

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

11/01/2022

Clerk of the
Appellate Courts

IN RE: AMENDMENT OF TENNESSEE SUPREME COURT RULE 21

No. ADM2022-00781

ORDER

By Order filed June 14, 2022, the Court solicited public comments regarding proposed amendments to Tennessee Supreme Court Rule 21 to permanently eliminate the limitations on Distance Learning continuing legal education credits. The Court received numerous comments from individual members of the Bar, including those residing in Tennessee and outside of Tennessee. The Court also received comments from the Tennessee Bar Association, the Memphis Bar Association, the Nashville Bar Association, and the Mid-South Commercial Law Institute. The Court has carefully considered the comments received and thanks the individuals and organizations that submitted them.

After due consideration, the Court hereby deletes Rule 21, section 4.09 and amends Rule 21, sections 3.01(c); 4.02(c) and (d); 4.03(a); 4.04; 4.08(f); 5.01(g); 5.01(h); and 10.01(c)(1) and (2) of the Rules of the Tennessee Supreme Court in the form set out in Appendix A to this Order. Appendix B to this Order is the Rule after the amendments have been incorporated. The effect of these amendments is to eliminate the limitations on Distance Learning credits.

The Clerk shall provide a copy of this Order to LexisNexis and to Thomson Reuters. In addition, this Order shall be posted on the Tennessee Supreme Court's website.

It is so ORDERED.

PER CURIAM

APPENDIX A

Selected Portions of Rule 21: Rule for Mandatory Continuing Legal Education

Sup.Ct.Rules, Rule 21, § 3

Section 3. Continuing Legal Education Requirement

3.01. (a) Unless otherwise exempted, each attorney admitted to practice law in the State of Tennessee shall obtain by December 31st of that compliance year a minimum of fifteen (15) hours of continuing legal education. Of those fifteen hours, three (3) hours shall be approved for ethics/professionalism credit ("EP credit") and twelve (12) hours shall be approved for General credit.

(b) All EP credit shall be designated as "Dual" credit as defined in the Commission's regulations. Dual credit shall first be applied as EP credit and any remaining credit shall be applied as General credit.

(c) CLE hours earned for the purpose of compliance with this Rule may be earned via in-person or distance learning format. Each attorney, who is not exempt from this Rule, shall earn a minimum of seven (7) hours of Live CLE credit each compliance year and may count a maximum of eight (8) hours of Distance Learning credits towards each compliance year.

(d) An attorney who is eligible for an exemption must annually file a claim of exemption on or before March 31st. Applications received after the deadline are assessed late fees in accordance with the compliance timetable included with the Annual Report Statement.

(e) An attorney who has filed a previous claim of age exemption shall not be required to file an annual exemption statement.

3.02. (a) An attorney who has a disability that prevents compliance with Section 3.01(a) may annually file a Request for Substitute Program Based Upon Disability with the Commission. The request must include a statement from a medical provider in support of the relief requested. An attorney shall provide an updated statement of disability, each compliance year, when filing his or her Annual Report Statement.

The Request for Substitute Program Based upon Disability form can be found on the CLE website--www.cletn.com.

(b) An attorney who has a disability that prevents compliance with Section 3.01(c) may file a Request for a Substitute Program in Lieu of Attendance form and shall therein set out continuing legal education plans tailored to their specific abilities. The Commission shall review and approve or disapprove such plans on an individual basis. Denial of any requested substitute for attendance will be accompanied by reasons for the denial of the application and suggestions how the attorney might improve his or her application for an approved substitute for attendance.

This is a one year exemption and must be renewed annually using the same initial process. The Request for Substitute Program in Lieu of Attendance form can be found on the CLE website--www.cletn.com.

Sup.Ct.Rules, Rule 21, § 4

Section 4. Continuing Legal Education Credits

4.01. Credit will be given only for continuing legal education activities approved by the Commission.

4.02. (a) CLE credit shall be earned by attending CLE courses approved by the Commission, subject to the limitations set forth in this Rule.

