

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENTS
TO SUPREME COURT RULE 207:
CREATION OF THE BOARD OF
CONTINUING LEGAL EDUCATION.

ADKT 0499

FILED

OCT 03 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Elizabeth A. Brown*
CHIEF DEPUTY CLERK

*ORDER SCHEDULING PUBLIC HEARING
AND REQUESTING PUBLIC COMMENT*

On October 1, 2018, the Honorable Lynne K. Simons filed a petition to amend Supreme Court Rules 207-215 to establish identical fee compliance deadlines of the State Bar of Nevada (SBN) and the Nevada Board of Continuing Legal Education (CLE) and amend Regulations of the CLE Board. The proposed amendments are attached as Exhibit A and Exhibit B.

The Nevada Supreme Court will conduct a public hearing on the petition on Monday, November 5, 2018, at 3:00 p.m. in the Nevada Supreme Court Courtroom, 201 South Carson Street, Carson City, Nevada. The hearing will be videoconferenced to the Nevada Supreme Court Courtroom, 408 East Clark Avenue, Las Vegas, Nevada.

Further, this court invites written comment from the bench, bar, and public regarding the proposed amendments. Comments may be submitted electronically or in hard-copy format to: Elizabeth A. Brown, Clerk of the Supreme Court, 201 South Carson Street, Carson City, Nevada 89701 by 5:00 p.m., October 24, 2018. Persons interested in participating in the hearing must notify the Clerk no later than October 24, 2018.

Hearing date: November 5, 2018, at 3:00 p.m.
Supreme Court Courtroom
201 South Carson Street
Carson City, Nevada 89701

Comment deadline: October 24, 2018, at 5:00 p.m.
Supreme Court Clerk's Office
201 South Carson Street
Carson City, Nevada 89701

DATED this 3rd day of October, 2018.

Drygas, C.J.

cc: All District Court Judges
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Richard Pocker, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Administrative Office of the Courts

EXHIBIT A

Rule 207. Creation of board.

1. The board of continuing legal education is hereby created.
2. The board shall consist of seven (7) members, each of whom must be an active member. At least one (1) member must be concurrently serving as a member of the board of governors. One (1) member must be concurrently serving as a member of the state judiciary. Each member of the board shall have one (1) vote.
3. Three (3) members of the board shall be appointed by the board of governors for seats A, B and C, and three (3) members of the board shall be appointed by the court for seats D, E and F. The court shall appoint the member of the judiciary for seat J. The board shall select its own chair. The board may, in its discretion, appoint nonvoting ex officio members to serve in an advisory capacity only.
4. The terms of the members of the board are as follows:
 - (a) The members of the board shall be appointed for three-year terms; however, to ensure that no more than three (3) member's regular terms expire at once, the board of governors or the court may, in their discretion, appoint or re-appoint a member to a term of less than three (3) years. No attorney or judicial representative may serve on the board for more than a lifetime total of nine years. The time served in filling a partial term created by a vacancy or appointment or re-appointment to a term of less than three (3) years shall not be included in computing the nine-year lifetime limit.
 - (b) The term of each member expires on December 31 of the final year of the member's term.

Rule 208. Powers and duties of board. The board shall administer these rules. Without limiting the generality of this duty, the board has the following specific powers and duties:

1. To accredit individual courses and all or portions of programs of continuing legal education which, in the judgment of the board, will satisfy the educational requirements of these rules, according to regulations adopted by the board and to assess fees regarding such programs upon sponsors and attorneys subject to these rules in accordance with regulations adopted by the board.
2. To grant accredited sponsorship status to certain sponsors of continuing legal education courses or programs, on such terms or conditions as the board may deem appropriate, according to regulations adopted by the board.
3. To determine the number of hours of credit each participant shall be entitled to receive for attendance or participation in each accredited course or educational activity, according to regulations adopted by the board.
4. To discover and encourage the offering of courses and programs which will satisfy the educational requirements of these rules, whether offered within or without the State of Nevada.
5. To adopt, publish and enforce regulations pertinent to these powers and duties.
6. To adopt and publish forms to facilitate compliance with these rules and the board's regulations.
7. Subject to prior court approval, to adopt bylaws to govern the internal conduct of its affairs. Any amendments to existing bylaws shall however, require prior court approval.
8. To make recommendations to the court concerning these rules.
9. To maintain its own offices and employ an executive director and other such persons as the board deems necessary for the proper administration of these rules.
10. To report at least annually, no later than ninety (90) days after December 31, to the court and board of governors concerning its operations and financial condition. On the application of the board of governors or on its own

motion, the court may order the board to review these rules or any of its regulations, forms, or bylaws and to report to the court concerning any proposed amendments thereto.

11. To collect an annual fee from each attorney subject to these rules, and to assess fees and other penalties for noncompliance with these rules. All fees collected must be utilized for the cost of administration by the board of these rules.

12. To sue and be sued in its own name, and to carry out and defend the purposes, duties, and powers imposed upon or granted to the board in these rules. Individual members of the board, its executive director, and all staff persons assisting them shall have absolute immunity from civil liability for all acts undertaken in the course of their official duties pursuant to these rules.

13. To refer to the state bar for appropriate disciplinary action any attorney who engages in perceived illegal or unethical conduct in response to any of the requirements of these rules.

