

## MANDATORY CONTINUING LEGAL EDUCATION REGULATIONS

### PURPOSE

The Virginia Supreme Court has established, by Rule of Court, a mandatory continuing legal education program in the Commonwealth of Virginia, which requires each active member of the Virginia State Bar annually to complete a minimum of twelve (12) hours of approved continuing legal education courses, of which at least two (2) hours shall be in the area of legal ethics or professionalism, unless expressly exempted from such requirement.

The Virginia Supreme Court has established a Continuing Legal Education Board to administer the program and has given to it those general administrative and supervisory powers necessary to effectuate the purposes of the Rule, including the power to adopt reasonable and necessary regulations consistent with the Rule.

Pursuant to this authority, these regulations have been adopted by the Continuing Legal Education Board.

### REGULATION 101 DEFINITIONS

As used in these regulations, the following definitions shall apply:

- (a) The “Rule” shall mean the provisions of the Mandatory Continuing Legal Education Rule established by Paragraph 17 of Section IV, Part Six, Rules of Virginia Supreme Court.
- (b) The “Board” shall mean the Virginia State Bar Mandatory Continuing Legal Education Board established by Paragraph B of the Rule.
- (c) A “Member” as defined by Paragraph 2 of Section IV, Part Six, Rules of the Virginia Supreme Court, shall comprise all attorneys-at-law in this commonwealth.
- (d) An “Active Member,” as defined by Paragraph 3(a) of Section IV, Part Six, Rules of Virginia Supreme Court, shall mean a person who is admitted to practice law in the courts of this state and who is engaged in the practice of law, either full time or part-time, salaried or nonsalaried, including a person admitted to practice limited to patent and trademark law pursuant to Rule 1A:2, rules of Virginia Supreme Court.
- (e) A “newly-admitted member” shall mean a person first admitted to practice during the current completion period.
- (f) A “program sponsor” or “sponsor” is any person or entity presenting or offering to present one or more continuing legal education programs.
- (g) The terms “course” and “program” mean a discrete continuing legal education offering, regardless of length or daily schedule, provided that the course or program is a minimum of 30 minutes in length.
- (h) An “accredited sponsor” shall mean an organization whose entire continuing legal education program has been accredited by the Board, pursuant to Regulation 105 herein.
- (i) An “approved course” means a course expressly approved by the Board for the relevant completion period or a course offered by an accredited sponsor during the completion period for which the sponsor is accredited.
- (j) A “specially approved course or program” means a course which does not meet the standards of regulation 103(b) and (c) but which, because of its significant value to the practice of a member who has sought approval, has been approved by the Board for such member. As to such member, the term “approved course” includes a specially approved course or program.
- (k) The term “panel(s)” shall mean a committee or committees organized by the Board for the purpose of expeditiously considering and deciding matters arising under the Rule and these regulations.
- (l) A course or program offered “in-house” means one sponsored by a single private law firm, a single corporate law department or a single federal, state or local governmental agency or military branch for lawyers who are members or employees of the firm, department, agency or branch.
- (m) The term “completion period” shall mean a period of one year beginning on November 1, of one year and ending on October 31 of the next year; provided, however, that the next completion period following June 30, 2001, shall be July 1, 2001, to October 31, 2002.
- (n) The term “faculty member” shall mean a person qualified by practical or academic experiences to teach the subject he or she covers.