(b) Up to fifteen (15) hours of credit earned in a compliance year in excess of the fifteen (15) credit annual requirement may be carried forward for credit in the succeeding compliance year, but only for the succeeding compliance year. Such hours must, however, be reported and paid.

(c) ~~All hours, whether earned via in-person or distance learning format, may be applied to the annual 15-hour carryforward in 4.02 (b). A maximum of eight (8) hours of Distance Learning credit will be applied to establish an attorney's compliance. A maximum of eight (8) hours of Distance Learning credit can be carried forward to the subsequent compliance year.~~

(d) Any attorney required to earn CLE credits who receives an Annual Report Statement showing ~~less~~ fewer than twelve (12) General credits and three (3) EP credits or that a fee is due shall sign and return the Annual Report Statement as directed in the Statement.

(e) CLE credit should be reported at the time that the CLE credit is earned or as soon thereafter as is practical, but no later than one year from the date that the CLE credit was earned. Failing to submit CLE credit earned in the compliance year on or before December 31st of the compliance year may result in non-compliance fees as set forth in [Section 7](#).

4.03. (a) Credit may be earned through teaching in an approved continuing legal education activity. Presentations accompanied by five (5) or more pages of thorough, high quality, readable and carefully prepared written materials will qualify for CLE credit on the basis of four (4) hours of credit for each hour of presentation. Presentations accompanied by ~~less~~ fewer than five pages of outlines, or not accompanied by written materials, will qualify for CLE credit on the basis of two (2) credits per hour of presentation. Repeat presentations qualify for one-half of the credits awarded for the initial presentation. CLE credit is earned as of the date the CLE presentation occurs.

(b) Credit may also be earned through teaching in an approved law school, or teaching law-related courses offered for credit toward a degree at the undergraduate or graduate level in an approved college, university or community college. The Commission may in its discretion award four (4) hours of CLE credit for each hour of academic credit awarded by the law school, college, university, or community college for the course(s) taught.

(c) Credit may be earned for judging or coaching moot court or a mock trial at an approved law school. Credit shall be earned at the rate of one hour of EP CLE credit for five (5) hours of judging or coaching. A maximum of three (3) hours of CLE credit may be earned in any compliance year.

4.04. Credit may be earned through formal enrollment and education of a postgraduate nature, either for

credit or by audit, in an approved law school. The Commission will award one (1) credit hour for each hour of class attendance.

~~Online course credit is subject to the eight (8) hour per year limitation.~~

4.05. Credit may be earned through service as a bar examiner in Tennessee or in any of the sister states. The Commission will award twelve (12) hours of General credit and three (3) hours of EP credit annually for the preparation and grading of one or more bar examination questions during a given compliance year.

4.06. An attorney may receive up to a maximum of twelve (12) hours of General continuing legal education credit, and a maximum of three (3) hours of EP credit, for passing the bar examination of any state or upon passage of the Uniform Bar Examination including compliance with the requirements of [Supreme Court Rule 7, Sections 1.04, 3.05](#) and Article V. Up to six (6) hours of General credit may be given for successful passage of any examination required by a specialist certification program approved under this Rule, or the examination for admission to practice before the United States Patent and Trademark Office. In addition, an attorney may receive three hours of EP credit for passing either the ethics portion of a bar examination of any state or the Multi-state Professional Responsibility Examination. The maximum credit to be earned by passing any and all bar examinations in a given compliance year is twelve (12) hours of General credit and three (3) hours of EP credit.

4.07. The Commission may, in its discretion, award:

(a) Up to one-half of the annual requirement to attorneys for participation as members of governmental commissions, committees, or other governmental bodies, at either the state or national level, involved in formal sessions for review of proposed legislation, rules or regulations. The Commission is authorized to promulgate regulations to implement this provision and to address any further public service credit.

