

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ORDER AMENDING THE RULES §
GOVERNING CONTINUING §
LEGAL EDUCATION §

§

Before **SEITZ**, Chief Justice; **VALIHURA**, **TRAYNOR**, **LEGROW**, and **GRIFFITHS**, Justices, constituting the Court *en Banc*.

ORDER

This 30th day of September 2024, it appears to the Court that:

WHEREAS, the Supreme Court of the State of Delaware has determined that it is in the best interest of the public and the administration of justice that Delaware attorneys and judicial officers maintain the knowledge and skill necessary to fulfill their professional responsibilities and maintain their international reputation of professionalism and competence by engaging in continuing legal education;

WHEREAS, in furtherance of that purpose, the Court previously adopted the Delaware Rules for Continuing Legal Education (the “CLE Rules”), which set forth the requirements for continuing legal education and established the Commission on Continuing Legal Education (the “Commission”) as an Arm of the Court to assist in the implementation, interpretation, and enforcement of the CLE Rules;

WHEREAS, the CLE Rules require non-senior attorneys and judicial officers to complete a minimum of twenty-four approved CLE credit hours during each two-year period, at least twelve of which must be earned by attending, in person, live

courses that are also attended by attorneys from other organizations, and at least four of which must provide instruction on ethics and professionalism;

WHEREAS, the CLE Rules require senior attorneys and judicial officers to complete a minimum of twelve approved CLE credit hours during each two-year period, at least six of which must be earned by attending, in person, live courses that are also attended by attorneys from other organizations, and at least two of which must provide instruction on ethics and professionalism;

WHEREAS, the Commission currently oversees CLE compliance as to almost 6000 attorneys and judicial officers;

WHEREAS, failure to complete the CLE requirements by the end of the two-year compliance period undermines the purposes of the continuing legal education requirement, places a significant administrative burden on the Commission, and increases the likelihood that the noncompliant person will be noncompliant in the next compliance period;

WHEREAS, the current CLE Rules establish verification deadlines that are misaligned with the deadlines for the attorney annual registration process;

WHEREAS, the Court has determined that it will further the purposes of the CLE Rules to amend the rules governing verification of CLE compliance and enforcement of such compliance;

WHEREAS, the Court has determined that certain activities other than traditional CLE programs further the purposes of the CLE Rules and warrant the awarding of CLE credits, and that the types of such activities for which the Commission may award CLE credit should be expanded;

WHEREAS, in an order dated September 16, 2024, the Court adopted amendments to CLE Rules (the “September 16 Order”);

WHEREAS, the Court has determined that the September 16 Order (i) inadvertently shortened the time provided for newly admitted attorneys to complete the series of “Fundamentals” courses, and (ii) left in place rules providing for certain applications for credit to be submitted to the Commission on paper forms, rather than through the Delaware Supreme Court Lawyer Management System;

WHEREAS, the effective date of the September 16 Order was November 1, 2024, and the amendments therefore have not yet taken effect;

NOW, THEREFORE, IT IS ORDERED that:

- (1) The September 16 Order is VACATED and replaced with this order.
- (2) The Delaware Rules for Continuing Legal Education shall be amended to add the underlined text and to delete the strikethrough text as set forth in the attached Exhibit A. The new CLE Rules, as amended, are set forth in the attached Exhibit B.

(3) Delaware Supreme Court Rule 55.4(g)(2)(A)-(C) shall be amended to add the underlined text and to delete the strikethrough text as follows:

(A) Attendance at a Fundamentals of Lawyer-Client Relations course offered by the Delaware State Bar Association;

(B) Attendance at a Fundamentals of Law Practice Management and Technology course offered by the Delaware State Bar Association; and

(C) Attendance at any two of the following Fundamentals courses offered by the Delaware State Bar Association:

(i) Fundamentals of Civil Litigation;

(ii) Fundamentals of Criminal Law and Procedure;

(iii) Fundamentals of Family Law;

(iv) Fundamentals of Real Estate; or

(v) Fundamentals of Will Drafting and Estate Administration.

(4) Delaware Supreme Court Rules 69 and 70 shall be amended to add the underlined text and to delete the strikethrough text as set forth in the attached Exhibit C.

(5) The amendments are effective November 1, 2024; provided that, to allow attorneys sufficient time to understand and comply with the revised rules, the delinquency fees and administrative suspension for noncompliance set forth in amended CLE Rule 5(B)-(D) shall not apply to attorneys who are required to complete their CLE requirements by December 31, 2024. Instead, delinquency fees for such attorneys shall be assessed as follows:

(a) On or about March 15, 2025, the Commission shall send a Notice of Noncompliance to each attorney admitted to the Delaware Bar

in an even-numbered year who did not (i) complete the required CLE credits by December 31, 2024, and (ii) verify such completion by March 1, 2025 (a “2024 Noncompliant Attorney”).

(b) The 2024 Noncompliant Attorney may cure the noncompliance by completing the required credits and submitting proof of completion to the Commission by May 15, 2025. A 2024 Noncompliant Attorney who does not cure the noncompliance by May 15, 2025, shall be assessed a \$300 delinquency fee, plus \$10 per business day thereafter until the attorney submits proof of completion of the required credits to the Commission.

(6) The Clerk of this Court is directed to transmit a certified copy of this order to the clerk for each trial court in each county.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice

EXHIBIT A

The Delaware Rules for Continuing Legal Education

Rule 1. Purpose.

The Supreme Court of the State of Delaware has determined it is in the best interest of the public and the administration of justice that members of the Delaware Bench and Bar maintain their international reputation of professionalism and competence through continuing legal education. These Rules establish the expectations of the Court for the process of continuing legal education and establish a Commission to assist in their implementation, interpretation, and enforcement.

Rule 2. Definitions.

~~(A)~~ “Accredited sponsor” means an organization whose entire continuing legal education program has been accredited by the Commission;

~~(B)~~~~(A)~~ “Attorney” means any member of the Bar of the Delaware Supreme Court, excluding judicial officers;

~~(C)~~~~(B)~~ “CLE” means ~~Continuing Legal Education~~; continuing legal education.

~~(D)~~~~(C)~~ “Commission” means the Commission on Continuing Legal Education;

~~(E)~~~~(D)~~ “Compliance Year” means the year in which the Attorney reaches the December 31 ~~reporting~~ deadline; for completing CLE credits as provided in Rule 5(A).

~~(F)~~~~(E)~~ “Court” means the Supreme Court of the State of Delaware;

~~(G)~~ “DSBA” means the Delaware State Bar Association;

~~(H)~~~~(F)~~ “Enhanced Ethics” means both legal and judicial ethics. It also means professionalism, which is a broader concept embodying an attitude and a dedication to ethics, civility, skill, businesslike practices, such as competence in the use of technology, and a focus on service, which encompasses obligations to other Attorneys, obligations toward legal institutions, and obligations to the public whose interests Attorneys must serve;

~~(G)~~ “Executive Director” means the Executive Director of the Commission on Continuing Legal Education.

~~(H)~~~~(H)~~ “Fundamentals Program” means the series of basic courses in legal practice, ~~the subjects of which the Commission will establish~~; that newly admitted Attorneys must complete as provided in Rule 4(D).

~~(I)~~~~(I)~~ “In-House Program” means a continuing legal education activity sponsored by a law firm, corporation, governmental agency, or similar entity for the education of its employees or members;

~~(K)~~~~(J)~~ “Judicial Commissioner” means the judicial representative on the Commission under Rule 3(A);

~~(L)~~~~(K)~~ “Judicial Officer” means any member of the Bar of the Delaware Supreme Court appointed to serve as a judge, commissioner, ~~master~~magistrate in chancery, or justice of the peace on a Delaware state court;

~~(M)~~~~(L)~~ “Senior Attorney” means every Attorney who has been a member in good standing of the Bar of the Supreme Court in any State and in-state or the District of Columbia ~~in good standing~~ for 40 or

more years. ~~An~~The Senior Attorney ~~who has been a member of another state's bar~~ has the burden of verifying ~~the 40 or more years~~such status to the satisfaction of the Commission.

~~(N)~~(M) “Transcript” means the ~~report prescribed~~record of an Attorney’s completed CLE activities maintained by ~~Rule 5 for verification compliance~~the Commission.

~~(O)~~(N) “Uniform Application” means the Uniform Application for the Accreditation of a Continuing Legal Education Activity as approved by the Continuing Legal Education Regulators Association (CLEreg~~);~~).

~~(P)~~ “Verification Year” means ~~the year in which the Attorney must verify the accuracy of the CLE transcript.~~

Rule 3. Commission on Continuing Legal Education.

(A) *Commission Members:* The Commission on Continuing Legal Education is established and shall consist of 7 members appointed by the ~~Supreme~~ Court for a term of 3 years. The terms shall be staggered so that no more than 3 members’ terms shall end in the same year. The ~~7~~ members of the Commission shall include ~~at least one member of the judiciary and a lawyer~~an Attorney from each county and at least one Judicial Officer. The Commission members shall serve without compensation. Four voting members shall constitute a quorum at any meeting.

(B) *Officers:* The Court shall appoint 1 member of the Commission as Chair and 1 member as Vice Chair. The Executive Director of the Commission shall serve as Secretary.

(C) *Executive Director:* The Executive Director shall be selected and employed by the Court.

