

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENTS
TO SCR 208 AND SCR 211
REGARDING THE ADMINISTRATION
OF THE STATE OF NEVADA BOARD
OF CONTINUING LEGAL
EDUCATION.

ADKT 0577

FILED

JAN 05 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

*ORDER AMENDING SUPREME COURT RULES 79, 115, 121.1, 205,
206, 207, 208, 210, 211, 212, 213, 214, AND 215*

WHEREAS, on September 7, 2021, the Board of Governors of the State Bar of Nevada filed a petition requesting the Nevada Supreme Court to amend Supreme Court Rules (SCR) 79, 115, 121.1, 205, 206, 207, 208, 210, 211, 212, 213, 214, and 215; and

WHEREAS, this court solicited public comment on the petition and a public hearing was held in this matter on September 23, 2021, to consider the proposed amendments; and

WHEREAS, subsequently, the State Bar informed this court that the Board of Governors has considered a grant program that puts Mandatory Continuing Legal Education (MCLE) reserve funds to use. The State Bar submitted a letter, filed on October 4, 2021, providing an overview of the MCLE Reserve Funds Grant Program Guidelines; and

WHEREAS, the Supreme Court solicited public comment on the MCLE Reserve Funds Grant Program and a public hearing was filed on November 18, 2021; and

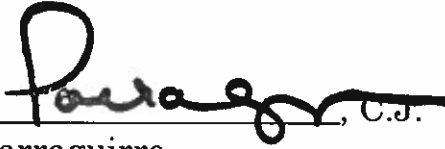
WHEREAS, this court concludes that the proposed amendments to SCR 79, 115, 121.1, 205, 206, 207, 208, 210, 211, 212, 213, 214, and 215 are warranted; accordingly,

IT IS HEREBY ORDERED that SCR 79, 115, 121.1, 205, 206, 207, 208, 210, 211, 212, 213, 214, and 215 shall be amended and shall read as set forth in Exhibit A.

IT IS FUTHER ORDERED that the MCLE Reserve Funds Grant Program as proposed in the State Bar's October 4, 2021, letter is approved as set forth in Exhibit B.

IT IS FURTHER ORDERED that these amendments shall be effective 30 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing amendments.

Dated this 5TH day of January, 2021.


_____, C.J.
Parraguirre


_____, J.
Hardesty


_____, J.
Stiglich


_____, J.
Cadish


_____, J.
Silver


_____, J.
Pickering


_____, J.
Herndon

cc: Ann Morgan, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Nevada Bar Foundation
Frank C. Flaherty, Chair, Nevada Board of Continuing
Legal Education
Nevada Board of Continuing Legal Education
All District Court Judges
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Douglas County Bar Association
Administrative Office of the Courts

EXHIBIT A

AMENDMENT TO SUPREME COURT RULES 79, 115, 121.1, 205, 206, 207, 208, 210, 211, 212, 213, 214, AND 215

Rule 79. Disclosures by members of the bar.

1. Every member of the state bar, including both active and inactive members regardless of residency in Nevada, as well as attorneys certified to practice under SCR 49.1, shall provide to the state bar, for the purposes of state bar communications, the following:

- (a) A permanent mailing address;
- (b) A permanent telephone number; and
- (c) A current email address.

2. Every member of the state bar and attorneys certified to practice under SCR 49.1 shall disclose to the state bar the following information:

- (a) Whether the lawyer is engaged in the private practice of law;
- (b) Whether the lawyer is engaged as a full-time government lawyer or judge, or is employed by an organizational client and does not represent clients outside that capacity, or is not currently representing clients; and
- (c) If engaged in the private practice of law, whether the lawyer maintains professional liability insurance, and if the lawyer maintains a policy, the name and address of the carrier.

3. Every member of the state bar and attorneys certified to practice under SCR 49.1 shall inform the state bar of any change in any of the information disclosed under this rule within 30 days after any such change. The member or certified attorney shall report a change of address, telephone number, or email address online.

4. Every member of the state bar and attorneys certified to practice under SCR 49.1 shall certify annually on a form provided by the state bar the information required under this rule.

5. The information submitted under this rule shall be nonconfidential, but upon request of a member or attorney certified to practice under SCR 49.1, the state bar will not publicly disclose the email address.