Rule 210. Minimum continuing legal education requirements. To meet the annual minimum continuing legal education requirements imposed by these rules, each attorney subject to these rules must timely: submit ~~[an annual fee]~~ required fees, complete the requisite number of credit hours, and ~~[check his or her online transcript for accuracy]~~ provide such other information as the board may require.

1. **Annual fee.** The amount of the annual fee ~~[is]~~ will be determined by the board, but will not exceed \$40 [,]. ~~[made payable to the Nevada Board of Continuing Legal Education, and]~~ The annual fee must be [postmarked] paid on or before [February 15] March 1 of the year for which the fee is required to be paid.

2. **Credit hours.**

(a) Subject to the carry forward provisions of subparagraph (b), a minimum of thirteen (13) hours of accredited educational activity, as defined by the regulations adopted by the board, must be completed by December 31 of each year. Of the thirteen (13) hours, at least two (2) shall be exclusively in the area of ethics and professional conduct and one (1) shall be exclusively in the area of substance abuse, addictive disorders and/or mental health issues that impair professional competence. ~~[(4)]~~ Attorneys entitled to an exemption pursuant to Rule 214(1)(a) must complete the requirement within the same calendar year in which they are first subject to continuing legal education requirements.

~~[(2) Attorneys who, for reasons other than an exemption pursuant to Rule 214(1)(a), become subject to these rules subsequent to or in the same calendar year that this amendment becomes effective, must complete the requirement within the same calendar year in which they become subject to these rules.]~~

(b) Any attorney subject to these rules who completes more than thirteen (13) hours of accredited educational activity in any calendar year may carry forward up to twenty (20) hours of excess credit and apply the same to the attorney's general educational requirement for the next two (2) calendar years. Likewise, any attorney subject to these rules who completes more than two (2) hours of ethics and professional conduct credit in any calendar year may carry forward up to four (4) hours of excess credit and apply the same to the attorney's ethics and professional conduct educational requirement for the next two (2) calendar years. ~~[(e)]~~ Any attorney subject to these rules who completes more than one (1) hour in the area of substance abuse, addictive disorders and/or

mental health issues that impair professional competence may carry forward up to two (2) hours of excess credit and apply the same to the attorney's substance abuse, addictive disorders and/or mental health issues requirement for the next two (2) calendar years.

3. Annual transcript.

(a) At least thirty (30) days prior to December 31, the annual reporting date, the board shall provide a transcript of completed educational credits to each active attorney by posting transcripts online. To avoid being delinquent and ~~[in compliance]~~ to comply with these rules, ~~[the]~~ attorneys must check their transcripts online and report additional credits, corrections, or changes to the transcript to the board prior to the annual reporting date.

(b) ~~[The]~~ An attorney whose online transcript posted by the board indicates compliance with the CLE requirements may assume he or she is in compliance for credits.

(c) The board shall establish regulations providing for review of its determination of the CLE credits earned by an attorney and for resolving disputes.

Rule 212. Penalties for noncompliance.

1. Procedure in event of noncompliance. An attorney who is subject to these rules and who fails to timely comply with their provisions shall be subject to the following:

(a) **Extension fee for additional time to complete requisite continuing education credit hours.** In the event that an attorney subject to the requirements of Rule 210(2) fails to complete the requisite continuing education credit hours by December 31, the board may grant ~~[upon written request,]~~ an extension of time to ~~[February 15]~~ March 1 to obtain credits to cure the deficiency from the preceding calendar year. ~~[The request for]~~ An attorney granted an extension of time [must be accompanied by an] will be assessed an extension fee of \$100. The fee for an extension of time is separate from and in addition to the annual fee. Once an extension fee is paid, it is nonrefundable.

(b) **Late fee for failure to timely pay annual fee or submit proof of sufficient educational credits to be in compliance.** In the event that an attorney subject to the requirements of Rule 210 fails to meet the ~~[February 15]~~ March 1 deadline for paying the annual fee and/or completion of required educational credits, the board shall assess a late fee of \$250. The late fee is separate from and in addition to the annual fee and any other fees owed. The late fee shall be assessed in a notice of noncompliance, which shall be mailed by the board via first-class mail to the attorney's last known address on or about March ~~[4]~~ 5. The notice of noncompliance shall:

(1) state the manner in which the attorney has failed, or appears to have failed, to comply with the requirements of Rule 210 resulting in a deficiency;

(2) advise the attorney that to cure the deficiency the attorney must comply with the applicable rules and pay all applicable fees including late fees; and

(3) advise the attorney that to avoid being administratively CLE suspended, the deficiency must be completely cured on or before April 1. It shall not be a defense to noncompliance that the attorney did not receive the notice of noncompliance.

2. Administrative CLE suspension. An attorney who does not completely cure any deficiency on or before April 1 will be administratively CLE suspended.

3. Reinstatement to active status: increased penalties for repeat offenders.

(a) **Reinstatement.** In the event that an attorney who has been placed on administrative CLE suspension pursuant to subsection 2 demonstrates compliance with these rules, the board may reinstate the attorney subject to the payment of the requisite fee.

(b) **Fee: penalties for repeat offenders.** The fee for processing the reinstatement shall be as follows:

(1) \$250 the first time an attorney has been placed on administrative CLE suspension in the preceding five-year period.

