

# BOARD ON CONTINUING LEGAL EDUCATION

## REGULATIONS

### PART ONE: GENERAL REGULATIONS

#### **REGULATION 101.            Application and Citation of Regulations.**

**101:1. Application.** These regulations have been adopted by the Board on Continuing Legal Education and approved by the Supreme Court pursuant to Rule 1:42-2 (b)(4).

**101:2. Citation.** These regulations may be cited as “BCLE Reg. \_\_\_\_\_.”

#### **REGULATION 102.            Authority, Scope and Purpose.**

**102:1. Authority.** These regulations govern the mandatory continuing legal education program mandated by Rule 1:42-1, as authorized by Rule 1:42-2(b)(4).

**102:2. Scope.** A lawyer holding a license to practice law in this State, whether plenary or limited, shall be required to participate in a program of mandatory continuing legal education in accordance with Rule 1:42 and these regulations.

**102:3. Purpose.** Lawyers holding a license to practice law in this State are required to maintain certain standards of professional competence throughout their careers. These regulations, implementing the mandatory continuing legal education requirement embodied in Rule 1:42, are intended (a) to guide lawyers in respect of those requirements; (b) to assure the public that those lawyers licensed to practice law in New Jersey remain current in respect of the requisite knowledge and skills necessary to fulfill their professional responsibilities and obligations; and (c) to improve the standards of the legal profession in general. It is expected that a licensed New Jersey attorney shall attend a continuing legal education course in good faith, whether taken by either a live classroom or alternative verifiable learning format and

shall be paying attention and fully participating in order to obtain credit for the course.

**REGULATION 103.                    Definitions and Filings.**

**103:1. Definitions.** As used in these regulations, the following defined terms shall have the meanings ascribed to them unless otherwise required by the context:

(a) “active lawyer” shall mean a member in good standing of the New Jersey Bar, whether possessing a plenary or limited license and whether or not practicing New Jersey law. Any lawyer licensed in New Jersey who is active for any part of a year or compliance period and not otherwise exempt from these continuing legal education requirements must comply with these regulations;

(b) “alternative verifiable learning format courses” shall mean any videotape, audiotape, remote place viewing or on-line internet computer presentations, webinar, webcast, satellite simulcast, teleconferencing, videoconferencing, internet computer self-study, or other computer or telephonic presentation, or other alternative format hereafter developed by an approved service provider and authorized by the Board;

(c) “approved educational activity” or “approved course” shall mean a specific, individual legal education activity or course presented by an approved service provider or presented by other than an approved service provider if such activity or course is accredited by the Board as a legal education activity under these regulations. A CLE course approved in another mandatory CLE jurisdiction and relied on by licensed attorneys toward their compliance in New Jersey through reciprocity as defined in BCLE Reg. 201:4, is not considered a New Jersey approved course but nonetheless can qualify for New Jersey CLE credit;

(d) “approved service provider” shall mean a person, entity, organization or association accredited by the Board in accordance with Rule 1:42 and these regulations;

(e) “Board” shall mean the New Jersey Supreme Court Board on Continuing Legal Education;

(f) “CLE requirement” shall mean the satisfactory completion of twenty-four credit hours of continuing legal education every two years, of which not less than four credits must be in ethics and/or professionalism, as provided in BCLE Reg. 201;

(g) “compliance period” shall mean any period of twenty-four consecutive months commencing on January first of any year and ending December thirty-first of the following year;

(h) “compliance reporting group” is defined in BCLE Reg. 401:2;

(i) “continuing legal education” or “CLE” shall mean any legal, judicial, or other educational activity or course accredited by the Board. Generally, CLE will include educational activities designed principally to maintain or advance the professional competence of lawyers, to enhance knowledge and skill in matters related to an attorney’s practice or employment, and/or to expand an appreciation and understanding of the ethical and professional responsibility of lawyers;

(j) “credit hour” shall mean an increment of time of 50 minutes of instruction, not including introductory remarks, keynote speeches, luncheon/dinner speeches or breaks, but including question-and-answer periods; provided, however, that no CLE credit will be awarded for any period of instruction of less than one-half a credit hour or twenty-five minutes, including ethics credits which also must be a minimum of a total of twenty-five minutes;

(k) “ethics” and/or “professional responsibility” shall mean those courses or segments of courses devoted to (1) the substance, underlying rationale, and the practical application of the Rules of Professional Conduct; (2) the professional obligations of the attorney to the client, the court, the public, and other lawyers; (3) substance abuse and its effects on lawyers and the practice of law; and (4) diversity, inclusion, and elimination of bias. Diversity, inclusion and elimination of bias programs and courses relevant to the practice of law may include, among other topics, implicit and explicit bias, equal access to justice,

serving a diverse population, diversity and inclusion initiatives in the legal profession, and cultural competency in the practice of law or the administration of justice;

