

Proposed Changes to the Rules Governing Continuing Legal Education

The Rules Review Task Force and the Kansas Continuing Legal Education Commission recommend the following changes to the rules governing CLE in Kansas. The Kansas Supreme Court is accepting comments on the proposed rule changes until September 15, 2010. Comments on the proposed rule changes may be addressed to Shelley Sutton, Executive Director, Kansas Continuing Legal Education Commission, 400 S. Kansas Ave., Ste. 202, Topeka, Kansas, 66603, or to cleadmin@kscle.org.

In addition to streamlining the rules for a more user-friendly format, the proposed rule changes include:

- a proposal to expand the approval of non-traditional programming and allow for programs accessed solely by an individual attorney including: teleconference, internet-based conference, audiotape, videotape, CD, podcast, CD-ROM, DVD, and other formats as approved by the Commission and defined in the Guidelines for Non-Traditional Programming. The maximum amount of hours that can be earned for non-traditional programming is 5 hours per compliance period.
- an addition of a 2-hour option for law practice management programming.
- professional responsibility has been renamed ethics and professionalism.
- additional approval of non-substantive diversity and elimination of bias programming in the ethics and professionalism category.
- all attorneys will be required to file as either active or inactive. The exemption for active, but not practicing status is removed.
- requiring proof of completion of 1 year compliance to return to active status from inactive status.
- increase of the suspension reinstatement fee from \$100 to \$300.

RULES RELATING TO CONTINUING LEGAL EDUCATION

PREFATORY RULE

It is essential to the public and to the legal profession that attorneys admitted to the practice of law in Kansas continue their legal education in order to maintain and increase their professional competence. These rules establish minimum requirements for continuing legal education necessary to remain authorized to practice law in this state.

RULE 801 CONTINUING LEGAL EDUCATION COMMISSION

- (a) **The Commission.** There is hereby authorized the Continuing Legal Education Commission.
- (b) **Duties and Responsibilities.** The Commission shall administer these rules subject to the supervision of the Supreme Court. The authority of the Commission shall include but not be limited to: (1) accrediting providers and programs and determining the number of hours of credit to be given for participation; (2) granting or withdrawing approval of all or less than all courses of a sponsor; (3) receiving and considering reports of attorneys; (4) granting waivers and extensions to complete requirements; (5) giving all notices and certifications required by this rule; and (6) adopting guidelines necessary to implement or administer the Supreme Court rules relating to continuing legal education.
- (c) **Composition.** The Commission shall consist of nine members, appointed by the Supreme Court. All attorney members shall be registered under Supreme Court Rule 208. The members shall include: (1) five practicing attorneys, at least one of which shall be admitted to the Kansas Bar for fewer than ten years; (2) a faculty representative from each of the University of Kansas and Washburn University Schools of Law; (3) one non-attorney member, (4) and a justice or judge.
- (c) **Term of Service.** Appointments shall be for three-year terms. Any vacancy occurring on the Commission shall be filled by the Supreme Court. A Commission member appointed to fill a vacancy shall be appointed to serve the unexpired term of the previous member. No member shall serve more than two consecutive three-year terms, except that any person initially appointed for less than three years may serve two consecutive three-year terms thereafter.
- (d) **Meetings.** The Commission shall meet at such times and places as it determines.
- (e) **Election of Officers.** At the first meeting held in each annual attorney registration period a chairman, a vice chairman and a secretary shall be elected from the membership of the Commission. Five members shall constitute a quorum for the transaction of business.

- (f) **Expenses.** Members of the Commission and Commission staff shall be reimbursed their actual and necessary expenses incurred in travel to and from Commission meetings and for authorized travel in connection with Commission business.
- (g) **Confidentiality.** Unless otherwise directed by the Supreme Court, the files, records, and proceedings of the Commission, as they may relate to or arise out of the failure of any attorney to satisfy continuing legal education requirements, shall be confidential and shall not be disclosed except in furtherance of the Commission's duties or upon request of the attorney affected. Statistical abstracts may, however, be drawn therefrom in an anonymous fashion.
- (h) **Staff.** The Commission may employ an Executive Director and such other staff as may be necessary and may delegate to such director or staff the authority to conduct the business of the Commission within the Supreme Court Rules and Commission guidelines, subject at all times to review by the Commission.
- (i) **Contact Information for Commission.** Kansas Continuing Legal Education Commission, Attn: Executive Director, 400 S. Kansas Ave., Ste. 202, Topeka, Kansas 66603. 785-357-6510. www.kscle.org