(D) *Ex-Officio Members:* The following shall serve as ex-officio members of the Commission; but shall have no vote: ~~The~~the Supreme Court Administrator or the Administrator’s designee, the Executive Director of the Commission, and the Executive Director and the Director of Continuing Legal Education of the ~~DSBA, the Dean of Widener University Delaware Law School or the Dean’s designee, and the Executive Director of the Commission~~State Bar Association.

(E) *Powers and Duties:* In addition to administering and interpreting these Rules, the Commission shall be responsible for:

- (1) ~~Managing~~Monitoring the availability of quality continuing legal educational courses and activities to members of the Bench and Bar;
- (2) Determining the number of credit hours to be allowed for any continuing legal educational course or activity;
- (3) Producing the Court’s annual Pre-Admission Conference;
- (4) Approving the curriculum for Fundamentals courses offered ~~pursuant to~~under these Rules and providing guidance for the creation of these courses;
- (5) Providing policy statements regarding courses, activities, credits, and the interpretation of these Rules;
- (6) Recommending to the Court an assessment to be paid by Attorneys concurrently with the annual registration required by Supreme Court Rule 69;
- (7) Publishing a schedule of fees to be charged to organizations sponsoring continuing legal education programs as a condition of accreditation for attendees to receive Delaware continuing legal education credit; and
- (8) Reporting annually to the Court on the activities of the Commission.

Rule 4. Educational Requirements.

(A) *Attorneys Generally*: Each Attorney shall complete a minimum of 24 approved CLE credit hours during each two-year period. At least 12 of those credits must be earned by attending, in person, live CLE ~~approved courses also attended by other lawyers from other law firms, organizations or governmental agencies (It is the intent of this requirement that each lawyer have the opportunity to interact with other lawyers from other organizations during the CLE activity).~~ approved courses at which lawyers from other organizations are also in attendance or by engaging in other in-person activities that warrant such credit in the Commission's discretion. In addition, during the two-year period, at least 4 of the 24 approved CLE credit hours shall consist of approved ~~Enhanced~~ Ethics credits. If ~~more than 24 approved an Attorney has earned excess~~ CLE credit hours ~~have been earned during the two-year period~~, up to 20 ~~of the excess~~ such hours may be carried forward and applied to the requirement for the next two-year period. ~~Enhanced~~ Ethics credits ~~cannot may not~~ be carried forward as ~~Enhanced~~ Ethics credits, but may be carried forward as general CLE credits.

(B) *Judicial Officers*: Judicial Officers shall comply with the ~~Educational Requirements~~ educational requirements of Rule 4(A) or 4(C), as ~~appropriate, applicable~~ based on years admitted to the Bar ~~as outlined in Rule 2(M).~~

(1) Compliance with these requirements shall be considered as the maintenance of professional competence in accordance with Rule 2.2 of the Delaware Judges' Code of Judicial Conduct.

(2) If, in the sole judgment of the Judicial Commissioner, any Judicial Officer fails satisfactorily to comply with these Rules in any respect, the Judicial Commissioner shall take such action as the Judicial Commissioner deems appropriate to induce compliance. If compliance satisfactory to the Judicial Commissioner is not obtained, the Judicial Commissioner shall refer the matter to the Chief Justice for appropriate action to induce compliance.

(C) *Senior Attorneys*: Senior Attorneys shall ~~be subject to these Rules, except that the number of hours required of a Senior Attorney shall be 12~~ complete a minimum of 12 approved CLE credit hours during each two-year period, ~~of which a minimum of 2 hours shall be from instruction in Enhanced Ethics.~~ At least 6 of those credits must be earned by attending, in person, live CLE ~~approved courses also attended by at which~~ lawyers ~~from other organizations from other law firms, organizations or governmental agencies are~~ also in attendance or by engaging in other in-person activities that warrant such credit in the Commission's discretion. In addition, during the two-year period, at least 2 of the 12 approved CLE credit hours shall consist of approved Ethics credits. If a Senior Attorney has earned excess CLE credit hours, up to 10 such hours may be carried forward and applied to the requirement for the next two-year period. Ethics credits may not be carried forward as Ethics credits, but may be carried forward as general CLE credits.

(D) *Newly Admitted Attorneys*: The CLE requirement for a newly admitted Attorney shall begin on January 1st of the year after ~~which he/she is admitted~~ the Attorney's admission to the Delaware Bar of the Court. ~~In addition, as to any. By the end of the newly admitted Attorney's second Compliance Year, the newly admitted Attorney admitted after December 1, 2015, within four years from that January 1st, the Attorney must attend all of the following~~ Fundamental ~~Fundamentals~~ courses: (1) Fundamentals of Lawyer-Client Relations; (2) Fundamentals of Family Law; (3) Fundamentals of Real Estate; (4) Fundamentals of Civil Litigation; (5) Fundamentals of Will Drafting and Estate Administration; (6) Fundamentals of Law Practice Management and Technology; and (7) Fundamentals of Criminal Law and Procedure. Only ~~Fundamental~~ Fundamentals courses offered by the ~~DSBA~~ Delaware State Bar Association shall be eligible for approval for this requirement. Attendance at these courses shall be credited ~~toward~~ toward the Attorney's minimum continuing legal education obligation ~~and is governed by the requirements outlined in Rule 4(A).~~

~~(E) Applicants to the Delaware Bar: All applicants who have passed the Delaware Bar Examination must attend the Court's two-day Pre-Admission Conference, regardless of admission to other jurisdictions.~~

~~(F)~~ (E) Attorneys Resuming Active Practice: The CLE requirement for Attorneys ~~an Attorney~~ resuming active practice, ~~whether from retirement or disciplinary sanction or otherwise~~, shall ~~begin~~ be prorated based on January 1st ~~the date of the Attorney's reinstatement.~~ Regardless of the year after which active practice has been resumed. Attorneys admitted after December 1, 2015 who are resuming in which an Attorney is reinstated to active status, the Attorney's Compliance Year shall be determined in accordance with Rule 5(A). An Attorney who is reinstated to active practice status and who have has not completed the Fundamentals requirements for Newly Admitted newly admitted Attorneys, are required to must do so. This obligation to complete Fundamentals shall not apply to Attorneys admitted prior to December 1, 2015. by the end of the first Compliance Year following the Attorney's reinstatement to active status. Any Attorney resuming who is reinstated to active practice status after being inactive for more than 10 years, ~~however~~, shall complete the Fundamentals of Lawyer-Client Relations ~~within~~ course by the ~~end of the first~~ compliance

~~period~~ Compliance Year following ~~resumption of active practice. (This obligation applies even though the reinstatement, regardless of whether the Attorney may have previously completed the Fundamentals of Lawyer-Client Relations prior to becoming inactive.)~~ course.

~~(G)~~ (F) *Exemptions:* The following Attorneys and Judicial Officers shall be exempt from these Rules:

- (1) Any Attorney or Judicial Officer who has ~~filed~~ been granted a ~~Certificate~~ certificate of ~~Retirement pursuant to the retirement under~~ Supreme Court Rule 69(f);
- (2) Any Attorney holding an elected public office of this State or the United States and who certifies to the Commission by affidavit that the Attorney is not engaged in the practice of law, and whose application for exemption has been approved by the Commission;
- (3) Any Attorney or Judicial Officer who becomes an inactive member of the Bar ~~pursuant to under~~ Supreme Court Rule 69(d)(i); and
- (4) Members of the federal judiciary;

~~(5) Any Attorney suspended by the Court.~~

~~(H)~~ (I) *Comity:* An Attorney whose principal ~~office place of practice~~ is located ~~within in~~ another ~~mandatory CLE state jurisdiction~~, who is licensed to practice law in ~~that state another state or the District of Columbia with mandatory CLE requirements~~, and who is in compliance with the CLE requirements of that ~~state and so certifies on the Transcript jurisdiction~~ shall be deemed in compliance with these Rules.

~~(I)~~ (G) Such Attorney shall certify compliance with this Rule on the Attorney's annual registration statement filed under Supreme Court Rule 69(b)(i). ~~Rule 5. Verification Requirements for Attorneys Compliance.~~

~~(A)~~ (A) *When Attorneys' Credits Shall ~~be~~ Completed:* Attorneys admitted to the Delaware Bar in even-numbered years shall complete the ~~required~~ CLE credits ~~required~~ by December 31 of even-numbered years; Attorneys admitted ~~to the Delaware Bar~~ in odd-numbered years shall complete the ~~required~~ CLE credits ~~required~~ by December 31 of odd-numbered years. ~~Attorneys failing to~~ Each Attorney shall certify compliance with these Rules on the Attorney's annual registration statement filed under Supreme Court Rule 69(b)(i). The Commission may, in its discretion, extend the deadline for an Attorney to complete the required credits or to certify compliance if the Attorney demonstrates that exceptional circumstances prevented the Attorney from completing the required credits or certifying compliance by the applicable deadline.

~~(B)~~ (B) *Notice of Noncompliance and Delinquency Fee:* On or about January 15th, the Commission shall send a Notice of Noncompliance to each Attorney who did ~~not~~ complete the required CLE credits ~~on or before December 31 by the end of the preceding Compliance Year, must nevertheless verify the Transcript on or before.~~ Each such Attorney shall be assessed a \$150 delinquency fee.

~~(C)~~ (C) *Curing Noncompliance.* An Attorney who did not complete the required CLE credits by the end of the Attorney's Compliance Year may cure such noncompliance by completing the missing credits, submitting proof of completion to the Commission, and paying the \$150 delinquency fee on or before the March 31st 1st following the end of the ~~Verification~~ Attorney's Compliance Year accompanied.

