

CHAPTER 42
REGULATIONS OF THE COMMISSION ON CONTINUING
LEGAL EDUCATION

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CHAPTER 42

REGULATIONS OF THE COMMISSION ON CONTINUING LEGAL EDUCATION

Rule 42.1 Definitions. For the purpose of these regulations, the following definitions apply:

(1) An “*accredited program or activity*” means a continuing legal education activity meeting the standards set forth in rule 42.3, which has received accreditation by the commission pursuant to rule 42.4.

(2) An “*attorney*” means any person licensed to practice law in the state of Iowa.

(3) The “*commission*” means the Commission on Continuing Legal Education or any division thereof.

(4) “*Guidelines*” means a commission document that prescribes requirements for accreditation of continuing legal education programs and is made available to sponsors and lawyers on the commission web page.

(5) An “*hour*” of continuing legal education means a clock-hour spent by an attorney in actual attendance at or completion of an accredited legal education activity.

(6) “*Legal ethics*” means a separate, designated, and dedicated session of instruction:

a. Referring to and based on the disciplinary rules or ethical considerations of the ethics or professional responsibility code for attorneys in the jurisdiction where the instruction is presented;

b. Designed to help attorneys detect, prevent, or respond to substance-related disorders or mental illness that impairs professional competence. The instruction must focus on issues in the legal profession and in the practice of law, and not issues of substance-related disorders or mental health in general; or

c. Regarding the impact of race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation on court system interaction or case or controversy outcome, and professional relationships between attorneys, judges, and clients where race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation is a potential factor.

(7) “*Unmoderated activity*” means a CLE activity presented by delayed or on-demand transmission or broadcast, or pre-recorded media, that has an interactive component and is approved by the commission based on its guidelines. “Pre-recorded media,” for purposes of this rule, includes but is not limited to audiotape, videotape, CD, podcast, CD-ROM, DVD, and self-paced computer-based instruction.

(8) A “*quorum*” of the entire commission means six or more members of the commission.

(9) “*Moderated activity*” means:

a. “*Standard (live)*”—A live CLE activity presented in a suitable classroom setting devoted to the program.

b. “*Satellite*”—A live CLE activity broadcast by satellite link to a classroom setting or a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

c. “*Video conference*”—A live CLE activity broadcast by cable, wire, or fiber optic link to a classroom setting or a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

d. “*Live webcast*”—A live CLE activity broadcast over the Internet in audio or audio plus video form to viewers at remote locations or at a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

e. “*Live teleconference*”—A live CLE activity broadcast over the telephone in audio or audio plus video form to listeners at remote locations or at a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

f. “*Video replay*”—A recorded CLE activity presented in audio plus video form in a suitable classroom setting or central viewing location to a broad attorney population. The attorney must be able to contact a live moderator during the activity to comment or ask questions.

g. “*Audio replay*”—A recorded CLE activity presented in audio form in a suitable classroom setting, central listening location, or by telephone to a broad attorney population. The attorney must be able to contact a live moderator during the activity to comment or ask questions.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; February 20, 2012; August 24, 2012; March 21, 2014; November 20, 2015, effective January 1, 2016]

Rule 42.2 Continuing legal education requirement.

42.2(1) A minimum of 15 hours of continuing legal education must be completed by each attorney for each calendar year in the manner stated in Iowa Ct. R. 41.3(1). Each attorney shall, every two years, complete a minimum of three hours of legal education devoted specifically to the area of legal ethics.

42.2(2) Hours of continuing legal education credit may be obtained by attending or participating in a continuing legal education activity, either previously accredited by the commission or which otherwise meets the requirements herein and is retroactively accredited by the commission pursuant to rule 42.4(3).