4.08. The Commission may, in its discretion, award:

(a) Up to one-half of the annual requirement (six (6) General credits and one and one-half (1.5) EP credits) to attorneys for participation as members of governmental commissions, committees, or other governmental bodies, at either the state or national level, involved in formal sessions for review of proposed legislation, rules, or regulations.

(b) Up to one-half of the annual requirement (six (6) General credits and one and one-half (1.5) EP credits) for published writings concerning substantive law, the practice of law, or the ethical and professional responsibilities of attorneys if the writing is published in approved publications intended primarily for attorneys. Credit shall be awarded in the amount of one (1) hour for every 1,000 words, not including footnotes, endnotes, or citations of authority. Credit shall not be awarded to a named author when the actual principal author was another person acting under the direction or supervision of the named author. In requesting credit under this subsection, the attorney shall provide the Commission with an affidavit stating the facts of authorship.

(c) An annual maximum of three (3) EP credits earned at the rate of one hour of credit for every five billable hours of pro bono legal representation provided through court appointment, an organized bar association program, or an approved legal assistance organization, or of pro bono mediation services as required by Tennessee Supreme Court Rule 31 or the Federal Court Mediation Programs established by the United States District Courts in Tennessee. Credits awarded pursuant to this paragraph shall be exempt from the per-hour fee imposed by [Section 8](#) of this Rule.

An “approved legal assistance organization” for the purposes of this section is an organization or professional association that (1) provides pro bono legal services and (2) is approved by this Court. An organization which receives funding from the Legal Services Corporation is presumptively approved

under this section. Organizations or groups which do not provide legal assistance as their primary service or business but wish to develop an initiative or project designed specifically to provide pro bono legal services may apply to be approved by this Court under this section. Any organization seeking approval under this section must file a petition with the clerk of this Court. The Application for Tennessee Supreme Court Approval of Legal Assistance Organization form can be found on the CLE website--www.cletn.com.

(d) An attorney who provides indigent defense representation at a reduced hourly rate may receive EP credit for the uncompensated portion of the representation based upon the Commission's formula as set out in the Request for Earned Indigent Defense Credit form. A maximum of three (3) hours of credit may be earned in any compliance year. Indigent Defense credit hours earned in a compliance year in excess of the three (3) credit annual maximum may be carried forward for credit in the succeeding compliance year, but only for the succeeding compliance year and only up to three (3) credit hours. The form Request for Earned Indigent Defense Credit can be found on the CLE website--www.cletn.com.

(e) An attorney may receive a combined maximum of three (3) credits of pro bono and/or indigent defense credit in any compliance year.

(f) One (1) year of CLE credit may be awarded for completion of a bar review course. An attorney shall not receive bar review credit and bar exam credit in the same compliance year. ~~Bar review courses earned via an approved Distance Learning format are subject to the eight (8) hour per year limitation.~~ Online bar review courses that do not satisfy the ~~d~~Distance ~~l~~Learning format criteria will not be approved for CLE credit.

~~4.09. A maximum of eight (8) hours of credit per year earned in a Distance Learning format approved by the Commission pursuant to section 5.01(f) may be applied to the annual requirements.~~

Sup.Ct.Rules, Rule 21, § 5

Section 5. Continuing Legal Education Providers

5.01. The following standards will govern the approval by the Commission of continuing legal education activities:

(a) The activity must have significant intellectual or practical content and its primary objective must be to enhance the participant's professional competence as an attorney.

(b) The activity must deal primarily with matters related to substantive law, the practice of law, professional responsibility or ethical obligations of attorneys.

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

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

(e) Textual materials should be made available in written or electronic form to all participants at or before the time the course is presented, unless the absence of such materials is recognized as reasonable.

(f) The activity must be conducted in a format approved by the Commission including, but not limited to, online and web based programs.

