

Rules of the Wyoming State Board of Continuing Legal Education 2015 Proposed Amendments

Rule 1. Purpose.

By continuing their legal education throughout their practice of law, attorneys can better fulfill their obligation to competently serve their clients. These rules establish minimum requirements for such continuing legal education and the means by which the requirements shall be enforced.

Rule 2. State Board of Continuing Legal Education.

(a) The Wyoming State Board of Continuing Legal Education, having been previously established, is hereby continued under these rules. The members of the Board are to be appointed by the Court. The Board shall consist of nine members, six of whom shall be members of the Wyoming State Bar and three of whom shall be residents of the state not admitted to the practice of law. Members shall be appointed for three-year terms.

(b) Each yearly class of members shall include two members of the bar and one layperson. No person may serve more than two consecutive terms as a member of the Board.

(c) Each year the Board shall designate one of the lawyer members to serve as chairperson. The executive director of the Wyoming State Bar, or designee, shall serve as the executive secretary of the Board.

(d) The Board shall elect a vice-chairperson from its membership who shall, in the event of the resignation, absence, incapacity or demise of the chairperson, act as chairperson until such time as the absence or incapacity has been removed or the Board designates a new chairperson.

(e) The Board has general supervisory authority over the administration of these rules.

(f) Five or more members of the Board shall constitute a quorum.

(g) ~~The address for the Board is the mailing address for the Wyoming State Bar, which presently is Post Office Box 109, Cheyenne, Wyoming 82003-0109. All communications to or with the Board or any member thereof relating to matters governed by these rules, and all communications with either the Board or any member thereof relating to waiver of any part of these rules, whether by an attorney or by any person or agent acting for or on the behalf of an attorney, shall be transmitted through the office of the Wyoming State Bar unless otherwise directed in writing by the chair of the Board.~~

(h) ~~The Board shall meet at least once annually and at such other times as designated by the chairperson. All proceedings of the Board shall be confidential.~~

(i) ~~Vouchers for expenses incurred by members of the Board shall be submitted to the executive director of the Wyoming State Bar and signed under penalty of perjury. Mileage will be paid at the rate set by the Wyoming State Bar. Other expenses will be reimbursed at actual cost-incurred rates.~~

Rule 3. Definitions.

For the purposes of these rules, the following definitions apply:

(a) "Attorney" means a ~~person duly admitted to practice law in Wyoming~~ member of the Wyoming State Bar who is required to complete continuing legal education as provided in these rules.

(b) The "Board" means the Wyoming State Board of Continuing Legal Education.

(c) "Court" means the Wyoming Supreme Court.

(d) An "hour" of accredited continuing legal education means 60 minutes in attendance at an accredited continuing legal education activity. Credit will be given to the nearest quarter of an hour.

(e) "Legal Ethics" means instruction in legal and judicial ethics and professional responsibility. It may include, but is not limited to, subjects dealing with duties of attorneys to the judicial system, court, public, clients and other attorneys; competency; pro bono work; substance abuse; attorney fees; and client development. It may also include subjects dealing with law office management to the extent professional responsibility is directly discussed in relation to that topic.

(f) "Mentor" is a lawyer who holds Active or Emeritus status with the Wyoming State Bar and has at least five (5) years of experience in the practice of law.

(g) "CLE Director" is the Continuing Legal Education Director, an employee of the Wyoming State Bar.

Rule 4. Continuing legal education requirements and conditions.

(a) Requirements.

(1) *Active Members*: A minimum of 15 hours of continuing legal education including a total of two hours of legal ethics must be completed each calendar year.

(2) *New Active Members*: A minimum of 15 hours of continuing legal education including a total of two hours of legal ethics must be completed each calendar year.

(3) *Emeritus Members*: A minimum of seven (7) hours of continuing legal education including one hour of legal ethics must be completed each calendar year.

(4) *New Admittees by Examination or UBE Score Transfer*. For continuing legal education requirements for new admittees, see Rule 505 of the Rules and Procedures Governing Admission to the Practice of Law. Each new admittee by examination or by Uniform Bar Examination score transfer shall attend, within 12 months from the date of admission to the Wyoming State Bar, a six-hour continuing legal education course entitled "Pathways to Professional Practice." The Pathways course shall be conducted by the Wyoming State Bar and shall be available at least twice each year, at such times and places as the Wyoming State Bar may designate, and may be counted toward the 15 hours of continuing legal education that must be obtained pursuant to this rule.