6. Any member or attorney certified to practice under SCR 49.1 who fails to provide the state bar with the information required by this rule shall be subject to a fine of \$150 and/or suspension upon order of the board of governors and/or the supreme court from membership in, or certification by, the state bar until compliance with the requirements of this rule and/or until reinstatement is ordered by the supreme court. A member, or certified attorney pursuant to SCR 49.1, may apply for a one-year hardship exemption from the email provision on a form provided by the state bar. Supplying false information in response to the requirements of this rule shall subject the lawyer to appropriate disciplinary action.

~~[7. The state bar shall provide the board of continuing legal education with an annual roster of state bar members and attorneys certified under SCR 49.1 within 60 days of the due date for annual membership and certification fees and registration forms.]~~

Rule 115. Notice of change in license status; winding down of practice.

1. **Who must comply.** An attorney barred from the active practice of law, whether by disbarment, suspension, including suspension under Rule ~~[98]~~ 93 or Rule 212, transfer to disability inactive status, or resignation with discipline pending must comply with this rule. An attorney who resigns

without discipline pending under Rule [~~98(5)(a)~~] 93(5)(a) and who has any Nevada clients must also comply with this rule solely with respect to the attorney's Nevada clients. If an attorney who resigns under Rule [~~98(5)(a)~~] 93(5)(a) has no Nevada clients, then the attorney shall file the affidavit described in Rule 115(4).

2. Duty to notify clients not involved in legal proceedings. An attorney who is required to comply with this rule shall immediately notify, by registered or certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of his or her disbarment, suspension, transfer to disability inactive status, or resignation and consequent inability to act as an attorney. The attorney shall further advise the clients to seek other legal advice of their own choice, and shall inform them of any relevant limitation period and deadlines.

3. Duty to notify clients and forums involved in proceedings. An attorney barred from the active practice of law, whether by disbarment, suspension, including suspension under Rule [~~98~~] 93 or Rule 212, transfer to disability inactive status, or resignation, shall immediately notify, by registered or certified mail, return receipt requested, (1) each of the attorney's clients who is involved in pending litigation, administrative proceedings, arbitration, mediation or other similar proceedings, (2) the attorney(s) for each adverse party in such matters, and (3) the court, agency, arbitrator, mediator or other presider over such proceeding of his or her disbarment, suspension, transfer to disability inactive status, or resignation and consequent inability to act as an attorney. The notice to the client shall state the desirability of prompt substitution of another attorney of the client's own choice and shall list

any upcoming appearances and deadlines. The notice given to the attorney for an adverse party shall provide the last known address of the client.

In the event the client does not obtain substitute counsel within 30 days of the attorney's notice to the client, it shall be the responsibility of the attorney to move in the court, agency or other forum in which the proceeding is pending for leave to withdraw, if leave is required.

4. Duty to inform supreme court of compliance with order. Within 10 days after the entry of the disbarment, suspension, transfer to disability inactive status, or resignation order, the attorney shall file an affidavit of compliance with the supreme court, bar counsel, and, if the suspension was under Rule 212, with the board of continuing legal education. The affidavit must show:

(a) That the attorney has fully complied with the provisions of the order and with these rules;

(b) All other state, federal, and administrative jurisdictions to which the attorney is admitted or specially admitted to practice;

(c) That the attorney has served a copy of his or her affidavit on bar counsel;

(d) The address and telephone number of the attorney and that of a contact person, if any, designated for client files; and

(e) The status of any client or third-party funds being held.

5. Maintenance of records. An attorney required to comply with this rule shall maintain records of his or her proof of compliance with these rules and with the disbarment, suspension, transfer to disability inactive status, or resignation order for the purposes of subsequent proceedings. Proof of such compliance shall be a condition precedent to reinstatement or readmission.

6. Failure to comply. If an attorney subject to this rule fails to comply with any provision of this rule or the court's order of disbarment, suspension, transfer to disability inactive status, or resignation, the court may enter an order to accomplish the purpose of this rule.

7. Effective date. Orders imposing suspension or disbarment or approving resignation shall be effective immediately. After entry of the order, the attorney shall not accept any new retainer or act as attorney for another in any new case or legal matter of any nature. However, for 15 days from the entry date of the order, the attorney may wind up and complete, on behalf of any client, all matters pending on the entry date.

Rule 121.1. Dissemination of license status, discipline and disability information.

1. Entity responsible. If the attorney's suspension was imposed under Rule ~~[98]~~ 93 for failure to pay state bar dues or under Rule 214(1) for failure to timely complete TIP, then the state bar shall be responsible for issuing the notices required by Rule 121.1(2) and (3). If the attorney's suspension was imposed under Rule 212 for failure to comply with continuing legal education requirements, then the board of continuing legal education shall be responsible for issuing the notices required by Rule 121.1(2) and (3). In all other cases, bar counsel shall be responsible for issuing the notices required by Rule 121.1(2) and (3).

