



## NEW JERSEY STATE BAR ASSOCIATION

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February 13, 2023

Hon. Glenn A. Grant  
 Administrative Director of the Courts  
 Comments on Proposal to Amend the CLE Regulations  
 Hughes Justice Complex  
 P.O. Box 037  
 Trenton, NJ 08625-0037

RE: Comments on Proposal to Amend CLE Regulations

Dear Judge Grant:

Thank you for the opportunity to comment on proposed amendments to the Regulations of the Board on Continuing Legal Education. The New Jersey State Bar Association (NJSBA) has a unique and special interest in the regulations, as our members are both presenters and attendees in the continuing legal education (CLE) process. We believe many of the proposals will have a positive impact on the CLE requirements, but have specific comments on the proposals noted below:

**BCLE Reg. Reg. 103:1(j)** – Clarifies that CLE credit can be given for ½ of a credit hour (25 minutes of instruction), but not for any time less than 25 minutes of instruction. This enables the New Jersey program to conform with out of state jurisdictions that allow for a one-half total credit course.

NJSBA comment: The NJSBA agrees with this proposed amendment because, as noted by the Board on Continuing Legal Education in its report, it will create parity between New Jersey CLE courses and those courses offered in other states.

**BCLE Reg 103:1(n)** – Clarifies that watching a simultaneous live broadcast of instruction from a physically live program where the off-site attendee can interact with the instructor is considered “live instruction” for CLE credit purposes. At present, to obtain live instruction credit, an attorney must be physically in the same room as the instructor.

NJSBA comment: The NJSBA recommends that this proposal be clarified to address whether an AVLF course will still qualify as “live” if (1) a course allows for question and answer time at the end but no one asks questions or offers comments, or (2) if a course sets aside time at the end but instead allows question and comments to be asked and addressed throughout the course, such as via chat or the Q&A feature on Zoom.

**BCLE Reg. 201:2** -- Proposes two additional areas of legal practice be added to the newly admitted attorney subject matter list: workers' compensation law and administrative law.

NJSBA comment: The NJSBA suggests adding New Jersey labor and employment law to the list of subject areas for recently admitted attorneys. Labor and employment law is a common area of law like the 11 listed in the regulation and has grown and developed greatly since the onset of the pandemic.

**BCLE Reg 201:3** -- Clarifies that any carryover must be of unallocated credits.

NJSBA comment: The NJSBA recommends clarifying that the term "unallocated" refers to "credits that have not been used to comply with the 24-credit requirement of the compliance period in which they are earned."

**BCLE Reg. 302:1** – Adds "professional education entities" and "public service organizations" as eligible approved service providers.

NJSBA comment: The NJSBA is concerned that adding additional categories of "approved service providers" without a requirement that such entities have a specific educational purpose will allow for the proliferation of for-profit and other providers that do not have the provision of quality CLE programming as their main focus. The NJSBA recommends against expanding the categories of "approved service provider" unless the additional categories are directly linked to a specific educational purpose.

**BCLE Reg. 302:5** – Clarifies that a notice of disapproval of an activity or course for CLE credit be sent to a provider within a reasonable time.

NJSBA comment: The NJSBA recommends against accepting the change in language to "within a reasonable time," as that is ambiguous and will lead to confusion and uncertainty. Attorneys and service providers need specific time deadlines so they can plan accordingly. If the former time period of 45 days is too short, the NJSBA recommends extending it to a longer specific time period.

**BCLE Reg. 401:1** – Requires course attendee records to be kept for at least three years.

NJSBA comment: The NJSBA recommends against accepting this change for the same reason stated in response to proposed regulation 302:5. Lawyers need to know the specific time period in which they are required to maintain their CLE records to be assured that they are in compliance. If three years is too short, the NJSBA recommends extending it to a longer specific period rather than ambiguously requiring a period of "at least" three years.

**BCLE Reg. 402:1** – Removes “sixty-day” grace period for non-compliant lawyers and replaces it with a term to be provided by the Board.

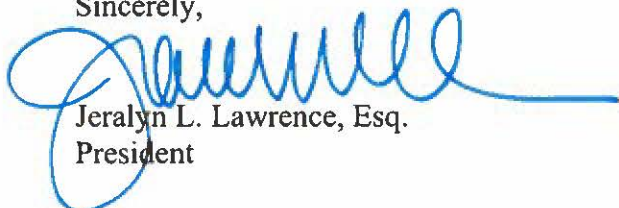
NJSBA comment: The NJSBA recommends against accepting the change to “to be determined by the Board” for the same reasons set forth in response to the amendments to Reg. 302:5 and 401:1. Lawyers need to know the exact amount of time they have to bring themselves into compliance. We are appreciative of the additional time offered to attorneys to come into compliance but recommend that the longer time period be specifically referenced so there is no confusion or misunderstanding.

**BCLE Reg. 402:3** – Provides that a lawyer who fails to comply in a timely manner with the CLE reporting requirement is deemed administratively ineligible to practice New Jersey law (changed from “practice law in New Jersey.”)

NJSBA comment: The NJSBA recommends that further clarification of this proposed change may be necessary. We understand the amendment to provide that an attorney who is licensed in New Jersey and another state, but only ineligible to practice in New Jersey due to non-compliance with the regulation, can still practice the law of the other state while working in New Jersey. If this is correct, the NJSBA has no objection to the proposed change, but recommends that it be clarified to better express its intent.

Again, the New Jersey State Bar Association thanks the Judiciary for the opportunity to comment on these proposals. We appreciate the time and effort spent by the Board on Continuing Legal Education in discussing and proposing these amendments, and hope that our comments are helpful to the Judiciary’s review. We welcome any additional questions or comments, and stand ready to assist the Board and the Judiciary in any way it can.

Sincerely,



Jeralyn L. Lawrence, Esq.  
President

cc: Timothy McGoughran, Esq., NJSBA President-Elect  
Angela C. Scheck, NJSBA Executive Director