

SCR CHAPTER 31

CONTINUING LEGAL EDUCATION

SCR 31.01 Definitions.

In this chapter:

- (1) "Board" means the board of bar examiners.
- (1m) "CLE" means continuing legal education.
- (2) "Committee" means a panel comprising at least 3 members of the board.
- (3) (Repealed)
- (4) "Hour" means a period of approved continuing legal education consisting of not less than 50 minutes.
- (5) "Inactive member" means an inactive member of the state bar under SCR 10.03(3) and the bylaws of the state bar.
- (6) "Lawyer" means an active member of the state bar under SCR 10.03(3) and the bylaws of the state bar and includes an active member under suspension other than a person under a form of suspension that will terminate only on order of the court or a person suspended pursuant to SCR 31.10(1).
- (6m) "Repeated on-demand program" means an on-line program delivered over the Internet, consisting of a program previously approved by the board.
- (7) "Reporting period" means the two-year period ending December 31 during which a lawyer must satisfy the Wisconsin continuing legal education requirement of SCR 31.02. The reporting period for a lawyer is determined by the year of his or her admission to the practice of law in Wisconsin. The reporting period for a lawyer admitted in an even-numbered year shall end on December 31 of each even-numbered year; the reporting period for a lawyer admitted in an odd-numbered year shall end on December 31 of each odd-numbered year.
- (8) "State bar" means the state bar of Wisconsin.
- (9) "Electronic CLE reporting system" means a web-based system established by the board of bar examiners through which lawyers may electronically file an original or amended report of their CLE compliance.

(10) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronically-filed CLE report that can be executed or adopted by the reporting lawyer with the intent to sign the document under oath or affirmation.

SCR 31.02 Attendance requirement.

(1) A lawyer shall attend a minimum of 30 hours of approved CLE during each reporting period.

(2) A lawyer shall attend a minimum of 3 of the 30 hours required under sub. (1) on the subject of legal ethics and professional responsibility in every reporting period.

SCR 31.03 Reporting requirement.

(1) A lawyer shall file a written report under oath or affirmation on designated CLE Form 1 with the board on or before the 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 \$100.

(3) Lawyers may satisfy the reporting requirements of sub. (1) through the electronic CLE reporting system. Reports filed electronically must include the reporting lawyer's electronic signature, by which the lawyer avers under oath or affirmation that the information contained in the report is true.

(4) Electronically-filed reports are deemed filed when they are submitted to the electronic CLE reporting system, except that a late-filed report is deemed filed upon receipt of payment of the late fee.

SCR 31.04 Exemptions.

(1) A lawyer is exempt from the attendance and reporting requirements of this chapter in the year of his or her admission to the practice of law in Wisconsin.

(2) A lawyer who does not engage in the practice of law in Wisconsin at any time during the reporting period is exempt from the attendance requirement of SCR 31.02 but shall comply with the reporting requirement of SCR 31.03.

(3) A lawyer whose practice is principally in another jurisdiction that has mandatory 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.

SCR 31.05 Approved hours.

(1) 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) Up to 15 hours of CLE reported on CLE Form 1 may be carried forward to the next reporting period if all of the following conditions are met:

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.

3. Repealed.

(b) Repealed.

(c) 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).

(3) Teaching an approved continuing legal or judicial education activity or teaching a course in a law school approved by the American bar association may be used to satisfy the requirement of SCR 31.02. The board shall award 2 hours for each hour of presentation of the approved continuing legal or judicial education activity and one hour for each hour of presentation for teaching a course in a law school.

(4) Participation in an educational activity approved by the judicial education committee may be used to satisfy the requirement of SCR 31.02.

(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.

2. Sponsors of the approved on-demand on-line program must maintain a roster verifying the attendance of all attorneys logged-in and paying for the program and provide the roster to the board if requested.

(b) No more than 10.0 credits may be claimed for repeated on-demand programs during a lawyer's reporting period.

(c) No legal ethics and professional responsibility credit is allowed for a repeated on-demand program.

(d) Repeated on-demand programs may not be used for reinstatement, readmission, or reactivation.