~~(A)~~ (D) *Delinquency Fees; Administrative Suspension:* Failure to cure the noncompliance by a ~~specific plan for making up the deficiency, March 1~~ as provided in Rule ~~10.5(C)~~ will result in an additional \$150 delinquency fee. Failure to cure the noncompliance and pay all delinquency fees by April 1 will result in an additional \$200 delinquency fee. If by April 15 the noncompliance has not been cured, the Attorney is deemed administratively suspended from the practice of law, and the Clerk of the Court shall issue a notice of administrative suspension by certified mail to the Attorney's last known address of record and distribute such notice to the courts in accordance with the Court's procedures relating to administrative suspensions. An Attorney who has been administratively suspended under this Rule may seek retroactive reinstatement as a member of the Bar by completing the missing credits, submitting proof of completion to the Commission, and paying all delinquency fees by the July 1st following the end of the Attorney's Compliance Year. An Attorney who fails to seek reinstatement by that deadline shall be required to petition for reinstatement under Rule 22 of the Delaware Lawyers' Rules of Disciplinary Procedure.

~~(B)~~ (B) *When Attorneys Shall Verify Transcripts:* Attorneys who are required to complete their CLE credits in a given year shall verify the accuracy of their Transcripts maintained on the Commission website no later than March 31st/ft, of the following year. This is called the Verification Year. Transcripts will be available for review and verification on the Commission website after February 1st of the Verification Year.

~~(C) Penalties for Late Verification of Transcripts: Attorneys failing to verify their Transcripts by March 31st of the Verification Year shall be fined \$300. An additional fine of \$100 per month will be added to the initial fine for Attorneys failing to verify their Transcripts by May 1st of the Verification Year. Payment shall be made on the same day as the late Transcript is verified. The Commission may waive all or any part of the penalty for good cause shown.~~

~~(D) Audits of Transcripts: The and Disciplinary Investigation for False Submissions: If the Executive Director shall develop a means for selection of no fewer than 5% of the Transcripts received in each year for purposes of verification. The Executive Director shall cause each of the selected Transcripts to be subjected to any or all of the following verification procedures:~~

~~(1) Comparing the Transcript to the Commission's records to assure that each listed course was actually accredited and that appropriate applications were submitted and approved for any activities for which the submitting Attorney sought credit;~~

~~(2) Asking the Attorney to submit evidence of attendance at courses or participation in activities claimed on the Transcript;~~

~~(3) Communicating with a course or activity provider to obtain verification of the Attorney's participation;~~

~~(4) Obtaining an approved copy of the Attorney's most recent compliance report from another mandatory CLE state if the Attorney is claiming compliance under the comity clause of Rule 4.~~

~~(E) If the Verification procedures producehas reason to believe that an Attorney has submitted a false Transcript or other false information to the Commission, the Executive Director shall bring such information promptly to the attention of the Commission. The late filing of a Transcript may subject the Attorney to a CLE audit, which may result in a CLE audit. If, following a CLE audit, the Commission has reason to believe that an Attorney has submitted false information to the Commission, it shall forward the Attorney's name to Disciplinary Counsel for investigation and shall notify the Attorney that it has done so.~~

Rule 6. Attendance Records.

(A) *Obligation of the Provider:* The ~~program~~ provider of a CLE program shall create and maintain, for at least 3 years, records of attendance at the ~~courses~~ program.

(1) Within 4530 days after the date on which the program ends, the provider shall submit to the Commission a list of attendees for each activity, except that for any program occurring after December 15 the list must be submitted on or before the following January 10th. This list shall include:

(a) the course identification number as assigned by the Commission;

(b) the full name of each attendee;

(c) the Delaware Supreme Court identification number of each attendee, as available; and

(d) the number of credit hours to which each attendee is entitled, based upon the total number of credit hours approved by the Commission. This number should indicate how many of the credit hours were in ~~Enhanced~~ Ethics.

These records shall be submitted to the Commission by electronic transmission in a format approved by the Commission. The Commission may require verified statements as to the accuracy of the reports it receives. To ensure accuracy, providers shall have a representative present at the program to properly record attendance on a sign-in sheet.

(2) In addition to the records submitted to the Commission, the provider shall ~~provide each attendee with~~ furnish a certificate of attendance: to each attendee. This certificate shall include:

(a) the name, address, and telephone number of the sponsoring organization;

(b) the course identification number as assigned by the Commission;

(c) the complete title of the course attended;

(d) the date(s), city, and state of the course attended;

- (e) the total number of credit hours approved by the Commission for the particular course;
- (f) the total number of credit hours attended by the Attorney, including a statement of the number of these hours that were in ~~Enhanced~~ Ethics; and
- (g) the name and signature of the provider's authorized representative.

~~These records may be submitted to the Commission in writing or by electronic transmission in a format approved by the Commission. The Commission may require verified statements as to the accuracy of the reports it receives. To ensure accuracy, providers should have a representative present to properly record attendance on a sign-in sheet.~~

The certificate of attendance ~~shall~~**should** be given to the attendee before the attendee leaves the seminar site. If this is not possible, the certificate of attendance shall be sent to the attendee as soon as possible after the seminar.

(B) *Obligation of the Attorney*: The Attorney should keep copies of all attendance certificates, course outlines, agendas, cancelled checks, receipts, travel vouchers, and the like, to verify attendance, for 3 years after ~~finalization~~**the end** of the ~~approved Transcript~~**Compliance Year to which an activity was credited**. The Commission may periodically request an Attorney to produce independent verification of attendance.

Rule 7. Credit Hours and Accreditation Standards.

(A) *Credit Hours*: CLE credit hours shall be computed by the following formula: Total minutes /60 = total credit hours. Credit hours shall be rounded to the nearest 1/10th of an hour. Unless otherwise provided in these Rules, only legal education shall be included in computing the total hours of actual instruction. Programs may be split into accredited and non-accredited hours. Non-instructional portions of programs, such as breaks and introductory remarks, shall not be included in the credit computation. Business meetings or portions of programs devoted to the business of the presenting group do not qualify for credit.

(B) *Accreditation Standards*: The Commission shall approve continuing legal education activities consistent with the following standards:

- (1) ~~They~~**The activity** shall have significant intellectual or practical content and the primary objective shall be to increase the participant's professional competence as a lawyer or a judge;
- (2) ~~They~~**The activity** shall constitute an organized program of learning dealing with matters directly related to the practice of law, the exercise of judicial responsibility, professional responsibility, law office management, use of technology, or the ethical obligations of lawyers or judges;
- (3) Credit may be given for continuing legal education activities where (i) in person or televised live instruction is used or (ii) mechanically or electronically recorded or reproduced material is used in an organized program;
- (4) Continuing legal education materials are to be offered, and activities conducted, by an individual or group qualified by practical or academic experience in a setting physically suitable to the educational activity of the program;
- (5) Thorough, high quality, and carefully prepared written materials should be made available to all who attend the course. It is recognized that written materials are not suitable or readily available for some types of subjects; the absence of written materials should, however, be the exception and not the rule.

(C) *Activities for ~~which~~**Which** CLE Credit Will Not ~~be~~**Be** Approved*: The Commission will not approve ~~for~~**for** ~~CLE credit~~.

- (1) Courses designed to review or refresh recent law school graduates or other Attorneys in preparation for any bar examination;
- (2) Activities for which the Attorney has already received credit in another form, including attendance ~~(e.g., For example,~~ an Attorney who prepared materials and received credit for presenting a seminar may not also receive credit for the publication of those materials, or for attendance during the time spent speaking at the seminar)~~);~~. However, ~~(+)~~ the Attorney may receive credit for attending portions of the

seminar which the Attorney did not teach, and ~~(2)~~ the Attorney may receive credit notwithstanding that the Attorney also seeks or receives CLE credit for the activity from another ~~State in which the Attorney is a member of the Bar jurisdiction.~~

(D) *Disabilities and Special Circumstances:* An Attorney who has a disability or some other special circumstance, which makes attendance at continuing legal education activities inordinately difficult for a substantial period of time, may file a request with the Commission for a permanent substitute program in lieu of attendance, or a temporary substitute program in lieu of attendance during the period of the disability or special ~~circumstances-circumstance.~~ The Attorney shall state in writing to the Commission the reasons for the request and a proposal for a continuing legal education plan tailored to the Attorney's circumstances. The Commission shall promptly review the request, seek such additional information as appropriate, and approve or disapprove such plans on an individual basis.

Rule 8. Accreditation of Sponsors and Programs.

(A) *Accredited Sponsors:* The Commission may designate qualified organizations or persons (other than law firms, legal departments of corporations, or government agencies) as Accredited Sponsors. While in good standing, any ~~CLE program of continuing legal education~~ organized and conducted by the Accredited Sponsor shall be an accredited course, provided the program and the Accredited Sponsor ~~complies comply~~ with these Rules. ~~The Board shall assess an annual fee for the privilege of being an "Accredited Sponsor."~~ Any person or organization seeking to become an Accredited Sponsor shall apply by filing with the Commission ~~an application in a completed Form 3 together with a filing form provided by the Commission and paying the fee of \$250 set by the Commission.~~ To maintain Accredited Sponsor status, ~~a Form 3-Aan application~~ together with ~~the applicable~~ filing fee ~~of \$250~~ shall be filed annually. Filing fees may be waived when the approved ~~continuing legal education~~ CLE activities are free of charge to all attendees or are presented under the supervision of the Delaware State judiciary. The Commission may ~~re-evaluate~~ ~~reevaluate~~ the status of an Accredited Sponsor and revoke the accreditation for any reason the Commission deems appropriate.