(g) Twelve (12) activities delivered via in-person format are eligible for ~~Live~~ CLE credit. ~~See Section 3.01 for requirement.~~ The twelve (12) activities are:

1. Traditional in-classroom courses. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. See Section 3.01(c) of this Rule;

2. Teaching at an approved CLE activity. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. See section 4.03(a) of this Rule (includes video re-play with a qualified commentator); see Regulation 3A for commentator requirements;

3. Teaching at an approved educational institution. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. See section 4.03(b) of this Rule;

4. Pro Bono representation. A maximum of three (3) EP credits may be applied to any compliance year. See section 4.08(c) of this Rule;

5. Indigent Defense representation (uncompensated portion only). A maximum of three (3) EP credits may be applied to any compliance year. See section 4.08(d) of this Rule;

6. Published Writing. A maximum of six (6) General and one and one-half (1.5) EP credits may be applied to any compliance year. See section 4.08(b) of this Rule;

7. Formal enrollment and education of a postgraduate nature for credit or audit at an approved educational institution. Credit is earned hour for hour. See section 4.04 of this Rule. ~~For Live courses, Aa maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. For online courses, via an approved Distance Learning format, there is a maximum of eight (8) hours of credit each compliance year. See section 3.01(e) of this Rule;~~

8. Service as a Bar Examiner. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. See section 4.05 of this Rule;

9. Service on the Board of Professional Responsibility or one of its hearing committees. Credit is limited to three (3) EP credits in any compliance year. See section 4.07 of this Rule;

10. Participation as a member of governmental commissions, committees, or other governmental bodies. A maximum of six (6) General and one and one-half (1.5) EP credits may be applied to any compliance year. See section 4.08(a) of this Rule;

11. Completion of Bar Review course. ~~For Live courses, Aa maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. See section 4.06 of this Rule. For online courses, via an approved Distance Learning format, there is a maximum of eight (8) hours of credit each compliance year. See section 3.01(e) of this Rule;~~ and

12. Successful completion of a bar examination, specialist certification program, and/or examination for admission to practice before the United States Patent and Trademark Office. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. Bar review course credit and bar exam credit cannot both be claimed in the same compliance year. See section 4.08(f).

(h) Two (2) categories of activities delivered via distance learning format are eligible for ~~Distance Learning~~ CLE credit. All activities must provide some form of interactive component and a completion certificate from the sponsor. See Section 3.01 for requirement. Those two (2) categories are:

1. ~~“real time” or “Sstreamed” live sessions delivered in real time seminars whether through a webinar, “conference call,” or some other format accessed via a remote deviceviewed through a computer or portable video device via the internet (“webcast”);~~ and

2. ~~Pre-recorded, oOnline, computer-based digital audio or /video presentations, whether pre-recorded or not, that provide some form of interactive component and a completion certification from the sponsor.~~

(i) No activity consisting solely of the viewing or hearing of pre-recorded material will be awarded credit. The following types of courses and online formats are not eligible for CLE credit: YouTube videos, self-study courses, pre-recorded courses without interactivity, courses delivered as on-demand without interactivity, and courses delivered through an electronic device without interactivity.

(j) Activities that cross academic lines, such as accounting-tax seminars, may be considered for approval.

5.02. Tennessee does not recognize presumptive approval status for providers.

5.03. Tennessee does not recognize presumptive approval for any activity or program.

5.04. The Commission may at any time re-evaluate a program and revoke specific approval of any particular seminar.

5.05. (a) Any provider desiring to advertise Commission approval of a course, program, or other activity

shall submit an application for such permission and supporting documentation electronically or on the Uniform Application for Accreditation at least forty-five (45) days prior to the date on which the course or program is scheduled. Documentation shall include a statement of the provider's intention to comply with the accreditation standards of this Rule, copies of programs and written materials distributed to participants at the two most recently produced programs, if available, or an outline of the proposed program and list of instructors if the provider has not produced previous programs, and such further information as the Commission shall request. The staff of the Commission will advise the provider whether the activity is approved or disapproved in writing by mail or by electronic means within thirty (30) days of the receipt of the completed application.

