

EN EL TRIBUNAL SUPREMO DE PUERTO RICO

<p>In re:</p> <p>Aprobación del Reglamento del Programa de Educación Jurídica Continua</p>	<p>2005 TSPR 44</p> <p>163 DPR ____</p>
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**RULES OF THE CONTINUING LEGAL  
EDUCATION PROGRAM**

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# **RULES OF THE CONTINUING LEGAL EDUCATION PROGRAM**

## **CHAPTER I        GENERAL PROVISIONS**

### **RULE 1.        LEGAL BASIS**

These Rules are promulgated by virtue of the authority vested in the Continuing Legal Education Board under Rule 8(d)(7) of the *Rules for Continuing Legal Education* adopted by the Supreme Court of Puerto Rico on June 30, 1998.

#### **COMMENT**

Rule 8(d)(7) of the *Rules for Continuing Legal Education* of June 1998 provides that the Continuing Legal Education Board will adopt the necessary rules to achieve the efficient administration of the continuing legal education program.

### **RULE 2.        TITLE**

These Rules will be known as the *Rules of the Continuing Legal Education Program*.

#### **COMMENT**

The title of these Rules identifies the function delegated to the Board: to administer the continuing legal education program created by the Supreme Court for all lawyers who practice the legal and notarial profession in Puerto Rico.

### **RULE 3.        MISSION**

The Supreme Court of Puerto Rico, by virtue of its inherent power to regulate the practice of law and the notarial profession in Puerto Rico, promulgated the *Rules for Continuing Legal Education* of June 30, 1998, to establish a mandatory continuing legal education program that would encourage and contribute to the professional advancement of every person engaged in the practice of Law. It also created the Continuing Education Board, the body to which it delegated the necessary functions to carry out this program and ensure compliance with the requirements established in the *Rules*.

One of the Board's basic functions is to certify that law professionals comply with their duty to take the legal education courses approved by the Board to achieve the intended goals. To accomplish this mission, therefore, there must

be an efficiently managed continuing legal education program that will enable law professionals to keep up-to-date on caselaw, legislation, and doctrines, as well as on the skills needed to practice their profession at the highest levels of quality and competence.

The mechanisms established in these Rules allow the Board to achieve its mission and to perform the other tasks delegated to it. These rules also aim to facilitate compliance by law professionals with their ethical duty to maintain the highest degree of excellence and competence in the legal services they provide.

## **COMMENT**

The rule states the purpose of the mandatory continuing legal education program established by the Supreme Court for law professionals actively engaged in the practice of their profession, as provided by Rules 1 and 2 of the 1998 *Rules*.

The mission set forth in this Rule is consistent with the functions delegated to the Board by the Supreme Court: to develop, administer, and assess the continuing legal education program as provided by Rule 8 of the 1998 *Rules*. It is also consistent with Canon 2 of Professional Ethics, which imposes on all law professionals the duty to attain a high degree of excellence and competence in their profession and to offer adequate assistance of counsel; these objectives must be achieved through their participation in educational programs that contribute to their professional advancement.

## **RULE 4. APPLICABILITY**

(A) The provisions of these Rules apply to:

(1) any law professional admitted to legal and notarial practice in Puerto Rico, and to those who have been suspended by the Supreme Court from the practice of their profession, either temporarily or for a specific period of time;

(2) providers accredited by the Board to offer continuing legal education courses.

(B) Any lawyer who has been permanently separated or indefinitely suspended from the legal profession by the Supreme Court and who voluntarily wishes to comply with the Continuing Legal Education Program requirements may do so; in that case, the Board must inform the Supreme Court every semester about the attorneys who comply with the provisions of these Rules.

(C) The following are excluded from the provisions of these Rules:

(1) judges of the General Court of Justice of Puerto Rico, for the term of their office, and former Justices of the Supreme Court of Puerto Rico;

(2) judges of the Federal Court for the District of Puerto Rico, of the Bankruptcy Court, and federal magistrates, for the term of their office;

(3) law professionals who have any of the following characteristics:

(a) teach Law at universities accredited by the Supreme Court or by the American Bar Association, while performing that function;

(b) are inactive by reason of age or of physical or mental incapacity after the Supreme Court accepted their petition for voluntary separation from the practice of law in Puerto Rico;

(c) are exempted from payment of annual bar association dues by reason of incapacity to practice their profession under Section 10 of the Bar Association Rules, and who ask the Board to exempt them from compliance;

(d) apply before the Board and are granted exemption or deferral from the continuing legal education requirement for good cause for the term granted;

(e) have been permanently separated from the practice of their profession by the Supreme Court. If they are reinstated, it will be incumbent upon the Court to decide how they will comply with the provisions of these Rules;

(f) submit to the Board a certification from the Puerto Rico Bar Association stating that they are inactive members of the bar, as defined in Rule 5(13) of these Rules, during the time of inactivity. If reactivated, it will be incumbent upon the Court to decide how they will comply with the provisions of these Rules;

(g) are enjoined by legal mandate from practicing law during the statutory term.

(D) Law professionals are under no obligation to comply with the continuing legal education requirement or with the provisions of these Rules during the two (2) years following the date of their initial admission to the practice of law.

## COMMENT

Section (A)(1) is based on Rule 2 of the 1998 *Rules*, which establishes the general standard that continuing legal education will be mandatory for all law professionals who remain active after being duly admitted by the Supreme Court to the practice of the legal and notarial profession in Puerto Rico. The phrase “active lawyer” was defined in Rule 3 of the 1998 *Rules*

as any person who, in addition to being duly admitted to the practice of law, is also a member of the Bar Association. Rule 5 of these Rules defines “law professional” as a professional authorized by the Supreme Court to practice the legal and notarial profession in Puerto Rico.

