

**IN THE SUPREME COURT, STATE OF WYOMING**

*April Term, A.D. 2004*

IN THE SUPREME COURT  
STATE OF WYOMING  
FILED

*In the Matter of Adoption of the  
Rules of the Wyoming State Board of  
Continuing Legal Education*

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JUL - 7 2004

*Judy Pacheco*  
JUDY PACHECO, CLERK

**ORDER ADOPTING RULES OF THE WYOMING STATE BOARD OF  
CONTINUING LEGAL EDUCATION**

This matter came before the Court upon a recommendation from the Wyoming State Bar that this Court adopt the Rules of the Wyoming State Board of Continuing Legal Education (the proposed rules), attached hereto. This Court, having examined the proposed rules, finds that the adoption of those rules is advisable. In addition, because the proposed rules are intended to replace both the "Rules for Continuing Legal Education of Members of the Wyoming State Bar" as well as the "Regulations of the Wyoming State Board of Continuing Legal Education," this Court also finds it necessary to repeal both those sets of rules. It is, therefore,

**ORDERED** that the Rules of the Wyoming State Board of Continuing Legal Education, attached hereto, be, and hereby are, adopted by the Court to be effective January 1, 2005; and it is further

**ORDERED** that the Rules for Continuing Legal Education of Members of the Wyoming State Bar be, and hereby are, repealed, effective January 1, 2005; and it is further

**ORDERED** that the Regulations of the Wyoming State Board of Continuing Legal be, and hereby are, repealed, effective January 1, 2005; and it is further

**ORDERED** that the Rules of the Wyoming State Board of Continuing Legal Education, attached hereto, shall be published in the advance sheets of the Pacific Reporter, the Wyoming Reporter, and in the Wyoming Court Rules; and that the Rules of the Wyoming State Board of Continuing Legal Education shall thereupon be spread at length upon the journal of the Court.

DATED this 7<sup>TH</sup> day of July, 2004.

BY THE COURT:

*William U. Hill*  
WILLIAM U. HILL  
Chief Justice

# RULES OF THE WYOMING STATE BOARD OF CONTINUING LEGAL EDUCATION

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### **Rule 1. Purpose.**

By continuing their legal education throughout their practice of law, attorneys can better fulfill their obligation to competently serve their clients. These rules establish minimum requirements for such continuing legal education and the means by which the requirements shall be enforced.

### **Rule 2. State Board of Continuing Legal Education.**

(a) The Wyoming State Board of Continuing Legal Education, having been previously established, is hereby continued under these rules. The members of the Board are to be appointed by this Court. The Board shall consist of nine members, six of whom shall be members of the Wyoming State Bar and three of whom shall be residents of the state not admitted to the practice of law. Members shall be appointed for three-year terms.

(b) Each yearly class of members shall include two members of the bar and one layperson. No person may serve more than two consecutive terms as a member of the Board.

(c) Each year the Board shall designate one of the lawyer members to serve as chairperson. The executive director of the Wyoming State Bar, or designee, shall serve as the executive secretary of the Board.

(d) The Board shall elect a vice-chairperson from its membership who shall, in the event of the resignation, absence, incapacity or demise of the chairperson, act as chairperson until such time as the absence or incapacity has been removed or the Board designates a new chairperson.

(e) The Board has general supervisory authority over the administration of these rules.

- (f) The Board may organize itself into committees of not fewer than three members for the purpose of considering and deciding matters assigned to it.
- (g) The address for the Board is the mailing address for the Wyoming State Bar, which presently is Post Office Box 109, Cheyenne, Wyoming 82003-0109.
- (h) The Board shall meet at least once annually and at such other times as designated by the chairperson.
- (i) Vouchers for expenses incurred by members of the Board shall be submitted to the executive director of the Wyoming State Bar and signed under penalty of perjury. Mileage will be paid at the rate set by the Wyoming State Bar. Other expenses will be reimbursed at actual cost-incurred rates.

