

MEETING THE CHALLENGES OF CLE IN 2011

Shelley Sutton, Executive Director, Kansas CLE Commission

Kansas is poised to see the most extensive revision of continuing legal education rules since the original adoption of mandatory CLE in 1985. Effective July 1, there will be a more streamlined and user-friendly set of rules that take into consideration technology that wasn't even a thought when the rules were initially adopted. The annual requirement remains 12 hours of CLE credit, including 2 hours of ethics and professionalism credit, each compliance period.

Attorneys will see the most extensive changes in five major areas:

(1) INSTRUCTIONAL MATERIALS

Under the new rules, the requirement to provide instructional materials can be satisfied by receiving printed copies or copies stored on electronic media, CD or via download. The materials still must be delivered *before or at* the program. If the provider does not provide printed copies to all attendees, they must make printed copies available to any attendee who requests them.

(2) NONTRADITIONAL PROGRAMMING

Nontraditional programming is defined as **a program accessed solely by an individual attorney (one attorney/one computer/one telephone)**. These types of programs have been grouped into the following categories:

- Live transmission -teleconference, videoconference or webconference,
- Pre-recorded video - videotape, video CD, DVD, videofile, or online video,
- Pre-recorded audio - audiotape, audio CD, podcast/mP3, or online audio.

The provider still must submit the Application for Approval of Nontraditional Activity but the application can be submitted anytime during the compliance period. In addition, the provider must have procedures in place to independently verify completion of the program but those verification procedures may vary.

How does nontraditional programming differ from self-study? It is the verification of the completion of the program, whether by teleconference or other format. Self-study without verification is not creditable.

Nontraditional attendance is still limited to 5 hours per compliance period.

(3) ETHICS AND PROFESSIONALISM (EP credit)

What was previously known as professional responsibility will now be referred to as ethics and professionalism. At least two hours of the 12 hour requirement must still be completed in this area.

Ethics refers to the standards set by the Kansas Rules of Professional Conduct with which attorneys must abide to remain in good standing as members of the Kansas bar.

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. Also included in the definition of professionalism is the promotion of racial, gender and ethnic diversity in the legal profession. The general goal of including professionalism as creditable 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 practice.

Ethics and professionalism issues included as part of another topic does not qualify for EP credit and must be in an identifiable block of time on the program agenda.

The Commission occasionally receives applications for approval of ethics credit that do not pertain to the ethics or professionalism issues specifically applicable to attorneys. These programs may meet the requirements for general CLE credit, but are not eligible for EP credit. Examples of topics that would not qualify for EP credit would be: ethics in government, litigation tactics, or business, corporate or medical ethics. These topics would qualify for general CLE credit.

(4) LAW PRACTICE MANAGEMENT (LPM Credit)

Beginning July 1, attorneys have the option to earn up to 2 hours of law practice management credit each compliance period. This is not a requirement but an option. It is important to note that the course must focus on the legal profession. Supreme Court Rule 802(j) defines LPM as "programming specifically designed for lawyers on non-substantive topics that deal with means and methods for enhancing the quality and efficiency of an attorney's service to the attorney's clients."

Topics may include issues relating to the development and management of a law practice, including client relations and technology to promote efficient, economical and competent delivery of legal services; technology, or economics. Programming creditable under the ethics and professionalism requirement is not subject to the 2 hour law practice management cap.

(5) ONLINE OPTIONS

Attorneys will notice changes to their online record. The transcript will eventually allow up to four compliance periods to be viewed at one time. The attorney record will also indicate any fees owed. For the first time, attorneys will be able to easily pay their annual CLE fee online using a secure link from their CLE record. Attorneys must have registered for online access to their record to take advantage of this option.

ADDITIONAL NOTES FROM THE CLE COMMISSION

FILING CREDIT

For traditional programming, the provider or the attorney may submit the Application for Approval of CLE Activity. Our recommendation for programming attended outside the state is that the attorneys file all paperwork directly with our office. The application is a very quick and simple form.

Kansas is an affidavit-based state. A notice of accreditation/affidavit is executed after each program. Providers hosting a program within the borders of Kansas will submit the affidavit for the attorneys. If the program is outside of Kansas, even Kansas City, Missouri, it is the attorney's responsibility to return the form to our office to be recorded in their file. If the attorney has registered for online access, and the hours are filed as required, they will be able to review the file anytime at www.kscle.org.

CLE COMMISSION WEBSITE

Attorneys are able to access all CLE related information at www.kscle.org. There are links to the rules, guidelines, forms, calendar and transcripts.

The calendar will show any programs that have been approved for Kansas CLE credit. Attorneys can attend programs anywhere in the world but an Application for Approval of CLE Credit must be submitted by the sponsor or an attorney. The CLE Commission does not maintain specific information on each program. If a program is listed on the CLE Commission calendar, the attorney will need to contact the provider for specific information. There is a phone number on the calendar and a link to the website where available.

Change is good and these changes will help us all meet the challenges of CLE. If you have questions, as always, please don't hesitate to contact us.

Kansas CLE Commission

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www.kscle.org