

**Rule 22. MANDATORY CONTINUING PROFESSIONAL EDUCATION AND VOLUNTARY CONTINUING LEGAL EDUCATION.**

**(a) Mandatory Continuing Professional Education.** Except as otherwise provided herein, every active member of the Bar shall complete at least 3 credit hours per year of approved Mandatory Continuing Professional Education (MCPE). Qualifying professional education topics include the Hawai'i Rules of Professional Conduct, legal ethics and related topics, law office management, client trust account administration, bias awareness and prevention, access to justice, case and client management, and malpractice insurance and prevention. The Hawai'i Professionalism course required under Rule 1.14 of these rules fulfills the 3 credit hours of this section, but standard MCPE courses described in this section do not conversely fulfill the requirements of Rule 1.14 of these rules.

**(b) Voluntary Continuing Legal Education.** In addition to MCPE, all active members of the Bar are encouraged to complete 9 or more credit hours per year of approved Voluntary Continuing Legal Education (VCLE).

**(c) Carry Forward of Credit Hours.** A member may carry forward from the previous reporting period a maximum of 3 excess MCPE credit hours. To be carried forward, the credit hours must have been earned during the calendar year immediately preceding the current reporting period.

**(d) Mandatory Certification, Reporting, and Record Keeping.** Each active Bar member shall annually:

(1) certify the number of approved MCPE hours completed during the preceding year or carried forward, and

(2) report the number of approved VCLE hours completed during the preceding year, specifying the number of such hours, if any, satisfied by section (e)(4) of this rule. A member shall maintain records of approved MCPE credit hours and of approved VCLE credit hours for the 2 most recent reporting periods, and these records shall be subject to audit by the Hawai'i State Bar. Any active Bar member who fails to cooperate with the Hawai'i State Bar when audited shall be deemed to be in noncompliance with this rule.

**(e) Courses and Activities.** The requirements of this rule may be met, subject to prior approval as set out in sections (f) and (g) of this rule, by:

(1) attending approved courses or activities, including but not limited to, presentations conducted in-house or for Inns of Court, bar sections, professional legal organizations, and the like;

(2) preparing for and teaching approved professional education or judicial education courses or activities. Two hours of preparation time may be certified or reported for each hour of time spent teaching, i.e. 3 hours may be claimed for teaching a 1 hour course;

(3) studying approved audio, video, or other technology-delivered professional education courses or activities; and

(4) with regard to the VCLE standard of this rule, up to 3 hours of that standard may be satisfied by providing *pro bono* service, as defined in Rule 6.1 of the Hawai'i Rules of Professional Conduct.

**(f) Approved Courses or Activities.** Courses and activities sponsored by the Hawai'i State Bar or the American Bar Association, and classified by the Hawai'i State Bar as MCPE or VCLE, qualify for credit under this rule.

**(g) Approval and Accreditation Authorization.** The Hawai'i State Bar is authorized to approve or disapprove:

(1) other educational courses and activities for mandatory or voluntary credit and

(2) applications by an entity for accreditation as a course or activity provider. Approved courses and activities may include, but are not limited to, courses and activities conducted in-house or sponsored by Inns of Court, bar sections or other professional legal organizations. Accreditation shall constitute prior approval of MCPE and VCLE courses offered by the provider, subject to amendment, suspension, or revocation of such accreditation by the Hawai'i State Bar. The Hawai'i State Bar shall establish the procedures, minimum standards, and fees for approval of specific courses and activities or accreditation of providers and for revocation of such approval or accreditation.

**(h) Full-time Judges.** Federal judges, magistrate judges, bankruptcy judges, U.S. Court of Federal Claims judges and administrative law judges are exempt from the requirements of this rule. Full-time state judges shall participate for at least 3 hours each year in a program of judicial education approved by the Committee on Judicial Education. Full-time state judges who are unable to attend, in person, a program approved by the Committee on Judicial Education or who are excused from that program shall comply with this requirement by such other means as the supreme court approves. Full-time state judges shall report the number of approved judicial education hours attended on the judges' annual financial disclosure form.