### **Rule 3. Definitions.**

For the purposes of these rules, the following definitions apply:

- (a) An "accredited continuing legal education activity" means a course, program or other activity specifically accredited by the Board pursuant to these rules.
- (b) "Attorney" means a person duly admitted to practice law in Wyoming.
- (c) The "Board" means the Wyoming State Board of Continuing Legal Education.
- (d) A "continuing legal education activity" means a course, program, or other activity as described in these rules.
- (e) "Court" means the Wyoming Supreme Court.
- (f) An "hour" of accredited continuing legal education means 60 minutes in attendance at an accredited continuing legal education activity. Credit will be given to the nearest quarter of an hour.
- (g) "Legal Ethics" means instruction in legal and judicial ethics and professional responsibility. It may include, but is not limited to, subjects dealing with duties of attorneys to the judicial system, court, public, clients and other attorneys; competency; pro bono work; substance abuse; attorney fees; and client development. It may also include subjects dealing with law office management to the extent professional responsibility is directly discussed in relation to that topic.
- (h) A "quorum" of the entire Board means five or more members of the Board.

### **Rule 4 . Continuing legal education requirement.**

- (a) A minimum of 15 hours of continuing legal education, including one hour of legal ethics, must be completed by each attorney in each calendar year.
- (b) Each new admittee to the Wyoming State Bar shall complete, within the first year after admission, a four-hour continuing legal education course which covers the following criteria:
  - (1) General procedures, with focus on Professional Conduct Rules 1.1 (competence), 1.3 (diligence) and 1.4 (communication). One hour.
  - (2) Fees and trust account management, with focus on Professional Conduct Rules 1.5 (fees), 1.15 (safeguarding property) and 1.16 (terminating relationship). One hour.
  - (3) Conflicts, with focus on Professional Conduct Rules 1.7, 1.8 and 1.9. One hour.

(4) The function of the Wyoming State Bar and Bar Committees including, but not limited to, the mentoring program and the Lawyers Assistance Committee. One hour.

(5) The continuing legal education hours required of new admittees, as described in Rule 4(b) subsections 1 through 4, will be counted toward the 15 hours of continuing legal education that must be obtained pursuant to this Rule.

(c) Continuing legal education credit may be obtained by attending or participating in a continuing legal education activity accredited by the Board under these rules. Credits will not be granted for attending duplicate courses in the same calendar year.

(d) Hours completed in any year in excess of the minimum number, including legal ethics credits, may be carried forward for two years.

(e) Attorneys who lecture in an accredited continuing legal education activity will receive credit for three hours for each hour spent lecturing. If an attorney lectures as part of a panel, the total length of the lecture will be divided by the number of panelists and that portion will be multiplied by three for instruction credit. Credit will not be granted for instructing duplicate courses in the same calendar year unless substantive changes are made in the program.

(f) The final published course schedule of an accredited continuing legal education activity shall be determinative of the number of hours of accredited continuing legal education available through such activity. In all other cases, the Board will determine the number of hours of accredited continuing legal education available through such activity.

(g) A maximum of three hours of accredited continuing legal education credit may be granted to those lawyers who provide representation or mentoring activities as approved by the Wyoming Pro Bono Organization (WYPBO).

(1) The attorney will receive one hour of continuing legal education credit for every five billable-equivalent hours. In the case of participation in the WYPBO program, the number of hours of credit is not to exceed three per year for civil case representation. Representation is defined as providing legal services to one or more clients in a single or series of related matters.

(2) Upon completion of a WYPBO matter, the participating attorney shall receive a letter from the WYPBO director certifying the number of hours of credit earned for the representation. The attorney shall report this activity on the form referenced in Rule 4(h), and attach a copy of the certification letter.

(3) A WYPBO attorney who acts as a mentor to another attorney for a pro bono case will be awarded one continuing legal education credit per case and shall not be eligible to receive more than three continuing legal education credits for pro bono work in any one calendar year. Mentors will be assigned at the time of referral by indigent client and the mentor. Mentors shall be available to the attorney representing the indigent client for information and advice on all aspects of the case, but the mentor will not be required to file or otherwise enter an appearance on behalf of the indigent client. Mentors may not be members of the same firm or in association with the attorney representing the indigent client.