(2) \$350 the second time an attorney has been placed on administrative CLE suspension in the preceding five-year period.

(3) \$550 the third time an attorney has been placed on administrative CLE suspension in the preceding five-year period.

(4) \$850 the fourth time an attorney has been placed on administrative CLE suspension in the preceding five-year period.

(5) \$1,250 the fifth time an attorney has been placed on administrative CLE [~~administrative~~] suspension in the preceding five-year period. The reinstatement fee is separate from and in addition to any other fee, and the payment of the fee does not excuse the attorney from compliance with Rule 210 for each and every year the attorney is or was noncompliant.

4. Order of [CLE] administrative CLE suspension; publication required; other requirements. An attorney placed on administrative CLE suspension shall have his or her name published in the state bar's official publication. In the event that the attorney is administratively CLE suspended for noncompliance with these rules, the attorney is not entitled to engage in the practice of law in the State of Nevada until such time as the attorney is reinstated under Rule 213. An attorney who is suspended for noncompliance with these rules must comply with Rule 115. If the attorney fails to comply with Rule 115, then the board shall proceed under Rule 118. The board shall also comply with Rule 121.1.

5. Multiple suspensions; referral to state bar. In the event that an attorney is administratively CLE suspended for noncompliance with all or any portion of these rules more than once within a five-year period, that attorney shall be referred by the board to the state bar for appropriate disciplinary action.

Rule 213. Reinstatement to active status.

1. Application for reinstatement. If an attorney has been suspended as a result of noncompliance with all or any portion of these rules, the attorney may apply for reinstatement as follows:

(a) **Application.** The attorney must file with the board a reinstatement application, properly verified and fully and accurately completed, in a form approved by the board.

(b) **Reinstatement fee.** The reinstatement application must be accompanied by a fee as set forth in Rule 212(3)(b). The reinstatement fee is separate from and in addition to the annual fee required to be paid for the year in which reinstatement is sought.

(c) **Reinstatement credits.** The reinstatement application must be accompanied by proof that the attorney has completed a minimum of fifteen (15) hours of accredited educational activity, at least six (6) of which must be exclusively in the area of ethics and professional conduct, and one (1) credit in the area of substance abuse within the period of twelve (12) months immediately preceding the filing of the application with the board. This requirement is separate from and in addition to the annual credit requirement of Rule 210(2). In addition, if any attorney has been administratively CLE suspended more than once in the preceding five-year period, for every year the attorney has been administratively CLE suspended, he or she must complete an additional requirement of five (5) additional credits for each additional suspension.

2. Approval by the board. If the application for reinstatement appears satisfactory to the board, the board shall notify the clerk of the court and the state bar that the suspended attorney has completed the requirements for reinstatement, and, so long as the sole condition of reinstatement is compliance with Rule 213, the suspended attorney shall become automatically reinstated upon receipt by the clerk of the court and the state bar of the notice from the board stating that the attorney has complied with the requirements of this rule.

Rule 214. Exemptions.

1. The following attorneys are entitled to an exemption from the requirements of Rule 210:

(a) Any active member who has successfully completed the Nevada state bar examination in the present calendar year. The exemption shall be for the remainder of the calendar year in which the examination was successfully completed and the first full calendar year thereafter. Commencing on January 1 of the second calendar year after the successful completion of the examination, the active member becomes subject to these rules. Notwithstanding this exemption, each active member of the state bar, following admission, shall complete the Transitioning into Practice program.

(b) Any active member who is a full-time member of the federal judiciary.

(c) Any member of the state bar who, while not in default of the obligations imposed by these rules, has been voluntarily placed on inactive status; provided, however, that such voluntary placement must have been given in writing to the state bar and the board prior to the expiration of the applicable calendar year for which the exemption is claimed.

(d) Any active member who has attained the age of 70 years.

(e) Any active member who is deployed on full-time active duty in the armed forces of the United States, until the member's release from active military service and resumption of the practice of law.

2. The board, in its discretion, may grant an attorney subject to these rules an exemption upon circumstances constituting exceptional, extreme and undue hardship unique to the attorney, subject to the following:

(a) The attorney seeking the exemption shall promptly file with the board a verified application, specifying in detail the circumstances which the attorney believes afford a basis for an exemption;

(b) The board may, but need not, exempt the attorney from all or a portion of these rules;

(c) The board may condition the exemption upon such terms and conditions, and limit the exemption or partial exemption to such period of time, as the board may deem appropriate; and

(d) All active members of the judiciary shall be exempted from payment of the \$40 annual fee under SCR 210(1).

Rule 215. Reporting change of address; penalty for failure to timely report.

1. Duty to notify of change of address. Every attorney subject to these rules shall maintain a permanent mailing address, a current phone number and a current email address with the board. The attorney must advise the board of any change of address, including change in email address, within thirty (30) days after such change. The obligations under this rule are separate and distinct from the requirements of Rule 79; therefore, compliance with Rule 79 is not deemed compliance with this rule.

2. Penalty for failure to timely report change of address. Failure to timely advise the board of a change of address or change of email address pursuant to this rule shall result in assessment of a penalty of \$200. The penalty for failure to timely report the attorney's change of address or email address is separate from and in addition to any other fees collected by the board. It is also separate and distinct from any fees collected by the state bar under Rule 79. Failure to comply with the provisions of this rule is also a basis for the attorney being administratively CLE suspended.

