two terms of three years. The Arkansas Supreme Court shall fill all vacancies, with the appointee to serve the remaining term, for such position, subject to reappointment in accord with this paragraph. Any Board member whose term expires shall continue in office until his successor is appointed and qualified.

(D) The Board shall, annually, by majority vote, elect a Chairman from among its voting members. The Director of the Office of Professional Programs for the Arkansas Supreme Court shall serve as Secretary, without a vote. Board members shall be entitled to reasonable reimbursement for expenses and such per diem compensation as the Court may from time to time direct.

(E) The Board shall have the following duties and responsibilities:

(1) Exercise general supervisory authority over these rules, to include the imposition of sanctions for noncompliance with these rules, as well as the implementation and administration of these rules;

(2) Adopt regulations consistent with these rules, to be submitted to the Arkansas Supreme Court for approval prior to their implementation;

(3) The Board may appoint committees as may be necessary to efficiently administer these rules; however, all matters concerning sanctions for noncompliance with these rules shall be the duty and responsibility of the Board.

(4) In cases of extreme hardship due to mental or physical disability, the Board may approve a substitute plan by which individuals may meet the requirements of these rules; and

(5) Such other specific grants of authority as may be set out in these rules.

(F) A majority of all voting Board members shall constitute a quorum.

Rule 2. Scope.

(A) Except as noted elsewhere in Rule 2, these rules shall apply to every member of the Bar of Arkansas, including all levels of the State and Federal Judiciary, and all attorneys who may be suspended during any reporting period due to nonpayment of license fee or action by the Supreme Court Committee on Professional Conduct. When used in the course of these rules, the word attorney shall include judges.

(B) Exemptions: Any attorney or Judge who attains age 70 or completes 40 years of licensure as an Arkansas lawyer, during any given reporting period, is exempt from all requirements of the Arkansas Rules for Minimum Continuing Legal Education (hereinafter referred to as CLE) for that reporting period as well as all subsequent reporting periods.

(C) Non Resident Attorneys:

(1) Attorneys who are members of the Bar of Arkansas, but reside outside this State, are required to meet the minimum continuing legal education requirements of their resident state. Such attorneys shall complete annual certification forms to that effect. These forms will be filed with the Arkansas Continuing Legal Education Board on or before the October 31 which succeeds the reporting period in question. Such certifications shall be subject to verification through the agency which administers the continuing legal education program for such resident state. In the event an attorney is a member of the Bar of Arkansas, yet resides in a state or foreign jurisdiction where there is no continuing legal education requirement, such attorneys shall be annually required to file with the Arkansas Continuing Legal Education Board a certification form confirming that fact. This form shall be filed on or before the October 31 which succeeds the reporting period in question. Further, in the event an attorney returns to the practice of law in the State of Arkansas from a state where there has been no continuing legal education requirement that attorney shall be required, by the end of the first reporting period after the attorney's return, to acquire thirty-six (36) hours of accredited continuing legal education. Twelve (12) of those hours shall be a basic skills course or bar examination review course as approved by the Board.

(2) Nonetheless, an Arkansas licensed attorney or judge who resides: in a state which does not require continuing legal education; in a foreign jurisdiction; or, in a state which requires continuing legal education but is not licensed in that state and is therefore prohibited from participating in the continuing legal education program of that state, may remain current as regards Arkansas CLE requirements. Such attorneys may do so by meeting the twelve (12) hour requirement as set out in Rule 3(A). The Secretary shall obtain from such attorneys appropriate documentation to confirm compliance with the Arkansas CLE program. In the event attorneys are in compliance with Rule 3(A) during the reporting period preceding their return to the practice of law in Arkansas, they shall not be subject to the thirty-six (36) hour requirement mentioned in paragraph 2(C)(1) above. In the event an attorney has elected to remain current, yet fails to acquire 12 hours of approved CLE during any reporting period, that attorney shall be subject to the sanctions of Rule 6.

