

NOTICE TO THE BAR

Adoption of New Rule 1:42 (“Continuing Legal Education”); Deletion of Rule 1:26 (“Skills and Methods Course”); Appointment of CLE Board; Amendments to Administrative Determinations by the Supreme Court on the Report and Recommendations of the Ad Hoc Committee on Continuing Legal Education

The Supreme Court has adopted the attached new Rule 1:42, “Continuing Legal Education,” and has deleted Rule 1:26, “Skills and Methods Course,” both effective immediately. The Court also has appointed the Board on Continuing Legal Education provided for in the new rule. Rule 1:42 as adopted contains some changes from the proposal published on October 5, 2009, so as to clarify that the requirements of the rule apply to all licensed attorneys, not only those with plenary licenses (Rule 1:42-1), and to provide detail on the composition of the Board on Continuing Legal Education (Rule 1:42-2(a)). The Supreme Court also has amended portions of its October 5, 2009 Administrative Determinations on the Report and Recommendations of the Ad Hoc Committee on Continuing Legal Education; those revisions are set forth in the attached Amended Administrative Determinations document.

Mark Neary, Esq.
Clerk of the Supreme Court

Dated: December 18, 2009

SUPREME COURT OF NEW JERSEY

It is ORDERED that Rule 1:26 (“Skills and Methods Course”) of the Rules Governing the Courts of the State of New Jersey is deleted and the attached new Rule 1:42 (“Continuing Legal Education”) is adopted, both effective immediately.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: December 18, 2009

[Rule 1:26. Skills And Methods Course]

[All newly admitted attorneys shall successfully complete a skills and methods course that has been approved by the Supreme Court. The course format shall be set forth in the rules of the Board of Bar Examiners.

[Pursuant to R. 1:21-1(a), failure to complete the course successfully shall render an attorney ineligible to practice law. The director or other person in charge of an approved course shall report to the Supreme Court the names of attorneys who are ineligible to practice because of their failure to comply with the requirements of the course.

[A restoration to eligibility shall abide the correction of the deficiency and submission of the matter to the Supreme Court for its approval, which may be subject to such conditions as the Court deems appropriate.]

[Note: Source-R.R. 1:20-7A(a), (b). Paragraph (b) adopted April 2, 1973 to be effective immediately. Paragraph (a) amended and paragraph (b) deleted September 13, 1976 to be effective September 13, 1976; paragraph (a) deleted and new rule adopted November 5, 1986 to be effective January 1, 1987.]

Rule 1:26 caption and text deleted December 18, 2009 effective immediately.

RULE 1:42. CONTINUING LEGAL EDUCATION

1:42-1. Continuing Legal Education Required. An attorney holding a license to practice in this State shall be required to participate in a program of continuing legal education in accordance with regulations adopted under these rules. In satisfaction of the continuing legal education requirement, attorneys shall participate in twenty-four hours of qualifying continuing legal education over a two-year period. Four of the twenty-four hours of credit shall be concentrated in the areas of ethics and/or professionalism. Attorneys shall demonstrate that they have satisfied the continuing legal education requirement by certifying to their compliance at the end of the two-year period in a manner prescribed by the Board on Continuing Legal Education. In addition, attorneys shall maintain all necessary records and documentation to demonstrate such compliance in accordance with regulations adopted under these Rules.

Note: Adopted December 18, 2009 to be effective immediately.

1:42-2. Board on Continuing Legal Education.

(a) Organization. The Supreme Court shall establish a Board on Continuing Legal Education to administer the program of continuing legal education in accordance with these rules. The Board shall consist of not more than eleven members of the bar of the State of New Jersey and shall be appointed by the Supreme Court. Three members of the Board must also be members of the Board on Attorney Certification. Additionally, one member shall

be the annual designee of the New Jersey State Bar Association, and one 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. Other than the designee of the New Jersey State Bar Association, the designee of the New Jersey Commission on Professionalism in the Law, and the Administrative Director or the Administrative Director's designee, members shall be appointed for three-year terms, with the terms of approximately one-third of those members expiring each year. No member who has served four full three-year terms successively shall be eligible for immediate reappointment. Members appointed to fill unexpired terms may be reappointed to four successive terms. The Supreme Court annually shall designate a chair and vice chair from among the members of the Board.