EXHIBIT B

NEVADA BOARD OF CONTINUING LEGAL EDUCATION

457 COURT STREET, SECOND FLOOR

RENO, NV 89501

TEL (775)329-4443 FAX (775)329-4291

EMAIL nevadacleboard@sbcglobal.net

REGULATIONS OF THE BOARD OF CONTINUING LEGAL EDUCATION

(Amended on _____, 2018: Effective _____)

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REGULATION 1 DEFINITIONS/FEEES

As used in these regulations, the following terms shall have the following meanings:

1. *"Accredited educational activity"* means any formal educational activity which the Board deems acceptable, under these regulations, for credit toward the participant's completion of mandatory continuing legal education requirements as set forth in SCR 210.
2. *"Active Member"* means any attorney who is required by Supreme Court Rules to comply with Supreme Court Rules 205-215.
3. *"Board"* means the Board of Continuing Legal Education created by SCR 207.
4. *"CLEReg"* means the Continuing Legal Education Regulators Association.
5. *"Credit or Credit-Hour"* means an increment of time of continuing legal education which is determined by the Board to constitute one sixty (60) minute hour toward the requirements of an Active Member as set forth in SCR 210 and Regulation 2.
6. *"Executive Director"* means the Executive Director of the Board.
7. *"Exemption"* means those members who qualify under SCR 214 for an exemption from the mandatory continuing legal education requirements of SCR 210.
8. *"Fees"*
 - A. \$40 Annual Fee paid by an Active Member
 - B. Application Fees for Course Approval:
 - i. 1.0 – 2.5 Credits - \$30
 - ii. 3.0 – 7.5 Credits - \$50
 - iii. 8.0 – 20 Credits - \$65
 - iv. 20+ Credits - \$75

- v. Alternate Program Format [one (1) year only]
 - a. 1.0 – 2.5 Credits - \$60
 - b. 3.0 – 7.5 Credits - \$100
 - c. 8.0 – 20 Credits - \$130
 - d. 20+ Credits - \$150
- vi. Application Fee for Approval of Individual Program by Active Member:
 - a. 1.0 – 2.5 Credits - \$15
 - b. 3.0 – 7.5 Credits - \$20
 - c. 8.0 – 20 Credits - \$30
 - d. 20+ Credits - \$40

- C. Late Submission Fee. \$50 fee paid by Active Member for late submission of application for program approval or by Provider for late submission of any required document.
- D. Returned Check Fee. \$50 fee paid by an Active Member or Provider for a returned check.
- E. Extension Fee. A \$100 fee paid by an Active Member who has not completed the required continuing legal education by December 31st, which will allow the Active Member to complete the required continuing legal education by March 1st. The Extension Fee is nonrefundable.

9. *"In-house programs"* are defined as programs presented to Active Members by a Provider that is a government agency, law firm, company or similar entity to its own employed attorneys.

10. *"Other MCLE States"* means those states which have in effect a program of mandatory continuing legal education for attorneys practicing law in those states.

11. *"Provider"* means a provider of continuing legal education.

12. *"Regulations"* means these Regulations.

13. *"SCR"* means the Supreme Court Rules, as periodically amended by the Nevada Supreme Court.

REGULATION 2 GENERAL REQUIREMENTS

1. An Active Member may become entitled to Credit by engaging in any one of, or a combination of, the following kinds of educational activity:
 - A. Attending an approved program as set forth in Regulation 3.
 - B. Instructing at an approved program, including preparation for instruction as set forth in Regulation 9.
 - C. Writing or editing of articles or works approved for Credit by the Board as set forth in Regulation 8.
 - D. Participation in approved alternate format programs as set forth in Regulation 4.

2. Unless otherwise specified by the Board, attendance by an Active Member for each sixty (60) minute period at any approved program entitles the Active Member to one Credit-Hour toward the fulfillment of the continuing legal education obligation of the Active Member for the calendar year in which such attendance occurs.

3. The Board reserves the right to reduce the number of Credits for an approved program, if the instruction is completed in less time than was approved.

4. It is the responsibility of the Active Member seeking to obtain continuing legal education Credits to understand that only the Board can approve a program and only the Board can determine how many Credits will be awarded.

5. Except as provided below, Credit will not be given for delivering or attending keynote addresses, introductory comments, business meetings, breaks taken for refreshments or meals, including speeches or presentations made during meals. However, Credit may be received if the circumstances are such that:
 - A. The primary function is CLE;
 - B. There is a quiet and academic atmosphere that allows all members of the audience to easily hear the speaker(s); and
 - C. CLE is being presented during the entire time for which Credit is applied.

6. Credit will be given for question and answer sessions within a program.

7. If less than a Credit-Hour occurs, partial Credit must be rounded to the lowest one-half (1/2) Credit. Credits may not be received for less than a total of one-half (1/2) hour of attendance at any approved educational activity.