(B) *Accreditation of Individual Courses:* The Commission may, on its own initiative, or upon application by any Attorney or the ~~sponsor~~ provider of any ~~course program~~, approve credit for all or a portion of a course that otherwise complies with these Rules. Application for accreditation of an individual program ~~made by a program provider~~ shall be on the Uniform Application ~~if made by a program provider, and on Form 4 if submitted with the applicable fee.~~ Application for accreditation of an individual program made by an Attorney: ~~Applications made by a program provider shall be accompanied by a \$50 filing fee submitted through the Delaware Supreme Court Lawyer Management System or as otherwise directed by the Commission.~~ Applications may be submitted before or after presentation of the program; however, if application for ~~course~~ approval is ~~made submitted~~ by an Attorney before attendance, the Attorney shall submit a certificate of attendance within ~~4530~~ days after the date on which the program ends. ~~The or, if the program occurs after December 15 of the Attorney's Compliance Year, on or before the following January 10th.~~ Applications submitted by a provider after the program start date will be subject to late fees as set by the Commission. ~~No application may request additional information from any applicant.~~ ~~be submitted more than 2 years after the program start date.~~

(C) *Accreditation for Non-Law Courses:* The Commission may approve credit for non-law courses necessary or appropriate to an Attorney's legal practice upon the Attorney's application.

(D) *Accreditation for Recorded or Electronically Broadcasted Courses:* The Commission may approve credit for recorded or electronically broadcasted courses that otherwise comply with these Rules, provided ~~that~~ the sponsor demonstrates objective means to verify ~~that~~ the Attorney has in fact completed the program (i.e., the Attorney's ~~objective~~ assertion of completion is necessary for credit, but not sufficient). Applications shall be made on the ~~uniform application~~ Uniform Application with ~~an additional application~~ the applicable fee of \$25.00. ~~The Commission may request additional information from any applicant.~~ If the presentation is recorded from ~~a~~ previously presented course, the original course must have taken place no more than two years before the date of the presentation for which credit is being sought.

~~(E)~~ *Accreditation of In-House Courses/Programs:* The Commission may approve credit for In-House ~~courses~~ Programs that otherwise comply with these Rules.

(E) *Fees:* A schedule of fees approved by the Commission may be found on the Commission's website <https://courts.delaware.gov/cle>.

Rule 9. Accreditation of Activities.

(A) *Scholarly Writing*: The Commission may approve credit for ~~uncompensated~~ scholarly writing and publication. Applications shall be submitted through the Delaware Supreme Court Lawyer Management System or as otherwise directed by the Commission~~made by the Attorney on Form 7.~~ The Commission may request additional information from any applicant.

~~(1) What Must Be Included in the Application: The application for credit hours for such materials must include:~~

~~(a) A copy of the material for which credit is sought;~~

~~(b) The name and address of any other person participating in the writing or presentation of the content of the material, and a statement of the extent to which that person contributed to the content of the material;~~

~~(c) An estimate of the number of hours the Attorney expended preparing the material, and a description of the hours expended;~~

~~(d) With regard to published material, the name and address of the publisher and a statement that (a) the written material will be published in a publication having distribution to at least 300 lawyers, (b) the material is an original work and (c) the author(s) received no compensation for writing it.~~

~~(2) Other Conditions and Considerations:~~

~~(3)~~(1) Only uncompensated scholarly writing qualifies for credit. Payment to the ~~Attorney's~~author's firm or organization constitutes payment to the ~~Attorney~~author. Reimbursement of out-of-pocket expenses is not considered compensation. ~~If an Attorney~~An author who donates all compensation for a scholarly writing to the Delaware Bar Foundation ~~he/she~~ may receive credit.

~~(4)~~(2) Credit hours may be allocated to writing and publication, ~~at the election of the author,~~ in the year in which the work is accepted for publication, or the year in which publication actually occurs, at the election of the author.

~~(5)~~(3) If the work is not published, the ~~Attorney~~author may, in the Commission's discretion, receive credit for the preparation of the unpublished material.

~~(a)~~ The Commission will determine the number of credit hours to be allocated to the writing and publication of the work and will notify the applicant promptly on making its determination. As a general guideline: articles in general circulation newspapers and periodicals ~~generally~~ will not receive credit; a brief published piece worthy of credit in the Commission's judgment receives

~~(6)~~(4) 2.5 credit hours; substantive articles appearing in professional newspapers and periodicals such as the Delaware Lawyer that evidence research and analysis ~~generally~~ receive five credit hours. ~~Law; and law~~ review articles, books, or chapters of published works are eligible for more credit, in the Commission's discretion.

(B) *Instruction in or Participation in the Presentation of Accredited Courses*: The Commission may approve credit for ~~uncompensated~~ teaching in an approved ~~continuing legal education activity, accredited~~CLE program, law school, college, or university. Applications shall be submitted through the Delaware Supreme Court Lawyer Management System or as otherwise directed by the Commission~~made by the Attorney on Form 8.~~ The Commission may request additional information from any applicant.

(1) If a number of ~~Attorneys~~applicants seek credit for the same course, one application may be submitted on behalf of all. In the absence of an agreement between co-presenters, available credit shall be divided equally among them. Course moderators who participate in the program but do not otherwise teach in the program, ~~but who participate in the program,~~ shall receive credit for 1.5x the time of attendance of the portion of the program moderated.

(2) Only uncompensated teaching qualifies for credit. Compensation to the ~~teaching~~Attorney's~~presenter's~~ firm or organization constitutes compensation to the ~~Attorney~~presenter. Reimbursement of out-of-pocket expenses is not considered payment for teaching. ~~An Attorney~~A presenter who donates compensation for teaching to the Delaware Bar Foundation may receive teaching

credit.

(3) Presentations accompanied by thorough, high quality, readable, and carefully prepared written materials approved by the Commission will be awarded CLE credit, provided the Attorneyapplicant certifies that the Attorneyapplicant did the research and prepared the written materials for the presentation. For repeat presentations, Attorneysapplicants will be awarded one-half of the credit hours received for the initial presentation.

(C) Supreme Court Appointed Commissions Appointments:

(1) An Attorney or Judicial Officer appointed by the Court to a board, commission, committee, task force, or other qualifying entity may earn up to 12 CLE credit hours per two-year compliance period. Such credits shall not carry forward to another two-year compliance period. Such Attorney or Judicial Officer may earn one CLE credit hour for attending a meeting of the qualifying entity, including a meeting of any subcommittee, working group, or other subgroup that the qualifying entity formed to advance its work. In addition, such Attorney or Judicial Officer may earn credit for time spent performing substantive work on behalf of the qualifying entity outside of meetings, provided that in no event shall the total credits awarded for Court-appointed service exceed 12 CLE credit hours per two-year compliance period. A person seeking credit under this rule must report the qualifying activities to the Commission using the Commission's online submission process no later than December 31st of the Attorney's Compliance Year.

(2) An Attorney who serves as a Member or Associate Member of the Board of Bar Examiners will receive 12 CLE credit hours (including 2 Ethics credits) for each year of service.

~~(1) The Commission may approve credit for other Court appointed commissions appointments, including the following:~~

~~(a) Service on the Board on Professional Responsibility: Members of the Board on Professional Responsibility and the Preliminary Review Committee will receive 4 Enhanced Ethics credits for each year of but not limited to service;~~

~~(b) Service as an appointed Presenter presenting counsel in any investigation or proceeding before the Court on the Judiciary, or as Special Disciplinary Counsel shall be applicable towards satisfaction of the biannual requirement for instruction in Enhanced Ethics;~~

~~(c) Service on the Board of Bar Examiners: Members will receive 12 credits (including 2 Enhanced Ethics for each year of service. Associate members and Secretaries will receive 6 credits (including 1 Enhanced Ethics) for each year of service;~~

~~(d) Service on the Board on Unauthorized Practice of Law, to the extent it requires significant research in the law, legal writing or drafting;~~

~~(e) Service on the Lawyers' Fund, or as a receiver for Client Protection shall receive 2 Enhanced Ethics Credits for each year of service;~~

~~(f) Service on the Board of Examining Officers for the Court on the Judiciary.~~

~~(2) Applications must include:~~

~~(a) A description of the activity for which credit is sought, including an identification of the commission involved;~~

~~(b) A statement of the number of hours expended in the activity;~~

~~(c) A description of the substantive legal work performed including, for example, contributions to the substance of a continuing legal education program, or research in the law performed;~~

~~(d) A copy of any written materials produced by the applicant, as a result of the activity;~~

- ~~(3) Upon receipt of an application, the Commission will determine whether the applicant shall receive credit for the activity and the number of credit hours allocated to it. The Commission shall notify the applicant promptly of its determination a law practice.~~

(D) *Pro Bono Legal Services:*

~~(1) The Commission may approve credit for entirely uncompensated Pro Bono Legal Services, and Special Court Appointments pro bono legal services, provided:~~

~~(2)(1) The that the services are performed (i) pursuant to ~~(i)~~ appointment of the Attorney by a Delaware court, including the United States District Court for the District of Delaware; ~~or~~, (ii) pursuant to an assignment of a matter to the Attorney by Delaware Volunteer Legal Services, Inc., Community Legal Aid Society of Delaware, Inc., the Office of the Child Advocate, or Legal Services Corporation of Delaware, Inc.,; or (iii) services performed at outreach events such as an accredited law school's "Wills for Heroes" days; ~~or (iv) any service performed that is determined by the Commission to be eligible for CLE credit under this section.~~~~

~~(a) Credit may be earned at a rate of one hour of CLE credit hour for every sixtwo hours of legal services performed, provided the work performed on the matter was totally uncompensated. Credit is limited to ~~6 credits~~ 20 credit hours per two-year compliance period.~~

~~(3) Applications must include:~~

~~(a) A description of the activity for which credit is sought, including an identification of the organization, committee, or association involved;~~

~~(b) A statement of the number of hours expended in the activity;~~

~~(c) A description of the substantive legal work performed including, for example, contributions to the substance of a continuing legal education program, or research in the law performed;~~

~~(d) A copy of any written materials produced by the applicant, as a result of the activity.~~

Rule 10. Noncompliance.