(4) A WYPBO attorney who acts as a mentor for a law student who has successfully completed at least four semesters at an ABA accredited law school on a case will be awarded three continuing legal education credits and shall not be eligible to receive more than three continuing legal education credits for pro bono work in any one calendar year. Mentors will be assigned to law students at the time of referral by the

WYPBO coordinator with the consent of the law student, the law school and the mentor. Mentors will be available to the law student for information and advice on all aspects of the case and mentor the law student on the case while supervising. However, the mentor will allow the law student to provide services with the direct supervision of the mentoring attorney. The mentor shall file or otherwise enter an appearance on behalf of the indigent client if an appearance is required in accord with Rule 12, *Rules of the Supreme Court of Wyoming Providing for the Organization and Government of the Bar Association and Attorneys at Law of the State of Wyoming*.

(h) To obtain continuing legal education credit, an attorney shall submit a form approved by the Board for each continuing legal education activity for which credit is sought. The approved form should be submitted within a reasonable time following participation in the activity, but in no event later than January 30, of the year following the calendar year in which the attorney's participation occurred.

(1) For continuing legal education activities which have received prior accreditation under Rule 6, no further documentation is required other than the approved form.

(2) For continuing legal education activities which have not received prior accreditation, the attorney shall submit to the Board the approved form and shall include a brief description of the activity, its dates, subjects, instructors and their qualifications, a copy of the activity outline, activity brochure and other documentation upon which the Board can make a determination as to the qualifications of the activity and the number of credit hours to which the applicant is entitled. Within a reasonable time after receipt of the written report and accompanying materials, the Board shall advise the attorney in writing by ordinary mail that the activity is not accredited or if the number of hours of credit approved is less than requested.

(i) The Wyoming State Bar shall maintain a file (which may be a computer record) of the continuing legal education credits which have been accumulated for each attorney. Once each year, as soon after January 30 as is reasonably possible, or upon the request of an attorney, the Wyoming State Bar shall report to each attorney those continuing legal education hours credited to that attorney and such credits as may be carried forward into the two years next following that year for which the report to the attorney is made.

#### **Rule 5. Standards for accreditation of a continuing legal education activity.**

(a) A continuing legal education activity consisting of lecture (classroom) style instruction qualifies for accreditation, and the attorney participants, both attendees and faculty, are entitled to continuing legal education credit, if the Board determines that:

(1) The activity constitutes an organized program of learning (including workshop or symposium) which contributes directly to the professional competency of an attorney;

(2) The activity pertains to legal subjects or other subject matters which integrally relate to the practice of law;

(3) The purpose of the activity is the education of professionals including attorneys;

(4) The activity is conducted or taught by attorneys, although it may also be conducted or taught in part by individuals who have special education, training and

experience by reason of which they should be considered experts concerning the subject matter of the program; and

(5) The activity is accompanied by a paper, manual or written outline which substantively pertains to the subject matter of the program.

(b) Examples. The program's purpose must be the education of professionals, including attorneys, on legal topics or on non-legal topics which nevertheless integrally relate to the practice of law, such as:

(1) A joint continuing legal education program sponsored, for instance, by accountants to which attorneys are invited and at which attorneys lecture on topics of interest to both accountants and attorneys would likely be accredited by the Board, subject to the Board's review of the specific course outline or program brochure.

(2) A meeting of doctors, lawyers, managed health care professionals and hospital administrators at which one or more attorneys lecture on topics of interest to all participants, such as legal concerns in the establishment of an HMO, malpractice, giving expert testimony, new federal laws and regulations for Medicaid/Medicare providers, would likely provide continuing legal education credit to attorney lecturers and to attorney attendees if the topics pertain to subject matters which integrally relate to the practice of law and contribute directly to the professional competency of an attorney.

(3) A meeting of public service commissioners and attorneys at which one or more attorneys lecture on topics such as new regulations, administrative rules, and/or laws would likely be accredited by the Board if the topics pertain to subject matters which integrally relate to the practice of law and contribute directly to the professional competency of an attorney.

