

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

FILED

SEP 27 2011

**SUPREME COURT
CLERK**

Order entered September 27, 2011.

(Deleted material is struck through and new material is underscored.)

Effective immediately, Supreme Court Rules 791, 792, 793, 794, 795, 796 and 799 are amended, as follows.

Amended Rule 791

Rule 791. Persons Subject to MCLE Requirements

(a) Scope and Exemptions

These Rules shall apply to every attorney admitted to practice law in the State of Illinois, except for the following persons, who shall be exempt from the Rules' requirements:

(1) All attorneys on inactive or retirement status pursuant to Supreme Court Rules 756(a)(5) or (a)(6), respectively, or on inactive status pursuant to the former Supreme Court Rule 770 or who have previously been placed on voluntarily removed status by the Attorney Registration and Disciplinary Commission ("ARDC");

(2) All attorneys on disability inactive status pursuant to Supreme Court Rules 757 or 758;

(3) All attorneys serving in the office of justice, judge, associate judge, or magistrate of any federal or state court;

(4) All attorneys who, by virtue of their office or employment in the state or federal judiciary, are prohibited by the Supreme Court of Illinois or the federal judiciary from actively engaging in the practice of law;

(5) All attorneys licensed to practice law in Illinois who are on active duty in the Armed Forces of the United States, until their release from active military service and their return to the active practice of law;

(6) An attorney otherwise subject to this rule ~~who is also~~ is entitled to an exemption if the attorney meets all of these criteria:

(i) the attorney is a member of the bar of another state which has a

comparable minimum continuing legal education requirement; or is licensed to practice law under a limited license issued by another state which has a comparable minimum continuing legal education requirement;

(ii) the individual attorney's only or primary office is in that other state or, if the attorney has no office, the individual attorney's only or primary residence is in that state; who is regularly engaged in the practice of law in that state; and who

(iii) the attorney is required by that state to complete credits to be in compliance with the continuing legal education requirements established by court rule or legislation in that state; and

(iv) the attorney has appropriate proof that he or she is in full compliance with the continuing legal education requirements established by court rule or legislation in that state; and

(7) In rare cases, upon a clear showing of good cause, the Minimum Continuing Legal Education Board ("Board") may grant a temporary exemption to an attorney from the Minimum Continuing Legal Education ("MCLE") requirements, or an extension of time in which to satisfy them. Good cause for an exemption or extension may exist in the event of illness, financial hardship, or other extraordinary or extenuating circumstances beyond the control of the attorney. Attorneys denied a temporary exemption or extension may request reconsideration of the initial decision made by the Director of MCLE ("Director") by filing a request in a form approved by the Board (or a substantially similar form) no later than 30 days after the Director's initial decision. The Director shall decide the request for reconsideration within 30 days of its receipt, and promptly notify the attorney. If the Director denies the request, the attorney shall have 30 days from the date of that denial to submit an appeal to the full Board for consideration at its next scheduled Board meeting. Submission of a request for reconsideration or an appeal does not stay any MCLE compliance deadlines or MCLE fee payments.

(b) Full Exemptions

An attorney shall be exempt from these Rules for an entire reporting period applicable to that attorney, if:

(1) The attorney is exempt from these Rules pursuant to paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6), on the last day of that reporting period; or

(2) The attorney is exempt from these Rules pursuant to paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6), for at least 365 days of that reporting period; or

(3) The attorney receives a temporary exemption from the Board pursuant to paragraph (a)(7), for that reporting period.

(c) Partial Exemptions

An attorney who is exempt from these Rules for more than 60, but less than 365,

days of a two-year reporting period, and who is not exempt for the entire reporting period pursuant to paragraph (b), shall be required to earn one-half of the CLE activity hours that would otherwise be required pursuant to Rules 794(a) and (d).

(d) Nonexemptions

An attorney who is exempt from these Rules for less than 61 days during a two-year reporting period, and who is not exempt for the entire reporting period pursuant to paragraph (b), shall be required to earn all of the CLE activity hours required pursuant to Rules 794(a) and (d).

(e) Resuming Active Status

An attorney who was exempt from these Rules, pursuant to paragraphs (b)(1) or (b)(2), above, for the attorney's last completed reporting period because the attorney was on inactive, retirement or disability inactive status pursuant to Supreme Court Rules 756(a)(5) or (a)(6), 757 or 758, shall upon return to active status, have 24 months to complete the deferred CLE requirements, not to exceed two times the requirement for the current two-year reporting period, in addition to the CLE credit required for the current two-year reporting period.

(f) Attorneys on Discipline Status

Paragraphs (f)(1) and (2) shall apply to attorneys on discipline status for reporting periods ending June 30, 2012, and thereafter.

(1) Discipline Imposed Pursuant to Rules 770(a), (b), (c) and (e)

(i) An attorney whose discipline is imposed pursuant to Rules 770(a), (b), (c) and (e) is not required to comply with the MCLE requirements for any reporting period in which the discipline is in effect.

(ii) If the attorney is reinstated to the master roll by order of the Supreme Court ("Court"), the attorney must thereafter earn no less than 30 hours of MCLE credit and no more than 90 hours of MCLE credit which will be set by the MCLE Board based on the length of the attorney's discipline and whether credits need to be earned for the current reporting period. Those MCLE credits shall be earned and reported to the MCLE Board no later than 365 days after entry of the order reinstating the attorney to the master roll. The attorney shall contact the MCLE Board promptly after entry of the order reinstating the attorney to the master roll to establish the number of credits that need to be earned by the attorney. The attorney may apply any MCLE credits earned while the discipline imposed pursuant to Rules 770(a), (b), (c) or (e) was in effect. If the attorney does not earn the needed credits and report no later than 365 days after entry of the order reinstating the attorney to the master roll, the attorney shall pay a late fee, in an amount as set by the Board in the Court-approved fee schedule, and the attorney shall be referred to the ARDC pursuant to Rule 796(e). A reinstated attorney then needs to comply with the MCLE requirements for the two-year reporting period that begins after the attorney's reinstatement and all reporting periods thereafter.

