

**RULES FOR CONTINUING LEGAL EDUCATION
PARALEGAL SECTION
STATE BAR OF MONTANA**

Adopted: April 13, 2001

PRINCIPLES

1. The purpose of mandatory continuing legal education requirements for the members of the Paralegal Section of the State Bar of Montana is to improve the competence of its member paralegals through training in ethics, professional responsibility and substantive areas of the law.
2. Based on the belief that interaction with others contributes to the learning process, a significant portion of these continuing education requirements should be satisfied by interactive seminars or by such methods that allow for interaction among the participants and the instructor by electronic means.
3. All members of the Paralegal Section must comply with these Rules, subject to the need to accommodate special circumstances, as long as they remain members of the Section.
4. Regulatory authority for these Rules rests with the Paralegal Section Council of the State Bar of Montana.
5. These Rules will be administered by the Professional Responsibility Committee of the Paralegal Section of the State Bar of Montana (PRC.) The PRC shall administer the program in a cost-effective manner, with the aim being to neither generate revenue nor produce financial losses for the Bar or the Paralegal Section.
6. The Section Council should conduct an on-going evaluation of the effectiveness of Continuing Legal Education requirements of the Paralegal Section.

RULE 1. PURPOSE

These rules establish standards for the continuing legal education required of members of the Paralegal Section of the State Bar of Montana.

RULE 2. DEFINITIONS

- A. "Member" means any person who belongs to the Paralegal Section of the State Bar of Montana.
- B. "Council" means the Paralegal Section Council of the State Bar of Montana.
- C. "Approved Legal Education Activity" means an individual seminar, course or other activity approved by the Commission.
- D. "Commission" means the Montana Commission of Continuing Legal Education.
- E. "Committee" means the Professional Responsibility Committee of the Paralegal Section of the State Bar of Montana (PRC).
- F. "Paralegal Section" refers to the Paralegal Section of the State Bar of Montana.
- G. "Chairperson" means the chairperson of the PRC.

- H. "Credit Hour" means sixty (60) minutes of approved legal education activity.
- I. "MCLE Administrator" is the person designated by the Montana Commission on Legal Education, with the approval of the Executive Director of the State Bar of Montana.
- J. "Rule" or "Rules" refers to the Rules of the Paralegal Section for Continuing Legal Education.
- K. "Reporting Year" means April 1 through March 31.

RULE 3. PROFESSIONAL RESPONSIBILITY COMMITTEE

- A. Membership, Appointment, and Terms.
 - 1. The Professional Responsibility Committee (PRC) consists of at least three (3) Section members.
 - 2. The PRC shall designate one of its members to serve as Chairperson and one as a Secretary.
- B. Powers of the Professional Responsibility Committee.
 - 1. The PRC shall administer the compliance aspect of these Rules.
 - 2. The PRC shall:
 - a. Report as needed to the Section Council.
 - b. Meet at the discretion of the PRC, subject to these Rules, at a time, method and place determined by the PRC.
 - c. Place upon any member seeking to qualify under these rules the burden of proof.
 - 3. The PRC may take other action deemed necessary to administer these rules.
- C. Expenses of the PRC
 - 1. Members of the PRC shall not be compensated except for actual and necessary expenses incurred in the performance of PRC duties.
- D. Annual Budget
 - 1. The PRC shall submit an annual budget to the Paralegal Section Council. Expenses of the PRC shall not exceed the annual budget approved by the Paralegal Section Council.
- E. Authority
 - 1. The PRC shall operate under the general authority of the Paralegal Section Council.
 - 2. Amendments to these Rules are under the purview of the Paralegal Section Council.
 - 3. Paralegal Section Council shall govern the applicable CLE education criteria and shall be the final authority for all decisions regarding CLE programs for the Section.

RULE 4. EDUCATION REQUIREMENTS, EXEMPTIONS, AND EXTENSIONS

A. Member Continuing Legal Education Requirement:

1. Each member of the Paralegal Section shall complete a minimum of ten (10) credit hours of approved continuing legal education activity each year. Of those ten (10) credit hours, at least six (6) credit hours must be earned by attendance at interactive seminars as defined in Rule 7. No more than four (4) credit hours may be earned through “other methods” as defined in Rule 7.
2. If a member accumulates more interactive credits than required in a year, the excess interactive credits may be carried forward and applied to either or both of the next two succeeding years. Credits earned by “other methods” may not be carried forward. A maximum of twenty (20) interactive credit hours may be carried forward.
3. Every three years, each member must complete a minimum of three (3) credit hours in ethics. Ethics means the accepted principles of professional conduct and responsibility as established by the Paralegal Sections Rules of Professional Responsibility. Ethics credits may be used to fulfill the 10 credit hours of required continuing legal education.