Section (A)(1) is also consistent with Rule 10 of the 1998 *Rules*, which requires that the law professional inform in the motion for reinstatement to active status that he or she continued to receive legal education during the term of his or her suspension and explain how this requirement was met. These provisions advise law professionals that their temporary suspension from the practice of the legal or notarial profession does not entail an automatic release from their obligation to receive continuing legal education. This is so because temporary suspension, unlike a court-ordered permanent separation from the legal profession, entails a high probability that reinstatement will be sought upon the lapse of the term fixed, as the case may be. Consequently, requiring that law professionals continue to receive legal education during the term of suspension and show how they met this requirement averts any interruption in their professional advancement and prevents retroactive compliance with the required continued legal education credit hours in a manner that could be burdensome. This rule also intends to stimulate law professionals to use this term to learn more about the ethical aspects that gave rise to his or her suspension. On the other hand, this rule is beneficial because it establishes an additional standard that may be considered by the Supreme Court when passing on the reinstatement petition.

Section (A)(2) extends the application of these Rules to providers of continuing legal education courses regarding all aspects of the implementation of this program. Providers are entities or institutions approved by the Supreme Court.

Section (C) of the rule includes a list of law professionals who were exempted from compliance with the continuing legal education requirement and with the provisions of these Rules. The exemption of judges from the Puerto Rico judicial system and the federal system is grounded on the fact that the Judiciary has its own particular continuing legal education needs that it must address through specialized courses and activities of its own. Pursuant to Rule 2 of the 1998 *Rules*, “[t]he [J]udiciary shall meet the minimum continuing legal education requirements determined by the administrative authorities of their respective systems.”

Section (C)(3)(a) is based on Rule 7(b) of the 1998 *Rules*, which recognizes this alternative compliance mechanism. Professionals engaged in the teaching of Law at accredited universities are exempted because their teaching practice requires them to keep up to date on



different subjects and because they are used as resources in continuing legal education activities. This section clarifies the Rule 7(b) text by providing that accredited universities are those recognized by the Supreme Court or by the American Bar Association. Applications for exemption from compliance by reason of teaching in other universities may be considered under section (C)(3)(d), which establishes exemptions for good cause.

Section (C)(3)(c) is based on Rule 3(b) of the 1998 *Rules*, which defines “inactive lawyer” as a law professional who has been exempted by the Bar Association from payment of the annual membership dues by reason of his or her incapacity to practice law. It is also based on Rule 8(d)(4) of the mentioned *Rules*, which authorizes the Board to consider applications for exemption filed by law professionals who are in this situation.

Section (C)(3)(d) adopts the provisions of Rule 8(d)(3) of the 1998 *Rules*, which grants the Board discretion to defer or exempt from compliance with the continuing legal education requirement for good cause.

Among the reasons that could be considered “good cause” for exemption from compliance with the provisions of these Rules is the situation of lawyers who practice law in United States jurisdictions that have established an equivalent board or accrediting entity for mandatory continuing legal education, and who are complying with said program.

Section (C)(3)(e) provides that the continuing legal education requirement does not apply to law professionals who have been permanently separated from the practice of their profession by the Supreme Court because in these cases, the probability of reinstatement in the near future is more remote. The second sentence of this section addresses the Board’s concern that law professionals who are reinstated years after being suspended indefinitely will certainly lack the skills needed for the effective practice of their profession, inasmuch as they have been out of touch with it, and might place public interest and the interests of their clients at risk. The Board recommends that in these cases the Supreme Court, as a condition for reinstatement, should require those law professionals to take a specific legal training that would at least require them to take courses for one or more compliance periods.

Section (C)(3)(f) exempts law professionals who do not practice their profession but are still members of the Bar Association; provided that if they become active again, the Board may require them to comply with all or with some of the continuing legal education requirements under conditions that are different from those established in these Rules (for instance, they may have to comply with some or with all of the required credits within a shorter period of time).

Section (C)(3)(g) may apply to government officers or employees whose positions are regulated by a statute that enjoins them from practicing their profession during the time they hold office.

Section (D), which exempts new law professionals from compliance with the continuing legal education requirements during the first two (2) years following the date of their initial admission to the practice of law, addresses the fact that newly admitted law professionals have a clearer recollection of matters related to the legal and notarial practice because they recently passed the bar examination.

## **RULE 5. DEFINITIONS**

1. Reasonable Accommodation – A logical and reasonable adjustment of the requirements established in these Rules for the accreditation of continuous legal education [courses] in order to ameliorate the impact of a law professional’s disability on his or her capacity to derive full and effective benefits from the courses, without said adjustment resulting in any of the following consequences:
  - (a) fundamentally altering the objective of the mandatory continuing legal education program, which is to encourage and contribute to the lawyers’ professional advancement through their full and effective utilization of the courses offered, as prescribed in the 1998 *Rules*;
  - (b) imposing undue hardship on the Supreme Court and on the Board regarding the administrative function of certifying compliance with the continuing legal education requirements.
2. Authorized course – A continuing legal education course approved by the Board because it meets all the requirements established in Rule 11 of these Rules.
3. Continuing Legal Education Course – Any educational activity that addresses the professional advancement needs of law professionals and that is designed for the purpose of obtaining, developing, and preserving the knowledge and skills needed to practice the legal and notarial profession at the highest levels of quality and competence.
4. Director – The person designated to perform the function of Executive Director of the Board.
5. Effective disclosure – The act of announcing the course to be offered to all Bar Association members by publication in a daily newspaper of general circulation in Puerto Rico or by any other alternative means of disclosure.

6. Private professional institution – The private law firm, partnership, professional corporation, organization, or entity whose members are mainly engaged in the practice of law.
7. Public professional institution – Any organization or entity under an agency, department, corporation, instrumentality, entity or body of the three branches of state, federal, or municipal government.
8. Board – The Continuing Legal Education Board, the body in charge of administering and enforcing compliance with the continuing legal education requirements as established in the 1998 *Rules*.
9. Compliance period – The two (2)-year-period within which law professionals must complete twenty-four (24) credit hours of continuing legal education, as prescribed by Rule 6(a) of the 1998 *Rules*, and in keeping with the staggered mechanism to comply with Rule 28(D) of these Rules.
10. Law professional – Any lawyer duly authorized by the Supreme Court to practice law in Puerto Rico, except those admitted by courtesy.
11. Provider – Any natural or artificial person who offers continuing legal education courses, in keeping with Rules 11, 17, and 18 of these Rules.
12. 1998 *Rules* – The *Rules for Continuing Legal Education* adopted on June 30, 1998.
13. Inactive Bar Association Member – Law professional who does not practice his or her profession, but who remains a Bar Association member as certified by the Puerto Rico Bar Association.