(2) Discipline Pursuant to Rules 770(d), (f), (g) and (h)

An attorney whose discipline is imposed pursuant to Rules 770(d), (f), (g) and (h) is required to comply with the MCLE requirements for all reporting periods in which the discipline is in effect.

(g) Foreign Legal Consultants

Beginning with the reporting period ending June 30, 2012 and thereafter, the MCLE Rules do not apply to foreign legal consultants licensed under Rule 712.

Adopted September 29, 2005, effective immediately; amended December 6, 2005, effective immediately; amended February 10, 2006, effective immediately; amended September 27, 2011, effective immediately.

Amended Rule 792

Rule 792. The MCLE Board

(a) Administration

The administration of the program for MCLE shall be under the supervision of the Minimum Continuing Legal Education Board ("Board").

(b) Selection of Members; Qualifications; Terms

(1) The Board shall consist of ~~10~~ nine members, appointed by the Supreme Court ("Court"). At least one member shall be a nonattorney; and at least one member shall be a circuit court judge; ~~and one member shall be a member of the Supreme Court Commission on Professionalism.~~ The Executive Director of the Supreme Court Commission on Professionalism and the Administrator of the Attorney Registration and Disciplinary Commission shall serve as an ex-officio members in addition to the ~~10~~ nine members appointed by the Court but shall have no vote.

(2) To be eligible for appointment to the Board, an attorney must have actively practiced law in Illinois for a minimum of 10 years.

(3) Three members, including the chairperson, shall initially be appointed to a three-year term. Three members shall be appointed to an initial two-year term, and three members shall be appointed to an initial one-year term. Thereafter, all members shall be appointed or re-appointed to three-year terms. ~~The Supreme Court Commission on Professionalism member shall be appointed to a term concurrent with his or her term on the Commission.~~

(4) Board members shall be limited to serving three consecutive three-year terms.

(5) No individual may be appointed to the Board who stands to gain financially, directly or indirectly, from accreditation or other decisions made by the Board.

(6) Any member of the Board may be removed by the Court at any time, without cause.

(7) Should a vacancy occur, the Court shall appoint a replacement to serve for the unexpired term of the member.

(8) Board members shall serve without compensation, but shall be reimbursed for reasonable and necessary expenses incurred in performing their official duties, including reasonable travel costs to and from Board meetings.

(9) The chairperson shall be appointed by the Court. Other officers shall be elected by the members of the Board at the first meeting of each year.

(c) Powers and Duties

The Board shall have the following powers and duties:

(1) To recommend to the Court rules and regulations for MCLE not inconsistent with the rules of the Court and these Rules, including fees sufficient to ensure that the MCLE program is financially self-supporting; to implement MCLE rules and regulations adopted by the Court; and to adopt forms necessary to insure attorneys' compliance with the rules and regulations.

(2) To meet at least twice a year, or more frequently as needed, either in person, by conference telephone communications, or by electronic means. Six members of the Board shall constitute a quorum for the transaction of business. A majority of the quorum present shall be required for any official action taken by the Board.

(3) To accredit commercial and noncommercial continuing legal education ("CLE") courses and activities, and to determine the number of hours to be awarded for attending such courses or participating in such activities.

(4) To review applications for accreditation of those courses, activities or portions of either that are offered to fulfill the professional responsibility requirement in Rule 794(d)(1) for conformity with the accreditation standards and hours enumerated in Rule 795, exclusive of review as to substantive content. Those courses and activities determined to be in conformance shall be referred to the Supreme Court Commission on Professionalism for substantive review and approval as provided in Rules 799(c)(5) and (d)(6)(i). Professional responsibility courses or activities approved by both the Commission on Professionalism and the MCLE Board as specified in this subsection shall be eligible for accreditation by the MCLE Board.

(5) To submit an annual report to the Court evaluating the effectiveness of the MCLE Rules and the quality of the CLE courses, and presenting the Board's recommendations, if any, for changes in the Rules or their implementation, a financial report for the previous fiscal year, and its recommendations for the new fiscal year. There shall be an independent annual audit of the MCLE fund as directed by the Court, the expenses of which shall be paid out of the fund. The audit shall be submitted as part of the annual report to the Court.

(6) To coordinate its administrative responsibilities with the Attorney Registration and Disciplinary Commission ("ARDC"), and to reimburse expenses incurred by the ARDC attributable to enforcement of MCLE requirements.

(7) To take all action reasonably necessary to implement, administer and enforce

these rules and the decisions of the MCLE Director, staff and Board.

(8) To establish policies and procedures for notification and reimbursement of course fees, if appropriate, in those instances where course accreditation is withheld or withdrawn.

(d) Administration

The Board shall appoint, with the approval of the Supreme Court, a Director of MCLE (“Director”) to serve as the principal executive officer of the MCLE program. The Director, with the Board’s authorization, will hire sufficient staff to administer the program. The Board will delegate to the Director and staff authority to conduct the business of the Board within the scope of this Rule, subject to review by the Board. The Director and staff shall be authorized to acquire or rent physical space, computer hardware and software systems and other items and services necessary to the administration of the MCLE program.

(e) Funding

The MCLE program shall initially be funded in a manner to be determined by the Court. Thereafter, funding shall be derived solely from the fees charged to CLE providers and from late fees and reinstatement fees assessed to individual attorneys. This schedule of CLE provider fees, late fees, and reinstatement fees must be approved by the Court, and any reference in these Rules to a fee assessed or set by the Board means a fee based on the Court-approved fee schedule. The Board may elect to charge fees up to the amount approved by the Court and the Board may, as it deems appropriate, charge fees less than the amount approved by the Court.

Adopted September 29, 2005, effective immediately; amended December 6, 2005, effective immediately; amended June 5, 2007, effective immediately; amended November 23, 2009, effective December 1, 2009; amended September 27, 2011, effective immediately.

