

**SUPREME COURT OF WISCONSIN**

## NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 08-04

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In the matter of the Petition for Amendment to Supreme Court Rules (SCR) 31.01, 31.03, 31.05, and 31.07 Relating to Procedures for Reporting Continuing Legal Education (CLE) Credits

**FILED****DEC 3, 2008**

David R. Schanker  
Clerk of Supreme Court  
Madison, WI

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On March 31, 2008, the Board of Bar Examiners, by its director John E. Kosobucki, filed a petition to amend Supreme Court Rules 31.01, 31.03, 31.05, and 31.07 to change the procedures by which Wisconsin attorneys report Continuing Legal Education (CLE) credits. An amended petition was filed on July 24, 2008, containing a red-lined version of the proposed rule. A public hearing was held on Tuesday, October 14, 2008. John Kosobucki presented the petition on behalf of the Board of Bar Examiners.

At the ensuing open administrative conference, the court voted unanimously to adopt the petition. Therefore,

IT IS ORDERED that effective the date of this order, Chapter 31 of the Supreme Court Rules is amended as follows:

**SECTION 1.** Supreme Court Rule 31.01 (1m) is created to read:

31.01 (1m) "CLE" means continuing legal education.

**SECTION 2.** Supreme Court Rules 31.01 (2) and (6m) are amended to read:

31.01 (2) "Committee" means a panel ~~comprised of~~ comprising at least 3 members of the board.

(6m) "Repeated on-demand program" means an on-line program delivered over the Internet, ~~repeating~~ consisting of a program previously approved by the board, ~~and given at a time of the attendee's choosing within twelve (12) months of the approval of the on-demand on-line program.~~

**SECTION 3.** Supreme Court Rule 31.02 (1) is amended to read:

31.02 (1) A lawyer shall attend a minimum of 30 hours of approved ~~continuing legal education~~ CLE during each reporting period.

**SECTION 4.** Supreme Court Rule 31.03 is amended to read:

31.03 **Reporting requirement.** (1) A lawyer shall file a written report under oath or affirmation on designated CLE Form 1 ~~shall be filed~~ with the board ~~by a lawyer~~ on or before the ~~last day of the reporting period~~ February 1 following the last day of the reporting period. The written report shall establish compliance with the attendance requirement of SCR 31.02.

(2) A lawyer who has not satisfied SCR 31.02 and completed the reporting requirement under sub. (1) by the close of business on the February 1 following the last day of the reporting period shall be assessed a late fee of ~~\$50~~ \$100.

**SECTION 5.** Supreme Court Rule 31.04 (3) is amended to read:

31.04 (3) A lawyer whose practice is principally in another jurisdiction that has mandatory ~~continuing legal education~~ CLE

requirements and who is current in meeting those requirements is exempt from the attendance requirement of SCR 31.02, but shall comply with the reporting requirement of SCR 31.03.

**SECTION 6.** Supreme Court Rules 31.05 (1) and (2) (a) (intro) are amended to read:

31.05 (1) ~~Only activities~~ Activities that are approved by the board either before or after the close of the reporting period may be used to satisfy the requirement of SCR 31.02. Lawyers claiming credit for activities that are not already approved must seek approval on a CLE Form 2 filed contemporaneously with their CLE Form 1.

(2) (a) (intro) Up to 15 hours of ~~approved continuing legal education~~ CLE reported on CLE Form 1 may be carried forward to the next reporting period if all of the following conditions are met:

**SECTION 7.** Supreme Court Rules 31.05 (2) (a) 1. and 2. are repealed and recreated to read:

31.05 (2) (a) 1. The hours that are to be carried forward reflect attendance during the reporting period covered by the CLE Form 1.

2. These hours reflect attendance at courses that are approved by the board either before or after the close of the reporting period. Lawyers claiming credit for activities that are not already approved must seek approval on a CLE Form 2 filed contemporaneously with their CLE Form 1.

**SECTION 7.** Supreme Court Rule 31.05 (2) (a) 3. and (b) are repealed.

**SECTION 8.** Supreme Court Rule 31.05 (2) (c) and (5) (a) 1. are amended to read:

31.05 (2) (c) ~~Continuing legal education~~ CLE programs approved by the board for legal ethics and professional responsibility may not be carried forward under this subsection for the purpose of fulfilling the legal ethics and professional responsibility requirement of SCR 31.02(2) but may be carried forward under par. (a), ~~subject to par. (b)~~.