## COMMENT

After discussing the concept of effective disclosure and its implications within the context of the regulation and the purpose of the continuing legal education program, the Board members concluded that the publication of legal notices in a newspaper does not meet the Rule 16 course accreditation requirement.

Lawyers admitted by courtesy to practice law in Puerto Rico courts in special cases, as authorized by Rule 12(e) of the Rules of the Supreme Court of Puerto Rico, 4 L.P.R.A. App. XXI-A, are exempted from the application of these Rules.

**CHAPTER II CONTINUING EDUCATION BOARD**

**RULE 6. MEMBERS: APPOINTMENT, POWERS, AND LIMITATIONS**

- (A) Board members will be appointed as provided by Rule 8 of the 1998 *Rules*.
- (B) The Chair of the Board will have the power to designate from among its members an Acting Chair to substitute for him or her at any moment during his or her absence.
- (C) During his or her term of office, no member of the Board may be a provider or have a financial interest or share in the business of continuing legal education providers. Neither may a Board member participate as a resource in the activities carried out by providers under the continuing legal education program.

**RULE 7. MEETINGS**

- (A) The Chair will call the Board meetings. He or she may delegate this faculty to the Executive Director of the Board.
- (B) The presence of four (4) Board members shall constitute a quorum. All decisions will be approved by a majority of those present.
- (C) Absent members may be consulted on matters that require immediate attention, whether by telephone, fax, or e-mail.
- (D) Meetings will be recorded when the Board so decides. Its deliberations will be confidential.
- (E) Minutes will be taken of each meeting. The minutes must include a summary of issues discussed and all the agreements reached by the Board.
- (F) Board members must attend all meetings or notify their absence if unable to attend.
- (G) Board members will go over the minutes and will raise any objection thereto in writing or by telephone, fax, or e-mail before the meeting, or in person during the meeting. If no objections are raised, the minutes will be deemed approved for all purposes, there being no need to bring up the issue again for consideration by the Board.

**RULE 8. EXECUTIVE DIRECTOR**

The Chief Justice of the Supreme Court will appoint a Director, who will be in charge of the Board's direction and administration.

**RULE 9. FUNCTIONS OF THE DIRECTOR**

The Director is the administrative officer of the Board in charge of implementing these Rules, and who will perform the necessary functions to do so, among which are the following:

- (1) certify and accredit providers;
- (2) approve continuing legal education courses;
- (3) keep under his or her custody and control all the documents, registries, records, and equipment;
- (4) issue certifications in keeping with these Rules;
- (5) direct, coordinate, and supervise the Board's administrative personnel;
- (6) prepare the minutes of Board meetings;
- (7) examine situations of noncompliance with the terms and requirements set forth in these Rules and recommend the pertinent action;
- (8) submit recommendations on any other matter related to the performance of his or her functions and the efficient administration of these Rules;
- (9) administer the scholarship fund established by the Board.

**COMMENT**

As a result of the discussions on course costs and on ways to make continuing legal education available to law professionals who can show financial hardship, the Board determined that in due time it will establish a scholarship fund with the income derived from the payment of the fees prescribed by these Rules. Section (9) of this rule authorizes the Director to administer said fund, which will accrue as allowed by the Board's operational budget.

## **CHAPTER III CONTINUING LEGAL EDUCATION ACCREDITATION**

### **RULE 10. COURSE ACCREDITATION: REQUIREMENTS**

To be accredited, every continuing legal education course must meet the following requirements:

- (1) have significant intellectual and practical content directly related to the practice of law or the notarial profession, or to the ethical duties and obligations of law professionals;
- (2) contribute directly to the development of professional competence or skills as applied to the practice of law or the notarial profession;
- (3) include printed or electronic educational materials that will be distributed to all participants;
- (4) its contents must show that providers have devoted adequate time to its preparation and that it will indeed be useful for the advancement of the profession;
- (5) be presented in a suitable setting conducive to a worthwhile educational experience, which provides participants with the necessary electronic or technical equipment and with adequate space for all registered participants;
- (6) give participants an opportunity to pose questions to the teaching resources or to qualified persons, whether in person, in writing, or through electronic or technological means.

### **RULE 11. COURSE APPROVAL: REQUIREMENTS**

(A) At the provider's request

- (1) An application for course approval must be submitted by filling out the application form provided by the Board sixty (60) days prior to the date on which the course will be offered, unless the Board shortens this term for good cause.
- (2) The following information and attachments must be included with the application:
  - (a) title and general description of the course;
  - (b) location, date, and time;
  - (c) duration of the course, contact hours;

- (d) time allotted for ethical or notarial aspects, where applicable;
  - (e) outline of course contents;
  - (f) names and professional credentials of teaching resources;
  - (g) copies of the materials to be distributed or shown to participating law professionals;
  - (h) course costs.
- (3) The application and attachments must show that the course meets the Rule 10 requirements and, if applicable, those of Rules 12, 13, and 15.
  - (4) The Director's decision will be notified to the applicant provider within fifteen (15) days of submission of the application.
  - (5) Within thirty (30) days following the date on which the course was offered, the provider must submit the following to the Board:
    - (a) a list of the names of law professionals who took the course;
    - (b) a certification stating that the course was available to the public and that it was offered as informed in the application; or, if there were changes, a description of such changes and an explanation on how these should not affect course approval;
    - (c) in the form provided by the Board, a brief report of the course evaluation made by participating law professionals;
    - (d) a \$3.00 fee per each credit hour taken by each law professional.
- (B) At the law professional's request
- (1) A law professional may submit an application for approval or accreditation of a course regardless of whether the course was offered by a Certified Provider or by any other provider.
  - (2) The application must be submitted in the form provided by the Board, which will include the following information:
    - (a) a general description of the course and any materials made available by the provider explaining its contents, the name of the teaching resource, the location, date, and time, the number of contact hours, the registration fee, and the time allotted to course work on notarial practice or ethics, if applicable;

- (b) any information on the provider that may help the Board evaluate the provider's background and history to determine whether to accept the application.
- (3) The petition and its attachments must show that the course meets the requirements established in Rule 10 of these Rules.
- (4) The application may not be submitted if more than six months have elapsed from the date the course was offered, except as provided in Rule 37 on retroactive accreditation.
- (5) The application must be accompanied by a fee equivalent to five per cent (5%) of the attendance fee or \$15.00 per credit hour, whichever is less.