~~(A) Attorneys:~~

~~(1) *False Statements:* If the Commission has reason to believe that an Attorney has submitted a false Transcript or other false information to the Commission, it shall forward the Attorney's name to Disciplinary Counsel for investigation and shall notify the Attorney it has done so.~~

~~(2) *Notice of Noncompliance:*~~

~~(a) In the event an Attorney shall fail to complete the required credits by December 31 of the Compliance Year, the Attorney shall submit to the Commission a specific plan for making up the deficiency of necessary credits by April 30 of the Verification Year. Submission of the make-up plan must be included with the online Transcript verification. The plan shall be deemed accepted by the Commission unless, within 30 days after the receipt of the Transcript, the Commission notifies the Attorney to the contrary. The Attorney shall report full completion of the plan by May 15 through the Commission website by marking the online plan entries as complete and forwarding copies of the program attendance certificates to the Commission. If the Attorney fails to complete the plan by April 30 of the Verification Year, or to report completion of the plan by May 15 of the Verification Year, within 120 days, the Commission shall send the Attorney a notice of noncompliance informing the Attorney that unless the Attorney presents satisfactory evidence of compliance within 20 days of the date of the notice, the Commission will file a~~

~~(4)(2) statement of noncompliance with Disciplinary Counsel. An Attorney shall be required to pay to the Commission \$10.00 for each business day that the Attorney's make-up plan has not been fully completed and reported to the Commission beginning on May 16 of the Verification Year, to and including the date of filing. The Commission may waive all or any part of this penalty for good cause shown; satisfy the Ethics requirement.~~

~~(b) In the event that an Attorney shall fail to comply with these Rules in any respect, the Commission shall send a notice of noncompliance. The notice shall specify the nature of the noncompliance and state that unless the noncompliance is corrected, or satisfactory evidence of compliance is submitted within 20 days of the date of the notice, the Commission will file a statement of noncompliance with Disciplinary Counsel;~~

~~(c) Before sending an Attorney a notice of noncompliance, the Commission may request the Attorney to submit additional information to enable the Commission to evaluate the Attorney's compliance with these Rules.~~

~~(B) Judicial Officers:~~

~~(1) Compliance with the requirements of Rule 4(A) or 4(C) by judicial officers shall be considered as the maintenance of professional competence pursuant to Canon 3A(1) of the Delaware Judges' Code of Judicial Conduct;~~

~~(2)(1) If in the sole judgment of the Judicial Commissioner any judicial officer fails satisfactorily to comply with these Rules in any respect, the Judicial Commissioner shall take such action as the Judicial Commissioner deems appropriate to induce compliance. If compliance satisfactory to the Judicial Commissioner is not obtained, the Judicial Commissioner shall refer the matter to the Chief Justice for appropriate action to induce compliance.~~

Rule 410. Confidentiality.

Unless directed otherwise by the Supreme Court, the files, records, and proceedings of the Commission, as they relate to or arise out of any failure of any Attorney to satisfy the requirements of these Rules, shall be deemed confidential and shall not be disclosed, except in furtherance of the duties of the Commission or upon the request of the Attorney affected or as they may be introduced in evidence or otherwise produced in proceedings under these Rules or related disciplinary proceedings.

Rule 4211. Review.

(A) *Petitions to the Commission:* Any Attorney, provider, or other person aggrieved by any decision or action of the Commission may petition the Commission for relief within 30 days from the date of mailing of the notice of the action of the Commission. The petition may be accompanied by supporting evidence or documentation including affidavits and may include a request for a hearing. If a hearing is requested, the Commission may conduct a hearing at which the aggrieved party may present evidence and argument in support of the petition.

(B) *Petitions to the Supreme Court:* If the Commission denies such petition as a whole or in part, and if such action affects the substantial rights of the person claimed to be aggrieved, the person may petition the Supreme Court for relief by serving 2 copies thereof upon the Executive Director of the Commission and by filing 6 copies with the Clerk of the Supreme Court, such service and filing to be accomplished within 30 days of the action of the Commission. No petition shall be accepted unless the provisions of this paragraph have been timely fulfilled.

(C) *Supreme Court Review:* The Supreme Court may summarily refuse a petition which does not affect the substantial rights of the person claimed to be aggrieved. Appeals from the Commission's action to the Supreme Court shall be briefed, argued, and determined from the record of the matter before the Commission and not by means of a hearing de novo. Findings by the Commission relating to disputed issues of fact and credibility will not be reversed by the Supreme Court so long as they are supported by substantial evidence.

EXHIBIT B

The Delaware Rules for Continuing Legal Education

Rule 1. Purpose.

The Supreme Court of the State of Delaware has determined it is in the best interest of the public and the administration of justice that members of the Delaware Bench and Bar maintain their international reputation of professionalism and competence through continuing legal education. These Rules establish the expectations of the Court for the process of continuing legal education and establish a Commission to assist in their implementation, interpretation, and enforcement.

Rule 2. Definitions.

- (A) “Attorney” means any member of the Bar of the Delaware Supreme Court, excluding judicial officers.
- (B) “CLE” means continuing legal education.
- (C) “Commission” means the Commission on Continuing Legal Education.
- (D) “Compliance Year” means the year in which the Attorney reaches the December 31 deadline for completing CLE credits as provided in Rule 5(A).
- (E) “Court” means the Supreme Court of the State of Delaware.
- (F) “Ethics” means both legal and judicial ethics. It also means professionalism, which is a broader concept embodying an attitude and a dedication to ethics, civility, skill, businesslike practices, such as competence in the use of technology, and a focus on service, which encompasses obligations to other Attorneys, obligations toward legal institutions, and obligations to the public whose interests Attorneys must serve.
- (G) “Executive Director” means the Executive Director of the Commission on Continuing Legal Education.
- (H) “Fundamentals” means the series of basic courses in legal practice that newly admitted Attorneys must complete as provided in Rule 4(D).
- (I) “In-House Program” means a continuing legal education activity sponsored by a law firm, corporation, governmental agency, or similar entity for the education of its employees or members.
- (J) “Judicial Commissioner” means the judicial representative on the Commission under Rule 3(A).
- (K) “Judicial Officer” means any member of the Bar of the Delaware Supreme Court appointed to serve as a judge, commissioner, magistrate in chancery, or justice of the peace on a Delaware state court.
- (L) “Senior Attorney” means every Attorney who has been a member in good standing of the Bar of the Supreme Court in any state or the District of Columbia for 40 or more years. The Senior Attorney has the burden of verifying such status to the satisfaction of the Commission.
- (M) “Transcript” means the record of an Attorney’s completed CLE activities maintained by the Commission.

(N) “Uniform Application” means the Uniform Application for the Accreditation of a Continuing Legal Education Activity as approved by the Continuing Legal Education Regulators Association (CLEReg).

Rule 3. Commission on Continuing Legal Education.

(A) *Commission Members:* The Commission on Continuing Legal Education is established and shall consist of 7 members appointed by the Court for a term of 3 years. The terms shall be staggered so that no more than 3 members’ terms shall end in the same year. The 7 members of the Commission shall include an Attorney from each county and at least one Judicial Officer. The Commission members shall serve without compensation. Four voting members shall constitute a quorum at any meeting.

(B) *Officers:* The Court shall appoint 1 member of the Commission as Chair and 1 member as Vice Chair. The Executive Director of the Commission shall serve as Secretary.

(C) *Executive Director:* The Executive Director shall be selected and employed by the Court.

(D) *Ex-Officio Members:* The following shall serve as ex-officio members of the Commission but shall have no vote: the Supreme Court Administrator or the Administrator’s designee, the Executive Director of the Commission, and the Executive Director and the Director of Continuing Legal Education of the Delaware State Bar Association.

(E) *Powers and Duties:* In addition to administering and interpreting these Rules, the Commission shall be responsible for:

- (1) Monitoring the availability of quality continuing legal educational courses and activities to members of the Bench and Bar;
- (2) Determining the number of credit hours to be allowed for any continuing legal educational course or activity;
- (3) Producing the Court’s annual Pre-Admission Conference;
- (4) Approving the curriculum for Fundamentals courses offered under these Rules and providing guidance for the creation of these courses;
- (5) Providing policy statements regarding courses, activities, credits, and the interpretation of these Rules;
- (6) Recommending to the Court an assessment to be paid by Attorneys concurrently with the annual registration required by Supreme Court Rule 69;
- (7) Publishing a schedule of fees to be charged to organizations sponsoring continuing legal education programs as a condition of accreditation for attendees to receive Delaware continuing legal education credit; and
- (8) Reporting annually to the Court on the activities of the Commission.

Rule 4. Educational Requirements.

