

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered March 18, 2022.

(Deleted material is struck through, and new material is underscored.)

Effective May 1, 2022, Illinois Supreme Court Rule 796 is amended, as follows.

Amended Rule 796

Rule 796. Enforcement of MCLE Requirements

(a) Reporting Compliance

(1) Notice of Requirement to Submit MCLE Certification

The MCLE Board shall send to attorneys as set forth in (i), (ii) and (iii) below a notice of requirement to submit an MCLE certification (“Initial MCLE Notice”). The attorney’s certification shall state whether the attorney complied with these Rules, has not complied with these Rules or is exempt.

(i) Newly-admitted attorney requirement

On or before the first day of the month preceding the end of an attorney’s newly-admitted attorney requirement reporting period, the Director shall mail or email to the attorney, at a mailing or email address maintained by the ARDC, an Initial MCLE Notice.

(ii) Two-year reporting period

On or before May 1 of each two-year reporting period, the Director shall mail or email to the attorney, at a mailing or email address maintained by the ARDC, an Initial MCLE notice.

(iii) An Initial MCLE Notice need not be sent to the following:

(A) Attorneys on inactive or retirement status pursuant to Supreme Court Rule 756(a)(5) or (a)(6), respectively, or on inactive status pursuant to the former Supreme Court Rule 770 or who have previously been placed on voluntarily removed status by the ARDC;

(B) Attorneys on disability inactive status pursuant to Supreme Court Rules 757 or 758;

(C) Attorneys known by the Director to be fully exempt from these Rules pursuant to Rule 791(b); or

(D) Attorneys who have already been removed from the master roll of attorneys due

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to the attorney's failure to comply with the MCLE requirements for two consecutive reporting periods or more.

(2) Every Illinois attorney who is either subject to these Rules or who is sent an MCLE Initial Notice shall submit a certification to the Board, by means of the Board's online reporting system or other means specified by the Director, within 31 days after the end of the attorney's reporting period. It is the responsibility of each attorney on the master roll to notify the ARDC of any change of address or email address. Failure to receive an Initial MCLE Notice shall not constitute an excuse for failure to file the certification.

(b) Failure to Report Compliance

Attorneys who fail to submit an MCLE certification within 31 days after the end of their reporting period, or who file a certification within 31 days after the end of their reporting stating that they have not complied with these Rules during the reporting period, shall be mailed or emailed a notice by the Director to inform them of their noncompliance. Attorneys shall be given 61 additional days from the original certification due date provided in Rule 796(a)(2) to achieve compliance and submit a certification, by means of the Board's online reporting system or other means specified by the Director, stating that they have complied with these Rules or are exempt. The Director shall not send a notice of noncompliance to attorneys (i) whom the Director knows, based on the status of the attorneys' licenses with the ARDC as inactive, retirement, disability inactive, judicial, judicial staff, or military are fully exempt from these Rules; or (ii) who have already been removed from the master roll of attorneys due to the attorney's failure to comply with the MCLE requirements for two consecutive reporting periods or more.

(c) Grace Period

Attorneys given additional time pursuant to paragraph (b) to comply with the requirements of these Rules may use that "grace period" to attain the adequate number of hours for compliance. Credit hours earned during a grace period may be counted toward compliance with the previous reporting period requirement, and hours in excess of the requirement may be used to meet the current reporting period's requirement. No attorney may receive more than one grace period with respect to the same reporting period, and the grace period shall not be extended if the Director fails to send, or the attorney fails to receive, a notice pursuant to paragraph (b).

(d) Late Fees

(1) Attorneys who are not fully exempt under Rule 791(a)(1), (2), (3), (4), or (5) and who, for whatever reason, fail to submit an MCLE certification pursuant to Rule 796(a)(2) within 31 days after the end of their reporting period shall pay a late fee, in an amount to be set by the Board. The Director shall not assess a late fee to an attorney whom the Director knows, based on the status of the attorney's license with the ARDC as inactive, retirement, disability inactive, judicial, judicial staff, or military are fully exempt from these Rules.

(2) Attorneys who submit an MCLE certification to the Board within 31 days after their reporting period ends and who certify that they failed to comply with these Rules during the applicable reporting period, shall pay a late fee, in an amount to be set by the Board that is less than the late fee imposed pursuant to paragraph (d)(1).