2. Public notice of change in license status and discipline imposed. The entity responsible under Rule 121.1(1) shall cause notices of orders that subject an attorney to disbarment or any form of suspension, including suspension under Rule ~~[98]~~ 93 or Rule 212, that transfer an attorney to or from disability inactive status, that reinstate an attorney to the practice

of law, or that approve an attorney's resignation, with or without discipline pending, to be published in the state bar publication. The responsible entity also shall make these notices available to a newspaper of general circulation in each judicial district of this state in which the attorney maintained an office for the practice of law or carried on a substantial portion of his or her practice.

The responsible entity shall also cause a notice of a public reprimand issued by the supreme court, or a letter of reprimand issued either by the supreme court or a disciplinary panel of the State Bar of Nevada, to be published in the state bar publication.

The entity responsible for compliance with this provision has discretion in drafting public notices required by this rule, which may consist simply of the orders themselves. However, notices of orders that impose discipline should include sufficient information to adequately inform the public and members of the bar about the misconduct found, the rules violated, and the discipline imposed.

3. Notice to courts. The entity responsible under Rule 121.1(1) shall promptly advise all courts in this state of orders that suspend or disbar an attorney, that transfer an attorney to or from disability inactive status, that approve an attorney's resignation, or that reinstate an attorney to the practice of law.

4. Disclosure to National Discipline Data Bank. Bar counsel shall notify the National Discipline Data Bank maintained by the American Bar Association Standing Committee on Professional Discipline of all public discipline imposed by the supreme court on an attorney, transfers to or from disability inactive status, reinstatements to the practice of law, and resignations with discipline pending.

5. Publication of supreme court orders. The clerk of the supreme court shall cause any order issued by the supreme court that subjects an attorney to any form of public discipline including a letter of reprimand, public reprimand, suspension or disbarment, that transfers an attorney to or from disability inactive status, that approves an attorney's resignation, or that reinstates an attorney to the practice of law to be published in pamphlet form and disseminated to all subscribers of the advance sheets of the Nevada Reports and to all persons and agencies listed in NRS 2.345.

6. Publication of public reprimand issued by state bar. Bar counsel shall cause a public reprimand issued by the state bar under Rule 113 to be published in the state bar publication.

Rule 205. [~~Definitions. In these rules, unless the context or subject matter otherwise requires:~~

1. ~~"Board" means the State of Nevada Board of Continuing Legal Education.~~

2. ~~"Court" means the Supreme Court of the State of Nevada.~~

3. ~~"Board of Governors" means the Board of Governors of the State Bar of Nevada.~~

4. ~~"Active member" means an active member of the State Bar of Nevada. It also means any attorney who is subject to the same rules and regulations as an active member.~~

5. ~~"Inactive member" means a member of the State Bar of Nevada in good standing but who is not an active member.~~

6. ~~"Limited practice" means an attorney who does not qualify for active membership in the State Bar of Nevada but who is subject to continuing legal education requirements.~~

~~7. "Attorney subject to these rules" means any active, limited practice, or other attorney who is subject to continuing legal education requirements and who is not otherwise exempt pursuant to Rule 214.~~

~~8. "These rules" means Supreme Court Rules 205-215, inclusive, or any part thereof.]~~ Scope. Every active member of the state bar, and any attorney certified to practice under Rule 49.1, is subject to the rules on continuing legal education, as identified in Rules 205-214, unless otherwise exempt pursuant to Rule 214.

Rule 206. Purpose. It is of primary importance to the state bar and to the public that attorneys continue their legal education throughout the period of their practice of law or judicial service. Failure to do so constitutes grounds for action by the board, the court, and the state bar as provided herein. It is the purpose of these rules to establish minimum requirements of continuing legal education for attorneys subject to these rules and ~~[the means by which]~~ how those requirements are to be enforced.

Rule 207. Creation of board.