- (o) “Credit hours” (also referred to in context as “hours,” “credits,” and “hours credit”) are the units used for measuring completion of Mandatory Continuing Legal Education as required by the Rule.
- (p) “Ethics credits” are credit hours which apply toward Mandatory Continuing Legal Education in the area of legal ethics or professionalism as required by the Rule.
- (q) A “qualified ethics course or component” is a clearly identified segment of a course or program which meets the requirements of Regulation 103(d) and is devoted to one or more topics embraced in recognized formulations of rules of professional conduct or codes of professional responsibility applicable to attorneys and/or to the systems and procedures which have been established for enforcement and interpretation of those rules or codes. An ethics component in a course or program involving a substantive area of law may constitute a “clearly identified segment” if the integration of the substantive material is necessary to understand the ethical topic, and if the ethical topic is the primary focus of the segment. Such a segment must be appropriately described or entitled in the course materials and must have a defined duration in the course or program schedule.
- (r) A “qualified professionalism course or component” is a clearly identified segment of a course or program which meets the requirements of Regulation 103(d) and is devoted to one or more topics designed to educate and encourage attorneys to aspire to and achieve higher and more noble standards of professional conduct than the minimum standards set forth in recognized formulations of rules of professional conduct or codes of professional responsibility. All or part of a malpractice program may qualify as a professionalism course or component if it is devoted to one or more topics designed to educate and encourage attorneys to take measures in the conduct of the practice of law to serve the interests of the client, consistent with the attorney’s fiduciary duty to the client, and to endeavor to maintain an appropriate standard of care in the practice of the profession. Such a course or component will not be approved if the primary focus is malpractice litigation tactics or strategy. A professionalism component in a course or program involving a substantive area of law may constitute a “clearly identified segment” if the integration of the substantive material is necessary to understand the professionalism topic, and if the professionalism topic is the primary focus of the segment. Such a segment must be appropriately described or entitled in the course materials and must have a defined duration in the course or program schedule.
- (s) A “course presented by distance learning methods” includes any course in which the participant seeking credit received the instruction at a location different from the location from which the instruction was presented or at a time different from the time when the instruction was presented. Thus, all courses presented to participants from pre-recorded media (e.g. videotape presentations, DVD presentations, pre-recorded telephone seminars or webcasts, etc.) are “courses presented by distance learning methods.” Similarly, any course taken by a participant at a location separate from the instructor (e.g. live telephone seminars, live webcasts, etc.) are “courses presented by distance learning methods.”

**REGULATION 102  
REQUIREMENTS AND COMPUTATIONS**

- (a) Each active member, other than a newly-admitted member as defined in Regulation 101, shall complete, during each completion period in which he or she is an active member for any part thereof, a minimum of twelve (12) credit hours of approved continuing legal education courses, of which at least two (2) hours shall be in the area of legal ethics or professionalism, by obtaining credit in the manner hereinafter provided, unless expressly exempted therefrom pursuant to the provisions of Regulation 110; provided, however, that for the completion period of July 1, 2001 to October 31, 2002 a minimum of fifteen (15) credit hours of approved continuing legal education courses, of which at least (2) hours shall be in the area of legal ethics or professionalism shall be required.
- (b) Credit will be given to a member who personally attends an approved course and to a member who prepares written materials for an approved course and to a member who personally participates as an instructor for such course. Credit in the area of legal ethics or professionalism will be given a member who attends a course approved for credit in such area and to a member who personally prepares materials for a qualified ethics or professionalism component of such course and to a member who personally participates as an instructor for such a component.
- (c) Credits for attendance will be awarded on the basis of time spent in personal attendance at an approved course which meets the standards of these regulations. Credits for teaching will be awarded on the basis of time spent in personal participation as an instructor at an approved course. However, no credit will be awarded for teaching and preparation of a “specially approved course or program.” Credit hours will be computed by calculating the total instructional minutes attended or taught for the course, rounded to the nearest half hour. Credit will not be given for time spent in meal or coffee breaks. Credit will not be given for keynote speeches or introductory remarks or time spent on any subject matter which is not directly related to instruction pertinent to that course.