(4) A meeting of doctors at which one or more attorneys lecture on topics of interest to doctors, such as malpractice, court procedures or giving expert testimony would not qualify as continuing legal education credit to attorney lecturers or attendees, because the program was not intended for the continuing legal education of attorneys. Attorneys are expected to participate in such programs as a contribution to the community and to their profession. Other similar programs which would not ordinarily qualify for continuing legal education credit would include teaching a bar review course or presenting a seminar exclusively to records managers on "Law Enforcement Records Liability."

(5) Attending a course taught by engineers, for engineers, on topics which may be of vital interest to a product liability attorney would not provide continuing legal education credit to the attorney because the program was not intended for the continuing legal education of attorneys. Other programs which would not ordinarily qualify for continuing legal education credit include attending courses at a real estate school, attending a non-attorney workshop on juvenile delinquency or attending a non-attorney course on federal procurement.

(c) Publishing an article in a legal periodical which is a member of the National Conference of Law Reviews, qualifies for continuing legal education credit for a maximum of 15 hours per attorney for any single article. An article published in a legal periodical which is not a member of the National Conference of Law Reviews may, at the discretion of the Board, qualify for continuing legal education credit. Authors of law review articles applying for continuing legal education credit must submit a copy of the article, as published, with the approved form.

(d) Voluntary contributions, without compensation other than reimbursement of expenses, to legal newsletters, pamphlets, magazines, newspapers or circulars, consisting of case or statutory summaries or surveys, law updates, synopses and the like may, at the discretion of the Board, be granted one-half the number of hours expended by the attorney in preparation of such contributions, not to exceed seven and one-half hours in any one calendar year. Authors of newspaper or newsletter articles applying for continuing legal education credit must submit a copy of the article, as published, with the approved form.

(e) The voluntary presentation of papers, without compensation other than reimbursement of expenses, to legal societies or associations may, at the discretion of the Board, qualify for continuing legal education credit. Authors of such papers applying for continuing legal education credit must submit a copy of the paper as presented, with the approved form.

(f) No activity will be accredited which involves a "for profit" activity such as authoring a book or treatise for a fee or commission or teaching a course for which payment of other than expenses is received.

(g) Identical activities will not be accredited unless they are held at least one year apart. Additionally, credit may not be allowed for welcoming or valedictory remarks exceeding one-quarter of an hour. Credit will be allowed for luncheon speeches at the discretion of the Board.

#### **Rule 6. Accreditation of continuing legal education activities.**

(a) A sponsor may apply for accreditation of a continuing legal education program by submitting an application for accreditation on a form provided by the Board at least 30 days prior to the activity, along with an application fee of \$50. The application shall state the dates, subjects offered, total minutes of instruction, names and qualifications of speakers and other pertinent information. Programs are approved for 12 months and must be re-submitted for approval, along with payment of an application fee of \$50, every 12 months in order for the program to be accredited that year. The following organizations and other organizations, at the discretion of the executive secretary, may be exempt from paying the application fee:

(1) The Wyoming State Bar, an agency co-sponsored by the Wyoming State Bar, a duly authorized committee or section thereof and county and local bar associations in the State of Wyoming;

(2) The University of Wyoming;

(3) The Wyoming Trial Lawyers Association;

(4) The Defense Lawyers Association of Wyoming;

(5) The Wyoming Public Defender;

(6) The Wyoming Prosecutors Association; and

(7) The Wyoming Pro Bono Organization.

(b) An attorney who desires to have the Board determine whether continuing legal education credit would be given for an activity may submit a written request for such determination. The Board will approve or deny such request in writing within a reasonable time following receipt of the application. The request shall state the dates,

subjects offered, total hours of instruction, names and qualifications of speakers and other pertinent information.