**(i) Inactive members.** Inactive members of the Bar who subsequently elect active status shall complete and report 3 hours of MCPE within 3 months of electing active status. The 3 hours of MCPE credit required under this rule are separate and distinct from the annual 3 hours of MCPE required pursuant to Rule 22(a), above.

**(j) Newly licensed members.** Each person licensed to practice law who elects active status in the year in which he or she is licensed shall not be required to comply with the required 3 MCPE hours mandated by section (a) of this rule for that year. Nothing herein, however, shall modify the obligations imposed by Rule 1.14 of these rules, that requires completion of a specific Hawai'i Professionalism course, distinct from general MCPE courses, sponsored jointly by the Hawai'i State Bar and the Supreme Court and offered only bi-annually. Failure to complete the Hawai'i Professionalism course in a timely manner will result in automatic administrative suspension. See Rule 1.14(c) of these rules.

**(k) Good Cause Exemption or Modification.** An active member may apply to the Hawai'i State Bar for good cause exemption or modification from the MCPE requirement. Members seeking an exemption or modification shall furnish

substantiation to support their application as requested by the Hawai'i State Bar. Good cause shall exist when a member is unable to comply with the MCPE requirement because of illness, medical disability, or other extraordinary hardship or extenuating circumstances that are not willful and are beyond the member's control.

**(l) Effective Date; Reporting Period.** This rule is effective January 1, 2010. The initial reporting period will be the calendar year beginning January 1, 2010, and reports for that year shall be submitted in accordance with section (d) of this rule.

**COMMENT:**

*Continuing professional and legal education contributes to lawyer competence and benefits the public and the legal profession by assuring that attorneys remain current regarding the law, the obligations and standards of the profession, and the management of their practices. Voluntary continuing legal education is valuable to lawyers and attendance at courses is encouraged. These new rules are expected to result in a substantial increase in course attendance and participation in activities that earn MCPE and VCLE credit, with resulting enhancement of lawyer services to clients.*

*The state and federal judicial systems sponsor programs of judicial education for federal and state judges and, accordingly, full-time state and federal judges are excluded from the provisions applicable to active members of the Bar.*

*Rules 17, 22, and other Rules of the Supreme Court of the State of Hawai'i (RSCH) refer to the Bar, the Hawai'i State Bar, the Bar Administrator, the Hawai'i State Bar Association, and the Executive Director of the Bar. References to the Bar or the Hawai'i State Bar are to the unified Bar established by the Hawai'i Supreme Court upon adoption of RSCH Rule 17. Historically, the unorganized bar consisted of all attorneys admitted to the practice of law in the State of Hawai'i, and the Hawai'i State Bar Association was a voluntary organization. In 1989, the supreme court "unified" the bar by requiring all members of the bar to be part of "an organization to be known as the Hawai'i State Bar." RSCH Rule 17 also defined the unified Bar organizational structure. The supreme court ordered the Committee on Integration of the Bar to seek nominations for the "initial officers and Board of Directors of the Hawai'i State Bar." See UNIFICATION OF THE HAWAI'I STATE BAR IMPLEMENTATION ORDER NO. 1. Subsequently, the Hawai'i State Bar Association amended its rules and bylaws to conform to RSCH Rule 17 "to permit [the Association] to become the administrative body of the unified bar of this State . . . if this Court should appoint it to such capacity[.]" See UNIFICATION OF THE HAWAI'I STATE BAR IMPLEMENTATION ORDER NO. 2. The supreme court appointed the Hawai'i State Bar Association "as the administrative entity of the Hawai'i State Bar, to carry out the purposes and to have the powers set forth in Rule 17(b) . . . and other rules of this court, according to the terms of said rules." *Id.* Implementation Order Number 2 rescinded Implementation Order Number 1's search for candidates. The Hawai'i State Bar Association assumed its role as administrator of the Hawai'i State Bar. By operation of Implementation Order No. 2, the Hawai'i State Bar Association is the Bar Administrator. Consequently, the Executive Director of the Hawai'i State Bar Association is the Executive Director referred to by the rules for as long as the Hawai'i State Bar Association remains the Bar Administrator.*

*(Added July 15, 2009, effective January 1, 2010; further amended April 29, 2010, effective July 1, 2010; further amended May 8, 2012, effective July 1, 2012.)*