1. The board of continuing legal education is hereby created.
2. The board shall consist of seven ~~[(7)]~~ members, each of whom must be an active ~~[member. At least one (1) member must be concurrently serving as a member of the board of governors.]~~ member of the state bar. One ~~[(1)]~~ member must be concurrently serving as a member of the state judiciary. ~~[Each member of the board shall have one (1) vote.]~~
3. Three ~~[(3)]~~ members of the board shall be appointed by the board of governors ~~[for seats A, B, and C,]~~ and ~~[three (3)]~~ four members of the board

shall be appointed by the ~~[court for seats D, E, and F. The court shall also appoint the member of the judiciary for seat J.]~~ supreme court, to include the member of the state judiciary. The board shall select its own chair. ~~[The board may, in its discretion, appoint nonvoting ex officio members to serve in an advisory capacity only.]~~

4. The terms of the members of the board are as follows:

(a) The members of the board shall be appointed for three-year terms; however, to ensure that no more than three ~~[(3)]~~ member's regular terms expire at once, the board of governors or the supreme court may, in its discretion, appoint or re-appoint a member to a term of less than three ~~[(3)]~~ years. No ~~[attorney or judicial representative]~~ member may serve on the board for more than a lifetime total of nine years. The time served in filling a partial term created by a vacancy or appointment ~~[or re-appointment to a term of less than three (3) years]~~ shall not be included in computing the nine-year lifetime limit.

(b) The term of each member expires on December 31 of the final year of the member's term.

Rule 208. Powers and duties of board. ~~[Subject to oversight by the court,]~~ With approval of the supreme court, the [board] board, in consultation with the board of governors of the state bar, shall administer these rules. Without limiting the generality of this duty, the board has the following specific powers and duties:

1. To accredit individual courses and all or portions of programs of continuing legal education which, in the judgment of the board, will satisfy the educational requirements of these rules, and according to regulations adopted by the ~~[board and]~~ board, to assess fees regarding such programs

upon sponsors and attorneys subject to these ~~[rules in accordance with regulations adopted by the board.]~~ rules.

2. To grant accredited sponsorship status to certain sponsors of continuing legal education courses or programs, on such terms or conditions as ~~[the board may deem appropriate, according to regulations]~~ adopted ~~[by the board.]~~ in board regulations.

3. To determine the number of hours of credit each participant shall be entitled to receive for attendance or participation in each accredited course or educational activity, according to ~~[regulations adopted by the board.]~~ board regulations.

~~[4. To discover and encourage the offering of courses and programs which will satisfy the educational requirements of these rules, whether offered within or without the State of Nevada.~~

~~5.]~~ 4. To adopt, publish and enforce regulations within limits of and consistent with these powers and ~~[duties; provided, any significant alteration of the board's business model is subject to prior court approval.]~~ duties.

~~[6.]~~ 5. To adopt and publish forms to facilitate compliance with these rules and the board's regulations.

~~[7. Subject to prior court approval, to]~~ 6. To adopt bylaws approved by the board of governors to govern the internal conduct of its affairs. ~~[Any amendments to existing bylaws shall, however, require prior court approval.]~~

~~[8.]~~ 7. To make recommendations to the court concerning these rules.

~~[9.]~~ 8. To report at least annually, no later than ~~[ninety (90)]~~ 90 days after December 31, to the court and board of governors concerning ~~[its operations and financial condition. On the application of the board~~

~~of governors or on its own motion, the court may order the board to review these rules or any of its regulations, forms, or bylaws and to report to the court concerning any proposed amendments thereto.]~~

CLE compliance.

[10.] 9. To ~~[collect]~~ have collected an annual fee from each attorney subject to these rules, and to assess fees and other penalties for noncompliance with these rules. ~~[All fees collected must be utilized for the cost of administration by the board of these rules.]~~

[11.] 10. To ~~[sue and be sued in its own name, and to]~~ carry out and defend the purposes, duties, and powers imposed upon or granted to the board in these rules. Individual members of the ~~[board, its executive director,]~~ board and all staff persons assisting them shall have absolute immunity from civil liability for all acts undertaken in the course of their official duties pursuant to these rules.

[12.] 11. To refer to the state bar for appropriate disciplinary action any attorney who engages in perceived illegal or unethical conduct in response to any of the requirements of these rules.

Rule 210. Minimum continuing legal education requirements; credit for pro bono cases. To meet the annual minimum continuing legal education requirements imposed by these rules, each attorney subject to these rules must timely: submit required fees, complete the requisite number of credit hours, and provide such other information as the board may require.

1. **Annual fee.** The amount of the annual fee will be determined by the board, but will not exceed \$40. The annual fee ~~[must be paid]~~ shall be due January 1 and shall be payable on or before March 1 of the year for which the fee is required to be paid.