Amended Rule 793

Rule 793. Basic Skills Course Requirement for Newly-Admitted Attorneys

(a) Scope

Except as specified in paragraph (f), every Illinois attorney admitted to practice on or after December 31, 2005 October 1, 2011, must complete a Basic Skills Course; the requirement for newly-admitted attorneys described in paragraph (c) totaling at least 15 actual hours of instruction.

(b) Completion Deadline

The course requirements established in paragraphs (c), (f) and (h) must be completed within by the last day of the month that occurs one year of after the newly-

admitted attorney's admission to practice in Illinois.

(c) Topics Elements of the Requirement for Newly-Admitted Attorneys

The requirement for newly-admitted attorneys includes three elements:

(1) A Basic Skills Course The course shall cover such topics as of no less than six hours covering topics such as the jurisdiction of local courts, local court rules, filing requirements for various government agencies, how to draft pleadings and other documents, practice techniques and procedures under the Illinois Rules of Professional Conduct, client communications, use of trust accounts, attorneys' other obligations under the Court's Rules, required record keeping, professional responsibility topics (which may include professionalism, diversity issues, mental illness and addiction issues and civility) and may cover other rudimentary elements of practice. The Basic Skills Course must include at least six hours approved for professional responsibility credit. An attorney may satisfy this requirement by participating in a mentoring program approved by the Commission on Professionalism pursuant to Rule 795(d)(12); and

(2) At least nine additional hours of MCLE credit. These nine hours may include any number of hours approved for professional responsibility credit;

(3) Reporting to the MCLE Board as required by Rule 796.

(d) Exemption From Other Requirements

During this period, the newly-admitted lawyer shall be exempt from the other MCLE requirements. A newly-admitted attorney may earn carryover credit as established by Rule 794(c)(2).

(e) Initial Reporting Period

The newly admitted attorney's initial two-year reporting period for complying with the MCLE requirements contained in Rule 794 shall commence, following the deadline for the attorney to complete the Basic Skills Course newly-admitted attorney requirement, on the next July 1 of an even-numbered year for lawyers whose last names begin with a letter A through M, and on the next July 1 of an odd-numbered year for lawyers whose last names begin with a letter N through Z.

(f) Prior Practice

(1) Attorneys admitted to the Illinois bar before October 1, 2011

The Basic Skills Course requirement does newly-admitted attorney requirements of Rule 793(c) do not apply to attorneys who are admitted in Illinois before October 1, 2011, and after practicing law in other states for a period of one year or more. Attorneys shall report this prior practice exemption to the MCLE Board under Rule 796. Thereafter, such attorneys will be subject to MCLE requirements under the appropriate schedule for each attorney.

(2) Attorneys admitted to the Illinois bar on October 1, 2011, and thereafter

The newly-admitted attorney requirements of Rule 793(c) do not apply to attorneys who: (i) were admitted in Illinois on October 1, 2011, and thereafter; and

(ii) were admitted in Illinois after practicing law in other states for a period of at least one year in the three years immediately preceding admission in Illinois. Instead, such attorneys must complete 15 hours of MCLE credit (including four hours of professional responsibility credits) within one year of the attorney's admission to practice in Illinois. Such attorneys shall report compliance with this requirement to the MCLE Board under Rule 796. Thereafter, such attorneys will be subject to the MCLE requirements under the appropriate schedule for each attorney.

(g) Approval

The Basic Skills Course shall be offered by CLE providers, including “in-house” program providers, authorized by the MCLE Board after its approval of the provider’s planned curriculum and after approval by the Commission on Professionalism of the professional responsibility credit. Courses shall be offered throughout the state and at reasonable cost.

(h) Applicability to Attorneys Admitted after December 31, 2005, and before October 1, 2011

Attorneys admitted to practice after December 31, 2005, and before October 1, 2011, have the option of completing a Basic Skills Course totaling at least 15 actual hours of instruction as detailed under the prior Rule 793(c) or of satisfying the requirements of paragraph (c).

Adopted September 29, 2005, effective immediately; amended September 27, 2011, effective immediately.

Amended Rule 794

Rule 794. Continuing Legal Education Requirement

(a) Hours Required

Except as provided by Rules 791 or 793, every Illinois attorney subject to these Rules shall be required to complete 20 hours of CLE activity during the initial two-year reporting period (as determined on the basis of the lawyer’s last name pursuant to paragraph (b), below) ending on June 30 of either 2008 or 2009, 24 hours of CLE activity during the two-year reporting period ending on June 30 of either 2010 or 2011, and 30 hours of CLE activity during all subsequent two-year reporting periods.

(b) Reporting Period

The applicable two-year reporting period shall begin on July 1 of even-numbered years for lawyers whose last names begin with the letters A through M, and on July 1 of odd-numbered years for lawyers whose last names begin with the letters N through Z.

(c) Carryover of Hours

(1) For attorneys with two-year reporting periods

All CLE activity hours may be earned in one year or split in any manner between the two-year reporting period.

(i) If an attorney earns more than the required CLE hours in the two-year reporting periods of July 1, 2006, through June 30, 2008, or July 1, 2007, through June 30, 2009, the attorney may carry over a maximum of 10 hours earned during that period to the next reporting period, except for professional responsibility credits referred to in paragraph (d).

(ii) If an attorney earns more than the required CLE hours in a the two-year reporting periods of July 1, 2008, through June 30, 2010, or July 1, 2009, through June 30, 2011, and all reporting periods thereafter, the attorney may carry over to the next reporting period a maximum of 10 hours, including hours approved for professional responsibility credit. Professional responsibility credit carried over to the next reporting period may be used to meet the professional responsibility requirement of the next reporting period, earned during that period to the next reporting period, except for professional responsibility credits referred to in paragraph (d).

(2) For newly-admitted attorneys subject to Rule 793

(i) For an attorney admitted to practice in Illinois on January 1, 2006, through June 30, 2009, such newly-admitted attorney may carry over to his or her first two-year reporting period a maximum of 10 CLE hours (except for professional responsibility credits referred to in paragraph (d)) earned after completing the newly-admitted attorney requirement pursuant to Rule 793.