### COMMENT

When evaluating applications for course approval, the Director must specifically follow up on aspects related to the reasonableness of course costs in section (A)(2)(h), in order to facilitate the attainment by all law professionals of the professional advancement sought by these Rules.

Section (B)(1) of this Rule allows law professionals to seek approval or accreditation of courses taken in other jurisdictions.

### **RULE 12. IN-HOUSE COURSES OFFERED BY PRIVATE FOR-PROFIT OR NONPROFIT PROFESSIONAL INSTITUTIONS: REQUIREMENTS**

- (A) Private for-profit or nonprofit professional institutions interested in offering to its members a course in order to have it accredited as a continuing legal education activity must meet the following requirements:
  - (1) submit an application as prescribed in Rule 11;
  - (2) include with the application the information and documents needed to show that the course meets Rule 10 requirements;
  - (3) show that the course will be offered at a reasonable cost, based on the fee regularly charged for a similar course in the Puerto Rico market;
  - (4) separate at least twenty-five percent (25%) of available spaces for outside law professionals who may be interested in taking the course as a continuing legal education activity;
  - (5) comply with the effective disclosure requirement provided in Rule 16 at least ninety (90) days before the start of the course;



- (6) wait at least up to forty-five (45) days prior to the starting date of the course to begin admitting applications from outside participants (who are not associated with the private professional institution). If, at the time of admission, there are more applications from outside applicants than available spaces, the participants will be chosen at random; if, after being chosen, any of the outside participants cancels his or her participation or fails to send the payment on time, a substitute participant will be immediately chosen at random from the remaining outside applicants;
  - (7) within twenty (20) days after the course was offered:
    - (a) prove that the effective disclosure requirement provided in section (A)(5) of this Rule was met;
    - (b) inform: (i) the total number of spaces available and the number of spaces made available to persons outside the private institution (“public”); (ii) the names of persons unrelated to the private institution (“public”) who applied for the course and the date each application was received, regardless of whether these persons were admitted or the application was timely filed; (iii) the number of persons admitted; (iv) the names of outside participants (“public”) unrelated to the private professional institutions who were admitted, the date of admission, and the names of admitted in-house attendees; (v) the number of attendees; (vi) the names of outside attendees who were unrelated to the private professional institution (“public”) and the names of the other attendees;
    - (c) comply with the Rule 11(A)(5) requirement.
- (B) All courses approved under the provisions of section (A) of this Rule will receive credit for up to one third (1/3) of the total hours required for each compliance period.

## COMMENT

Section (A) of this rule allows for the accreditation of in-house courses organized by law firms, partnerships, professional corporations, or private entities for their members, provided that the purpose of this activity is consistent with that of the mandatory continuing legal education program. Sections (A)(4), (5), (6), and (7) are grounded on the fact that private law firms and other private professional entities offer courses that might contribute to the advancement of non-member law professionals. The Board considered the standards established in other jurisdictions for the accreditation of these courses.

**RULE 13. IN-HOUSE COURSES OFFERED BY PUBLIC PROFESSIONAL INSTITUTIONS: REQUIREMENTS**

Public professional institutions interested in offering to their employees who are law professionals a course to have it accredited as a continuing legal education activity must meet the following requirements:

- (1) submit an application in the form provided by the Board sixty (60) days before the start of the course;
- (2) include the information and documents needed to show that the course meets Rule 10 requirements.

**COMMENT**

The Rule allows for the accreditation of in-house courses offered by public entities for the purpose of facilitating the provision of continuing legal education at a reasonable cost to law professionals in the public service. Once approved by the Board, these courses will receive 100% credit. As may be inferred from Rule 9(9) and its comment, the scholarship fund to be established in due time by the Board will provide law professionals who are in financial hardship, and professionals in the public service who can show financial hardship, with greater access to continuing legal education.

**RULE 14. COMPUTATION OF CREDIT HOURS**

The required twenty-four (24) credit hours of continuing legal education will be calculated as follows:

- (1) one credit hour will consist of sixty (60) minutes of actual participation in continuing legal education activities;
- (2) the time to be credited for courses offered only through nontraditional teaching and learning methods may not exceed one third (1/3) of the total credit hours required; to credit that time, the Board will examine the nature of the course, the time normally required to complete it, and the report rendered by the provider on the attendees' performance;
- (3) the credit hours earned in excess of the total credit hours required may be credited to the next compliance period as long as they do not exceed twenty-four (24) credit hours.

## COMMENT

Rule 6 of the 1998 *Rules* requires twenty-four (24) credit hours of continuing legal education in a period of two (2) years. Rule 3(e) of said *Rules* defines credit hours as the hours devoted to attending a course or seminar offered by a recognized sponsor, and provides that one credit hour will be computed on the basis of sixty (60) minutes.

Section (1) of this rule broadens that provision to clarify that the sixty (60) minutes refer to participation in activities involving legal education, obviously excluding the time devoted to activities unrelated to continuing legal education. Other jurisdictions provide specific standards in that regard: Rule 104(d) (Colorado); Rule 2 (Vermont); Rule 3(c) (Arkansas); Rule 3.5 (Alabama); and Section 5(a)(2) (Pennsylvania).

Section 9 of the American Bar Association Model Rules for [Minimum] Continuing Legal Education recognizes that credit may be awarded for courses taken by law professionals through nontraditional teaching and learning methods conducted outside the classroom setting, as long as they meet certain requirements. One of these requirements is to establish the maximum number of hours of continuing legal education completed in this manner for which credit may be awarded. The American Bar Association recommends that this number not exceed one-third (1/3) of the total continuing legal education credit hours required, and that other standards set forth in section (2) of this Rule be met.

Section (3) addresses an aspect of the computation of credit hours provided in Rule 6(a) of the 1998 *Rules*.