(6) Each hour of service on the office of lawyer regulation district committee or as an office of lawyer regulation special investigator may be used to satisfy the requirements of SCR 31.02, to a maximum of 3.0 hours of legal ethics and professional responsibility credit per reporting period, provided that the office of lawyer regulation maintains a roster verifying service and provides the roster to the board if requested.

SCR 31.06 Attendance and reporting requirements for persons upon reactivation or reinstatement.

The board shall determine the attendance and reporting requirements for a person who seeks to change from inactive to active membership in the state bar or for a person who seeks reinstatement following voluntary resignation from the state bar, license suspension that will terminate only on order of the court, or license revocation.

SCR 31.07 Standards for approval of CLE activities.

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

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

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

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

(c) 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) CLE materials shall be prepared by and activities shall be conducted by an individual or group qualified by practical or academic experience.

(e) 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.

(f) The board may grant approval of an activity to an individual lawyer, although the activity itself does not satisfy SCR 31.07(2)(a) and (b), where the lawyer demonstrates to the satisfaction of the board the manner in which the activity increases his or her competence as a lawyer.

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

(4) An activity sponsored by a private law firm, corporate law department or federal, state or local government agency offered for lawyers connected with it may be approved if it meets the requirements set forth in sub. (2).

(5) The board shall not approve any 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.

SCR 31.08 Procedure for approval of CLE activities.

(1) Any person desiring approval of a CLE activity shall submit all information required by the board.

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

(3) The board may annually extend approval to a sponsor for all its activities which conform to SCR 31.07. An organization which desires the general program approval shall submit all information required by the board.

SCR 31.09 Delegation, determinations and review.

(1) The board may delegate the authority of the board under this chapter to a committee, to a member or to the staff of the board.

(2) The board or its delegate shall, in response to written requests for approval of courses, waivers, extensions of time or interpretation of this chapter, make a written response giving appropriate reasons for the determination within a reasonable time.

(3) The board may review any action taken under this chapter at the written request of a lawyer or sponsor adversely affected by the action. Any request for review shall be made within 60 days after notice of the action taken has been sent by mail to the lawyer or sponsor.

SCR 31.10 Noncompliance.

(1) If a lawyer fails to comply with the attendance requirement of SCR 31.02, fails to comply with the reporting requirement of SCR 31.03(1), or fails to pay the late fee under SCR 31.03(2), the board shall

serve a notice of noncompliance on the lawyer. This notice shall advise the lawyer that the lawyer's state bar membership shall be automatically suspended for failing to file evidence of compliance or to pay the late fee within 60 days after service of the notice. The board shall certify the names of all lawyers so suspended under this rule to the clerk of the supreme court, all supreme court justices, all court of appeals and circuit court judges, all circuit court commissioners appointed under SCR 75.02(1) in this state, all circuit court clerks, all juvenile court clerks, all registers in probate, the executive director of the state bar of Wisconsin, the Wisconsin State Public Defender's Office, and the clerks of the federal district courts in Wisconsin. A lawyer shall not engage in the practice of law in Wisconsin while his or her state bar membership is suspended under this rule.

(2) If the board believes that a false report has been filed, the board may refer the matter to the office of lawyer regulation.

SCR 31.11 Reinstatement.

(1) Suspension of less than 3 consecutive years. (a) A lawyer whose suspension for noncompliance under SCR 31.10(1) has been for a period of less than 3 consecutive years may file a petition with the board for reinstatement to membership in the state bar. Payment in the amount of \$100.00 and any applicable late fee shall accompany the petition.

(b) Within 60 days after service of a petition for reinstatement, the board shall make a determination regarding compliance. If the board determines that the lawyer is in compliance with all requirements under this chapter, it shall reinstate the lawyer's membership in the state bar. The board shall certify the names of all lawyers so reinstated to the clerk of the supreme court, all supreme court justices, all court of appeals and circuit court judges, all circuit court commissioners appointed under SCR 75.02(1) in this state, all circuit court clerks, all juvenile court clerks, all registers in probate, the executive director of the state bar of Wisconsin, the Wisconsin State Public Defender's Office, and the clerks of the federal district courts in Wisconsin.

