

RULE 801
CONTINUING LEGAL EDUCATION COMMISSION

- (a) **The Commission.** There is hereby created the Continuing Legal Education Commission.
- (b) **Duties and Responsibilities.** The Commission is responsible for the administration of Rules 801 through 811, subject to the supervision of the Supreme Court. The authority of the Commission includes: (1) accrediting providers and programs and determining the number of hours of CLE credit to be given for participating in a program; (2) granting or withdrawing approval of all or less than all programs of a provider; (3) receiving and considering reports of attorneys; (4) granting waivers and extensions of time to complete requirements; (5) giving notices and certifications required by these rules; and (6) adopting guidelines necessary to implement or administer these rules.
- (c) **Composition.** The Commission shall consist of nine members appointed by the Supreme Court. All attorney members must be registered under Supreme Court Rule 208. The members must include: (1) five practicing attorneys, at least one of whom has been admitted to practice law in Kansas for fewer than 10 years; (2) a faculty representative from each of the University of Kansas and Washburn University Schools of Law; (3) one nonattorney member; and (4) a justice or judge.
- (d) **Term of Service.** Appointment as a Commission member is for a 3-year term. The Supreme Court will appoint a new member to fill a vacancy on the Commission occurring during a term. A new member appointed to fill a vacancy serves the unexpired term of the previous member. No member may serve more than two consecutive 3-year terms, except that a member initially appointed to serve an unexpired term may serve two consecutive 3-year terms thereafter.
- (e) **Meetings.** The Commission may meet at such times and places as it determines. Five members constitute a quorum for the transaction of business.
- (f) **Election of Officers.** At the first Commission meeting held in each annual compliance period, the Commission must elect from its members a chairman, a vice chairman, and a secretary.
- (g) **Expenses.** Members of the Commission and Commission staff shall be reimbursed for actual and necessary expenses they incur in travel to and from Commission meetings and for authorized travel in connection with Commission business.
- (h) **Confidentiality.** Unless otherwise directed by the Supreme Court, the files, records, and proceedings of the Commission that relate to or arise out of the failure of an attorney to satisfy continuing legal education requirements are confidential and must not be disclosed except in furtherance of the Commission's duties or on request of the attorney affected. However, anonymous statistical abstracts may be drawn from the files, records, and proceedings.

(i) **Staff.** The Commission may employ an Executive Director and other necessary staff and may delegate to the director or staff the authority to conduct the business of the Commission under these Rules and Commission guidelines, subject to review by the Commission.

(j) **Contact Information for Commission.** The Commission's mailing address is Kansas Continuing Legal Education Commission, Attn: Executive Director, 400 S. Kansas Ave., Ste. 202, Topeka, Kansas 66603. The Commission's telephone number is 785-357-6510. The Commission's website address is www.kscle.org.

RULE 802 DEFINITIONS

(a) **“Active attorney”** means an attorney who is required to pay the annual registration fee imposed by Supreme Court Rule 208 for the current registration period and who is not on inactive status, suspended, or disbarred by the Supreme Court from the practice of law.

(b) **“Approved program”** means a continuing legal education program that has been accredited by the Commission.

(c) **“CLE Commission”** or **“Commission”** means the governing body created by Rule 801(a).

(d) **“Compliance period”** means the period of 1 year from July 1 through June 30.

(e) **“Continuing legal education program”** or **“CLE program”** means a legal educational program, course, or activity designed to maintain or improve the professional competency of practicing attorneys.

(f) **“Ethics”** means the standards set by the Kansas Rules of Professional Conduct with which an attorney must comply to remain authorized to practice law in Kansas and in good standing.

(g) **“Guidelines”** means a Commission document that:

(1) prescribes administrative requirements for CLE programs which are not set forth in these rules; and

(2) is available to attorneys on the Commission's website.

(h) **“Inactive attorney”** means an attorney who has elected inactive status pursuant to Supreme Court Rule 208 and has registered as an inactive attorney with the CLE Commission.