## **RULE 15. COURSES OFFERED THROUGH NONTRADITIONAL TEACHING AND LEARNING METHODS**

- (A) Courses that employ nontraditional teaching and learning methods such as correspondence, computers, video or audio recordings, or any other means, may receive continuing legal education credit subject to the limitations and requirements established in Rule 14(2) of these Rules.
- (B) The application for approval of these courses must meet the Rule 11(A)(1), (2), (3), and (5) requirements. The provider must explain how the course complies with the Rule 10 requirements, with the purpose of the compulsory continuing legal education program, and with these Rules.
- (C) The Board will make a case-by-case evaluation of these applications and may approve them at its discretion. All certified providers must submit these courses for prior approval by the Board.

**COMMENT**

Preapproval of courses under Rules 17(c) and 18(c) does not include these courses.

**RULE 16. EFFECTIVE DISCLOSURE REQUIREMENT**

- (A) Providers seeking approval of course accreditation may publish their course offering through any effective disclosure method addressed to law professionals who may be interested in taking these courses. Once the course is approved, the provider must announce it in keeping with the definition set forth in Rule 5(5).
- (B) The Board will announce the courses approved for credit through the Judicial Branch website based on the information contained in its administrative records, which must be constantly updated.

**CHAPTER IV PROVIDERS**

**RULE 17. CERTIFIED PROVIDER: REQUIREMENTS; PROCEDURE**

- (A) Requirements

A natural or artificial person who wishes to be licensed as a Certified Provider must meet the following requirements:

- (1) during the four (4) years following adoption of these Rules, offer continuing legal education courses that met accreditation requirements;
- (2) show that the mission of its continuing legal education program is the advancement of law professionals through legal education;
- (3) show that it is financially sound to support a continuing legal education program of the highest quality;
- (4) show that its activities are primarily directed at law professionals;
- (5) agree to comply with the mandatory Continuing Legal Education Program mission and purposes.

- (B) Procedure

The natural or artificial person who wishes to be licensed as a Certified Provider must submit an application provided by the Board with the following information:

- (1) the provider's name, address, telephone number, fax, and e-mail address;
- (2) the name and title of the contact person;
- (3) a description of each continuing legal education course or activity offered during the four (4) years preceding the application date, with the following information:
  - (a) course title and description;
  - (b) date and location;
  - (c) registration costs;
  - (d) a course syllabus or contents;
  - (e) names of teaching resources and professional qualifications;
  - (f) description of materials to be distributed to participants;
  - (g) hours to be accredited;
  - (h) distribution of credit hours by category or subject matter (i.e., substantive matters, matters related to the practice of law, exercises, questions);
  - (i) the audience to which the course is addressed;
  - (j) whether the course was announced as open to the public or as an in-house activity;
  - (k) evaluation method for the course (participant critique, independent evaluator);
  - (l) presentation format (classroom setting, videotape, closed circuit, simultaneous transmission; self-study, computer);
  - (m) mechanism used to assess attendees' academic achievement;
- (4) attachments and documents to prove the information required in section B(3);
- (5) a description of its experience in the field of law, of its physical facilities, and of its preparation of the persons in charge of program organization, teaching, and supervision;
- (6) jurisdictions where it was granted a Certified Provider license, if any;

- (7) if the provider is a corporation, it must include the Good Standing Certificate issued by the Department of State, a copy of the certificate of incorporation, of its corporate charter, and of the most recent annual report;
  - (8) a copy of the most recent audited financial statement;
  - (9) a certification stating that it has filed its income tax returns for the last five (5) years;
  - (10) an affidavit of compliance with the continuing legal education program mission and with all the other requirements established by the Supreme Court in these Rules and related provisions.
- (C) Once the Certified Provider license is granted, the courses offered by the provider will be deemed preapproved after the provider notifies the Board as prescribed in Rule 11(A)(1), (2), (3), and (5). The Board, in the exercise of its authority, may deny approval of any course that does not meet the requirements of these Rules, in which case the provider will be notified sufficiently in advance. Noncompliance cases may entail revocation of the previously issued license.
- (D) The Certified Provider license will remain in force for a period of two (2) years. Should the provider wish to continue having certified provider status, it must apply for renewal for each subsequent period.

## **COMMENT**

The course is the main object of regulation of the mandatory continuing legal education program. The figure of the provider is framed within this general principle as it is regulated within the context of the certification to offer courses, thus making it easier to evaluate the vast number of courses that will be created in each compliance period. In Rule 18, the regulation makes a temporary distinction by reason of need, which allows the program to begin with a group of providers of proven experience in legal education while remaining equally focused on the Board's authority to supervise the courses offered by these providers. This course-by-course approval approach further allows the Board to rely on a flexible mechanism for on-the-spot certification of providers that meet the program's standards.

## **RULE 18. PROVISIONAL CERTIFICATION OF PROVIDERS**

- (A) The Board, upon request, will issue a Provisional Certification of Provider status for a period of four (4) years to continuing legal education programs from law schools recognized by the Supreme Court and accredited by the

American Bar Association, the Eugenio María de Hostos Law School, and the Puerto Rico Bar Association.

- (B) The organizations or institutions mentioned above must submit an application along with the information required under Rule 17(B) of these Rules.
- (C) Once a Provisional Certification of Provider status is issued, the courses offered by these organizations and institutions will be deemed preapproved if they have been notified to the Board pursuant to the provisions of Rule 11(A)(1), (2), (3), and (5). The Board, in the exercise of its authority, may deny approval of any course that does not meet the requirements established in these Rules, in which case it will give the provider sufficient advance notice. Noncompliance may entail license revocation.
- (D) After the lapse of the provisional four (4)-year-period, these organizations and institutions will be at par with the other providers and may apply for a Certified Provider license under Rule 17.

#### **COMMENT**

The mechanism described in this Rule is adopted temporarily for the purpose of making easier the administration of the mandatory continuing legal education program at its early stages and allowing the Board to acquire greater experience as it goes along in the administration of the program. The result of this experience will subsequently enable the Board to decide whether this mechanism should be definitely adopted or whether it should be modified or eliminated.