(c) If the board denies a petition for reinstatement, the board shall serve a notice of denial on the lawyer. After denial, a hearing shall be held by the board only upon written petition of the lawyer made within 30 days of service of the notice of denial, which petition for hearing shall be served on the board. The board shall conduct the hearing within 60 days after service of the petition for hearing and shall make and serve its findings and recommendations on the lawyer within

60 days after the close of the hearing, and, if adverse to the lawyer, shall notify the supreme court of its action. If reinstatement is denied, the findings and recommendations of the board shall be reviewed by the supreme court only upon written petition by the lawyer filed within 30 days of the date of the action of the board.

(1m) Suspension of 3 or more consecutive years. (a) A lawyer whose suspension has been for a period of 3 or more consecutive years may file a petition for reinstatement with the supreme court and serve a copy on the board and the office of lawyer regulation. Separate payments in the amount of \$200 each shall be made to the board of bar examiners and the office of lawyer regulation shall accompany the petition.

(b) Within 90 days after service of the petition, the board shall make a determination regarding compliance and file its finding with the supreme court.

(c) Within 90 days after service of the petition, the director of the office of lawyer regulation shall investigate the eligibility of the petitioner for reinstatement and file a response with the supreme court in support of or opposition to the petition.

(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 CLE activities for the period of suspension shall be considered full compliance with the attendance requirements of this chapter.

(4) Disciplinary suspension. A lawyer suspended as a result of disciplinary action following referral under SCR 31.10(2) may petition the supreme court for reinstatement under SCR 22.28.

SCR 31.12 Extensions and waivers.

(1) The board may extend time deadlines for completion of attendance and reporting requirements in cases of hardship or for other compelling reasons.

(2) The board may waive attendance and reporting requirements where to do otherwise would work an injustice.

SCR 31.13 Service; filing.

(1) Service under this chapter means a communication made by certified mail and is complete upon mailing. Service on a lawyer is sufficient if addressed to the lawyer's address last listed with the state bar. Service on the board is sufficient if addressed to the board at its office.

(2) A report or other communication to the board under this chapter is timely filed if any of the following is applicable:

(a) The report or other communication, together with the applicable fees, is received at the board's office within the time specified for filing.

(b) The report or other communication, together with the applicable fees, is sent to the board's office through the United States Postal Service by 1st class mail, including express or priority mail, postage prepaid, and bears a postmark, other than a commercial postage meter label, showing that the communication was mailed on or before the last day for filing.

(c) The report or other communication, together with the applicable fees, is delivered on or before the last day for filing to a 3rd-party commercial carrier for delivery to the board's office within 3 calendar days.

SCR 31.14 Rule-making authority.

The board may promulgate rules to carry out the purposes of this chapter.

Chapter repealed and recreated by S.Ct. Order July 1, 1986, effective January 1, 1987; May 10, 1988; January 1, 1989; October 17, 1990; January 1, 1991; February 1, 1991; October 24, 1991; December 10, 1992; November 18, 1994; December 3, 2008; January 6, 2009; June 1, 2009; September 10, 2009.

APPENDIX

Rules of the Board of Bar Examiners

DEFINITIONS

CLE 1.01

The year of an attorney's admission to the State Bar of Wisconsin shall be the year carried on the computer records of the State Bar unless the lawyer notifies the Board in writing prior to the end of his or her first reporting period that the State Bar data is incorrect and attaches supporting documentation.

CLE 1.02

Except for repeated on-demand programs, 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 CLE credit.

REPORTING REQUIREMENTS

CLE 3.01

The classification of State Bar of Wisconsin membership on the February 1 immediately following the end of the lawyer's reporting period will govern whether a report will be required. The Board will grant lawyers who change to inactive status after February 1 according to State Bar records a deferment of the 30 hours then due on receipt of a written request that is accompanied by the late fee then due and the written statement of the State Bar that the lawyer has in fact already converted his or her membership to inactive status. A request will be considered timely if received at the Board office by the close of business on the date that the lawyer's suspension is to go into effect pursuant to SCR 31.10(1); that is, the filing date established by that rule.