REGULATION 3

ACADEMIC STANDARDS

1. A program, or other formal educational activity, may be approved by the Board if the following standards are met:
- A. The program or activity must have as its primary purpose improving professional skills or competence of attorneys, furthering the education of attorneys in matters of their professional or ethical obligations, and/or improving the attorneys' efficiency in delivery of legal services to the client.
 - B. The program or activity must be an organized program of learning conducted by lawyers or other persons who have specific education, training, experience, or expertise in an area or topic, by reason of which the instructor is considered an expert in the subject matter of the program. Any program conducted or presented by an instructor who does not meet this requirement of expertise is rebuttably presumed not to qualify for Credit.
 - C. Thorough, readable, up-to-date (including citations) and carefully prepared written materials must be made available to all participants at or before the time the program is presented, unless:
 - i. The absence of such written materials is reasonable under the circumstances of the particular program or presentation to be made;
 - ii. The absence of such written materials is approved in advance by the Board. A topical outline without citations or explanatory notations is not sufficient to satisfy this requirement; or
 - iii. The program is one (1) hour or less.
 - D. The program or activity must be conducted in a comfortable physical setting conducive to learning and shall be monitored by the provider for continuous attendance of the Active Member.

- i. Should an attorney in attendance witness an attendee to be in violation of these Regulations as to attendance, it is the professional obligation of the attorney witnessing the alleged violation to submit such information concerning the alleged violation to the program monitor. If no action is taken by the program monitor, it is the professional responsibility of the attorney witnessing the alleged violation to report the conduct to Bar Counsel for the State Bar of Nevada. See NRPC 8.3.
 - ii. Pursuant to NRPC 8.4, it is the obligation of the attendee to comply with the attendance Regulations as set forth above.
 - E. The program or activity must be open to monitoring by the Board or its members, or its authorized representative, without charge or need for advance registration. The Provider must also utilize a method of monitoring continuous attendance by ensuring that continuous use of cell phones and computers, or the continued attention to unrelated reading materials during the program or activity is prohibited. The Provider may also utilize computerized attendance systems so long as they comply with the continuous monitoring methods set forth above. In addition, certificates of attendance shall not be provided to program attendees until the end of the program or activity. The proof of attendance shall be retained as set forth within these Regulations.
 - F. The program must have the Instructor(s) available in the same room or available by video teleconference and audio technology of sufficient quality and range to be heard by all attendees.
2. Programs instructing on the subject of law office economics or practice management may be approved unless all or a specific portion of the program is primarily directed to deriving a profit from the practice of law or developing a client base as opposed to improving the professional skills or the efficiency of the attorney as a practitioner. Programs in or including billing ethics or techniques may be approved if primarily directed toward the development and maintenance of client satisfaction or ethics compliance and not attorney profit oriented. In such instances, the portions of the program which place primary emphasis on marketing, improving your bottom line, or deriving a profit from the practice of law, as opposed to improving the professional skills or the efficiency of an attorney as a

practitioner, shall not be entitled to approval. General programs not uniquely designed for attorneys that stress writing or computer skills are rebuttably presumed not to be eligible for Credit.

3. Substance Abuse/Addiction/Mental Health Credits may be approved for programs that focus on developing awareness of substance abuse or mental health issues and related problems in the practice of law.

A. This includes, but is not limited to: the prevention, detection, reporting and treatment of substance abuse, addictive disorders and/or mental health issues and the available assistance for impaired attorneys; recognizing the signs of substance abuse, addiction and mental health disorders in oneself or one's colleagues; and, impairment, intervention, treatment and available lawyer assistance programs. This also includes steps to be taken in reporting an affected attorney and in assisting the affected attorney.

B. Stress management programs as they relate to the practice of law are also eligible for Credit if they focus on developing awareness of stress-related problems in the practice of law, including programs that focus on personality traits susceptible to stress, work/life balance, recognizing signs of stress in oneself or one's colleagues, instituting preventative measures individually, and the development of policies with the law firm or legal department for dealing with stress-impaired attorneys.

C. Credit will not be given to programs in which the sole focus is personal stress reduction techniques such as breathing exercises, meditation and yoga.

4. Diversity. Programs that discuss the importance and advantages of diversity and/or recognition and elimination of bias in the legal profession.

5. Programs that cross academic lines but which combine the subject matter with legal issues (*e.g.*, a medical-legal program, engineering aspects of construction litigation, accounting-estate planning programs) may be approved if the program has significant intellectual or practical content and improves the professional competence of the participant as an attorney. The programs in this category may be approved upon application by either the Provider or the participant. The burden

is on the Provider or participant to demonstrate in the application that the program improves the professional competence of the participant as an attorney.

6. Programs that do not deal directly with the practice of law (*e.g.*, science programs, computer programs, and engineering programs) may be approved if the program has significant intellectual and practical content and improves the professional competence or skills of the participant as an attorney or the delivery of services to the client. Approval of such a program may only be obtained upon application of the Provider or participant. The burden is on the Provider or applicant to demonstrate in the application that the program improves the professional competence of the participant as an attorney.

7. A program for which the primary audience is not attorneys is rebuttably presumed not to be continuing legal education. The burden is on the Provider or applicant to demonstrate how the program maintains or increases the applicant's professional competence as an attorney.

8. A program or formal educational activity provided by a vendor of products and services to law firms or clients of lawyers is rebuttably presumed not to be CLE. No promotion or sale of goods or services may occur during any period for which credit is sought.

