

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

[204 PA. CODE CH. 82]

Continuing Legal Education Board

The regulations concerning Continuing Legal Education codified at 204 Pa. Code Chapter 82, Subchapter B pages 82-9 to 82-23, serial pages (196787) to (196789) and (177387) to (177399) are being replaced in their entirety as set forth in Annex A.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL AND VOCATIONAL STANDARDS

CHAPTER 82. CONTINUING LEGAL EDUCATION

Subchapter B. CONTINUING LEGAL EDUCATION BOARD REGULATIONS

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Preamble. Statement of Purpose

The public property expects that lawyers, in the practice of the law, will maintain throughout their careers certain standards of professional competence and ethical behavior. These regulations prescribe the standards for the implementation of the Orders of the Supreme Court of Pennsylvania of January 7, 1992, July 1, 1992 and November 29, 1993, promulgating the Pennsylvania Rules for Continuing Legal Education and mandating continuing legal education requirements for Pennsylvania lawyers. These regulations have been amended several times. As of here and now, the following regulations are in effect.

Section 1. Definitions.

Accredited Continuing Legal Education Provider—A not-for-profit company or association accredited by the Board in accordance with the rules and these regulations.

Active Lawyer—A member in good standing of the bar of the Supreme Court of Pennsylvania, who is not an active or senior member of the judiciary. A lawyer who is active for any part of a year must comply with these regulations.

Approved Instructor—A faculty member in a CLE activity sponsored by an Accredited Continuing Legal Education Provider who possesses the necessary practical or academic skills to conduct the course effectively. An approved instructor will normally be a lawyer or judge.

Attendance Restriction—Attendance restriction exists where any one or more of the following occur: the CLE activity is not open to all lawyers thought to be interested in the subject matter; it is not held in a place open to the legal community at large; it is not held in a place large enough to accommodate all such lawyers thought to be interested; the charge is not reasonable; or the activity is not advertised as required by the Board.

Board—The Pennsylvania Continuing Legal Education Board.

CLE—Continuing legal education to be provided under the rules of these regulations.

Inactive Lawyer—Any lawyer placed on inactive status by the Supreme Court of Pennsylvania.

In-house Activity—In-house activity is any educational activity offered by lawyer's law firm or group of two (2) or more lawyers or law firms or a corporation or group of corporations or any combination thereof with whom a lawyer is affiliated and which has an attendance restriction on lawyers who are not affiliated with the law firm or corporation.

Member of the Judiciary—An individual who has been admitted to the Pennsylvania Bar and who has been appointed or elected and is serving as a judicial official of any state or of the United States of America and whose position prohibits the individual from the practice of law within the territorial jurisdiction where the individual serves as a judge. This term shall not include a lawyer who is permitted to and who voluntarily chooses to maintain active lawyer status in Pennsylvania so long as the judicial position does not prevent him or her from practicing law in Pennsylvania.

Non-Resident Active Lawyer—A member in good standing of the bar of the Supreme Court of Pennsylvania, who is not an active or senior member of the judiciary and who has requested non-resident active status in accordance with Section 6(e) of these regulations.

Provider—A not-for-profit corporation or association which has been accredited by the Board to provide continuing legal education under these regulations or a not-for-profit corporation or association which provides one (1) or more continuing legal education courses approved by the Board.

Regulations—These regulations adopted by the Board as they may be amended from time to time.

Rules—The Pennsylvania Rules for Continuing Legal Education as they may be amended from time to time.

Undue Hardship—Undue hardship consists of a severe medical condition which in the judgment of the Board renders a lawyer incapable of complying with these regulations.

Verified Statement—A document filed with the Board or the Supreme Court under these regulations containing statements of fact and a statement by the signatory that it is made subject to the penalties of 18 Pa.C.S.A. § 4904 (relating to unsworn falsification to authorities).

Section 2. Scope.

Lawyers who are to become registered to practice law in Pennsylvania on or after July 1, 1992, must complete a program of continuing legal education as provided by the rules and these regulations. There shall be no exemptions from this requirement under any circumstance except in the limited instances described in these regulations.

Section 3. Minimum Education Requirements.

Every active lawyer shall complete the following annual CLE minimum requirements:

(a) Commencing January 1, 1994, the CLE requirement for each compliance group shall be a minimum of one (1) hour of ethics, professionalism, or substance abuse and a minimum of five (5) hours of substantive law, practice and procedure.

(b) Commencing September 1, 1994, the CLE requirement for each compliance group shall be a minimum of one (1) hour of ethics, professionalism, or substance abuse and a minimum of eight (8) hours of substantive law, practice and procedure and shall be first applicable to the compliance groups as follows:

Compliance Group II	August 31, 1995
Compliance Group III	December 31, 1995
Compliance Group I	April 30, 1996

(c) Commencing September 1, 1995, the CLE requirement shall be a minimum of one (1) hour of ethics, professionalism, or substance abuse and a minimum of eleven (11) hours of substantive law, practice and procedure and shall be first applicable to the compliance groups as follows:

Group II	August 31, 1996
Group III	December 31, 1996
Group I	April 30, 1997

(d) CLE credits for ethics, professionalism, or substance abuse may be applied to any substantive law, practice and procedure requirement.