#### **RULE 19. PROVIDERS' DUTIES REGARDING ACADEMIC ACHIEVEMENT**

- (A) Every provider must make continuous, systematic evaluations regarding the achievement of educational goals, program design, teaching methods, contents of materials, and quality of teaching resources, among others.
- (B) At the Board's request, course providers will render a report on how the mechanisms used furthered academic achievement in its courses, program objectives, continued attendance, and the real and effective participation of the attendees.
- (C) The Board may verify the effectiveness of these mechanisms through the procedures it will establish for that purpose. Providers must keep for a period of five (5) years all documents and records related to their compliance with this rule for future examination by the Board.

## COMMENT

Motivation is an essential element for effective academic achievement in legal education. Rule 6(b) of the 1998 *Rules* established this important element by requiring that measures be developed to encourage and determine the effectiveness of all courses offered.

In this sense, in order to achieve the goals of the mandatory continuing legal education program, and in view of the interest in attaining specific—not pro forma—compliance, it is of utmost importance to adopt the necessary and adequate mechanisms to guarantee academic achievement, without which it is not possible to maintain quality control in the courses offered and to make sure that each course meets the educational purpose for which it was designed. Demanding these mechanisms does not necessarily mean that participants will be required to take examinations or tests.

The subject of academic achievement was discussed and analyzed by Board members from different perspectives. It is a very complex matter whose implications require the consideration of numerous factors. As a result of those discussions, the Board recommends that providers be given time to establish standards and mechanisms for measuring the academic achievement obtained in their courses. They may benefit from the experience of providers from other jurisdictions and from guides such as the report *MCLE: A Coordinated Approach, Report and Recommendations*, The Association for Continuing Legal Education, American Law Institute, American Bar Association Committee on Continuing Professional Education (1997).

If after checking these mechanisms for a reasonable period of time it is determined that the expected academic goals are not being met, the Board may propose to the Supreme Court whatever recommendations it may deem necessary, such as considering the possibility of reducing the effective term of the Certified Provider license.

## **RULE 20. TEACHING RESOURCES**

- (A) All providers will establish the necessary mechanisms to guarantee that professors who participate as continuing legal education resources have the necessary qualifications, professional competence, and teaching skills to provide a worthwhile teaching experience.
- (B) At the time of approving the course, the Director will determine whether the provider complies with this rule.



## **COMMENT**

The rule establishes the responsibility of all course providers to develop mechanisms that may enable them to have the best law professionals as teaching resources for their continuing legal education activities. The certification granted by the Court imposes on each provider the duty to make sure that every course offered for accreditation stimulates and contributes to the advancement of participating law professionals.

### **RULE 21. ACTIVITIES UNRELATED TO CONTINUING LEGAL EDUCATION**

If the provider combines a course with other noncreditable activities, it must state in the documents submitted the exact amount of time devoted to continuing legal education and the time allotted for other activities.

### **RULE 22. DUTY TO PROVIDE REASONABLE ACCOMMODATION**

All providers must make reasonable accommodation for any law professional who may seek such accommodation by reason of disability in order to comply with the mandatory continuing legal education requirement.

## **COMMENT**

The Rule refers to the provider's duty to make reasonable accommodation as prescribed by the statutes that impose this obligation on all entities that render a public service. It is based on the Prohibition of Discrimination against the Disabled Act, Act No. 44 of July 2, 1985, as amended, 1 L.P.R.A. §501 *et seq.*, the Americans with Disabilities Act (ADA), Pub. L. 101-336, July 26, 1990, 42 U.S.C.A. §1201 *et seq.*, and sec. 9 of the American Bar Association's Model Rule for Minimum Continuing Legal Education. The disability must be one that is covered by the ADA provisions.

### **RULE 23. COURSE RECORDS**

- (A) All providers must keep for a period of five (5) years the records of the courses offered for accreditation purposes and will make them available to the Board for its inspection upon request.
- (B) The records must include the following information, which is essential for granting accreditation to the continuing legal education courses:
  - (1) identification of the courses;

- (2) participating faculty;
- (3) roll of attendance bearing the signatures of course attendees;
- (4) course evaluation by attending law professionals;
- (5) issued certificates of participation and other related certifications;
- (6) use of technological or other mechanisms for individual or distance learning;
- (7) evaluation reports on academic achievement in the courses; and
- (8) any other relevant information.

## **CHAPTER V            PROCEDURES BEFORE THE BOARD**

### **RULE 24.    APPLICATIONS**

- (A) Any person interested in a Board determination may submit a written application for any of the following:
  - (1) certified provider license under Rule 17;
  - (2) provisional certification of provider status under Rule 18;
  - (3) accreditation of courses under Rule 11(B);
  - (4) exemption under Rule 4(C)(3)(c) and (d);
  - (5) deferral under Rule 4(C)(3)(d);
  - (6) any other request that may result from the application of these Rules.
- (B) Requirements:
  - (1) The application must be submitted by way of a form provided by the Board, giving a clear and detailed description of the purpose and including the pertinent supporting documents. Absent a form, the interested person will determine the form of application, as long as it is in writing.
  - (2) The application for Certified Provider status must include the information required in Rule 17.
  - (3) The application for accreditation of courses must include the information required in Rule 11(B).

**RULE 25. EVALUATION; DETERMINATION**

- (A) The Director will evaluate all duly submitted applications.
- (B) The Director may deny incomplete applications or applications that do not meet the requirements set forth in these Rules.
- (C) When examining the application, the Director may require additional information from the applicant.
- (D) The Director may grant the application in whole or in part or may deny it. In either case, the Director must notify his or her decision to the applicant.

**RULE 26. REVIEW OF DIRECTOR'S DETERMINATIONS**

- (A) Reconsideration:

Any person who disagrees with the Director's determination may seek reconsideration within fifteen (15) days after the determination was notified, stating the grounds for such disagreement. He or she may request an informal hearing, which may be held at the Director's discretion. The Director must adjudicate the petition for reconsideration within ten (10) days after the filing date of the petition.

- (B) Appeal before the Board:

Any person who disagrees with the Director's determination on reconsideration may file an appeal before the Board within ten (10) days after the decision was notified.

- (C) The above terms must be strictly complied with and may be extended for good cause, which must be set forth in the petition.

