

Minutes of the Meeting
Rules Committee
Monday, January 13, 2020

On Monday, January 13, 2020, the Rules Committee met in the Supreme Court courtroom from 2:04 p.m. to 4:22 p.m.

Members in attendance were:

HON. ANDREW J. McDONALD, CHAIR
HON. JOAN K. ALEXANDER
HON. BARBARA N. BELLIS
HON. SUSAN QUINN COBB
HON. MELANIE L. CRADLE
HON. DONNA NELSON HELLER
HON. BARRY K. STEVENS
HON. ANTHONY D. TRUGLIA JR.

Also in attendance were Joseph J. Del Ciampo, Counsel to the Rules Committee; Lori Petruzzelli, Counsel, Legal Services; and Shanna O'Donnell, Research Attorney, of the Judicial Branch's Legal Services Unit. Judge Barry K. Stevens arrived at 2:06 p.m., during discussion of agenda item 05-02. Judge Joan K. Alexander was present for the discussion of agenda items 05-01 through 05-03 and left the meeting at 3:47 p.m. Judge Holly Aberly-Wetstone was absent.

1. The Committee approved the minutes of the meeting held on December 16, 2019.

2. The Committee considered a proposal from the Judicial-Media Committee to amend Section 1-11C concerning media coverage in criminal proceedings. Judge Stevens was present for consideration and discussion of this matter.

After discussion, the Committee voted to table this proposal until the February meeting. The Rules Committee instructed Counsel to redraft the proposed amendment to incorporate the definition of “victim’s family” into the proposed amended rule rather than in the commentary.

3. The Committee considered a proposal from Natasha M. Pierre, State Victim Advocate, to amend various Rules of Professional Conduct and various sections of the Practice Book to ensure the proper treatment and protection of crime victims.

Attorney Pierre and Attorney Marcy Stovall, Legislative Liaison for the Professional Ethics Committee of the Connecticut Bar Association, were present and addressed the Committee regarding this proposal.

After discussion, the Committee tabled this proposal until the February meeting to allow the Chair to gather information about the outcome of grievance complaints against prosecutors for violations of Rules 8.4 and 3.8.

4. The Committee considered a proposal from Judge Adelman to amend Section 3-8 regarding hybrid appearances and a related proposal from Judge Albis’ working group to create a new section regarding hybrid appearances in family cases.

After discussion, the Committee tabled this proposal until the February meeting and instructed Counsel to draft a summary of the discussion of this proposal at this meeting. Judge Heller agreed to contact Judge Albis to advise him of this discussion. Judge Cobb agreed to contact Judge Abrams to advise him of this discussion. The Committee also instructed Counsel to invite both Judge Abrams and Judge Albis to discuss this matter at a future meeting of the Rules Committee.

5. The Committee considered a proposal from Judicial Branch Administration to amend Sections 2-27, 2-27A, and 2-65 and to adopt new Section 2-27B regarding administrative suspension of attorneys who fail to register, or comply with Connecticut's Minimum Continuing Legal Education requirements.

Attorney Michael Bowler was present and addressed the Committee regarding this proposal.

After discussion, the Committee tabled this proposal until the March meeting. The Committee asked Attorney Bowler to confer with the Judicial Branch Administration about revising the proposal 1) as to the grace period and 2) to clarify Section 2-27A (b) to add that review of the MCLE records is limited to the context of grievance proceedings. The Committee directed that Attorney Bowler obtain a copy of all of the comments received by the Committee concerning this proposal and to discuss those comments with the various bar associations to attempt to address their concerns.

6. The Committee discussed reappointments of Attorney Low and Attorney Kennedy to continue serving on the Legal Specialization Screening Committee (LSSC).

After discussion, the Committee voted unanimously to recommend both Attorney Low and Attorney Kennedy for reappointment. The Committee tabled this matter until after the Chief Justice's decision regarding reappointment, and will consider appointment of the Chair and Vice Chair at that time. Counsel is to contact the current members of the LSSC to obtain information regarding their willingness to serve in those capacities. The Committee also noted that Attorney Henebry's term will expire in June and that, if he is willing to continue serving, the Committee will need to consider whether or not to recommend him for reappointment.

7. The Committee considered a proposal from the Connecticut Bar Examining Committee to amend Sections 2-3 et seq.

Former Judge Anne Dranginis, Chair of the Connecticut Bar Examining Committee and Attorney Fred Ury, Member of the Connecticut Bar Examining Committee were present and addressed the Committee regarding this proposal. Jessica Kallipolites, Administrative Director of the Connecticut Bar Examining Committee, was also present.

After discussion, the Committee voted to table this proposal until the February meeting to allow for further review.