B. Other Exemptions:

1. The PRC may grant exemptions as follows:
 - a. Exemptions due to special circumstances:
 - i. Upon written application, the PRC may exempt a member from all or a portion of the continuing legal education requirement for a period of not more than one (1) year upon a finding by the PRC of special circumstances, unique to that member, constituting undue hardship. Such circumstances include:
 - a) Severe or prolonged illness or disability of the member that prevents the member from participating in approved continuing legal education programs. If the member is disabled or hospitalized, a sworn statement from another person who is familiar with the facts may be accepted;
 - b) Extended absence from the United States; or
 - c) Other extenuating circumstances.
2. An exemption may not be granted in successive years for the same or similar hardship.
3. Exemption during year of admission:
 - a. A member is exempt from the continuing legal education requirement of these Rules during the balance of the reporting year during which he or she joins the Paralegal Section.

C. Extensions:

1. The PRC may grant an extension of time for the reporting requirement of Rule 5, upon a finding of special circumstances unique to that member constituting undue hardship.

D. Burden of Proof:

1. The burden is on the member to submit and satisfy the requirements of these Rules.

RULE 5. REPORTING REQUIREMENTS

A. Report

1. On or before April 1 of each year, each member who has not been granted an exemption under Rule 4, shall file an affidavit with the State Bar of Montana reporting the member's continuing legal education activity in the preceding reporting year. The report may include any carry-over credits specified in Rule 4A, together with any proof the PRC may require. The State Bar of Montana shall mail the prescribed affidavit form to each member on or before March 1 of each year.

B. Noncompliance

1. If the member's affidavit is deemed incomplete, late or ambiguous by the PRC, additional information may be required from the reporting member.
2. 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 6. CREDIT HOURS AND ACCREDITATION STANDARDS

A. Credit Hours

1. The Commission shall designate the number of credit hours to be earned by participation in or teaching of approved continuing legal education activities.
2. Credit shall be earned on the basis of one (1) credit hour for each sixty (60) minutes actually spent by a member in attendance at an approved activity or in preparation for and teaching of an approved activity.
3. Credit will not be earned for time spent in introductory remarks, coffee and luncheon breaks or business meetings.
4. Credit will not be earned for speeches presented at, or attendance at, luncheons or banquets, unless pre-approval has been granted by the MCLE Administrator.
5. Repetition of an activity does not qualify for credit.

B. Accreditation and Accreditation Standards -

1. The Commission may approve continuing legal education activities consistent with these Rules.
2. The following standards shall govern the approval of a continuing legal education activity:
 - i. It shall have significant legal content.
 - ii. Its primary objective shall be to increase professional competence as a paralegal.
 - iii. It shall constitute an organized program of learning dealing with matters directly related to the practice of law, professional conduct, or the ethical obligations of attorneys and/or paralegals.

- iv. It is conducted by an individual or group qualified by practical or academic experience in a setting physically suited to the educational activity of the program.
- v. It should include thorough, high-quality, and carefully prepared written materials to be distributed to all attendees at or before the time the course is presented. While it is recognized that written materials are not suitable or readily available for some types of subjects, the absence of written materials for distribution should be the exception and not the rule.

C. The burden is on the member to submit and satisfy the requirements of these rules.

RULE 7. TYPES OF PROGRAMS AND ACTIVITIES THAT QUALIFY FOR CREDIT

- A. All activities must meet the standards set forth in Rule 6B. The following methods of presentation will be considered for credit:
 - 1. Interactive seminars - a minimum of six (6) credit hours per year must be earned by attending interactive seminars. An interactive seminar is an activity where the instructor and at least four other participants are available to interact with each other for the purpose of further discussion or answering questions.
 - 2. Other methods - a maximum of four (4) credit hours per year may be earned by participation in any one or a combination of the following other methods:
 - a. Using audio- or video-produced material.
 - b. Participating in online seminars that do not involve interaction with instructors and other participants.
 - c. Teaching and preparing written materials for an approved activity. Repetition of such teaching activity does not qualify for credit.
 - d. Attending in-house courses offered by law firms, corporate legal departments or similar entities primarily for the education of their employees or members. The standards set forth in Rule 6B are applicable to the approval of individual in-house courses. In addition, the following additional standards must be met:
 - i. An application for approval must be filed with the Commission before the date on which the course is to be held. The Applicant will be expected to furnish curriculum materials and a schedule and to provide assurances that client-related matters and case studies are not part of the credit hours being sought.
 - ii. Two (2) paralegals and/or attorneys, including the instructor, must attend the program.
 - iii. The course must be scheduled at a time and at a location that is free of interruption from telephone calls and other office matters.
 - iv. The applicant must agree to permit any member of the Commission, or a designee of the Commission, including the a member of the Paralegal Section or the Professional Responsibility Committee, to be in attendance at the activity if deemed necessary by the Commission.
 - e. Satisfactorily completing an approved self-study program or

- f. Using any other method if the applicant can demonstrate the activity has significant legal content and the primary objective of the activity relates to the practice of law.