(b) Providers denied approval of a program or activity may appeal such a decision by submitting a letter of appeal to the Executive Director within fifteen (15) days of the receipt of the notice of disapproval. Within thirty (30) days of the receipt of the appeal, the Executive Director shall make a new decision which shall be promptly delivered to the provider. Any adverse decision may be appealed to the full Commission for final decision.

(c) Any provider may submit to the Commission the Uniform Application for Accreditation seeking approval of a program after the program is conducted. The form is available on the Becoming a Provider page on the Commission's website--www.cletn.com.

(d) An attorney licensed to practice in Tennessee who has attended an out-of-state CLE activity not approved in advance by the Commission shall submit a detailed agenda and speaker biographies for the purpose of obtaining accreditation of the course after the program is conducted. All rules pertaining to course accreditation shall apply.

5.06. (a) The provider of a continuing legal education activity approved in advance may advertise or indicate approval of an activity, as follows: "This course has been approved by the Tennessee Commission on Continuing Legal Education for a maximum of ____ hours of credit."

(b) Any out-of-state provider that holds a program in Tennessee and does not obtain program accreditation shall include a statement on any program advertisement:

1. "This program is not accredited in Tennessee"; or
2. "We intend to seek accreditation for this program in Tennessee"; or
3. "This program is not being submitted for accreditation in Tennessee".

Sup.Ct.Rules, Rule 21, § 10

Section 10. Annual CLE Compliance Summary

10.01. Notwithstanding any other provision of this Rule to the contrary, the Commission shall publish an *Annual CLE Compliance Summary* of the activities of the Commission and the CLE reports and requests for exemption received by the Commission during the preceding compliance year. As part of this summary, the Commission shall report on the following topics:

- (a) The number of courses approved and rejected for accreditation;
- (b) The number of providers from whom lawyers holding a Tennessee license have received CLE credit;
- (c) The number of General and EP credit hours earned by lawyers holding a Tennessee license, both in the aggregate and in the following general categories:
 - (1) ~~In-person format~~ ~~Live-credit~~ programs;
 - (2) Distance ~~L~~earning ~~e~~credit ~~format~~ programs broken down by the following categories:
 - (i) ~~Live sessions delivered in real time~~ ~~online computer interactive~~; and
 - (ii) ~~Pre-recorded online digital sessions~~ ~~webinars~~; and
 - (iii) ~~telephone conference calls~~;
 - (3) pro bono legal representation;
 - (4) teaching;
 - (5) completion of a law-related course broken down by the following areas:
 - (i) bar review course;
 - (ii) bar exam; and
 - (iii) postgraduate course;
 - (6) service to the bar in the following areas:
 - (i) bar examiner;
 - (ii) governmental commissions, committees, or other governmental bodies;
 - (iii) Board of Professional Responsibility or as a hearing committee member;
 - (7) published author;
- (d) The number of courses offered per provider and the attendance figures based on the categories above;
- (e) The number of lawyers holding a Tennessee license who have been granted an exemption for the previous compliance year; and
- (f) The number of requests for exceptional relief granted by the Commission during the previous compliance year.

The Commission shall also report generally on the substantive content areas in which CLE credits are being earned and reported. The Commission's report relating to the preceding compliance year shall be published on its website by October 31st.

APPENDIX B

Selected Portions of Rule 21: Rule for Mandatory Continuing Legal Education

Sup.Ct.Rules, Rule 21, § 3

Section 3. Continuing Legal Education Requirement

3.01. (a) Unless otherwise exempted, each attorney admitted to practice law in the State of Tennessee shall obtain by December 31st of that compliance year a minimum of fifteen (15) hours of continuing legal education. Of those fifteen hours, three (3) hours shall be approved for ethics/professionalism credit ("EP credit") and twelve (12) hours shall be approved for General credit.

(b) All EP credit shall be designated as "Dual" credit as defined in the Commission's regulations. Dual credit shall first be applied as EP credit and any remaining credit shall be applied as General credit.

(c) CLE hours earned for the purpose of compliance with this Rule may be earned via in-person or distance learning format.

