

STATE OF MINNESOTA

IN SUPREME COURT

C2-84-2163

OFFICE OF
APPELLATE COURTS

DEC 1 0 2003

FILED

PROMULGATING AMENDMENTS TO THE
RULES OF THE MINNESOTA STATE BOARD
OF CONTINUING LEGAL EDUCATION

ORDER

By order dated January 23, 2003, the Court ordered the Minnesota State Board of Continuing Legal Education to submit a proposal for amendment to the Rules of the Minnesota State Board of Continuing Legal Education broadening the standards for course approval to allow approval for CLE credit of courses and course matter related to the professional development of lawyers.

The Minnesota State Board of Continuing Legal Education has recommended certain amendments.

The Court has reviewed the recommendations and the proposed amendments and is fully advised in the premises.

The Court has made additional amendments to clarify the language of the Rules.

IT IS HEREBY ORDERED that:

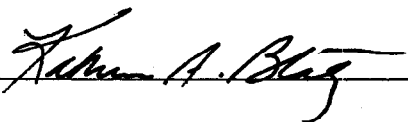
1. The attached amendments to the Rules of the Minnesota State Board of Continuing Legal Education be, and same are, prescribed and promulgated to be effective on February 1, 2004.

2. There shall be no limit on the number of credit hours for professional development courses that may be used to satisfy a lawyer's CLE requirements in any reporting period. However, the Board shall monitor the number and type of professional development courses that the Board approves, as well as the credit hours for professional development courses that lawyers report, and submit a report to the Court not later than February 1, 2007.

3. The Board is directed to revise, not later than January 15, 2004, the Course Approval Form and Affidavit of CLE Compliance, to reflect the amendments.

Dated: December 10, 2003

BY THE COURT:



Kathleen A. Blatz
Chief Justice

**Rules of the Minnesota
State Board of
Continuing Legal Education**

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RULES OF THE MINNESOTA STATE BOARD OF CONTINUING LEGAL EDUCATION

Rule 1. Purpose

The purpose of these Rules is to require that lawyers continue their legal education and professional development throughout the period of their active practice of law; to establish the minimum requirements for continuing legal education; to improve lawyers' knowledge of the law; and through continuing legal education courses, to address the special responsibilities that lawyers as officers of the court have to improve the quality of justice administered by the legal system and the quality of service rendered by the legal profession.

Rule 2. Definitions

In these Rules,

- A. "Approved Course" means a course approved by the Board.
- B. "Board" means the State Board of Continuing Legal Education.
- C. "Chairperson" means the eChairperson of the Board.
- D. "Classroom setting" means a room, including an office, suitably appointed with chairs, writing surfaces, lecterns and other normal accouterments of a teaching room, ~~that~~ which is exclusively devoted to the educational activity being presented.
- E. "Director" means the Director of the Board.
- F. "Laboratory Setting" means a mock courtroom, law office, negotiation table, or other simulated setting in which demonstrations are given, role-playing is carried out or lawyers' activities are taught by example or participation.
- G. "Participant" means a lawyer licensed in Minnesota attending an approved course and actively engaged in the subject matter being presented.
- H. "Course in ethics ~~and~~ or professional responsibility" means a course or session within a course that deals with the Minnesota Rules of Professional Conduct, the ABA Model Rules of Professional Conduct, the rules of professional conduct or professional responsibility of other jurisdictions, or the opinions and case law arising from the application of any of the above-specified rules, including a course or session within a

course that addresses in a specific way concepts such as professionalism, civility and ethical conduct in the practice of law and in the legal profession.

I. “Course in the elimination of bias in the legal profession and in the practice of law” means a course directly related to the practice of law that is designed to educate attorneys to identify and eliminate from the legal profession and from the practice of law, biases against persons because of race, gender, economic status, creed, color, religion, national origin, disability, age or sexual orientation.

J. “Court” means the Supreme Court of the State of Minnesota.

K. “Restricted Sstatus” means the status of a lawyer licensed in Minnesota who has voluntarily chosen not to comply with the educational and reporting requirements of these Rules. See Rule 12 for additional provisions.