(b) Continuing legal education credit may be obtained by attending or participating in a continuing legal education activity accredited by the Board CLE Director under these rules. Credits will not be granted for attending duplicate courses in the same calendar year.

(c) Hours completed in any year in excess of the minimum number, including legal ethics credits, may be carried forward for two years.

(d) Attorneys who lecture in an accredited continuing legal education activity will receive credit for three hours for each hour spent lecturing. If an attorney lectures as part of a panel, the total length of the lecture will be divided by the number of panelists and that portion will be multiplied by three for instruction credit. Credit will not be granted for instructing duplicate courses in the same calendar year unless substantive changes are made in the program.

(e) The final published course schedule of an accredited continuing legal education activity shall be determinative of the number of hours of accredited continuing legal education available through such activity. In all other cases, the Board CLE Director will determine the number of hours of accredited continuing legal education available through such activity.

(f) To obtain continuing legal education credit, an attorney shall submit a form an application approved by the Board or apply on-line on the Wyoming State Bar website

(www.wyomingbar.org) for each continuing legal education activity for which credit is sought. The ~~approved form application~~ should be submitted within a reasonable time following participation in the activity, ~~but in no event later than January 30 of the year following the calendar year in which the attorney's participation occurred.~~ Applications submitted after March 1 for continuing legal education activities completed during the previous calendar year shall not be accepted.

(1) For continuing legal education activities which have received prior accreditation under Rule 6, no further documentation is required other than the ~~approved form application~~.

(2) For continuing legal education activities which have not received prior accreditation, the ~~attorney shall submit to the Board the approved form and~~ application shall include a brief description of the activity, its dates, subjects, instructors and their qualifications, a copy of the activity outline, activity brochure and other documentation upon which the ~~Board~~ CLE Director can make a determination as to the qualifications of the activity and the number of credit hours to which the applicant is entitled. Within a reasonable time after receipt of the ~~written report application~~ and accompanying materials, the ~~Board~~ CLE Director shall ~~advise the attorney in writing by U.S. mail, facsimile or email~~ notify the attorney that the activity is not accredited or if the number of hours of credit approved is less than requested. Such notification shall be made by United States mail or by email to the address provided by such attorney to the Wyoming State Bar.

(g) The Wyoming State Bar shall maintain a ~~file (which may be a computer record)~~ record of the continuing legal education credits which have been accumulated for each attorney. ~~Once each year, as soon after January 30 as is reasonably possible, or upon the request of an attorney, the Wyoming State Bar shall report to each attorney those continuing legal education hours credited to that attorney and such credits as may be carried forward into the two years next following that year for which the report to the attorney is made.~~ On November 15 (or the next business day following) the Wyoming State Bar shall notify each attorney of the number of continuing legal education hours credited to that attorney for the current calendar year. Such notification shall be made by United States mail or by email to the address provided by such attorney to the Wyoming State Bar.

Rule 5. Standards for continuing legal education activity.

(a) A continuing legal education activity consisting of lecture (classroom) style instruction qualifies for accreditation, and the attorney participants, both attendees and faculty, are entitled to continuing legal education credit, if the Board CLE Director determines that:

(1) The activity constitutes an organized program of learning (including workshop or symposium) which contributes directly to the professional competency of an attorney;

(2) The activity pertains to legal subjects or other subject matters which integrally relate to the practice of law;

(3) The purpose of the activity is the education of professionals including attorneys;

(4) The activity is conducted or taught by attorneys, although it may also be conducted or taught in part by individuals who have special education, training and experience by reason of which they should be considered experts concerning the subject matter of the program; and

(5) The activity is accompanied by a paper, manual or written outline which substantively pertains to the subject matter of the program.

(b) Examples. The program's purpose must be the education of professionals, including attorneys, on legal topics or on non-legal topics which nevertheless integrally relate to the practice of law, such as

(1) A joint continuing legal education program sponsored, for instance, by accountants to which attorneys are invited and at which attorneys lecture on topics of interest to both accountants and attorneys would likely be accredited by the Board CLE Director, subject to the Board CLE Director's review of the specific course outline or program brochure.