## EXAMPLES:

- (1) A member attends a one-day course or seminar with seven (7) segments, each lasting 50 minutes. Two of the segments are in the area of legal ethics or professionalism under the standards set forth in Regulation 103. Credit hours will be computed by calculating the total instructional minutes rounded to the nearest half hour. Since there are 350 total instructional minutes (5 hours, 50 minutes) the Board will round this time to the nearest half hour and the member will receive six (6) hours credit, not seven (7). Of such six (6) hours credit, one and one-half (1 1/2) hours (100 minutes rounded to the nearest half hour) will be in the area of legal ethics or professionalism.
  - (2) A member attends a course or program which is presented all day Friday and on Saturday morning. The member attends a 3 hour, 15 minute Friday morning session; a 2 hour, 15 minute Friday afternoon session; and a 3 hour, 10 minute Saturday morning session. Since the total instruction time is eight (8) hours and 40 minutes for the two-day program, the Board will round this time to the nearest half hour and the member will receive 8 1/2 hours of credit.
  - (3) A member attends a course or program which is advertised as having been "approved by the Virginia Mandatory Continuing Legal Education Board" for six (6) credit hours, of which one and one-half (1 1/2) apply in the area of legal ethics or professionalism. No further computation need be made by the member if he attends the entire course or program.
  - (4) A member personally teaches any of the courses in the previous examples. The teaching member will receive credit hours for teaching time computed in the same fashion as the credit hours are computed for the attending member.
  - (5) A member is a teacher at a one-day course or program with seven (7) segments, each lasting 50 minutes. Application forms are filed certifying that the member taught one segment and also attended one segment. The member did not attend or teach the other five segments. Since the member attended or taught 100 total instructional minutes for the course, the Board will round this time to the nearest half hour and the member will receive 1 1/2 hours of credit. The member does not receive one credit hour for 50 minutes teaching plus one credit hour for the other 50 minutes attending.
- (d) Credits for preparation will be awarded on the basis of time spent by a member (i) in preparing written materials which meet the standards of these regulations for use in the presentation of an approved course; and (ii) in preparing a personal presentation as an instructor for an approved course. The number of preparation minutes eligible for credit shall not exceed four times the number of instructional minutes in the presentation which is being prepared. Credit hours will be computed by calculating the total minutes spent in preparation for the course, rounded to the nearest half hour. In no event shall more than eight (8) hours of credit be awarded for preparing a single course or program.

## EXAMPLES:

- (1) A member prepares thorough, high-quality instructional written materials which appropriately cover the subject matter for an approved program which lasts 120 minutes. The member certifies that eight (8) hours or more was spent preparing the written materials. The Board will award eight (8) credit hours for preparation time. This does not exceed the maximum limit of four times the presentation time of the program and is consistent with the maximum limit of eight (8) hours of credit for preparing a single course or program.
- (2) Same as example 1 above except the member also taught the entire program and certifies that an additional eight (8) hours or more was spent preparing for the presentation as an instructor. This is a total preparation time of sixteen (16) hours. The Board will still award eight (8) credit hours for preparation time because this is the maximum limit of four times the presentation time and also because this is the maximum limit of credit for preparing a single course or program. However, the member will be awarded two (2) credit hours for teaching time and will therefore receive a total of ten (10) credit hours for the activities in preparing and teaching the program.
- (3) A member teaches at a course approved for five (5) credits including one (1) ethics credit. The member certifies that he taught the morning ethics segment of twenty (20) minutes. The member further certifies that one hour and twenty minutes was spent preparing for the presentation. Since the member taught twenty (20) minutes the Board will round this time to one half (1/2) hour teaching credit. Eighty (80) minutes (four (4) times the presentation time) of the member's preparation time is also eligible for credit. The Board will round this time to the nearest half hour and the member will receive one and one half (1 1/2) hours of preparation credit. The member will therefore receive a total of two (2) hours CLE credit including two (2) hours ethics credit for preparing the ethics segment.