(5) (a) A repeated on-demand program may be used to satisfy the requirement of SCR 31.02, if all of the following conditions are met:

1. The repeated on-demand program is approved prior to being claimed for credit by a lawyer on CLE Form 1, and the lawyer must take the on-demand program no later than December 31 of the year after the year in which approval was given.

**SECTION 9.** Supreme Court Rule 31.07 (title) is amended to read:

31.07 (Title) **Standards for approval of ~~continuing legal education~~ CLE activities.**

**SECTION 10.** Supreme Court Rule 31.07 (1) and (2) (a) through (e) are amended to read:

31.07 (1) The board shall designate the number of hours applicable to the requirement of SCR 31.02 for each approved ~~continuing legal education~~ CLE activity.

(2) The following standards shall govern the approval of ~~continuing legal education~~ CLE activities by the board:

(a) The primary objective of any ~~continuing legal education~~ CLE activity shall be to increase the attendee's professional competence as a lawyer.

(b) The ~~continuing legal education~~ CLE activity shall deal primarily with matters related to the practice of law, professional responsibility or ethical obligations of lawyers.

(c) ~~A~~ Except for repeated on-demand programs, a mechanically or electronically recorded activity will be approved only if a qualified instructor is available to comment and answer questions.

(d) ~~Continuing legal education~~ CLE materials shall be prepared by and activities shall be conducted by an individual or group qualified by practical or academic experience.

(e) ~~Continuing legal education~~ CLE activities shall be accompanied by thorough, well-organized and readable written materials which are available to attendees at the time of presentation unless otherwise permitted by the board.

**SECTION 11.** Supreme Court Rules 31.07 (3) and (5) are amended to read:

31.07 (3) The board may approve published legal writings for use toward the ~~continuing legal education~~ CLE requirement under rules it may adopt.

(5) The board shall not approve any ~~continuing legal education~~ CLE for legal ethics and professional responsibility credit unless that education has a minimum component of at least one continuous hour devoted to legal ethics and professional responsibility.

**SECTION 12.** Supreme Court Rule 31.08 (Title) and (1) and (2) are amended to read:

31.08 (Title) **Procedure for approval of ~~continuing legal education~~ CLE activities.** (1) Any person desiring approval of a ~~continuing legal education~~ CLE activity shall submit all information required by the board.

(2) Following the presentation of an approved ~~continuing legal education~~ CLE activity, each sponsor shall promptly transmit to the board a list of all lawyers in attendance.

**SECTION 13.** Supreme Court Rule 31.11 (3) is amended to read:

31.11 (3) PETITION FOR REINSTATEMENT. The petition for reinstatement shall state in detail the manner in which the lawyer has complied with all requirements under this chapter. Only verified attendance at sufficient hours of approved ~~continuing legal education~~ CLE activities for the period of suspension shall be considered full compliance with the attendance requirements of this chapter.

IT IS FURTHER ORDERED that effective the date of this order, the Appendix to Chapter 31 of the Supreme Court Rules, Rules of the Board of Bar Examiners, is amended as follows:

**SECTION 14.** SCR Chapter 31 (Appendix) CLE 1.02, CLE 6.01, CLE 7.05, and 7.06 (2) (c) are amended as follows:

**CLE 1.02** For the purpose of administering SCR Chapter 31, the minimum number of persons attending a course shall be two attendees and one moderator. Fewer than that number, and the course shall be deemed to be self-study and shall not be approved for ~~continuing legal education~~ CLE credit.

**CLE 6.01** Compliance with ~~continuing legal education~~ CLE make up requirements shall be a prerequisite to reactivation of membership in the State Bar of Wisconsin.

**CLE 7.05** No ~~continuing legal education~~ CLE activity that is offered in conjunction with a meal will be approved unless the meal portion is allocated no less than 30 minutes in duration and the education portion occupies a separate period lasting at least 50 minutes.

Only under unusual circumstances will credit in excess of 1.0 hour be extended to a ~~continuing legal education~~ CLE activity offered in conjunction with a meal.

**CLE 7.06** (2) (c) Written materials that are developed and distributed at ~~continuing legal education~~ CLE activities in accordance with SCR 31.07(2)(e).

IT IS ORDERED that notice of this amendment of SCR Chapter 31 and the Appendix to SCR Chapter 31 be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this 3rd day of December, 2008.

BY THE COURT:

David R. Schanker  
Clerk of Supreme Court