(2) A meeting of doctors, lawyers, managed health care professionals and hospital administrators at which one or more attorneys lecture on topics of interest to all participants, such as legal concerns in the establishment of an HMO, malpractice, giving expert testimony, new federal laws and regulations for Medicaid/Medicare providers, would likely provide continuing legal education credit to attorney lecturers and to attorney attendees if the topics pertain to subject matters which integrally relate to the practice of law and contribute directly to the professional competency of an attorney.

(3) A meeting of public service commissioners and attorneys at which one or more attorneys lecture on topics such as new regulations, administrative rules, and/or laws would likely be accredited by the Board CLE Director if the topics pertain to subject matters which integrally relate to the practice of law and contribute directly to the professional competency of an attorney.

(4) A meeting of doctors at which one or more attorneys lecture on topics of interest to doctors, such as malpractice, court procedures or giving expert testimony would not qualify as continuing legal education credit to attorney lecturers or attendees, because the program was not intended for the continuing legal education of attorneys. Attorneys are expected to participate in such programs as a contribution to the community and to their profession. Other similar programs which would not ordinarily qualify for continuing legal education credit would include teaching a bar review course or presenting a seminar exclusively to records managers on "Law Enforcement Records Liability."

(5) Attending a course taught by engineers, for engineers, on topics which may be of vital interest to a product liability attorney would not provide continuing legal education credit to the attorney because the program was not intended for the continuing legal education of attorneys. Other programs which would not ordinarily qualify for continuing legal education credit include attending courses at a real estate school, attending a non-attorney workshop on juvenile delinquency or attending a non-attorney course on federal procurement.

(c) Time spent researching and writing articles that are published in a legal periodical including without limitation law reviews, legal newsletters, pamphlets, magazines or newspapers, consisting of case summaries, law updates and other subjects of interest to the legal community, qualifies for continuing legal education credit to a maximum of 15 hours in any calendar year. Authors of such articles applying for continuing legal education credit must submit a copy of the article, as published, with the approved form.

(d) An attorney may receive a maximum of five hours of legal education credit each calendar year for providing pro bono public service as defined in Rule 6.1 of the Wyoming Rules of Professional Conduct. Such credit may be received at the rate of one credit hour for each two hours of pro bono public service, including (1) performing pro bono public service, (2) acting as a mentor for another attorney who is performing pro bono public service, and (3) acting as a mentor for an eligible law student in accordance with Rule 9 of the Rules Governing the Wyoming State Bar and the Authorized Practice of Law.

(e) An attorney may receive a maximum of six hours of continuing legal education credit for self-study programs where audio, video or online material is used. No hours may be carried over to any subsequent years.

(f) Attorneys will not receive continuing legal education credit for any "for profit" activity such as authoring a book or treatise for a fee or commission or teaching a course for which payment of other than expenses is received.

(g) Identical activities will not be accredited unless they are held at least one year apart.

Rule 6. Accreditation of continuing legal education activities.

A sponsor may apply for accreditation of a continuing legal education program by submitting an application for accreditation on a form provided by the Board at least 30 days prior to the activity, along with an application fee established by the Board. The application fee established by the Board is subject to approval by the Wyoming Supreme Court. The application shall state the dates, subjects offered, total minutes of instruction, names and qualifications of speakers and other pertinent information. Programs are approved for 12 months and must be re-submitted for approval, along with payment of an application fee established by the Board, every 12 months in order for the program to be accredited that year. The application fee will be waived for programs that are being offered free of charge.

Rule 7. Hardships and extenuating circumstances waivers and extensions.