Section 4. Reporting Periods of Active Lawyers.

All active lawyers shall have one (1) year compliance periods. To aid administration of the program, all active lawyers shall be divided into three (3) compliance groups ("Compliance Groups").

The Board will assign all active lawyers into one (1) of three (3) compliance groups by random selection utilizing the attorney identification number. Every lawyer will be notified by the Board following their assignment to a compliance group. The Board will assign newly registered lawyers to a compliance group on a random basis.

Compliance Group 1 must complete the annual CLE requirement by April 30 of each year.

Compliance Group 2 must complete the annual CLE requirement by August 31 of each year.

Compliance Group 3 must complete the annual CLE requirement by December 31 of each year.

Lawyers newly admitted to practice law in Pennsylvania, including lawyers admitted on motion from other states, shall be exempt from the requirements of these regulations for twelve (12) months but no more than twenty-four (24) months from the date of their Pennsylvania admission depending upon the compliance group to which the newly admitted lawyer is assigned and the compliance period for that group. Newly admitted lawyers

shall complete their CLE requirement by the end of their next succeeding compliance period.

Section 5. Credit for CLE Activities.

(a) General Standards.

1. Credit will be given only for completion of CLE activities which are accredited by the Board.

2. One (1) hour of credit will be awarded for each sixty (60) minutes of instruction, not including introductory remarks, keynote speeches, luncheon speeches or breaks, but including question-and-answer periods.

3. No provider shall schedule a class for less than sixty (60) minutes, but one-half hour credit shall be awarded for attendance of at least thirty (30) minutes but less than sixty (60) minutes beyond the initial sixty (60) minutes.

4. Courses offered by an accredited continuing legal education provider shall be presumed to be accredited for the amount of time designated by the provider.

5. Courses offered by a provider which is not an accredited continuing legal education provider but which otherwise comply with the rules and these regulations shall be submitted to the Board pursuant to Section 12 of these regulations for review and may be given such credit, if any, as the Board deems appropriate.

6. If a course does not bear entirely on any of the subjects of:

- (i) substantive law, practice and procedure,
- (ii) lawyer ethics and the rules of professional conduct,
- (iii) professionalism,

(iv) substance abuse as it affects lawyers and the practice of law or the method of presenting the course if below minimum standards, the Board may determine that such course is entitled to no credit or may assign such partial credit as it deems appropriate.

(b) *Teaching Activity.* The Board may assign credit to teaching activities involving courses accredited under the rules and these regulations upon written application describing the teaching activity. The Board will provide forms to be submitted for the approval of teaching credits. Credit for teaching activities will be given only for the time spent in making presentations of materials prepared by the applicant.

(c) *Carry Forward Credits.* A lawyer may carry forward a balance of credit hours in excess of the current annual CLE requirement for the next two (2) succeeding years. No more than two (2) times the current annual CLE requirement may be carried forward into the two (2) succeeding years. CLE credits for ethics, professionalism or substance abuse may be applied as provided in Section 3(d).

(d) *In-House Activities.* In-house activities will not be approved for CLE credit.

(e) *Satellite Seminars and Electronic Presentations.* Seminars viewed at remote sites by electronic transmission will receive credit if a moderator is present or available by a telecommunication facility. The Board may approve CLE courses consisting solely of television viewing in the home, correspondence work or self study to accommodate the needs of the handicapped or incapacitated.

(f) *Law School Courses.* Law school courses may qualify for CLE credit, computed in accordance with these standards, provided that:

1. They would otherwise qualify for credit under the rules and these regulations.

2. They [law school courses] are not required in order to qualify for the awarding of a basic law degree. Courses offered towards graduate or advance degrees may receive credit, upon submission of appropriate documentation to the Board. One (1) hour of CLE credit may be given for each approved graduate credit hour awarded by the law school.

3. The law school offering the course is a law school accredited by the American Bar Association.

(g) *Continuing legal education activities conducted by a provider which has not been Accredited by the Board.*

All CLE activities conducted by a provider which has not been accredited by the Board must be individually approved by the Board for credit. A lawyer or non-accredited provider must request approval for such continuing legal education activity under Section 12 of these regulations.

(h) *Self study.* Self study will not be approved for credit.

Section 6. Waivers, Extensions and Deferrals.

(a) *Waiver.* The Board may waive the CLE requirements of the rules and these regulations for a period of not more than one (1) year upon a finding by the Board of:

1. Undue hardship.
2. Circumstances beyond the control of the lawyer which prevent him or her from complying in any reasonable manner with the CLE requirement.

A waiver may be extended upon application to the Board and Board approval. Upon termination of the waiver, the Board may make such additional CLE requirements as it deems appropriate.

(b) *Inactive Lawyers.* A lawyer on voluntary inactive status shall have his or her compliance deferred while on inactive status. Upon return to active status the lawyer will have twelve (12) months to complete the deferred CLE requirements, not to exceed two (2) times the current annual requirement, in addition to the CLE credit required for the current year.