L. “Involuntary Rrestricted Sstatus” means the status of a lawyer licensed in Minnesota who is not in compliance with the educational and reporting requirements of these Rules and who has been involuntarily placed in that status by order of the Court. See Rule 12 for additional provisions.

M. An “in-house course” is one sponsored by a single private law firm, a single corporation or financial institution, or by a single federal, state or local governmental agency for lawyers who are members or employees of any of the above organizations.

N. For the purposes of Rule 65(B), an “established continuing legal education course sponsor” is a person or entity regularly retained by firms or organizations for the purpose of presenting continuing legal education programs, ~~wh~~hich is completely independent of the firm or organization for whose members the continuing legal education course is presented.

O. “Fee” means a check or money order made payable to the Minnesota State Board of Continuing Legal Education.

P. “Professional development course” means a course or session within a course designed to enhance the development and performance of lawyers by addressing issues such as career satisfaction and renewal, stress management, mental or emotional health, substance abuse, and gambling addiction. Professional development courses do not include individual or group therapy sessions.

Q. “Law and literature course” means a course otherwise meeting the requirements of Rules 4(D) and 5(A), based upon a literary text and designed to generate discussion, insight, and learning about topics such as the practice of law, the history and philosophy

of law, rhetoric, lawyers' professional or ethical responsibilities, professional development, and the elimination of bias in the legal profession and in the practice of law.

Rule 3. State Board of Continuing Legal Education

A. Membership of the Board. ~~This~~The Court shall appoint twelve members and a ~~e~~Chairperson. The membership of the ~~CLE~~-Board shall consist of:

- 3 members of the public;
- 1 member who is a district court judge;
- 6 lawyer members who are nominated by the Minnesota State Bar Association; and
- 3 lawyer members ~~appointed~~who are nominated by the Court.

B. Terms of Members. Appointments shall be for staggered 3-year terms, with no member serving more than two 3-year terms, and each member serving until a successor is appointed and qualifies.

C. Officers of the Board.

(1) Chairperson. The ~~e~~Chairperson of the Board shall be appointed by ~~this~~the Court for such time as it shall designate and shall serve at the pleasure of ~~this~~the Court.

(2) Vice Chairperson. A ~~v~~Vice ~~e~~Chairperson shall be designated by the Chairperson and shall maintain the minutes of meetings of the Board.

D. Authority of the Board. Subject to the general direction of the Court in all matters, the Board shall have supervisory authority over the administration of these Rules, shall ~~accredit~~approve courses and programs which satisfy the educational requirements of these Rules, and shall have authority with respect to the following:

(1) Waivers and Extensions. Waivers of strict compliance with these Rules or extensions of time deadlines provided in these Rules may be made in cases of hardship or other compelling reasons.

(2) Supplemental Policies. The Board may make and adopt policies not inconsistent with these Rules governing the conduct of business and performance of its duties.

E. Board Procedures. Robert's Rules of Order shall govern the conduct of Board meetings where practicable.

F. Confidentiality. Unless otherwise directed by ~~this~~the Court, the files, records, and proceedings of the Board, as they may relate to or arise out of any failure of an active ~~attorney~~lawyer to satisfy the continuing legal education requirements, shall be deemed confidential and shall not be disclosed except in furtherance of ~~its~~the Board's duties, or upon request of the ~~attorney~~lawyer affected, or as they may be introduced in evidence or otherwise produced in proceedings in accordance with these Rules.

G. Persons with Disabilities. It is the policy of the Board to administer these Rules in a manner consistent with state and federal laws prohibiting discrimination against persons with disabilities and to make reasonable modifications in any policies, practices, and procedures that might otherwise deny equal access to individuals with disabilities.

H. Payment of Expenses. The ~~e~~Chairperson, the ~~v~~Vice eChairperson and other members of the Board shall serve without compensation, but shall be paid reasonable and necessary expenses certified to have been incurred in the performance of their duties.