- (e) A one-year carryover of credit hours will be permitted, so that accrued credit hours in excess of one year's requirement may be carried forward to meet the requirement of the following year. From the 1990-91 completion period an active member may carry forward a maximum of ten (10) credit hours toward the 1991-92 requirement, none of which may be counted toward the two hours required in the area of legal ethics or professionalism. Thereafter, a member may carry forward a maximum of twelve (12) credit hours, not more than two (2) of which, if earned in the area of legal ethics or professionalism, may be counted toward credit hours required in such area.
- (f) A member shall not receive credit for any course attended in preparation for admission to practice law in any state, nor for attending the legal ethics course required by Paragraph 13.1 of the Rules of the Virginia Supreme Court, unless such course has been approved by the Board pursuant to these regulations. A member shall not receive credit for teaching that is directed primarily to persons preparing for admission to practice law. Regular full time, part-time and adjunct academic faculty shall not receive credit for teaching any law school courses (undergraduate or graduate) or bar review courses. A member attending law classes, for a purpose other than preparing for admission to practice law, may receive credit in accordance with the manner described in Regulation 102(c). A member may not receive credit for any course which is not materially different in substance from a course for which the same member received credit during the same completion period or the completion period immediately prior to the one for which credit is sought.
- (g) A member may receive credit for attending a course delivered by distance learning methods which otherwise satisfies the requirements of these Regulations.

**REGULATION 103  
STANDARDS FOR APPROVAL OF PROGRAMS**

- (a) Subject to the provisions of Regulation 105(d), a course is approved for credit if it has been specifically approved by the Board or is presented by an accredited sponsor previously designated by the Board under the provisions of Regulation 105. A course is approved for credit in the area of legal ethics or professionalism if and to the extent specifically approved by the Board. Subject to the provisions of Regulation 105(d), a course presented by an accredited sponsor is also approved for credit in the area of legal ethics or professionalism if and to the extent so represented by such sponsor.
- (b) The course must have significant intellectual or practical content. Its primary objective must be to increase the attendee's professional competence and skills as an attorney, and to improve the quality of legal services rendered to the public.
- (c) The course must pertain to a recognized legal subject or other subject matter which integrally relates to the practice of law, or to the professional responsibility or ethical obligations of the participants.
- (d) A course may be approved for credit in the area of legal ethics or professionalism only to the extent that the course constitutes or contains one or more qualified ethics or professionalism components as defined in Regulation 101. A minimum scheduling of thirty (30) minutes in the aggregate of one or more qualified ethics or professionalism components is required before an approved course can be approved for credit in the area of legal ethics or professionalism.

**EXAMPLES:**

- (1) A sponsor's application for approval of a one-day program comprising seven 50 minute segments states in relevant part "each speaker will devote ten minutes of allotted time to ethical considerations." The program does not contain a qualified ethics component and is not eligible for approval for credit in the area of legal ethics. The requirement that a qualified component be a "clearly defined segment" is not met. Such segment must be capable of identification on the schedule and have a defined beginning and end.
- (2) A sponsor's application for approval of a one-day program reveals in relevant part that the opening 30 minute morning segment is clearly identified as devoted to ethical considerations and that the concluding 20 minutes of the afternoon session is also clearly identified as devoted to ethical considerations. Assuming that other requirements for course approval are met, the Board will approve the program for one (1) hour credit in the area of legal ethics or professionalism. See Regulation 102.
- (e) Courses must be conducted in a setting physically suitable to the educational course or program. A suitable writing surface should be provided.
- (f) Thorough, high quality instructional written materials which appropriately cover the subject matter must be distributed to all attendees at or before the time the course is presented. A mere agenda or topical outline will not be sufficient.

- (g) Each course shall be presented by a faculty member or members qualified by academic or practical experience to teach the subjects covered. Consistent with Virginia State Bar policy, course sponsors should exercise care to ensure that faculty members, where possible, reflect the racial and gender diversity of the State Bar as a whole.
- (h) A course presented by distance learning methods which otherwise satisfies the requirements of these Regulations (including the requirements for high quality instructional material) may be approved so long as the course is provided in a manner that affords participants the opportunity for discussion or the exchange of ideas with the instructor or other participants. No course will be approved that involves only selfstudy.

