

THE SUPREME COURT OF OHIO COMMISSION ON PROFESSIONALISM

Professionalism CLE Guidelines Amended January 1, 2014

These guidelines are offered by the Supreme Court of Ohio Commission on Professionalism to enhance the quality and variety of continuing legal education programs on professionalism in Ohio.

A Brief History of the Commission on Professionalism and Ohio's Professionalism CLE Requirement

In August 1989, Chief Justice Thomas J. Moyer of the Supreme Court of Ohio announced the formation of a Supreme Court committee to examine creeds of professionalism adopted by other states and to explore the possibility of a creed of professionalism for lawyers in Ohio.

The Chief Justice also charged the committee to assemble information that would raise the consciousness of attorneys regarding their individual and collective responsibility to maintain a high level of professionalism in relationships with clients, judges and other members of the bar. The committee ultimately recommended the adoption of a creed, and emphasized that the creed would be effective only if used in concert with other approaches to professionalism concerns, such as "postadmission-to-the-bar" education.

The work of the committee, and a subsequent bench-bar conference focusing on its report, led to the formation in 1992 of the Supreme Court of Ohio Commission on Professionalism. Established by Rule XV of the Rules for the Government of the Bar of Ohio, the Commission is charged with promoting professionalism among Ohio's attorneys. The rule provides, "The commission shall devote its attention to the law as a profession and to maintaining the highest standards of integrity and honor among the members of the profession."

Toward that end, the Commission over the years produced a number of documents adopted by the Supreme Court. Among them are: the Statement on Professionalism, A Lawyer's Creed, A Lawyer's Aspirational Ideals, the Statement on Judicial Professionalism, and A Judicial Creed, which are found in the Court's *Professional Ideals for Ohio Lawyers and Judges*. In addition, the Commission has published *A Consumer's Practical Guide to Managing a Relationship With a Lawyer* and has begun a series entitled *Professionalism Dos and Don'ts*, which provides specific professionalism guidelines for various aspects of legal practice.

These materials have proved useful in helping attorneys meet the requirement of the 1997 amendment to Gov. Bar Rule X that obligated attorneys to earn, in each biennial compliance period, one hour of continuing legal education credit related to professionalism, one hour related to legal ethics, and one half-hour related to substance abuse. (Two years later a similar CLE requirement for judges was added.)

Effective January 1, 2014, Gov. Bar Rule X requires attorneys and judges to earn, for each biennial compliance period, two and one-half credit hours of "professional conduct

instruction,” which requirement can be met by instruction on one, or any combination of, the following subjects: legal ethics; alcoholism, substance abuse or mental health issues; access to justice and fairness in the courts; and professionalism (“which shall include instruction on the role of attorneys in promoting ethics and professionalism among attorneys by facilitating compliance with the requirements of the Ohio Rules of Professional Conduct, A Lawyer’s Creed, A Lawyer’s Aspirational Ideals, and the Statement Regarding the Provision of Pro Bono Legal Services by Ohio Lawyers adopted by the Supreme Court.”)

Thus, under the amended Rule, it will not be necessary to have separate time segments specifically allocated to professionalism, ethics or substance abuse. Rather, presenters may choose to seamlessly integrate one or more of those subjects, along with access to justice issues and mental health matters, into a single CLE program, which program will then fulfill the “professional conduct” requirement.

Defining Professionalism

Gov. Bar Rule XV notes that professionalism “connotes adherence by attorneys in their relations with judges, colleagues, clients, employees and the public to aspirational standards of conduct.” Although difficult to define precisely, professionalism has been said to encompass ethics, personal integrity, intellectual honesty, independence, civility, excellence and courage.

Goals of the Professionalism CLE Requirement

It is the view of the Commission that the goals of the professional conduct CLE requirement in Ohio are:

1. To provide opportunities for lawyers and judges to consider and discuss the practical application and implications of the Ohio Rules of Professional Conduct, the Rules for Government of the Bar and the Code of Judicial Conduct;
2. To promote the understanding of and commitment to A Lawyer’s Creed and A Lawyer’s Aspirational Ideals; and
3. To promote the understanding of and commitment to A Judicial Creed.

Suggested Issues and Topics

The Commission believes that the following issues and topics are appropriate for professionalism CLE courses. This list is not exhaustive but should serve as a starting point for the development of professionalism courses:

- Importance of civility to the integrity of the profession and how to maintain civility in the practice of law while defusing uncivil behavior encountered from other attorneys or clients
- Using the law’s procedures only for legitimate purposes and not to harass or intimidate others

- Support of adjudicatory officials against unjust criticism
- How to use legal knowledge and civic influence to ensure equal access to our system of justice for all those who, because of economic or social barriers, cannot afford or secure adequate legal counsel
- How to recognize, understand and respect racial, cultural, gender, socioeconomic, and generational differences with the aim of reducing miscommunications, conflicts, and bias
- Client management: finding and cultivating clients; transparency in engagement arrangements, including fees; maintaining communication with clients regarding their interests; and informing clients of their legal rights and explaining their practical implications
- Law office management: the development and management of a law practice; the handling of funds; the management of employees; the hiring and firing of attorneys; the efficient and competent delivery of legal services; monitoring ethical compliance of attorneys within the organization; eliminating malpractice claims; and eliminating client complaints of poor service
- How to balance the financial pressures of practicing law with the responsibility to promote the best interests of clients and to use efficiently the limited resources of our justice system
- Mentoring
- Quality of life: balancing priorities of work and home; managing career and personal transitions; emotional and mental well-being; stress management; and time management.
- Issues related to personal and professional ethical development (which may include a discussion of integrity-based ethics v. compliance-based ethics)

Format Considerations and Programmatic Resources

The Commission encourages those who design professionalism CLE seminars to use an interactive format whenever possible. Programs where one person lectures, although occasionally appropriate, are not usually conducive to the type of learning that encourages attorneys to achieve new personal or professional insights. The Commission believes that the best professionalism CLE seminars are contextually designed for specific groups, the members of which share a common practice area or a common practice setting. Additionally, the Commission believes that scenarios featuring unprofessional behaviors or other challenges to professionalism standards are helpful in discussing how attorneys and judges may best promote professionalism in our profession. Scenarios may be presented as written hypotheticals, live skits, or vignettes depicted in video. The Commission therefore encourages CLE providers to create original scenarios customized to the practice experience of their particular audience when appropriate or consider using the resources identified on the Commission's website when developing a professionalism course.

Conclusion

These CLE guidelines are offered by the Commission in an effort to enhance the quality and variety of professionalism CLE seminars in Ohio.