Rule 4. Applying for Credit

A. Course Approval and Fee Information. In applying for ~~credit~~course approval, a sponsoring agency or ~~attorney~~lawyer shall submit to the Board an application for course approval (see Appendix I which is incorporated herein) ~~to~~and include the following:

- (1) Title of the program under consideration;
- (2) Location of the program;
- (3) Names and credentials of the speakers, including those of persons designated to act as moderators for ~~video~~tape or satellite programs;
- (4) Type of presentation;
- (5) Agenda or course schedule showing beginning and ending times of each session;
- (6) ~~Identification of~~ Type of credit for which approval is sought (standard-CLE, ethics/professional responsibility-CLE, elimination of bias-CLE, law office management, professional development) for each segment of the course. No segment of any course shall be ~~accredited~~approved in more than one category of credit.
- (7) A fee in the amount of \$35. This fee may be subject to waiver under the provisions of Rule 3(D)(1). A fee is not required when submitting an application for either of the following types of courses meeting Rule 4 and Rule 5 requirements:

(a) a previously ~~accredited~~approved course ~~which~~that has been ~~videotaped~~recorded and is replayed at a later date in its entirety;

(b) a course 60 minutes or less in duration.

(8) Such other information as the Board may ~~from time to time~~ require.

B. Professional Responsibility or Ethics: General Treatment. Every ~~CLE~~application for course approval ~~form~~ must include:

(1) A description of the general treatment of professional responsibility ~~and~~or ethical considerations; or

(2) An explanation of why professional responsibility ~~and~~or ethical considerations are not included.

C. Sanctions for Failure to Include Ethics. If in the opinion of the Board, the general treatment of professional responsibility or legal ethics topics within courses ~~accredited~~approved as standard continuing legal education is inadequate without satisfactory explanation, the Board may refuse to grant full credit for all hours in attendance, impose a deduction from credit hours which would otherwise be granted, and in the case of persistent refusal to cover these topics, refuse to grant further credit for courses offered by the sponsor.

D. Law and Literature. A “law and literature course” that otherwise meets the course approval requirements set forth in Rule 5(A) will be approved for credit if the application for course approval includes the following:

(1) A narrative describing the course learning goals and discussion topics.

(2) Evidence that program registrants are instructed to read the designated literary text prior to attending the course.

No credit will be granted for the time that participants spend reading the designated literary text prior to attending the course.

E. Notice of Credit. The Board shall inform the sponsor or applicant of the number and type of credit hours granted or denied.

Rule 5. Standards for Course Approval

A. General Standards. A course must meet the following standards before approval is granted.

- (1) The course shall have significant intellectual or practical content.
- (2) The course shall deal primarily with matter directly related to the practice of law, ~~or to~~ the professional responsibility or ethical obligations of ~~participants~~ lawyers, ~~or to~~ the elimination of bias in the legal profession and in the practice of law, law office management, or the professional development of lawyers.
- (3) The course shall be taught by faculty members qualified by practical or academic experience to teach the specified subject matter. Legal subjects ~~should~~ shall be taught by lawyers.
- (4) Any written materials should be thorough, high quality, readable, carefully prepared, and distributed to all participants at or before the time the course is offered.
- (5) The course shall be presented and attended in a suitable classroom or laboratory setting. ~~Videotape, motion picture~~ Courses presented via video recording, simultaneous broadcast, teleconference, or audiotape presentations may be ~~used~~ approved provided that a faculty person is in attendance at all presentations, either in person or through live transmission, allowing all ~~seminar~~ participants to hear and participate in the question and answer session. Subject to the exception of paragraph (11) below, no ~~program~~ course will be approved which involves solely ~~TV~~ television or ~~videotape~~ viewing in the home or office, or correspondence work or self-study, including online self-study.
- (6) Credit will not normally be given for speeches at luncheons or banquets.
- (7) A list of all participants shall be maintained by the ~~sponsoring agency~~ course sponsor and transmitted to the Board upon request, following the presentation of the course.
- (8) Credit shall be awarded on the basis of one credit hour for each 60 minutes ~~actually spent in attendance~~ of instruction at an approved course.
- (9) A lawyer shall not receive credit for any course attended before being admitted to practice law in Minnesota, but one so admitted may receive credit of one hour for each 60 minutes actually spent in attendance, for attending for credit or as an auditor, a regular course offered by a law school approved by the American Bar Association.
- (10) Notwithstanding the provisions of paragraph (9) above, a person who takes approved courses or teaches in an approved course after sitting for the Minnesota Bar Examination, but before admission to practice, may claim credit for the courses taken or the teaching done, if he or she passes that bar examination.