EXAMPLES.

- (1) Three attorneys listen to a pre-recorded audio program under conditions which present adequate opportunity for discussion and exchange of ideas among the participants. Credit will be granted so long as the course otherwise satisfies the requirements of these Regulations.
- (2) Several attorneys, from different locations, view a pre-recorded audio-video course presentation which is downloaded from an Internet web site. The web site provides an area in which the participants may engage in an on-line discussion with other participants or may present questions to the instructor. Credit will be granted so long as the course otherwise satisfies the requirements of these Regulations.
- (3) An attorney participates in a course presented on a web site that consists entirely of text material read by the participant. The web site provides an area in which the participants may engage in an on-line discussion with other participants or may present questions to the instructor. Credit will not be granted because the course involves only self-study.
- (i) A program offered “in-house” will be approved by the Board if it meets the standards of these regulations and if the approval procedures prescribed by these regulations are followed.
- (j) Participation in deliberative groups concerned with law reform, judicial administration, or regulation of the profession will not be approved for credit.
- (k) A course that does not meet the requirements of subsections (b) and (c) of this Regulation may, on application of a member, be approved as a “specially approved course or program” for the applicant where the Board is satisfied that the course has significant value to the applicant’s practice. Thus, for example, in appropriate cases courses on engineering, accounting or medical topics may be approved for a particular member.

**REGULATION 104**  
**PROCEDURE FOR APPROVAL OF PROGRAMS**

- (a) A member or course sponsor desiring approval of a course or program shall submit to the Board all information called for by the “Application for Approval of a Continuing Legal Education Course.” The content of this application has been promulgated by the Board and may be changed from time to time. A member seeking approval of a course as a “specially approved course or program” should include on the Application for Approval of a Continuing Legal Education Course, or as an attachment thereto, a statement of why the course has significant value to the member’s practice. The Board shall then determine whether or not the course or program satisfies the requirements of Regulation 103. If the course or program is approved, the Board also shall determine the number of credit hours to be awarded. The Board shall notify the requesting member or sponsor of its decision within 60 days after receipt of the completed application. The Board shall maintain and make available a list of all approved courses and programs for each completion period. An approved course or program is accredited only for the completion period for which it is approved. A “specially approved course or program” is accredited only for the member for whom approved.
- (b) The sponsor of an approved course or program should include in its brochures or course descriptions the information contained in the following illustrative statement: “This course or program has been approved by the Virginia Mandatory Continuing Legal Education Board for \_\_\_\_ hours of credit, of which \_\_\_\_ hours will also apply in the area of legal ethics or professionalism.” An announcement is permissible only after the course or program has been specifically approved pursuant to an application submitted directly by the sponsor.
- (c) The sponsor of an approved course or program that has not yet been approved after application should announce: “Application for approval for this course or program is pending with the Virginia Mandatory Continuing Legal Education Board.”
- (d) At each presentation of an approved course or program or one for which approval is pending, the sponsor shall make available copies of the Board’s Certification of Attendance at an Approved Course or Program for completion by attendees and the Board’s Certification of Teaching at an Approved Course or Program for completion by

instructors and shall collect those executed and turned in. The content of these certifications has been promulgated by the Board and may change from time to time. Within five (5) days following the final presentation of the course, the sponsor shall submit to the Board the forms turned in by the attendees and instructors.

- (e) In the instance of a course or program presented while an application for approval is pending, it will be the responsibility of the sponsor to notify each member in attendance, within thirty (30) days after the course or program is presented, whether the course or program was approved and if so, the number of credit hours for which approved. If such course or program is not approved, then such attending member will not receive any credit hours for attendance. However, a member may seek approval in the manner specified in Regulation 104(f).
- (f) Any member seeking credit after attending, or any sponsor seeking approval after presenting a course or program, shall submit to the Board within 30 days after the date of the program all information called for on the Application for Approval of a Continuing Legal Education Course. The Board will then determine whether the program qualifies under these Regulations and, if so, how many credit hours are approved. The Board will promptly notify the applicant of its decision.