(a) The Board may, in individual cases involving hardship or extenuating circumstances, grant waivers of the continuing legal educational requirements or extensions of time. Hardship may be shown by illness, medical disability or other extraordinary or extenuating circumstances beyond the control of the attorney, but generally will not include financial hardship or lack of time due to a busy professional or personal schedule. Requests for waivers or extensions of time shall be submitted in writing to the Board prior to March 1 of the year following the reporting period for which the request is being made, provided, however, that any such requests pertaining to ~~mandatory continuing legal education requirements for new admittees must be submitted to the Board of Law Examiners~~ the Pathways requirement set forth in Rule 4(a)(4) shall be submitted within 12 months of the date of the attorney's admission. The Board shall have discretion to review an untimely request if the attorney shows good and sufficient cause as to why the request was not submitted within the time required by this rule, and if the untimely request is submitted to the Board ~~before the matter has been referred a Recommendation for Suspension for Noncompliance has been submitted to the Court.~~

(b) Waivers of the continuing legal educational requirements may be granted by the Board for any period of time not to exceed one year. If the hardship or the extenuating circumstances upon which a waiver has been granted continue beyond the period of the waiver, the attorney must reapply for an extension of the waiver. The Board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the continuing legal educational requirements waived by such methods as may be prescribed by the Board.

(c) Extensions of time within which to fulfill the continuing legal educational requirements may, in individual cases involving hardship or extenuating circumstances, be granted by the Board for a period not to exceed six months immediately following expiration of the year in which the requirements were not met. Hours of continuing legal educational requirement completed within an extension period will be applied first to the continuing legal educational requirement for the preceding year and will be applied to the current or following year only to the extent that the hours are not required to fulfill the continuing legal educational requirement for the preceding year.

Rule 8. Exemptions.

(a) An attorney is exempt from the provisions of Rule 4(a) during the calendar year in which the attorney is admitted to practice law in Wyoming; provided, however, that new admittees by examination or by Uniform Bar Examination score transfer must comply with the mandatory continuing legal education requirements set forth in Rule 505 of the Rules and Procedures Governing Admission to the Practice of Law Rule 4(a)(4).

(b) A member of the Wyoming State Bar who is honorary, inactive, honorary retired or retired, according to Article I, Section 3 of the Bylaws of the Wyoming State Bar, is exempt from the provisions of Rule 4, and is not required to obtain or report continuing legal education credit on a yearly basis.

(c) An attorney who is elected to state or national executive or legislative office is exempt from the provisions of Rule 4 if written request for exemption is made each year the office is held.

(d) A member of the Board of Law Examiners is exempt from the provisions of Rule 4 if written request for exemption is made each year the attorney is a member of the Board of Law Examiners.

Rule 9. Appeals to the Board.

In the event of denial, in whole or in part, of any application for continuing legal education credit, the attorney may, within 20 10 days after the sending of the notification of denial by U.S. mail, facsimile or email to the attorney, request in writing that the Board reconsider the denial. The Board's decision upon reconsideration shall be final.

Rule 10. Penalties for failure to satisfy continuing legal education requirement.

(a) As soon as possible after January 30 15, the Wyoming State Bar shall report to each attorney the number of continuing legal education hours credited to that attorney for the previous calendar year send a Notice of Delinquency to each attorney not in compliance with continuing legal education requirements. The Notice of Delinquency shall be sent by United States mail and email to the attorney at the official address listed with the Wyoming State Bar. Attorneys who are delinquent on continuing legal education hours for the previous calendar year shall have until March 1 to submit applications for adequate credits to cure the delinquency, along with payment of a \$300.00 delinquency fee payable to the Wyoming State Bar.

(b) On or before March 15 of each year (or the first business day thereafter) As soon as possible after March 15, the Wyoming State Bar Board, upon certification from the Wyoming State Bar that the requirements of Rule 4(a) and/or Rule 10(a) have not been met by the attorney, and that the Notice of Delinquency required by Rule 10(a) was timely sent to the attorney, shall forward a Recommendation for Suspension for Noncompliance with continuing legal education requirement to the Court for each attorney who failed to comply with the continuing legal education requirement for the previous calendar year, or for any delinquent attorney who has failed to pay the delinquency fee. For attorneys who have not complied with the Pathways requirement set forth in Rule 4(a)(4) within 12 months from the date of admission, the Recommendation for Suspension for Noncompliance shall be forwarded to the Court as soon as possible after the expiration of the 12 months. A copy of the Recommendation for Suspension for Noncompliance shall be sent by certified mail, return receipt requested, addressed to the attorney at the official address listed with the Wyoming State Bar.