(11) Lawyers residing or working outside of the State of Minnesota during the CLE reporting period who, because of nonresidence are unable in good faith to attend courses ~~accredited~~approved as “elimination of bias” as defined in these ~~Rules~~, may receive up to 2 hours of credit in fulfillment of the elimination of bias requirement by viewing a ~~videotaped~~ course or courses that otherwise meet the requirements of these ~~Rules~~. If a lawyer views a ~~videotaped~~ elimination of bias course not previously approved for credit under these ~~Rules~~, the lawyer may seek approval by completing and submitting the Course Approval Form ~~in~~at Appendix ~~H-I~~.

B. Standards for Course Approval for In-House Courses.

(1) An in-house course as defined in Rule ~~2-(M)~~2(M) will be approved if:

(a) The requirements of ~~Board Rule 5-(A)~~5(A) and other applicable ~~Board~~ ~~Rules~~ are met;

(b) 25% of the hours of approved instruction are taught by instructors having no continuing relationship or employment with the sponsoring firm, department, financial institution or agency;

(c) Notice of the course is given to enough outside lawyers so that the audience can potentially be composed of at least 25% participants who are not lawyers working in or for the sponsoring firm, department, institution or agency; and

(d) Approval is sought prior to its presentation.

(2) An in-house course, as defined in Rule ~~2,~~2(M) that is presented and controlled by an established continuing legal education course sponsor as defined in Rule 2(N), may be approved for credit, notwithstanding the fact that the course does not comply with requirements of Rule 5(B)(1)-(b) and (c) above.

(3) An in-house course as defined in Rule 2(M) shall not be approved for credit if it is presented primarily for clients or clients’ counsel.

Rule 6. Special Categories of Credit.

A. Ethics and Professional Responsibility Courses. ~~In order to be approved ethics or professional responsibility under these Rules, Courses~~ or sessions within courses approved as courses in ethics ~~and~~or professional responsibility:

(1) Must be at least 30 minutes in length; and

(2) Must be separately identified as ethics or professional responsibility on the course agenda and on the Course Approval Form at Appendix I.

B. Elimination of Bias Courses in the Legal Profession and in the Practice of Law.

Courses or sessions within courses ~~accredited~~ approved as courses in the elimination of bias in the legal profession and in the practice of law:

- (1) Must be at least ~~sixty~~ (60) minutes in length;
- (2) Must be identified on the ~~Course Approval Form~~ application as fulfilling the elimination of bias requirement and be accompanied by athe narrative required by described in the Course Approval Form at Appendix I of these Rules;
- (3) Must focus on issues in the legal profession and in the practice of law and not ~~upon~~ issues of bias in society in general; and
- (4) Must not include courses on the substantive law of illegal discrimination unless such courses meet one or more of the Goals learning goals for ~~the E~~ elimination of B bias as courses set forth in the Course Approval Form at Appendix I.

C. Law Office Management. A lawyer may receive credit for attendance at a course on law office management, which includes the topics of mentoring, staff development, and technology related to law office management, up to a maximum of six 6 credits hours per reporting period. The course must be submitted for ~~review~~ approval pursuant to Rule 54. Law office management courses that specifically address elimination of bias in the law office or in the practice of law may be ~~accredited~~ approved instead as courses in the elimination of bias ~~elimination of bias CLE~~ and when so designated are not subject to the 6-hour maximum on law office management courses.