**RULE 27. REVIEW BEFORE THE SUPREME COURT**

Board decisions will be final. These decisions may be reviewed by the Supreme Court upon the filing of a petition for certiorari within ten (10) days after the Board decision was notified. Said term must be strictly complied with.

**CHAPTER VI COMPLIANCE BY LAW PROFESSIONALS**

**RULE 28. MINIMUM CREDIT HOURS; COMPLIANCE REPORT**

- (A) All law professionals must comply with the minimum credit hour requirements established in Rule 6 of the 1998 *Rules*. He or she must

submit before the Board a compliance report in the form provided therefor as soon as he or she completes the twenty-four (24) credit hours of the applicable compliance period, but never later than thirty (30) days following the end of the period. This report may be submitted personally, by mail, by fax, or through any electronic means.

- (B) All law professionals exempted under Rule 4(C) from compliance with the continuing legal education requirements must render a compliance report for each compliance period, indicating under which exemption he or she was not required to take the continuing legal education courses. Law professionals who requested and were granted an exemption from compliance must also render said report explaining the exemption that was granted.
- (C) All law professionals must inform any change of home or mailing address in the compliance report.
- (D) The Board will establish a staggered schedule to facilitate compliance with this Rule on different dates.

#### **RULE 29. NOTICE OF NONCOMPLIANCE**

Within thirty (30) days after the end of each compliance period, the Board will send a Notice of Noncompliance to all law professionals who have failed to submit the report required under Rule 28.

#### **COMMENT**

The rule reiterates the provisions of Rule 9(a) of the 1998 *Rules*, which requires that a Notice of Noncompliance be sent to law professionals who have failed to report the credit hours of continuing legal education courses taken during the compliance period.

#### **RULE 30. LATE COMPLIANCE**

All law professionals who fail to comply with their obligation to submit the report required by Rule 28 may file the report within thirty (30) days following the date on which the Notice of Noncompliance was given. The report must explain the reasons for such late compliance and must be accompanied by a \$50.00 fee in check or money order.

#### **COMMENT**

Rule 9(b) of the 1998 *Rules* grants a 30-day term, counted from the date of Notice of Noncompliance, to inform the Board about the reasons for not submitting the report on time.

By virtue of the authority vested in the Board to adopt the rules necessary for the efficient administration of these Rules, it is provided that late compliance will automatically entail payment of a \$50.00 late reporting fee, payable by check or money order, to cover the Board's operational expenses in the performance of its functions. Most of the jurisdictions surveyed provide for the payment of a fee for the late submission of the compliance report. See Rule 6-A - \$50 (Alabama); Regulation 5.01 - \$75 (Arkansas); Regulation 111(a) - \$50 (Colorado); Rule 6(c) - \$150 (Louisiana); Rule 9 C - \$50 (Minnesota); section .1608(b) - \$75 (North Carolina); section 18 - \$100 (Pennsylvania).

**RULE 31. NONCOMPLIANCE; SUMMONS**

- (A) If the law professional fails to submit the compliance report within the applicable term, the Director will summon him or her in writing to appear at an informal hearing.
- (B) The summons will include the following information: the purpose, the date and place of the hearing, and the period of noncompliance.

**COMMENT**

The rule is based on Rule 8(d)(2) and Rule 9(c) of the 1998 *Rules*, which authorize the Board to consider cases of noncompliance and to order the lawyer to appear in such cases.

**RULE 32. INFORMAL HEARING BEFORE THE DIRECTOR**

- (A) The law professional summoned to an informal hearing for noncompliance must set forth the reasons for noncompliance and present whatever evidence he or she may have.
- (B) The Director will weigh the reasons for noncompliance and decide in accordance with the applicable rules and regulations.
- (C) In the event of nonappearance, the Board will forward the matter to the Supreme Court as provided in Rule 9 of the 1998 *Rules*.
- (D) Any determination made by the Director will be timely notified to the law professional in question.

**COMMENT**

Rule 8(d)(2) of the 1998 *Rules* authorizes the Board to consider noncompliance cases and to submit the pertinent reports after giving the affected persons an opportunity

to be heard, while Rule 9(c) orders that cases of nonappearance of law professionals be referred to the Supreme Court.

## **CHAPTER VII      ALTERNATIVE COMPLIANCE MECHANISMS AND OTHER PROVISIONS**

### **RULE 33.      PARTICIPATION AS TEACHING RESOURCES**

Law professionals who participate as continuing legal education teaching resources will receive credit for performing that function when they submit their request to the Board along with the provider's certification attesting to their participation and the number of teaching hours.

### **RULE 34.      PUBLICATION OF LAW-RELATED WORKS**

Law professionals who publish law-related books and articles in well-known law reviews will receive credit for these publications that will not exceed two (2) compliance periods when they submit their request to the Board accompanied by the pertinent evidence of publication and of the time devoted to it. It will be incumbent upon the Director, and ultimately upon the Board, to determine the number of credit-hours earned for said publication.

### **COMMENT ON RULES 33 AND 34:**

Rules 33 and 34 are based on Rule 7 (a) and (b) of the 1998 *Rules*, which recognizes as alternative compliance mechanisms the publication of law-related books and articles in well-known law reviews, and the teaching of continuing legal education courses. A new requirement is added: law professionals must submit a request along with the pertinent documents to provide the Board with the necessary information that will allow it to determine how many hours will be credited.

### **RULE 35.      ADVANCED DEGREES**

Law professionals who have completed a Master of Laws degree in a law school accredited by the Council of Higher Education will be exempted from taking continuing legal education courses for a period of two (2) years, to be counted from the date on which they obtained the degree. If the degree is that of Doctor of Juridical Science or its equivalent, Doctor of Law, the exemption period will be four (4) years, to be counted from the date on which they obtained the degree.

## COMMENT

The rule is based on Rule 7(c) of the 1998 *Rules*, which recognizes the pursuit of postgraduate Law studies in universities recognized by the Puerto Rico Council of Higher Education as an alternative compliance mechanism. This provision seeks to stimulate the development and advancement of law professionals by way of courses through which the goals of the mandatory continuing legal education program are also fulfilled.