#### **REGULATION 105 PROCEDURE FOR ACCREDITATION OF SPONSORS**

- (a) Any sponsor may apply for approval of individual courses by complying with the criteria of Regulation 103 and the procedures of Regulation 104.
- (b) If the Board determines that a sponsor regularly provides a significant volume of continuing legal education courses, that these courses uniformly meet the approval criteria of Regulation 103, and that the sponsor will maintain and submit the records directed by these Regulations, the Board may designate such a course provider as an “accredited sponsor” under the Rule. Such designation shall be effective for a period of no more than two years unless renewed.
- (c) A sponsor applying for status as an accredited sponsor shall submit to the Board all information called for on the Application for Status as Accredited Sponsor of Continuing Legal Education.
- (d) An accredited sponsor shall be subject to and governed by the applicable provisions of the Rule and these regulations, including the quality standards of Regulation 103 and the record-keeping and reporting requirements of this Regulation 105. The Board may at any time review an accredited sponsor program and reserves the right to deny CLE or ethics credit when the standards for approval are not met. Accordingly, for example, an accredited sponsor may represent in its descriptive literature that a course or program generates credits in the area of legal ethics or professionalism only to the extent the course contains one or more qualified ethics components as provided in Regulation 103.
- (e) The approval procedure of Regulation 104 does not apply to accredited sponsors. An accredited sponsor must notify the Board at least thirty days in advance of a program of the name, date, location and credit hours allowable for a particular course, including, where appropriate, credit hours in the area of legal ethics or professionalism. The Board may request additional information regarding a course or program. The Board will provide the sponsor with copies of the Board’s Certification of Attendance and Certification of Teaching for each course or program and the sponsor shall make available, collect and transmit such forms in accordance with the requirements of Regulation 104(d).
- (f) The Board may at any time reevaluate and revoke the status of an accredited sponsor. If the Board finds there is a basis for revocation of the accreditation granted to an accredited sponsor, the Board shall send notice by certified mail to that sponsor of the revocation within thirty (30) days of the Board’s decision.
- (g) Law firms, professional corporations, and corporate law departments are not eligible to become accredited sponsors.

#### **REGULATION 106 DELEGATION**

To facilitate the orderly and prompt administration of the Rule and these regulations, and to expedite the processes of course approval, sponsor accreditation and the interpretation of these regulations, the Board may organize itself into panels for the purpose of considering and deciding matters arising under the Rule and under these regulations.

**REGULATION 107**  
**BOARD'S DETERMINATION AND REVIEW**

- (a) Pursuant to directions established by the Board, a panel shall, in response to written requests for approval of courses or programs or for awarding of credit for the attendance at or teaching in approved courses, waivers, extensions of time deadlines and interpretations of these regulations, make a written response describing the action taken. A Panel may seek a determination of the Board before taking action. At each meeting of the Board, the panel shall report on all determinations made since the last meeting of the Board.
- (b) An aggrieved party may file with the Board a written appeal of an adverse decision by a panel within thirty (30) days after notice of the adverse decision has been mailed to him or her. No form of appeal is required but the aggrieved party shall state in narrative form the action complained of and all of the reasons he or she believes the decision of the panel is erroneous.
- (c) The Board shall review any adverse determination of a panel which has been appealed to it pursuant to Regulation 107(b). The aggrieved party may present information to the Board in writing or in person, and at such time and place as the Board may direct. If the Board finds that a panel has incorrectly interpreted the facts, the provisions of the Rule or the provisions of these regulations, it may take such action as may be appropriate. The Board shall advise the aggrieved party of its findings and any action taken.
- (d) Pursuant to Paragraph 17 of Section IV, Part Six, Rules of the Virginia Supreme Court, the Virginia State Bar may from time to time establish fees for processing applications, approving courses and accrediting sponsors; the remittance of any of these may be required before action is taken by the Board.
- (e) All decisions of the Board under this Regulation 107 and any other of these regulations shall be final and binding on all persons affected thereby and no appeal or other relief therefrom shall lie, except as specifically provided in Regulation 109.