Rule 7. Other Credit

A. Teaching Credit. Credit for teaching in an approved course shall be awarded to presenting faculty on the basis of one credit for each 60 minutes spent by the faculty preparing the presentation and materials for the course and teaching the course. No credit shall be awarded for teaching directed primarily to persons preparing for admission to practice law. A lawyer seeking credit for teaching and preparation for teaching shall submit all information called for on the Affidavit of CLE Compliance at Appendix II.

B. Courses at Universities. Courses ~~which~~ that are part of a regular curriculum at a college or university, other than a law school, may be approved for a maximum of 15 hours per course when the lawyer requesting approval submits evidence supporting the conclusion that the course meets the Rule 5(A)(1) through (5) criteria and that it is directly related to the requesting lawyer's practice of law.

C. Retroactive Credit. A lawyer, or a course sponsor, may seek retroactive approval of courses by submitting the necessary information on the Course Approval ~~f~~Form at Appendix I.

Rule 8. Announcement of Approval

Any person may announce, as to ~~an approved~~ course ~~that has been given approval that:~~ “This course has been approved by the Minnesota State Board of Continuing Legal Education for _____ hours in the following category or categories of credit:

- standard continuing legal education;
- ethics or professional responsibility continuing legal education; ~~or~~
- elimination of bias continuing legal education; ~~or~~
- law office management continuing legal education.

Rule 9. Affidavit of ~~Continuing Education~~ CLE Compliance

A. Contents of Affidavit. To maintain active status, a lawyer must submit ~~a written affidavit to the Board on the affidavit form published as an Affidavit of CLE Compliance (see Appendix II) and incorporated herein,~~ setting forth all information called for and showing that the lawyer has completed a minimum of 45 credit hours of course work either as a participant or a presenter in approved continuing legal education courses, including:

- (1) no fewer than ~~three~~ (3) hours of courses ~~in ethics and/or professional responsibility education; and~~
- (2) no fewer than ~~two~~ (2) hours of courses in the elimination of bias in the legal profession and in the practice of law; and
- (3) no more than 6 hours of courses in law office management.

B. Timely Affidavit. The affidavit is timely if filed not later than 60 days after the close of the 3-year period specified by the Office of Attorney Registration as the lawyer’s continuing legal education reporting period.

C. Late Affidavit Fee. ~~The~~A lawyer who submits an Affidavit of CLE Compliance after the 60-day filing period, but before issuance of a ~~N~~notice of Noncompliance, shall submit along with the late affidavit a late filing fee in the amount of \$50.00. This fee is payable notwithstanding the Board’s grant of an extension of time ~~to file.~~ Additional late fees will not be charged for late affidavits filed within a single reporting period.

D. Notice of Noncompliance Fee. ~~The~~A lawyer who submits an ~~a~~Affidavit of CLE Compliance after the issuance of a ~~N~~notice of ~~N~~noncompliance, but prior to the issuance of a Court order placing the lawyer on involuntary restricted status, shall submit along with the affidavit a fee in the amount of \$100.

Rule 10. Director's Determinations and Board Review

A. Director's Determinations. The Director shall have the following authority and responsibility:

- (1) To respond in writing to written requests for approval of courses giving reasons for the determination;
- (2) To grant credit to lawyers for attending or teaching ~~in~~ approved courses;
- (3) To grant or deny requests for transfer, waiver, extension of time deadlines or interpretation of these Rules; and
- (4) To inform the Board about determinations made since the Board's last meeting, together with observations and comments relating to matters under the Board's jurisdiction.

B. Board Review. A lawyer or sponsoring agency affected by an adverse determination of the Director may request Board review of the determination and may present information to the Board in writing and in person. The Board may take such action as it deems appropriate and shall advise the lawyer or sponsoring agency of its determination.

Rule 11. Notice of Noncompliance

A. Notice Required. The Director shall send a notice of noncompliance to any lawyer who:

- (1) Fails to meet the requirements of these Rules; and
- (2) Fails to request and obtain an extension of time in which to file ~~a report~~an Affidavit of CLE Compliance as required by these Rules.