CLE 3.015

(1) Lawyers who have been in inactive status for less than 2 years, or have been voluntarily resigned from the State Bar for less than 2 years, must complete 30 hours of CLE (including 3 ethics hours) prior to resuming active status.

(2) Lawyers who have been in inactive status for more than 2 years, or have been voluntarily resigned from the State Bar for more than 2 years, must complete 60 hours of CLE (including 3 ethics hours) prior to resuming active status.

(3) Lawyers may satisfy the requirements of the above subsections if they demonstrate to the board that, during the entire time they were in inactive status, (i) they were admitted to the practice of law in another jurisdiction that had mandatory continuing legal education requirements, and (ii) they were current in meeting those requirements.

(4) Lawyers who resume active status must also satisfy the requirements of SCR 31.02 for the reporting period in which they are reactivated.

(5) CLE requirements under this section shall not be greater than they would have been if the lawyer had not been in inactive status.

CLE 3.02

(1) No late fee will be assessed against lawyers who complete their reporting and attendance requirements by the February 1 following the end of their reporting period.

(2) Lawyers who have been served with the notice of noncompliance set out in SCR 31.10(1) may avoid the automatic suspension therein described if, within 60 days after service, they (a) complete their reporting and attendance requirements and (b) pay the late fee.

CLE 3.03

Where CLE Form 1 appears in SCR Chapter 31, it shall also include written amendments of a CLE Form 1 previously filed for the same reporting period. Such amendments are subject to the same deadlines as the CLE Form 1.

EXEMPTIONS

CLE 4.01

Although a lawyer is exempt from attendance or reporting in the calendar year during which his or her admission falls, the lawyer may report on the CLE Form 1 due at the end of the first full two-year reporting period any approved hours up to a maximum of 15 that were attended between the date of admission and the end of the calendar year in which his or her admission to the practice of law occurred. Hours

carried in under this provision may not be used to satisfy the legal ethics and professional responsibility requirement in accordance with SCR 31.05(2)(c).

APPROVED HOURS

CLE 5.01

Sponsors must provide a method for lawyers who have taken on-line on-demand programs to submit questions, and must provide answers supplied by instructors who are qualified by practical and academic experience with fifteen business days, at no additional cost.

CLE 5.02

(1) Applications for approval of on-line on-demand programs must be accompanied by

- (a) A copy of the on-line on-demand program on DVD;
- (b) A statement of the manner in which the sponsor intends to comply with CLE 5.01.

(2) Sponsors with general program approval under SCR 31.08(3) need not comply with the requirements of sub. (1).

ATTENDANCE AND REPORTING REQUIREMENTS FOR PERSONS UPON REACTIVATION OR REINSTATEMENT

CLE 6.01

Compliance with CLE make up requirements shall be a prerequisite to reactivation of membership in the State Bar of Wisconsin.

STANDARDS FOR APPROVAL OF CONTINUING LEGAL EDUCATION ACTIVITIES

CLE 7.005

Except for repeated on-demand programs as defined in SCR 31.01(6m), self-study courses as defined in CLE 1.02, and courses explicitly disapproved in Wisconsin, courses approved for CLE credit by, and attended in, any other state or territory or the District of Columbia are deemed approved for the same number of hours and for the same purposes in Wisconsin. To take advantage of this section, lawyers must document the out-of-state approval in connection with

filing their CLE Form 1.

CLE 7.01

The following portions of the program may not be counted for credit: breaks, business meetings, and similar non-academic activities.

CLE 7.02

Credit hours shall be rounded down to the nearest whole or half hour. Hours of credit shall be determined by the following formula: Total minutes minus nonacademic portions (breaks, business meetings) divided by 50 minutes equal the hours of CLE credit.

CLE 7.03

Approved hours merely reflect a maximum that may be earned through attendance. Only actual attendance by the lawyer may be used to satisfy the Wisconsin requirement.

CLE 7.04

Credit will not be allowed for any program which in its entirety lasts less than 50 minutes.

CLE 7.05

[Repealed.]