(d) An attorney who is eligible for an exemption must annually file a claim of exemption on or before March 31st. Applications received after the deadline are assessed late fees in accordance with the compliance timetable included with the Annual Report Statement.

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Sup.Ct.Rules, Rule 21, § 4

Section 4. Continuing Legal Education Credits

4.01. Credit will be given only for continuing legal education activities approved by the Commission.

4.02. (a) CLE credit shall be earned by attending CLE courses approved by the Commission, subject to the limitations set forth in this Rule.

(b) Up to fifteen (15) hours of credit earned in a compliance year in excess of the fifteen (15) credit annual requirement may be carried forward for credit in the succeeding compliance year, but only for the succeeding compliance year. Such hours must, however, be reported and paid.

(c) All hours, whether earned via in-person or distance learning format, may be applied to the annual 15-hour carryforward in 4.02 (b).

(d) Any attorney required to earn CLE credits who receives an Annual Report Statement showing fewer than twelve (12) General credits and three (3) EP credits or that a fee is due shall sign and return the Annual Report Statement as directed in the Statement.

(e) CLE credit should be reported at the time that the CLE credit is earned or as soon thereafter as is practical, but no later than one year from the date that the CLE credit was earned. Failing to submit CLE credit earned in the compliance year on or before December 31st of the compliance year may result in non-compliance fees as set forth in [Section 7](#).

4.03. (a) Credit may be earned through teaching in an approved continuing legal education activity. Presentations accompanied by five (5) or more pages of thorough, high quality, readable and carefully prepared written materials will qualify for CLE credit on the basis of four (4) hours of credit for each hour of presentation. Presentations accompanied by fewer than five pages of outlines, or not accompanied by written materials, will qualify for CLE credit on the basis of two (2) credits per hour of presentation. Repeat presentations qualify for one-half of the credits awarded for the initial presentation. CLE credit is earned as of the date the CLE presentation occurs.

(b) Credit may also be earned through teaching in an approved law school, or teaching law-related courses offered for credit toward a degree at the undergraduate or graduate level in an approved college, university or community college. The Commission may in its discretion award four (4) hours of CLE credit for each hour of academic credit awarded by the law school, college, university, or community college for the course(s) taught.

(c) Credit may be earned for judging or coaching moot court or a mock trial at an approved law school. Credit shall be earned at the rate of one hour of EP CLE credit for five (5) hours of judging or coaching. A maximum of three (3) hours of CLE credit may be earned in any compliance year.

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(b) Up to one-half of the annual requirement (six (6) General credits and one and one-half (1.5) EP credits) for published writings concerning substantive law, the practice of law, or the ethical and professional responsibilities of attorneys if the writing is published in approved publications intended primarily for attorneys. Credit shall be awarded in the amount of one (1) hour for every 1,000 words, not including footnotes, endnotes, or citations of authority. Credit shall not be awarded to a named author when the actual principal author was another person acting under the direction or supervision of the named author. In requesting credit under this subsection, the attorney shall provide the Commission with an affidavit stating the facts of authorship.

(c) An annual maximum of three (3) EP credits earned at the rate of one hour of credit for every five billable hours of pro bono legal representation provided through court appointment, an organized bar association program, or an approved legal assistance organization, or of pro bono mediation services as required by Tennessee Supreme Court Rule 31 or the Federal Court Mediation Programs established by the United States District Courts in Tennessee. Credits awarded pursuant to this paragraph shall be exempt from the per-hour fee imposed by [Section 8](#) of this Rule.

An “approved legal assistance organization” for the purposes of this section is an organization or professional association that (1) provides pro bono legal services and (2) is approved by this Court. An organization which receives funding from the Legal Services Corporation is presumptively approved under this section. Organizations or groups which do not provide legal assistance as their primary service or business but wish to develop an initiative or project designed specifically to provide pro bono legal services may apply to be approved by this Court under this section. Any organization seeking approval under this section must file a petition with the clerk of this Court. The Application for Tennessee Supreme

Court Approval of Legal Assistance Organization form can be found on the CLE website--www.cletn.com.