(c) Self Study Credit. Self study credit may be given for programs where audio, video or online material is used, subject to the following conditions:

- (1) Board approval is received prior to viewing or listening;
- (2) The audio, video or online material is from an accredited continuing legal education activity;
- (3) The audio, video or online material is accompanied by a paper, manual, or written outline which substantively relates to the subject matter of the materials;
- (4) Application for self study credit will be made on a form approved by the Board; and
- (5) The applicant has not previously applied for credit for viewing or listening to the same material; and
- (6) No more than five hours of self study credit may be earned during one calendar year. No hours may be carried over to any subsequent years.

#### **Rule 7. Hardships or extenuating circumstances.**

(a) The Board may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time. No waiver or extension of time will be granted unless written application has been made on forms approved by the Board prior to the end of the reporting period for which the request is being made.

(b) Waivers of the minimum educational requirements may be granted by the Board for any period of time not to exceed one year. If the hardship or the extenuating circumstances upon which a waiver has been granted continue beyond the period of the waiver, the attorney must reapply for an extension of the waiver. The Board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the Board.

(c) Extensions of time within which to fulfill the minimum educational requirements may, in individual cases involving hardship or extenuating circumstances, be granted by the Board for a period not to exceed six months immediately following expiration of the year in which the requirements were not met. Hours of minimum educational requirement completed within an extension period will be applied first to the minimum educational requirement for the preceding year and will be applied to the current or following year only to the extent that the hours are not required to fulfill the minimum educational requirement for the preceding year.

(d) Determinations under this section shall be made by a quorum of the entire Board.

#### **Rule 8. Exemptions.**

(a) An attorney is exempt from the provisions of Rule 4(a) during the calendar year in which the attorney is admitted to practice law in Wyoming.

(b) A member of the Wyoming State Bar who is honorary, inactive or retired, according to Article I, Section 3 of the Bylaws of the Wyoming State Bar, is exempt from

the provisions of Rule 4, and is not required to obtain or report continuing legal education credit on a yearly basis.

(c) An elected official may be exempt from the provisions of Rule 4 if written request for exemption is made each year the office is held.

### **Rule 9. Hearings.**

In the event of denial, in whole or in part, of any application, the attorney may, within 20 days after the sending of the notification of denial by ordinary mail to the attorney, request in writing a hearing before the Board. A hearing must be held within 30 days after receipt of the request for hearing. The decision of the Board after such hearing is final. Any hearing on a revocation of the accreditation of an accredited sponsor or the denial of a hardship application must be held before a quorum of the Board.

### **Rule 10. Penalties for failure to satisfy continuing legal education requirement.**

(a) On or before March 31 of each year, the Wyoming State Bar shall serve each active attorney who has not complied with the continuing legal education requirement for the previous calendar year, a Notice of Noncompliance. Delinquent attorneys will have until April 30 to submit applications for adequate credits to cure the delinquency, along with payment of a \$100 noncompliance fee, payable to the Board of Continuing Legal Education.

(b) On or before May 1 of each year, the Wyoming State Bar shall serve each active attorney who failed to comply with the continuing legal education requirement for the previous year by March 31, a Final Notice of Noncompliance. Delinquent attorneys will have until May 31 to submit application for adequate credits to cure the delinquency, along with payment of a \$200 noncompliance fee, payable to the Board of Continuing Legal Education.

(c) On or before June 15 of each year, the Wyoming State Bar shall forward a Recommendation for Suspension for Noncompliance of continuing legal education Requirement to the Court for each active attorney who failed to comply with the continuing legal education requirement for the previous year by May 31, or for any delinquent attorney who has failed to pay the appropriate noncompliance fee.

(d) Upon receipt of the Recommendation for Suspension for Noncompliance of continuing legal education requirement, the Court shall issue an Order to Show Cause as to why the delinquent attorney's license to practice law in the State of Wyoming should not be suspended, sent by certified mail, return receipt requested, addressed to the attorney at the official address listed with the Wyoming State Bar. The attorney has 30 days to cure the delinquency, along with payment of a \$300 noncompliance fee, payable to the Board of Continuing Legal Education.

(e) If an attorney fails to cure the delinquency within the allotted time period, the delinquent attorney's license to practice law in the State of Wyoming shall be suspended by order of the Court. The order of suspension shall be served by the Court by certified mail, return receipt requested.