(i) **“In-house program”** means CLE programming given for a select private audience *from the same law firm, corporation, or single governmental entity, and not open for attendance by other*

members of the legal community generally. The term includes a program offered by invitation and a program not advertised to a broad attorney population.

(j) **“Law practice management programming”** means programming specifically designed for attorneys on nonsubstantive topics that deal with means and methods for enhancing the quality and efficiency of an attorney’s service to the attorney’s clients.

(k) **“Live programming”** means:

(1) **“Standard Classroom Setting”**—A CLE program presented in a suitable classroom setting devoted to the program.

(2) **“Satellite”**—A live CLE program broadcast to a classroom setting or a central viewing or listening location advertised to a broad attorney population. There must be a live connection to the speaker to comment and answer questions. As long as the program is advertised, there is no minimum attendance requirement.

(3) **“Video Replay”**—A recorded CLE program presented in a suitable classroom setting or in a central viewing location advertised to a broad attorney population. The attorney must be able to contact the moderator, either in-person or by telephone or email, to comment or ask questions. As long as the program is advertised, there is no minimum attendance requirement.

(4) **“Live Webcast”**—A CLE activity broadcast in real-time via Internet in audio or audio plus video form to viewers in remote locations and accessed solely by an individual attorney. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

(5) **“Live Teleconference”**—A CLE activity broadcast in real-time via telephone in audio or audio plus video form to listeners in remote locations and accessed solely by an individual attorney. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

(6) Any other format approved by the Commission.

(l) **“Prerecorded programming”** means the following CLE programming accessed solely by an individual attorney: audiotape, videotape, CD, podcast, CD-ROM, DVD, or another format approved by the Commission and defined in its Guidelines for Prerecorded Programming.

(m) **“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 unrepresented parties.

(n) **“Rules”** means the Rules Relating to Continuing Legal Education, together with any amendments thereto, adopted by the Supreme Court.

RULE 803
MINIMUM REQUIREMENTS

(a) **Credit Hours.** An active attorney must earn a minimum of 12 CLE credit hours at approved programs in each compliance period (July 1 to June 30). Of the 12 hours, at least 2 hours must be in the area of ethics and professionalism.

(b) **Carryover Credit.** If an active attorney completes CLE credit hours at approved programs during a compliance period exceeding the number of hours required by subsection (a) and the practitioner complies with the requirements of Rule 806, the practitioner may carry forward to the next compliance period up to 10 unused general attendance credit hours from the compliance period during which the credit hours were earned. However, ethics and professionalism credit hours in excess of the 2-hour requirement in subsection (a) may be carried forward as general attendance credit hours but not as ethics and professionalism credit. CLE credit hours approved for teaching, authorship, or law practice management credit do not qualify for carryover credit.

(c) **Reporting.** CLE credit hours at an approved program for each attorney must be reported to the Commission in the form and manner the Commission prescribes.

(d) **Exemptions.** The following attorneys are not required to fulfill the CLE requirement in subsection (a):

- (1) An attorney newly admitted to practice law in Kansas during the period prior to the first compliance period beginning after admission to practice.
- (2) An attorney during the time the attorney is on retired or inactive status pursuant to Supreme Court Rule 208 and registered on inactive status with the CLE Commission.
- (3) All active and retired federal and state judges or justices, bankruptcy judges, and full-time magistrates of the United States District Court for the District of Kansas who are not engaged in the practice of law. Federal and state administrative judges are not eligible for this exemption.
- (4) An attorney exempted by the Commission for good cause pursuant to subsection (e).

(e) **Exemptions for Good Cause.** The Commission may grant an exemption to the strict requirement of these rules to complete continuing legal education because of good cause, *e.g.*, disability or hardship. A request for exemption must be submitted to the Commission in writing with full explanation of the circumstances necessitating the request. An attorney with a disability or hardship that affects the attorney's ability to attend CLE programs may file annually a request for a substitute program in lieu of attendance and must propose a substitute program the attorney can complete. The Commission must review and approve or disapprove a substitute

program on an individual basis. An attorney who receives approval of a substitute program is responsible for the annual CLE fee required by Rule 808.

