

Serial: 189664

IN THE SUPREME COURT OF MISSISSIPPI
No. 89-R-99011-SCT

*IN RE: COMMISSION ON MANDATORY
CONTINUING LEGAL EDUCATION*

ORDER

This matter is before the Court en banc on the Petition to Amend Certain Rules for Mandatory Continuing Legal Education filed by the Mississippi Commission on Continuing Legal Education and the Mississippi Bar. After due consideration, the Court finds that the Petition is well taken and should be granted, as set forth in Exhibit A.

IT IS THEREFORE ORDERED that Rules 2 and 3 of the Mississippi Rules and Regulations for Mandatory Continuing Legal Education are hereby amended as set forth in Exhibit A hereto. The amendment is effective July 1, 2015.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this Order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the next edition of the *Mississippi Rules of Court* and in the *Southern Reporter, Third Series, (Mississippi Edition)*.

SO ORDERED, this the 7th day of July, 2014.

/s/ Randy Grant Pierce

RANDY GRANT PIERCE, JUSTICE
FOR THE COURT

TO GRANT: ALL JUSTICES.

Exhibit A

RULE 2. SCOPE AND EXEMPTIONS

These rules shall apply to every attorney licensed to practice law in the State of Mississippi, except for the following persons who shall be exempt from the requirement of these rules:

~~a. All attorneys shall be exempt from the requirement of these rules for the calendar year in which they are first admitted to practice.~~

a. All attorneys licensed to practice law in the State of Mississippi residing outside of the state and not engaged in the practice of law in Mississippi.

b. All attorneys licensed to practice law in the State of Mississippi residing in the state but not engaged in the practice of law in Mississippi.

c. All full-time members of the United States Armed Forces.

d. All of the Justices of the Mississippi Supreme Court, Circuit, Court of Appeals, Chancery, and County Judges, United States Magistrate Judges, Judges of the Bankruptcy Courts and the Judges of the Federal Courts. However, all members of the Judiciary are encouraged to attend and participate in continuing legal education programs.

e. The Governor of the State of Mississippi.

f. All members of the United States Senate and the United States House of Representatives.

g. All members of the bar shall be exempt from the requirement of these rules on and after their seventieth birthday.

[Effective August 1, 1994; Amended effective July 1, 2015.]

Regulations

2.1 Non-resident attorneys from other jurisdictions who are temporarily admitted to practice for a case or proceeding shall not be subject to these rules.

2.2 Any member of the Mississippi State Bar licensed to practice law in the State of Mississippi but not engaged in the practice of law in Mississippi shall endorse and claim the exemption on the Annual Report required by Rule 5.

2.3 Any full-time member of the U.S. Armed Forces shall endorse and claim the exemption on the Annual Report required by Rule 5.

[Effective August 1, 1994.]

RULE 3. CLE REQUIREMENT

a. Each attorney licensed to practice law in the State of Mississippi shall attend, or complete an approved substitute for attendance, a minimum of twelve (12) actual hours of approved Continuing Legal Education (“CLE”) during each successive twelve (12) month period (the “CLE year”) from and after August 1 of each year, of which one hour shall be in the area of legal ethics, professional responsibility, professionalism, malpractice prevention, substance abuse or mental health (the “ethics/professionalism hour”).

b. Each attorney newly licensed to practice law in the State of Mississippi, from and after August 1, 2015, shall, by the conclusion of the second CLE year occurring after their date of admission to The Mississippi Bar, attend or complete a new-lawyer program approved by the Commission on Continuing Legal Education, which shall be comprised of a total of twelve (12) actual hours of CLE to include six (6) hours of basic skills training and six (6) hours of ethics/professionalism. Completion of the new-lawyer program shall satisfy the requirement of subsection (a) of this Rule for such newly licensed attorney for both the CLE year of admission and the next succeeding CLE year.

c. Attorneys newly licensed to practice law in the State of Mississippi, but previously admitted to the practice of law in another state, may be exempted from completing the six (6) hour basic skills training component of the new-lawyer program. To qualify for this exemption, within three (3) months of admission to The Mississippi Bar, the newly licensed attorney must submit an affidavit to the Commission on Continuing Legal Education, providing the date or dates of admission in every other state in which the attorney is admitted to practice and a declaration that the attorney has been actively engaged in the practice of law for five (5) or more years immediately prior to admission in this state. Upon submission of a timely affidavit, the newly licensed attorney shall be required to complete the six (6) hour ethics/professionalism component of the new-lawyer program within nine (9) months, after which time the attorney will be required to comply with the annual CLE requirement prescribed in Rule 3(a). Attorneys eligible for the exemption prescribed herein who fail to timely submit the required affidavit shall be required to complete the new-lawyer program in its entirety.

[Effective August 1, 1994; Amended July 1, 2010; Amended effective July 1, 2015.]

Regulations

3.1 The number of hours required means that the attorney must actually attend twelve (12) instruction hours of CLE per CLE year, with no credit given for introductory remarks, breaks, meal breaks, keynote or luncheon speakers or business meetings.

3.2 CLE hours shall be computed by the following formula:

$$\frac{\text{Total minutes of actual instruction}}{60} = \text{Total hours} \quad (\text{rounded to nearest } 1/10 \text{ of an hour})$$

3.3 No attorney shall be permitted to claim more than six (6) hours of CLE credit through the use of satellite-transmitted or electronically recorded or reproduced material, even though same is presented by an accredited sponsor. As part of the six (6) hours an attorney may claim up to six (6) hours of CLE credit for telephone seminars and/or approved online programs. Seminars offered by satellite-transmittal, electronic reproduction, telephone or online programs must be approved by the Commission and must comply with Regulation 4.9. Approved online programs further must comply with Regulation 4.10.