(d) An attorney who provides indigent defense representation at a reduced hourly rate may receive EP credit for the uncompensated portion of the representation based upon the Commission's formula as set out in the Request for Earned Indigent Defense Credit form. A maximum of three (3) hours of credit may be earned in any compliance year. Indigent Defense credit hours earned in a compliance year in excess of the three (3) credit annual maximum may be carried forward for credit in the succeeding compliance year, but only for the succeeding compliance year and only up to three (3) credit hours. The form Request for Earned Indigent Defense Credit can be found on the CLE website--www.cletn.com.

(e) An attorney may receive a combined maximum of three (3) credits of pro bono and/or indigent defense credit in any compliance year.

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Sup.Ct.Rules, Rule 21, § 5

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5.01. The following standards will govern the approval by the Commission of continuing legal education activities:

(a) The activity must have significant intellectual or practical content and its primary objective must be to enhance the participant's professional competence as an attorney.

(b) The activity must deal primarily with matters related to substantive law, the practice of law, professional responsibility or ethical obligations of attorneys.

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

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

(e) Textual materials should be made available in written or electronic form to all participants at or before the time the course is presented, unless the absence of such materials is recognized as reasonable.

(f) The activity must be conducted in a format approved by the Commission including, but not limited to, online and web based programs.

(g) Twelve (12) activities delivered via in-person format are eligible for CLE credit. The twelve (12) activities are:

1. Traditional in-classroom courses. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. See Section 3.01(c) of this Rule;

2. Teaching at an approved CLE activity. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. See section 4.03(a) of this Rule (includes video re-play with a qualified commentator); see Regulation 3A for commentator requirements;

3. Teaching at an approved educational institution. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. See section 4.03(b) of this Rule;

4. Pro Bono representation. A maximum of three (3) EP credits may be applied to any compliance year. See section 4.08(c) of this Rule;

5. Indigent Defense representation (uncompensated portion only). A maximum of three (3) EP credits may be applied to any compliance year. See section 4.08(d) of this Rule;

6. Published Writing. A maximum of six (6) General and one and one-half (1.5) EP credits may be applied to any compliance year. See section 4.08(b) of this Rule;

7. Formal enrollment and education of a postgraduate nature for credit or audit at an approved educational institution. Credit is earned hour for hour. See section 4.04 of this Rule. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year;
 8. Service as a Bar Examiner. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. See section 4.05 of this Rule;
 9. Service on the Board of Professional Responsibility or one of its hearing committees. Credit is limited to three (3) EP credits in any compliance year. See section 4.07 of this Rule;
 10. Participation as a member of governmental commissions, committees, or other governmental bodies. A maximum of six (6) General and one and one-half (1.5) EP credits may be applied to any compliance year. See section 4.08(a) of this Rule;
 11. Completion of Bar Review course. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. See section 4.06 of this Rule; and
 12. Successful completion of a bar examination, specialist certification program, and/or examination for admission to practice before the United States Patent and Trademark Office. A maximum of twelve (12) General credits and three (3) EP credits may be applied to any compliance year. Bar review course credit and bar exam credit cannot both be claimed in the same compliance year. See section 4.08(f).
- (h) Two (2) categories of activities delivered via distance learning format are eligible for CLE credit. All activities must provide some form of interactive component and a completion certificate from the sponsor. Those two (2) categories are:
1. Streamed live sessions delivered in real time through a webinar, conference call, or some other format accessed via a remote device; and
 2. Pre-recorded, online digital audio or video presentations.
- (i) No activity consisting solely of the viewing or hearing of pre-recorded material will be awarded credit. The following types of courses and online formats are not eligible for CLE credit: YouTube videos, self-study courses, pre-recorded courses without interactivity, courses delivered as on-demand without interactivity, and courses delivered through an electronic device without interactivity.
- (j) Activities that cross academic lines, such as accounting-tax seminars, may be considered for approval.

