SUPREME COURT OF WISCONSIN

IN THE MATTER OF THE TEMPORARY AMENDMENT OF SCRs 31.02 AND 31.05 RELATING TO THE CONTINUING LEGAL EDUCATION REQUIREMENTS: ON-DEMAND CLE PROGRAMMING IN RESPONSE TO COVID-19

FILED

JAN 26, 2021

Sheila T. Reiff
Clerk of Supreme Court
Madison, WI

On March 17, 2020, at the request of the State Bar of Wisconsin, this court issued an order pertaining to continuing legal education (CLE) during the COVID-19 pandemic, No. 20-01, In the matter of the temporary amendment of SCRs 31.02 and 31.05 relating to the continuing legal education requirements: On-demand CLE programming in response to COVID-19. S. Ct. Order 20-01, 2020 WI 30 (issued Mar. 17, 2020, eff. Mar. 17, 2020). In that order the court temporarily increased the number of credits from on-demand programs that lawyers may use to satisfy the requirements of SCR 31.02. See SCR 31.12(2) (authorizing the board to waive attendance and reporting requirements where to do otherwise would work an injustice).[1] That order expired on December 31, 2020.

On January 20, 2021, the Board of Bar Examiners (Board) filed a request asking this court to retroactively extend, with minor modifications, the terms of that order through the 2021 CLE reporting period. The Board has advised the court that the State Bar of Wisconsin has no objection to this request.

The court recognizes that the public health emergency relating to COVID-19 has impacted lawyers' ability to complete mandatory continuing legal education (CLE) required by SCR 31.02 in order to remain eligible to practice law in Wisconsin.[2] The Board reports that many in-person continuing legal education seminars have been cancelled or postponed, and many lawyers continue to need to self-isolate or avoid public gatherings because of the risk of acquiring and/or transmitting the virus. In an effort to mitigate the impact of these measures on a lawyer's eligibility to practice law, the court will grant the Board's request. Therefore,

IT IS ORDERED that effective January 1, 2021, and until January 31, 2021, for the continuing legal education reporting period ending December 31, 2020 (even-year reporters),

[1] "Repeated on-demand program" means an on-line program delivered over the Internet, consisting of a program previously approved by the board. Generally, no more than 15 credits may be claimed for repeated on-demand programs during a lawyer's CLE reporting period. SCR 31.01(6m). For purposes of reinstatement, readmission, or reactivation, no more than 50 percent of the lawyer's CLE may come from on-demand programs. SCR 31.05(5)(a).

[2] SCR 31.02 provides that a "lawyer shall attend a minimum of 30 hours of approved CLE during each reporting period." SCR 31.02(1). The mandatory ethics requirement provides that "[a] lawyer shall attend a minimum of 3 of the 30 hours required under sub. (1) on the subject of legal ethics and professional responsibility in every reporting period." SCR 31.02(2).

lawyers may, in their discretion, claim additional CLE credit from repeated on-demand programs, up to 30 credits. Repeated on-demand courses that will be claimed in excess of the usual 15 credit hour limit must be completed on or before January 31, 2021. Because of the importance and time sensitive nature of instruction on the subject of legal ethics and professional responsibility, these courses are to be completed with live on-online programming or in-person courses; repeated on-demand programs may not be used to satisfy the mandatory 3 legal ethics and professional responsibility credit hours;

IT IS FURTHER ORDERED that effective the date of this order and until January 31, 2022, for the continuing legal education reporting period ending December 31, 2021 (odd-year reporters), lawyers may, in their discretion, claim additional CLE credit from repeated on-demand programs, up to 30 credits. Repeated on-demand courses that will be claimed in excess of the usual 15 credit hour limit must be completed on or before January 31, 2022. Because of the importance and time sensitive nature of instruction on the subject of legal ethics and professional responsibility, these courses are to be completed with live on-online programming or in-person courses; repeated on-demand programs may not be used to satisfy the mandatory 3 legal ethics and professional responsibility credit hours;

IT IS FURTHER ORDERED that lawyers who have failed to demonstrate compliance with CLE reporting requirements for the reporting period ending December 31, 2020 (even-year reporters) may use repeated on-demand programs to satisfy deficiencies in their credit hours. This does not include the mandatory 3 hours required on the subject of legal ethics and professional responsibility which are to be completed using live on-line programming or in-person courses, and does not waive the late fee imposed for late reporting under SCR 31.03(2);

IT IS FURTHER ORDERED that lawyers required to satisfy CLE requirements as a prerequisite to reinstatement, readmission, or reactivation may satisfy 100 percent of their required CLE using on-demand programs for petitions, provided that make up credit requirements are completed on or before December 31, 2021. This does not include the mandatory 3 hours required on the subject of legal ethics and professional responsibility, which are to be completed using live online programming or in-person courses;

IT IS FURTHER ORDERED that any lawyer whose license to practice law may be suspended because the lawyer is unable to complete legal ethics and professional responsibility credits, either in person or live on-online, may file a request for a waiver with the board under SCR 31.12;

IT IS FURTHER ORDERED that because this temporary measure is effective immediately, there may be a delay before the board's electronic filing system can accept late-filed electronic reports documenting attendance of on-demand courses in excess of the usual 15 credit rule. In this event, lawyers are directed to submit a statement of their request for continuing legal education credit in writing, together with documentation of the on-demand course(s) for which

credit is claimed, and the late fee. Per SCR 31.03(4), a late filed report is deemed filed upon the board's receipt of payment of the late fee, for which payment may be made electronically; and

IT IS FURTHER ORDERED that the State Bar of Wisconsin shall take all reasonable steps to notify its members of the contents of this order.