(l) “inactive member” or “inactive attorney” for purposes of these regulations shall mean a member of the New Jersey Bar on exempt status as defined in Rule 1:28-2(b);

(m) “in-house continuing legal education activity” shall mean courses or programs offered or conducted by law firms, either individually or in connection with other law firms, corporate legal departments, government legal departments, or similar entities primarily for the education of their members, which providers have been approved in advance by the Board;

(n) “live instruction” shall mean courses where the instructor is physically in the room with the attendees or where the instruction is through an alternative verifiable learning format simultaneously broadcasting the live classroom instruction, so long as those off-site attendees are able to interact with the instructor during the presentation of the course, which course shall be conducted via a video and audio format and shall allocate a defined period or format for questions, comments, or group discussion;

(o) “newly admitted lawyer” shall mean a lawyer who becomes an active member of the New Jersey bar for the first time;

(p) “non-approved service provider” shall mean any person, entity, organization or association that has not been granted prior approved service provider status who is presenting or offering one or more continuing legal education programs;

(q) “per-course service provider” shall mean any person, entity, organization or association that has sought approval to present or offer a specific approved educational activity or approved course;

(r) “professionalism” courses shall mean courses or segments of courses devoted to the examination and identification of principles of civility, improvement of the justice system, advancement of the rule of law, and service to the community. Generally, courses on

substantive law topics do not come under the definition of professionalism, except as provided in 103:1 (k) (4);

(s) “program” or “CLE program” shall mean the system of mandatory continuing legal education requirements imposed by Rules 1:42 and these regulations;

(t) “undue hardship” shall mean a severe medical condition, natural disaster, family emergency, financial hardship or other compelling good cause reason which in the judgment of the Board renders a lawyer incapable of complying with these regulations;

(u) “year” shall mean a calendar year.

103:2 Filings. All filings under these regulations shall be on forms or applications provided by the Board and accessed from the Board’s webpage on the Judiciary’s website.

**REGULATION 104. The Board on Continuing Legal Education; Powers and Duties; Staffing and Funding; Audit; Immunities.**

**104:1. Board.** The Board shall consist of not more than eleven members of the bar of the State of New Jersey who shall be appointed by the Supreme Court. Three members of the Board also shall serve as members of the Board on Attorney Certification, one member shall be the annual designee of the New Jersey State Bar Association, and one member shall be the annual designee of the New Jersey Commission on Professionalism in the Law. The Administrative Director of the Courts or the Administrative Director’s designee shall serve as a non-voting member of the Board.

**104:2. Terms.** Other than the designee of the New Jersey State Bar Association, the designee of the New Jersey Commission on Professionalism, and the Administrative Director or the Administrative Director’s designee, members shall be appointed for three-year terms. However, members also serving on the Board on Attorney Certification may only serve a term or terms on the Board coextensive with their term on the Board on Attorney Certification. No member who has served four full three-year terms successfully shall be eligible for immediate reappointment.

Members appointed to fill unexpired terms may be reappointed to four successive terms.

**104:3. Officers.** The Supreme Court shall annually designate a Chair and Vice Chair from among the members of the Board.

**104:4. Quorum.** One more than half of the sitting voting members of the Board shall constitute a quorum, and all determinations of the Board shall be made by a majority of a quorum.

**104:5. Powers and Duties.** The Board shall have the authority to administer the mandatory continuing legal education program, including, without limitation, the following:

(a) to determine and approve the courses and activities that qualify for continuing education credit under the CLE program;

(b) to designate approved service providers and approved educational activities or approved courses that qualify for credit;

(c) to monitor compliance with the CLE program by providers and lawyers;

(d) to promulgate regulations governing the CLE program, subject to the approval of the Supreme Court;

(e) to establish a schedule of fees to be charged to approved service providers and to lawyers to fund the administration of the CLE program, subject to the approval of the Supreme Court;

(f) to cooperate with the Board on Attorney Certification in establishing and administering the continuing legal education requirement for certified attorneys under Rule 1:39-2(d); and

(g) to make recommendations to the Supreme Court regarding changes to Rule 1:42 and these regulations, and the CLE program.

**104:6. Staffing and Funding.** The day-to-day operations of the Board shall be performed by a staff operating under the supervision of the

Office of the Clerk of the Supreme Court. Staff salaries, benefits, and operational costs shall be funded from fees imposed by these regulations in accordance with Rule 1:42. To the extent that the Board is not fully self-funding, the additional funds necessary to maintain the operation of the CLE program shall be provided by the Administrative Office of the Courts, subject to subsequent reimbursement by the Board from the program fees.

**104:7. Audit.** The Board shall retain an auditor to conduct financial audits, as recommended by the Administrative Director of the Courts.

**104:8. Immunities.** Members of the Board, their lawfully appointed designees and staff to the Board shall be absolutely immune from suit based on their respective conduct in performing their official duties.