9. Credit will not be given for the reading of a book or handout material from a program.

10. Credit will not be given twice for the same program.

REGULATION 4

ALTERNATE PROGRAM FORMAT

1. An Active Member may receive Credit for a Board approved program presented in alternate format by a Provider. Generally, an alternate format is any program previously recorded. Examples of alternate format may include webcast, disc, satellite, thumb drive, or other format now or hereafter developed by Providers and determined by the Board to be an alternate program format. The Board's approval of an alternate format program is valid for one (1) year only.

2. Alternate format participation must be verified by the Provider of the program. It shall be the Provider's responsibility to enter the attendance electronically as directed by the Board within thirty (30) days after the completion of the alternate format program. The alternate format item, program, or materials may only be used once by an Active Member (updated versions to be considered new items), and the alternate format program may not be older than three (3) years since the time it was first presented. It is the Active Member's responsibility to ensure the alternate format program complies with this Regulation before beginning study.
3. Regardless of the program format, the program must meet all of the academic standards of Regulation 3, including the obligation to provide suitable written materials.
4. Credit for an alternate format program cannot be divided between calendar years. For example, Credit may not be earned for part of a single program in one reporting year and another part of the same program in another year.
5. Due to the possible editing of a live program when transferred to a recorded version, the Board reserves the right to reduce the total number of Credits to the actual running time of the recorded version. The Board further reserves the right to review the transferred version for content to ensure compliance.
6. Pursuant to the Nevada Rules of Professional Conduct, it is the ethical obligation of the Active Member to comply with the requirements of these Regulations. Failure to do so may be considered an ethical violation pursuant to NRPC 8.4.

REGULATION 5 PROVIDER DUTIES

1. At least thirty (30) days in advance of the release date of the program and/or live presentation date, a Provider must utilize the online Program Notification Form and pay the appropriate Application Fee as set forth in these Regulations. A Provider who submits an untimely Program Notification Form, an untimely

Application Fee or other required payment may be assessed a \$50 late fee as determined by the Board.

2. The Board's approval of a live program entitles a Provider to present that live program no more than three times during a single calendar year. A Provider wishing to present the same live program more than three times in a calendar year must submit an additional application(s).
3. Within thirty (30) days after completion of the program, the Provider must:
 - A. Electronically enter program attendance and Credit-Hours for each program participant; and
 - B. Electronically submit an application for instructional credit (Board Form 5) on behalf of the program instructor.
 - C. The Board may assess a \$50 late fee on a Provider who fails to timely enter program attendance.
4. A Provider must also meet all the requirements and duties set forth in Regulations 3 and 4.
5. A Provider must maintain the following records for a period of two (2) years:
 - A. Program Notification Forms;
 - B. Program attendance; and,
 - C. Program evaluations.
6. A Provider must agree to, and must in fact, comply with each of the obligations set forth in these Regulations. A Provider may petition the Board for relief from compliance with one or more of these Regulations based on hardship.

REGULATION 6

PROVIDER FEE EXEMPTION

A Provider is not required to pay an Application Fee if 100% of the proceeds from the program of continuing legal education are donated directly to the Nevada Bar Foundation; or, if there is no fee for the program, and in exchange for attending the program, program participants agree to take a pro bono case or engage in another pro bono activity sponsored by a pro bono provider recognized by the

Nevada Bar Foundation. A Provider seeking such exemption must complete the Verified Pro Bono Exemption Form (Form 1).

REGULATION 7

APPROVAL OF INDIVIDUAL PROGRAMS

1. The Board may, upon application of any Active Member, approve all or a portion of a particular individual program of continuing legal education which meets the academic standards set forth in Regulation 3. Each application for approval of an individual program shall be made on Board Form 2 or CLereg Uniform Application for Approval of Continuing Legal Education.
2. An Active Member seeking approval of a program, or other activity, must apply to the Board by submitting the required application, a certificate of attendance, the appropriate application fee as set forth in Regulation 1 and supporting documentation no later than thirty (30) days after completion of the program. An Active Member is responsible for logging into the Board's website and verifying the total Credits actually approved by the Board. Untimely submissions of programs may be assessed a \$50 late fee as determined by the Board.
3. Active Members denied approval of a program or activity may submit a written request for reconsideration to the Board within thirty (30) days of receipt of the notice of denial. Such request must set forth the specific reason(s) why the Board should reconsider its denial.

REGULATION 8

AUTHORSHIP OR EDITING CREDIT

1. An Active Member may apply for Credit for authorship of qualifying published materials by using Board Form 4. If Credit for preparation of instructional materials has been granted to an author pursuant to Regulation 9, additional Credit for the same materials may not be granted to the same author under this Regulation.