8. The Committee considered a proposal from Attorney David P. Atkins to revise Section 2-27A (c) (3) of the Connecticut Practice Book regarding MCLE credit for articles.

Michael Bowler, Counsel to the Commission on Minimum Continuing Legal Education, was present and addressed the Committee regarding this proposal.

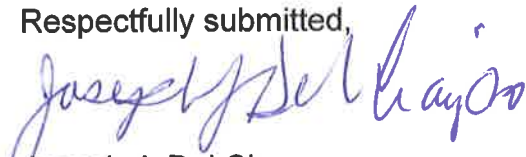
After discussion, the Committee voted unanimously to submit to public hearing the amendment to Section 2-27A (c) (3) of the Connecticut Practice Book regarding MCLE credit for articles, as set forth in Appendix A to these minutes.

9. The Committee considered a proposal submitted by the Connecticut Bar Association to amend Rule 5.5 of the Rules of Professional Conduct to permit attorneys admitted and in good standing in another jurisdiction to practice law in Connecticut prior to their admission in Connecticut.

Attorneys Michael Bowler and Marcy Stovall were present during the discussion of this proposal.

After discussion, the Committee tabled this matter until the March meeting and referred this proposal to the Office of Chief Disciplinary Counsel, to the Bar Examining Committee, and to the Statewide Bar Counsel's office for review.

Respectfully submitted,



Joseph J. Del Ciampo
Counsel to the Rules Committee

APPENDIX A (011320)

Sec. 2-27A. Minimum Continuing Legal Education

(a) On an annual basis, each attorney admitted in Connecticut shall certify, on the registration form required by Section 2-27 (d), that the attorney has completed in the last calendar year no less than twelve credit hours of appropriate continuing legal education, at least two hours of which shall be in ethics/professionalism. The ethics and professionalism components may be integrated with other courses. This rule shall apply to all attorneys except the following:

(1) Judges and senior judges of the Supreme, Appellate or Superior Courts, judge trial referees, family support magistrates, family support magistrate referees, workers' compensation commissioners, elected constitutional officers, federal judges, federal magistrate judges, federal administrative law judges or federal bankruptcy judges;

(2) Attorneys who are disbarred, resigned pursuant to Section 2-52, on inactive status pursuant to Section 2-56 et seq., or retired pursuant to Sections 2-55 or 2-55A;

(3) Attorneys who are serving on active duty in the armed forces of the United States for more than six months in such year;

(4) Attorneys for the calendar year in which they are admitted;

(5) Attorneys who earn less than \$1000 in compensation for the provision of legal services in such year;

(6) Attorneys who, for good cause shown, have been granted temporary or permanent exempt status by the Statewide Grievance Committee.

(b) Attorneys may satisfy the required hours of continuing legal education:

(1) By attending legal education courses provided by any local, state or special interest bar association in this state or regional or national bar associations recognized in this state or another state or territory of the United States or the District of Columbia (hereinafter referred to as "bar association"); any private or government legal employer; any court of this or any other state or territory of the United States or the District of Columbia; any organization whose program or course has been reviewed and approved by any bar association or organization that has been established in any state or territory of the United States or the District of Columbia to certify and approve continuing legal education courses; and any other nonprofit or for-profit legal education providers, including law schools and other appropriate continuing legal education providers, and including courses remotely presented by video conference, webcasts, webinars, or the like by said providers.

(2) By self-study of appropriate programs or courses directly related to substantive or procedural law or related topics, including professional responsibility, legal ethics, or law office management and prepared by those continuing legal education providers in subsection (b) (1). Said self-study may include viewing and listening to all manner of communication, including, but not limited to, video or audio recordings or taking online legal courses. The selection of self-study courses or programs shall be consistent with the objective of this rule, which is to maintain and enhance the skill level, knowledge, ethics and competence of the attorney and shall comply with the minimum quality standards set forth in subsection (c) (6).

(3) By publishing articles in legal publications that have as their primary goal the enhancement of competence in the legal profession, including, without limitation, substantive and procedural law, ethics, law practice management and professionalism.

(4) By teaching legal seminars and courses, including the participation on panel discussions as a speaker or moderator.

(5) By serving as a full-time faculty member at a law school accredited by the American Bar Association or approved by the state bar examining committee, in which case, such attorney will be credited with meeting the minimum continuing legal education requirements set forth herein.

(6) By serving as a part-time or adjunct faculty member at a law school accredited by the American Bar Association or approved by the state bar examining committee, in which case, such attorney will be credited with meeting the minimum continuing legal education requirements set forth herein at the rate of one hour for each hour of classroom instruction and one hour for each two hours of preparation.