(f) **Legislative Service.** Upon request, an attorney serving in the Kansas Legislature will receive a reduction of 6 of the 10 general attendance credit hours required for the compliance period in which the attorney serves.

(g) **Accommodation for Attorneys Employed Out-of-Country.** An attorney employed full time outside the United States for a minimum of 8 months during the compliance period may, upon written request and preapproval, complete the annual CLE requirement by-prerecorded programming.

RULE 804 ACCREDITATION OF PROGRAMMING

(a) **Provider Live Programming Approval.** A provider sponsoring a live continuing legal education program may request prior accreditation of the CLE program for CLE credit. The Commission recommends the provider submit to the Commission, at least 60 days before the program, an application for approval of CLE activity and any other information required by the Commission. An application by a provider must be accompanied by a \$25 nonrefundable filing fee. The Commission must notify the applicant of the status of its review of the application not later than 30 days after the Commission receives it. A program is not approved until the applicant is notified of approval. The program must be advertised only as pending approval, as required by Rule 805(a), and may not be advertised as approved until a notice of accreditation/affidavit is received. The time limit in this subsection does not apply to an in-house CLE program, which is governed by Rule 806(i).

(b) **Individual Attorney Course Approval.** An attorney seeking CLE credit for attendance at a live CLE program that was not previously accredited must submit to the Commission an application for approval of CLE activity and any other information required by the Commission. The Commission must notify the applicant of the status of its review of the request not later than 30 days after the Commission receives it. A program is not approved until the applicant is notified of approval.

(c) **Interdisciplinary CLE.** CLE credit may be earned for a program that crosses academic lines (*e.g.*, accounting-tax) if it is pertinent to an individual attorney's practice. See Rule 806(j).

(d) **Prerecorded Programming Course Approval.** An application for approval of CLE credit for prerecorded programming must be submitted to the Commission by the provider in the form prescribed by the Commission, and the program must comply with the Guidelines for Prerecorded Programming. An application for approval of a prerecorded program must be accompanied by a \$100 nonrefundable filing fee and will be valid for a 1-year period.

(e) **Attendance Reporting.** Upon approving a program for CLE credit, the Commission will issue to the applicant a notice of accreditation/affidavit. A provider must distribute the appropriate Kansas affidavit to all attorneys seeking Kansas CLE credit. A provider holding an in-state program is responsible for distributing the appropriate Kansas affidavit for signature and for reporting the attendance to the CLE Commission within 30 days after the program. For an out-of-state program, the attorney is responsible for submitting the executed affidavit to the Commission within 30 days after the program. For prerecorded programming, the provider is responsible for reporting attendance to the CLE Commission within 30 days after the program in the approved format.

(f) **Appeal of Determination.** If an application for approval of CLE credit for a CLE program is denied, the applicant may appeal the decision to the Commission by submitting a letter of appeal within 30 days after notice of the denial was mailed. No other appeal may be taken.

(g) **Standards.** To be accredited, a CLE program must comply with the following requirements:

- (1) CLE credit must be awarded on the basis of 1 credit hour for each 50 minutes actually spent in attendance at instructional activities, exclusive of introductory remarks, meals, breaks, or other noneducational activities. One-half credit hour must be awarded for attendance of at least 25 but less than 50 minutes. No credit may be claimed for smaller fractional units.
- (2) The program must have significant intellectual or practical content designed to promote attorney competence and deal primarily with matters related to the practice of law, ethics and professionalism, or law practice management.
- (3) The program must be presented by a person or persons qualified by practical or academic experience to present the subject. In most instances, legal subjects should be presented by attorneys.
- (4) Thorough, high quality, readable, useful, and carefully prepared instructional materials must be made available to all participants at or before the time the program is presented, unless the Commission approves the absence of instructional materials as reasonable. A brief outline without citations or explanatory notations is not sufficient. Instructional materials must satisfy the criteria set forth in the Guidelines for Instructional Materials.
- (5) For live programming, the program must be presented in, or broadcast to, a suitable classroom setting or central viewing or listening location devoted to the program. Generally, credit will not be approved for after-dinner type speeches.
- (6) Integration of ethics or professionalism instruction into substantive law topics is encouraged, but integrated material does not count toward the 2-hour minimum annual ethics and professionalism requirement.