(b) Authority. The Board on Continuing Legal Education shall have the authority to administer the continuing legal education program including, without limitation, the following:

(1) to determine the courses and activities that qualify for continuing legal education credit under the program;

(2) to designate approved continuing legal education providers and approved courses and programs that shall qualify for continuing legal education credit;

(3) to monitor compliance with the program by continuing legal education providers and by attorneys;

(4) to promulgate regulations governing the continuing legal education program, subject to the approval of the Supreme Court;

(5) to establish a schedule of fees to be charged to continuing legal education providers and to attorneys to fund the administration of the program, subject to the approval of the Supreme Court;

(6) 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

(7) to make recommendations to the Supreme Court regarding changes to Rule 1:42, to the Board's Regulations, or to the continuing legal education program.

(c) Quorum. One more than half of the sitting members of the Board shall constitute a quorum and all determinations of the Board shall be made by a majority of a quorum.

(d) Staffing and Funding. The day-to-day operations of the Board on Continuing Legal Education shall be performed by a staff operating under the supervision of the Supreme Court Clerk's Office. Staff salaries, benefits, and operational costs shall be funded from fees imposed in accordance with this rule and the Board's regulations. To the extent that the Board is not fully self-funding in any particular year, the additional funds necessary to maintain the operation of

the continuing legal education program shall be provided by the Administrative Office of the Courts, subject to subsequent reimbursement by the Board from the program fees.

(e) Audit. The Board shall retain an auditor to conduct financial audits as recommended by the Administrative Director of the Courts.

Note: Adopted December 18, 2009 to be effective immediately.

1:42-3. Immunities. Members of the Board on Continuing Legal Education, 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.

Note: Adopted December 18, 2009 to be effective immediately.

Amended Administrative Determinations by the Supreme Court on the Report and Recommendations of the Ad Hoc Committee on Continuing Legal Education

December 18, 2009

The Supreme Court published its Administrative Determinations on the Report and Recommendations of the Ad Hoc Committee on Continuing Legal Education on October 5, 2009. The Court hereby amends those Administrative Determinations as follows:

1. Transition (New)

To ensure that the continuing legal education program is operational on January 1, 2010, the Court is establishing a transition period during which the Board on Continuing Legal Education shall have authority to implement the continuing legal education program in the absence of controlling regulations. The transition period shall run until such a time as controlling regulations are adopted pursuant to Rule 1:42-2(b)(4). During the transition period, the Board shall be authorized to determine the courses for which continuing legal education credit will be awarded and to charge an administrative fee of \$25 per course to continuing legal education providers seeking program approval for such courses. The only courses for which continuing legal education credit will be approved by the Board during this transition period are those that require attorney attendance; credit for alternative learning formats must await adoption of appropriate regulations. Finally, the Board shall be authorized to establish the requirements of the bridge-the-gap program during the transition period, including making determinations about the subject areas that will satisfy the program and the extent to which credit will be approved for any completed Skills and Methods Course work.

2. Recommendation #6. Who Should Comply with the Rule

The Court has determined that attorneys who are serving on a District Ethics Committee of the Supreme Court of New Jersey shall be deemed to have satisfied two hours of credit toward the ethics/professionalism requirement during any continuing legal education compliance period in which they serve on such a Committee.

3. Recommendation #11. Fees, Costs, and Scholarships

The Court's determination to adopt the self-reporting method for compliance instead of using the transcript method proposed by the Ad Hoc Committee will have a significant impact on the system of financing proposed by the Committee. The Committee's Report recommended the collection of a course attendance fee of up to \$2 per credit for out-of-state or alternative learning format course from

either the continuing legal education provider or the attorney. Over the two-year compliance period, this may have cost an attorney as much as \$48. Under the self-reporting method of compliance approved by the Court, course attendance fees would not adequately fund the administrative needs of the program, particularly if, pursuant to the approval of reciprocity, many attorneys will be meeting New Jersey's legal education requirement in another state. In order to fully fund a modest staff and the costs of administration, including an appropriate computer database and tracking system, all New Jersey attorneys will be assessed an additional \$4 as part of the annual attorney registration fee starting in 2010. The Board is directed to revisit the method of funding of operations after the completion of the first two-year reporting cycle to determine whether an annual assessment continues to be required to fund the program and, if so, the appropriate amount.