3. The burden is on the member to submit and satisfy the requirements of these rules.

RULE 8. PRESUMPTIVE ACCREDITATION

- A. The Commission may recognize and accredit courses that have been accredited by and held in other states. The Commission will grant the same number of credits to each course that was granted in the state in which the course was presented. The Commission retains the right to reject accreditation of any course that it believes does not meet the standards set out in Rule 6(B) or for which documentation of accreditation is not provided.

RULE 9. ACCREDITATION

- A. A sponsor (other than an Accredited Sponsor) or an individual member may seek advance approval on a form provided by the Commission, accompanied with a filing fee in an amount to be determined by the Commission each year. The same procedure may be followed after presentation of the activity, except that, unless waived by the Commission, requests for approval of activities must be submitted before March 31 of the reporting year in which the activity was presented. Courses that are submitted after the March 31 deadline will incur a late filing fee not to exceed fifty dollars (\$50.00). The Commission, the Council and the MCLE Administrator shall advise the applicant in writing whether the activity is approved and, if approved, the number of credit hours allowed.
- B. Except as provided above, no credit would be recognized without application and approval. Any delay that takes place in making a determination on a request for approval does not relieve the member from compliance with the Rules.

RULE 10. ACCREDITED SPONSORS

- A. An Accredited Sponsor is an organization designated as such by the Commission. Continuing legal education activities presented by an Accredited Sponsor are approved legal education activities.
- B. An application for approval as an Accredited Sponsor shall be submitted annually on a form provided by the Commission and accompanied by a filing fee in an amount to be determined by the Commission each year. Applications shall be evaluated under criteria defined in Rules 6 and 7. A sponsor shall not be accredited unless it has offered five or more separate continuing legal education activities during the preceding year.
- C. Upon approval as an Accredited Sponsor, the organization is exempt from the requirement of applying for approval of individual programs. Documentation for individual programs must be submitted before December 31 of the calendar year in which the activity was presented. Documentation submitted after the December 31 deadline will not be considered unless accompanied by a late filing fee not to exceed fifty dollars (\$50.00) The Commission will determine the number of credit hours for each continuing legal education activity.
- D. The Commission may at any time re-evaluate and revoke the status of an Accredited Sponsor if a program fails to meet either the accreditation standards set forth in Rule 6B or the methods of presentation set forth in Rule 7.
- E. A list of organizations or groups which are approved as Accredited Sponsors of continuing legal education activities will be maintained by the MCLE Administrator in the office of the State Bar of Montana. A current list of Accredited Sponsors will be published in the *Montana Lawyer*.

RULE 11. APPEALS

- A. A sponsoring agency that disagrees with a determination of the Commission, other than the noncompliance provisions of Rule 12, shall submit his or her statement, together with supporting data, to the Commission. The Commission shall consider the matter at its next regular meeting. The Commission shall send written notice to the sponsoring agency advising of the date, time, and location of the meeting and advise that they have the right to appear at the meeting and present any evidence on its behalf. Consideration of the matter is not an adversarial or contested proceeding and formal rules of evidence shall not apply. The Commission shall determine the matter by majority vote of those present and its decision shall be final.
- B. A Section member who disagrees with the determination of the Commission shall submit his or her statement, together with supporting data, to the PRC. The Commission shall consider the matter at its next regular meeting. The PRC shall send written notice to the member advising of the date, time, and location of the meeting and advise that he or she has the right to appear at the meeting and present any evidence on his or her behalf. Consideration of the matter is not an adversarial or contested proceeding and the formal rules of evidence shall not apply. The PRC shall determine the matter by majority vote of those present and its decision shall be final.

RULE 12. NONCOMPLIANCE

- A. Notice of Noncompliance
 - 1. The PRC shall, after May 15 of each year, send a written notice of noncompliance to each paralegal that has 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 paralegal files an acceptable affidavit with the Professional Responsibility Committee by June 15 of that year showing that the noncompliance has been corrected, he or she will be dropped from membership in the Paralegal Section.
- B. Final Notice
 - 1. After June 15 of each year, the PRC shall send a final notice of noncompliance to the paralegal, the State Bar of Montana and the Section Council. At that time, the State Bar of Montana will drop that paralegal from the roster of current members of the Section.

RULE 13. CLE REQUIREMENT UPON REINSTATEMENT AFTER SUSPENSION

- A. Reinstatement
 - 1. A paralegal removed from membership in the Paralegal Section of the State Bar of Montana in accordance with Rule 12 may be reinstated by the Council upon the following terms:
 - a. The payment of all fees required by the PRC and
 - b. Completion of the minimum continuing legal education requirements that brought about the suspension.

RULE 14. CONFIDENTIALITY

Unless otherwise directed by the Paralegal Section Council or these Rules, the files, records and proceedings of the PRC shall be deemed confidential and shall not be disclosed, except in furtherance of the duties of the PRC for a the paralegal affected or as introduced into evidence or otherwise produced in proceedings under these Rules. After the member's membership in the

Paralegal Section has been withdrawn, then the matter becomes a matter of public record and is no longer confidential.