RULE 805
PROVIDER RESPONSIBILITY

- (a) **Marketing Prior to Approval.** A provider of a CLE program for which accreditation has been sought but not yet approved may announce: “Application for CLE approval of this activity in Kansas is currently pending. Attorneys wanting to know the CLE approval status of a program should contact the sponsor.”
- (b) **Late Report of Attendance by Provider.** A provider of an accredited in-state CLE program, held by June 30 of a compliance period, must report the attendance for the program by July 31. Otherwise, the provider is responsible for the fees set forth in Rule 807(c).
- (c) **Audit of Activities.** A provider must allow a Commission member or staff to attend, free of charge, any continuing legal education program to audit compliance with these rules. Such attendance does not qualify for mandatory continuing legal education credit for the Commission member or staff.
- (d) **Evaluations.** At the conclusion of an approved program, each participating attorney must be given the opportunity to complete an evaluation form addressing the quality, effectiveness, and usefulness of the program. The Commission may request copies of the evaluations.
- (e) **Record Retention.** A provider must keep on file for a minimum of 3 years attendance records and evaluation summaries for a program.

RULE 806
CREDIT FOR PARTICIPATION

- (a) **Carryover Credit.** Hours that are to be carried forward under Rule 803(b) must be received in the CLE Commission office or postmarked by July 31 and reflect attendance during the compliance period in which they were earned. An application or affidavit received after that date will not qualify as carryover credit.
- b) **Credit for Attendance.** The number of credit hours assigned to an approved program reflects the maximum that may be earned by attending the entire program. Only actual attendance earns CLE credit. No attorney will receive more than 8 hours of credit in 1 day of CLE attendance.
- (c) **Course or Program Formats.** An approved program may include live and prerecorded programming.
- (d) **Credit for Teaching.** Up to 5 CLE credit hours will be awarded for each 50 minutes spent teaching an approved program. The applicant must file an application for approval of

teaching credit that outlines program content, teaching methodology, and time spent in preparation and instruction. In determining the number of credit hours to award, the Commission will calculate time spent in preparation and teaching. For example, an attorney who spends 150 minutes preparing a program and 50 minutes teaching it will be awarded 4 credit hours. One-half credit hour will be awarded for teaching at least 25 but less than 50 minutes. No credit may be claimed for smaller fractional units. A repeat presentation will qualify for additional credits, limited to time actually spent updating the presentation and teaching. Because teaching credit is awarded as an incentive to attorneys to benefit the legal profession, instruction must be directed toward an audience composed primarily of attorneys. Credit will not be awarded for teaching undergraduate, graduate, or law school classes.

(e) **Credit for Authorship.** Credit may be awarded for authorship of legal publications. The author must complete an application for approval of authorship credit. Credit will be awarded if the applicant's research (1) has produced a published article, chapter, monograph, or book, personally authored, in whole or part, by the applicant, and (2) contributes substantially to the continuing legal education of the applicant and other attorneys. One credit hour may be awarded for each 50 minutes spent directly in preparing the publication. Publication must occur during the compliance period for which credit is requested. An article, chapter, monograph, or book directed to a nonattorney audience, while resulting in self-improvement as a form of self-study, does not qualify for authorship credit.

(f) **Credit for Attendance Prior to Being Admitted to Practice Law in Kansas.** Credit will not be given for any CLE program attended before the applicant was admitted to practice law in Kansas.