2. The application for authorship Credits must be made within thirty (30) days of publication of the authored/edited work. A late fee of \$50 may be assessed if the authorship application is submitted later than thirty (30) days after the publication date of the authored work.
3. The authored work must be:
 - A. A scholarly article, case note or other work published in a law review, legal treatise or legal manual;
 - B. A scholarly article written for attorneys with citation to authority and published in a newsletter or legal magazine of regular distribution to at least 200 attorneys.
4. An application for Credit for updated authorship material must be accompanied by a redline, showing how the authorship material has been updated from the prior authored material.
5. Topical outlines, columns dealing with fraternal or social matters, anecdotal summaries, or brochures are not materials which qualify for authorship or editing Credit.
6. For each authorship submission, an Active Member may obtain up to twenty (20) Credits per year for authored material subject to the following limitations:
 - A. Works described in subpart 3(a) above may be eligible for up to twenty (20) Credits; works described in subpart 3(b) may be eligible for up to ten (10) Credits; and,
 - B. Works that are co-authored are eligible for Credit in proportion to the percentage of work contributed by the party seeking such Credit.
7. Editing Credit may be given for substantive editing up to 50% of authorship Credit as set forth in subpart 6(a) above, depending on the extent of the editor's involvement in creating the final product, as determined by the Board.
8. A Board Member will determine the final number of Credits to be allocated to the authorship of the work. An Active Member may appeal the Board Member's determination of Credits to the entire Board by submitting an appeal to the Board in writing within thirty (30) days of receiving the Board Member's determination.

9. An Active Member is responsible for logging into the Board's website and verifying the total Credits actually approved by the Board.

REGULATION 9

CREDIT FOR INSTRUCTION AT APPROVED PROGRAMS

1. The Board may approve, upon application by an Active Member and Provider, continuing legal education in the form of instruction at an approved program. Board Form 5 must be used for this purpose.
2. The application for approval for instruction must be made within thirty (30) days following the conclusion of the program in which the instruction is given (or if multiple instruction dates are offered, the last date of such instruction). Untimely submissions of Instructional Applications may be assessed a \$50 late fee as determined by the Board.
3. An Active Member may only receive Credit for instruction at a program if the program has been approved by the Board.
4. For every actual one (1) hour of instruction, up to three (3) Credits may be allocated for preparation.
5. Multiple presentations involving the same material and program matter are not entitled to duplicate Credit. Programs which are updated from previous presentations may qualify for approval to the extent time was expended preparing for and providing the updated presentation.
6. Should the program be cancelled for reasons beyond the control of the presenter, up to one-half (1/2) Credit may be issued at the discretion of the Board. The presenter shall have the burden of providing verification of the presenter's preparation for the cancelled program.

REGULATION 10
ATTENDANCE VERIFICATION

1. Nevada is an attendance verification state. Each Active Member must, in order to verify compliance with SCR 205-215, inclusive, and the Regulations promulgated by this Board thereunder, retain possession of all program outlines, agendas, cancelled checks, receipts, travel vouchers, or other records to verify compliance. Such records must be retained by the Active Member for a period of two (2) years after the calendar year in which the Active Member engages in the continuing legal education activity subject to verification.
2. An Active Member may verify his or her attendance at any program by using the certificate of attendance issued by the Provider of the program.
3. Failure of an Active Member to provide verification of attendance may result in denial of Credit for the program.

REGULATION 11
CARRY FORWARD OF CREDITS

1. An Active Member who completes more than thirteen (13) hours of accredited educational activity in any calendar year may carry forward up to:
 - A. Twenty (20) hours of excess general Credit and apply the same to the attorney's general educational requirement for the next two (2) calendar years;
 - B. Four (4) hours of excess ethics Credit and apply the same to the attorney's ethics and professional conduct educational requirement for the next two (2) calendar years; and
 - C. Two (2) hours of excess substance abuse Credit and apply the same to the attorney's substance abuse, addictive disorders and/or mental health issues requirement for the next two (2) calendar years.
2. Active Members who are exempt from these rules under SCR 214 (1)(a) may, during the final year of exemption, earn Credits which may be carried forward for application to requirements in the first year after the exemption.

REGULATION 12

REPORTING CREDITS FOR COMPLIANCE

1. The Board maintains on its website all Active Member's transcripts. Prior to December 31st, an Active Member must review the online transcript to ensure accuracy. Please log on to your account at www.nvcleboard.org for this purpose.
2. Those Active Members who have not completed their CLE requirements by December 31st, may receive an extension of time until March 1st of the following year. The Board will assess a non-refundable Extension Fee as set forth in SCR 212. Active Members who fail to complete their Credits and who do not seek an extension of time will be subject to the late fee as set forth in SCR 212(b), in addition to any other applicable fees or penalties.

REGULATION 13

ANNUAL FEE

1. As provided in SCR 208 (11), each Active Member must pay the Annual Fee.
2. The Annual Fee must be paid on or before March 1st of the calendar year for which the payment is required to be made.
3. Failure to pay the Annual Fee when due subjects the delinquent Active Member to the same sanctions as if the Active Member failed to comply with SCR 210 or SCR 212.
4. Active Members employed on a full-time basis in the judiciary who are prohibited from engaging in the private practice of law and Active Members of the State Bar of Nevada entitled to an exemption under SCR 214 (1) are automatically entitled to an exemption from the requirement to pay the Annual Fee under this Regulation 13.
5. Bank charges. Should a check be returned by a bank for non-payment, the Active Member will be required to reimburse the Board for the actual dollar amount of the check, together with a Returned Check Fee.

REGULATION 14 EXEMPTIONS

Any Active Member subject to an exemption under SCR 214 (1) must notify the Board of such an exemption by filing Form 7 with the Board.

REGULATION 15 DELEGATION

The Board may delegate to its Executive Director, or to a sub-committee of the Members of the Board, the authority to approve programs or assign Credits to continuing legal education programs. At a regular meeting of the Board, the Executive Director will report all determinations made under such delegated authority since the last meeting of the Board.