(c) *Members of the Judiciary.* A member of the judiciary return to active status shall have no deferred CLE requirement, but must complete the current year's CLE requirement within twelve (12) months of returning to active status.

(d) *Members of the Armed Force.* Compliance with these regulations shall be deferred for members of the Armed Forces on active duty outside of Pennsylvania during the period of their active duty. Within thirty (30) days after termination of active duty, the lawyer shall notify the Board. The lawyer will have twelve (12) months to complete the deferred CLE requirements, not to exceed two (2) times the current requirement, in addition to the CLE credit required for the current year.

(e) *Non-Resident Active Lawyer.* There shall be a sub-classification of active lawyers available to those lawyers who comply with the following:

1. An active Pennsylvania lawyer may annually request non-resident active status if he or she neither resides nor practices law in the Commonwealth of Pennsylvania nor represents any Pennsylvania citizen as a client in any court in Pennsylvania at the time of requesting such status. Such request shall contain the lawyer's agreement that the lawyer will not practice law in Pennsylvania nor represent a Pennsylvania citizen in

any court in Pennsylvania so long as the lawyer has non-resident status. Such request shall be in writing on a form approved by the Board, be verified and submitted to the Board along with the applicable filing fee. This procedure and fee are in addition to those which must otherwise be followed and paid by active lawyers.

2. Non-resident active status must be renewed annually and will be effective only for the lawyer's compliance period as designated by the Board. If the non-resident active lawyer shall choose to practice law in the Commonwealth of Pennsylvania or represent any Pennsylvania citizen in any court in Pennsylvania, he or she must immediately notify the Board and shall satisfy the CLE requirement for the lawyer's current compliance period by attendance at approved CLE courses.

3. A violation of the statements in the request or the requirements of the rules or this regulation shall cause the lawyer to be not in compliance with the rules and regulations, and the lawyer shall be placed on inactive status in accordance with the procedures of Section 8 of these regulations.

4. During the period the lawyer is on non-resident active status his or her CLE requirements are deferred.

5. A lawyer who fails to timely reapply for non-resident active status shall be placed on regular active status by the Board, and the deferral of the CLE requirement shall be cancelled.

6. Upon return to active status from non-resident active, the lawyer will have twelve (12) months to complete the deferred CLE requirements, not to exceed two (2) times the current annual CLE requirement, in addition to the CLE credits required for the current year.

Section 7. Lawyer Compliance Determination.

The Board shall maintain current records of CLE attendance for each lawyer to whom the rules and these regulations apply. These records shall be made available as the Board shall determine.

The Board will notify each lawyer of his or her CLE status prior to the final day of the compliance period to which the lawyer has been assigned and will provide a final compliance notice after the end of the compliance period. The CLE requirement must be completed by the final day of the compliance period to which the lawyer has been assigned. The final compliance notice shall include the hours earned during the compliance period which have been reported by providers and carryover hours.

If a lawyer shall disagree with the final compliance notice, the lawyer shall within thirty (30) days of the date thereof notify the Board in writing setting forth the matter in dispute.

Each active lawyer shall maintain records sufficient to establish compliance with the CLE requirement in the event of a dispute with the final compliance report.

Section 8. Compliance Procedures Applicable to Active Lawyers.

(a) If a lawyer fails to comply with any requirement under the rules or these regulations, the Board will send the lawyer a notice of noncompliance.

(b) Such notice shall specify the nature of the lawyer's noncompliance. Within thirty (30) days of the date of the notice, the lawyer shall either file evidence of compliance or request a hearing. The lawyer must within sixty (60) days from the date of the notice comply with the require-

ments of the rules and these regulations. In addition, the lawyer shall pay a late fee as required by the Board.

(c) If the lawyer fails to comply with the requirements of paragraph (b), the Board shall file a report of the lawyer's noncompliance with the Supreme Court, recommending that the lawyer be placed on inactive status.

(d) If the lawyer is able to provide sufficient evidence to establish compliance, the Board may, nevertheless, assess the lawyer a late fee.

(e) Credit hours earned shall be first applied to satisfy the requirements of the compliance period which was the subject of the notice to the lawyer before any excess credits earned during the notice period may be applied to subsequent requirements.

(f) If, in response to the notice of noncompliance, the lawyer timely files a request for a hearing, the Board shall schedule a hearing. The hearing may be conducted by one (1) or more members of the Board or a hearing officer, who should be a lawyer appointed by the Chair of the Board. If the hearing is conducted by more than one (1) person, the Chair of the Board shall designate the person who will act as the presiding hearing officer. The hearing shall be held at least ten (10) days after written notice to the lawyer. Within thirty (30) days after the hearing, the hearing person or body shall submit to the Board findings of fact, conclusions of law and a recommendation which may be approved, modified or rejected by the Board, and no recommendation shall become the finding or determination of the Board until ordered by the Board. Regardless of who conducts the hearing, the findings and determination of the Board shall have the same effect as if the hearing had been conducted by the Board.