RULE 802 DEFINITIONS

- (a) **Active practitioner** is an attorney who is required to pay the annual registration fee imposed by Supreme Court Rule 208 for the current registration period and who is not on inactive status or suspended or disbarred from the practice of law by the Supreme Court.
- (b) **Approved program or activity** is a continuing legal education program or its equivalent that has been submitted to the Commission for review and has been accredited.
- (c) **CLE Commission or “the Commission”** shall mean the governing body authorized by Supreme Court Rule 801(a).
- (d) **Compliance period** is the period from July 1 through June 30 of any year.
- (e) **Continuing legal education or “CLE”** is any legal educational activity or program designed to maintain or improve the professional competency of the practicing attorney that is accredited by the Commission.
- (f) **Ethics** refers to the standards set by the Kansas Rules of Professional Conduct with which lawyers must abide to remain in good standing as members of the Kansas bar.
- (g) **Guidelines** refer to internal Commission documents that detail the administrative requirements to implement CLE options and are not an official part of the rules but will be available to attorneys via the website.

- (h) **Inactive practitioner** is an attorney who has elected such status pursuant to Supreme Court Rule 208.
- (i) **In-house activity** is traditional programming given by, for, or to a select private audience from the same law firm, corporation, or single governmental entity, and not open for admission to other members of the legal community generally. Programs limited by invitation and not advertised to a broad attorney population will be considered in-house.
- (j) **Law Practice Management** refers to programming on non-substantive topics and courses of study specifically designed for lawyers that deal with means and methods for enhancing quality and efficiency of service to clients.
- (k) **Non-Traditional Programming** refers to programming accessed solely by an individual attorney, including: teleconference, internet-based conference, audiotape, videotape, CD, podcast, CD-ROM, DVD, and other formats as approved by the Commission and defined in its Guidelines for Non-Traditional Programming.
- (l) **Professionalism** is conduct consistent with the tenets of the legal profession as demonstrated by a lawyer's civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rule of law, the courts, clients, other lawyers, witnesses, and unrepresented parties.
- (m) **Rules** refers to the Rules Relating to Continuing Legal Education, together with any amendments thereto, as adopted by the Kansas Supreme Court.
- (n) **Traditional Programming** includes:

Live, Classroom Setting - The program should be presented in a suitable classroom or laboratory setting devoted to the educational activity or program.

Satellite - A live program presented in a classroom setting, in a central viewing or listening location, advertised to a broad attorney population. There must be a live connection to the speaker. As long as advertised and offered in a central location, there are no minimum attendance restrictions.

Video Replay - A recorded program presented in a classroom setting, in a central viewing location, advertised to a broad attorney population. There must be a live connection to a moderator in-person, or via telephone, to comment and answer questions. As long as advertised and offered in a central location, there are no minimum attendance restrictions.

RULE 803 MINIMUM REQUIREMENTS

- (a) **Credit Hours.** Each active practitioner admitted to practice law in Kansas shall earn a minimum of 12 CLE credit hours in each compliance period (July 1 to June 30). Of the 12 hours, at least 2 hours shall be in the area of ethics and professionalism.