(f) If an attorney has not cured the delinquency within one year after the date of the order of suspension, upon notification from the Board to the Court, the delinquent

attorney's license to practice law in the State of Wyoming shall be terminated by order of the Court. The order of termination shall be served by the Court by certified mail, return receipt requested.

#### **Rule 11. Duties of suspended attorneys.**

(a) Within 15 days of the date of an order of suspension, the suspended attorney shall notify the following persons by registered or certified mail, return receipt requested, of the attorney's suspension and the attorney's consequent inability to act as an attorney after the effective date of the suspension:

(1) All clients in pending matters. The attorney shall advise clients to seek legal advice elsewhere and to obtain another attorney for litigated matters or administrative proceedings.

(2) Any co-counsel who is involved in litigated matters or administrative proceedings.

(3) The attorney for each adverse party or, in the absence of such counsel, the adverse party or parties in litigated matters or administrative proceedings. The notice to parties shall state the place of residence of the client of the suspended attorney.

(4) All courts or administrative bodies in which the attorney has matters pending.

(b) If an attorney has not cured the suspension within six months from the date of the order, the attorney shall within 15 days deliver to all present and former clients all client files.

(c) A suspended attorney shall notify the client of all deadlines and scheduled court dates.

(d) A suspended attorney, after entry of the suspension order, shall not accept any new legal matters. During the period from the entry date of the order to its effective date, the attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

(e) A suspended attorney shall return any unearned fees.

(f) Within 30 days after the effective date of the suspension order, the suspended attorney shall file with the Court and Board an affidavit showing that the attorney has fully complied with the provisions of the order and with this rule and stating the address where communications may thereafter be directed.

(g) A suspended attorney shall maintain records of the steps taken to comply with this rule.

(h) The provisions of this section are deemed to be incorporated into all orders of suspension. Failure to comply with any requirement of this section is punishable as contempt.

(i) Suspension under these rules shall not be considered as a disciplinary infraction.

#### **Rule 12. Reinstatement.**

(a) Any attorney may, within six months of the order of suspension, be reinstated by performing the following:

(1) File a petition for reinstatement, on a form prescribed by the Board with the requisite fee listed on the form, with the Board.

(2) Furnish evidence of completion of the continuing legal education requirement for which suspended, as well as that applicable during the period of suspension.

(3) Furnish evidence that no claims or awards against the attorney were made from the client's security fund for which the fund has not been reimbursed.

(4) Furnish evidence that the attorney has satisfied all special requirements of the order of suspension.

(b) Any attorney who has been suspended for more than six months because of failure to satisfy continuing legal education requirements must satisfy the requirements of subsection (a) above. In addition, an application for reinstatement must be filed with the Court, which will be referred to the Character and Fitness Committee of the State Board of Law Examiners for investigation. After an investigation, the Committee will provide a recommendation to the Board of Continuing Legal Education regarding reinstatement.

The following documents must be filed with the Court:

(1) application for admission to the Wyoming State Bar;

(2) check or money order in the amount of the application fee, made payable to the Clerk of the Wyoming Supreme Court;

(3) NCBE request for preparation of a character report;

(4) appropriate payment by check, money order or credit card, made payable to the NCBE, for the preparation of character report;

(5) proof of payment of all license fees, current and past, including any late fees;

(6) proof that all CLE requirements, past and current, have been satisfied;

(7) proof that no claims or awards have been made from the Clients' Security Fund for which the fund has not been reimbursed.

(c) If the attorney satisfies the applicable requirements for reinstatement set out above, the Board will file a recommendation for reinstatement of the attorney with the Court.

### **Rule 13. Fees.**

Each active member of the bar must pay an annual fee of \$5.00 to the Wyoming State Board of Continuing Legal Education. This fee will be collected by the Bar at the time of the collection of the annual license fee, but will constitute a fee to be used only to defray the costs of administering the rules and regulations for continuing legal education and issuing annual reports. This fee is payable October 1 of each fiscal year and will be considered late on December 1.