

SUPREME COURT OF GEORGIA

Atlanta February 2, 2005

The Honorable Supreme Court met pursuant to adjournment.
The following order was passed:

It is ordered that the Rules and Regulations for the Organization and Government of the State Bar of Georgia be amended as follows:

I.
**Amendments to Part VIII, Continuing Lawyer
Competency, of the Rules of the State Bar of Georgia**

It is ordered that Rules 8-103 and 8-104 of Part VIII of the Rules of the State Bar of Georgia regarding continuing legal education requirements be amended to read as follows:

Rule 8-103. Commission on Continuing Lawyer Competency.

(A) Membership, Appointment and Terms:

There is established a permanent commission of the State Bar of Georgia known as the Commission on Continuing Lawyer Competency. The Commission shall consist of sixteen (16) members, six (6) of whom shall be appointed by the Supreme Court of Georgia and six (6) by the Board of Governors of the State Bar of Georgia, one (1) shall be designated by the Executive Committee of the State Bar of Georgia, one (1) shall be the chair of the Board of Trustees of the Institute of Continuing Legal Education in Georgia or his or her designee, one (1) shall be designated by the Chief Justice's Commission on Professionalism, and one (1) shall be designated by the president of the Young Lawyers Division of the State Bar of Georgia. Members shall be members of the State Bar of Georgia. Members of the Commission appointed by the Supreme Court of Georgia and by the Board of Governors of the State Bar shall be appointed for staggered three (3) year terms and until their successors are appointed, except that the initial appointed members of the Commission shall consist of four (4) members appointed for a term of one (1) year, four (4) members appointed for a term of two (2) years, and four (4) members appointed for a term of three (3) years. The appointed members of the initial Commission shall be appointed half by the Supreme Court and half by the Board of Governors of the State Bar of Georgia. No member appointed by the Supreme Court or the Board of Governors may serve more than two (2) consecutive terms as a member of the Commission, and no such member may be reappointed otherwise to the Commission until he or she has been inactive as a Commission member for three (3) consecutive years. Members of the Commission designated by the Executive Committee, the chair of the Board of Trustees of the Institute of Continuing Legal Education, the Chief Justice's Commission on Professionalism, and the president of the Young Lawyers Division shall each serve for a term of one (1) year. No person so designated to the Commission may serve more than three (3) consecutive terms as a member of the Commission, and no such member may be redesignated otherwise to the Commission until he or she has been inactive as a Commission member for three (3) consecutive years.

The Commission shall designate each year one of its members to serve as Chairperson. The Executive Director of the State Bar of Georgia, the Executive Director of the Institute of Continuing Legal Education of Georgia, the Executive Director of the Chief Justice's Commission on Professionalism, and the Executive Director of the Commission shall serve as ex-officio members of the Commission, but shall have no vote. The Executive Director of the Commission shall serve as Secretary of the Commission.

(B) Powers and Duties of the Board:

(1) The Commission shall have general supervisory authority to administer these Rules.

(2) The Commission shall have specific duties and responsibilities:

(a) To approve all or portions of individual courses and programs of a sponsor which satisfy the educational requirements of Rule 8-106;

(b) To determine the number of credit hours allowed for each course or educational activity;

(c) To encourage courses and programs by established organizations, whether offered within or without the State;

(d) To educate the public about the legal profession;

(e) To adopt rules and regulations not inconsistent with these Rules;

(f) To establish an office or offices and to employ such persons as the Commission deems necessary for the proper administration of these Rules and to delegate to them appropriate authority, subject to the review of the Commission;

(g) To report at least annually to the State Bar and to the Supreme Court the activities and recommendations of the Commission and the effectiveness of the enforcement of these Rules;

(h) To report promptly to the Supreme Court any violation of these Rules.

(C) Finances:

(1) Purpose. The Commission should be adequately funded to enable it to perform its duties in a financially independent manner.

(2) Sources. All costs of administration of the Commission shall be derived from charges to members of the State Bar for continuing legal education activities.

(a) Sponsors of CLE programs to be held within the State of Georgia shall, as a condition of accreditation, agree to remit a list of Georgia attendees and to pay a fee for each active State Bar member who attends the program. This sponsor's fee shall be based on each day of attendance, with a proportional fee for programs lasting less than a whole day. The rate shall be set by the Commission.

(b) The Commission shall fix a reasonably comparable fee to be paid by individual attorneys who either (a) attend approved CLE programs outside the State of Georgia or (b) attend un-approved CLE programs within the State of Georgia that would have been approved for credit except for the failure of the sponsor to pay the fee described in the preceding paragraph. Such fee shall accompany the attorney's annual affidavit.

(3) Uses. Funds may be expended for the proper administration of the Commission. However, the members of the Commission shall serve on a voluntary basis without expense reimbursement or compensation.

Rule 8-104. Education Requirements and Exemptions.

(A) Minimum Continuing Legal Education Requirement.

Each active member shall complete a minimum of twelve (12) hours of actual instruction in an approved continuing legal education activity during each year. If a member completes more than twelve (12) hours in a year, the excess credit may be carried forward and applied to the education requirement for the succeeding year only

(B) Basic Legal Skills Requirement.