## **PART TWO: CONTINUING LEGAL EDUCATION REQUIREMENTS**

### **REGULATION 201. Continuing Legal Education Requirements of Lawyers.**

**201:1. Mandatory requirements.** Every active lawyer shall complete twenty-four credit hours of continuing legal education every two years. Of those twenty-four credits, not less than five credits must be in ethics and/or professionalism. At least two of the five hours of credit in ethics and/or professionalism shall be in diversity, inclusion, and elimination of bias.

**201:2. Additional mandatory requirements for newly admitted lawyers.** By the end of a newly admitted lawyer's first two-year compliance period after admission to the Bar of New Jersey, the newly admitted lawyer must satisfy sixteen of his or her required credit hours in at least six of the following twelve subject areas: New Jersey basic estate administration; New Jersey basic estate planning; New Jersey civil or criminal trial preparation; New Jersey family law practice; New Jersey real estate closing procedures; New Jersey attorney trust and business account fundamentals; New Jersey landlord/tenant practice; New Jersey municipal court practice; New Jersey law office management; New Jersey administrative law; New Jersey labor and employment law; and New Jersey workers' compensation law. Of the minimum six required subject areas, the newly admitted lawyer must earn at least one credit in New Jersey attorney trust and business account fundamentals.

**201:3. Carryover.** No more than a total of twelve previously unallocated credit hours may be carried over to a subsequent compliance period.

**201:4. Reciprocity.** Except for the courses required under BCLE Reg. 201:2, all active lawyers will receive 1:1 credit for courses approved as satisfying the continuing legal education requirements of any other mandatory CLE jurisdiction, so long as they do not violate any course accreditation restrictions in New Jersey. As such, the attorney relying on reciprocity will be awarded the amount of CLE credits awarded by the other jurisdiction. Lawyers complying with requirements in other states that do not have an ethics/professionalism requirement nevertheless must satisfy the ethics/professionalism requirement set forth in BCLE Reg. 201 to be considered in full compliance with New Jersey's CLE requirement. In order to meet the requirement for diversity, inclusion, and elimination of bias ethics credit through reciprocity, the course being relied upon through reciprocity must be approved in another mandatory CLE jurisdiction that has such requirement. Courses taken in this subject area in another mandatory jurisdiction that does not have such requirement will not be accredited through reciprocity or through individual attorney course accreditation applications.

**201:5. Certified attorneys.** A lawyer certified by the Board on Attorney Certification may claim mandatory CLE credit for educational activities that the Board on Attorney Certification approves for certification or recertification.

**201:6. Teaching CLE.** A lawyer who teaches an approved course designed principally to maintain or advance the professional competence of lawyers and/or expand an appreciation and understanding of the ethical and professional responsibility of lawyers, and/or teach law to non-lawyers is entitled to twice the credit hours authorized for that portion of the course taught by the lawyer claiming teaching credit. Teaching credit for the same course offered more than once during a compliance period shall be claimed only once during each compliance period. Nevertheless, customary credit will be allowed for the teacher's attendance at the same course for any second or subsequent course taught during that compliance period. Law school professors and instructors shall not be awarded CLE credit for teaching full or part-time law students. No more than six total credits of CLE can be obtained in any one compliance period for participation in moot court or mock



trial educational activities. In addition, no more than six total credits of CLE, of which two may be considered professionalism credits, can be obtained in any one compliance period for participation in any program modeled after the Joint Unified Mentor Program sponsored by the New Jersey Commission on Professionalism in the Law and approved by the Board for mentors and proteges that are unaffiliated through partnership, law firm, corporation or governmental entity or through a close family or blood relationship.

**201:7. Inns of Court programs.** Lawyers participating as masters, barristers or pupils in Inns of Court programs shall be entitled to 1:1 credit for participation limited to those educational activities of an Inns of Court program that are substantially in compliance with these regulations.

**201:8. Alternative verifiable learning formats.**

(a) Lawyers who reside or work on a regular and continuous basis in New Jersey or in another mandatory CLE jurisdiction for the entire compliance period: Courses taken through alternative verifiable learning formats, if approved for CLE course accreditation, shall account for no more than twelve credit hours per compliance period. Lawyers who reside in, work in, and are licensed in a mandatory CLE jurisdiction that allows for 100% of CLE courses to be taken through alternative verifiable learning formats shall, through reciprocity, be able to satisfy their CLE obligation in New Jersey through 100% alternative verifiable learning formats.

(b) Lawyers who do not reside or work on a regular and continuous basis in New Jersey or reside and work in another mandatory CLE jurisdiction for the entire compliance period or who are medically certified as unable to attend live courses: Courses taken through alternative verifiable learning formats, if approved for CLE course accreditation, may account for 100% of the credit hours required in a compliance period; provided, however, that this shall apply only during such time as (i) the lawyer does not reside or work on a regular and continuous basis for the entire compliance period in New Jersey or resides and works in another mandatory CLE jurisdiction or (ii) a licensed physician certifies to the Board that the lawyer is unable to attend live courses.