(A) *Attorneys Generally:* Each Attorney shall complete a minimum of 24 approved CLE credit hours during each two-year period. At least 12 of those credits must be earned by attending, in person, live CLE-approved courses at which lawyers from other organizations are also in attendance or by engaging in other in-person activities that warrant such credit in the Commission’s discretion. In addition, during the two-year period, at least 4 of the 24 approved CLE credit hours shall consist of approved Ethics credits. If an Attorney has earned excess CLE credit hours, up to 20 such hours may be carried forward and applied to the requirement for the next two-year period. Ethics credits may not be carried forward as Ethics credits, but may be carried forward as general CLE credits.

(B) *Judicial Officers:* Judicial Officers shall comply with the educational requirements of Rule 4(A) or 4(C), as applicable based on years admitted to the Bar.

(1) Compliance with these requirements shall be considered as the maintenance of professional competence in accordance with Rule 2.2 of the Delaware Judges' Code of Judicial Conduct.

(2) If, in the sole judgment of the Judicial Commissioner, any Judicial Officer fails satisfactorily to comply with these Rules in any respect, the Judicial Commissioner shall take such action as the Judicial Commissioner deems appropriate to induce compliance. If compliance satisfactory to the Judicial Commissioner is not obtained, the Judicial Commissioner shall refer the matter to the Chief Justice for appropriate action to induce compliance.

(C) *Senior Attorneys*: Senior Attorneys shall complete a minimum of 12 approved CLE credit hours during each two-year period. At least 6 of those credits must be earned by attending, in person, live CLE-approved courses at which lawyers from other organizations are also in attendance or by engaging in other in-person activities that warrant such credit in the Commission's discretion. In addition, during the two-year period, at least 2 of the 12 approved CLE credit hours shall consist of approved Ethics credits. If a Senior Attorney has earned excess CLE credit hours, up to 10 such hours may be carried forward and applied to the requirement for the next two-year period. Ethics credits may not be carried forward as Ethics credits, but may be carried forward as general CLE credits.

(D) *Newly Admitted Attorneys*: The CLE requirement for a newly admitted Attorney shall begin on January 1st of the year after the Attorney's admission to the Delaware Bar. By the end of the newly admitted Attorney's second Compliance Year, the newly admitted Attorney must attend all of the following Fundamentals courses: (1) Fundamentals of Lawyer-Client Relations; (2) Fundamentals of Family Law; (3) Fundamentals of Real Estate; (4) Fundamentals of Civil Litigation; (5) Fundamentals of Will Drafting and Estate Administration; (6) Fundamentals of Law Practice Management and Technology; and (7) Fundamentals of Criminal Law and Procedure. Only Fundamentals courses offered by the Delaware State Bar Association shall be eligible for approval for this requirement. Attendance at these courses shall be credited toward the Attorney's minimum continuing legal education obligation and is governed by the requirements outlined in Rule 4(A).

(E) *Resuming Active Practice*: The CLE requirement for an Attorney resuming active practice, whether from retirement or disciplinary sanction or otherwise, shall be prorated based on the date of the Attorney's reinstatement. Regardless of the year in which an Attorney is reinstated to active status, the Attorney's Compliance Year shall be determined in accordance with Rule 5(A). An Attorney who is reinstated to active status and who has not completed the Fundamentals requirements for newly admitted Attorneys must do so by the end of the first Compliance Year following the Attorney's reinstatement to active status. Any Attorney who is reinstated to active status after being inactive for more than 10 years shall complete the Fundamentals of Lawyer-Client Relations course by the end of the first Compliance Year following the reinstatement, regardless of whether the Attorney previously completed the Fundamentals of Lawyer-Client Relations course.

(F) *Exemptions*: The following Attorneys and Judicial Officers shall be exempt from these Rules:

(1) Any Attorney or Judicial Officer who has been granted a certificate of retirement under Supreme Court Rule 69(f);

(2) Any Attorney holding an elected public office of this State or the United States and who certifies to the Commission by affidavit that the Attorney is not engaged in the practice of law, and whose application for exemption has been approved by the Commission;

(3) Any Attorney or Judicial Officer who becomes an inactive member of the Bar under Supreme Court Rule 69(d)(i); and

(4) Members of the federal judiciary.

(G) *Comity*: An Attorney whose principal place of practice is located in another jurisdiction, who is licensed to practice law in another state or the District of Columbia with mandatory CLE requirements, and who is in compliance with the CLE requirements of that jurisdiction shall be deemed in compliance with these Rules. Such Attorney shall certify compliance with this Rule on the Attorney's annual registration statement filed under Supreme Court Rule 69(b)(i).

Rule 5. Compliance.

(A) *When Credits Shall Be Completed:* Attorneys admitted to the Delaware Bar in even-numbered years shall complete the required CLE credits by December 31 of even-numbered years; Attorneys admitted to the Delaware Bar in odd-numbered years shall complete the required CLE credits by December 31 of odd-numbered years. Each Attorney shall certify compliance with these Rules on the Attorney's annual registration statement filed under Supreme Court Rule 69(b)(i). The Commission may, in its discretion, extend the deadline for an Attorney to complete the required credits or to certify compliance if the Attorney demonstrates that exceptional circumstances prevented the Attorney from completing the required credits or certifying compliance by the applicable deadline.

(B) *Notice of Noncompliance and Delinquency Fee:* On or about January 15th, the Commission shall send a Notice of Noncompliance to each Attorney who did not complete the required CLE credits by the end of the preceding Compliance Year. Each such Attorney shall be assessed a \$150 delinquency fee.

(C) *Curing Noncompliance.* An Attorney who did not complete the required CLE credits by the end of the Attorney's Compliance Year may cure such noncompliance by completing the missing credits, submitting proof of completion to the Commission, and paying the \$150 delinquency fee on or before the March 1st following the end of the Attorney's Compliance Year.

(D) *Delinquency Fees; Administrative Suspension:* Failure to cure the noncompliance by March 1 as provided in Rule 5(C) will result in an additional \$150 delinquency fee. Failure to cure the noncompliance and pay all delinquency fees by April 1 will result in an additional \$200 delinquency fee. If by April 15 the noncompliance has not been cured, the Attorney is deemed administratively suspended from the practice of law, and the Clerk of the Court shall issue a notice of administrative suspension by certified mail to the Attorney's last known address of record and distribute such notice to the courts in accordance with the Court's procedures relating to administrative suspensions. An Attorney who has been administratively suspended under this Rule may seek retroactive reinstatement as a member of the Bar by completing the missing credits, submitting proof of completion to the Commission, and paying all delinquency fees by the July 1st following the end of the Attorney's Compliance Year. An Attorney who fails to seek reinstatement by that deadline shall be required to petition for reinstatement under Rule 22 of the Delaware Lawyers' Rules of Disciplinary Procedure.

(E) *Audits of Transcripts and Disciplinary Investigation for False Submissions:* If the Executive Director has reason to believe that an Attorney has submitted false information to the Commission, the Executive Director shall bring such information promptly to the attention of the Commission, which may result in a CLE audit. If, following a CLE audit, the Commission has reason to believe that an Attorney has submitted false information to the Commission, it shall forward the Attorney's name to Disciplinary Counsel for investigation and shall notify the Attorney that it has done so.

Rule 6. Attendance Records.

(A) *Obligation of the Provider:* The provider of a CLE program shall create and maintain, for at least 3 years, records of attendance at the program.

(1) Within 30 days after the date on which the program ends, the provider shall submit to the Commission a list of attendees for each activity, except that for any program occurring after December 15 the list must be submitted on or before the following January 10th. This list shall include:

- (a) the course identification number as assigned by the Commission;
- (b) the full name of each attendee;
- (c) the Delaware Supreme Court identification number of each attendee, as available; and
- (d) the number of credit hours to which each attendee is entitled, based upon the total number of credit hours approved by the Commission. This number should indicate how many of the credit hours were in Ethics.

These records shall be submitted to the Commission by electronic transmission in a format approved by the Commission. The Commission may require verified statements as to the accuracy of the reports it receives. To ensure accuracy, providers shall have a representative present at the program to properly record attendance on a sign-in sheet.

(2) In addition to the records submitted to the Commission, the provider shall furnish a certificate of attendance to each attendee. This certificate shall include:

- (a) the name, address, and telephone number of the sponsoring organization;
- (b) the course identification number as assigned by the Commission;
- (c) the complete title of the course attended;
- (d) the date(s), city, and state of the course attended;
- (e) the total number of credit hours approved by the Commission for the particular course;
- (f) the total number of credit hours attended by the Attorney, including a statement of the number of these hours that were in Ethics; and
- (g) the name and signature of the provider's authorized representative.

The certificate of attendance should be given to the attendee before the attendee leaves the seminar site. If this is not possible, the certificate of attendance shall be sent to the attendee as soon as possible after the seminar.

(B) *Obligation of the Attorney*: The Attorney should keep copies of all attendance certificates, course outlines, agendas, cancelled checks, receipts, travel vouchers, and the like, to verify attendance, for 3 years after the end of the Compliance Year to which an activity was credited. The Commission may periodically request an Attorney to produce independent verification of attendance.

Rule 7. Credit Hours and Accreditation Standards.

(A) *Credit Hours*: CLE credit hours shall be computed by the following formula: Total minutes /60 = total credit hours. Credit hours shall be rounded to the nearest 1/10th of an hour. Unless otherwise provided in these Rules, only legal education shall be included in computing the total hours of actual instruction. Programs may be split into accredited and non-accredited hours. Non-instructional portions of programs, such as breaks and introductory remarks, shall not be included in the credit computation. Business meetings or portions of programs devoted to the business of the presenting group do not qualify for credit.