2. Credit hours.

(a) Subject to the carry forward provisions of subparagraph (b), a minimum of [~~thirteen (13)~~] 13 hours of accredited educational activity, as defined by the regulations adopted by the board, must be completed by December 31 of each year. Of the [~~thirteen (13)~~] 13 hours, at least two [~~(2)~~] shall be exclusively in the area of ethics and professional conduct and one [~~(1)~~] shall be exclusively in the area of substance abuse, addictive disorders and/or mental health issues that impair professional competence. Attorneys entitled to an exemption pursuant to Rule 214(1)(a) must complete the requirement within the same calendar year in which they are first subject to continuing legal education requirements.

(b) Any attorney subject to these rules who completes more than [~~thirteen (13)~~] 13 hours of accredited educational activity in any calendar year may carry forward up to [~~twenty (20)~~] 20 hours of excess credit and apply the same to the attorney's general educational requirement for the next two [~~(2)~~] calendar years. Likewise, any attorney subject to these rules who completes more than two [~~(2)~~] hours of ethics and professional conduct credit in any calendar year may carry forward up to four [~~(4)~~] hours of excess credit and apply the same to the attorney's ethics and professional conduct educational requirement for the next two [~~(2)~~] calendar years.

(c) Any attorney subject to these rules who completes more than one [~~(1)~~] hour in the area of substance abuse, addictive disorders and/or mental health issues that impair professional competence may carry forward up to two [~~(2)~~] hours of excess credit and apply the same to the attorney's substance abuse, addictive disorders and/or mental health issues requirement for the next two [~~(2)~~] calendar years.

3. Credit for pro bono cases. An attorney may earn continuing legal education credit by providing uncompensated pro bono representation or service through a nonprofit legal aid organization that receives IOLTA funds pursuant to SCR 216(1) or through a program sponsored by a court or governmental organization that is either co-sponsored by such a legal aid organization or approved by the Nevada Access to Justice Commission or its designee. An attorney may obtain one [~~1~~] hour of general credit for each three [~~3~~] full hours of uncompensated legal services performed for a maximum of four [~~4~~] hours of continuing legal education credit per year. To obtain credit, the attorney must report completion of uncompensated pro bono civil legal representation or service to the entity that provided the case or service opportunity to the attorney; the entity shall then submit the appropriate number of continuing legal education credits to the board on behalf of the attorney. The board shall not assess fees for continuing legal education credits awarded pursuant to this rule.

4. Affirmation of attendance. No later than December 31, an attorney must submit to the board an affirmation of attendance listing all courses of continuing legal education attended during the year and the number of credit hours the attorney is claiming for each course. The affirmation of attendance constitutes an attorney's representation under penalty of perjury that the attorney attended and participated in the listed course of continuing legal education for the hours represented on the affirmation. The provisions of Rule 212 are applicable to the affirmation of attendance.

5. CLE credit compliance. The board shall establish regulations providing for review of its determination of the CLE credits earned by an attorney and for resolving disputes. The regulations shall provide for the

random audit of attorneys' affirmations of attendance to verify attorney compliance with CLE requirements.

Rule 211. Administration of board. The board of governors, after consultation with the board, shall provide offices and employ staff as the board of governors deems necessary for the proper administration of these rules and regulations adopted by the board. ~~[The costs of administration shall be paid from the fees established and collected by the board under these rules.]~~

Rule 212. Penalties for noncompliance.

1. Procedure in event of noncompliance. An attorney who is subject to these rules and who fails to timely comply with their provisions shall be subject to the following:

(a) **Extension fee for additional time to complete requisite continuing education credit hours.** ~~[In the event that]~~ If an attorney subject to the requirements of Rule 210(2) fails to complete the requisite continuing education credit hours by December 31, the board may grant an extension of time to March 1 to obtain credits to cure the deficiency from the preceding calendar year. An attorney granted an extension of time will be assessed an extension fee of \$100. The fee for an extension of time is separate from and in addition to the annual fee. Once an extension fee is paid, it is nonrefundable.

(b) **Late fee for failure to timely pay annual fee or submit proof of sufficient educational** ~~[credits to be in compliance. In the event that]~~ credits. If an attorney subject to the requirements of Rule 210 fails to meet the March 1 deadline for paying the annual fee and/or completion of

required educational credits, the board shall assess a late fee of \$250. The late fee is separate from and in addition to the annual fee and any other fees owed. The late fee shall be assessed in a written notice of ~~[noncompliance, which shall be mailed by the board via first-class mail to the attorney's last known address on or about March 5. The notice of noncompliance shall:~~

~~(1) state the manner in which the attorney has failed, or appears to have failed, to comply with the requirements of Rule 210 resulting in a deficiency;~~

~~(2) advise the attorney that to cure the deficiency the attorney must comply with the applicable rules and pay all applicable fees including late fees; and~~

~~(3) advise the attorney that to avoid being administratively CLE suspended, the deficiency must be completely cured on or before April 1.] noncompliance.~~ It shall not be a defense to noncompliance that the attorney did not receive the notice of noncompliance.

