

On June 28, 2017, the Nebraska Supreme Court adopted the following rule amendments to Neb. Ct. R. §§ 3-401.2, 3-401.7, 3-401.9, 3-401.10, 3-401.11, and 3-402.2, regarding mandatory continuing legal education:

## **CHAPTER 3: ATTORNEYS AND THE PRACTICE OF LAW**

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### **Article 4: Mandatory Continuing Legal Education for Lawyers.**

#### **Section 1: Mandatory Continuing Legal Education for Lawyers Rules**

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##### **§ 3-401.2. Definitions.**

For purposes of Neb. Ct. R. §§ 3-401.1 through 3-402.3, the following definitions shall apply:

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(J) Professional responsibility: As used herein, professional responsibility includes instruction in the following areas: legal ethics; professionalism; diversity in the legal profession; malpractice prevention; recognizing and addressing substance abuse and mental health issues in the legal profession; wellness; Nebraska Supreme Court Rules Relating to Discipline of Attorneys; ethical standards as they relate directly to law firm management; and duties of attorneys to the judicial system, public, clients, and other attorneys. In order for a program to qualify for professional responsibility credit, the program must focus on professional responsibility as defined in this rule.

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##### **§ 3-401.7. Educational standards for CLE courses; application for approval of individual course by program sponsors other than accredited CLE sponsor.**

(A) An individual CLE course offered by a program sponsor other than an accredited CLE sponsor may be approved for credit if the \$50 application fee required by § 3-401.7(D) has been received by the Director, the reporting requirements of § 3-401.9 have been agreed to by the program sponsor, and the course meets the following educational standards:

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(6) If the course involves the use of distance learning formats, including, but not limited to, archived video or audio programs, webcasts, telephone broadcasts, or simultaneous broadcasts, unless the broadcast is directed to an overflow room of a regular/traditional class, the credits shall be subject to the 5-hour annual cap set forth in § 3-401.8(A). Further, those not physically attending must have substantially the same opportunity for interaction with those teaching the course as they would if physically present at the same location. In the case of archived courses, the interaction component may be satisfied by the sponsor providing contact information for faculty. No credit will be given for archived video or audio programs whose content is more than ~~one (1)~~ two (2) years old.

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(C) An attorney seeking credit for participation in an education course or program for which credits were not approved in advance by the Director shall submit the course for approval subsequent to attendance through the on-line system and include in the submission information from the sponsor outlining a brief resume of the activity; its dates, subjects, and instructors and their qualifications; and a copy of the sponsor's program outline, brochure, or other documentation upon which the Director can make a determination as to the credits to which the applicant is entitled. Within a reasonable time after receipt of the approval request and accompanying materials, not to exceed thirty (30) days, the Director shall assign the number of credits, if any, being granted through the on-line system. Attorneys affiliated with the education sponsor or serving as faculty for the education event cannot submit the sponsor's activities for approval using their attorney user account credentials for the on-line system.

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**§ 3-401.9. CLE sponsor reporting of attorney attendance; course promotional material requirements; attorney self-reporting of course completion.**

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~~(C) Attorneys seeking CLE credit for any accredited or approved course involving distance learning formats, including, but not limited to, archived video or audio programs, webcasts, telephone broadcasts, simultaneous broadcasts, or computer based legal education, as referenced in §§ 3-401.7(A)(6) and 3-401.8, or for any other similar accredited or approved course for which there will be no sponsor reporting, shall submit to the Director a written report of completion, signed by the attorney, which includes the name of or other identifying information regarding the course; information regarding the prior accreditation or approval of the course; the sponsor of the course, if applicable; the total time spent in study; and the date and location of completion.~~

**§ 3-401.10. Report by attorneys to Director.**

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(E) An attorney who fails to file an annual report shall not be allowed to transfer to inactive status pursuant to Neb. Ct. R. § 3-803(B) until a compliant report is filed.

**§ 3-401.11. Sanction for failure to satisfy CLE requirements.**

(A) Any attorney who fails to comply with the provisions of this rule ~~or who files a report that does not comply with the MCLE requirements~~ may have his or her right to practice law suspended by the Nebraska Supreme Court, provided that at least ~~thirty (30)~~ forty-five (45) days prior to such suspension, the Director shall provide notice of noncompliance to the attorney by ~~restricted certified mail, return receipt requested~~ e-mail and regular U.S. mail addressed to the attorney at his or her last known address. The attorney shall be given forty-five (45) days to file with the Director such information, documents, sums, and penalties which, if accepted, would cure the delinquency.

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**Section 2: Nebraska Supreme Court Continuing Legal Education Commission Rules**

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**§ 3-402.2. Review hearings before commission.**

(A) If so requested, the commission shall grant a review hearing on the following issues relating to § 3 401.1 et seq. listed below, however no hearing shall be granted in situations where the resolution will have no impact on the record of the attorney such as when an attorney has met or exceeded the annual requirements for CLE under these rules:

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(H) An effort shall be made to hold all hearings required under these rules with distance technology to avoid the burdens of travel.

~~(H)~~ (I) A majority vote of the commission members in attendance at the hearing is required in order to grant or deny relief. The Nebraska Supreme Court Justice Commission member shall vote only in the event of a tie.

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