(B) *Accreditation Standards*: The Commission shall approve continuing legal education activities consistent with the following standards:

- (1) The activity shall have significant intellectual or practical content and the primary objective shall be to increase the participant's professional competence as a lawyer or a judge;
- (2) The activity shall constitute an organized program of learning dealing with matters directly related to the practice of law, the exercise of judicial responsibility, professional responsibility, law office management, use of technology, or the ethical obligations of lawyers or judges;
- (3) Credit may be given for continuing legal education activities where (i) in person or televised live instruction is used or (ii) mechanically or electronically recorded or reproduced material is used in an organized program;
- (4) Continuing legal education materials are to be offered, and activities conducted, by an individual or group qualified by practical or academic experience in a setting physically suitable to the educational activity of the program;
- (5) Thorough, high quality, and carefully prepared written materials should be made available to all who attend the course. It is recognized that written materials are not suitable or readily available for some types of subjects; the absence of written materials should, however, be the exception and not the rule.

(C) *Activities for Which CLE Credit Will Not Be Approved*: The Commission will not approve:

- (1) Courses designed to review or refresh recent law school graduates or other Attorneys in preparation

for any bar examination;

(2) Activities for which the Attorney has already received credit in another form, including attendance. For example, an Attorney who prepared materials and received credit for presenting a seminar may not also receive credit for the publication of those materials, or for attendance during the time spent speaking at the seminar. However, the Attorney may receive credit for attending portions of the seminar which the Attorney did not teach, and the Attorney may receive credit notwithstanding that the Attorney also seeks or receives CLE credit for the activity from another jurisdiction.

(D) *Disabilities and Special Circumstances:* An Attorney who has a disability or some other special circumstance, which makes attendance at continuing legal education activities inordinately difficult for a substantial period of time, may file a request with the Commission for a permanent substitute program in lieu of attendance, or a temporary substitute program in lieu of attendance during the period of the disability or special circumstance. The Attorney shall state in writing to the Commission the reasons for the request and a proposal for a continuing legal education plan tailored to the Attorney's circumstances. The Commission shall promptly review the request, seek such additional information as appropriate, and approve or disapprove such plans on an individual basis.

Rule 8. Accreditation of Sponsors and Programs.

(A) *Accredited Sponsors:* The Commission may designate qualified organizations or persons (other than law firms, legal departments of corporations, or government agencies) as Accredited Sponsors. While in good standing, any CLE program organized and conducted by the Accredited Sponsor shall be an accredited course, provided the program and the Accredited Sponsor comply with these Rules. The Board shall assess an annual fee for the privilege of being an "Accredited Sponsor." Any person or organization seeking to become an Accredited Sponsor shall apply by filing with the Commission an application in a form provided by the Commission and paying the fee set by the Commission. To maintain Accredited Sponsor status, an application together with the applicable filing fee shall be filed annually. Filing fees may be waived when the approved CLE activities are free of charge to all attendees or are presented under the supervision of the Delaware State judiciary. The Commission may reevaluate the status of an Accredited Sponsor and revoke the accreditation for any reason the Commission deems appropriate.

(B) *Accreditation of Individual Courses:* The Commission may, on its own initiative or upon application by any Attorney or the provider of any program, approve credit for all or a portion of a course that otherwise complies with these Rules. Application for accreditation of an individual program made by a program provider shall be on the Uniform Application and submitted with the applicable fee. Application for accreditation of an individual program made by an Attorney shall be submitted through the Delaware Supreme Court Lawyer Management System or as otherwise directed by the Commission. Applications may be submitted before or after presentation of the program; however, if application for approval is submitted by an Attorney before attendance, the Attorney shall submit a certificate of attendance within 30 days after the date on which the program ends or, if the program occurs after December 15 of the Attorney's Compliance Year, on or before the following January 10th. Applications submitted by a provider after the program start date will be subject to late fees as set by the Commission. No application may be submitted more than 2 years after the program start date.

(C) *Accreditation for Non-Law Courses:* The Commission may approve credit for non-law courses necessary or appropriate to an Attorney's legal practice upon the Attorney's application.

(D) *Accreditation for Recorded or Electronically Broadcasted Courses:* The Commission may approve credit for recorded or electronically broadcasted courses that otherwise comply with these Rules, provided the sponsor demonstrates objective means to verify the Attorney has in fact completed the program (i.e., the Attorney's assertion of completion is necessary for credit, but not sufficient). Applications shall be made on the Uniform Application with the applicable fee. If the presentation is recorded from a previously presented course, the original course must have taken place no more than two years before the date of the presentation for which credit is being sought.

(E) *Accreditation of In-House Programs:* The Commission may approve credit for In-House Programs that otherwise comply with these Rules.

(F) *Fees:* A schedule of fees approved by the Commission may be found on the Commission's website <https://courts.delaware.gov/cle>.

Rule 9. Accreditation of Activities.

(A) *Scholarly Writing:* The Commission may approve credit for scholarly writing and publication. Applications shall be submitted through the Delaware Supreme Court Lawyer Management System or as otherwise directed by the Commission. The Commission may request additional information from any applicant.

(1) Only uncompensated scholarly writing qualifies for credit. Payment to the author's firm or organization constitutes payment to the author. Reimbursement of out-of-pocket expenses is not considered compensation. An author who donates all compensation for a scholarly writing to the Delaware Bar Foundation may receive credit.

(2) Credit hours may be allocated to writing and publication in the year in which the work is accepted for publication or the year in which publication actually occurs, at the election of the author.

(3) If the work is not published, the author may, in the Commission's discretion, receive credit for the preparation of the unpublished material.

(4) The Commission will determine the number of credit hours to be allocated to the writing and publication of the work and will notify the applicant promptly on making its determination. As a general guideline: articles in general circulation newspapers and periodicals will not receive credit; a brief published piece worthy of credit in the Commission's judgment receives 2.5 credit hours; substantive articles appearing in professional newspapers and periodicals such as the Delaware Lawyer that evidence research and analysis receive five credit hours; and law review articles, books, or chapters of published works are eligible for more credit, in the Commission's discretion.

(B) *Instruction in or Participation in the Presentation of Accredited Courses:* The Commission may approve credit for teaching in an approved CLE program, law school, college, or university. Applications shall be submitted through the Delaware Supreme Court Lawyer Management System or as otherwise directed by the Commission. The Commission may request additional information from any applicant.

(1) If a number of applicants seek credit for the same course, one application may be submitted on behalf of all. In the absence of an agreement between co-presenters, available credit shall be divided equally among them. Course moderators who participate in the program but do not otherwise teach in the program shall receive credit for 1.5x the time of attendance of the portion of the program moderated.

(2) Only uncompensated teaching qualifies for credit. Compensation to the presenter's firm or organization constitutes compensation to the presenter. Reimbursement of out-of-pocket expenses is not considered payment for teaching. A presenter who donates compensation for teaching to the Delaware Bar Foundation may receive teaching credit.

(3) Presentations accompanied by thorough, high quality, readable, and carefully prepared written materials approved by the Commission will be awarded CLE credit, provided the applicant certifies that the applicant did the research and prepared the written materials for the presentation. For repeat presentations, applicants will be awarded one-half of the credit hours received for the initial presentation.

(C) *Supreme Court Appointments:*

(1) An Attorney or Judicial Officer appointed by the Court to a board, commission, committee, task force, or other qualifying entity may earn up to 12 CLE credit hours per two-year compliance period. Such credits shall not carry forward to another two-year compliance period. Such Attorney or Judicial Officer may earn one CLE credit hour for attending a meeting of the qualifying entity, including a meeting of any subcommittee, working group, or other subgroup that the qualifying entity formed to advance its work. In addition, such Attorney or Judicial Officer may earn credit for time spent performing substantive work on behalf of the qualifying entity outside of meetings, provided that in no event shall the total credits awarded for Court-appointed service exceed 12 CLE credit hours per two-year compliance period. A person seeking credit under this rule must report

the qualifying activities to the Commission using the Commission's online submission process no later than December 31st of the Attorney's Compliance Year.

- (2) An Attorney who serves as a Member or Associate Member of the Board of Bar Examiners will receive 12 CLE credit hours (including 2 Ethics credits) for each year of service.
- (3) The Commission may approve credit for other Court appointments, including but not limited to service as presenting counsel in any proceeding before the Court on the Judiciary, as Special Disciplinary Counsel, or as a receiver for a law practice.

(D) *Pro Bono Legal Services:*

- (1) The Commission may approve credit for entirely uncompensated pro bono legal services, provided that the services are performed (i) pursuant to appointment of the Attorney by a Delaware court, including the United States District Court for the District of Delaware; (ii) pursuant to an assignment of a matter to the Attorney by Delaware Volunteer Legal Services, Inc., Community Legal Aid Society of Delaware, Inc., the Office of the Child Advocate, or Legal Services Corporation of Delaware, Inc.; or (iii) at outreach events such as a law school's "Wills for Heroes" days.
- (2) Credit may be earned at a rate of one CLE credit hour for every two hours of legal services performed. Credit is limited to 20 credit hours per two-year compliance period and shall not satisfy the Ethics requirement.

Rule 10. Confidentiality.

Unless directed otherwise by the Supreme Court, the files, records, and proceedings of the Commission, as they relate to or arise out of any failure of any Attorney to satisfy the requirements of these Rules, shall be deemed confidential and shall not be disclosed, except in furtherance of the duties of the Commission or upon the request of the Attorney affected or as they may be introduced in evidence or otherwise produced in proceedings under these Rules or related disciplinary proceedings.

