

## Rule 801

### DEFINITIONS

- (a) **“Active attorney”** means an attorney who is required to pay the annual registration fee, is registered as active for the current licensing period under Rule 206(a)(1) and (b)(1), and is not suspended or disbarred from the practice of law by the Supreme Court.
- (b) **“Approved program”** means a continuing legal education program approved under these rules.
- (c) **“Board”** means the body created under Rule 803.
- (d) **“Compliance period”** means the period of one year beginning July 1 and ending June 30.
- (e) **“Continuing Legal Education Office”** means the division of the Kansas Supreme Court’s Office of Judicial Administration that assists the Supreme Court and the Board with administering and regulating continuing legal education.
- (f) **“Continuing legal education program” or “CLE program”** means a legal education program, course, or activity designed to maintain and improve an attorney’s professional competence.
- (g) **“Ethics”** means the standards found in the Kansas Rules of Professional Conduct that an attorney must comply with to practice law in Kansas and remain in good standing.
- (h) **“Guidelines”** means a document that prescribes administrative requirements for continuing legal education that are not set forth in these rules.
- (i) **“Inactive attorney”** means an attorney who is registered as inactive under Rule 206(b)(1).
- (j) **“Law practice management program”** means a CLE program specifically designed for attorneys on nonsubstantive topics that address ways to enhance the quality and efficiency of an attorney’s service to clients.
- (k) **“Live program”** means a CLE program offered at a set time during which the attorney has the ability to contact the moderator or presenter to comment and ask questions. A live program may be held in person or delivered through an electronic medium.

- (l) **“OJA”** means the Kansas Supreme Court’s Office of Judicial Administration and includes the Continuing Legal Education Office.
- (m) **“Prerecorded program”** means an on-demand CLE program accessible through an electronic medium solely by an individual attorney in a format approved by OJA.
- (n) **“Professionalism”** means conduct consistent with the tenets of the legal profession by which an attorney demonstrates civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rules of law, the courts, clients, other attorneys, witnesses, and self-represented and unrepresented persons.
- (o) **“Provider”** means an individual or organization offering a CLE program.

## **Rule 802**

### **KANSAS CONTINUING LEGAL EDUCATION**

- (a) **Administration.** The Supreme Court through OJA administers and regulates Kansas continuing legal education.
- (b) **Continuing Legal Education Fee.** A continuing legal education fee is included in the annual registration fee under Rule 206.
- (c) **Service Fee.** OJA will charge a \$30 service fee for a check that is returned unpaid.
- (d) **Confidentiality.** All files, records, proceedings, and other documents that relate to or arise out of an attorney’s compliance with or failure to satisfy continuing legal education requirements are confidential and must not be disclosed except as provided in these rules, by Supreme Court order, or on request of the affected attorney. OJA may disclose relevant information and submit any part of its files to the Board for the furtherance of the Board’s duties. This confidentiality provision does not apply to anonymous statistical abstracts.

## **Rule 803**

### **KANSAS CONTINUING LEGAL EDUCATION BOARD**

- (a) **The Board.** The Supreme Court establishes the Kansas Continuing Legal Education Board to assist the Supreme Court and OJA with administering and

regulating continuing legal education. The Board replaces the Continuing Legal Education Commission.

- (b) **Duties and Responsibilities.** The Board's responsibilities include the following:
- (1) approving providers and programs;
  - (2) determining the number of CLE credit hours to be awarded for participating in a program;
  - (3) granting or withdrawing approval of CLE programs;
  - (4) granting waivers and extensions of time to complete requirements; and
  - (5) developing guidelines as described in Rule 801(h).
- (c) **Membership.** The Board consists of nine members appointed by the Supreme Court. All attorney members must be registered under Rule 206. The members are as follows:
- (1) five practicing attorneys, at least one of whom has been admitted to practice law in Kansas for fewer than 10 years;
  - (2) one faculty representative from the University of Kansas School of Law and one faculty representative from Washburn University School of Law;
  - (3) one nonattorney; and
  - (4) one justice or judge.
- (d) **Terms.** The Supreme Court will appoint each Board member for a three-year term. No member may serve more than two consecutive three-year terms. The Supreme Court will appoint a new member to fill a vacancy on the Board; the new member will serve the remainder of the unexpired term and is then eligible to serve two consecutive three-year terms. A member is eligible for one or more additional terms after a break in service.
- (e) **Election of Officers.** The Board will elect from its members a chair and a vice chair at the first Board meeting held in each annual compliance period.
- (f) **Meetings; Quorum.** The Board will meet quarterly and when the need arises. Five members constitute a quorum for the transaction of business.