(7) By serving as a judge or coach for a moot court or mock trial course or competition that is part of the curriculum at or sanctioned by a law school accredited by the American Bar Association or approved by the state bar examining committee.

(c) Credit computation:

(1) Credit for any of the above activities shall be based on the actual instruction time, which may include lecture, panel discussion, and question and answer periods. Credit for the activity listed in subsection (b) (7) shall be based upon the actual judging or coaching time, up to four hours for each activity per year. Self-study credit shall be based on the reading time or running time of the selected materials or program.

(2) Credit for attorneys preparing for and presenting legal seminars, courses or programs shall be based on one hour of credit for each two hours of preparation. A maximum of six hours of credit may be credited for preparation of a single program. Credit for presentation shall be on an hour for hour basis. Credit may not be earned more than once for the same course given during a calendar year.

(3) Credit for the writing and publication of articles shall be based on the actual [drafting] time required for both researching and drafting. Each article may be counted only one time for credit.

(4) Continuing legal education courses ordered pursuant to Section 2-37 (a) (5) or any court order of discipline shall not count as credit toward an attorney's obligation under this section.

(5) Attorneys may carry forward no more than two credit hours in excess of the current annual continuing legal education requirement to be applied to the following year's continuing legal education requirement.

(6) To be eligible for continuing legal education credit, the course or activity must: (A) have significant intellectual or practical content designed to increase or maintain the attorney's professional competence and skills as a lawyer; (B) constitute an organized program of learning dealing with matters directly related to legal subjects and the legal profession; and (C) be conducted by an individual or group qualified by practical or academic experience.

(d) Attorneys shall retain records to prove compliance with this rule for a period of seven years.

(e) Violation of this section shall constitute misconduct.

(f) Unless it is determined that the violation of this section was wilful, a noncompliant attorney must be given at least sixty days to comply with this section before he or she is subject to any discipline.

(g) A Minimum Continuing Legal Education Commission ("commission") shall be established by the Judicial Branch and shall be composed of four Superior Court judges and four attorneys admitted to practice in this state, all of whom shall be appointed by the chief justice of the Supreme Court or his or her designee and who shall serve without compensation. The charge of the commission will be to provide advice regarding the application and interpretation of this rule and to assist with its implementation including, but not limited to, the development of a list of frequently asked questions and other documents to assist the members of the bar to meet the requirements of this rule.

(Adopted June 24, 2016, to take effect Jan. 1, 2017; amended June 15, 2018, to take effect Jan. 1, 2019; amended June 13, 2019, to take effect Oct. 1, 2019.)

COMMENTARY—2017: It is the intention of this rule to provide attorneys with relevant and useful continuing legal education covering the broadest spectrum of substantive, procedural, ethical and professional subject matter at the lowest cost reasonably feasible and with the least amount of supervision, structure and reporting requirements, which will aid in the development, enhancement and maintenance of the legal knowledge and skills of practicing attorneys and will facilitate the delivery of competent legal services to the public.

The rule also permits an attorney to design his or her own course of study. The law is constantly evolving and attorneys, like all other professionals, are expected to keep

abreast of changes in the profession and the law if they are to provide competent representation.

Subsection (a) provides that Connecticut attorneys must complete twelve credit hours of continuing legal education per calendar year. Subsection (a) also lists those Connecticut attorneys, who are exempt from compliance, including, among others: judges, senior judges, attorneys serving in the military, new attorneys during the year in which they are admitted to practice, attorneys who earn less than \$1000 in compensation for the provision of legal services in the subject year, and those who obtain an exempt status for good cause shown. The subsection also provides an exemption for attorneys who are disbarred, resigned, on inactive status due to disability, or are retired. The exemption for attorneys who earn less than \$1000 in compensation in a particular year is not intended to apply to attorneys who claim that they were not paid as a result of billed fees to a client. All compensation received for the provision of legal services, whether the result of billed fees or otherwise, must be counted. There is no exemption for attorneys who are suspended or on administrative suspension. Subsection (d) requires an attorney to maintain adequate records of compliance. For continuing legal education courses, a certificate of attendance shall be sufficient proof of compliance. For self-study, a contemporaneous log identifying and describing the course listened to or watched and listing the date and time the course was taken, as well as a copy of the syllabus or outline of the course materials, if available, and, when appropriate, a certificate from the course provider, shall be sufficient proof of compliance. For any other form of continuing legal education, a file including a log of the time spent and drafts of the prepared material shall provide sufficient proof of compliance.

COMMENTARY: The change to the rule regarding credit for the writing and publication of articles clarifies that such credit shall be based on the actual time required for both researching and drafting such articles.