

NOTICE OF COMMENT PERIOD

The Nebraska Supreme Court is considering proposed amendments to Neb. Ct. R. §§ 3-401.4 and 3-401.8 of the mandatory continuing legal education (MCLE) rules for lawyers, which amendments would increase the authorized amount of MCLE carryover credits. Any changes made pursuant to the proposal would not go into effect before the 2023 MCLE reporting deadline and thus would not accommodate carryover credits from the 2023 reporting period. The Supreme Court directed that the proposed amendments be published for a public comment period.

The Nebraska Supreme Court invites interested persons to comment on the proposed amendments. Anyone desiring to comment on the proposed amendments should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, Nebraska 68509-8910, or via e-mail to wendy.wussow@nejudicial.gov, **with the rule section listed in the subject line**, no later than January 2, 2024.

The full text of the proposed amendments is available below, or a paper copy may be obtained from the office of the Clerk of the Supreme Court and Court of Appeals upon request.

CHAPTER 3: ATTORNEYS AND THE PRACTICE OF LAW

....

Article 4: Mandatory Continuing Legal Education for Lawyers.

Section 1: Mandatory Continuing Legal Education for Lawyers Rules

....

§ 3-401.4. CLE requirement.

(A) Active members of the Nebraska State Bar Association admitted to engage in the active practice of law in this state shall complete a minimum of ten (10) hours of accredited or approved CLE in each annual reporting period. Of the ten (10) hours, at least two (2) hours shall be in the area of professional responsibility.

(B) CLE credit hours for each attorney shall be reported to the Director as set forth in these rules and in the manner prescribed by the Nebraska Supreme Court. Reporting shall be completed in electronic form using the MCLE on-line system.

(C) An attorney completing more than ten (10) CLE credit hours during the annual reporting period may receive credit in the next succeeding annual reporting period for the

CLE credit hours earned in excess of ten (10) hours ~~if the proposed carryover consists of in-person credits, and~~ provided that the excess CLE credit hours carried over into the next succeeding annual reporting period may not exceed ~~five (5) hours.~~ the annual MCLE requirement for the following year. Credits that are carried over shall maintain the class type for which they were originally earned (in-person or distance learning credit). CLE credit hours in the area of professional responsibility are an annual requirement, and those credit hours shall not roll over.

.....

§ 3-401.8. Limitations on credits based on class type and credit for activities other than attending accredited or approved courses.

Subject to the annual credit number limitations set forth below, which apply to all CLE activities, an attorney may receive CLE credit for activities other than attendance at courses offered by accredited CLE sponsors or individual courses approved under § 3-401.7. ~~Credits earned in excess of the annual limit for the following class types will not carry over into the following year:~~

(A) Up to five (5) hours in the annual reporting period may be obtained through completion of computer-based legal education accredited by the Director. Credits earned in excess of the annual limit for this class type will carry over into the following year up to the annual credit limitation.

(B) Up to five (5) hours in the annual reporting period may be obtained for approved “in-house” CLE programs as defined by § 3-401.2(D). “In-house” CLE must be approved by the Director and application for credit shall be in the manner prescribed by the Nebraska Supreme Court. In order for an in-house CLE program to be approved, the Director must approve it on application of the sponsor no fewer than thirty (30) days before the commencement of the program. The application must include a description of the dates, times, places, faculty members, and the subject matter of the program and an explanation of how the program meets the educational standards of § 3-401.7. In addition, the “in-house” program sponsor must agree to the reporting requirements of § 3-401.9, including payment of the sponsor's fee of \$1 per approved credit hour for each attorney. Credits earned in excess of the annual limit for this class type will not carry over into the following year.

(C) Up to five (5) hours in the annual reporting period may be obtained for teaching pre-approved CLE programs. An attorney seeking credit for teaching approved CLE

programs must make written application to the Director with an explanation of time spent in preparation of teaching the CLE materials. This credit shall be in addition to credit for attending the approved CLE program. No credit shall be given for teaching directed primarily to candidates for a law degree. No credit shall be given for teaching the same course on more than one occasion in a reporting period. Credits earned in excess of the annual limit for this class type will not carry over into the following year.

(D) Attendance at J.D.- or graduate-level law courses offered by American Bar Association (ABA)-accredited law schools, subject to the following conditions:

(1) Credit may be awarded for courses initiated and completed after admission to practice in Nebraska.

(2) Credit toward MCLE requirements shall be for the actual number of class hours attended, but the maximum number of credits that may be earned during any annual reporting period by attending courses offered by ABA-accredited law schools shall be the maximum annual CLE hours required by Neb. Ct. R. § 3-401.4.

(3) The course need not be taken for law school credit toward a degree; auditing a course is permitted. However, the attorney must comply with all law school rules for attendance, participation, and examination, if any, and complete the course to receive CLE credit.

(4) The law school shall give each attorney a written certification evincing that the attorney has complied with requirements for the course and has completed the course.

(5) Credits earned in excess of the annual limit for this class type will not carry over into the following year.

(E) Subject to the limitations listed above, for attendance at educational activities that are not approved in advance, provided that the attorney seeking credit submits to the Director a written report which shall include a brief resume of the activity; its dates, subjects, and instructors, and their qualifications; a copy of the program outline or brochure; and an explanation of how the activity meets the educational standards of § 3-401.7, and that the Director approves the credit.

....