

NOTICE TO THE BAR

AMENDMENTS TO THE REGULATIONS OF THE BOARD ON CONTINUING LEGAL EDUCATION APPROVED BY THE SUPREME COURT

Pursuant to Rule 1:43-2(b)(4), published with this notice are amendments to the Regulations of the Board on Continuing Legal Education (“Board”) as approved by the Board on September 28, 2012 and by the Supreme Court October 23, 2012, as follows:

BCLE Reg. 103:1(j) (definition of “credit hour” for ethics courses);

BCLE Reg. 103:1(l) (definition of “inactive member”)

BCLE Reg. 201:4 (reciprocity and New Jersey requirements);

BCLE Reg. 201:6 (teaching CLE to non-lawyers):

BCLE Reg. 201:8 (alternative verifiable learning formats – allowing for 100% alternative coursework in certain specific circumstances);

BCLE Reg. 202: 2 (fees charged for waiver applications)

BCLE Reg. 202:3 (fees charged for extension of time applications);

BCLE Reg. 302:4 (course announcement submission requirements for approved service providers)

BCLE Reg. 302:10 (addition of new certification specialty area)

BCLE Reg. 402:1 (noncompliance and undue hardship);

BCLE Reg. 402:2 (when noncompliance late fee attaches); and

BCLE Reg. 402:3 (effect of failure to comply).

These amendments to the CLE Regulations are effective immediately. The Court determined that the amendment to BCLE Reg. 201:8 (alternative verifiable learning formats – allowing for 100% alternative coursework in certain specific circumstances) shall be applied retroactively. The remaining amendments shall be applied prospectively.

The Court also approved the three fee reductions requested by the Board, as follows: (1) fee for applications for waivers and extensions of time reduced from \$50 to \$25; (2) fee for late compliance reporting and late completion of compliance with the CLE requirement reduced from \$150 to \$50; and (3) fee for failure to complete the CLE requirement reduced from \$150 to \$100. These fee reductions are effective immediately and shall be applied prospectively only.

/s/ Mark Neary

Mark Neary, Esq.
Clerk of the Supreme Court

Dated: November 9, 2012

**BOARD ON CONTINUING LEGAL EDUCATION
REGULATIONS**

PART ONE: GENERAL REGULATIONS

REGULATION 101. Application and Citation of Regulations.

101:1. **Application.** ...no change

101:2. **Citation.** ... no change

REGULATION 102. Authority, Scope and Purpose.

102:1. **Authority.** ...no change

102:2. **Scope.** ...no change

102:3. **Purpose.** ...no change

REGULATION 103. Definitions.

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” ...no change
- (b) “alternative verifiable learning format courses” ...no change
- (c) “approved educational activity” or “approved course” ...no change
- (d) “approved service provider” ...no change
- (e) “Board” ...no change;
- (f) “CLE requirement” ...no change
- (g) “compliance period” ...no change
- (h) “compliance reporting group” ...no change

- (i) “continuing legal education” or “CLE” ...no change
- (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 a credit hour, including ethics credits which also must be a minimum of a total of 50 minutes;
- (k) “ethics” and/or “professional responsibility” ...no change
- (l) “inactive member” or “inactive attorney” shall mean a member of the New Jersey Bar on [inactive] exempt status as defined in Rule 1:28-2(b);
- (m) “in-house continuing legal education activity” ...no change
- (n) “newly admitted lawyer” ...no change;
- (o) “non-approved service provider” ...no change
- (p) “per-course service provider” ...no change
- (q) “professionalism” courses ...no change
- (r) “program” or “CLE program” ...no change
- (s) “undue hardship” ...no change
- (t) “year” shall mean a calendar year... no change

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

- 104:1. Board.** ...no change
- 104:2. Terms.** ...no change
- 104:3. Officers.** ...no change
- 104:4. Quorum.** ...no change
- 104:5. Powers and Duties.** ...no change

104:6. Staffing and Funding. ...no change

104:7. Audit. ...no change

104:8. Immunities. ...no change

PART TWO: CONTINUING LEGAL EDUCATION REQUIREMENTS

REGULATION 201. Continuing Legal Education Requirements of Lawyers.

201:1. Mandatory requirements. ...no change

201:2. Additional mandatory requirements for newly admitted lawyers. ...no change

201:3. Carryover. ...no change

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 jurisdiction, so long as they comply with any course accreditation restrictions in New Jersey. 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.

201:5. Certified attorneys. ...no change

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.

201:7. Inns of Court programs. ...no change

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) ...no change

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

202:1. Exemptions.

...no change

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. 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. ...no change**
- 301:2. Fees, recordkeeping and record retention requirements. ...no change**
- 301:3. In-house continuing legal education activities. ...no change**
- 301:4. Law school CLE. ...no change**
- 301:5. Hybrid programs. ...no change**
- 301:6. Access. ...no change**
- 301:7. Presumption against approval. ...no change**
- 301:8. Proof of attendance. ...no change**
- 301:9. Alternative verifiable learning formats. ...no change**
- 301:10. Timeliness. ...no change**
- 301:11. Compliance obligation. ...no change**
- 301:12. Per-course approval. ...no change**
- 301:13. Procedure for approval. ...no change**

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

- 302:1. In general. ...no change.**
- 302:2. Standards for approved service providers. ...no change**
- 302:3. Application procedure. ...no change**

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 and the credit hours claimed for the activity or course. All filings under this regulation shall be on forms provided by the Board.

302:5. Continuing review. ...no change

302:6. Term of approval; renewal; procedure. ...no change

302:7. Revocation. ...no change

302:8. Financial hardship. ...no change

302:9. Standards for per-course approved service providers. ...no change

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 hours of credit for ethics/professionalism, and _____ qualify as 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. ...no change

401:2. Compliance reporting groups. ...no change

401:3. Transitional reporting requirements. ...no change

401:4. Reporting requirements for newly admitted lawyers. ...no change

401:5. "Grandfathering" provision. ...no change

REGULATION 402. Lawyer noncompliance and reinstatement.

402:1. Noncompliance. A lawyer who fails to submit the required certification of compliance [within fifteen days] 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 by the Board of noncompliance. Upon issuance of that notice, a non-compliant lawyer shall have a grace period of sixty days from the original certification due date 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). During that grace period, a lawyer may attain the numbers of credit hours needed for compliance in the prior reporting period(s). 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. Late fees. Active lawyers who fail to complete, sign, and submit the compliance reporting certification to the Board [within fifteen days] after its due date or who certify a failure to comply with the CLE requirement shall pay a late fee 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 may be deemed administratively [suspended from the] ineligible to practice [of] law in New Jersey.

402:4. Reinstatement. ...no change

PART FIVE: APPEAL PROCESS

REGULATION 501. Petitions for review.

501:1. Notice. ...no change

501:2. Deposit for Costs. ...no change

501:3. Record on Petition for Review...no change

501:4. Form of Petition for Review. ...no change

501:5. Service and Filing of Petition for Review. ...no change

501:6. Response to Petition for Review. ...no change

501:7. Final Determination. ...no change

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 9, 2012, and with the amendment to Regulation 201:8 to be applied retroactively.