

Rule 22. MANDATORY CONTINUING LEGAL EDUCATION.

(a) Mandatory Continuing Legal Education. Except as otherwise provided herein, every active member of the Bar shall complete at least 3 credit hours of approved continuing legal education (CLE) during each annual reporting period. "Continuing legal education," or "CLE," is any legal educational activity or program that is designed to maintain or improve the professional competency of lawyers or to expand an appreciation and understanding of the ethical and professional responsibility of lawyers and is approved for credit by the Hawai'i State Bar, including those listed in Rule 22(b) of these Rules.

(b) Ethics and Professional Responsibility Minimum. At least once every 3 years in which CLE credits are required, every active member shall complete 1 hour of approved ethics or professional responsibility education. This credit hour shall count toward the annual CLE requirement. "Ethics or professional responsibility education" means those courses or segments of courses devoted to:

- (1) the Rules of Professional Conduct;
- (2) the professional obligations of the lawyer to the client, the judicial system, the public and other lawyers;
- (3) substance abuse and its effects on lawyers and the practice of law; or
- (4) client trust administration, bias awareness and prevention, and access to justice.

(c) Carry Forward of Credit Hours. A member may carry forward from the previous reporting period a maximum of 3 excess CLE credit hours, including ethics credits. 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 certify on the annual registration form whether the member is in compliance with this Rule by reporting the number of approved credit hours of Continuing Legal Education completed in the previous year, including the specific number of hours of ethics or professional responsibility education, and shall maintain certification records for the three most recent reporting periods. These records shall be subject to audit by the Hawai'i State Bar. Non-cooperation with an audit shall be deemed 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 50 minutes of time spent teaching, i.e. 3 hours may be claimed for teaching a 50 minute course;

(3) completing approved professional education courses or activities; and

(4) writing scholarly legal articles that comply with Regulation 3 of the Continuing Legal Education Regulations of the State Board of Continuing Legal Education and are published in a bar journal, law review, book, bar association or similarly recognized journal, or other legal publication may qualify for 2 credit hours per 1500 published words per year.

(f) Approved Courses or Activities. Courses and activities sponsored by the Hawai'i State Bar, the American Bar Association, or the National Organization of Bar Counsel qualify for CLE 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 CLE 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 CLE 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, though the Committee may waive or modify this requirement, upon good cause shown, for reasons of illness, medical disability, or other extraordinary hardship or extenuating circumstances that are not willful and are beyond the judge's control. Information provided in support of waiver shall be kept confidential by the Committee. 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 approved CLE, including 1 hour of approved ethics or professional responsibility education, within 3 months of electing active status. These CLE hours shall fulfill the requirements of Rule 22(a). CLE credits completed during the year prior to the reporting year, or in the reporting year, although completed while on inactive status, may be credited toward completing this requirement.

(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 CLE 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 CLE 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 CLE 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 CLE requirement because of illness, medical disability, or other extraordinary hardship or extenuating circumstances that are not willful and are beyond the member's control.

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. Continuing legal education is valuable to lawyers and attendance at courses beyond the amount required by this Rule is encouraged. The new requirements of continuing legal education are expected to result in the improvement of the profession and an 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.*

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