**REGULATION 202.        Exemptions, waivers, extensions of time, undue hardship.**

**202:1. Exemptions.**

(a) Consistent with the provisions of Rule 1:28-2(b) or otherwise provided herein, only attorneys who have been admitted to practice law in any State or the District of Columbia for fifty years or more, those who have reached age seventy-five regardless of length of tenure at the Bar, those on full-time active duty in the military, VISTA or Peace Corps, and those retired completely from the practice of law are exempted from the mandatory CLE requirement.

(b) Attorneys who are serving on a District Ethics Committee a District Fee Arbitration Committee, the Disciplinary Review Board, or the Advisory Committee on Judicial Conduct of the Supreme Court of New Jersey shall be deemed to have satisfied four hours of credit towards the ethics/professionalism requirement during each year of any continuing legal education compliance period in which they serve such committee.

**202:2. Waivers/undue hardship.** The Board, in its discretion and for good cause appearing, may waive the mandatory CLE requirements of Rule 1:42 and these regulations for such period as the Board may determine, upon a finding of the Board, by clear and convincing evidence, of either (a) undue hardship, or (b) circumstances beyond the control of the lawyer that prevent the lawyer from complying in any reasonable manner with the CLE requirement. An application for a waiver shall be in writing addressed to the Board, with payment of the requisite fee, shall be certified as true under penalties of perjury, and, at a minimum, shall set forth: the reason(s) the lawyer cannot comply with the minimum requirements of these regulations; the efforts the lawyer made to comply; and a plan for compliance during the waiver period or upon termination of the waiver period. To obtain a full waiver or a waiver of the live instruction requirement based on undue hardship related to severe medical condition or physical disability, the applicant must submit a statement from a state licensed medical provider providing that the attorney cannot complete some or all of the required CLE during the compliance period or cannot complete some or all of the live instruction portion of the CLE requirement. A waiver may be extended upon a written and certified application to the Board and subsequent Board approval. Upon

expiration of the waiver, the Board may impose such additional CLE requirements upon the lawyer as it deems appropriate.

**202:3. Extensions of time.** Upon a written and certified application, with payment of the requisite fee, and for good cause appearing, the Board, in its discretion, may extend the time of compliance for a lawyer upon such terms and under such conditions as the Board shall require. Each request will be reviewed on a case-by-case basis and no action by the Board on a prior or subsequent request shall be deemed precedential.

### **PART THREE: COURSE ACCREDITATION AND APPROVAL**

#### **REGULATION 301. Course Accreditation standards and requirements for course approval.**

**301:1. Course accreditation standards.** The Board shall approve CLE consisting of approved education activities or approved courses that satisfy, at a minimum, the following standards:

(a) the approved education activity or approved course must have significant intellectual, educational or practical content, and its primary objective must be to increase each participant's professional competence and proficiency as a lawyer;

(b) the course or activity shall constitute an organized program of learning dealing with matters directly related to the practice of law, professional responsibility, professionalism, or ethical obligations of lawyers, including those courses that meet the definition and content of the diversity, inclusion, and elimination of bias requirement;

(c) CLE materials are to be prepared, and approved educational activities or approved courses are to be conducted by an approved service provider or a per-course approved provider qualified by practical or academic experience for a traditional CLE course in a setting suitable to the educational activity of the program and, when appropriate, equipped with suitable writing surfaces or sufficient space for taking notes; and,

(d) thorough, high-quality, and carefully written materials are to be distributed to all attendees at or before the time the approved education activity or approved course is presented. These may include written materials printed from a computer presentation, computer website, CD-ROM, or other technology enabling the attendee to view the course materials. A written agenda or outline for a presentation shall satisfy this requirement when written materials are not suitable or readily available for a particular subject. The absence of written material, however, shall be the exception.

Notwithstanding the foregoing, any CLE activity or course that is approved for credit by any state that also requires mandatory continuing legal education for its Bar presumptively shall be deemed approved by the Board, unless specifically excluded by these regulations.

**301:2. Fees, recordkeeping and record retention requirements.**

Any approved service provider or per-course approved service provider, as a condition of continued accreditation, must remit to the Board all required fees in the amounts and in the frequency as the Board may determine. The Board shall maintain a schedule of fees as determined by the Board. The Board also may impose late fees on providers for failure to meet the requirements of Rule 1:42 and these regulations. Any approved service provider or per-course approved service provider must keep and maintain attendance records of each approved educational activity or approved course sponsored by it, which records shall be furnished to the Board in accordance with BCLE Reg. 302:4. All records required under this regulation shall be retained for a period of not less than three consecutive years from the date created. Fees shall be waived for government entities applying for approved service provider status or for a per-course approval.