(D) Inactive Status:

(1) At anytime during a reporting period, an attorney on active status, with the exception of sitting judges, may take inactive status for the purpose of these rules. Such status may be secured by filing a petition in accord with Section 25 A.(7) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (Procedures) or its successor provision. By taking inactive status, the attorney shall be exempt from the minimum educational requirements of rule 3 for that reporting period and subsequent reporting periods.

(2) An attorney may return to active practice by petition filed as set forth in Section 23 of the Procedures or its successor provision.

(3) Such attorneys shall be required to obtain thirty-six (36) hours of qualified continuing legal education between the date of return to active status (which is the date the reinstatement fee is received by the Board) and the end of the next succeeding reporting period.

(E) Readmission/Reinstatement

(1) An attorney who is re-admitted to the Bar of Arkansas following voluntary resignation, voluntary surrender in lieu of discipline, or order of disbarment shall be required by the end of the next year's reporting period following the attorney's readmission to acquire thirty-six (36) hours of accredited continuing legal education, with at least three (3) of the required hours being in ethics.

(2) This thirty-six (36) hour requirement shall also apply to any attorney who is reinstated by the Board of Law Examiners following non-payment of license fees for a period of more than three (3) years and to attorneys whose license has been suspended by the Committee on Professional Conduct for a period of at least three (3) years.

HISTORY

Amended and substituted July 9, 1990; amended January 13, 1992, effective March 1, 1992; amended June 27, 1994, effective July 1, 1994; amended June 27, 2002; amended November 30, 2006, effective January 1, 2007; amended and effective October 10, 2013.

Rule 3. Minimum educational requirements.

(A) Every member of the Bar of Arkansas, except as may be otherwise provided by these rules and, excepting those attorneys granted voluntary inactive status by the Arkansas Supreme Court Committee on Professional Conduct, shall complete 12 hours of approved continuing legal education during each reporting period as defined by Rule 5(A) below. Of those 12 hours, at least one hour shall be ethics, which may include professionalism as defined by Regulation 3.02. In addition, an attorney or judge may carry over accredited hours in accord with the provisions of Rule 5(A), including one hour of ethics which may be carried forward to the succeeding reporting period.

(B) This minimum requirement must be met through courses conducted by sponsors approved by the Board, or individual courses that have been approved by the Board, or such other programs, courses, or other educational materials that the Board may approve pursuant to Rule 4.

(C) An hour of continuing legal education shall include at least sixty minutes of instruction, exclusive of meals, introductions, or other non-educational activities.

(D) The Board is authorized and encouraged to consider the requirement of particular course content, such as professional or judicial ethics, as part of the minimum educational requirement.

Rule 4. Accreditation.

(A) The Board shall be the exclusive authority for accreditation of continuing legal education sponsors or programs. However, the Board may delegate to a subcommittee, in accord with Rule 1(E)(3), the authority to review submissions by new sponsors. Further, the Board may delegate to its Secretary the authority to approve or deny programs submitted by previously accredited sponsors, or by sponsors who have previously had individual program(s) approved by the Board. The Board, through its Secretary, shall provide an annual report to the Arkansas Supreme Court which shall reflect summary information with regard to program approvals or denials, attorney suspension information, and such other matters as the Board may direct.

(B) Approval of Accredited Sponsors:

- (1) An organization, or entity, may seek Board designation as an accredited sponsor;
- (2) In order to receive such a designation the organization or entity must establish to the satisfaction of the Board that it is regularly engaged in offering continuing legal education and is recognized as a provider of continuing legal education on a national basis;
- (3) Subsequent to designation as an accredited sponsor, programs offered by that sponsor outside this State shall be approved provided such courses meet the requirements of Rule 4(C);
- (4) Programs conducted by sponsors accredited in another state or by a national continuing legal education accrediting body may be approved, provided the Secretary is satisfied that the sponsor meets the requirements of this Rule; and,
- (5) Accredited sponsors must abide by all reasonable requests for information or course materials from the Board, or its Secretary, and the Board reserves the right to withdraw accredited sponsor designation for failure to meet the requirements of these rules.

