

## IN THE SUPREME COURT OF THE STATE OF MONTANA

AF 06-0163

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IN RE THE RULES OF CONTINUING LEGAL  
EDUCATIONO R D E R

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The Montana Commission of Continuing Legal Education (CLE), by its chairman, K. Paul Stahl, has petitioned this Court to adopt the following changes to the rules for continuing legal education, as amended in 2001. The petition explains, first, that the proposed amendments address a request made by this Court to require that attorneys who have resigned from the State Bar, but wish to return to active status, fulfill the same CLE requirements as inactive members requesting transfer to active status. Secondly, the proposed amendments adjust the schedule for mandatory CLE reporting to provide attorneys with a more complete record of their attendance at CLE programs during the prior year and to eliminate confusion with other deadlines.

We have reviewed the Commission's petition and conclude that the proposed amendments to the CLE rules should be approved. Therefore, good cause appearing,

IT IS HEREBY ORDERED that the Commission's Petition is GRANTED. CLE Rules 5, 12, and 14 are amended in accordance with "Exhibit A" attached hereto, and by this reference made a part hereof. The deleted language on "Exhibit A" is stricken and the highlighted language is added to the Rules.

IT IS FURTHER ORDERED that these amendments shall be effective immediately.

IT IS FURTHER ORDERED that the Clerk of this Court shall give notice of this order to the Montana CLE Commission and the executive director of the State Bar of

Montana, with a request that the State Bar publish a reference or link to this order on the State Bar's website and that notice of this order be published in the *Montana Lawyer*.

Dated this 7<sup>th</sup> day of October, 2009.

/S/ MIKE McGRATH  
/S/ JIM RICE  
/S/ JAMES C. NELSON  
/S/ PATRICIA O. COTTER  
/S/ JOHN WARNER  
/S/ BRIAN MORRIS

- Exhibit A -

**Rule 5 – Reporting Requirements**

A. Report. On or before ~~April 1~~ **May 15** of each year, each active member who has not been granted an exemption under Rule 4, shall file an affidavit with the Commission reporting continuing legal education activity in the preceding reporting year. The report may include any carryover credits specified in Rule 4A, together with any proof the Commission may require. The Commission shall mail the prescribed affidavit form to each active member on or before ~~March 1~~ **April 15** of each year.

B. Fee. The Commission shall require payment of a fee not to exceed twenty-five dollars (\$25.00), which each reporting attorney must pay to defray the cost of maintaining records and enforcing the Rules. The prescribed fee shall accompany the Supreme Court License Tax and the State Bar of Montana Membership Dues submitted by each attorney. Failure to pay the prescribed fee constitutes noncompliance under Rule 12.

C. Noncompliance Fees. In addition to the filing fee prescribed in Rule 3B2(e), attorneys in noncompliance who correct the deficiency on or before ~~June 15~~ **July 1**, as provided in Rule 12A shall be assessed an additional fee. Noncompliance after ~~June 15~~ **July 1** shall be governed by Rule 12.

D. If the prescribed reporting affidavit is deemed incomplete or ambiguous by the Commission or its MCLE Administrator, additional information may be required from the reporting member.

E. The burden is on the member to submit and satisfy the requirements of these rules, and failure to respond in a timely manner shall constitute noncompliance under Rule 12.

**Rule 12 – Noncompliance**

A. Notice of Noncompliance. The Commission shall, by ~~May 15~~ **June 1** of each year, send a written notice of noncompliance to each attorney who had not filed an acceptable affidavit for the previous year as required by Rule 5. The notice of noncompliance shall describe the nature of the noncompliance and shall state that, unless the attorney files an acceptable affidavit with the Commission by ~~June 15~~ **July 1** of that year showing that the noncompliance has been corrected and pays the appropriate fees, the Commission will direct the State Bar of Montana to transfer the attorney to inactive status until the noncompliance is corrected and the fees required by Rule 5 are paid.

B. Notice of Transfer. No later than ten (10) business days after ~~June 15~~ **July 1**, the Commission shall furnish the names of the attorneys and the effective date of their transfers to inactive status to the named attorneys, to the Montana Supreme Court, to the Clerk of the Montana Supreme Court, to the Clerks of the District Courts of the State of Montana with the request that they provide a copy to the district judges in their judicial districts, to the Clerk of the Federal District Court of the District of Montana, with a request that the Clerk provide a copy to the United States District Judges in Montana and to the Clerk of the Circuit Court of Appeals of the Ninth Circuit.

C. Transfer Not Punishment. The transfer of an attorney to inactive status pursuant to this Rule shall not be deemed a punishment or disciplinary action for purposes of the Montana Rules of Professional Conduct or the Montana Rules for Lawyer Disciplinary Enforcement (2002).

D. Fee for Reinstatement. An attorney transferred to inactive status pursuant to this Rule shall apply for reinstatement as provided in Section 3 of the By-Laws of the State Bar of Montana and

shall pay to the State Bar of Montana a fee equal to the greater of two hundred dollars (\$200.00) or the usual and customary fee charged by the State Bar of Montana for transferring a member from inactive to active status.

**Rule 14 – CLE Requirement Upon Change From Voluntary Inactive or Resigned Status to Active Status**

This rule applies to an attorney who voluntarily switched from active to inactive status or who resigned membership in the State Bar and who applies for reinstatement to active status. Within 6 months of re-admission to active status by the Court, the attorney shall complete 15 hours of approved continuing legal education for each 12-month period of inactive or resigned status, not to exceed a total of 30 hours. The Commission may consider hours of approved continuing legal education which the member has completed within 24 months prior to the application for reinstatement to active status.

Attorneys who believe their occupations during inactive or resigned status are sufficient to warrant readmission to active status without being required to make up continuing legal education credits may submit petitions to the Court for such re-admission setting forth the grounds for re-admission.

If an active member requests to become an inactive member, the continuing legal education requirement may be waived for the preceding year.