(g) **Credit for Attending Law School Course.** Credit may be earned for postgraduate education by enrollment in a course, either for credit or by audit, from a law school approved by the American Bar Association. The Commission will award 1 credit hour for each 50 minutes of class attendance.

(h) **Duplicate Attendance.** Attendance at a program that an attorney has attended previously during the compliance period will not be accepted for continuing legal education credit.

(i) **In-House Program.** To receive approval, an in-house CLE program must meet the following requirements:

- (1) The activity must meet the standards for program approval in Rule 804.
- (2) The law firm, corporation, or single governmental entity for which the activity is offered must assume responsibility for accreditation.
- (3) An application for approval of CLE credit must be received by the Commission not later than 21 days before the in-house CLE program. The activity must be open to in-person monitoring/observation by any Commission member or staff.

- (4) The activity must be scheduled at a time and location so that attorneys attending are free of interruptions from telephone calls and other office matters.
- (5) No more than 6 CLE credit hours may be earned by an attorney in any compliance period through in-house CLE programs.
- (j) **Interdisciplinary Programming.** CLE credit may be earned for a program that crosses academic lines (*e.g.*, accounting-tax) if it is pertinent to an individual attorney's practice. An Application for Approval of CLE Activity must be submitted under Rule 804(b) and include a statement describing how the program is beneficial to the attorney's practice.
- (k) **Law Practice Management Programming.** An attorney may receive CLE credit for participation in an accredited CLE program as defined in the Guidelines for Accreditation of Law Practice Management Programming. Law practice management credit is limited to a maximum of 2 hours of general attendance credit in any compliance period.
- (l) **Prerecorded Programming Limitation.** Credit for prerecorded programming is limited to a maximum of 6 hours of credit per compliance period.
- (m) **Self-Study Prohibition.** An attorney cannot earn credit for a self-study program.

RULE 807
REPORTING REQUIREMENTS AND NONCOMPLIANCE FEE

- (a) **Annual Report.** Every August, the Commission will notify each active attorney when the annual report for the preceding compliance period is generated. 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 the Commission within 30 days.
- (b) **Failure to Comply.** If it appears an attorney has not earned the minimum number of CLE credit hours required for a compliance period, the Commission must send notice of the apparent noncompliance to the attorney at the attorney's last known address by certified mail, return receipt requested. Not later than 30 days after mailing of the notice, the attorney, to avoid suspension from the practice of law, must cure the failure to comply or show cause for an exemption.
- (c) **Noncompliance Fee.** An attorney must pay a noncompliance fee of \$75 if:
- (1) report of attendance is postmarked on or after August 1; or
 - (2) the attorney fails to complete the hours required under Rule 803(a) within the compliance period.
- (d) **Address Change.** An attorney must notify the Commission within 30 days after a change of the attorney's address.

RULE 808
FEES

- (a) **Annual CLE Fee.** An active attorney must pay an annual CLE fee to fund administration of these rules. The Commission determines the amount of the annual fee, with approval by the Supreme Court.
- (b) **Notice of Fee.** By June 1 of each year, the Commission will mail to each attorney's last known address a statement showing the annual CLE fee due for the next compliance period.
- (c) **Failure to Receive Notice.** Failure of an attorney to receive a statement under subsection (b) does not excuse the attorney from paying the required fee.
- (d) **Due Date and CLE Late Fee.** The annual CLE fee is due on July 1 and is delinquent if not paid before August 1. A fee postmarked on or after August 1 of the year in which the fee is due must be accompanied by a \$50 late fee.
- (e) **Attorney Returning to Practice.** An attorney who is reinstated to active status after a period of disbarment or suspension and an attorney who is returning to active status after a period of time on inactive status must pay the annual CLE fee required by subsection (a) for the

current compliance period, together with any other fee required for reinstatement, prior to the attorney's return to active status.

(f) **Active Status with Attorney Registration and CLE.** Payment of the annual CLE fee and any applicable late fee is a prerequisite to completing registration as an active attorney under Supreme Court Rule 208.