Rule 11. Review.

(A) *Petitions to the Commission:* Any Attorney, provider, or other person aggrieved by any decision or action of the Commission may petition the Commission for relief within 30 days from the date of mailing of the notice of the action of the Commission. The petition may be accompanied by supporting evidence or documentation including affidavits and may include a request for a hearing. If a hearing is requested, the Commission may conduct a hearing at which the aggrieved party may present evidence and argument in support of the petition.

(B) *Petitions to the Supreme Court:* If the Commission denies such petition as a whole or in part, and if such action affects the substantial rights of the person claimed to be aggrieved, the person may petition the Supreme Court for relief by serving 2 copies thereof upon the Executive Director of the Commission and by filing 6 copies with the Clerk of the Supreme Court, such service and filing to be accomplished within 30 days of the action of the Commission. No petition shall be accepted unless the provisions of this paragraph have been timely fulfilled.

(C) *Supreme Court Review:* The Supreme Court may summarily refuse a petition which does not affect the substantial rights of the person claimed to be aggrieved. Appeals from the Commission's action to the Supreme Court shall be briefed, argued, and determined from the record of the matter before the Commission and not by means of a hearing de novo. Findings by the Commission relating to disputed issues of fact and credibility will not be reversed by the Supreme Court so long as they are supported by substantial evidence.

EXHIBIT C

Rule 69. Categories of Bar membership and annual registration.

(a) Categories of membership. — There shall be five categories of members of the Bar of this Court: (i) active, (ii) inactive, (iii) judicial, (iv) retired, and (v) emeritus.

(b) Registration and assessments. —

(i) On or before March 1, all active, inactive and emeritus members, including newly admitted members who were admitted before February 1 of each year, are required to file a registration statement and pay a fee as set by the Delaware Supreme Court. A reminder notice will be sent by email before the registration period. Every attorney must update their attorney profile with all current contact information including email address. If an attorney has not received the reminder notice by the first week in January, please contact the Clerk's office immediately. Late fees will apply to late payments regardless of lack of notice from the Clerk's office.

(ii) Active assessment. — Active members shall pay a registration assessment as determined by the Delaware Supreme Court and shall pay such assessments as shall be made under Supreme Court Rule 66(e), Supreme Court Rule 64(g), Delaware Rules for ~~Mandatory~~ Continuing Legal Education Rule 3(E)(6), and Supreme Court Rule 74.

(iii) Inactive assessment. — Inactive members shall pay an annual registration assessment and an annual application assessment as determined by the Delaware Supreme Court but shall pay no other assessments.

(c) Active members. — All members of the Bar who are not inactive, judicial, retired or emeritus members are active members.

(d) Inactive members. —

(i) *Application.* — A member of the Bar who is not engaged in the practice of law in Delaware or who limits that member's practice of law in Delaware to uncompensated services to clients of one or more of Delaware Volunteer Legal Services, Inc., Community Legal Aid Society, Inc., the Non-profit Pro Bono Committee of the Delaware State Bar Association, the United States District Court for the District of Delaware's Federal Civil Panel, Delaware Council on Crime and Justice, Inc., the Office of Child Advocate, the Office of the Public Defender, the Department of Justice, and the United States Attorney's Office may, upon application to the Clerk of the Court, become an inactive member. Upon compliance with paragraph (b)(ii) of this Rule and Rule 4(~~FE~~) of the Delaware Rules for ~~Mandatory~~ Continuing Legal Education, an inactive member may become an active member.

(ii) *Assessment exemption.* — Whenever a member is classified as inactive, the Clerk of the Court shall notify the Lawyers' Fund for Client Protection, the Office of Disciplinary Counsel, and the Commission on ~~Mandatory~~ Continuing Legal Education and that member shall be exempt automatically from the assessments described in Rule 64(g), Rule 66(e), Delaware Rules for ~~Mandatory~~ Continuing Legal Education Rule 3(E)(6), and Supreme Court Rule 74.

(e) Judicial members. — Judicial members are those judges, commissioners, and masters who are disqualified from the practice of law and those retired judges who do not practice law.

(f) Retired members. —

(i) Limitations and duties. — A member of the Bar who is not engaged in the practice of law in Delaware may, upon application to the Clerk of the Court, be granted a certificate of retirement and, so long as the member does not practice law in Delaware other than as provided herein, shall not thereafter be required to comply with this Rule. A retired member may not become an active or inactive member without (1) demonstrating, to the Court's satisfaction, the moral qualifications, competency and learning in the law required for admission to practice and (2) compliance with subsection (b) of this Rule. The Court may refer any retired member seeking to resume active status to the Board of Bar Examiners for determination of suitability to resume active status. Retired members may engage in uncompensated services to clients of one or more of Delaware Volunteer Legal Services, Inc., Community Legal Aid Society, Inc., the Non-profit Pro Bono Committee of the Delaware State Bar Association, the United States District Court for the District of Delaware's Federal Civil Panel, Delaware Council on Crime and Justice, Inc., the Office of the Child Advocate, the Office of the Public Defender, the Department of Justice and the United States Attorney's Office.

(ii) Exemption from assessment. — Whenever a certificate of retirement is issued, the Clerk of the Court shall notify the Lawyers' Fund for Client Protection, the Office of Disciplinary Counsel, and the Commission on ~~Mandatory~~ Continuing Legal Education. A retired member shall be exempt from the assessments set forth in Rule 64(g), Rule 66(e), and the Delaware Rules for ~~Mandatory~~ Continuing Legal Education Rule 3(E)(6).

(g) Emeritus members. —

(i) An emeritus member shall be at least sixty-five (65) years of age, unless waiver thereof is granted by the Supreme Court.

(ii) A Delaware attorney applying to the Court for emeritus member status must be in good standing at the time of the application for emeritus member status.

(iii) An active attorney must apply to the Court in writing for emeritus member status.

(iv) Except for special assignments pursuant to Court order, emeritus members may represent only non-profit entities, including, inter alia, Internal Revenue Code § 501(c)(3) entities, religious organizations, educational and governmental institutions as well as clients that inactive members of the Bar may represent pursuant to the existing Rules of the Supreme Court. Emeritus members may not

represent individuals, whether for compensation or not, except as permitted by this subsection.

(v) Except for compensation as ordered by the Court, emeritus members may not seek or receive compensation or reimbursement of any kind of legal services, although they may be reimbursed for documented out-of-pocket expenses in connection with permitted legal services.

(vi) Emeritus members are exempt from fees and assessments, except for the Supreme Court's registration fee.

(vii) Emeritus members are under no obligation to fulfill any ~~CLE~~continuing legal education requirements, but will be required to comply with Rule 4(~~FE~~) of the Delaware Rules for ~~Mandatory~~ Continuing Legal Education, should such emeritus member apply again to become an active member.

(viii) Emeritus members shall use their best efforts to cause Martindale Hubbell and other legal lists to state that such attorney is an emeritus member of the Delaware Bar with the term "emeritus member" being expressly defined on all legal lists and legal stationery as a licensed Delaware attorney whose practice is limited to representing charitable and non-profit organizations without compensation, except where compensation is ordered by the Court.

(ix) The Delaware Supreme Court may, at any time, upon notice to an emeritus member and an opportunity to be heard, cause the status of the emeritus member to be changed, by Order, to inactive member.

(h) Continuing obligation to notify the Clerk of the Court of changes. —Each active and inactive member of the Bar is required to notify the Clerk of the Court in writing within 30 days of any change in the information provided in the member's most recent registration statement.

(i) Certain duties of the Clerk of the Court. —The Clerk of the Court shall: (i) deposit forthwith all assessments received in a special account maintained, regulated and audited by the State for that purpose; (ii) mail to each member of the Bar who files a registration statement and pays the assessments, a registration card, in a form approved by the Court, certifying that such member is in good standing either as an active or inactive member of the Bar; and (iii) distribute funds from such special account: (1) to pay the necessary expenses incurred by the Court in administering this Rule and (2) for such other purposes related to the regulation of the practice of law as the Court shall direct.

(j) Late Fees; Administrative Suspension of Membership. Failure to file the registration statement and pay the registration fee by March 1 will result in a \$150.00 non-waivable late fee. Failure to file the registration statement and pay all fees, including late fees, by April 1 will result in an additional \$200.00 non-waivable late fee. If by April 15 the registration statement has not been filed with the Court and the registration fee and all late fees have not been paid, the attorney is deemed administratively suspended from the practice of law. The Clerk of the Court shall issue a notice of administrative suspension by certified mail at the last known address of record to each member of the Bar who has failed to comply with this Rule. A lawyer who has been administratively suspended for failure to file a registration statement or nonpayment of fees can be retroactively reinstated as a member of the Bar by filing a registration statement and paying the registration fee plus all accumulated late fees on or before July 1. Any lawyer who fails to seek reinstatement by July 1 shall be required to petition for reinstatement under Rule 22 of the Delaware Lawyers' Rules of Disciplinary Procedure.

(k) Resignation. —Upon acceptance of the resignation by the Court, a member who resigns shall no longer be a member of the Bar.

Rule 70. Mandatory continuing legal education.

The Rules for ~~Mandatory~~ Continuing Legal Education promulgated by Order of this Court dated December 30, 1986, and effective January 1, 1987, as amended from time to time, shall govern the conduct of the members of the Bar of this State and members of the Judiciary.