REGULATION 16 CONFIDENTIALITY

All files, records and proceedings of the Board, as they relate to the compliance or noncompliance of any Active Member with these Regulations, shall remain confidential, and shall not be disclosed except:

- A. In furtherance of the duties of the Board;
- B. Upon written request and consent of the Active Member affected;
- C. Pursuant to proper legal process, including subpoenas, search warrants and administrative summonses;
- D. Upon written request from Bar Counsel of the State Bar of Nevada as part of a disciplinary proceeding or investigation;
- E. Upon written request from Bar Counsel of the State Bar of Nevada in determining compliance with NRPC 7.4; or
- F. As ordered by a court of competent jurisdiction.

REGULATION 17

ETHICS AND PROFESSIONAL CONDUCT

1. Ethics and Professional Conduct as specified in SCR 210 (2), includes, but is not limited to instruction in any of the following areas:
 - A. Topics specifically focusing on the Rules of Professional Conduct as adopted by the Supreme Court of Nevada, including NRPC, but not limited to;
 - B. Avoiding disciplinary and malpractice complaints;
 - C. Permissible forms of advertising, how to comply with the Nevada Rules of Advertising, advertising filing requirements, solicitation, fee splitting, and fee arrangements with clients;
 - D. Permissible conduct when accepting or terminating employment with a law firm or agency, or when accepting, withdrawing or being terminated from a case;
 - E. Conflicts of Interest;
 - F. The documentation and record keeping that must be maintained on a daily bases in a law office, particularly with regard to time keeping, time management, filing, case management and case administration;
 - G. Trust accounts, retainers and retainer agreements and the proper handling thereof;
 - H. Client Relations, including the retention of files, attorney liens, and communications;
 - I. Pro Bono;
 - J. Training and supervision of lawyers and support staff to reduce the risk of ethical violations, particularly with regard to the unauthorized practice of law;
 - K. Ethics and professional conduct pertaining to the Judiciary, including arbitrators, settlement judges and other judicial officers; or
 - L. Ethics and professional conduct pertaining to public lawyers, including prosecutors and criminal defense attorneys.

2. Credits for ethics programs shall be computed in the same manner as for other programs under Regulation 2. Programs where ethics and professional conduct Credits are being requested must contains a minimum of one-half (1/2) hour of instruction per program.

3. The Board will not approve for ethics and professional conduct Credit those programs where it is indicated that there is a portion of ethics during each topic. Ethics and professional conduct instruction must be given in a continuous block of time.

4. Providers or Active Members who are seeking ethics and professional conduct Credit for a CLE program must clearly identify the topic(s) contained in the agenda or brochure and the minutes of continuing instruction for which ethics and professional conduct Credit is sought.

REGULATION 18 BAR REVIEW PROGRAMS

No Credit will be given for attendance at a program involving the preparation for a bar examination.

REGULATION 19 RELIEF FROM COMPLIANCE

1. As set forth in SCR 214 (2), the Board, in its discretion, may grant an Active Member subject to these rules an exemption upon circumstances constituting exceptional, extreme and undue hardship unique to the Active Member, subject to the following:

- A. The Active Member seeking the exemption must promptly file with the Board a verified application, specifying in detail the circumstances which the Active Member believes afford a basis for exemption;
- B. The Board may, but need not exempt the Active Member from all or a portion of these rules; and
- C. The Board may condition the exemption upon such terms and conditions, and limit the exemption or partial exemption to such period of time, as the Board may deem appropriate.

2. Such application must be made prior to obtaining such exemption, unless the Active Member is unable to make such application in advance by reason of the hardship itself. Board Form 8 will be utilized for such application.

**REGULATION 20
CHANGE OF ADDRESS**

1. Every Active Member subject to the requirements of SCR 205-215 and the Regulations contained herein, must notify the Board of any change of address within thirty (30) days of such change. See SCR 215 (2). Form 10 must be used for this purpose and must be sent to the Board by mail, email, or facsimile.

2. Failure to timely advise the Board of a change of address will result in the assessment of a penalty in the amount of \$150. Failure to comply with this Regulation is also a basis for the Active Member to become CLE Suspended pursuant to SCR 212 (2).

**REGULATION 21
TIMELINE**

The attached timeline is hereby referenced and incorporated herein and adopted by the Board as Regulation 21. See Board Form 11.

**REGULATION 22
FORMS**

The attached appendix of applicable Forms must be used by Active Members for compliance with these Regulations. Forms are subject to change, adjustment and approval by the Board and will be made available to all Members on the Board's website and/or in written hardcopy form.

APPENDIX BOARD FORMS

Form 1	Verified Pro Bono Exemption Form
Form 2	Application for Continuing Legal Education
Form 3	Individual Declaration Verifying Attendance
Form 4	Application for Approval of Authorship
Form 5	Application for Program Preparation Credit
Form 6	Program Notification Form

Form 7 Notice of Exemption
Form 8 Application for Exemption Based on Hardship
Form 9 [Reserved]
Form 10 Change of Address
Form 11 Timeline
Form 12 Application for Reinstatement under SCR 213

At a duly noticed and scheduled meeting on _____, 2018, these Regulations were adopted by the Board.

Jenny Hubach, Chair