(C) Individual course or activity approval:

The Board may, upon application, approve continuing legal education courses or activities provided such courses meet the following standards:

- (1) The course must contribute directly to professional competence of attorneys and judges, or to their education with respect to professional or ethical obligations;
- (2) Course presenters must have the necessary experience or academic skills to conduct the course effectively;

(3) Prior to, during, or after the course, each attendee must be provided with access to written course materials of a quality and quantity which indicate that the written materials will be of value to the attendees in the course of their practice. In the event access to written materials is not provided before, during, or after the program, the program will not be subject to pre-approval by the Board. In the event materials are submitted after the program, the Board will make a determination as to what, if any, credit shall be given for the course;

(4) During activities presented by means of videotape, audiotape, or other such systems, there must be an opportunity to ask questions of course faculty or a qualified commentator either during or after the course;

(5) The sponsor must make available to the Board, or its Secretary, upon request, information concerning the course, which might include a list of attendees or individual affidavits signed by attendees, the course brochure, a description of the method or manner of presentation, and a set of all written materials pertinent to the course; and

(6) The course must be subject to evaluation before, during, or after presentation.

(D) The Board is authorized and encouraged to grant approval to all sources of continuing legal education which meet the relevant standards of Rule 4(C), including: publication of law related articles in legal journals; preparation of bar examination materials; preparation for, and conduct of, approved continuing legal education courses; participation in regularly scheduled courses conducted by American Bar Association accredited law schools; and "In House" educational programs conducted by law firms or other law related entities. The Board shall also be authorized to determine the number of approved hours such activities are worth and may limit the number of such hours that may be applied to the minimum requirement.

(E) It is presumed that sponsor accreditation, or individual program accreditation, will be sought well in advance of the event. However, the Board may accredit a sponsor or individual program after the event.

(F) In the event the Secretary denies approval of an individual course or sponsor, the aggrieved sponsor may, in writing, request that the Board review such denial.

(G) The Board is authorized to establish regulations that grant credit for *pro bono publico* service. The Board shall limit the number of credit hours that can be earned through *pro bono publico* service to no more than three (3) hours per reporting period.

(H) The Board is authorized to establish regulations that grant credit for service as an active member of a Supreme Court of Arkansas Board, Commission, or Committee. An attorney may earn general CLE credit hours at a rate of one (1) hour of credit for every three (3) hours of service performed. The Board shall limit the number of credit hours that can be earned through the service to the Supreme Court of Arkansas to no more than three (3) hours per reporting period.

HISTORY

Amended and effective March 7, 2019; amended June 18, 2020, effective July 1, 2020; amended October 6, 2022, retroactive to July 1, 2022.

Rule 5. Reporting.

(A) Credit for approved continuing legal education hours will be given for courses or activities conducted from July 1 through June 30 of each year, and for the purposes of these rules, this period of time shall be known as the "reporting period." If an attorney or a judge acquires, during such reporting period, approved continuing legal education in excess of twelve (12) hours, the excess credit may be carried forward and applied to the education requirement for the succeeding reporting period only. The maximum number of CLE hours one may carry forward is twelve (12), which may include one hour of ethics.

(B) Sponsors may be required to report attendance to the Board or its Secretary. Such reports may be required promptly after completion of each program or activity. Attorneys may also report approved activities using a certificate approved by the Board.

(C) The Board, through its Secretary, shall maintain current records of CLE attendance for each attorney to whom these rules apply. Pursuant to Board regulation, they shall be made available to such attorneys.