B. Service of Notice. The notice shall be sent by regular mail to the lawyer's last known address.

C. Contents of Notice. The notice shall state the nature of the noncompliance and shall inform the lawyer of the right to request a hearing within 30 days of the mailing of the

notice, the right to be represented by counsel, and the right to present witnesses and evidence.

D. Effect of Notice. If no hearing is requested, the Director's determination of noncompliance shall become final and shall be reported to the ~~Supreme~~ Court with the recommendation that the lawyer be placed on ~~CLE~~ involuntary restricted status.

E. Board Hearing. If a hearing is requested, the following ~~will~~ apply:

- (1) The Board may employ special counsel;
- (2) The Chairperson shall preside at the hearing, which may be held before the entire Board or a committee appointed by the Chairperson, and shall make necessary rulings; and
- (3) The hearing shall be recorded and a transcript shall be provided to the lawyer at a reasonable cost.

F. ~~Determination~~Decision. Following the hearing, the Board shall issue a written decision. If the lawyer is determined to be in noncompliance with these Rules, the Board may recommend to the ~~Supreme~~ Court that the lawyer's license be placed on ~~CLE~~ involuntary restricted status or take ~~such action as is appropriate~~ other appropriate action.

G. Petition for Review. A lawyer who is adversely affected by the decision of the Board may appeal to the Court by filing a petition for review with the Clerk of Appellate Courts within 20 days of receipt by the lawyer of the decision together with proof of service of the petition on the Director ~~of the Board~~. The petition shall state briefly the facts that form the basis for the ~~complaint~~ petition and the lawyer's reasons for believing the Court should review the decision. Within 20 days of service of the petition, the Board shall serve and file a response to the petition and a copy of the final decision of the Board. Thereupon, the Court shall give such direction, hold such hearings and ~~make~~ issue such orders as it may in its discretion deem appropriate.

Rule 12. Restricted and Involuntary Restricted Status.

A. Election of Restricted Status; ~~Restrictions Imposed.~~ A lawyer duly admitted to practice in this state may elect ~~CLE~~ restricted status as defined in Rule 2(K) by sending written notice of such election to the Director, except that a referee or judicial officer of any court of record of the State of Minnesota or lawyer employed and serving as attorney or legal counsel for any employer, including any governmental unit of the State of Minnesota, is not eligible to apply for restricted status. A lawyer on restricted ~~CLE~~ status shall not be required to satisfy the educational and reporting requirements ~~provided by~~ of these rRules, and shall be subject to the following provisions and restrictions:

B. Restrictions Imposed. A lawyer on restricted or involuntary restricted status shall be subject to the following provisions and restrictions:

(1) ~~A~~The lawyer ~~on restricted status~~ may not engage in the practice of law or represent any person or entity in any legal matter or proceedings within the State of Minnesota other than himself or herself.

(2) The name of ~~a~~the lawyer ~~on restricted status~~ may not appear on law firm letterhead without a qualification that the lawyer's Minnesota license is restricted. A law firm name may continue to include the lawyer's name if the name was included prior to the lawyer's placement on restricted ~~status~~or involuntary restricted status. ~~A restricted~~The lawyer may not be listed "of counsel" or otherwise be represented to clients or others as being able to undertake legal business.

(3) ~~A restricted~~The lawyer may not have a financial interest in a law firm that is a professional corporation.

~~(4) A referee or judicial officer of any court of record of the State of Minnesota or lawyer employed and serving as attorney or legal counsel for any employer, including any governmental unit of the State of Minnesota, is not eligible to apply for restricted status.~~

~~(5)~~(4) A ~~restricted~~ lawyer on restricted status shall be issued a wallet license that is marked "CLER" ("continuing legal education restricted") in place of the reporting category; a lawyer on involuntary restricted status shall be issued a wallet license that is marked "CLE4."

B.C. Transfer from Restricted Status to Active Status.

