

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1640

Amending Alaska Bar Rule 65 to provide for mandatory continuing legal education and voluntary continuing legal education, and

Adding new Bar Rule 66 regarding noncompliance with mandatory continuing legal education and reporting requirements.

IT IS ORDERED:

1. Alaska Bar Rule 65 is amended to read as follows:

Rule 65. Continuing Legal Education.

(a) *Mandatory Continuing Legal Education.* In order to promote competence and professionalism in members of the Association, the Alaska Supreme Court and the Association encourage require all members to engage in Mandatory Ethics Continuing Legal Education (MECLE). Every active member of the Alaska Bar Association shall complete at least three credit hours per year of approved MECLE. Qualifying educational topics may include professional responsibility, workplace ethics, law office management, attention to cases and clients, time management, malpractice prevention, collegiality, general attorney wellness, and professionalism.

(b) *Voluntary Continuing Legal Education.* In addition to MECLE, the Alaska Supreme Court and the Association encourage all members to engage in Voluntary Continuing Legal Education (VCLE). Every active member of the Alaska Bar Association

should complete at least nine~~12~~ credit hours per year of approved VCLE, ~~including 1 credit hour of ethics CLE,~~ each year.

Commentary. - *The Alaska Supreme Court and the Association are convinced that CLE contributes to lawyer competence and benefits the public and the profession by assuring that attorneys remain current regarding the law, the obligations and standards of the profession, and the management of their practices. To protect the public, ensure that lawyers remain mindful of their obligations to their clients, and to address the area about which the Association receives the majority of questions from and complaints about lawyers, the Supreme Court is imposing a mandatory requirement for ethics CLE on all active Bar members. The ethics topics that qualify for MECLE are intended to be comprehensive, as conveyed by the examples in subsection (a) of this rule. Moreover, to help ensure that lawyers can easily and readily meet the MECLE requirements, the Association has agreed to provide at least three hours per year of approved MECLE at no cost to members. But the Supreme Court is not convinced that a mandatory rule is necessary and believes that a CLE program can become successful by using incentives to encourage voluntary participation in CLE rather than sanctions to penalize noncompliance with a mandatory rule. The Supreme Court has also concluded that Voluntary Continuing Education on additional subject areas is valuable to lawyers and should be encouraged. This rule uses incentives to encourage lawyers to participate in VCLE.*

The Supreme Court's goal in imposing MECLE and mandatory reporting of all CLE is to encourage a substantial increase in

attendance at CLE courses and participation in activities that earn MECLE and VCLE credit, with resulting enhancement of lawyer services to clients. This rule refines the former VCLE rule, and continues the pilot project begun in 1999. At the end of three years, Accordingly the Supreme Court and the Association have adopted this rule as a three-year pilot project. At the end of this pilot project, the Supreme Court will again assess the project's results, including recommendations and statistics provided by the Association, and will determine whether an expanded sanction-based mandatory CLE program is necessary.

(c) Carryforward of Credit Hours. An active Bar member may carry forward from the previous reporting period a maximum of 12 credits (3 MECLE credits and 9 VCLE credits). To be carried forward, the credit hours must have been earned during the calendar year immediately preceding the current reporting period.

(d) Mandatory Reporting. By February 1, At the end of each year, each member will must certify on a form, prescribed by the Association CLE Director and distributed with the invoice for bar dues, whether the member's has completed the required minimum of three hours of approved MECLE hours during the preceding year or carried over from the prior year as provided in subsection (c) of this rule. The member must also certify whether the member has completed nine hours of approved VCLE earned during the preceding year or carried over from the prior year as provided in subsection (c). If the member has completed fewer than nine hours of VCLE, the member must also estimate and report the estimated number of VCLE hours completed. A member shall maintain records of approved

MECLE hours for the two most recent reporting periods, and these records shall be subject to audit by the Association on request. The CLE Director will supervise the CLE program and perform the duties and responsibilities contained in these rules.

Commentary. – The Supreme Court has adopted this mandatory reporting requirement to ensure that Bar members report CLE activities to the Association. This will ensure that the Association and the Court can assess the effectiveness of the rule by determining what percentage of lawyers are earning CLE credit hours in excess of the minimum, and what percentage are earning VCLE credit hours, even if the hours are less than the nine hours that this rule encourages.

The record of approved MECLE hours that members are required to maintain under subsection (d) may be any documentation, including contemporaneous journal entries or timekeeping entries, whether paper or electronic, that serves to establish that the member earned the credit hours.

(ed) Incentives for VCLE. ~~Members who comply with this rule by completing the minimum recommended hours of approved CLE provided in section (b) of this rule will receive a reduction in their bar dues, in an amount to be determined each year by the Board. Only members who complete at least nine hours of VCLE the minimum recommended hours of approved CLE are eligible to participate in the Alaska Bar Association's Lawyer Referral Service. If a member does not comply with this rule by completing at least nine hours of VCLE, the minimum recommended hours of approved CLE, that fact may be taken into account in any Bar disciplinary matter relating to the~~

requirements of Alaska Rule of Professional Conduct 1.1. The Association shall make a member's record of compliance with VCLE available to the Alaska Judicial Council for its consideration in connection with a member's candidacy for any judicial office or other position for which the Council screens and nominates candidates. The Association shall publish annually, and make available to members of the public, a list of attorneys who have complied with this rule's MECLE requirements and satisfied this rule's minimum recommendations for VCLE. ~~minimum recommended hours of approved CLE.~~ The Association may ~~adopt~~devise other incentives to encourage compliance with the VCLE recommendationsthis rule.