**REGULATION 108**  
**REPORTING OF CERTIFICATION PROCEDURES**

- (a) Where a sponsor makes copies of the Certification of Attendance and the Certification of Teaching available at a course or program, each active member who wishes credit may complete the form and turn it in to the sponsor or its representative.
- (b) Where a member attends a course or program, and for any reason the member does not return to a sponsor the Certification of Attendance or the Certification of Teaching on the day of a course or program, the member who wishes the Board to record credit may obtain a copy of the form from the Board or a sponsor, complete it and forward it to the Board.
- (c) Each active member shall submit on or before October 31 of each year Certification of Attendance or Certification of Teaching at an approved course(s) for the minimum educational requirement.
- (d) Following the end of each completion period, the Board shall advise each active member of his or her status respecting completion of the annual educational requirement. Such notice shall indicate the hours forwarded from the previous year, the hours earned during the current completion period and the total. This notice shall be entitled the "MCLE END OF YEAR REPORT."
- (e) If the active member accepts the MCLE END OF YEAR REPORT as accurately reflecting his or her credit hours for the period, including any teaching credits or carryover hours from the previous reporting period, and the form lists 12.0 or more CLE credits of which 2.0 or more are ethics or professionalism credits the member does not need to file his form with the MCLE Board. If a member believes that the information reflected on the Board's records is in error or incomplete, then the corrected MCLE END OF YEAR REPORT must be filed and received by the MCLE office no later than December 15.
- (f) Certifications of Attendance at an Approved Course or Program filed for credit for the previous completion period after October 31 are accepted for credit only when accompanied by the "MCLE END OF YEAR REPORT."
- (g) After December 15, a member who wishes to receive credit for credit hours earned during the previous completion period may forward to the Board a certification on the appropriate forms together with remittance of the late filing fee. Any credits approved shall be recorded for the previous completion period and shall be eligible for the one year carryover into the current completion period in the same fashion as other credits. A member may not apply for credits earned earlier than the next preceding completion period.

**REGULATION 109**  
**NONCOMPLIANCE, RESTORATION AND REINSTATEMENT**

- (a) Noncompliance
- (1) An active member who has neither complied with the educational and certification requirements of the Rule and these regulations, nor obtained a waiver or extension for good cause shown by December 15 of each year, shall be subject to suspension of such active member's license to practice law as is provided by Paragraph 13.2 of Section IV, Part Six, Rules of Virginia Supreme Court.
  - (2) Pursuant to Paragraph 13.2 of Section IV, Part Six, Rules of Virginia Supreme Court, whenever the Board determines that an active member has neither completed the mandatory continuing legal education requirements of the Rule and filed the certification required by Regulation 108 nor obtained a waiver or extension in accordance with Regulation 111, the member shall be deemed to be delinquent.
- (b) Restoration and Reinstatement
- (1) A delinquent member may be restored to good standing only following (i) his or her certifying to the Secretary-Treasurer of the Virginia State Bar of compliance with the requirements of the Rule in the manner provided by Regulation 108 and a determination by the Board that he or she has completed the mandatory continuing legal education requirements of the Rule and paying any required fees, or (ii) the obtaining of a waiver or extension in accordance with Regulation 111.
  - (2) A delinquent member who is suspended pursuant to Paragraph 13.2 shall not further engage in the active practice of law until he or she has been reinstated. A suspended member may be reinstated only after paying any required fees and certifying compliance with the Rule as provided in Paragraph 13.2 and these regulations.
  - (3) Where a default in compliance is cured by earning credit hours in a subsequent completion period, credit hours applied to correct the default shall not be applied to satisfy the requirements of any other period.
  - (4) A member suspended for an entire completion period must show attendance at 12.0 CLE credit hours including 2.0 ethics credits earned within the previous 12 months. This member cannot rely on credits earned through carryover in the previous completion period.

