

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8008

**FILED**

September 14, 2015

**OFFICE OF  
APPELLATE COURTS**

**ORDER ESTABLISHING DEADLINE FOR SUBMITTING COMMENTS  
ON PROPOSED AMENDMENTS TO THE RULES OF THE  
MINNESOTA STATE BOARD OF CONTINUING LEGAL EDUCATION**

The Minnesota State Board of Continuing Legal Education (CLE Board) and the Minnesota State Bar Association have jointly petitioned the court to amend the Rules of the CLE Board regarding the credits available for attendance at courses on law office management. The petition and the proposed amendments to the CLE rules are attached to this order. The court will consider the petition and proposed amendments after soliciting and reviewing comments on the proposed amendments.

IT IS HEREBY ORDERED that any individual wishing to provide written comments in support of or opposition to the proposed amendments to the Rules of the Minnesota State Board of Continuing Legal Education shall file an original and one copy of those comments with AnnMarie O'Neill, Clerk of the Appellate Courts, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155, so as to be received no later than November 13, 2015.

Dated: September 14, 2015

BY THE COURT:



Lorie S. Gildea  
Chief Justice

**STATE OF MINNESOTA  
In Supreme Court**

**FILE NO. ADM-09-8008**

**FILED**

June 29, 2015

**OFFICE OF  
APPELLATE COURTS**

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**Petition of the Minnesota State Board  
of Continuing Legal Education and the  
Minnesota State Bar Association to Amend  
the Rules for Continuing Legal Education**

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**JOINT PETITION FOR  
RULE AMENDMENT**

**TO: THE HONORABLE JUSTICES OF THE MINNESOTA SUPREME COURT:**

Petitioners, the Minnesota State Board of Continuing Legal Education (“Board”) and the Minnesota State Bar Association (MSBA), respectfully petition this Court to amend the Rules for Continuing Legal Education (“Rules”). In support of its Petition, the parties assert the following:

1. The Minnesota Supreme Court has the exclusive and inherent power to regulate the practice of law in Minnesota. Minn. Stat. §481.01 (2015).
2. Under the supervision of the Court, the Board is responsible for ensuring that lawyers who are admitted to the Bar in Minnesota continue their legal education and professional development throughout their active practice of law.
3. The MSBA is a voluntary organization of bar members that is committed to furthering the administration of justice and professional development of attorneys practicing in Minnesota.

## THE HISTORY OF LAW OFFICE MANAGEMENT CREDIT AND OTHER SPECIAL CLE CREDIT TYPES

4. Rule 6 of the Rules of the Minnesota State Board of Continuing Legal Education defines "Special Categories of Credit." Rule 6C states that a lawyer may obtain credit for attendance at a course on law office management but limits the number of law office management credits a lawyer may claim to six credit hours per three-year reporting period.
5. Petitioners recommend that the Court eliminate the six hour credit cap on law office management courses and define law office management credit in Rule 2, the rule where other terms are defined.
6. Since the inception of the CLE requirement in Minnesota in 1975, the Board has endeavored to approve any course that meets the rule definitions. The late John Byron of Fredrikson & Byron, the first chair of the Board of Continuing Legal Education, interpreted the course approval standards to require that any course that is "by lawyers, for lawyers, and about the law" should be approved for CLE credit.<sup>1</sup> With minor exceptions, this interpretation is accurate today.
7. In 1982, the Court modified the Rules so that CLE credit could be given for law office management courses and courses that educate lawyers on the use of computer-aided research. The number of credits per three-year reporting period was capped at six hours.
8. On February 1, 2004, the Court modified the Rules to permit credit for professional development courses, as defined in Rule 2V:

"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

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<sup>1</sup> *For the Record, 150 Years of Law & Lawyers in Minnesota*. Minnesota State Bar Association, 1999

gambling addiction. Professional development courses do not include individual or group therapy sessions.

9. The Court did not place a cap on the number of credits that could be obtained in the professional development category.
10. The CLE Board studied the number of professional development credits reported by lawyers and on February 1, 2008, filed its report with the Court detailing its findings. The report found that the professional development credits reported by lawyers comprised only a small fraction of the total CLE credits reported. The report concluded that professional development courses had not negatively impacted the number or type of substantive law courses presented by course sponsors or attended by lawyers.