- (b) **Carryover Credit.** An active practitioner, who has filed all hours for the compliance period as required by Supreme Court Rule 806, may carry forward to the next compliance period ten or fewer unused general attendance credit hours from the registration period during which the credit hours were earned. CLE hours approved for ethics and professionalism, teaching and authorship credit do not qualify for carryover hours. However, ethics and professionalism hours in excess of the 2-hour requirement may be carried forward as general credit but not as ethics and professionalism credit.
- (c) **Reporting.** CLE credit hours for each attorney shall be reported to the Commission in such form and manner as the Commission shall prescribe.
- (d) **Exemptions.** The following attorneys shall not be required to fulfill CLE requirements:
 - 1. Attorneys newly admitted to the practice of law in Kansas during the period prior to the first compliance period beginning after bar admission.
 - 2. Attorneys during the time they are on retirement or inactive status pursuant to Supreme Court Rule 208(j).
 - 3. Federal and state justices and judges who are prohibited from engaging in the private practice of law.
 - 4. Others exempted by the Commission for good cause shown.
- (e) **Exemptions for Good Cause.** The Commission may grant an exemption to the strict application of these rules to complete continuing legal education requirements because of good cause, e.g. disability or hardship. An attorney who suffers a disability that affects the attorney's ability to attend CLE programs may file annually a request for a substitute program in lieu of attendance and shall therein propose an alternative continuing legal education program the attorney can undertake and complete. The Commission shall review and approve or disapprove such programs on an individual basis. An attorney who receives approval of a substitute program shall be responsible for the fee required by Supreme Court Rule 808. All requests for exemption shall be submitted to the Commission in writing with full explanation of the circumstances necessitating the request.
- (f) **Legislative Service.** Attorneys elected and serving in the Kansas Legislature may, on request, receive a reduction of 6 of the 10 general credit hours for the compliance period in which they serve.

RULE 804 ACCREDITATION OF PROGRAMMING

- (a) **Traditional Programming Approval.** An organization or person, desiring prior accreditation of a course, program, or other CLE activity, or an attorney who desires to

have such activity approved for CLE credit prior to attendance, shall apply for accreditation to the Commission at least 60 days before the activity. Applications made by a program provider shall be accompanied by a \$25 non-refundable filing fee. The Commission shall review such application and notify the applicant of its progress within 30 days. A program is not approved until the applicant is notified of approval and should not be advertised until a Notice of Accreditation/Affidavit is received. The time limits contained in this rule have no application to in-house activity as defined in Supreme Court Rule 806(j).

- (b) **Individual Attorney Course Approval.** An attorney seeking credit for attendance at or participation in an educational activity that was not previously accredited under 804(a) shall submit to the Commission a request for credit, which shall include a description of the activity, dates, subjects, instructors and their qualifications, the number of credit hours requested, and any other information required by the Commission. The Commission shall review such application and notify the applicant of its progress within 30 days. A program is not approved until the applicant is notified of approval. An Application for Approval of CLE Activity must be submitted for each activity by either the sponsor or attorney.
- (c) **Interdisciplinary CLE.** Credit may be earned for activities that cross academic lines (e.g., accounting-tax) and are pertinent to an individual attorney's practice. See Supreme Court Rule 806(h).
- (d) **Non-traditional Programming Course Approval.** Applications for programming presented by non-traditional method must be submitted to the Commission by the provider or attorney in the form prescribed by the Commission and defined in the Guidelines for Non-Traditional Programming.
- (e) **Notice of Accreditation/Affidavits.** Upon approval, a Notice of Accreditation/Affidavit will be issued to the individual attorney or provider. Providers are required to distribute the appropriate Kansas affidavit to all attorneys seeking Kansas CLE credit. Providers holding an in-state program are responsible for distributing the appropriate Kansas affidavit for signature and for returning the executed affidavit to the CLE Commission within 30 days of the program. For out-of-state programs, the individual attorney is responsible for submitting the executed affidavit to the CLE Commission.
- (f) **Appeal of Determination.** Applicants denied approval of a program or activity may appeal the decision to the Commission by submitting a letter of appeal within 30 days after the notice of disapproval was mailed. No other appeal may be taken.
- (g) **Standards.** CLE courses or programs to be accredited shall comply with the following requirements:
 1. CLE credit shall be awarded on the basis of one credit hour for each 50 minutes actually spent in attendance at instructional activities exclusive of introductory remarks, meals, breaks, or other non-educational activities. One-half credit hour

shall be awarded for attendance of at least 25 but less than 50 minutes. No credit may be claimed for smaller fractional units.

