


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 499

FILED

DEC 21 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

*ORDER AMENDING
SUPREME COURT RULES 207, 208, 210, 212, 213, AND 215*

WHEREAS, on December 21, 1981, this court entered an order adopting Supreme Court Rules related to the creation of the Nevada Board of Continuing Legal Education (CLE) and the implementation of minimum continuing education requirements; and

WHEREAS, on November 15, 2016, this court entered an order approving various amendments to the Supreme Court Rules related to continuing legal education requirements, the CLE Board, and a business plan as proposed by the CLE Board; and

WHEREAS, on October 1, 2018, the Honorable Lynn K. Simons filed a renewed request in this court seeking amendment of Rules 207, 208, 210, 212, 213, and 215 of the Supreme Court Rules pertaining to the CLE Board and modification of the Regulations of the CLE Board. The Court received the State Bar of Nevada's (State Bar) response to the request on October 24, 2018. The CLE Board filed a supplement to the request for amendment and response to public comment on November 1, 2018; and

WHEREAS, this court solicited public comment on the petition and a public hearing was held in this matter on November 5, 2018. Thereafter, the court solicited and considered additional comment; accordingly,

IT IS HEREBY ORDERED that Supreme Court Rules 207, 208, 210, 212, 213, and 215 shall be amended and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that the CLE Board prepare and submit for the court's approval regulations implementing the amended rules by February 1, 2019.

IT IS FURTHER ORDERED that the CLE Board and State Bar submit to this court by January 15, 2019, a report specifying the changes necessary to implement efficiencies in the CLE Board's operations using technology, resources, and State Bar offices.

IT IS FURTHER ORDERED that the CLE Board and State Bar provide notification to State Bar members and providers of continuing legal education of the changes in the administration of CLE credits established by these rule amendments.

IT IS FURTHER ORDERED that the amendments to the Supreme Court Rules 207, 208, 210, 212, 213, and 215 shall be effective on February 1, 2019. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of

this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rules.

Dated this 21st day of December, 2018.

Douglas, C.J.
Douglas

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

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

EXHIBIT A

AMENDMENTS TO SUPREME COURT RULES 207, 208, 210, 212, 213, AND 215

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,]~~ governors for seats A, B, and C, and three (3) members of the board shall be appointed by the ~~[court.]~~ court for seats D, E, and F. The court shall also appoint the member of the ~~[judiciary.]~~ 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.]~~ 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.]~~ 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 ~~[90]~~ 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 \$40, made payable to the Nevada Board of Continuing Legal Education, and]~~ will be determined by the board, but will not exceed \$40. 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.

~~[—————(1)]~~ 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 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 with these rules, the attorney must report additional credits, corrections, or changes to the transcript to the board prior to the annual reporting date.~~

~~(b) The attorney whose transcript indicates compliance with the CLE requirements may assume he or she is in compliance.~~

~~(c) The board shall establish regulations providing for review of its determination of the CLE credits earned by an attorney and for resolving disputes.] Affirmation of attendance. No later than December~~

31, an attorney must submit to the board an affirmation of attendance listing all courses of continuing legal education attended during the year and the number of credit hours the attorney is claiming for each course. The affirmation of attendance constitutes an attorney's representation under penalty of perjury that the attorney attended and participated in the listed course of continuing legal education for the hours represented on the affirmation. The provisions of Rule 212 are applicable to the affirmation of attendance.

4. CLE credit compliance. The board shall establish regulations providing for review of its determination of the CLE credits earned by an attorney and for resolving disputes. The regulations shall provide for the random audit of attorneys' affirmations of attendance to verify attorney compliance with CLE requirements.

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,~~] grant 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~~] 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 ~~[1.]~~ 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 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 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, or submits a false affirmation required by Rule 210(3), 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.]~~ 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 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]~~ 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.]~~