42.2(3) Hours of continuing legal education credit may be awarded for preparation of an accredited continuing legal education presentation. A lawyer is entitled to one hour of preparation credit for each hour of accredited continuing legal education for which they prepare written materials and present, up to a maximum of three hours per calendar year. Hours of preparation credit are credited against the regular attendance requirement of 15 hours per calendar year, but not against the attendance requirement for legal ethics. Hours of preparation credit in excess of three do not carry over to a subsequent year. Preparation credit may not be awarded to:

a. A lawyer who prepares written materials without making the presentation or serving on a panel of speakers.

b. A lawyer who makes a presentation or serves on a panel of speakers without preparing written materials.

c. A lawyer who prepares a course directed primarily to persons preparing for admission to practice law.

d. A lawyer who receives compensation, other than reasonable expenses, for preparing or presenting the continuing legal education.

42.2(4) An attorney desiring to obtain credit for one or more succeeding calendar years, not exceeding two such years, for completing more than 15 hours of accredited legal education during any one calendar year, under Iowa Ct. R. 41.3(1), must report such “carry-over” credit at the time of filing the annual report to the commission on or before March 10 of the year following the calendar year during which the claimed additional legal education hours were completed.

[Court Order November 25, 1975; December 6, 1978; January 8, 1988; November 9, 2001, effective February 15, 2002; March 21, 2014; April 25, 2014; November 20, 2015, effective January 1, 2016]

Rule 42.3 Standards for accreditation.

42.3(1) A continuing legal education activity qualifies for accreditation if the commission determines that the activity complies with all of the following:

a. It constitutes an organized program of learning (including a workshop or symposium) that contributes directly to the professional competency of an attorney.

b. It pertains to common legal subjects or other subject matters that integrally relate to the practice of law.

c. It is conducted by attorneys or individuals who have a special education, training, and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and preferably is accompanied by a paper, manual, or written outline that substantively pertains to the subject matter of the program.

d. It is presented in the form of moderated programming, or in the form of unmoderated programming approved by the commission in its guidelines.

42.3(2) No activity will be accredited that involves solely self-study, including television viewing, video or sound recorded programs, or correspondence work, except as may be allowed pursuant to rule 42.5.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; March 21, 2014]

Rule 42.4 Accreditation of programs and activities.

42.4(1) *Accreditation of activities.* A program sponsor that desires accreditation of a program, course, program or other legal education activity or an attorney who desires to establish accreditation of a program, course, or other legal education activity shall apply for accreditation to the commission in advance of the commencement of the activity or after completion of the activity in the manner the commission prescribes. The commission shall approve or deny such application in writing or by electronic mail within 30 days of receipt of such application. The application shall state the dates,

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

42.4(2) *Fee for organization applications for accreditation.* To support administration of this chapter, any organization or other activity sponsor applying for accreditation of an activity shall pay to the commission a prescribed nonrefundable application fee for each activity. No application fee shall be required of an attorney who applies for accreditation solely as an attendee. The commission may waive the application fee for any of the following reasons:

a. For any activity offered at no charge to attendees for the educational portion of the activity.

b. For any presentation of the identical program at additional places or dates during a calendar year, provided the original presentation of the program was approved.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; November 23, 2004, effective July 1, 2005; March 21, 2014]

Rule 42.5 Hardships or extenuating circumstances.

42.5(1) The commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms prescribed by the commission. A \$25 fee will be assessed on all waiver or extension of time applications received after January 15 of the year following the year in which the alleged hardship occurred.

42.5(2) Waivers of the minimum educational requirements may be granted by the commission for any period of time not to exceed one year. In the event that the hardship or 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 commission 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 commission.

42.5(3) Extensions of time within which to fulfill the minimum educational requirements may, in individual cases involving hardship or extenuating circumstances, be granted by the commission 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 such an extension period shall be applied first to the minimum educational requirement for the preceding year and shall be applied to the current or following year only to the extent that such hours are not required to fulfill the minimum educational requirement for the preceding year.