(1) **Notice to Director and Fee.** Unless otherwise ordered by ~~the~~the Court, a lawyer on restricted ~~CLE~~ status who desires to resume active ~~CLE~~ status shall notify the Director in writing of the lawyer's intention to resume active ~~CLE~~ status; and submit a transfer fee of \$125.

(2) **Transfer Requirements.** A lawyer on restricted ~~CLE~~ status ~~who submits a notice and fee for transfer to active CLE status~~ shall be transferred to active status upon the Director's determination that the lawyer has fulfilled the requirements of (a) or (b) below:

(a) **Automatic transfer requirements.** The lawyer has completed the number of CLE hours that the lawyer would have had to complete to meet reporting

requirements and to be current on a proportional basis had the lawyer not been on restricted status, or

(b) Discretionary transfer requirements. The lawyer has completed such lesser requirements as the Director determines are adequate provided that the number of hours completed total no fewer than 45 hours during the ~~three~~ 3 years immediately preceding transfer. The Director will specify no more than 90 hours. Determinations will be made subject to the criteria set forth in paragraph (c) below.

(c) Discretionary transfer criteria. The Director may transfer a lawyer to active status when the lawyer has fulfilled appropriate CLE conditions precedent or agreed to fulfill appropriate CLE conditions subsequent as determined by the Director. In making discretionary transfer decisions, the Director will take the following into consideration:

- i.** The number of CLE hours the lawyer has taken in the past;
- ii.** The lawyer's other educational activity, ~~and its nature~~;
- iii.** The lawyer's practice of law in another jurisdiction;
- iv.** The lawyer's law-related work other than the practice of law, ~~and its nature~~;
- v.** Whether the lawyer acted reasonably in not anticipating the need to take the appropriate number of CLE hours before being transferred from active status; and
- vi.** Whether the lawyer has demonstrated circumstances of hardship or other compelling reasons that show that the lawyer should be transferred to active status ~~temporarily~~ before completing the appropriate number of CLE hours.

(3) Report to the Board. The Director shall report to the Board at its next meeting the terms and conditions upon which transfers to active status were made.

(4) Failure to Abide by Transfer Conditions. ~~The~~A lawyer who fails to comply with the conditions of transfer shall be restored to restricted status upon notice from the Director sent by regular mail to the lawyer's last known address.

(5) Appeal to the Board. Upon written request from the lawyer, the Board shall review the Director's determination of transfer requirements and notify the lawyer in writing regarding the outcome of that review.

B.D. Transfer from Involuntary Restricted Status to Active Status.

(1) Notice to Director and Fee. Unless otherwise ordered by the Court, a lawyer on involuntary restricted status who desires to resume active status shall notify the Director in writing of the lawyer's intention to resume active status and submit a transfer fee of \$125.

(2) Transfer Requirements. Unless otherwise ordered by the Court, the Director shall recommend to the Court that a lawyer on involuntary restricted status be transferred to active status upon the Director's determination that the lawyer has completed the number of CLE hours that the lawyer would have had to complete to meet reporting requirements and to be current on a proportional basis had the lawyer not been placed on involuntary restricted status, or that the lawyer has completed such lesser requirements as the Director determines are adequate provided that the number of hours completed total no fewer than 45 hours during the 3 years immediately preceding transfer. The Director will specify no more than 90 hours. The Director may recommend to the Court that a lawyer on involuntary restricted status be transferred to active status when the lawyer has fulfilled appropriate CLE conditions precedent or agreed to fulfill appropriate CLE conditions subsequent as determined by the Director. In making such a recommendation, the Director will take into consideration the discretionary transfer criteria in section (C)(2)(c) of this Rule.

(3) Appeal to the Board. Upon written request from a lawyer, the Board shall review the Director's determination of transfer requirements and notify the lawyer in writing regarding the outcome of that review.

Rule 13. Transfer from Retired Status to Active Status.

A lawyer on retired status who seeks to transfer to active status is subject to the provisions of Rule 12 and shall notify the Office of Attorney Registration of his/her intention to transfer to active status.