

RE: **Proposed Amendments to Rules 1.14 and 22 of the
Rules of the Supreme Court of the State of Hawai'i**

HAWAI'I PROFESSIONALISM COURSE

The Supreme Court of Hawai'i seeks public comment regarding proposals to amend Rules 1.14 and 22 of the Rules of the Supreme Court of the State of Hawai'i. The proposal clarifies the required Hawai'i Professionalism course is separate and distinct from the Mandatory Continuing Professional Education courses. The proposals are attached hereto.

Comments about the proposed rule should be submitted, in writing, **no later than Tuesday, April 10, 2012**, to the Judiciary Communications & Community Relations Office by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 539-4801, or via the Judiciary's website at www.courts.state.hi.us.

Attachment

**PROPOSED AMENDMENTS TO
RULES OF THE SUPREME COURT OF THE STATE OF HAWAII**

(Deleted material is bracketed and stricken; new material is underlined)

1.14. Mandatory professionalism course.

(a) Professionalism Course. Each person licensed to practice law after July 1, 2001, shall, no later than December 31 of the year following the year of election of active status, complete [a]the Hawai'i Professionalism course conducted under the joint sponsorship of the Hawai'i State Bar and the Supreme Court of Hawai'i. This rule applies to every license issued after July 1, 2001, pursuant to any part of Rule 1 of the Rules of the Supreme Court of the State of Hawai'i, except Rules 1.9 and 1.13. The required Hawai'i Professionalism course is separate and distinct from other Mandatory Continuing Professional Education programs available through the Hawai'i State Bar or other legal ethics associations and is traditionally offered only bi-annually, in November and June. The Hawai'i State Bar shall, as a courtesy, notify attorneys facing administrative suspension pursuant to section (c) of this rule, 1 month prior to the final opportunity to complete the professionalism course, of the attorney's impending administrative suspension. Failure to notify an attorney shall not, however, constitute grounds upon which the attorney may contest the imposition of administrative suspension.

(b) Proof of Compliance. Proof of compliance shall be in accordance with procedures established by the Hawai'i State Bar.

(c) Administrative Suspension. Failure to complete the professionalism course within the time period specified above in (a) shall result in automatic suspension of the license to practice law. The Hawai'i State Bar shall give written notice of the suspension, but failure to give notice will not justify or excuse practicing while suspended.

(d) Reinstatement. An attorney suspended under paragraph (c) shall be reinstated upon proof of completion of the course.

(e) Fees. The Hawai'i State Bar may assess and collect reasonable fees for attending the course, for providing notice of suspension, and for processing reinstatement requests.

Rule 22. MANDATORY CONTINUING PROFESSIONAL EDUCATION AND VOLUNTARY CONTINUING LEGAL EDUCATION.

(a) Mandatory Continuing Professional Education. Except as otherwise provided herein, every active member of the Bar shall complete at least 3 credit hours per year of approved Mandatory Continuing Professional Education (MCPE). Qualifying professional education topics include the Hawai'i Rules of Professional Conduct, legal ethics and related topics, law office management, client trust account administration, bias awareness and prevention, access to justice, case and client management, and malpractice insurance and prevention. The Hawai'i Professionalism course required under

Rule 1.14 of these rules fulfills the 3 credit hours of this section, but standard MCPE courses described in this section do not conversely fulfill the requirements of Rule 1.14 of these rules.

(b) Voluntary Continuing Legal Education. In addition to MCPE, all active members of the Bar are encouraged to complete 9 or more credit hours per year of approved Voluntary Continuing Legal Education (VCLE).

(c) Carry Forward of Credit Hours. A member may carry forward from the previous reporting period a maximum of 3 excess MCPE credit hours. To be carried forward, the credit hours must have been earned during the calendar year immediately preceding the current reporting period.

(d) Mandatory Certification, Reporting, and Record Keeping. Each active Bar member shall annually:

(1) certify the number of approved MCPE hours completed during the preceding year or carried forward, and

(2) report the number of approved VCLE hours completed during the preceding year, specifying the number of such hours, if any, satisfied by section (e)(4) of this rule. A member shall maintain records of approved MCPE credit hours and of approved VCLE credit hours for the 2 most recent reporting periods, and these records shall be subject to audit by the ~~[HSBA]~~ Hawai'i State Bar. Any active Bar member who fails to cooperate with the ~~[HSBA]~~ Hawai'i State Bar when audited shall be deemed to be in noncompliance with this rule.