**301:3. In-house continuing legal education activities.** The Board may award credit for in-house continuing legal education activities as long as those activities qualify according to the requirements of BCLE Reg. 301:1. Public service organizations seeking to offer in-house continuing legal education activities may, upon application and in the discretion of the Board, be granted a waiver of any applicable fees.

**301:4. Law school CLE and other degree programs.** Law school courses offered by a law school accredited by the American Bar Association, other than those tailored to the completion of a law degree, and

which otherwise comply with these regulations shall qualify for credit. Educational courses taken to satisfy a degree program, such as an L.L.M. or M.B.A., are not considered CLE courses.

**301:5. Hybrid programs.** Programs that cross academic lines, such as accounting-tax seminars, or which do not deal directly with the practice of law, such as science courses or computer courses, may be considered for approval by the Board. However, in making that determination, the Board, in its discretion, first must be satisfied that the content of the activity or course will enhance legal skills or the ability to practice law.

**301:6. Access.** Any approved educational activity or approved course must be open to monitoring by the Board or its members, or its authorized representatives, without charge or need for advance registration or notice.

**301:7. Presumption against approval.** Any course sponsored by a vendor of goods or services is presumed not to qualify under this standard if any self-promotion of goods or services is part of the presentation. No promotion or sale of goods or services may occur during any period for which credit is sought, and no active lawyer may be required to attend a sales presentation, in any form, in order to receive credit for a course.

**301:8. Proof of attendance and Certificates of Attendance for live classroom instruction.** Sign-in/sign-out sheets designating attendance **and/or bar code scanning** at an approved course shall be maintained by the provider thereof, and New Jersey certificates of attendance approved by the Board shall be provided to all attendees within thirty calendar days of successful completion of the approved course.

**301:9. Alternative verifiable learning formats.** Any course offered under an alternative verifiable learning format must have a reliable method of verifying and recording lawyer attendance to qualify for accreditation, as determined by the Board in its discretion. Pursuant to BCLE Reg. 301:8, the provider shall provide to the active lawyer a New Jersey certificate of attendance approved by the Board confirming successful completion of the approved alternative verifiable learning format course only upon verification that the course in fact was completed.

**301:10. Timeliness.** Any application for CLE credit made more than three years after the approved educational activity or approved course was attended will be rejected as untimely.

**301:11. Compliance obligation.** Before beginning a course, it is the lawyer's sole and exclusive responsibility to ensure eligibility for CLE accreditation of the course of study.

**301:12. Per-course approval.** On an individual program basis, CLE activities may be approved upon application of a per-course service provider, other than an approved service provider, or an active lawyer on an individual program basis. If approval of a course is requested in advance by a per-course service provider, the application and supporting documentation shall be submitted to the Board at least thirty days prior to the date the course is scheduled. If approval of a course is requested by either a per-course service provider or an active lawyer after the course has been presented, the application and supporting documentation shall be submitted no later than thirty days after the date the course was presented. For lawyers making an individual application for course accreditation, a representative sample of the written materials or a table of contents shall be submitted with the application.

**301:13. Procedure for approval.** All applications for approval of an educational activity or course must be submitted to the Board in a manner prescribed by the Board. The submitted application must contain all information requested, and any representations made must be certified pursuant to Rule 1:4-4(b). Each application shall be accompanied by a course outline or agenda and brochure that describes the course content, identifies the teachers and their background, lists the times devoted to each topic, and shows the date and location of each course offering. The application also shall include a detailed calculation of the total number of minutes of general CLE and minutes of ethics/professional responsibility/professionalism for which approval is sought.

**REGULATION 302.                    Approval of service providers or per-course approval.**

**302:1. In general.** A provider may seek either approved service provider status or seek credit for individual courses on a per-course basis. The following are eligible for "approved service provider" status from the Board:

local, state and specialty bar associations; for profit and nonprofit legal education providers; Inns of Court; educational institutions, including but not limited to law schools accredited by the American Bar Association; professional education entities, and in-house providers, including law firms, profit and nonprofit corporations, public service organizations, and governmental entities. Providers seeking either approved service provider status or individual course accreditation shall meet the course approval requirements established in BCLE Reg. 301.

**302:2. Standards for approved service providers.** Approved service provider status may be granted by the Board, in its discretion, to applicants satisfying, at a minimum, the following requirements:

(a) the provider has presented, within the past two consecutive years, not less than five separate programs of CLE that meet the standards of quality set forth in BCLE Reg. 301;

(b) the provider has demonstrated to the Board's satisfaction that its CLE activities have consistently met the standards of quality set forth in BCLE Reg. 301;

(c) the provider is a law school accredited by the American Bar Association; or

(d) an in-house continuing legal education activity provider that previously has not presented a CLE course satisfies the Board that the provider's proposed educational activity or course meets the standards set forth in BCLE Reg. 301.