(ii) For an attorney admitted to practice in Illinois on July 1, 2009, and thereafter, such A newly-admitted attorney may carry over to his or her first two-year reporting period a maximum of +0 15 CLE activity hours (except for professional responsibility credits referred to in paragraph (d)) earned in excess of those required by Rule 793(c) or Rule 793(f)(2) if those excess hours were earned after the attorney's admission to the Illinois bar and before the start of the attorney's first two-year reporting period. Those carryover hours may include up to six hours approved for professional responsibility credit. Professional responsibility credit carried over to the next reporting period may be used to meet the professional responsibility requirement of the next reporting period, after completing the Basic Skills Course requirement pursuant to Rule 793.

(3) An attorney, other than a newly admitted attorney, may carry over to his or her first two-year reporting period a maximum of 10 CLE activity hours (except for professional responsibility credits referred to in paragraph (d)) earned between January 1, 2006, and the beginning of that period.

(d) Professional Responsibility Requirement

(1) A minimum of four of the total hours required for the first two reporting

periods must be in the area of professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics. Beginning with the reporting periods ending on June 30 of either 2012 or 2013, in which 30 hours of CLE are required, and for all subsequent reporting periods, a minimum of six of the total CLE hours required must be in such areas.

(2) Such credit may be obtained either by:

(i) Taking a separate CLE course or courses, or participating in other eligible CLE activity under these Rules, specifically devoted to professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics; or

(ii) Taking a CLE course or courses, or participating in other eligible CLE activity under these Rules, a portion of which is specifically devoted to professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics credit. Only that portion of a course or activity specifically devoted to professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics shall receive CLE credit for the professional responsibility requirement of this paragraph.

Adopted September 29, 2005, effective immediately; amended October 1, 2010, effective immediately; amended September 27, 2011, effective immediately.

Amended Rule 795

Rule 795. Accreditation Standards and Hours

(a) Standards

Eligible CLE courses and activities shall satisfy the following standards:

(1) The course or activity must have significant intellectual, educational or practical content, and its primary objective must be to increase each participant's professional competence as an attorney.

(2) The course or activity must deal primarily with matters related to the practice of law.

(3) The course or activity must be offered by a provider having substantial, recent experience in offering CLE or demonstrated ability to organize and effectively present CLE. Demonstrated ability arises partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction and supervision of the activity.

(4) The course or activity itself must be conducted by an individual or group qualified by practical or academic experience. The course or activity, including the named advertised participants, must be conducted substantially as planned, subject to emergency withdrawals and alterations.

(5) Thorough, high quality, readable and carefully prepared written materials should be made available to all participants at or before the time the course is presented, unless the absence of such materials is recognized as reasonable and approved by the Board.

(6) Traditional CLE courses or activities shall be conducted in a physical setting conducive to learning. The course or activity may be presented by remote or satellite television transmission, telephone or videophone conference call, videotape, film, audio tape or over a computer network, so long as the Board approves the content and the provider, and finds that the method in question has interactivity as a key component. Such interactivity may be shown, for example, by the opportunity for the viewers or listeners to ask questions of the course faculty, in person, via telephone, or on-line; or through the availability of a qualified commentator to answer questions directly, electronically, or in writing; or through computer links to relevant cases, statutes, law review articles, or other sources.

(7) The course or activity must consist of not less than one-half hour of actual instruction, unless the Board determines that a specific program of less than one-half hour warrants accreditation.

(8) A list of the names of all participants for each course or activity shall be maintained by the provider for a period of at least three years. The provider shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the number of CLE hours, including professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics CLE hours, earned at that course or activity.

(b) Accredited CLE Provider

The Board may extend presumptive approval to a provider for all of the CLE courses or activities presented by that provider each year that conform to paragraph (a)'s Standards (1) through (8), upon written application to be an "Accredited Continuing Legal Education Provider." Such accreditation shall constitute prior approval of all CLE courses offered by such providers. However, the Board may withhold accreditation or limit hours for any course found not to meet the standards, and may revoke accreditation for any organization which is found not to comply with standards. The Board shall assess an annual fee, over and above the fees assessed to the provider for each course, for the privilege of being an "Accredited Continuing Legal Education Provider."

(c) Accreditation of Individual Courses or Activities

(1) Any provider not included in paragraph (b) desiring advance accreditation of an individual course or other activity shall apply to the Board by submitting a required application form, the course advance accreditation fee set by the Board, and supporting documentation no less than 45 days prior to the date for which the course or activity is scheduled. Documentation shall include a statement of the provider's intention to comply with the accreditation standards

of this Rule, the written materials distributed or to be distributed to participants at the two most recently produced courses or activities; the course or activity, if available, or an a detailed outline of the proposed courses course or activities activity and list of instructors, and such further information as the Board shall request. The Board staff will advise the applicant in writing by mail within 30 days of the receipt of the completed application of its approval or disapproval.

(2) Providers denied approval of a course or activity shall promptly provide written notice of the Board's denial to all attorneys who requested Illinois MCLE credit for the course. Providers denied prior approval of a course or activity or individual attorneys who have attended such course or activity may request reconsideration of the Board's initial decision by filing a form approved by the Board no later than 30 days after the Board's initial decision. The Board Director shall consider the request within 30 days of its receipt, and promptly notify the provider and/or the individual attorney. If the Director denies the request, the provider shall have 30 days from the date of that denial to submit an appeal to the Board for consideration at the next scheduled Board meeting. Submission of a request for reconsideration or an appeal does not stay any MCLE submission deadlines or fee payments.

(3) Providers who do not seek prior approval of their course or activity may apply for approval for the course or activity after its presentation by submitting an application provided by MCLE staff, the supporting documentation described above, and the accreditation fee set by the Board.

(4) A list of the names of participants shall be maintained by the provider for a period of three years. The provider shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the number of CLE hours, including professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics CLE hours, earned at that course or activity.