2. The course shall have significant intellectual or practical content designed to promote lawyer competence and deal primarily with matters related to the practice of law or ethics and professionalism.
3. The course shall be presented by a person or persons qualified by practical or academic experience to present the subject. In most instances, legal subjects should be presented by lawyers.
4. Thorough, high quality, readable, useful and carefully prepared written materials must be made available to all participants at or before the time the program is presented, unless the absence of such materials is recognized as reasonable and approved by the Commission. A brief outline without citations or explanatory notations will not be sufficient. Written material shall satisfy the criteria set forth in the Guidelines for Written Materials.
5. For traditional programming, the course shall be presented in a suitable classroom or laboratory setting devoted to the educational activity or program. Generally, credit will not be given for after-dinner type speeches.
6. Integration of legal ethics or professionalism instruction into substantive law topics is encouraged, but such integrated material shall not count toward the 2-hour minimum annual ethics and professionalism requirement.

RULE 805 PROVIDER RESPONSIBILITY

- (a) **Marketing prior to approval.** Providers of courses for which accreditation has been sought but not yet approved may announce: "Application for CLE approval of this activity in Kansas is currently pending. Attorneys wanting to know the CLE approval status of a program should contact the sponsor."
- (b) **Filing Affidavits.** See Rule 804(c).
- (c) **Late Filing of Affidavits by Providers.** Providers of in-state programs held prior to July 1 of a compliance period, for which the affidavits are received in the Commission Office after the close of business on the last business day of July shall be responsible for the fees set forth in Supreme Court Rule 807(c).
- (d) **Audit of Activities.** Providers shall allow Commission members and staff to attend, free of charge, any continuing legal education program. Such attendance shall not qualify for mandatory continuing legal education credit.

- (e) **Evaluations.** At the conclusion of an approved program or activity, each participating attorney shall be given the opportunity to complete an evaluation form addressing the quality, effectiveness, and usefulness of the program or activity. Within 60 days following a program, the Commission may request copies of the evaluations and any existing summary of the results.
- (f) **Record Retention.** Attendance records shall be kept on file for a minimum of 3 years.

RULE 806 CREDIT FOR PARTICIPATION

- (a) **Carryover Credit.** Hours that are to be carried forward must be received in the Commission Office by the close of business on the last business day of July and reflect attendance during the compliance period for which they were earned. Late applications or affidavits will not qualify as carryover but will be filed to complete the annual requirement for the compliance period in which they were earned, if accompanied by the fee required by Supreme Court Rule 807(c). The full requirement of 12 hours, including 2 hours of ethics and professionalism credit, must be completed by June 30 and received in the Commission Office by the close of business on the last business day of July.
- (b) **Credit for Attendance.** The number of credit hours assigned to an approved program reflects the maximum that may be earned by attending the entire program. Only actual attendance earns CLE credit. No attorney may receive more than eight hours of credit in one day of CLE attendance.
- (c) **Course or Program Formats.** CLE courses or programs may include traditional and non-traditional formats.
- (d) **Credit for Teaching.** Up to 5 credit hours may be awarded for each 50 minutes spent teaching an approved program. The applicant must file the application for approval of teaching credit which outlines course content, teaching methodology, and time spent in preparation and instruction for the program. In awarding credit up to the maximum allowed, the Commission will consider time spent in preparation and teaching. For example, an attorney who spends 150 minutes preparing a program and 50 minutes teaching may be awarded up to 4 credit hours. One-half credit hour shall be awarded for teaching of at least 25 but less than 50 minutes. No credit may be claimed for smaller fractional units. Repeat presentations may qualify for additional credits, limited to time actually spent updating the presentation and teaching. Because teaching credit is awarded as an incentive to attorneys to enhance or benefit the legal profession, the instruction must be directed toward an audience composed primarily of attorneys. Credit will not be awarded for teaching either undergraduate, graduate or law school curriculum.
- (e) **Credit for Publications.** Credit may be awarded for authorship of legal publications. The attorney must complete the Application for Approval of Authorship Credit. Credit will be considered provided the activity (1) has produced published findings in the form of articles, chapters, monographs, or books, personally authored, in whole or part, by the applicant, and (2) contributes substantially to the continuing legal education of the

applicant and other attorneys. Credit may be awarded 1 hour for every hour spent directly in preparation of the publication. Publication must occur during the compliance period for which credit is requested. Articles, monographs, and books directed to non-attorney audiences, while resulting in self-improvement as a form of self-study, do not qualify for authorship credit.