[2.] (c) Administrative CLE suspension. ~~[An]~~ Upon an order executed by the board and filed with the clerk of the supreme court and with the county clerk of each county, an attorney who does not completely cure any deficiency ~~[on or before April 1]~~ 70 days after the last date of a written notice of noncompliance will be administratively CLE suspended.

[3.] (d) Reinstatement ~~[to active status; increased]~~ penalties for repeat offenders.

~~[— (a) Reinstatement. In the event that an]~~ An attorney who has been placed on administrative CLE suspension pursuant to subsection [2 ~~demonstrates compliance with these rules, the board may reinstate~~

~~the attorney]~~ (c) and who is reinstated is subject to the payment of the requisite fee.

~~[(b) Fee; penalties for repeat offenders. The fee for processing the reinstatement shall be as follows:]~~

(1) \$250 the first time an attorney has been placed on administrative CLE suspension in the preceding five-year period.

(2) \$350 the second time an attorney has been placed on administrative CLE suspension in the preceding five-year period.

(3) \$550 the third time an attorney has been placed on administrative CLE suspension in the preceding five-year period.

(4) \$850 the fourth time an attorney has been placed on administrative CLE suspension in the preceding five-year period.

(5) \$1,250 the fifth time an attorney has been placed on administrative CLE suspension in the preceding five-year period.

The reinstatement fee is separate from and in addition to any other fees, and the payment of the fee does not excuse the attorney from compliance with Rule 210 for each and every year the attorney is or was noncompliant.

[4.] 2. Order of administrative CLE suspension; publication required; other requirements. ~~[An]~~ The name of an attorney placed on administrative CLE suspension shall ~~[have his or her name]~~ be published in the state bar's official publication. ~~[In the event that]~~ If the attorney is administratively CLE suspended for noncompliance with these rules, the attorney is not entitled to engage in the practice of law in the State of Nevada until such time as the attorney is reinstated under Rule 213. An attorney who is suspended for noncompliance with these rules must comply with Rule 115. If the attorney fails to comply with Rule 115, then the board shall proceed under Rule 118. The board shall also comply with Rule 121.1.

~~[5.]~~ 3. **Multiple suspensions; referral to state bar.** In the event that an attorney is administratively CLE suspended for noncompliance with all or any portion of these rules more than once within a five-year period, or submits a false affirmation required by Rule 210(3), the board shall refer that attorney [~~shall be referred by the board~~] to the state bar for appropriate disciplinary action.

Rule 213. Reinstatement to active status.

1. Application for reinstatement. [~~If an attorney has been suspended as a result of noncompliance with all or any portion of these rules, the attorney may apply for reinstatement as follows:~~

~~(a) Application. The attorney must file with the board a reinstatement application, properly verified and fully and accurately completed, in a form approved by the board.~~

~~(b) Reinstatement fee. The reinstatement application must be accompanied by a fee as set forth in Rule 212(3)(b). The reinstatement fee is separate from and in addition to the annual fee required to be paid for the year in which reinstatement is sought.~~

~~(c) Reinstatement credits. The reinstatement application must be accompanied by proof that the attorney has completed a minimum of fifteen (15) hours of accredited educational activity, at least six (6) of which must be exclusively in the area of ethics and professional conduct, and one (1) credit in the area of substance abuse within the period of twelve (12) months immediately preceding the filing of the application with the board. This requirement is separate from and in addition to the annual credit requirement of Rule 210(2). In addition, if any attorney has been~~

~~administratively CLE suspended more than once in the preceding five-year period, for every year the attorney has been administratively CLE suspended, he or she must complete an additional requirement of five (5) additional credits for each additional suspension.~~

~~2. Approval by the board. If the application for reinstatement appears satisfactory to the board, the board shall notify the clerk of the court and the state bar that the suspended attorney has completed the requirements for reinstatement, and, so long as the sole condition of reinstatement is compliance with Rule 213, the suspended attorney shall become automatically reinstated upon receipt by the clerk of the court and the state bar of the notice from the board stating that the attorney has complied with the requirements of this rule.]~~ Upon application and proof of satisfaction with these rules, the state bar executive director may reinstate a CLE suspended attorney if the application is accompanied by:

(a) A reinstatement fee as required in Rule 212(d);

(b) Proof of completion of a minimum of 15 hours of accredited continuing legal education, at least six of which must be in the area of ethics and professional conduct, and one credit in the area of substance abuse within the period of 12 months immediately preceding the filing of the application with the board. This requirement is separate from and in addition to the annual credit requirement of Rule 210(2).