(g) The Board may engage special independent counsel to investigate and prosecute to conclusion charges of noncompliance by a lawyer. Fees and expenses of the special independent counsel shall be paid in the first instance by the Board but in cases of a finding of noncompliance, all or a portion of these fees may, at the discretion of the Board, be assessed to the noncomplying lawyer.

(h) If the Board finds that the lawyer was in compliance with the requirements of the rules and these regulations, the lawyer shall be notified and a late filing fee may be assessed at the discretion of the Board.

(i) If the Board finds that the lawyer was not in compliance with the requirements of the rules or these regulations, the Board shall carry out the provisions of paragraph (c) if the requirements of paragraph (b) are not complied with. The Board may assess the costs of the hearing, including the compensation of the hearing officer, room rental, depositions and other hearing expenses upon the lawyer.

(j) If the Board finds that the lawyer had reasonable cause for noncompliance, the lawyer shall have sixty (60) days from the date of notice of the Board's decision to correct the noncompliance. The Board may waive the late filing fee if it so determines. If compliance is not achieved within the sixty (60) day period, the Board shall proceed as provided in paragraph (c).

(k) All hearings shall be public. Witnesses shall be sworn and a complete electronic record or a transcript may be made. The presiding hearing officer shall have authority to rule on all motions, objections and other matters presented.

(l) In investigations and proceedings under the rules and these regulations, the Board shall have power to issue subpoenas and cause testimony to be taken under oath before the Board, Board member(s), or hearing examiner appointed by the Board. All subpoenas shall be issued in the name and under the seal of the Supreme Court and served as provided by the Rules of Civil Procedure. Fees and costs of the subpoenas shall be paid from the funds of the Board or taxed as costs, as determined by the Board.

(m) The Board may order the testimony of a witness to be taken by deposition within or without this Commonwealth in the manner prescribed for the taking of depositions in civil actions and the depositions may be used to the same extent as permitted in civil actions.

(n) The hearing shall result in findings of fact, conclusions of law and recommendations for action with respect to: (1) the lawyer's compliance or noncompliance with the requirements of the rules and these regulations, and (2) a determination of the existence of reasonable cause in the event of a finding of noncompliance. A copy of the same shall be sent to the lawyer.

Section 9. Reinstatement.

(a) A lawyer placed on inactive status for noncompliance under the rules and these regulations may petition the Disciplinary Board of the Supreme Court of Pennsylvania for reinstatement to active status pursuant to the Disciplinary Rules. Upon written request of the lawyer seeking reinstatement, the Board shall certify to the Disciplinary Board whether the lawyer is in compliance. Only verified attendance at sufficient hours of approved CLE activities for all reporting periods from period of noncompliance to the date of the petition for reinstatement shall be deemed in full compliance with the requirements of the rules and these regulations.

(b) Within thirty (30) days after service of the written request for certification, the Board shall make a determination regarding compliance and advise the Disciplinary Board and the lawyer in writing as to the determination.

(c) Upon reinstatement, the lawyer shall pay the Board's reinstatement fee.

Section 10. Reporting Period After Reinstatement.

The first compliance period for a lawyer who is reinstated as an active lawyer following an involuntary transfer from active status for noncompliance under the rules and these regulations or a suspension or disbarment or following resignation shall start on the date of reinstatement and shall end at the conclusion of the lawyer's current compliance period.

Section 11. Accreditation of Accredited Continuing Legal Education Providers.

(a) Application may be made for accreditation as an Accredited Continuing Legal Education Provider by submitting the appropriate form to the Board and paying the required fee.

(b) The grant of accreditation shall be effective for a period of two (2) years from date of the grant. The accreditation may be continued for an additional two (2) year period as follows:

1. The accredited status of a Certified Continuing Legal Education Provider may be continued by filing an application and paying the required fee with the Board before the end of the provider's accreditation period.

2. The Board shall determine if there are pending or past breaches of the rules or these regulations, and the

Board, at its discretion, may condition continuation upon the provider meeting additional requirements specified by the Board.

3. If an application for continuation is timely filed, the accredited status shall continue until the Board acts on the application for continuation.

4. If an application for continuation is not filed before the end of the provider's accreditation period, the provider's accredited status will terminate at the end of the period. Any application received thereafter shall be considered by the Board as an initial application for accredited provider status.

(c) Accredited Continuing Legal Education Provider status may be revoked by the Board if the reporting requirements of these regulations are not met or if, upon review of the provider's performance, the Board determines that content of the course material or the quality of the CLE activities or provider's performance does not meet the standards set forth in the rules and these regulations.

(d) Accredited Continuing Legal Education Provider status may be granted at the discretion of the Board to applicants satisfying the following requirements:

1. The provider has presented, within the past two (2) years, five (5) separate programs of CLE which meets the standards of quality set forth in the rules and these regulations, or

2. The provider has demonstrated to the Board that its CLE activities have consistently met the standards of quality set forth in the rules and these regulations, or

3. Is an American Bar Association accredited law school.

(e) Providers granted such status shall file two (2) written reports with the Board each year at times fixed by the Board. These reports shall describe the CLE activities conducted during the prior six (6) months and shall be in such detail and form as required by the Board.