(e) Failure to Comply or Failure to Report

The Director shall refer to the ARDC the names of attorneys who were mailed or emailed a notice of noncompliance and who, by the end of their grace periods, failed either: (1) to comply or to report compliance with the requirements of these Rules to the MCLE Board; or (2) to report an exemption from the requirements of these Rules to the MCLE Board. The Director shall also refer to the ARDC the names of attorneys who, by the end of their grace period, failed to pay any outstanding MCLE fee. The ARDC shall then send notice, by mail or email, to any such attorneys that they will be removed from the master roll on the date specified in the notice, which shall be no sooner than 21 days from the date of the notice, because of their failure to comply or report compliance, failure to report an exemption, or failure to pay an outstanding MCLE fee. The ARDC need not send a notice to attorneys who have already been removed from the master roll of attorneys due to the attorney's failure to comply with the MCLE requirements for two consecutive reporting periods or more. The ARDC shall remove such attorneys from the master roll of attorneys on the date specified in the notice unless the Director certifies before that date that an attorney has complied. Such removal is not a disciplinary sanction.

(f) Recordkeeping and Audits

(1) Each attorney subject to these Rules shall maintain, for three years after the end of the relevant reporting period, certificates of attendance received pursuant to Rule 795(a)(8), (c)(4), (d)(1)(ix), (d)(2)(v), (d)(3), as well as sufficient documentation necessary to corroborate CLE activity hours earned pursuant to Rule 795(d)(4) through (d)(9).

(2) The Board may conduct a reasonable number of audits, under a plan approved by the Court. At least some of these audits shall be randomly selected, to determine the accuracy of attorneys' certifications of compliance or exemption. With respect to audits that are not randomly selected, in choosing subjects for those audits the Board shall give increased consideration to attorneys who assumed inactive or retirement status under Supreme Court Rule 756(a)(5) or (a)(6), and were thereby fully or partially exempt from these Rules pursuant to Rule 791(b) or (c), and who subsequently resumed active status.

(3) The ARDC may investigate an attorney's compliance with these Rules only upon referral from the Director; the ARDC will not investigate an attorney's compliance with these Rules as part of its other investigations. When the Director refers a matter to the ARDC, the investigation, and any resulting prosecution, shall be conducted in accordance with the rules pertaining to ARDC proceedings.

(g) Audits That Reveal an Inaccurate Certification

(1) If an audit conducted pursuant to paragraph (f)(2) reveals that the attorney was not in compliance with or exempt from these Rules for any reporting period for which the attorney had filed a certification of compliance or exemption, the Director shall provide the attorney with written notice containing: (i) the results of the audit, specifying each aspect of the Rules with which the attorney did not comply or the reason why the attorney is not exempt; (ii) a summary of the basis of that determination; and (iii) a deadline, which shall be at least 30 days from the date of the notice, for the attorney to file a written response if the attorney objects to any of the contents of the notice.

(2) After considering any response from the attorney, if the Board determines that the attorney filed an inaccurate certification, the attorney shall be given 60 days in which to file an

amended certification, together with all documentation specified in paragraph (f)(1), demonstrating full compliance with the applicable MCLE requirements. The attorney also shall pay a late fee in an amount to be set by the Board. The assessment of a late fee is not a disciplinary sanction.

(3) If the results of the audit suggest that the attorney willfully filed a false certification, the Board through its Director shall provide that information to the ARDC.

(h) Reinstatement

An attorney who has been removed from the master roll due to noncompliance with these Rules may be reinstated by the ARDC, upon recommendation of the Board. Such recommendation may be made only after the removed attorney files a certification which the Board determines shows full compliance with the applicable MCLE requirements for each reporting period for which the attorney was removed from the master roll due to MCLE noncompliance. For attorneys who have existing removals from the master roll of attorneys encompassing three MCLE reporting periods or more, the credits required to address those existing removals are capped at the credits required for the three most recent reporting periods for which the attorney is removed.

To be reinstated, the attorney shall pay a reinstatement fee for each reporting period for which the attorney was removed from the master roll due to MCLE noncompliance with the request, in an amount to be set by the Board. The Board may elect to cap the total amount of the reinstatement fee when an attorney has been removed from the master roll due to MCLE noncompliance in more than six consecutive reporting periods. The attorney must also meet any further conditions and pay any additional fees as may be required by Rule 756.

The removed attorney may attain the necessary credit hours during the period of removal to meet the requirements for the years of noncompliance. Excess hours earned during the period of removal, however, may not be counted towards meeting the current or future reporting periods' requirements. The MCLE credits needed to address the existing removals are in addition to the credits that the attorney must earn for the reporting period in which the attorney returns to active status.

Adopted September 29, 2005, effective immediately; amended October 5, 2006, effective immediately; amended September 27, 2011; effective immediately; amended Nov. 19, 2015, eff. Feb. 1, 2016; amended Jan. 29, 2019, eff. Mar. 1, 2019; amended Mar. 18, 2022, eff. May 1, 2022.