2. Upon reinstatement, the state bar executive director shall certify the attorney's reinstatement to the clerk of the supreme court and to the county clerk of each county.

Rule 214. Exemptions.

1. The following attorneys are entitled to an exemption from the requirements of Rule 210:

(a) Any active member who has successfully completed the Nevada state bar examination in the present calendar year. The exemption shall be for the remainder of the calendar year in which the examination was successfully completed and the first full calendar year thereafter. Commencing on January 1 of the second calendar year after the successful completion of the examination, the active member becomes subject to these rules. Notwithstanding this exemption, each active member of the state bar, following admission, shall complete the Transitioning into Practice program.

(b) Any active member who is a full-time member of the federal judiciary.

(c) Any member of the state bar who, while not in default of the obligations imposed by these rules, has been voluntarily placed on inactive status; provided, however, that such voluntary placement must have been given in writing to the state bar and the board prior to the expiration of the applicable calendar year for which the exemption is claimed.

(d) Any active member who is activated from reserve duty status to full-time active duty in the Armed Forces of the United States for more than 60 days in any calendar year, and who is deployed ~~[on full-time active duty in the armed forces of the United States, until the member's release from active military service and resumption of the practice of law.~~

~~2. A person~~ or stationed outside the United States, shall be granted an exemption by the state bar executive director upon submitting to the state bar executive director satisfactory proof that the attorney is so activated, deployed, or stationed. All requests for exemption must be postmarked or

delivered to the state bar offices on or before March 1 of the year for which the exemption is requested. Exemption requests shall be renewed annually for a maximum total of five years.

2. The following persons are exempted from payment of the annual fee required under Rule 210:

(a) An attorney licensed to practice law in this state who has reached the age of 70 [~~years shall be exempted from payment of the annual fee required under Rule 210(1).~~] years, commencing with the calendar year succeeding the year in which the attorney reaches age 70.

~~[3. Any active member who is]~~ (b) An attorney admitted to practice law in Nevada pursuant to Rule 49.1(1)(b) or [~~49.1(1)(c) shall be exempted from payment of the annual fee required under Rule 210(1).~~] 49.1(1)(c).

~~[4.] (c) All active members of the [~~judiciary shall be exempted from payment of the annual fee required under Rule 210(1).~~] judiciary.~~

~~[5.]~~ 3. The board, in its discretion, may grant an attorney subject to these rules an exemption upon circumstances constituting exceptional, extreme, and undue hardship unique to the attorney, subject to the following:

(a) The attorney seeking the exemption shall promptly file with the board a verified application, specifying in detail the circumstances that the attorney believes afford a basis for an exemption;

(b) The board may, but need not, exempt the attorney from all or a portion of these rules; and

(c) The board may condition the exemption upon such terms and conditions, and limit the exemption or partial exemption to such period of time, as the board may deem appropriate.

~~[Rule 215. Reporting change of address; penalty for failure to timely report. Every attorney subject to these rules shall maintain a permanent mailing address, a current phone number and a current email address with the board. Compliance with Rule 79 is deemed compliance with this rule.]~~

STATE BAR OF NEVADA EXHIBIT B

October 1, 2021

Chief Justice James W. Hardesty
Nevada Supreme Court
201 South Carson Street
Carson City, NV 89701-4702

RE: ADKT 0577: MCLE Board Reserve Funds

Dear Chief Justice Hardesty:

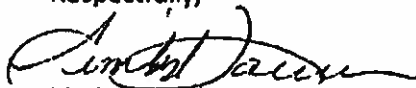
We thank the Court for the opportunity to bring forward proposed amendments to the rules relating to the Nevada Board of Continuing Legal Education. At the September 23, 2021 public hearing, we informed the Court that the Board of Governors was considering a grant program that would put MCLE reserve funds to use.