(5) An attorney may apply to the Illinois MCLE Board for accreditation of an individual out-of-state CLE course if the following provisions are satisfied: (i) the attorney participated in the course either in person or via live audio or video conference; (ii) the out-of-state course is accredited by that state's CLE program, as is confirmed by the Illinois MCLE Board; (a) for a course held in person in a state with a comparable MCLE requirement, the course must be approved for MCLE credit by that state; or (b) for a course held in person in a state or the District of Columbia without a comparable MCLE requirement, the course must be approved for MCLE credit by at least one other state with a comparable MCLE requirement; or (c) for a course attended by live audio or video conference, the course must be approved for MCLE credit by at least one other state with a comparable MCLE requirement; and (iii) the course provider has chosen not to seek accreditation of the course for Illinois MCLE credit.

(d) Nontraditional Courses or Activities

In addition to traditional CLE courses, the following courses or activities will receive CLE credit:

(1) “In-House” Programs. Attendance at “in-house” seminars, courses, lectures or other CLE activity presented by law firms, corporate legal departments, governmental agencies or similar entities, either individually or in cooperation with other such entities, subject to the following conditions:

(i) The CLE course or activity must meet the rules and regulations for any other CLE provider, as applicable.

(ii) Specifically, the course or activity must have significant intellectual, educational or practical content, its primary objective must be to increase the participant’s professional competence as an attorney, and it must deal primarily with matter related to the practice of law, professionalism, diversity issues, mental illness and addiction issues, civility or ethical obligations of attorneys. No credit will be afforded for discussions relating to the handling of specific cases, or issues relating to the management of a specific law firm, corporate law department, governmental agency or similar entity.

(iii) The course or activity shall be submitted for approval on an individual course or activity basis rather than on a Presumptively Accredited Continuing Legal Education Provider basis.

(iv) The application, including all written materials or an abstract thereof, should be filed with the Board at least 30 days prior to the date on which the course or activity is to be held in order for a prior determination of acceptability to be made. However, prior approval by the Board shall not be required.

(v) Only courses or activities that have at least five attorney participants shall qualify for CLE credit. The attorneys need not be associated with the same firm, corporation or governmental agency.

(vi) Experienced attorneys must contribute to the teaching, and efforts should be made to achieve a balance of in-house and outside instructors.

(vii) The activity must be open to observation, without charge, by members of the Board or their designates.

(viii) The activity must be scheduled at a time and location so as to be free of interruptions from telephone calls and other office matters.

(ix) A list of the names of participants shall be maintained by the provider for a period of three years. The provider shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the number of CLE hours, including professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics CLE hours, earned at that activity.

(x) The Board may impose a fee, similar to the fees assessed on traditional CLE providers, on the provider of an in-house program for programs involving payments to the provider.

(2) Law School Courses. Attendance at J.D. or graduate level law courses offered by American Bar Association (“ABA”) accredited law schools, subject to the following conditions:

(i) Credit ordinarily is given only for courses taken after admission to practice in Illinois, but the Board may approve giving credit for courses taken prior to admission to practice in Illinois if giving credit will advance CLE objectives.

(ii) Credit towards MCLE requirements shall be for the actual number of class hours attended, but the maximum number of credits that may be earned during any two-year reporting period by attending courses offered by ABA accredited law schools shall be the ~~maximum~~ minimum number of CLE hours required by Rules 794(a) and (d).

(iii) The attorney must comply with registration procedures of the law school, including the payment of tuition.

(iv) The course need not be taken for law school credit towards a degree; auditing a course is permitted. However, the attorney must comply with all law school rules for attendance, participation and examination, if any, to receive CLE credit.

(v) The law school shall give each attorney a written certification evincing that the attorney has complied with requirements for the course and attended sufficient classes to justify the awarding of course credit if the attorney were taking the course for credit.

(3) Bar Association Meetings. Attendance at bar association or professional association meetings at which substantive law, matters of practice, professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics are discussed, subject to the requirements for CLE credit defined in paragraphs (a)(1) through (a)(2) above. The bar or professional association shall maintain a list of the names of all attendees at each meeting for a period of three years and shall issue a certificate, in written or electronic form, to each participant evincing his or her attendance. Such lists and certificates shall state the number of CLE hours, including professionalism, diversity issues, mental illness and addiction issues, civility, or legal ethics CLE hours, earned at that meeting.

(4) Cross-Disciplinary Programs. Attendance at courses or activities that cross academic lines, such as accounting-tax seminars or medical-legal seminars, may be considered by the Board for full or partial credit. Purely nonlegal subjects, such as personal financial planning, shall not be counted towards CLE credit. Any mixed-audience courses or activities may receive credit only for

sessions deemed appropriate for CLE purposes.

(5) Teaching Continuing Legal Education Courses. Teaching at CLE courses or activities during the two-year reporting term, subject to the following:

(i) Credit may be earned for teaching in an approved CLE course or activity. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material.

(ii) Time spent in preparation for a presentation at an approved CLE activity shall be counted at six times the actual presentation time.

(iii) Authorship or coauthorship of written materials for approved CLE activities shall qualify for CLE credit on the basis of actual preparation time, but subject to receiving no more than 10 hours of credit in any two-year reporting period.

(6) Part-Time Teaching of Law Courses. Teaching at an ABA-accredited law school, or teaching a law course at a university, college, or community college, subject to the following:

(i) Teaching credit may be earned for teaching law courses offered for credit toward a degree at a law school accredited by the ABA, but only by lawyers who are not employed full-time by a law school. Full-time law teachers who choose to maintain their licenses to practice law are fully subject to the MCLE requirements established herein, and may not earn any credits by their ordinary teaching assignments. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material. Teaching credit may be earned by appearing as a guest instructor, moderator, or participant in a law school class for a presentation which meets the overall guidelines for CLE courses or activities, as well as for serving as a judge at a law school moot court argument. Time spent in preparation for an eligible law school activity shall be counted at three times the actual presentation time. Appearing as a guest speaker before a law school assembly or group shall not count toward CLE credit.