[Court Order November 25, 1975; August 12, 1980; November 9, 2001, effective February 15, 2002]

Rule 42.6 Exemptions for inactive practitioners. A member of the bar who is not engaged in the practice of law in the state of Iowa as defined in Iowa Ct. R. 39.7 residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the commission. The application shall contain a statement that the applicant will not engage in the practice of law in Iowa, as defined in Iowa Ct. R. 39.7, without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form prescribed by the commission. Applications for a certificate of exemption must be submitted concurrently under rules 39.7, 41.7, and this rule.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; August 19, 2016, effective January 1, 2018]

Rule 42.7 Reinstatement of inactive practitioners.

42.7(1) Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of law in the state of Iowa as defined in Iowa Ct. R. 39.7, satisfy the following requirements for reinstatement:

a. Submit written application for reinstatement to the commission upon forms prescribed by the commission together with a reinstatement fee of \$25 and all late filing penalties due at the time the exemption was granted.

b. Furnish in the application evidence of one of the following:

(1) Having engaged in the full-time practice of law, as defined in Iowa Ct. R. 39.7, in another state of the United States or the District of Columbia and completion of continuing legal education for each year of inactive status substantially equivalent in the opinion of the commission to that required under chapter 41 of the Iowa Court Rules.

(2) Successful completion of an Iowa state bar examination conducted within one year immediately prior to the submission of such application for reinstatement.

(3) Completion of a total number of hours of accredited continuing legal education computed by multiplying 15 by the number of years a certificate of exemption shall have been in effect for such applicant, but limited to a maximum requirement of 100 hours. The continuing legal education required for reinstatement shall include hours devoted specifically to the area of legal ethics, computed as follows: three hours for every two calendar years in which a certificate of exemption shall have been in effect, but limited to a maximum requirement of 10 hours. Alternatively, the legal ethics requirement may be satisfied by obtaining a scaled score of 80 or higher on the Multistate Professional Responsibility Examination within one year immediately prior to the submission of the application for reinstatement.

42.7(2) Notwithstanding that an applicant for reinstatement has not fully complied with the requirements for reinstatement set forth in rule 42.7(1)(b), the commission may conditionally reinstate such applicant on such terms and conditions as it may prescribe regarding the period of time in which the applicant shall furnish evidence of compliance with the requirements of rule 42.7(1)(b). [Court Order November 25, 1975; July 28, 1977; January 8, 1988; December 15, 1994, effective January 3, 1995; April 10, 1997; November 9, 2001, effective February 15, 2002; August 10, 2009; December 10, 2012]

Rule 42.8 Staff. The director of the office of professional regulation may designate an assistant director for boards and commissions of the office of professional regulation to serve as the principal executive officer of the commission. The commission may, subject to the approval of the court, employ such other employees as the commission deems necessary to carry out its duties under chapter 41 of the Iowa Court Rules, who must perform such duties as the commission may from time to time direct.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; December 5, 2007; November 20, 2015, effective January 1, 2016]

Rule 42.9 Divisions. The commission may organize itself into divisions of not fewer than three members for the purpose of considering and deciding matters assigned to them.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002]

Rule 42.10 Hearings. In the event of denial, in whole or in part, of any application, the applicant shall have the right, within 20 days after the sending of the notification of the denial by ordinary mail, to request in writing a hearing before the commission which shall be held within 90 days after receipt of the request for hearing. The decision of the commission after such hearing shall be final. Any hearing on a revocation of the accreditation of an accredited sponsor, the denial of a hardship application, or a recommendation for disciplinary action under Iowa Ct. R. 41.5(4) shall be before a quorum of the entire commission.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002]

Rule 42.11 Notice of failure to comply. In the event an attorney fails to comply with the provisions of Iowa Ct. R. 41.4 or files a report showing on its face failure to complete the required number of accredited hours of continuing legal education, the commission shall notify said attorney in writing of such apparent noncompliance and said attorney shall have 15 days from the mailing of said notice to cure said failure to comply or make an appropriate application under rule 42.5. If the failure to comply is not cured or such application not approved, the commission shall report promptly to the supreme court the failure of the attorney to comply with chapter 41 of the Iowa Court Rules.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002]