Enclosed are MCLE Reserve Funds Grant Program Guidelines that provide an overview the grant program using dollars set aside in Court-ordered MCLE reserves and with ongoing funding provided by MCLE late fees collected from attorneys and CLE providers. The grant program would be administered by the Nevada Bar Foundation and would support educational, pipeline and pro bono initiatives. This proposal is supported by the state bar's Board of Governors, the Board of Continuing Legal Education, and the Nevada Bar Foundation.

Existing MCLE reserves were set aside by Court Order, dated November 15, 2016; therefore, we request the Court's permission to release those funds for grant purposes. Reserve funds currently stand at \$531,000.


We thank the Court again for its attention to this matter. We remain available to respond to any questions or concerns.

Respectfully,



Kimberly K. Farmer
Executive Director

cc: Ann Morgan, President, State Bar of Nevada
Frank Flaherty, Chair, Nevada Board of Continuing Legal Education
Margaret Wightman Lambrose, President, Nevada Bar Foundation

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MCLE RESERVE FUNDS GRANT PROGRAM GUIDELINES

Overview

The Nevada Board of Continuing Legal Education maintains a reserve fund that includes dollars received from attorney and CLE provider non-compliance fees. This reserve is restricted by Court Order, dated November 15, 2016, and may not be drawn down without prior Court approval.

This proposal seeks to take existing funds and make them available through annual grants to fund programs that educate Nevada lawyers and support Nevada communities through programs that build a pipeline for entry into the profession and delivery of pro bono legal services to underserved populations. The grant program would be funded annually from attorneys who are delinquent in timely submitting annual attorney compliance requirements and from continuing legal education providers who fail to timely file course programs and attendance.

Program Administration

With the approval from the Nevada Supreme Court, the MCLE Reserve Grant Program will be administered by the Nevada Bar Foundation, the State Bar of Nevada's 501(c)(3) charitable organization. The Foundation would have sole decision-making authority regarding grant administration, following these guidelines. Administration would include but is not limited to (1) evaluating grant application criteria, (2) determining the total dollars to be awarded annually, (3) reviewing and selecting grant recipients, and (4) ensuring appropriate reporting protocols are in place and compliance is met.

Anticipated grant funding is \$200,000 annually. The Foundation shall maintain a MCLE Grant Program reserve, not to exceed \$200,000, which may be drawn down to provide for incentive grant giving (see below).

Program Funding

The MCLE Reserve Grant Program will be funded from annual attorney and CLE provider late fees. We would request funds collected by the State Bar of Nevada be set aside in a restricted fund, transferred by December 31 annually to the Nevada Bar Foundation. The Nevada Bar Foundation would use these funds to support the MCLE Reserve Funds Grant Program; funds may not be used to supplement other grant programs administered by the Foundation.

Grant Criteria

1. **Programs Funded.** The MCLE Reserve Grants will fund programs that:
 - a. Provide education to Nevada attorneys on topics such as civility; well-being; and diversity, equity, and inclusion.
 - b. Support law related education programs that promote interest in and understanding of the law.
 - c. Support the activities and initiatives of affinity bar associations that serve minority lawyers.
 - d. Directly support delivery of legal services to underserved populations.
 - e. Provide for the delivery of pro bono legal services.

2. **Grant Dollars Awarded.** MCLE Reserve Grants may be awarded to fund a requested program or activity in part or in whole.
 - a. Applicants will be asked to provide other sources of funding, pledged or in-hand, for the program or activity requested.
 - b. Awards may be made on a one-time basis or on a multi-year basis.

3. **Incentive Grants.** The Nevada Bar Foundation may offer matching grant dollars in addition to the amount requested, or to supplement the amount awarded, as an incentive. These grant dollars will be offered at the discretion of the Nevada Bar Foundation.

Example: along with an approved grant, a \$5,000 incentive grant may be given for the organization successfully raising another \$5,000 through a fundraising initiative or private donation.

Example: along with an approved grant, an incentive grant of up to \$10,000 will be awarded as a matching grant for any future dollars received through fundraising or private donation.

4. **Terms of Use.**
 - a. MCLE Reserve Grants must be used for the purpose set forth in the grant application and/or the incentive grant offer.
 - b. Any organization receiving grant dollars shall agree to provide an annual report as deemed required by the Foundation, providing, at a minimum, an itemized description of how funds were used.
 - c. Any organization receiving grant dollars shall agree to return any unused funds to the Nevada Bar Foundation.
5. **Prohibited Use.** Grant dollars will not be awarded for:
 - a. Sponsorship of events or activities.
 - b. Activities which influence legislation, influence the outcome of any election, or which are used to carry on any voter registration drive.