(ii) Teaching credit may be earned for teaching law courses at a university, college, or community college by lawyers who are not full-time teachers if the teaching involves significant intellectual, educational or practical content, such as a civil procedure course taught to paralegal students or a commercial law course taught to business students. Presentations shall be counted at the full hour or fraction thereof for the initial presentation; a repeat presentation of the same material shall be counted at one-half; no further hours may be earned for additional presentations of the same material.

(7) Legal Scholarship. Writing law books and law review articles, subject to the following:

(i) An attorney may earn credit for legal textbooks, casebooks, treatises and other scholarly legal books written by the attorney that are published during the two-year reporting period.

(ii) An attorney may earn credit for writing law-related articles in responsible legal journals or other legal sources, published during the two-year reporting period, that deal primarily with matters related to the practice of law, professionalism, diversity issues, mental illness and addiction issues, civility, or ethical obligations of attorneys. Republication of any article shall receive no additional CLE credits unless the author made substantial revisions or additions.

(iii) An attorney may earn credit towards MCLE requirements for the actual number of hours spent researching and writing, but the maximum number of credits that may be earned during any two-year reporting period on a single publication shall be one-half the maximum minimum number of CLE hours required by Rules 794(a) and (d). Credit is accrued when the eligible book or article is published, regardless whether the work in question was performed in the then-current two-year reporting period. To receive CLE credit, the attorney shall maintain contemporaneous records evincing the number of hours spent on a publication.

(8) Pro Bono Training. Attendance at courses or activities designed to train lawyers who have agreed to provide pro bono services shall earn CLE credit to the same extent as other courses and seminars.

(9) Capital Litigation Trial Bar Training. Attendance at courses or activities pursuant to Supreme Court Rule 714(b) designed to train attorneys for certification for membership in the Capital Litigation Trial Bar shall earn CLE credit to the same extent as other courses and seminars.

(10) Bar Review Courses. Attendance at bar review courses before admission to the Illinois Bar shall not be used for CLE credit.

(11) Reading Legal Materials. No credit shall be earned by reading advance sheets, newspapers, law reviews, books, cases, statutes, newsletters or other such sources.

(12) Activity of Lawyer-to-Lawyer Mentoring. Lawyers completing a comprehensive year-long structured mentoring program, as either a mentor or mentee, may earn credit equal to the minimum professional responsibility credit during the two-year reporting period of completion, provided that the mentoring plan is preapproved by the Commission on Professionalism, the completion is attested to by both mentor and mentee, and completion occurs during the first three years of the mentee's practice in Illinois. For reporting periods ending in 2011 or earlier, the maximum number of professional responsibility credit hours

shall be four. Beginning with the reporting periods ending on June 30 of either 2012 or 2013, in which 30 hours of CLE are required, the maximum number of credit hours available shall be six.

(e) Credit Hour Guidelines

Hours of CLE credit will be determined under the following guidelines:

(1) Sixty minutes shall equal one hour of credit. Partial credit shall be earned for qualified activities of less than 60 minutes duration.

(2) The following are not counted for credit: (i) coffee breaks; (ii) introductory and closing remarks; (iii) keynote speeches; (iv) lunches and dinners; (v) other breaks; and (vi) business meetings.

(3) Question and answer periods are counted toward credit.

(4) Lectures or panel discussions occurring during breakfast, luncheon, or dinner sessions of bar association committees may be awarded credit.

(5) Credits are determined by the following formula: Total minutes of approved activity *minus* minutes for breaks (as described in paragraph (e)(2)) *divided by* 60 *equals* maximum CLE credit allowed.

(6) Credits merely reflect the maximum that may be earned. Only actual attendance or participation earns credit.

(f) Financial Hardship Policy

The provider shall have available a financial hardship policy for attorneys who wish to attend its courses, but for whom the cost of such courses would be a financial hardship. Such policy may be in the form of scholarships, waivers of course fees, reduced course fees, or discounts. Upon request by the Board, the provider must produce the detailed financial hardship policy. The Board may require, on good cause shown, a provider to set aside without cost, or at reduced cost, a reasonable number of places in the course for those attorneys determined by the Board to have good cause to attend the course for reduced or no cost.

Adopted September 29, 2005, effective immediately; amended October 4, 2007, effective immediately; amended October 12, 2010, effective immediately; amended September 27, 2011; effective immediately.

Amended Rule 796

Rule 796. Enforcement of MCLE Requirements

(a) Reporting Compliance

(1) On or before the first day of the month preceding the end of an attorney's ~~Basic Skills Course~~ newly-admitted attorney requirement reporting period or two-year reporting period, the Director shall mail the attorney, ~~at the most recent~~

~~address the attorney has provided to the ARDC pursuant to Rule 756(c); at a mailing address maintained by the ARDC, a certification, to be completed by the attorney, stating whether, with respect to that reporting period, the attorney either has complied with these Rules, has not complied with these Rules, or is exempt from these Rules. A certification need not be sent to an attorney known by the Director to be fully exempt from these Rules pursuant to Rule 791(b) or to an attorney who has already been removed from the master roll of attorneys due to the attorney's failure to comply with the MCLE requirements for two consecutive reporting periods or more.~~

(2) Every Illinois attorney who is either subject to these Rules or who receives an MCLE certification shall complete, sign and submit the certification to the Board within 31 days after the end of the attorney's reporting period. It is the responsibility of each attorney on the master roll to notify the ARDC of any change of address. Failure to receive an MCLE certification shall not constitute an excuse for failure to file the certification.

(b) Failure to Report Compliance

Attorneys who fail to submit an MCLE certification that is received by the MCLE Board within 45 days of their reporting date after the end of their reporting period, or who file a certification that is received by the MCLE Board within 45 days after the end of their reporting period stating that they have not complied with these Rules during the reporting period, shall be ~~notified~~ mailed a notice by the Director to inform them of their noncompliance. Attorneys shall be given 61 additional days from the original certification due date provided in Rule 796(a)(2) to achieve compliance and file a certification stating that they have complied with these Rules or are exempt. The Director shall not send a notice of noncompliance to attorneys whom the Director knows, based on the status of the attorneys' licenses as inactive, retirement, disability inactive, judicial or military with the ARDC, are fully exempt from these Rules.