(f) Providers shall file with the Board an announcement of each CLE activity on a form provided by the Board prior to the presentation of a CLE activity.

Section 12. Accreditation of a Single Course or CLE Activity.

A provider of CLE activities which has not qualified as an Accredited Continuing Legal Education Provider or a lawyer may apply for accreditation of a single CLE activity on a form provided by the Board. The Board may require submission of a detailed description of the provider, the course, the course materials and the lectures.

(a) Application for accreditation of a single CLE activity should be submitted prior to the date of presentation of the activity if possible. Application for retroactive approval must be made within one (1) year of the date of presentation. CLE activities held before January 1, 1994 will not be approved.

(b) Publication that the CLE activity has been accredited is prohibited unless prior written approval is granted by the Board.

(c) The CLE activity must meet the standards set forth in the rules and these regulations.

Section 13. Standards for Approved CLE Activities.

All CLE activities approved for credit shall meet the following standards:

(a) The activity shall have significant intellectual or practical content, the primary objective of which is to improve the participants' professional competence and ethical behavior.

(b) The activity shall be an organized program of learning to deal with matters directly related to subjects which satisfy the objectives of the rules and these regulations.

(c) Each CLE activity shall be open to all lawyers thought to be interested in the subject matter and there shall be no attendance restrictions, except as may be permitted by the Board, upon application from a provider, where:

1. Attendance is restricted on objective criteria for a bona fide educational objective to enhance the CLE activity.

2. Attendance is restricted due to applicable State or federal law.

3. Membership in the provider organization is open to all interested lawyers, on reasonable non-discriminatory basis and cost.

(d) The program leaders or lecturers shall be qualified with the necessary practical and/or academic experience necessary to conduct the program effectively.

(e) Each attendee shall be provided with thorough, high quality and carefully prepared written course materials before or at the time of the activity. Although written materials may not be appropriate to all courses, they are expected to be utilized whenever possible.

(f) The activity must be presented in a suitable setting, conducive to a good educational environment, which provides attendees with adequate writing space or surface.

(g) Upon request by the Board, the provider shall submit to the Board information concerning the activity, including the brochure describing the activity and the qualifications of anticipated speakers, the method or manner of presentation of materials, and, if requested, a set of the materials, as required by Rule 106(c)(3)(b).

(h) The provider shall develop and implement methods to evaluate its course offerings to determine their effectiveness and the extent to which they meet the needs of lawyers and, upon a request from the Board, provide course evaluations by the attendees on such forms as the Board shall approve.

(i) The Board will take into consideration the special needs of handicapped and incapacitated lawyers in gaining access to and participation in CLE activities. The Board shall require providers to make reasonable accommodations for handicapped and incapacitated lawyers.

(j) Self study will not be approved for CLE credit.

(k) In-house activities will not be approved for CLE credit.

(l) Seminars viewed at remote sites by electronic transmission, will receive credit if a moderator is present by a telecommunication facility. The Board may approve CLE courses consisting solely of television viewing in the home, correspondence work or self study to accommodate the needs of the handicapped or incapacitated.

(m) The provider shall monitor the CLE activity for attendance and certify such attendance to the Board.

Section 14. Reporting Duties of All Providers.

Accredited Continuing Legal Education Providers and providers of CLE activities which are accredited in accordance with the rules and these regulations are required to take attendance and to report attendance at each accredited activity to the Board and pay the fees required by Section 18 within thirty (30) days of the completion of the accredited course or activity. This report will be on a form prescribed by the Board. The procedure for completing and filing such reports shall be determined by the Board.

Section 15. Advertising.

(a) *Accreditation.* Where a CLE activity has been accredited or the activity is offered by an Accredited Continuing Legal Education Provider, the provider shall announce, in its brochures and/or registration materials: "This program has been approved by the Pennsylvania Continuing Legal Education Board for [applicable] hours of substantive law, practice and procedure CLE credit and [applicable] hours of ethics, professionalism or substance abuse CLE credit."

(b) *CLE Activities.* Providers are encouraged to widely advertise CLE activities. The Board will make mailing lists of lawyers and its automated telephone service of upcoming CLE activities available to Accredited Continuing Legal Education Providers. The Board may impose a charge for such services.

Section 16. Provider Fees.

(a) All providers of CLE activities, including Accredited Continuing Legal Education Providers, shall, as a condition of accreditation, agree to remit a fee for each active lawyer attending the activity. The fee shall be remitted within thirty (30) days after the activity is held, together with the attendance report required by Section 14. The amount of the fee shall be fixed annually by the Board.

(b) The Board may impose late charges on providers for failure to meet the requirements of the rules or these regulations.

(c) If a provider shall fail to pay any fee or cost established by the Board when due, upon ten (10) days written notice from the Board to the provider, the Board may suspend or terminate the accreditation of the provider or cancel accreditation of any or all of the provider's CLE activities.