#### **MINNESOTA STATE BAR ASSOCIATION ACTIONS REGARDING LAW OFFICE MANAGEMENT CREDIT**

11. The MSBA's Practice Management and Marketing Section (Section) has a long-standing interest in law office management CLE credit. In 2003, the Section filed comments with the Court opposing the limitation on the number of allowable law office management credits. In 2014, Shaun Jamison, a former chair and current member of the Section, undertook an extensive study of CLE credits and recommended removing restrictions on law office management credits in order to address rapid change in the legal field.
12. In October of 2014, the Section filed a recommendation and report requesting the MSBA support filing a joint petition with the Board asking for removal of the cap on law office management credits.
13. The Section's recommendation was heard and approved by the MSBA's General Policy Committee on November 19, 2014, and forwarded to the MSBA Assembly for Action.

14. On December 12, 2014, the MSBA Assembly approved the recommendation, voting to file a joint petition with the Board.

#### **RATIONALE FOR JOINT RECOMMENDATION FOR RULE AMENDMENTS REMOVING THE CAP ON THE NUMBER OF CREDITS FOR LAW OFFICE MANAGEMENT COURSES**

15. The Board and MSBA agree that law office management courses are as likely to enhance a lawyer's knowledge about how to practice law as are courses that are not subject to a credit cap.
16. CLE Rule 1 states the following with regard to why lawyers are required to attend CLE courses:

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.

17. When law office management was first introduced in 1982, the topic included courses to educate lawyers about matters such as preventing comingling of office and client funds, ensuring statutes of limitations were not missed, and setting up office docketing systems.<sup>2</sup>
18. These same topics are of importance today. In addition, the subject matter taught in approved law office management courses includes topics such as advanced legal research, social media for lawyers, litigation solutions (from Westlaw), legal accounting, practice management and workload control. Law office management topics often have ethical implications. For example, a course on automated office

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<sup>2</sup> Id.

accounting systems addresses the ethical obligations of lawyers to segregate funds. Such topics are directly related to the efficient and effective operation of a law practice, and thus benefit attorneys as well as clients.

19. In 2014, the Board approved a total of 12,620 courses in all credit types. Only 440 (3.4%) of those courses received law office management credit in whole or in part.
20. Of the 7,160 lawyers who reported compliance in 2014, 2,079 (29%) reported at least a quarter hour of law office management credits. A total of 432 attorneys (6%) reported reaching the six credit cap on law office management courses. Of those who reported having reached the law office management cap, more than half reported having attended more than 51 credits of CLE programming.
21. The Board does not anticipate that eliminating the cap on law office management courses will cause lawyers to neglect substantive law courses or take an excessive number of law office management courses.
22. Should the Court amend the CLE Rules to permit lawyers to take more than six hours of law office management credits, such an action would be consistent with the purpose of CLE as stated in Rule 1. In the modern law office, the obligations of a practicing lawyer require significant knowledge about communicating with clients, the courts and others using various forms of technology, including docketing systems and other time management platforms. The management of the law office is integral to the quality of the legal service that a lawyer is able to render. Law office management courses are an effective way to encourage attorneys to maintain their knowledge of the latest management systems.

**ELIMINATION OF LAW OFFICE MANAGEMENT AS A SPECIAL CATEGORY  
(RULES 2Y, 4A(7), 6C, 8 and 9B)**

23. Petitioners propose to move the definition of “law office management” from Rule 6C and include it in Rule 2, and strike paragraphs (d) and (e) from Rule 6C, necessitating the renumbering of Rule 6D. Amended Rule 2Y would state as follows:

“Law office management course” is a course or session within a course designed to enhance the efficient and effective management of the law office by addressing topics of mentoring, staff development and technology related to a law office.

24. The Board also proposes to amend Rule 4A(7) as follows to clarify that both law office management and professional development are included as standard credit. Rule 4A(7) would state as follows:

(7) For each segment of the course, credit may be requested in one of the following categories:

- (a) standard, including law office management and professional development
- (b) ethics and/or professional responsibility
- (c) elimination of bias
- ~~(d) law office management;~~
- ~~(e) professional development~~

25. The Board recommends the following amendment to Rule 8, the rule governing announcements of course approval, to remove law office management:

Any person may announce as to an approved course: This course has been approved by the Minnesota State Board of Continuing Legal Education for \_\_\_ hours in the following category or categories of credit:

- (a) standard continuing legal education;
- (b) ethics or professional responsibility continuing legal education; or
- (c) elimination of bias continuing legal education; or
- ~~(d) law office management continuing legal education.~~

26. Rule 9, which describes how to complete the affidavit of CLE compliance, should also be modified to delete the reference to the cap on the number of law office

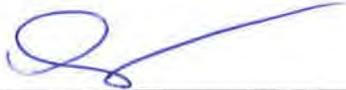
management course hours a lawyer may claim. Rule 9B should also be amended and renumbered as follows:

**Rule 9B. Special Categories of Credit.** Lawyers must report:

- (1) no fewer than 3 hours of approved courses in ethics or professional responsibility;
- (2) no fewer than 2 hours of approved courses in the elimination of bias in the legal profession and in the practice of law;
- (3) ~~no more than 6 hours of approved courses in law office management;~~\_\_\_\_\_and
- (4) no more than 6 hours of credit for pro bono legal representation provided pursuant to Rule 6D and reported by Appendix II, and
- (5) (4) no more than 15 hours of credit for on-demand courses.