(c) Grace Period

Attorneys given additional time pursuant to paragraph (b) to comply with the requirements of these Rules may use that "grace period" to attain the adequate number of hours for compliance. Credit hours earned during a grace period may be counted toward compliance with the previous reporting period requirement, and hours in excess of the requirement may be used to meet the current reporting period's requirement. No attorney may receive more than one grace period with respect to the same reporting period, and the grace period shall not be extended if the Director fails to send, or the attorney fails to receive, a notice pursuant to paragraph (b).

(d) Late Fees

(1) ~~Nonexempt attorneys~~ Attorneys who are not fully exempt under Rule 791(a)(1), (2), (3) or (5) and who, for whatever reason, fail to complete, sign and submit to the Board an MCLE certification within 31 days that is received by the Board within 45 days after the end of their reporting period, and who receive are

sent a notice of noncompliance from the Director pursuant to paragraph (b), shall pay a late fee, in an amount to be set by the Board. The Director shall not assess a late fee to an attorney whom the Director knows, based on the status of the attorney's license as inactive, retirement, disability inactive, judicial or military with the ARDC, are fully exempt from these Rules.

(2) Attorneys who submit an MCLE certification to the Board who were not sent a notice of noncompliance from the Director pursuant to paragraph (b), but who certify that they failed to comply with these Rules during the applicable reporting period, shall pay a late fee, in an amount to be set by the Board that is less than the late fee imposed pursuant to paragraph (d)(1).

(e) Failure to Comply or Failure to Report

The Director shall refer to the ARDC the names of ~~nonexempt~~ attorneys who were mailed a notice of noncompliance and who, by the end of their grace periods, failed either: (1) to comply or to report compliance with the requirements of these Rules; to the MCLE Board; or (2) to report an exemption from the requirements of these Rules to the MCLE Board. The Director shall also refer to the ARDC the names of attorneys who, by the end of their grace period, failed to pay any outstanding MCLE fee. The ARDC shall then send notice to any such attorneys that they will be removed from the master roll on the date specified in the notice, which shall be no sooner than 21 days from the date of the notice, because of their failure to comply or report compliance, failure to report an exemption, or failure to pay an outstanding MCLE fee. The ARDC shall remove such attorneys from the master roll of attorneys on the date specified in the notice unless the Director certifies before that date that an attorney has complied. Such removal is not a disciplinary sanction.

(f) Recordkeeping and Audits

(1) Each attorney subject to these Rules shall maintain, for three years after the end of the relevant reporting period, certificates of attendance received pursuant to Rules 795(a)(8), (c)(4), (d)(1)(ix), (d)(2)(v), (d)(3), as well as sufficient documentation necessary to corroborate CLE activity hours earned pursuant to Rules 795(d)(4) through (d)(9).

(2) The Board may conduct a reasonable number of audits, under a plan approved by the Court. At least some of these audits shall be randomly selected, to determine the accuracy of attorneys' certifications of compliance or exemption. With respect to audits that are not randomly selected, in choosing subjects for those audits the Board shall give increased consideration to attorneys who assumed inactive or retirement status under Supreme Court Rules 756(a)(5) or (a)(6), and were thereby fully or partially exempt from these Rules pursuant to Rule 791(b) or (c), and who subsequently resumed active status.

(3) The ARDC may investigate an attorney's compliance with these Rules only upon referral from the Director; the ARDC will not investigate an attorney's compliance with these Rules as part of its other investigations. When the Director refers a matter to the ARDC, the investigation, and any resulting prosecution,

shall be conducted in accordance with the rules pertaining to ARDC proceedings.

(g) Audits That Reveal an Inaccurate Certification

(1) If an audit conducted pursuant to paragraph (f)(2) reveals that the attorney was not in compliance with or exempt from these Rules for any reporting period for which the attorney had filed a certification of compliance or exemption, the Director shall provide the attorney with written notice containing: (i) the results of the audit, specifying each aspect of the Rules with which the attorney did not comply or the reason why the attorney is not exempt; (ii) a summary of the basis of that determination; and (iii) a deadline, which shall be at least 30 days from the date of the notice, for the attorney to file a written response if the attorney objects to any of the contents of the notice.

(2) After considering any response from the attorney, if the Board determines that the attorney filed an inaccurate certification, the attorney shall be given 60 days in which to file an amended certification, together with all documentation specified in paragraph (f)(1), demonstrating full compliance with the applicable MCLE requirements. The attorney also shall pay a late fee in an amount to be set by the Board. The assessment of a late fee is not a disciplinary sanction.

(3) If the results of the audit suggest that the attorney willfully filed a false certification, the Board through its Director shall provide that information to the ARDC.

(h) Reinstatement

An attorney who has been removed from the master roll due to noncompliance with these Rules may be reinstated by the ARDC, upon recommendation of the Board. Such recommendation may be made only after the removed attorney files a certification which the Board determines shows full compliance with the applicable MCLE requirements for each reporting period for which the attorney was removed from the master roll due to MCLE noncompliance. To be reinstated, the attorney shall pay a reinstatement fee for each reporting period for which the attorney was removed from the master roll due to MCLE noncompliance with the request, in an amount to be set by the Board, ~~and~~ The Board may elect to cap the total amount of the reinstatement fee when an attorney has been removed from the master roll due to MCLE noncompliance in more than six consecutive reporting periods. The attorney must also meet any further conditions and pay any additional fees as may be required by Rule 756. The removed attorney may attain the necessary credit hours during the period of removal to meet the requirements for the years of noncompliance. Excess hours earned during the period of removal, however, may not be counted towards meeting the current or future reporting periods' requirements.