**302:3. Application procedure.** An application for accreditation as an approved service provider shall be made by submitting the appropriate fully completed application and required documentation and paying the required fee as set by the Board.

**302:4. Effect of approval as an approved service provider; reporting obligations.** Once a person, entity, organization or association is granted approved service provider status by the Board, its continuing legal education activities or courses are presumptively accredited and no separate application must be made to the Board for course approval. Approved service providers shall file with the Board, by no later than January 15 and July 15 of

each year, a report describing in detail the CLE activities it conducted during the prior six months. Approved service providers also shall file with the Board, prior to the presentation of any CLE activity or course, but no later than 30 days after the presentation of the course, an on-line course announcement of such CLE activity that shall specify, among other things, the areas of law covered in the activity or course a detailed course description, including information regarding any ethics/professionalism topics, including those on diversity, inclusion and elimination of bias, and/or any New Jersey new admit categories and the minutes of instruction claimed for the activity or course. In addition, all appropriate law codes shall be listed.

**302:5. Continuing review.** The Board retains the discretion to evaluate any activity or course offered by an approved service provider and, upon the Board's preliminary determination that the educational activity or course does not satisfy the standards for course approval, the Board may notify the approved service provider that any future presentation of the deficient program will not be approved for credit. Any such notice of disapproval shall be sent by the Board to the approved service provider within a reasonable time after the Board's receipt of the announcement of the course offering. The approved service provider may request reconsideration of the Board's decision by submitting a letter of appeal to the Board within fifteen days of the date of the Board's notice of disapproval. An approved service provider's failure to appeal timely any disapproval by the Board renders that disapproval final, and any decision of the Board on an appeal also is final.

**302:6. Term of approval; renewal; procedure.** Save for any earlier revocation by the Board, the grant of accreditation as an approved service provider shall be valid for a period of two consecutive years from the date of the grant. A grant of accreditation as an approved service provider may be continued for additional, consecutive two-year periods upon the filing of a new and fully completed application and payment of the required fee before the expiration of the approved service provider's current accreditation period. The Board, in its discretion, shall determine if there are any pending or past breaches of Rule 1:42 or these regulations and the Board may condition continuation of approved service provider status on the satisfactory completion of such additional requirements or conditions as the Board, in its discretion, may specify. If an application for renewal is not filed before the expiration of the approved service provider's accreditation period, the approved service provider's status will terminate automatically at the expiration of the earlier approval. Any renewal application received thereafter instead shall be



considered by the Board as an initial application for approved service provider status.

**302:7. Revocation.** Approved service provider status may be revoked by the Board, in its discretion, if the reporting requirements of BCLE Reg. 301 and 302 are not met, or if, upon review of the approved service provider's performance, the Board determines, in its discretion, that the content of the course material, the quality of the CLE activities or the approved service provider's performance do not meet the standards set forth in BCLE Reg. 301 and 302.

**302:8. Financial hardship.** Every approved service provider shall have a detailed financial hardship policy for lawyers who wish to attend its courses, but for whom the expense of such courses would pose a financial hardship. Upon request, the approved service provider must disclose its detailed financial hardship policy. A financial hardship policy may include, but need not be limited to, the award of scholarships, waivers of course fees, reduced fees, or discounts.

**302:9. Standards for per-course approved service providers.** A provider of CLE activities or courses that has not qualified as an approved service provider or an active lawyer may apply for course accreditation of a single CLE activity or course on an application provided by the Board, which shall include, at a minimum, the name of the provider, a detailed description of the course content, including ethics/professionalism/professional responsibility, diversity, inclusion and elimination of bias topics, and/or new admit law categories, if any, a timed agenda, and the advertisement or brochure related to the course or any other information requested by the Board. All appropriate law codes shall be listed in the application. An application for per-course approval should be submitted prior to the presentation of the course, but in any event any application submitted later than thirty days after the presentation will be assessed a late fee as determined by the Board. Applications for per-course approved service providers must comply with the course accreditation standards and requirements of BCLE Reg. 301, the fees, recordkeeping and record retention requirements of BCLE Reg. 301:2, the application procedures of BCLE Reg. 301:3, the recordkeeping and filing requirements of BCLE Reg. 302:4, the continuing review requirements of BCLE Reg. 302:5, and the financial hardship requirements of BCLE Reg. 302:8. Courses approved on a per-course basis are valid for one year from the date of approval.

**302:10. Required notice.** When a CLE activity or course has been accredited or the CLE activity or course is offered by an approved service provider, the approved service provider or the per-course approved service provider, as the case may be, shall set forth prominently in its brochures and/or registration materials the following: “This program had been approved by the Board on Continuing Legal Education of the Supreme Court of New Jersey for \_\_\_ hours of total CLE credit. Of these, \_\_\_\_\_ qualify as total hours of credit for ethics/professionalism, including \_\_\_ hours in diversity inclusion, and elimination of bias. In addition, the provider may denote that the course qualifies for \_\_\_\_\_ hours of credit toward certification in civil trial law, criminal trial law, workers compensation law, municipal court law, and/or matrimonial law.”