- (f) **Credit for Attendance Prior to Being Admitted to the Practice of Law in Kansas.** Credit will not be given for any course attended before being admitted to the practice of law in Kansas.
- (g) **Credit for Attending Law School Courses.** Credit may be earned through formal enrollment and education of a postgraduate nature, either for credit or by audit, in an accredited law school. The Commission will award 1 credit hour for each 50 minutes of class attendance.
- (h) **Duplicate Attendance.** Attendance at a program that an attorney has previously attended during the compliance period will not be accepted for continuing legal education credit.
- (i) **In-House Activity.** An in-house activity, to receive approval, shall meet all of the following standards:
 - 1. The activity shall meet the standards for program approval outlined in Rule 804.
 - 2. The law firm, corporation, or single governmental entity for whom the program is offered shall assume the responsibility for accreditation.
 - 3. The course must be open to in-person monitoring/observation by any member of the Commission. To this end, application must be received by the Commission 30 days in advance of the in-house presentation for which credit will be sought.
 - 4. The activity must be scheduled at a time and location so as to be free of interruptions from telephone calls and other office matters.
 - 5. No more than 5 CLE credit hours may be earned by an attorney in any compliance year through in-house CLE activities.
- (j) **Interdisciplinary Programming.** Credit may be earned for activities that cross academic lines (e.g., accounting-tax) and are pertinent to an individual attorney's practice. The Application for Approval of CLE Activity should be submitted pursuant to Supreme Court Rule 804(b) and include a statement of how the program is beneficial to the attorney's practice.
- (k) **Law Practice Management Programming.** An attorney may receive CLE credit for participation in an accredited CLE activity as defined in the Guidelines for Accreditation of Law Office Management. Law office management credit is limited to a maximum of 2 hours of general credit per compliance period through approved programs.

- (l) **Non-Traditional Programming Limitations.** An attorney may receive CLE credit for participation in an accredited non-traditional CLE activity in which attorneys participate through some type of alternative method as defined in the Guidelines for Non-Traditional Programming. Non-traditional credit is limited to a maximum of 5 hours of credit per compliance period through approved programs.
- (m) **Self-Study Prohibition.** Self-study programming is not accreditable.

RULE 807 REPORTING REQUIREMENTS

- (a) **Annual Report.** The Commission will issue an annual report in August for the preceding compliance period for each attorney subject to the Commission's jurisdiction. If the annual report is accurate, no action need be taken; it will be filed automatically as the attorney's annual report. If changes are necessary, the attorney must notify the Commission within 30 days of the issuance of the annual report.
- (b) **Failure to Comply.** If it appears an attorney has not met the minimum credit requirements for a compliance period, the Commission shall forward notice of the apparent noncompliance to the attorney's last known address by certified mail, return receipt requested. The attorney shall have 30 days from the mailing of the notice to cure the failure to comply or show cause for an exemption to avoid suspension from the practice of law.
- (c) **Late Filing of Affidavits.** All affidavits for the annual compliance period must be received in the Commission Office by the close of business on the last business day of July. If an attorney does not file the appropriate paperwork by that date, the attorney shall be assessed a late filing fee of \$50.
- (d) **Noncompliance with Requirement.** Attorneys not completing the required hours during the compliance period but completing the hours prior to suspension shall be assessed a noncompliance fee of \$100.
- (e) **Address Change.** Every attorney shall notify the Commission within 30 days after any change of address.

RULE 808 FEES

- (a) **CLE Annual Registration Fee.** Every attorney subject to the requirements of mandatory CLE shall pay a CLE annual fee to fund administration of the program. The amount of the CLE annual fee shall be determined by the Commission with approval by the Supreme Court.

- (b) **Notice of Fee.** On or before June 1 of each year, a statement of the amount of the CLE annual fee to be paid for the next compliance period shall be mailed to each individual attorney then authorized to practice law in this state at the attorney's last known address.
- (c) **Failure to Receive Notice.** Failure of any attorney to receive a statement shall not excuse the attorney from paying the required fee.
- (d) **Due Date and CLE Late Annual Fee.** The CLE annual fee shall be due on July 1 and considered delinquent on August 1. Fees received in the CLE Commission Office on or after August 1 of the year in which due shall be accompanied by a \$50 CLE late annual fee.
- (e) **Attorneys Returning to Practice.** Attorneys who are reinstated to active status after a period of disbarment or suspension and attorneys who are returning to active status after a period of time on inactive status shall pay the CLE annual fee, required by Supreme Court Rule 808(a), for the current compliance period, together with any other fees required for reinstatement, prior to their return to active status.
- (f) **Active Status with Attorney Registration and CLE.** As required by Supreme Court Rule 208(k), payment of the CLE annual fee and any applicable late annual fee shall be a prerequisite to completing registration as an active attorney under Supreme Court Rule 208.
- (g) **Returned Checks.** A \$35 service fee shall be assessed for all checks returned to the CLE Commission.