5.02. Tennessee does not recognize presumptive approval status for providers.

5.03. Tennessee does not recognize presumptive approval for any activity or program.

5.04. The Commission may at any time re-evaluate a program and revoke specific approval of any particular seminar.

5.05. (a) Any provider desiring to advertise Commission approval of a course, program, or other activity shall submit an application for such permission and supporting documentation electronically or on the Uniform Application for Accreditation at least forty-five (45) days prior to the date on which the course or program is scheduled. Documentation shall include a statement of the provider's intention to comply with the accreditation standards of this Rule, copies of programs and written materials distributed to participants at the two most recently produced programs, if available, or an outline of the proposed program and list of instructors if the provider has not produced previous programs, and such further

information as the Commission shall request. The staff of the Commission will advise the provider whether the activity is approved or disapproved in writing by mail or by electronic means within thirty (30) days of the receipt of the completed application.

(b) Providers denied approval of a program or activity may appeal such a decision by submitting a letter of appeal to the Executive Director within fifteen (15) days of the receipt of the notice of disapproval. Within thirty (30) days of the receipt of the appeal, the Executive Director shall make a new decision which shall be promptly delivered to the provider. Any adverse decision may be appealed to the full Commission for final decision.

(c) Any provider may submit to the Commission the Uniform Application for Accreditation seeking approval of a program after the program is conducted. The form is available on the Becoming a Provider page on the Commission's website--www.cletn.com.

(d) An attorney licensed to practice in Tennessee who has attended an out-of-state CLE activity not approved in advance by the Commission shall submit a detailed agenda and speaker biographies for the purpose of obtaining accreditation of the course after the program is conducted. All rules pertaining to course accreditation shall apply.

5.06. (a) The provider of a continuing legal education activity approved in advance may advertise or indicate approval of an activity, as follows: "This course has been approved by the Tennessee Commission on Continuing Legal Education for a maximum of ____ hours of credit."

(b) Any out-of-state provider that holds a program in Tennessee and does not obtain program accreditation shall include a statement on any program advertisement:

1. "This program is not accredited in Tennessee"; or
2. "We intend to seek accreditation for this program in Tennessee"; or
3. "This program is not being submitted for accreditation in Tennessee".

Sup.Ct.Rules, Rule 21, § 10

Section 10. Annual CLE Compliance Summary

10.01. Notwithstanding any other provision of this Rule to the contrary, the Commission shall publish an *Annual CLE Compliance Summary* of the activities of the Commission and the CLE reports and requests for exemption received by the Commission during the preceding compliance year. As part of this summary, the Commission shall report on the following topics:

- (a) The number of courses approved and rejected for accreditation;
- (b) The number of providers from whom lawyers holding a Tennessee license have received CLE credit;
- (c) The number of General and EP credit hours earned by lawyers holding a Tennessee license, both in the aggregate and in the following general categories:
 - (1) In-person format programs;
 - (2) Distance learning format programs broken down by the following categories:
 - (i) Live sessions delivered in real time; and
 - (ii) Pre-recorded online digital sessions.
 - (3) pro bono legal representation;
 - (4) teaching;
 - (5) completion of a law-related course broken down by the following areas:
 - (i) bar review course;
 - (ii) bar exam; and
 - (iii) postgraduate course;
 - (6) service to the bar in the following areas:
 - (i) bar examiner;
 - (ii) governmental commissions, committees, or other governmental bodies;
 - (iii) Board of Professional Responsibility or as a hearing committee member;
 - (7) published author;
- (d) The number of courses offered per provider and the attendance figures based on the categories above;
- (e) The number of lawyers holding a Tennessee license who have been granted an exemption for the previous compliance year; and
- (f) The number of requests for exceptional relief granted by the Commission during the previous compliance year.

The Commission shall also report generally on the substantive content areas in which CLE credits are being earned and reported. The Commission's report relating to the preceding compliance year shall be published on its website by October 31st.