(c) Upon receipt of the Recommendation for Suspension for Noncompliance with the continuing legal education requirement, the Court shall issue an Order to Show Cause as to why the delinquent attorney's license to practice law in the State of Wyoming should not be suspended,

sent by certified mail, return receipt requested, addressed to the attorney at the official address listed with the Wyoming State Bar. The delinquent attorney may file a response with the Court within 30 days of the date of the order to show cause by filing an original and six copies of such response with the clerk of the Court. The delinquent attorney shall also serve a copy of the response on the Board of Continuing Legal Education, together with a \$300.00 noncompliance fee payable to ~~that~~ the Wyoming State Bar. The \$300.00 noncompliance fee is in addition to the delinquency fee provided in subsection (a) of this rule.

(d) In the absence of good cause shown, an order of suspension from the practice of law for a period of one (1) year shall issue from the Court.

Rule 11. Duties of suspended attorneys.

(a) Within 15 days of the date of an order of suspension, the suspended attorney shall notify the following persons by registered or certified mail, return receipt requested, of the attorney's suspension and the attorney's consequent inability to act as an attorney after the effective date of the suspension:

(1) All clients with pending matters in the State of Wyoming. The attorney shall advise clients to seek legal advice elsewhere and to obtain another attorney for litigated matters or administrative proceedings in the State of Wyoming.

(2) Any co-counsel who is involved in litigated matters or administrative proceedings in the State of Wyoming.

(3) The attorney for each adverse party or, in the absence of such counsel, the adverse party or parties in litigated matters or administrative proceedings in the State of Wyoming. The notice to parties shall state the place of residence of the client of the suspended attorney.

(4) All courts or administrative bodies in which the attorney has matters pending in the State of Wyoming.

(b) If an attorney has not filed a petition for reinstatement within six months from the date of the order, the attorney shall within 15 days deliver to all present and former clients all client files.

(c) A suspended attorney shall notify the client of all deadlines and scheduled court dates.

(d) A suspended attorney, after entry of the suspension order, shall not accept any new legal matters in the State of Wyoming. During the period from the entry date of the order to its effective date, the attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

(e) A suspended attorney shall return any unearned fees.

(f) Within 30 days after the effective date of the suspension order, the suspended attorney shall file with the Court and Board an affidavit showing that the attorney has fully complied with the provisions of the order and with this rule and stating the address where communications may thereafter be directed.

(g) A suspended attorney shall maintain records of the steps taken to comply with this rule.

(h) The provisions of this section are deemed to be incorporated into all orders of suspension. Failure to comply with any requirement of this section is punishable as contempt.

Rule 12. Reinstatement.

The suspended member may be reinstated upon the filing of a petition for reinstatement within one (1) year of the date of the order of suspension, which petition shall be filed, along with six copies, with the Supreme Court. A copy of the petition shall also be provided to the Board of Continuing Legal Education. The petition shall be supported by an affidavit which shows: (1) that

all past annual license fees, the current year's annual license fee and any late charges have been paid in full, in addition to all past and current annual fees for continuing legal education; (2) that the attorney is current on all mandatory continuing legal education requirements; (3) that there have been no claims or awards made in regard to an attorney on the client's security fund for which the fund has not been reimbursed; and (4) the attorney has complied with all other applicable conditions for reinstatement. The petition shall be accompanied by all appropriate fees for applicants for admission on motion. A response by the Board of Continuing Legal Education may be filed within twenty (20) days of the date of service of the petition for reinstatement.

If an attorney who is suspended from the practice of law for a continuing legal education delinquency has not petitioned for reinstatement within one (1) year of the date of the order of suspension, such attorney's membership in the Wyoming State Bar shall be terminated by order of the Court. Such attorney who thereafter seeks admission to the Wyoming State Bar shall comply with the admissions requirements set forth in the Wyoming Rules and Procedures Governing Admission to the Practice of Law.

Rule 13. Fees.

Each active member of the bar must pay an annual Continuing Legal Education fee in an amount established by the Board, subject to approval by the Wyoming Supreme Court. This fee will be collected by the Bar at the time of the collection of the annual license fee, but will constitute a fee to be used only to defray the costs of administering the rules and regulations for continuing legal education and issuing annual reports. This fee is payable October 1 of each fiscal year and will be considered late on December 1.