(e) Courses and Activities. The requirements of this rule may be met, subject to prior approval as set out in sections (f) and (g) of this rule, by:

(1) attending approved courses or activities, including but not limited to, presentations conducted in-house or for Inns of Court, bar sections, professional legal organizations, and the like;

(2) preparing for and teaching approved professional education or judicial education courses or activities. Two hours of preparation time may be certified or reported for each hour of time spent teaching, i.e. 3 hours may be claimed for teaching a 1 hour course;

(3) studying approved audio, video, or other technology-delivered professional education courses or activities; and

(4) with regard to the VCLE standard of this rule, up to 3 hours of that standard may be satisfied by providing *pro bono* service, as defined in Rule 6.1 of the Hawai'i Rules of Professional Conduct.

(f) Approved Courses or Activities. Courses and activities sponsored by the Hawai'i State Bar ~~[Association (HSBA)]~~ or the American Bar Association, and classified by the ~~[HSBA]~~ Hawai'i State Bar as MCPE or VCLE, qualify for credit under this rule.

(g) Approval and Accreditation Authorization. The ~~[HSBA]~~ Hawai'i State Bar is authorized to approve or disapprove:

(1) other educational courses and activities for mandatory or voluntary credit and

(2) applications by an entity for accreditation as a course or activity provider. Approved courses and activities may include, but are not limited to, courses and activities conducted in-house or sponsored by Inns of Court, bar sections or other professional legal organizations. Accreditation shall constitute prior approval of MCPE and VCLE courses offered by the provider, subject to amendment, suspension, or revocation of such accreditation by the ~~[HSBA]~~

Hawai'i State Bar. The ~~[HSBA]~~ Hawai'i State Bar shall establish the procedures, minimum standards, and fees for approval of specific courses and activities or accreditation of providers and for revocation of such approval or accreditation.

(h) Full-time Judges. Federal judges, magistrate judges, bankruptcy judges, U.S. Court of Federal Claims judges and administrative law judges are exempt from the requirements of this rule. Full-time state judges shall participate for at least 3 hours each year in a program of judicial education approved by the Committee on Judicial Education. Full-time state judges who are unable to attend, in person, a program approved by the Committee on Judicial Education or who are excused from that program shall comply with this requirement by such other means as the supreme court approves. Full-time state judges shall report the number of approved judicial education hours attended on the judges' annual financial disclosure form.

(i) Inactive members. Inactive members of the Bar who subsequently elect active status shall complete and report 3 hours of MCPE within 3 months of electing active status. The 3 hours of MCPE credit required under this rule are separate and distinct from the annual 3 hours of MCPE required pursuant to Rule 22(a), above.

(j) Newly licensed members. Each person licensed to practice law who elects active status in the year in which he or she is licensed shall not be required to comply with the require~~ments~~ments d 3 MCPE hours mandated by [of]section (a) of this rule for that year[, provided that n]. Nothing herein, however, shall modify the obligations imposed by Rule 1.14 of these rules, which requires completion of a specific Hawai'i Professionalism course, distinct from general MCPE courses, sponsored jointly by the Hawai'i State Bar and the Supreme Court and offered only bi-annually. Failure to complete the Hawai'i Professionalism course in a timely manner will result in automatic administrative suspension. See Rule 1.14(c) of these rules.

(k) Good Cause Exemption or Modification. An active member may apply to the ~~[HSBA]~~ Hawai'i State Bar for good cause exemption or modification from the MCPE requirement. Members seeking an exemption or modification shall furnish substantiation to support their application as requested by the ~~[HSBA]~~ Hawai'i State Bar. Good cause shall exist when a member is unable to comply with the MCPE requirement because of illness, medical disability, or other extraordinary hardship or extenuating circumstances that are not willful and are beyond the member's control.

(l) Effective Date; Reporting Period. This rule is effective January 1, 2010. The initial reporting period will be the calendar year beginning January 1, 2010, and reports for that year shall be submitted in accordance with section (d) of this rule.