## Rule 804

## MINIMUM REQUIREMENTS

- (a) **Credit Hours.** An active attorney must earn a minimum of 12 CLE credit hours at approved programs during each compliance period. Of the 12 hours, at least 2 hours must be in the area of ethics and professionalism.
- (b) **Carryover Credit.** An active attorney may complete CLE credit hours at approved programs during a compliance period that exceed the number of credit hours required by subsection (a). To carry over the credit hours to the next compliance period, the attorney must comply with the requirements of Rule 808. The following provisions apply to carryover credit.
  - (1) An active attorney may carry over up to 10 unused general attendance CLE credit hours.
  - (2) An active attorney may carry over ethics and professionalism CLE credit hours as general attendance CLE credit hours but not as ethics and professionalism CLE credit hours.
  - (3) An active attorney cannot carry over CLE credit hours earned for teaching, authorship, or attendance at a law practice management program.
- (c) **Reporting.** A provider or individual attorney must report CLE credit hours at an approved program as required under Rule 806 and in the form and manner prescribed by OJA.
- (d) **Exemptions.** The following attorneys are exempt from the CLE requirement in subsection (a):
  - (1) an attorney newly admitted to practice law in Kansas until the beginning of the first compliance period following admission to practice;
  - (2) an attorney registered under Rule 206 as inactive, retired, or disabled due to mental or physical disability; and
  - (3) an active or retired federal or state judge or justice, bankruptcy judge, or full-time magistrate of the United States District Court for the District of Kansas who is not engaged in the practice of law, but a federal or state administrative judge is not eligible for this exemption.
- (e) **Exception for Good Cause.** The Board may grant an exception to the strict requirement to complete continuing legal education in any compliance period because of good cause, such as disability or hardship. The following provisions apply.

- (1) An attorney must submit a written request for an exception to OJA with a detailed explanation of the circumstances necessitating the request.
  - (2) The Board must review and approve or disapprove a request for an exception on an individual basis.
- (f) **Legislative Service.** Upon a written request submitted to OJA, an attorney serving in the Kansas Legislature will receive a reduction of 6 of the 10 general attendance CLE credit hours required for the compliance period in which the attorney serves in the Legislature.

## Rule 805

### PROGRAM APPROVAL, STANDARDS, AND APPEALS

- (a) **Provider Application for Program Approval.**
- (1) **Live Program.** No later than 30 days before a live program, a provider should submit to OJA an application for approval of the live program and any additional information requested by OJA. The provider must include a \$25 nonrefundable fee with the application.
  - (2) **Prerecorded Program.** No later than 30 days before a provider makes a prerecorded program available to attorneys, the provider should submit to OJA an application for approval of the prerecorded program and any additional information requested by OJA. The provider must include a \$100 nonrefundable fee with the application.
  - (3) **Notice of Accreditation.** OJA must notify the provider of the status of its review of the application no later than 30 days after OJA receives it. A CLE program is not approved until OJA provides a notice of accreditation to the provider. Approval of a prerecorded program will remain valid for up to one year.
- (b) **Individual Attorney Application for Live Program Approval.** An individual attorney may seek CLE credit for a live program that was not previously approved by OJA. To receive credit, the attorney must submit an application for approval of the live program and any additional information requested by OJA. OJA must notify the attorney of the status of its review of the application no later than 30 days after OJA receives it. A live program is not approved until OJA notifies the attorney of approval.

- (c) **Standards.** To be approved, a CLE program must comply with the following standards.
- (1) CLE credit will be awarded on the basis of one credit hour for each 50 minutes actually spent in attendance at the CLE program, excluding introductory remarks, meals, breaks, and other noneducational activities. One-half credit hour will be awarded for attendance of at least 25 but less than 50 minutes. No credit will be awarded for smaller fractional units.
  - (2) The program must have significant intellectual or practical content designed to promote attorney competence and primarily address matters related to the practice of law, ethics and professionalism, or law practice management. An interdisciplinary program that crosses academic lines may meet this standard if the provider or individual attorney seeking credit demonstrates that the program is beneficial to the practice of law. Generally, credit will not be awarded for keynote speeches.
  - (3) The program must be presented by a person qualified by practical or academic experience to present the subject. Generally, a legal subject should be presented by an attorney.
  - (4) The program must provide thorough, high quality, readable, useful, and carefully prepared instructional materials to all participants, unless the Board approves the absence of instructional materials. A brief outline without citations or explanatory notations is not sufficient. The provider must distribute the materials to the participants by the end of the next business day following the program. Instructional materials must satisfy the criteria set forth in the Guidelines for Instructional Materials.
  - (5) A live program must be presented in a setting that is suitable for its contents.
  - (6) Integration of ethics or professionalism instruction into substantive law topics is encouraged, but integrated material does not count toward the two-hour minimum annual ethics and professionalism requirement.
- (d) **Appeal of Determination.** If OJA denies an application for approval of a CLE program or CLE credit, the applicant may appeal the decision to the Board by submitting a letter of appeal to OJA no later than 30 days after the date of the notice of the denial. No other appeal may be taken.