CLE 7.06

(1) A published legal writing is defined as material that satisfies all of the following criteria:

(a) It is in printed form as a book, a supplement or a pocket part to a book, or an article in a publication that is included in the *Index to Legal Periodicals*. For the purposes of this definition, systems manuals that are developed and offered for sale are deemed to be books;

(b) It is commercially available or distributed to at least 500 lawyers; and

(c) It satisfies the criteria set forth in SCR 31.07(2)(a) and (b) in that its objective is to increase the reader's professional competence as a lawyer, and in that its content must deal primarily with matters related to the practice of law, professional responsibility or ethical obligations of lawyers.

(2) Published legal writings specifically exclude the following:

(a) Compilations of materials written by others;

- (b) Contributions to newsletters;
- (c) Written materials that are developed and distributed at CLE activities in accordance with SCR 31.07(2)(e).

CLE 7.07

In order to request approval for a published legal writing, a CLE Form 4 and a copy of the published legal writing must be submitted by its author to the Board.

CLE 7.08

A lawyer may claim his or her actual preparation time up to a maximum of 15 hours for any approved published legal writing.

CLE 7.09

A lawyer may not claim in excess of 15 hours for all approved published legal writings in any one reporting period.

CLE 7.10

The only reporting period in which hours for an approved published legal writing may be claimed is that in which the writing was published.

PROCEDURE FOR APPROVAL OF CONTINUING LEGAL EDUCATION ACTIVITIES

CLE 8.01

Approval may be refused to a sponsor for any course which has previously been falsely advertised as approved by the Board of Bar Examiners.

CLE 8.02

General program sponsorship does not extend to activities in which the sponsor acts as the co-sponsor of an activity. Approval shall be sought by letter from the general program sponsor to the Board.

CLE 8.03

Any sponsor holding general program approval that fails to cooperate with the administrative requirements developed by the Board may have its general program approval revoked by the Board.

CLE 8.04

CLE Form 2 shall be submitted to the Board to initiate a request for course approval. The Board will accept a uniform national course approval request form at the discretion of its Board.

CLE 8.05

CLE Form 5, or CLE Form 2, shall be submitted to initiate a request for legal ethics and professional responsibility approval. The Board will accept a uniform national course approval request form at the discretion of its Board.

REINSTATEMENT AFTER SUSPENSION **PURSUANT TO SCR 31.11**

CLE 11.02

Petitions for reinstatement pursuant to SCR 31.11(1)(a) must be executed under oath or affirmation.

CLE 11.03

The number of hours required of a lawyer seeking reinstatement is 30 per previous reporting period up to a maximum of 60; in addition, the lawyer will be required to meet the requirement for the reporting period in which his or her reinstatement falls.

CLE 11.04

The Board will accept the election of the SCR 31.04(2) exemption, if appropriate, in satisfaction of its requirement for reinstatement only for the reporting period from which the suspension arose; that is, the exemption may not be used toward reinstatement for any reporting period subsequent to the reporting period from which the suspension arose.

EXTENSIONS AND WAIVERS

CLE 12.01

The Board will consider extensions for completion of attendance and reporting requirements only upon written request.

SERVICE; FILING

CLE 13.01

The Board will not accept facsimile transmissions in satisfaction of its filing requirements.

BOARD MEETINGS

CLE 14.01

As an agency of the Supreme Court, the Board is not subject to Subchapter V of Chapter 19 of the Wisconsin Statutes, relating to open meetings of governmental bodies. However, the Board posts the dates, locations and agendas of its meetings in its Internet web site and invites the public to attend its meetings. Members of the public are not allowed to attend meetings or parts of meetings that involve confidential matters. Examples of confidential matters include (i) individuals' applications for admission to the Wisconsin bar, (ii) hearings on admission applications and (iii) bar examination questions.

Adopted December 12, 1986, by the Board of Attorneys Professional Competence; amended July 8, 1988; December 9, 1988; March 23, 1990; September 21, 1990; March 22, 1991; December 12, 1991; May 14, 1992; May 3, 1994; August 25, 1994; November 14, 2001; January 23, 2002; August 17, 2004; January 29, 2007; January 11, 2008; December 3, 2008; May 1, 2009.