(1) Except as set out in subsections (a) and (b) below, any newly admitted active member admitted after June 30, 2005, must complete in the year of his or her admission or in the next calendar year the State Bar of Georgia Transition Into Law Practice Program, and such completion of the Transition Into Law Practice Program shall satisfy the mandatory continuing legal education requirements for such newly admitted active member for both the year of admission and the next succeeding year.

(a) Any newly admitted active member, who has practiced law in another United States jurisdiction other than Georgia for two or more years immediately prior to admission to practice in this state, may be exempted from completing the Transition Into Law Practice Program upon the submission, within three months of admission, of an affidavit to the Commission on Continuing Lawyer Competency. The affidavit shall provide the date or dates of admission in every other state in which the member is admitted to practice and a declaration that the newly admitted member has been actively engaged in the practice of law for two or more years immediately prior to admission in this state. Upon submission of a satisfactory affidavit, the newly admitted active member shall be required to complete the annual twelve hours of instruction in approved continuing legal education activity beginning at the start of the first full calendar year after the date of admission. Any newly admitted active member, who has practiced law in another United State jurisdiction other than Georgia for two or more years immediately prior to admission to practice in this state and who does not timely file the required affidavit, shall be required to complete the Transition Into Law Practice Program as set out above.

(b) Any newly admitted active member, who is a judicial law clerk or who begins a clerkship within three months of admission, shall not be subject to the requirement of completing the Transition Into Law Practice Program during the period of the judicial clerkship. Within thirty days of admission to the State Bar or within thirty days of the beginning of the clerkship if said clerkship begins within three months after admission, the member shall provide written notice to the Commission on Continuing Lawyer Competency of the date of entry into the clerkship position. Judicial law clerks are required to complete the annual twelve hours of regular instruction in approved continuing legal education courses beginning at the start of the first full calendar year after the date of admission. Within thirty days of the completion of the clerkship, the member shall provide written notice to the Commission on Continuing Lawyer Competency of the date of such completion. The member must complete, in the year the clerkship was concluded, or the next calendar year, the Georgia Transition Into Law Practice Program. Such completion of the Transition Into Law Practice Program shall satisfy the mandatory continuing legal education requirements for such member for both the year of completion of the clerkship and the next succeeding calendar year.

(2) Each active member, except those participating in the Georgia Transition Into Law Practice Program, shall complete a minimum of one (1) hour of continuing legal education during each year in the area of ethics. This hour is to be included in, and not in addition to, the twelve-hour (12) requirement. If a member completes more than one (1) hour in ethics during the calendar year, the excess ethics credit may be carried forward up to a maximum of two (2) hours and applied to the ethics requirement for succeeding years.

(3) Each active member, except those participating in the Georgia Transition Into Law Practice Program, shall complete a minimum of one (1) hour of continuing legal education during each year in an activity of any sponsor approved by the Chief Justice's Commission on Professionalism in the area of professionalism. This hour is to be included in, and not in addition to, the twelve-hour (12) requirement. If a member completes more than one (1) hour in professionalism during the calendar year, the excess professionalism credit may be carried forward up to a maximum of two (2) hours and applied to the professionalism requirement for succeeding years.

(C) Exemptions.

(1) An inactive member shall be exempt from the continuing legal education and the reporting requirements of this Rule.

(2) The Commission may exempt an active member from the continuing legal education, but not the reporting, requirements of this rule for a period of not more than one (1) year upon a finding by the Commission of special circumstances unique to that member constituting undue hardship.

(3) Any active member over the age of seventy (70) shall be exempt from the continuing legal education requirements of this rule, including the reporting requirements, unless the member notifies the Commission in writing that the member wishes to continue to be covered by the continuing legal education requirements of this rule.

(4) Any active member residing outside of Georgia who neither practices in Georgia nor represents Georgia clients shall be exempt, upon written application to the Commission, from the continuing legal education, but not the reporting, requirements of this rule during the year for which the written application is made. This application shall be filed with the annual reporting affidavit.

(5) Any active member of the Board of Bar Examiners shall be exempt from the continuing legal education but not the reporting requirement of this Rule.

(D) Requirements for Participation in Litigation.

(1) Prior to appearing as sole or lead counsel in the Superior or State Courts of Georgia in any contested civil case or in the trial of a criminal case, any participant in the Transition Into Law Practice Program admitted to practice after June 30, 2005, shall complete the mandatory Advocacy Experiences of the Transition Into Law Practice Program set forth in Regulation (5) hereunder. The mandatory Advocacy Experiences shall be completed as part of the Mentoring Plan of Activities and Experiences, except that up to three (3) of the five (5) mandatory Advocacy Experiences may be obtained after completion of 60% of the credit hours required for law school graduation and prior to admission to practice. At least two (2) of the mandatory Advocacy Experiences must be completed as part of the Mentoring Plan of Activities and Experiences.

(2) Each active member who appears as sole or lead counsel in the Superior or State Courts of Georgia in any contested civil case or in the trial of a criminal case, shall complete for such year a minimum of three (3) hours of continuing legal education activity in the area of trial practice. A trial practice CLE activity is one exclusively limited to one or more of the following subjects: evidence, civil practice and procedure, criminal practice and procedure, ethics and professionalism in litigation, or trial advocacy. These hours are to be included in, and not in addition to, the 12-hour (twelve) requirement. If a member completes more than three (3) trial practice hours, the excess trial practice credit may be carried forward and applied to the trial practice requirement for the succeeding year only.