RULE 809 SUSPENSION FROM THE PRACTICE OF LAW

- (a) **Reasons for suspension.** Any attorney who is required to file a report of CLE credits and who does not do so or who fails to meet the minimum requirements of these rules, or who fails to pay the annual CLE fee, shall be suspended from the practice of law in this state.
- (b) **Notice of Noncompliance.** The Commission shall notify any attorney who appears to have failed to meet the requirements of these rules that the attorney's name will be certified to the Supreme Court for suspension from the practice of law in this state, unless the attorney shows cause why the certification should not be made. Notice shall be forwarded to the attorney's last filed address by certified mail, return receipt requested. Thirty days after mailing such notice, if no hearing is requested, the Commission shall certify to the court, for an order of suspension, the name of each attorney who has not fulfilled the requirements of these rules.
- (c) **Hearing.** Upon written request by an attorney notified by the Commission under subsection (b) of this rule, filed within 30 days of the date of mailing such notice, the Commission shall grant a hearing upon issues raised by the attorney. Thereafter, the attorney's name shall not be certified to the Supreme Court unless suspension is

recommended by the Commission after such hearing. The Commission shall provide for a record and the costs thereof where needed.

RULE 810 REINSTATEMENT PROCEDURES FOR INACTIVE PRACTITIONER

- (a) **Request for Reinstatement.** An inactive practitioner seeking to become an active practitioner shall submit a written request for reinstatement to the Kansas Supreme Court as required by Supreme Court Rule 208(j).
- (b) **Required Fees.** In addition to any amount to be paid to the Clerk of the Appellate Courts under Rule 208, a written request for reinstatement shall be submitted to the Commission accompanied by a check or money order payable to the Kansas Continuing Legal Education Commission for the \$25 change of status fee plus the CLE annual fee for that compliance period.
- (c) **Required Hours.** Prior to reinstatement, any inactive practitioner shall complete 12 CLE credit hours, including 2 hours of ethics and professionalism, in the 12 months prior to reinstatement as an active practitioner. Once reinstated, the practitioner shall complete the annual CLE requirement by the end of the compliance period in which such practitioner is reinstated. The hours used for reinstatement may not be used to fulfill the requirement for the compliance period immediately following reinstatement.

RULE 811 REINSTATEMENT PROCEDURES FOR SUSPENDED PRACTITIONER

- (a) **Suspended less than 1 year.** Suspended practitioners returning from suspension of less than one year must:
 - 1. submit a written request for reinstatement to the Commission with a reinstatement fee of \$300;
 - 2. between the date of suspension and the date of reinstatement, complete any hours required to satisfy any deficiency in the CLE requirements and pay any fees incurred prior to suspension; and
 - 3. complete the annual CLE requirement by the end of the compliance period in which such practitioner is reinstated.
- (b) **Suspended 1 year or more.** Suspended practitioners returning from suspension of 1 year or more must:
 - 1. submit a written request for reinstatement to the Commission with a reinstatement fee of \$300;

2. between the date of suspension and the date of reinstatement, complete any hours required to satisfy any deficiency in the CLE requirements and, fees incurred prior to suspension;
3. between the date of suspension and the date of reinstatement, complete an additional 12 hours of CLE credit, including 2 hours of ethics and professionalism, for each year during which the attorney was suspended, unless waived or modified by order of the Supreme Court; and
4. complete the annual CLE requirement by the end of the compliance period in which such attorney is reinstated.

RULE 812 EFFECTIVE DATE

These rules shall be effective on and after July 1, 1985. Attendance of any approved program between April 1 and July 1, 1985 shall count toward CLE requirements for the annual compliance period commencing July 1, 1985. Rules revised July 1, 2011.