## **PART FOUR: COMPLIANCE**

### **REGULATION 401. Confirmation of compliance by lawyers; audit; fees; compliance reporting groups.**

**401:1. Compliance obligation.** Every lawyer subject to the mandatory requirements of BCLE Reg. 201:1 or 201:2 shall keep and maintain a record of CLE course attendance for a period of at least three years from the date of attendance, regardless of the person, entity, organization or association that offered the CLE course or the format in which the CLE course was offered. At the end of each compliance period and subject to the provisions of BCLE Reg. 401:2, every lawyer subject to the mandatory requirements of BCLE Reg. 201:1 or 201:2 shall certify to the Board, as provided under Rule 1:4-4(b) on the Annual Attorney Registration and Billing Statement (or on such other form as provided by the Board), the lawyer’s compliance with the mandatory requirements of BCLE Reg. 201:1 or 201:2. The Board retains the right to audit any lawyer’s compliance with the mandatory requirements of BCLE Reg. 201:1 or 201:2. Every lawyer subject to the mandatory requirements of BCLE Reg. 201:1 or 201:2 shall cooperate in any such audit and shall reply in writing within thirty days of receipt of a request for information, producing proof of compliance. Where a lawyer is unable to provide to the Board the requested information in writing within thirty days, the lawyer shall, within that time, inform the Board in writing of the reason that the information cannot be so provided and shall give a date certain when it will be provided. A failure to cooperate under BCLE Reg. 401 may qualify as

a violation of RPC 8.1(b). Lawyers, at the discretion of the Board, may also be assessed certain fees to assist in the funding of the continuing legal education program.

**401:2. Compliance reporting groups.** Each active lawyer is permanently assigned to one of two compliance groups for CLE purposes, with one group reporting each year. Those whose birthdays are during the period from January 1 through June 30 must certify their compliance on the Annual Attorney Registration and Billing Statement (or on such other form as provided by the Board) of each even numbered year next following the completion of a compliance period (Compliance Group 1); those whose birthdays are during the period from July 1 to December 31 must certify their compliance on the Annual Attorney Registration and Billing Statement (or on such other form as provided by the Board) of each odd numbered year next following the completion of a compliance period (Compliance Group 2).

**401:3. Transitional reporting requirements.** No reporting obligation is due during calendar year 2010. A compliance report in respect of one-half of the mandatory CLE requirements is due from Compliance Group 2 on the Annual Attorney Registration Statement due in 2011. Commencing with the Annual Attorney Registration Statement due in 2012 and continuing thereafter, compliance reports become due as provided in BLCE Reg. 401.2.

**401:4. Reporting requirements for newly admitted lawyers.** Commencement of the compliance reporting period for newly admitted lawyers is deferred until January 1 of the year immediately following admission to the New Jersey Bar. Newly admitted attorneys automatically will be assigned to a compliance group based on their respective birthdays, as provided in BCLE Reg. 401.2. For all newly admitted lawyers whose first compliance report must be made in an even-numbered year, those in Compliance Group 1 will have a transitional reporting requirement and will be required to report on the Annual Attorney Registration and Billing Statement due in that first compliance reporting period only one-half of the mandatory CLE requirements. For all newly admitted lawyers whose first compliance report must be made in an odd-numbered year, those in Compliance Group 2 will have a transitional reporting requirement and will report one-half of the mandatory CLE requirements on the Annual Attorney Registration and Billing Statement in that first compliance reporting period. Continuing thereafter, compliance reports become due as provided in BCLE Reg. 401:2.

## **REGULATION 402.**

### **Lawyer noncompliance and reinstatement.**

**402:1. Noncompliance.** A lawyer who fails to submit the required certification of compliance by the reporting deadline, or who files a certification stating that he or she has failed to comply with Rule 1:42 and these regulations during the compliance reporting period shall be notified of noncompliance by the Board. Upon issuance of that notice, a non-compliant lawyer shall have a grace period to be determined by the Board to either (a) achieve compliance and file a certification that they have complied with these rules, or (b) apply for an exemption under Rule 1:28-2(b) and BCLE Reg. 202:1. During that grace period, a lawyer may attain the numbers of credit hours needed for compliance in the prior reporting period(s). Only those credit hours earned during the grace period in excess of the amount needed toward compliance in the prior reporting period(s) may be used to satisfy the then-current reporting period. No lawyer shall receive more than one grace period with respect to the same reporting period. Grace periods shall not be extended or renewed, unless for good cause shown.