(d) If a provider fails to pay to the Board the provider fees required by the Board, the lawyers who attended these accredited activities and who are seeking credit for such attendance, may, in the discretion of the Board, be required to pay the designated fee before receiving such credit.

Section 17. Confidentiality.

The files, records and proceedings of the Board as they relate to or arise out of any alleged failure of a lawyer to satisfy the requirements of the rules or these regulations shall be deemed confidential and shall not be disclosed except in furtherance of the duties of the Board or upon the request of the lawyer affected or as they may be introduced in evidence or otherwise produced in proceedings under these regulations.

Section 18. Board Fee Schedule.

Following is a schedule of fees established by the Board to be paid by providers and lawyers. This schedule will be reviewed annually by the Board and may be modified at any time upon approval by the Pennsylvania Supreme Court.

Fee to accompany application for designation as Accredited Continuing Legal Education Provider	\$ 25.00
Fee to accompany application for continuation as an Accredited Provider	\$ 25.00
Fee per credit hour to be paid by provider with attendance certification	\$ 2.50
Fee per credit hour to be paid by lawyer for certification when fee not paid by provider	\$ 2.50
Fee per credit hour when lawyer requests CLE credit for teaching course	\$ 2.50
Fee to accompany request by lawyer for certified copy of lawyer's record with the Board	\$ 25.00
Filing fee to accompany request for hearing concerning dispute of Board's determination of lawyer's CLE credit	\$ 25.00
Filing fee to accompany request for hearing concerning lawyers noncompliance	\$ 25.00
Filing fee to accompany application for waiver of CLE requirement	\$ 25.00
Filing fee to accompany application for extension to complete CLE requirement	\$ 50.00
Reinstatement fee	\$100.00
Filing fee to accompany request for hearing upon denial of reinstatement	\$ 25.00
Fee for late compliance with CLE requirement	\$100.00
Fee to accompany application to accredit single CLE activity*	\$ 25.00
Fee to accompany application for non-resident active status	\$ 25.00
Charges to be paid by a provider for failure to comply with the rules or these regulations:	
First non-compliance	\$100.00
Second non-compliance	\$200.00
Third non-compliance	\$300.00
Fourth non-compliance	\$400.00
Fifth and succeeding non-compliance	\$500.00

*To be effective for courses held on or after May 1, 1996.

[Pa.B. Doc. No. 96-334. Filed for public inspection March 8, 1996, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

[234 PA. CODE CH. 6000]

Amendments to Rules Governing Writs of Certiorari in Philadelphia Municipal Court; No. 206; Doc. No. 2

Order

Per Curiam:

Now, this 21st day of February, 1996, upon the recommendation of the Criminal Procedural Rules Committee, the proposal having been published before adoption at 18 Pa.B. 1099 (March 12, 1988), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 544, No. 2), and a *Final Report* to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules of Criminal Procedure 6006, 6008, 6009, and 6011 are hereby amended, all in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 1996.

The Criminal Procedural Rules Committee has prepared a *Final Report* explaining the changes which are the subject of the Court's Order. The *Final Report* follows the Court's Order.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 6000. RULES OF CRIMINAL PROCEDURE FOR THE MUNICIPAL COURT OF PHILADELPHIA

Rule 6006. Notice of Right to Appeal [and] or to Petition for Certiorari; Guilty Plea Challenge Procedure.

Immediately after the imposition of sentence, the judge shall inform the defendant:

- (a) in the case of a trial and verdict of guilty [,]:
 - (1) of the right to file a petition for a writ of certiorari within 30 days without costs or to appeal for trial de novo within 30 days without costs [,];
 - (2) of the right to jury trial on appeal [,] and
 - (3) that the charge on which the defendant was found guilty in the Municipal Court will be considered by the district attorney as the basis for the preparation of an information after the filing of the notice of appeal [.];
- (b) in the case of a plea of guilty [,]:
 - (1) of the right to file a motion challenging the validity of the plea or the denial of a motion to withdraw the plea [,];
 - (2) of the 10 day time limit within which such motion must be filed [,];
 - (3) of the right to be represented by counsel in preparing and litigating the motion and to have counsel appointed in the event the defendant is unable to afford counsel [,];
 - (4) of the right to appeal from the final order disposing of the motion within 30 days after such order [, and];
 - (5) that only the claims raised in the motion may be raised on appeal [,] and
 - (c) in any case, of the right to counsel to represent the defendant on appeal and of the right to have counsel appointed to represent the defendant on appeal in the event the defendant is unable to afford counsel.

Official Note: Adopted December 30, 1968, effective January 1, 1969; amended July 1, 1980, effective August 1, 1980; amended February 21, 1996, effective July 1, 1996.

Comment

For the right to file a petition for a writ of certiorari to the court of common pleas, see Article V, Section 26 of the Pennsylvania Constitution, and the Judicial Code, 42 Pa.C.S. § 934. See also *Commonwealth v. Speights*, 509 A.2d 1263 (Pa. Super.