## Rule 806

### ATTENDANCE REPORTING

- (a) **Provider Approved Program.** If OJA approves an application submitted by a provider under Rule 805(a), OJA will issue a notice of accreditation to the provider. OJA will also issue an affidavit to a provider of an in-person live program. The provider or attorney will report attendance as follows.
  - (1) **In-Person Live Program.** A provider holding an in-person live program is responsible for distributing the affidavit to attendees for signature.
    - (A) **In-State Program.** The provider is responsible for reporting attendance for each attorney in the prescribed format to OJA no later than 30 days after the program.
    - (B) **Out-of-State Program.** The attorney is responsible for submitting the executed affidavit to OJA no later than 30 days after the program.
  - (2) **Electronic Live Program or Prerecorded Program.** A provider holding a live program delivered through an electronic medium or a prerecorded program is responsible for reporting attendance for each attorney in the prescribed format to OJA no later than 30 days after the program.
- (b) **Individual Attorney Approved Program.** If OJA approves an application submitted by an individual attorney under Rule 805(b), the attorney is responsible for submitting proof of attendance in the prescribed format to OJA.

## Rule 807

### PROVIDER RESPONSIBILITY

- (a) **Marketing Prior to Approval.** A provider of a CLE program pending approval must announce in any marketing that approval is pending. A provider must not advertise a CLE program as approved until the provider receives a notice of accreditation.
- (b) **Late Report of Attendance.** A provider responsible under Rule 806(a) for reporting the attendance at an approved program held in a compliance period must report the program attendance by July 31. Otherwise, the provider is responsible for the fees set forth in Rule 809(e).

- (c) **Program Audit.** A provider must allow a Board member or a representative of OJA to attend, free of charge, an approved program to audit compliance with these rules. A Board member or OJA representative auditing an approved program will not receive CLE credit for attendance.
- (d) **Evaluation.** At the conclusion of an approved program, a provider must give a participating attorney the opportunity to complete an evaluation form addressing the quality, effectiveness, and usefulness of the program. OJA may request a copy of the evaluation.
- (e) **Record Retention.** A provider must keep attendance records and evaluation summaries for an approved program on file for a minimum of three years.

## **Rule 808**

### **CREDIT**

- (a) **Credit for Attendance.** The number of CLE credit hours assigned to an approved program reflects the maximum number of hours that an attorney can earn by attending the entire program. An attorney can only earn CLE credit hours for actual attendance. No attorney can earn more than eight credit hours in one day of CLE attendance.
- (b) **Carryover Credit.** An attorney will not receive carryover credit hours under Rule 804(b) unless an application, affidavit, or attendance is submitted to OJA by July 31 or submitted via U.S. mail postmarked by July 31. The application or affidavit must reflect attendance during the compliance period in which the attorney earned the credit hours.
- (c) **Credit for Teaching.** An attorney can earn up to five CLE credit hours for each 50 minutes spent teaching an approved program. The following provisions apply.
  - (1) The attorney must file an application for approval of teaching credit that outlines program content, teaching methodology, and time spent in preparation and instruction.
  - (2) In determining the number of CLE credit hours to award, the Board will calculate time spent in preparation and teaching. For example, the Board will award four credit hours to an attorney who spends 150 minutes preparing a program and 50 minutes teaching it. The Board will award one-half credit hour for teaching at least 25 but less than 50 minutes. The Board will not award credit hours for smaller fractional units.