3.4 Attorneys who have a permanent physical disability which makes attendance of CLE programs inordinately difficult may file a request for a permanent substitute program in lieu of attendance and shall therein set out continuing legal education plans tailored to their specific interests and physical ability. The Commission shall review and approve or disapprove such plans on an individual basis and without delay. Rejection of any requested substitute for attendance will be reviewed as provided in Rule 6 prior to any sanction being imposed.

3.5 Other requests for substituted compliance, partial waivers, or other exemptions for hardship or extenuating circumstances may be granted by the Commission upon written application of the attorney and may likewise be reviewed as provided in Rule 6.

3.6 No credit will be allowed for self-study, except as specifically approved under Regulation 3.3 for approved on-line programs and Regulation 4.10.

3.7 Twelve (12) hours of credit in excess of the minimum annual requirement may be carried forward for credit in the succeeding CLE year. Such hours must, however, be reported in the annual report of compliance for the CLE year in which they were completed and must be designated as hours to be carried forward. This regulation applies to attorneys claiming exemptions also. Ethics hours in excess of the one-hour

requirement for the year may not be carried over to another year as ethics hours, although they may be carried over as regular hours.

3.8 The maximum number of hours which may be claimed for credit in any one seminar is 18.

3.9 Credit may be earned through teaching in an approved continuing legal education activity. Presentations accompanied by thorough, high quality, readable, and carefully prepared written materials will qualify for CLE credit on the basis of six (6) hours of credit for each instructional hour of presentation. Presentations accompanied by one or two page outlines or not accompanied by written materials will qualify for CLE credit on the basis of three (3) hours of credit per hour of presentation. Repeat presentations qualify for one half of the credits available for the initial presentation. A maximum of twelve (12) hours of CLE credit shall be earned from teaching pursuant to these regulations in any CLE year.

3.10 No credit will be allowed for teaching a continuing legal education activity if the instructor is compensated in any manner, excluding reimbursement of reasonable and necessary expenses. Contributions of honorariums to a public service organization such as the Mississippi Bar Foundation shall preclude this regulation.

3.11 Credits may also be earned through authorship of a law journal article on matters of law published by an ABA or AALS approved law school. The Commission will award six (6) hours of CLE credit for each such article published.

3.12 Credit may be earned through service as a member of the Mississippi Board of Bar Admissions or as a bar examiner. The Board of Bar Admissions will be awarded a maximum of six (6) hours of CLE credit per CLE year for writing and grading the Mississippi Essay Examination or for grading either the Multistate Essay Examination or Multistate Performance Test including attendance at the grading seminar, unless compensated for such service excluding reimbursement of reasonable and necessary expenses.

3.12.1 Credit may be earned through service as a member of the Committee on Professional Responsibility, as a member of the Ethics Committee, as a member of the Unauthorized Practice of Law Committee, or as a member of the Professionalism Committee of the Mississippi Bar. A member of the Committee on Professional Responsibility, the Ethics Committee, the Unauthorized Practice of Law Committee, or the Professionalism Committee will be awarded a maximum of one (1) hour of CLE ethics/professionalism credit per CLE year for service on those committees.

3.13 Credit may be earned through formal enrollment for audit or for credit for which regular fees are paid in an ABA or AALS accredited law school. Four (4) hours

of CLE credit will be awarded for each credit hour of the particular course audited or taken for credit. A maximum of twelve (12) credit hours per CLE year will be awarded.

3.14 Credit may be earned through formal enrollment in a bar review course approved by the Commission. The attorney must already be admitted to practice in Mississippi or another state. Self-study bar review courses do not qualify for credit. A maximum of twelve (12) credit hours per CLE year will be awarded.

3.15 Credit may be earned through service as a member of the Supreme Court Advisory Committee on Rules. The Commission will award six (6) hours of CLE credit annually for service on this Committee.

3.16 Credit may be earned through service as a member of the Model Civil Jury Instructions Committee or the Model Criminal Jury Instruction Committee. The Commission will award six (6) hours of CLE credit annually for service on these committees.

3.17 Credit may be earned through service as Lieutenant Governor of the State of Mississippi or as a member of the Mississippi Legislature. The Commission will award six (6) hours of CLE credit annually to the Lieutenant Governor and to each attorney who certifies his/her membership in the Mississippi Senate or the House of Representatives.

3.18 Credit may also be earned through teaching a course in an ABA or AALS approved law school. The Commission will award six (6) hours of CLE credit for each hour of academic credit awarded by the law school for the course.

3.19 Full-time employees of a governmental department or agency may earn up to twelve (12) hours of credit per year by attending approved CLE activities offered by their governmental department or agency for its employees.

3.20 Part-time employees of a governmental department or agency may earn up to six (6) hours of credit per year by attending approved CLE activities offered by their governmental department or agency for its employees.

[Amended effective August 1, 1995; amended January, 1998; Regulations 3.3 and 3.6 amended effective December 9, 2004, to provide for approved online programs; Regulation 3.12.1 adopted effective December 9, 2004 to allow credit for service on Committee on Professional Responsibility and Ethics Committee of the Mississippi Bar; amended effective January 25, 2007, to add professionalism as an option for CLE credit; amended effective August 1, 2008, to increase the number of hours allowed for telephone seminars and online programs; amended effective July 1, 2009 to allow one (1) hour of CLE ethics/professionalism credit for service on the Mississippi Bar's

Unauthorized Practice of Law Committee.]