These guidelines are internal Commission documents that detail the administrative requirements to implement the options and are not an official part of the rules. These will be available to attorneys via the Commission's website.

Guidelines for Written Materials

Kansas Supreme Court Rule 804(e) requires that “thorough, high quality, readable, useful, and carefully prepared written materials must be made available to all participants at or before the time the program is presented, unless the absence of such materials is recognized as reasonable and approved by the Commission. A brief outline without citations or explanatory notations will not be sufficient.”

This requirement must be satisfied by all courses, regardless of duration, in order for CLE credit to be granted. Exceptions to the requirement must be determined well in advance of the activity.

The purpose of the requirement of written materials is threefold. First, it insures thorough course preparation by the provider and presenter. Generally, the provider must furnish materials prepared specifically for the course and the subject matter addressed. The distribution of copies of cases or statutes without customized materials is not acceptable. Second, it insures that the attendees will receive materials that are useful after the course is completed. Materials provided should be sufficient to assist the attendee when questions regarding the covered subject matter are raised at a later date and to serve as a general resource after course completion. Third, it allows the Kansas CLE Commission to evaluate the quality and nature of the course and the actual subject matter being covered. Occasionally, neither the title of the course submitted on an application nor the agenda for the presentation provides sufficient information about course content to allow evaluation. Review of the written materials provided to course attendees allows the Commission to assess the quality and subject matter of the course and to insure that the topics addressed are appropriate for accreditation purposes.

The requirement to provide written materials can be satisfied by providing printed copies or copies stored on electronic media. It may also be satisfied by allowing attendees access to electronic copies available for downloading. The materials must be delivered to the attendee before or at the program. In the event that a provider does not provide printed copies to all attendees, such copies must be made available to any attendee who requests them.

If there are no written materials for the program, no CLE credit will be granted.

For questions or comments regarding these guidelines, please contact the Kansas CLE Commission, 400 S Kansas Ave, Ste. 202, Topeka, KS 66603. 785-357-6510 www.kscle.org

Guidelines for Non-Traditional Programming

Non-traditional programming is defined in Supreme Court Rule 802(f) as a program accessed solely by an individual attorney including: teleconference, internet-based conference, audiotape, videotape, CD, podcast, CD-ROM, DVD, and other formats as approved by the Commission.¹

A practitioner may receive CLE credit for up to 5 hours of non-traditional programming per compliance period, provided:

- The target audience must be attorneys. The course shall be presented by a person or persons qualified by practical or academic experience to present the subject. In most instances, legal subjects should be presented by lawyers.
- The course shall provide high quality written instructional materials. These materials may be available to be downloaded or otherwise furnished so that the attendee will have the ability to refer to such materials during, and subsequent to, the seminar.
- Attorneys or providers should submit the Application for Approval of Non-Traditional Programming and any supporting documentation required by the Commission for a program to be considered for possible credit.
- The provider must have procedures in place to independently verify an attorney's completion of a program. Verification procedures may vary by format and by provider. An attorney affidavit attesting to the completion of a program is not by itself sufficient. Independent provider verification is required.
- The provider must consider the format in which a CLE program is offered in order to design an appropriate verification procedure.

For example, verification procedures for a course in the videotape format for individual viewing may consist of an attorney reporting a course code to the provider after viewing a videotape, and attesting to completion of the program in an affidavit. The CLE provider would then verify the accuracy of the code before issuing a certificate of attendance. (For example, a code, such as "167," may be spoken at some point during a videotaped program and/or may appear briefly on the screen. A participating attorney would record the code, "167," on the form provided by the provider and submit the form with course code to the CLE provider.) Note that CLE courses or programs presented in segments should have a separate and distinct code for each segment, and spaces on the affidavit to report all codes.

Another example would be the use of pop-up boxes and time tracking by an online provider to independently verify that an attorney has completed an entire program.

Certification of attendance may be issued only after the provider has established that the attorney completed the program in its entirety.

- The Commission will consider approval of all methods of independent provider verification when determining accreditation of a CLE course. Attendance should be reported in the manner prescribed by the Commission.
- Even though a program has been previously accredited, the content must remain current for a practitioner to receive credit. For example, a video replay from 1999 would not be accredited.
- Self-study programming is not creditable per Supreme Court Rule 806(m).