Adopted September 29, 2005, effective immediately; amended October 5, 2006, effective immediately; amended September 27, 2011; effective immediately.

Amended Rule 799

Rule 799. Supreme Court Commission on Professionalism

(a) Purpose

The Supreme Court Commission on Professionalism is hereby established in order to promote among the lawyers and judges of Illinois principles of integrity, professionalism and civility; to foster commitment to the elimination of bias and divisiveness within the legal and judicial systems; and to ensure that those systems provide equitable, effective and efficient resolution of problems and disputes for the people of Illinois.

(b) Membership and Terms

(1) The Court shall appoint ~~a Chair and 14 additional~~ members to the Commission, one of whom shall be designated the Chair. These members shall include three individuals who are faculty members at accredited Illinois law schools, two judges engaged in active service in the trial courts of Illinois, one judge engaged in active service in the appellate courts of Illinois, six practicing lawyers who are active members in good standing of the Illinois bar, ~~one member of the Minimum Continuing Legal Education (MCLE) Board~~, and two nonlawyers who are active in public affairs in Illinois. The Director of the Minimum Continuing Legal Education Program and the Administrator of the Attorney Registration and Disciplinary Commission shall serve as an *ex-officio* members in addition to ~~the Chair and~~ the 14 members appointed by the Court but shall have no vote.

(2) In addition to the members described above, the Chief Justice may invite to serve on the Commission a judge of the United States District Courts located in Illinois.

(3) The appointed members of the Commission shall be selected with regard to their reputations for professionalism, and for their past contributions to the bar and to their communities, to the extent feasible, the appointees should reflect a diversity of geography, practice areas, race, ethnicity, and gender.

(4) Members of the Commission shall be appointed for terms of three years, except that in making initial appointments to the Commission, the Court may limit appointments to ensure that the terms of the Commission's members are staggered, so that no more than one third of the members' terms expire in any given year. ~~The MCLE Board member shall be appointed to a term concurrent with his or her term on the Board.~~

(5) None of the members of the Commission shall receive compensation for their service, but all members shall be reimbursed for their necessary expenses.

(c) Duties

The Commission's duties shall include:

(1) Creating and promoting an awareness of professionalism by all members of

the Illinois bar and bench;

(2) Gathering and maintaining information to serve as a resource on professionalism for lawyers, judges, court personnel, and members of the public;

(3) Developing public statements on principles of ethical and professional responsibility for distribution to the bench and bar for purposes of encouraging, guiding and assisting individual lawyers, law firms and bar associations on the ethical and professional tenets of the profession;

(4) Assisting CLE providers with the development of courses and activities offered to fulfill the professional responsibility requirement for minimum continuing legal education under Rule 794(d)(1);

(5) Determining and publishing criteria for, monitoring, coordinating, and approving, courses and activities offered to fulfill the professional responsibility requirement for minimum continuing legal education under Rule 794(d)(1);

(6) Reviewing and approving the content of courses and activities offered to fulfill the professional responsibility requirement for minimum continuing legal education under Rule 794(d)(1) and forwarding the Commission's determination to the Minimum Continuing Legal Education (MCLE) Board;

(7) Monitoring activities related to professionalism outside the State of Illinois;

(8) Collaborating with law schools in the development and presentation of professionalism programs for law student orientation and other events as coordinated with law school faculty;

(9) Facilitating cooperation among practitioners, bar associations, law schools, courts, civic and lay organizations and others in addressing matters of professionalism, ethics, and public understanding of the legal profession; and

(10) Recommending to the Court other methods and means of improving the profession and accomplishing the purposes of this Commission.

The Commission shall have no authority to impose discipline upon any member of the Illinois bar or bench, or to exercise any duties or responsibilities belonging to either the Judicial Inquiry Board, the Attorney Registration and Disciplinary Commission, the Board of Admissions to the Bar, or the MCLE Board.

(d) Administration

(1) The Commission shall have the authority to appoint, with the approval of the Supreme Court, an Executive Director, who shall be an attorney who is an active member in good standing of the Illinois bar. The Executive Director shall have the authority to hire such additional staff as necessary to perform the Commission's responsibilities.

(2) The Commission shall meet at least twice a year and at other times at the call of the Chair. A majority of its members shall constitute a quorum for any action. Meetings may be held at any place within the state and may also be held by means of telecommunication that permits reasonably accurate and contemporaneous

participation by the members attending by such means.

(3) The Chair may appoint committees of members and assign them to such responsibilities, consistent with the purposes, powers and duties of the Commission, as the Chair may deem appropriate.

(4) The Commission shall file annually with the Court an accounting of the monies received and expended for its activities, and there shall be an annual independent audit of the funds as directed by the court, the expenses of which shall be paid out of the fund.

(5) The Commission shall submit an annual report to the Court describing and evaluating the effectiveness of its activities.

(6) Approving CLE Programs.

(i) The Commission shall receive from the MCLE Board applications for accreditation of those courses and activities offered to fulfill the professional responsibility requirement for minimum continuing legal education under Rule 794(d)(1). The Commission shall establish procedures for approval of such courses or activities consistent with the criteria published under paragraph (c)(5) of this rule. Professional responsibility courses and activities, the content of which is approved by the Commission, shall be forwarded to the MCLE Board for accreditation. Absent Commission approval, such courses and activities are not eligible for CLE accreditation. The Commission shall complete its review as expeditiously as possible and with regard to the applicable time lines contained in Rule 795.

(ii) Providers that have been designated “Accredited Continuing Legal Education Providers” under Rule 795(b) must, in addition to that accreditation, obtain Commission approval of any course or activity offered to fulfill the professional responsibility requirement of Rule 794(d)(1), but will not be required to pay an accreditation fee in addition to the fee the provider has paid to the Minimum Continuing Legal Education Board.

(e) Funding

The Commission shall be funded by an annual assessment as provided in Rule 756.

Adopted September 29, 2005, effective immediately; amended December 6, 2005, effective immediately; amended June 5, 2007, effective immediately; amended September 27, 2011, effective immediately.