Commentary. ~~- This rule contemplates a modest reduction in bar dues, to be determined annually at the Board's discretion, that will serve as an incentive for members who have voluntarily complied with the CLE standard; the reduction is not intended as reimbursement for CLE costs actually incurred by members.~~

~~(f)~~ (e) Time Extensions. A member may file a written request for an extension of time for compliance with this rule. A request for extension shall be reviewed and determined by the Association ~~CLE~~ Director. ~~A member who is granted an extension and completes the minimum CLE requirements after the end of the reporting period is not entitled to the discount on bar dues.~~

~~(g)~~ (f) CLE Activities. The MECLE and VCLE standards ~~requirement~~ of this rule may be met either by attending approved courses or completing any other continuing legal education activity approved for credit under these rules. If the approved course or activity or any portion of it relates to ethics as

described in (a) of this rule, the member may claim MECLE credit for the course or activity or for the ethics-related portion of it. Any course or continuing legal education activity approved for credit by a jurisdiction, other than Alaska, that requires continuing legal education is approved for credit in Alaska under this rule. The following activities may be considered for credit when they meet the conditions set forth in this rule:

(1) preparing for and teaching approved MECLE and VCLE courses and participating in public service broadcasts on legal topics; credit will be granted for up to two hours of preparation time for every one hour of time spent teaching;

(2) studying audio or video tapes or other technology-delivered approved MECLE and VCLE courses;

(3) writing published legal articles in any publication ~~texts or~~ articles in law reviews or specialized professional journals;

(4) ~~attending~~ attendance at substantive Section or Inn of Court meetings;

(5) ~~participating~~ as a faculty member in Youth Court;

(6) ~~attending~~ attendance at approved in-house continuing legal education courses;

(7) ~~attending~~ attendance at approved continuing judicial education courses;

(8) ~~attending~~ attendance at approved continuing legal education courses including local bar association programs and meetings of professional legal associations;

(9) participating as a mentor in a relationship with another member of the Alaska Bar Association for the purpose of training that other member in providing effective pro bono legal services;

and

(10) participating as a member of the Alaska Bar Association Law Examiners Committee, the Alaska Bar Association Ethics Committee, the Alaska Rules of Professional Conduct Committee, or any standing rules committees appointed by the Alaska Bar Association or the Alaska Supreme Court.

(hg) Approval of CLE Programs. The Association CLE director shall approve or disapprove all education activities for credit. CLE activities sponsored by the Association are deemed approved. Forms for approval may be submitted electronically.

(1) An entity or association must apply to the Board for accreditation as a CLE provider. Accreditation shall constitute prior approval of MECLE and VCLE courses offered by the provider, subject to amendment, suspension, or revocation of such accreditation by the Board.

(2) The Board shall establish by regulation the procedures, minimum standards, and any fees for accreditation of providers, in-house continuing legal education courses, and publication of legal texts or journal articles, and for revocation of accreditation when necessary.

(ih) Effective Date; Reporting Period; Inapplicability to New Admittees.

(1) This rule will be effective ~~September 2, 1999~~ January 1, 2008. The reporting period will be the calendar year, from January 1st to December 31st, and the first calendar year to be reported will be the year 2008~~2000~~. Any ethics or other CLE credits earned from ~~September 2, 1999~~ January 1, 2007 to December 31, ~~1999~~ 2007 may be held over and applied to the reporting period for the year 2008~~2000~~.

(2) This rule does not apply to a new member of the Alaska Bar Association during the calendar year in which the member is first admitted to the practice of law in Alaska.

2. New Alaska Bar Rule 66 is added to read as follows:

Rule 66. Noncompliance with Continuing Legal Education Requirements; Suspension.

(a) Notice of Noncompliance. Within 30 days after the deadline for filing the certification form described in Rule 65(d), the Association shall send a notice of noncompliance to each member whose certificate shows that the MECLE requirement has not been met, or who has failed to file the completed certification form. Within 30 days after receiving a notice of noncompliance, the member shall either remedy the noncompliance, demonstrate that the notice of non-compliance was issued erroneously, or submit an affidavit of compliance, if the member asserts that the information on the certification form contained an error.

(b) Suspension for Noncompliance with Mandatory Ethics Continuing Legal Education Requirement or Noncompliance with Requirement to Report MECLE and VCLE.

(1) Any member who has not complied with the MECLE requirement in Rule 65(a) or with the mandatory reporting of MECLE and VCLE required by Rule 65(d), and who has not remedied the noncompliance as provided in subsection (a) of this rule, shall be notified in writing by certified or registered mail

that the Executive Director shall, after 15 days from the date of the notice, petition the Supreme Court of Alaska for an order suspending the member for noncompliance.

(2) A member suspended under this subsection shall not be reinstated until (A) the member has complied with the MECLE requirement and the mandatory reporting requirement; (B) the member has paid a reinstatement fee in an amount set by the Board; (C) the member has paid any dues accruing during suspension; and (D) the Executive Director has certified the member's compliance to the Alaska Supreme Court.

DATED: December 6, 2007

EFFECTIVE DATE: January 1, 2008

/s/

Chief Justice Fabe

/s/

Justice Matthews

/s/

Justice Eastaugh

/s/

Justice Carpeneti