(g) **Returned Check.** A service fee of the maximum amount allowed by law will be assessed for a check returned unpaid to the CLE Commission.

RULE 809

SUSPENSION FROM THE PRACTICE OF LAW

(a) **Reasons for Suspension.** An attorney who is required to file CLE credit hours and fails to do so, who fails to meet the minimum requirements of these rules, or who fails to pay the annual CLE registration fee will be suspended from the practice of law in this state.

(b) **Notice of Noncompliance.** The Commission must notify an attorney who appears to have failed to meet the requirements of these rules that the attorney's name will be certified to the Supreme Court for suspension from the practice of law in this state, unless the attorney shows cause why the certification should not be made. Notice must be sent to the attorney at the attorney's last known address by certified mail, return receipt requested. Thirty days after the notice is mailed, if no hearing is requested under subsection (c), the Commission must certify to the court, for an order of suspension, the name of the attorney who has not met the requirements of these rules.

(c) **Hearing.** An attorney to whom the Commission has sent notice of noncompliance under subsection (b) may, not later than 30 days after the date the notice was mailed, file with the Commission a request for a hearing, stating the issues the attorney raises. The Commission must grant a timely request for a hearing to consider the issues raised by the attorney. The attorney's name must not be certified to the Supreme Court for suspension unless suspension is recommended by the Commission after the hearing. The Commission must provide for a record and the costs thereof when needed.

RULE 810

REINSTATEMENT PROCEDURE FOR INACTIVE ATTORNEY

(a) **Request for Reinstatement.** An inactive attorney seeking to become an active attorney must submit to the Commission a written request for reinstatement. This request is in addition to the request to the Supreme Court for reinstatement required by Supreme Court Rule 208.

(b) **Required Fees.** In addition to any amount to be paid to the Clerk of the Appellate Courts under Supreme Court Rule 208, a request for reinstatement submitted to the Commission by an inactive attorney must be accompanied by a check or money order payable to the Kansas Continuing Legal Education Commission for the annual CLE fee for the current compliance period plus a change of status fee of \$25.

(c) **Required Hours.** Any inactive attorney reinstated to the practice of law in Kansas must complete the annual CLE requirement under Rule 803(a) by the end of the compliance period in which the attorney is reinstated.

RULE 811

REINSTATEMENT PROCEDURE FOR SUSPENDED ATTORNEY

(a) **Suspended Less than 1 Year.** A suspended attorney returning from suspension of less than 1 year must:

- (1) submit to the Commission a written request for reinstatement, accompanied by a check or money order payable to the Kansas Continuing Legal Education Commission for a reinstatement fee of \$100;
- (2) between the date of suspension and the date of reinstatement, complete any hours required to satisfy any deficiency in CLE requirements under Rule 803(a) and pay any fees incurred prior to suspension;
- (3) complete the annual CLE requirement under Rule 803(a) by the end of the compliance period in which the practitioner is reinstated; and
- (4) prior to reinstatement, complete any requirements imposed by the Attorney Registration Office under Rule 208(g)(3).

(b) **Suspended 1 Year or More.** A suspended attorney returning from suspension of 1 year or more must:

- (1) submit to the Commission a written request for reinstatement, accompanied by a check or money order payable to the Kansas Continuing Legal Education Commission for a reinstatement fee of \$100;
- (2) between the date of suspension and the date of reinstatement, complete any hours required to satisfy any deficiency in CLE requirements under Rule 803(a) and pay any fees incurred prior to suspension;
- (3) between the date of suspension and the date of reinstatement, complete an additional 12 hours of CLE credit, including 2 hours of ethics and professionalism, for each year

during which the attorney was suspended, unless waived or modified by order of the Supreme Court;

- (4) complete the annual CLE requirement under Rule 803(a) by the end of the compliance period in which the attorney is reinstated; and
- (5) prior to reinstatement, complete any requirements imposed by the Attorney Registration Office under Rule 208(g)(3).

7/2017