¹ In contrast, **traditional programming** is defined per Supreme Court Rule 802(n) as a program presented in a live classroom setting, in a central viewing location, advertised to a broad attorney population. A moderator must be connected, in-person or via telephone, to comment and answer questions. As long as advertised and offered in a central location, there are no minimum attendance restrictions. Based on the structure of the course, the program may be considered in-house under Kansas rules.

For questions or comments regarding these guidelines, please contact the Kansas CLE Commission, 400 S Kansas Ave, Ste. 202, Topeka, KS 66603. 785-357-6510 www.ksCLE.org

Guidelines for Accreditation of Law Practice Management Programming

A practitioner may receive CLE credit for up to 2 hours of law practice management programming per compliance period, provided:

- The course shall be presented by a person or persons qualified by practical or academic experience to present the subject and focus on the legal profession.
- Qualified programming includes: issues relating to the development and management of a law practice, including client relations and technology to promote the efficient, economical, and competent delivery of legal services.

Programming creditable under the ethics and professionalism requirement are not subject to the 2-hour law practice management cap. See the Guidelines for Ethics and Professionalism.

For questions or comments regarding these guidelines, please contact the Kansas CLE Commission, 400 S Kansas Ave, Ste. 202, Topeka, KS 66603. 785-357-6510 www.ksCLE.org

Guidelines for Ethics and Professionalism

All actively licensed attorneys are required to complete a minimum of 2 hours of CLE in the area of ethics and professionalism by the end of each compliance period. Supreme Court Rule 803(a).

Ethics refers to the standards set by the Kansas Rules of Professional Conduct with which lawyers must abide to remain in good standing as members of the Kansas bar. Programming is accreditable when it instructs attorneys on compliance and duties under those rules.

Professionalism is conduct consistent with the tenets of the legal profession as demonstrated by a lawyer's civility, honesty, integrity, character, fairness, competence, ethical conduct, public service, and respect for the rule of law, the courts, clients, other lawyers, witnesses, and unrepresented parties. Professionalism also includes promotion of racial, gender and ethnic diversity in the legal profession. The general goal of including professionalism as accreditable CLE is to create a forum in which lawyers, judges and legal educators can explore and reflect upon the meaning and goals of professionalism in contemporary legal practice.

Ethics included as part of another topic does not qualify for ethics and professionalism credit. "Integration of legal ethics or ethics and professionalism issues into substantive law topics is encouraged, but shall not count toward the 2-hour minimum annual ethics and professionalism requirement." Supreme Court Rule 804(e)(6).

The Commission will occasionally receive applications for approval of ethics credits for topics that do not objectively pertain to ethics or professionalism issues specifically applicable to attorneys. These programs may meet the requirements for general CLE credit, but are not eligible for ethics and professionalism credits.

The following are examples of some topics and types of courses that **do not** qualify for ethics and professionalism credit:

Ethics in Government

Programs that focus on standards of conduct applicable to non-attorney employees, even though presented to attorneys, including:

- the ethical standards applicable to governmental employees, federal legislators, governmental contractors;
- United States' employees' compliance with the Presidential Executive Order requiring a standard of conduct higher than bar ethical rules might require;
- educating the government attorneys in these standards to enable that attorney to better advise a legislative and/or executive branch client on the applicable standards.

Litigation Tactics

Programs that focus primarily on rules of evidence and rules of procedure and not on applicable rules of professional conduct or codes of ethics and professionalism.

Ethics of Other Professions, such as business/corporate/medical ethics

Programs that, although presented to lawyers, focus on:

- an analysis or the application of ethical standards governing members of a profession other than the legal profession, e.g. ethics for accountants, realtors, etc;
- an analysis or the application of ethical standards appropriate for executives, corporate officers, and employees;
- an analysis or the application of medical ethics, "bioethics," or "biomedical" ethics;
- educating the lawyer in these standards to enable that lawyer to better advise a client on the applicable standards.

For questions or comments regarding these guidelines, please contact the Kansas CLE Commission, 400 S Kansas Ave, Ste. 202, Topeka, KS 66603. 785-357-6510 www.kscle.org