**402:2. Noncompliance fees.** Active lawyers who fail to complete, sign, certify and submit the compliance reporting certification to the Board after its due date or who certify a failure to comply with the CLE requirement shall pay noncompliance fees in an amount to be set by the Board.

**402:3. Effect of failure to comply.** A lawyer who fails to comply in a timely manner with the CLE reporting requirement shall be deemed administratively ineligible to practice New Jersey law. Moreover, any lawyer placed in a noncompliant status after the expiration of the grace period but before the publication of the CLE Ineligible list must submit proof of compliance with the CLE requirement before being removed from a noncompliant status into a compliant status.

**402:4. Reinstatement.** A lawyer who is administratively ineligible to practice New Jersey law for noncompliance with Rule 1:42 and these regulations may be reinstated administratively by the Board upon the CLE Ineligible lawyer filing an appropriate certification that he or she has complied with the CLE requirements, and submitting proof of compliance and the payment of a reinstatement fee in an amount to be determined by the Board.

## **PART FIVE: APPEAL PROCESS**

## **REGULATION 501.**

### **Petitions for review.**

**501:1. Notice.** Within twenty days after any final action of the Board denying any requested relief, any aggrieved person, entity, organization or association may seek review thereof by serving on the Board a notice of petition for review by the Supreme Court and by filing the original notice with the Clerk of the Supreme Court. The notice shall set forth the petitioner's name and address and, if represented, the name and address of counsel. The notice shall designate the action of the Board sought to be reviewed and shall concisely state the manner in which the petitioner is aggrieved.

**501:2. Deposit for Costs.** Deposit for costs shall be made in accordance with Rule 2:12-5.

**501:3. Record on Petition for Review.** If the petition for review is granted, the record on review shall be the determination made by the Board; the application for relief; a brief or memorandum of law, if any; and any documents or other evidence or proof relied upon by the Board in arriving at its determination.

**501:4. Form of Petition for Review.** A petition for review shall be in the form of a brief, conforming to the applicable provisions of Rule 2:6 and not exceeding fifteen pages if printed or twenty pages if otherwise reproduced or typed, exclusive of tables of contents, citations and appendix. It shall contain a short statement of the matter involved, the question(s) presented, the errors complained of and the arguments in support of the petitioner's position. It shall also contain a certification by the petitioner or counsel, if any, that the petition presents a substantial question and is filed in good faith and not for purposes of delay.

**501:5. Service and Filing of Petition for Review.** Within ten days after filing of the notice of petition for review, two copies of the petition shall be served on the Chair of the Board and nine copies thereof shall be filed with the Clerk of the Supreme Court.

**501:6. Response to Petition for Review.** The Board shall, within thirty days of the service of the petition, serve two copies of the brief in opposition to the petition and file nine copies thereof with the Clerk of the

Supreme Court. The brief shall be direct and concise, shall conform to the applicable provisions of Rule 2:6 and shall not exceed fifteen pages if printed or twenty pages if otherwise reproduced or typed, exclusive of table of contents, citations and appendix. Within ten days of such service, petitioner may serve two copies and file nine copies of a reply brief not exceeding nine pages if printed or ten pages if otherwise reproduced or typed, exclusive of tables of contents, citations or appendix.

**501:7. Final Determination.** The final determination of a petition for review may be either by written opinion or by order of the Supreme Court and shall state whether the action of the Board is affirmed, reversed or modified or shall provide for such other final disposition as is appropriate.

Note: These regulations were approved by the Board on Continuing Legal Education on January 15, 2010, and by the Supreme Court of New Jersey on January 26, 2010; amendments to Regulations 103:1(a), 201:2, 201:6, 201:8, 202:1, and 401:4 were approved by the Board on March 28, 2011 and by the Supreme Court on July 21, 2011 to be effective immediately; amendments to Regulations 103:1(j) and (l), 201:4, 201:6, 201:8, 202:2, 202:3, 302:4, 302:10, 402:1, 402:2, and 402:3. were approved by the Board on September 28, 2012 and by the Supreme Court on October 23, 2012 to be effective November 1, 2012; the amendment to Regulation 201:8 to be applied retroactively; amendments to Regulation 103:1(k) and 201:1 were approved by the Supreme Court on October 20, 2020 to be effective January 1, 2021; Regulations 102:3, 103:1, 201:2, 201:3, 201:4, 201:6, 201:8, 202:1, 202:2, 301:1, 301:4, 301:8, 301:9, 301:11, 301:12, 301:13, 302:1, 302:3, 302:4, 302:5, 302:6, 302:9, 302:10, 401:1, 401:2, 401:4, 402:1, 402:2, 402:3, 402:4 amended, Regulation 103:2 adopted, and Regulation 401:5 deleted by Supreme Court order October 17, 2023 to be effective January 1, 2024; Regulation 202:1(b) amended April 3, 2024 to be effective immediately.