### **RULE 36. PARTICIPATION IN COMMISSIONS, BOARDS, SUPREME COURT COMMITTEES, AND AS BAR EXAMINATION ITEM-WRITERS AND GRADERS**

- (A) Exemption from the terms of these Rules will be granted, for the term of their designation, to law professionals who serve in any of the following:
- (1) the Commission on Discipline and Disability Retirement of Judges of the Court of First Instance and the Circuit Court of Appeals;
  - (2) the Committee on Character of Applicants for Admission to the Bar;
  - (3) the Board of Bar Examiners;
  - (4) the Continuing Legal Education Board;
  - (5) the active standing and ad hoc advisory committees of the Secretariat of the Judicial and Notarial Conference;
  - (6) the item-writing and grading committees of the general bar examination and the notarial law examination designated in conformance with the Rules for the Admission of Applicants to the Practice of Law and the Notarial Profession;
  - (7) other committees, commissions or boards that, according to the Supreme Court, should be exempted from compliance with this Program.

### **RULE 37. RETROACTIVE ACCREDITATION**

- (A) The Board will give credit to continuing legal education courses taken by law professionals during the three (3) years immediately preceding the effective date of these Rules.
- (B) To obtain credit, an application must be filed as provided in Rule 11(B)(1), (2), and (3), and a certification from the provider attesting to the law professional's participation in the courses must be included.

- (C) The Board reserves the right to determine whether these courses meet accreditation standards and may request any information it may deem relevant to such purposes.

**RULE 38. NOTICE OF THE DIRECTOR OR OF THE BOARD; SERVICE**

All notices given by the Director or by the Board to law professionals and to the providers may be sent by regular mail, fax, or through electronic means.

**COMMENT**

The application of these Rules requires a high volume of communications and notices by the Director or by the Board to law professionals and providers. As an example, to facilitate the understanding of the structure of the Rules, a list of such notices is provided below:

*To law professionals:*

- (1) Total or partial course accreditation (Rule 11(B), or denial of accreditation (Rule 25(D), 26(B));
- (2) Request for additional information for course accreditation (Rule 25(C));
- (3) Accreditation for participation as teaching resource (Rule 33);
- (4) Accreditation for publication of law-related works (Rule 34);
- (5) Retroactive accreditation of courses (Rule 37);
- (6) Exemption from compliance with the continuing legal education requirement by reason of completion of postgraduate studies (Rule 35);
- (7) Exemption from compliance with the continuing legal education requirement by reason of participation in Supreme Court boards and committees and by reason of the services rendered as item-writers and graders of the General Bar Examination (Rule 36);
- (8) Notice of Noncompliance (Rule 29);
- (9) Summons to an informal hearing for failure to submit the Compliance Report (Rule 31);
- (10) Director's determination after the hearing (Rule 32 (D));
- (11) Notice of hearing on reconsideration (Rule 26(A));
- (12) Director's decision on reconsideration (Rule 26(A));
- (13) Board's decision on appeal (Rule 27);
- (14) Determination to refer to the Supreme Court the cases of noncompliance for failure to appear (Rule 32(C));
- (15) Exemption from compliance by reason of incapacity to practice the profession (Rule 4(C)(3)(c));
- (16) Exemption from compliance with the continuing legal education requirement for good cause (Rule 4(C)(3)(d));
- (17) Deferral from the continuing legal education requirement for good cause (Rule 4(C)(3)(d));
- (18) Any other communication related to the fulfillment of the continuing legal education requirements.



*To providers:*

- (1) Provisional Certification of Provider (Rule 18);
- (2) Certified Provider License (Rule 17);
- (3) Total or partial approval of courses (Rule 11(A));
- (4) Denial of application for course approval (Rule 11(A)(4), Rule 12, Rule 13, Rule 14, Rule 17(C), Rule 18(C), Rule 25(B) and (D));
- (5) Denial of application for Certified Provider status (Rule 17);
- (6) Approval of courses offered by private professional entities (Rule 12);
- (7) Approval of courses offered by public professional entities (Rule 13);
- (8) Request for reports on academic achievement (Rule 19(B));
- (9) Notice of document inspection (Rule 19(C));
- (10) Failure to comply with the mechanisms to guarantee the best teaching resources (Rule 20(B));
- (11) Director's decision on reconsideration (Rule 26);
- (12) Board's decision on appeal (Rule 27);
- (13) Revocation of license for failure to comply with the continuing legal education program (Rule 17(C), Rule 18(C));
- (14) Request for additional information (Rule 25(C));
- (15) Any other communication related to the fulfillment of the continuing legal education requirements.

**RULE 39. UNFORESEEN SITUATIONS**

The Director, with the approval of the Chair of the Board, may take steps to address unforeseen situations in the manner that, in his or her judgment, best serves the interests of all the parties.

**RULE 40. SEPARABILITY CLAUSE**

If, by virtue of legislation or judicial decision, any provision of these Rules is declared void or ineffective in whole or in part, said provision will be deemed as not included herein and will not affect the validity of the remaining provisions, which will continue to be in full force and effect.

**RULE 41. EFFECTIVE DATE**

These Rules will become effective 18 months after their adoption.

IN THE SUPREME COURT OF PUERTO RICO

In re  
Adoption of the Rules of the  
Continuing Legal Education Program

No. ER-2005-04

**RESOLUTION**

San Juan, Puerto Rico, April 8, 2005

By virtue of the inherent power of this Court to regulate the practice of law in Puerto Rico, and by virtue of the authority vested in the Continuing Legal Education Board by Rule 8(d)(7) of the *Rules for Continuing Legal Education* adopted by the Supreme Court of Puerto Rico on June 30, 1998, the Court hereby promulgates these Rules of the Continuing Legal Education Program, which will become effective 18 months after their adoption. The complete text of these Rules is made a part of this Resolution.

The Court thanks the members of the Continuing Legal Education Board for their excellent work in the fulfillment of their commission. The Court further thanks the Puerto Rico Bar Association for its contribution and participation in the preparation of the Draft Rules presented by the Board.

This Resolution will become effective immediately.

To be published.

It was so agreed by the Court and certified by the Clerk of the Supreme Court. Justice Fuster Berlingeri issued a dissenting opinion.

(Sgd.)

Aida Ileana Oquendo Graulau  
Clerk of the Supreme Court