**REGULATION 110**  
**EXEMPTIONS**

The Rule exempts from the certification requirement a newly admitted member for the completion period in which he or she is first admitted to practice in Virginia. A newly admitted member will not receive credit under these regulations for attending or teaching any course prior to his or her admission to the Virginia State Bar.

EXAMPLE:

Attorney A is first admitted to practice law in October 2002. Attorney A is not required to comply with the minimum continuing legal education requirement of the Rule and these regulations by taking or teaching approved courses until on and after November 1, 2002. Attorney A also shall not be required to file the certification required by Regulation 108 until December 15, 2003. If Attorney A attends or teaches approved courses between October 2002 and November 1, 2002, he may "carry over" to the next completion period credits in accordance with Regulation 102. Attorney A, beginning on November 1, 2002, will be subject to said requirement as long as he or she is an active member of the Virginia State Bar.

**REGULATION 111**  
**WAIVERS AND EXTENSIONS**

- (a) Waivers
- (1) A waiver may be sought by filing with the Board a request, together with any appropriate or required supporting material or documentation (e.g. doctors' letters, medical records). The filing of any waiver request does not toll the running of any time limit set forth in these regulations or the Rule regarding suspension.
  - (2) A waiver shall be valid for a single completion period, unless renewed or extended by the Board. A waiver will be granted only for good cause.

- (3) If the waiver is based on medical reason, condition, illness or hospitalization, then the application for waiver shall be a completed form entitled “Request for Waiver Based on Hospitalization, Illness or Medical Reason.” It must be completed and signed by the admitting, family or attending health care provider and it must set forth the medical condition, hospitalization or illness which prevents the member from completing the required MCLE courses for the period for which the Waiver is being requested and have attached to it any appropriate supporting material or documentation.
  - (4) If the waiver is based on non-medical reasons, then the grounds should be stated in a letter to the Board and any appropriate supporting material or documentation should be attached.
  - (5) All waiver requests should be promptly submitted when the grounds for the waiver request become known to the applicant or applicant’s representative. Failure to file a waiver request in a timely manner may be considered by the Board in determining whether to grant a waiver. A prudent lawyer will use the carryover of credits provision of the Rule to avoid most nonmedical based waiver requests.
- (b) Extensions
- (1) An extension may be sought by filing with the Board a request, together with any appropriate or required supporting material or documentation (e.g. doctors’ letters, medical records). The filing of an extension request does not toll the running of any time limit set forth in these regulations or the Rule regarding suspension.
  - (2) An extension shall be valid for the specific time period granted by the Board unless renewed or extended. An extension will be granted only for good cause.
  - (3) If the extension is based on medical reason, condition, illness or hospitalization, then the application for extension shall be a completed form entitled “Request for an Extension Based on Hospitalization, Illness or Medical Reason.” It must be completed and signed by the admitting, family or attending health care provider and it must set forth the medical condition, hospitalization or illness which prevents the member from completing the required MCLE courses for the period for which an extension is being requested and have attached to it any appropriate supporting material or documentation.
  - (4) If the extension is based on non-medical reasons, then the grounds should be stated in a letter to the Board and any appropriate supporting material or documentation should be attached.
  - (5) All extension requests should be promptly submitted when the grounds for the extension request become known to the applicant or the applicant’s representative. Failure to file an extension request in a timely manner may be considered by the Board in determining whether to grant an extension. A prudent lawyer will use the carryover of credits provision of the Rule to avoid most non-medical based extension requests.

**REGULATION 112  
REPRESENTATIONS BY MEMBERS**

A member who makes a materially false statement in any document filed with the Board shall be subject to appropriate disciplinary action.