(D) During the course of the reporting period, the Board, through its Secretary, may provide interim reports by first class mail to those attorneys subject to the 12 hour requirement of Rule 3(A). Such reports will state the number of approved CLE hours each attorney has of record with the Board. On or before July 31 after the conclusion of the immediately preceding reporting period, the Board, through its Secretary, shall provide a final report by first class mail to those attorneys. The number of approved CLE hours stated in the interim and final reports shall be presumed correct unless the attorney notifies the Board otherwise. If the final report shows acquisition of 12 or more approved CLE hours during the reporting period, the attorney shall be deemed to be in compliance with these rules and need not take any further action for the immediately preceding reporting period.

In the event the final report reflects that an attorney has failed to meet the 12 hour requirement of Rule 3(A), the final report will be accompanied by an acknowledgment of deficiency form. Such attorneys shall sign the acknowledgment of deficiency form and file it with the Board on or before the following August 31. Subsequently, such attorneys shall cure any deficiency by December 1 and provide appropriate documentation to the Board no later than the following December 15. CLE hours reported to the Board pursuant to the acknowledgment of deficiency shall first be applied to the deficiency and any remaining hours will be applied to the current reporting period.

Attorney members of the National Guard or reserves of any branch of the Armed Forces which are mobilized during the reporting period by Gubernatorial or Presidential order shall have an additional 180 days to meet each of the respective filing requirements set forth in the preceding paragraph. Such entitlement shall be based upon appropriate documentation to establish the date of mobilization and the date of release from active duty. Upon request of an affected attorney who is entitled to the relief set forth in this paragraph, the Board may grant additional extensions

of time in order to meet the respective filing requirements set forth in the preceding paragraphs. The Board may also waive any of the various fees set forth in Regulation 5.01 of the Regulations of the Board. (Amended by per curiam order May 6, 2004.)

(E) The Board is authorized to assess costs against delinquent attorneys in the form of a reasonable fee for filing late and filing a deficiency plan.

(F) Newly admitted attorneys shall be subject to the twelve hour minimum requirement during the reporting period that follows the reporting period in which they are admitted.

(G) All filings pursuant to Rule 5 will be made with the Secretary to the Arkansas Continuing Legal Education Board, unless the Board directs otherwise. In addition, all such filings that require the signature of an attorney shall be subject to the requirements of Rule 8.4 of the Model Rules of Professional Conduct for Lawyers or its successor rule.

Rule 6. Noncompliance and sanctions.

(A) If an attorney to whom these rules apply either fails: to file timely the acknowledgement of deficiency or cure the deficiency as required by Rule 5(D); or, to file timely an out of state certification form in accord with Rule 2(C), the attorney shall not be in compliance with these rules.

(B) Within 30 days after an attorney fails to comply with any provision of the preceding paragraph, the Board, through its Secretary, shall serve a notice of noncompliance on the affected attorney. Such notice shall be sent by first class mail to the address the attorney maintains with the office of the Arkansas Supreme Court Clerk.

(C) The notice shall contain a statement of the nature of the noncompliance. The attorney must, within 30 days of the date of the notice of noncompliance, provide the Board written evidence that the attorney is either in compliance or has corrected the noncompliance.

(D) If within the allotted time as set out in paragraph 6(C) above, the attorney fails either to provide written evidence of compliance or that the noncompliance has been corrected, the Board, through its Secretary, shall serve a notice of intent to suspend upon the affected attorney. Such notice shall be mailed to the address the attorney maintains with the Clerk of the Arkansas Supreme Court. The notice shall be sent by certified mail, return receipt requested. Such notice shall apprise the attorney that his or her Arkansas law license shall be considered for suspension at the next regularly scheduled meeting of the Board. Such notice shall be sent at least 20 days prior to that meeting. Upon written request of the attorney, a hearing shall be conducted at that meeting.

(E) Hearing Procedure:

The Board, in the performance of its responsibilities under these rules, shall have the authority to request issuance of summons or subpoena from the Office of the Supreme Court Clerk, and the Clerk shall issue same. Such requests shall be signed by the Chairman of the Board, or its Secretary. Witnesses may be sworn by the Board Chair or any member acting in his or her stead, or by any individual authorized to administer oaths, and upon request, a record shall be made at the expense of the attorney. Such hearings are civil in nature and the standard for decision is

preponderance of the evidence. The hearing shall be open to the public. After the hearing, the Board may retire to executive session to deliberate. Thereafter, its decision shall be publicly announced and, if not unanimous, there shall be a statement of votes by individual members.