- (3) A repeat presentation will only qualify for additional credit hours for time spent updating the presentation and teaching.
  - (4) Because the Board awards CLE teaching credit hours as an incentive to attorneys to benefit the legal profession, instruction must be directed toward an audience composed primarily of attorneys. The Board will not award credit hours for teaching undergraduate, graduate, or law school classes.
- (d) **Credit for Authorship.** An attorney can earn CLE credit hours for authorship of a legal publication. The following provisions apply.
- (1) An attorney can earn CLE credit hours if the attorney is a named author on a published article, chapter, monograph, or book that contributes substantially to the continuing legal education of the attorney author and other attorneys.
  - (2) The attorney must complete an application for approval of authorship credit.
  - (3) Publication must occur during the compliance period for which the attorney requests CLE credit hours.
  - (4) The Board may award one credit hour for each 50 minutes the attorney spent directly preparing the publication. An article, chapter, monograph, or book directed to a nonattorney audience does not qualify for authorship credit.
- (e) **Credit for Law School Course.** An attorney can earn CLE credit hours for postgraduate education by enrollment in a course, either for credit or by audit, from a law school accredited by the American Bar Association. The Board will award one credit hour for each 50 minutes of class attendance.
- (f) **Credit for Law Practice Management Program.** An attorney can earn no more than two general attendance CLE credit hours toward the annual CLE requirement in any compliance period for attendance at a law practice management program.
- (g) **Credit for Attendance Prior to Admittance.** An applicant cannot earn CLE credit hours for any CLE program attended before the applicant is admitted to practice law in Kansas.
- (h) **Duplicate Attendance.** An attorney cannot earn CLE credit hours for attendance at a program the attorney previously attended during the compliance period.

- (i) **Self-Study Prohibition.** An attorney cannot earn CLE credit hours for a self-study program.

## **Rule 809**

### **ANNUAL REPORT AND NONCOMPLIANCE**

- (a) **Annual Report.** Every August, OJA will notify each active attorney when the annual report for the preceding compliance period is available. If the report is accurate, the attorney is not required to respond; the report will be filed automatically as the attorney's annual report. If the report is not accurate, the attorney must notify OJA no later than 30 days after the date of the report.
- (b) **Notice of Noncompliance.** If it appears an active attorney has not earned the minimum number of CLE credit hours required for a compliance period or has failed to meet the minimum requirements of these rules, OJA will send a notice of noncompliance to the attorney. OJA may send the notice electronically.
- (c) **Cure; Show Cause.** No later than 30 days after the date of the notice of noncompliance, the attorney may cure the apparent noncompliance or show cause for an exception to avoid suspension from the practice of law under Rule 810.
- (d) **Hearing.** No later than 30 days after the date of the notice of noncompliance, an attorney may request a hearing before the Board. An attorney must submit the hearing request to OJA and state the issues the attorney raises. The Board must grant a timely request for a hearing. OJA must not submit the attorney's name to the Supreme Court for suspension unless the Board recommends suspension after the hearing. If requested, OJA must provide and pay for a record of the hearing.
- (e) **Noncompliance Fee.** An attorney must pay a noncompliance fee of \$75 if either of the following provisions apply:
  - (1) report of attendance is electronically received by OJA after July 31 or submitted via U.S. mail postmarked after July 31; or
  - (2) the attorney fails to complete the credit hours required under Rule 804(a) within the compliance period.
- (f) **Change of Contact or Registration Information.** No later than 30 days after a change occurs, an attorney must use the attorney registration portal to update any of the contact or registration information the attorney is required to provide under Rule 206(n).

## **Rule 810**

### **SUSPENSION FROM THE PRACTICE OF LAW**

The Supreme Court will issue an order suspending from the practice of law an attorney who OJA certifies failed to meet the minimum requirements of these rules and failed to show cause for an exception to avoid suspension.

## **Rule 812**

### **REINSTATEMENT PROCEDURE FOR SUSPENDED ATTORNEY**

- (a) **Reinstatement After Suspension.** To seek reinstatement, an attorney who has been suspended under Rule 810 or Rule 206(f)(2) must comply with the requirements in Rule 206(j) and must comply with subsection (b) or (c).
- (b) **Suspended Less than One Year.** An attorney returning from suspension of less than one year must complete the following requirements:
  - (1) prior to reinstatement, earn any CLE credit hours necessary to cure any deficiency in the annual CLE requirement under Rule 804(a) and pay any fees incurred prior to suspension; and
  - (2) comply with the annual CLE requirement under Rule 804(a) by the end of the compliance period in which the Supreme Court reinstates the attorney.
- (c) **Suspended One Year or More.** An attorney returning from suspension of one year or more must complete the following requirements:
  - (1) complete the requirements in subsection (b); and
  - (2) prior to reinstatement, earn an additional 12 CLE credit hours, including 2 hours of ethics and professionalism, for each year of suspension unless waived or modified by Supreme Court order.