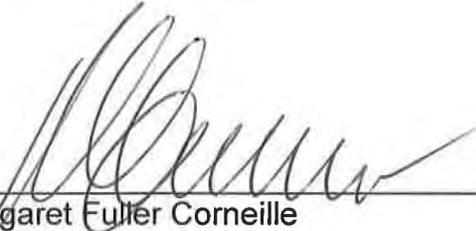
Petitioners respectfully request that the Court amend the current Rules of the Board of Continuing Legal Education and adopt the proposed amended Rules, attached to this Petition as Exhibit A.

Dated: 6/22/15



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Daniel R. Kelly  
Chair  
Minnesota State Board of Continuing Legal Education  
180 E. 5<sup>th</sup> Street, #950  
St. Paul, MN 55101  
Attorney No. 0247674



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Margaret Fuller Corneille  
Director  
Attorney No. 0179334  
Emily Eschweiler  
Assistant Director  
Attorney No. 0320523  
Minnesota State Board of Law Examiners  
180 E. 5<sup>th</sup> Street, #950  
St. Paul, MN 55101  
(651) 297-1857



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Richard H. Kyle, Jr.  
President, Minnesota State Bar Association  
Fredrikson & Byron, P.A.  
200 South Sixth Street, Suite 4000  
Minneapolis MN 55402-1425  
(612) 492-7333  
Attorney No. 0207676

**RULES OF THE MINNESOTA STATE BOARD  
OF CONTINUING LEGAL EDUCATION**

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**Rule 2. Definitions**

In these Rules,

\* \* \*

Y. "Law office management course" means a course or session within a course designed to enhance the efficient and effective management of the law office by addressing topics of mentoring, staff development, and technology related to a law office.

\* \* \*

**Rule 4. Applying for Credit**

**A. Course Approval and Fee Information.** No segment of any course shall be approved in more than one credit category. In applying for course approval, a sponsoring agency or lawyer shall submit to the Board an application for course approval (see Appendix I) and include the following:

\* \* \*

(7) For each segment of the course, credit may be requested in one of the following categories:

- (a) standard, including law office management and professional development
- (b) ethics and/or professional responsibility
- (c) elimination of bias
- ~~(d) law office management~~
- ~~(e) professional development.~~

\* \* \*

**Rule 6. Special Categories of Credit**

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~~**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 6 credit hours per reporting period. The course must be submitted for approval pursuant to Rule 4. Law office management courses that specifically address elimination of bias in the law office or in the practice of law may be~~

~~approved instead as courses in the elimination of bias and when so designated are not subject to the 6-hour maximum on law office management courses.~~

**D C. Pro Bono Legal Representation.** A lawyer may claim 1 hour of standard CLE credit for every 6 hours of pro bono legal representation that the lawyer provides to a pro bono client in a legal matter that has been referred to the lawyer by an approved legal services provider or by a Minnesota Judicial Branch program. No more than 6 hours of credit may be claimed per reporting period by a lawyer for pro bono legal representation. In order to receive CLE credit the lawyer must submit an Affidavit of Pro Bono Representation to the Board (see Appendix II).

**E D. On-Demand Courses. \* \* \***

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### **Rule 8. Announcement of Approval**

Any person may announce, as to an approved course: This course has been approved by the Minnesota State Board of Continuing Legal Education for \_\_\_\_\_ hours in the following category or categories of credit:

- (a) standard continuing legal education;
- (b) ethics or professional responsibility continuing legal education; or
- (c) elimination of bias continuing legal education; or
- ~~(d) law office management continuing legal education.~~

### **Rule 9. Affidavit of CLE Compliance**

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**B. Special Categories of Credit.** Lawyers must report:

- (1) no fewer than 3 hours of approved courses in ethics or professional responsibility;
- (2) no fewer than 2 hours of approved courses in the elimination of bias in the legal profession and in the practice of law;
- ~~(3) no more than 6 hours of approved courses in law office management; and~~
- ~~(4) no more than 6 hours of credit for pro bono legal representation provided pursuant to Rule 6D and reported by Appendix II, and~~
- ~~(5) (4) no more than 15 hours of credit for on-demand courses.~~

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