The Board shall take action by a majority vote of the voting members present.

(F) Authorized dispositions at Board meeting subsequent to service of notice of intent to suspend:

The Board may dismiss the matter if records in possession of the Board show that the attorney has achieved compliance. However, such dismissal may be made contingent upon payment of a delinquency assessment as authorized by Rule 5(E) and the regulations adopted pursuant to that rule; or,

The Board may enter an order deferring further action for no more than 90 days to allow the attorney to achieve compliance. Subsequent to the period of deferment, the Board may suspend the attorney in accordance with Rule 6(F)(3), or, dismiss the action in accord with the preceding paragraph, or, take such other permissible actions it may deem appropriate; or,

The Board may suspend the license of the attorney subject to reinstatement pursuant to paragraph 6(H) below. Such suspension shall become effective on the date of filing of the notice and order of suspension with the Arkansas Supreme Court Clerk. (Hereinafter referred to as "The Order of Suspension.")

(G) Promptly after a Board vote of suspension, the Secretary shall notify the affected attorney by way of certified mail, return receipt requested. In addition, the Secretary shall promptly file the order of suspension with the Clerk of the Arkansas Supreme Court and notify Arkansas state judges of general jurisdiction and the United States District Court Clerk.

Attorneys who are suspended may request a stay of such suspension pending a hearing by the Board. Such a request shall be made in conjunction with a petition for reinstatement. The request shall be presented to the Board, through its Secretary, in the form required by Rule 6(H). Such submissions shall be ruled upon by the Board Chairperson, or a member designated by the Chairperson. To be considered for review, the petition for reinstatement and request for stay must either: (a) establish that the attorney had obtained the requisite number of CLE hours, or filed the appropriate documents, to be in compliance on or before the vote of suspension on that attorney; or, (b) confirm that subsequent to the vote of suspension, but prior to filing the petition for reinstatement and request for stay, the attorney had obtained the requisite number of CLE hours to be in compliance or had filed appropriate documents to achieve compliance. Any request for stay of suspension must contain an affirmation by the attorney that he or she has not engaged in the practice of law subsequent to receipt of notification of suspension or actual knowledge of suspension, whichever is earlier.

(H) An attorney who has been suspended pursuant to these rules who desires reinstatement shall file a petition for reinstatement (which in appropriate cases may incorporate a request for stay of suspension) with the Secretary of the Board. The petition shall be sworn and properly acknowledged by a notary public or any official authorized to take oaths. The petition may include the applicant's reason(s) for noncompliance, state that the applicant is presently in compliance, or provide any other material information pertinent to the applicant's petition. The

petition must contain an affirmation that the petitioner has not engaged in the practice of law subsequent to receipt of notification of suspension or actual knowledge of suspension, whichever is earlier. The petitioner may request a hearing before the Board. In such case, a hearing will be conducted in accordance with the provisions set out in Rules 6(E) and 6(F), and Section 6 of the regulations. In the event the attorney is reinstated, the Board may set additional educational requirements as a condition of reinstatement and may assess reinstatement fees and late filing fees consistent with its regulations.

Rule 7. Appeals.

(A) Final determinations as to accreditation of a sponsor by the Secretary or a committee of the Board shall, upon request of the aggrieved sponsor, be reviewed by the Board. There shall be no further review of such determinations.

(B) Final determinations by the Board, which result in suspension of an attorney, may be appealed to the Arkansas Supreme Court. Such appeal shall be heard de novo on the record from the Board proceedings.

(C) To effect an appeal, the suspended attorney shall file the record with the Supreme Court Clerk within thirty days from the entry of order of suspension. The appellant shall bear the cost of record preparation.