1986) (petition challenging sufficiency of the evidence), and *Commonwealth v. Frazier*, 471 A.2d 866 (Pa. Super. 1984) (petition alleging that judge erred in denying motion to suppress). Certiorari is available in non-summary cases only. Compare Rule 86(g).

Committee Explanatory Reports: Final Report explaining the February 21, 1996 amendments published with the Court's Order at 26 Pa.B. 991 (March 9, 1996).

Rule 6008. [Form of] Contents of Notice of Appeal or Petition for Certiorari.

[The notice of appeal shall be substantially in the following form:]

[Notice of Appeal]

(a) The notice shall state which method of review is being sought in the court of common pleas by indicating whether it is a notice of appeal or notice of a petition for a writ of certiorari.

(b) The notice shall contain the following information:

[(a)] (1) The name and address of the defendant.

[(b)] (2) The date of imposition of sentence.

[(c)] (3) The charges upon which the defendant was convicted.

[(d)] (4) The name of the sentencing judge.

Official Note: Adopted December 30, 1968, effective January 1, 1969; amended February 21, 1996, effective July 1, 1996.

Comment

The notice form previously set forth in this rule was deleted in 1996 because it is no longer necessary to control the specific form by rule.

Committee Explanatory Reports: Final Report explaining the February 21, 1996 amendments published with the Court's Order at 26 Pa.B. 991 (March 9, 1996).

Rule 6009. Notice to Municipal Court Judge and District Attorney of Appeal or of Petition for Certiorari.

The Clerk of Municipal Court shall notify the sentencing judge and the [District Attorney] district attorney of the filing of the appeal or the petition for a writ of certiorari.

Official Note: Adopted December 30, 1968, effective January 1, 1969; amended February 21, 1996, effective July 1, 1996.

Committee Explanatory Reports: Final Report explaining the February 21, 1996 amendments published with the Court's Order at 26 Pa.B. 991 (March 9, 1996).

Rule 6011. Bail.

(a) Prior to verdict, an existing bail order may be modified by a Municipal Court judge in a Municipal Court case in the same manner as a judge of the court of common pleas may modify a bail order pursuant to Rule 4008(b), (c), and (d).

(b) In all cases in which a sentence is imposed, the execution of sentence shall be stayed and the bail previously set shall continue, except as provided in this rule.

(1) If a notice of appeal or a petition for a writ of certiorari is not filed within 30 days, the judge shall direct the defendant to appear before the judge for the execution of sentence.

(2) If a notice of appeal is filed within 30 days, the bail previously set shall continue.

(3) If a petition for a writ of certiorari is filed within 30 days, bail shall be determined as provided in Rule 4009(B)(1) and (2).

(c) The attorney for the Commonwealth may make application to the Court of Common Pleas to increase the amount of bail upon cause shown.

Official Note: Adopted December 30, 1968, effective January 1, 1969; amended July 1, 1980, effective August 1, 1980; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; amended February 21, 1996, effective July 1, 1996.

Comment

Paragraph (a) was added in 1995 to conform the practice for Municipal Court judges modifying a bail order before verdict in Municipal Court cases with the practice set forth in Rule 4008 for judges of the common pleas court.

[The 1995 amendments to paragraphs (b) and (c) are editorial changes and are not intended to change present practice.]

Committee Explanatory Reports: Final Report explaining the September 13, 1995 amendments published with Court's Order at 25 Pa.B. 4116 (September 30, 1995).

Final Report explaining the February 21, 1996 amendments published with the Court's Order at 26 Pa.B. 991 (March 9, 1996).

FINAL REPORT

Amendments to Chapter 6000: Writs of Certiorari in Philadelphia Municipal Court

On February 21, 1996, upon the recommendation of the Criminal Procedural Rules Committee, the Supreme Court of Pennsylvania amended Rules of Criminal Procedure 6006, 6008, 6009, and 6011 to expressly recognize petitions for writs of certiorari from the Philadelphia Court of Common Pleas, a procedure already in practice in Municipal Court cases and provided for by law. PA. CONST. Art. V, § 26; 42 Pa.C.S. § 934.

The consideration of the procedures for writs of certiorari arose during the course of the Committee's examination of post-verdict procedures. Several members noted that, although the Philadelphia Public Defender's office utilized petitions for writs of certiorari fairly frequently, many members of the private bar apparently were not aware of the continued availability of certiorari as an alternative to an appeal for a trial de novo in the court of common pleas. We therefore agreed that the rules should expressly provide for this procedure. An explanation of the rule changes follows.

1. Rule 6006 (Notice of Right to Appeal or to Petition for Certiorari; Guilty Plea Challenge Procedure)

(a) Paragraph (a) has been amended to provide notice to the defendant of the right to petition for a writ of certiorari or to appeal for a trial de novo within thirty days of sentencing. Worded in the disjunctive, the amend-

ment makes it clear that defendants may petition for a writ of certiorari or appeal for a trial de novo, but not both.

(b) The revised *Comment* provides the constitutional and statutory bases for writs of certiorari, and cites two cases which illustrate the function of the writ in Municipal Court cases. See *Commonwealth v. Speights*, 509 A.2d 1263 (Pa. Super. 1986) (petition challenging sufficiency of the evidence), and *Commonwealth v. Frazier*, 471 A.2d 866 (Pa. Super. 1984) (petition alleging that judge erred in denying motion to suppress).

2. Rule 6008 (Contents of Notice of Appeal or Petition for Certiorari)

Originally a "form" rule, Rule 6008 has been made a "content" rule, in keeping with the Committee's general policy that forms should be developed administratively and not by rule. In addition, the rule now includes the required contents for the notice of a petition for certiorari.

3. Rule 6009 (Notice to Municipal Court Judge and District Attorney of Appeal or of Petition for Certiorari)

The amendment to Rule 6009 requires that the defendant give notice of the filing of a petition for certiorari to the Municipal Court judge and the district attorney.

4. Rule 6011 (Bail)

(a) The procedures governing bail after a sentence is imposed in a Municipal Court case have been expanded to provide for bail when notice of a petition for certiorari has been filed.

(b) The amendments clarify the different bail considerations implicated when notice of a petition for a writ of certiorari (rather than an appeal) has been filed. When an appeal is filed for a trial de novo, it makes sense for the amount of bail set for the Municipal Court trial to continue, because the appeal from the Municipal Court conviction voids the original trial. A petition for certiorari, on the other hand, leaves the conviction intact and seeks review on a pure question of law. As such, the case is in an "after-sentencing" posture for the purposes of bail, and the bail set for the Municipal Court trial should be reconsidered. To make these distinctions clear, paragraph (b)(2) provides that if a notice of appeal for a trial de novo is filed, the bail previously set continues. Under paragraph (b)(3), if a petition for certiorari is filed, the general rule governing bail after sentencing applies. See Pa.R. Crim.P. 4009(B)(1) and (2), effective April 1, 1996.

[Pa.B. Doc. No. 96-335. Filed for public inspection March 8, 1996, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Amendment to Rules of Civil Procedure—Rule 131

Order

And Now, this 20th day of February, 1996, the following amendment to the Rules of Civil Procedure—Rule 131. Self Representation was amended at the Board of Judges meeting, as General Court Regulation 96-1-MC.

This Order, becomes effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

ALAN K. SILBERSTEIN,
President Judge

Rule 131. Self Representation.

A corporation or unincorporated association must be represented by an attorney except when damages are not in excess of [\$1000.] \$2,500.00. In such cases, a corporation or unincorporated association may be represented by an officer who has documentation of such status.

[Pa.B. Doc. No. 96-336. Filed for public inspection March 8, 1996, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LEHIGH COUNTY

Administrative Order Establishing Costs for Competency/Accountability Programs (CAP); File No. 96-M11996

And Now, this 16th day of February 1996, *It Is Ordered* that the following Administrative Order relating to Establishing Costs for Competency/Accountability Programs for the 31st Judicial District composed of Lehigh County be, and the same is, promulgated herewith, to become effective thirty (30) days after the publication of the rule in the *Pennsylvania Bulletin*; that seven (7) certified copies shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee; and that one (1) copy shall be filed with the Clerk of Courts of Common Pleas of Lehigh County.

Order

And Now, this 16th day of February 1996, in accordance with 42 Pa.C.S. § 9729 (relating to Intermediate Punishment), every person placed into a Competency/Accountability Program (CAP), shall pay, in addition to the costs of prosecution, fines, supervision fees, and restitution, a daily fee of one dollar (\$1.00) as cost of participation in said program, an Intermediate Punish-

ment Program approved by the Pennsylvania Commission on Crime and Delinquency.

This Order shall be effective April 1, 1996.

By the Court

JAMES N. DIEFENDERFER,
President Judge

[Pa.B. Doc. No. 96-337. Filed for public inspection March 8, 1996, 9:00 a.m.]

LEHIGH COUNTY

Administrative Order Establishing Costs for Urinalysis; File No 95-M11996

And Now, this 16th day of February 1996, *It Is Ordered* that the following Administrative Order relating to Establishing Costs for Urinalysis for the 31st Judicial District composed of Lehigh County be, and the same is, promulgated herewith, to become effective thirty (30) days after the publication of the rule in the *Pennsylvania Bulletin*; that seven (7) certified copies shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee; and that one (1) copy shall be filed with the Clerk of Courts of Common Pleas of Lehigh County.

Order

And Now, this 16th day of February 1996, in accordance with 42 Pa.C.S. § 9729 (relating to Intermediate Punishment), every person tested by the Lehigh County Adult Probation Department for use of drugs and alcohol, shall pay, in addition to the costs of prosecution, fines, supervision fees, and restitution, a fee of two dollars and fifty cents (\$2.50) as costs of urinalysis, an Intermediate Punishment Program approved by the Pennsylvania Commission on Crime and Delinquency.

This Order shall be effective April 1, 1996.

By the Court

JAMES N. DIEFENDERFER,
President Judge

[Pa.B. Doc. No. 96-338. Filed for public inspection March 8, 1996, 9:00 a.m.]