

CHAPTER 41 CONTINUING LEGAL EDUCATION FOR LAWYERS

Rule 41.1 Purpose. Only by continuing their legal education throughout their period of the practice of law can attorneys fulfill their obligation competently to serve their clients. Failure to do so ~~shall~~will be grounds for disciplinary action by the supreme court. This chapter establishes minimum requirements for such continuing legal education and the means by which the requirements ~~shall~~will be enforced.

Rule 41.2 Continuing legal education commission.

41.2(1) There is hereby established a ~~commission on continuing legal education~~Commission on Continuing Legal Education (commission) consisting of 12 members. The supreme court ~~shall~~will appoint to the commission ~~ten~~10 resident members of this state who are currently licensed to practice law in the ~~state~~State of Iowa, and ~~two~~2 residents of this state who are not lawyers. The court ~~shall~~must designate from among the members of the commission a chair who ~~shall~~will serve ~~as such~~ at the pleasure of the court. ~~Of the members first appointed to the commission four shall serve a term of three years, four shall serve a term of four years, and four shall serve a term of five years. Members thereafter appointed~~All members, except for those appointed to fill unexpired terms, ~~shall~~be appointed for a term of three years. No member ~~shall~~can serve more than two consecutive complete terms as a member of the commission. The supreme court ~~shall~~may adopt rules and regulations governing the operations and activities of the commission.

41.2(2) The commission ~~shall have~~has the following duties:

- a. To exercise general supervisory authority over the administration of this chapter.
- b. To accredit courses, programs, and other educational activities ~~which~~that will satisfy the educational requirements of this chapter; all being subject to continuous review by the commission.
- c. To foster and encourage the offering of such courses, programs and educational activities.
- d. To submit to the supreme court proposed rules and regulations⁺ not inconsistent with this chapter to govern the operations and activities of the commission. See chapter 42 of the Iowa Court Rules.
- e. Subject to the approval of the supreme court, to employ such persons as it deems necessary for the proper administration of this chapter.
- f. To make recommendations to the supreme court concerning this chapter and the enforcement thereof;
- g. ~~to~~To present an annual budget and a recommended annual fee for costs of administering this chapter.
- g~~h~~. To report promptly to the supreme court concerning any violation of this chapter by any member of the bar of this state.

⁺ ~~See chapter 42 of the Iowa Court Rules.~~

~~hi. On~~ To file with the supreme court on March 1 of each year, and at such additional times as the supreme court may order, ~~the commission shall file with the supreme court~~ a written report reviewing in detail the activities of the commission during the preceding calendar year together with an audit of commission funds certified by a certified public accountant licensed to practice in Iowa.

41.2(3) Members of the commission ~~shall~~will not be compensated but ~~shall~~may be reimbursed for expenses incurred by them in the performance of their duties upon vouchers approved by the supreme court.

Rule 41.3 Continuing legal education requirement.

41.3(1) Each attorney admitted to practice in this state ~~shall~~must complete a minimum of 15 hours of legal education accredited by the commission; during each calendar year. The commission is authorized; pursuant to guidelines established by the supreme court; to determine the number of hours for which credit will be given for particular courses, programs, or other legal education activities. Under rules to be promulgated by the supreme court, an attorney may be given credit in one or more succeeding calendar years, not exceeding two such years, for completing more than 15 hours of accredited education during any one calendar year.

41.3(2) The 15 hours required by rule 41.3(1) ~~shall~~must include a minimum of 3 hours, every two calendar years, devoted exclusively to the area of legal ethics. Excess hours of education devoted to legal ethics can be carried over for purposes of the annual 15-hour requirement under rule 41.3(1) but cannot be carried over beyond the two-year period for the special legal ethics requirement under this rule.

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Rule 41.4 Annual fee and report by attorneys to commission.

41.4(1) On or before March 10 of each year, each attorney admitted to practice in this state ~~shall~~must pay to the commission a prescribed fee for costs of administering this chapter.

41.4(2) On or before March 10 of each year, each attorney admitted to practice in this state ~~shall~~must make a written report to the commission, in such form as the commission ~~shall~~prescribe~~prescribes~~, concerning completion of accredited legal education during the preceding calendar year; ~~provided, however~~However, ~~that~~ an attorney ~~shall~~is not ~~be~~ required to comply with this rule or comply with the continuing legal education requirements set forth in rule 41.3 for the year during which the attorney was admitted to practice in this state. Each annual report ~~shall~~must be accompanied by proof satisfactory to the commission that the attorney has met the requirements for continuing legal education for the calendar year for which such report is made.

41.4(3) Each attorney admitted to practice in this state ~~shall~~must make a written report to the commission, in such form as the commission ~~shall~~prescribe~~prescribes~~, concerning completion of accredited legal ethics education. The report is to be filed on or before March 10 following completion of each two-year period under the requirement. An attorney ~~shall~~is not ~~be~~ required to comply with this requirement for the year of admission to practice.

41.4(4) All attorneys who fail by March 10 of each year to file the annual report or to pay the prescribed fee ~~shall~~must, in addition, pay a penalty as set forth in the following schedule if either the annual report is filed or the prescribed fee is paid after March 10. The penalty fees collected

~~shall~~**must** be used to pay the costs of administering this chapter, or for such other purposes within the office of professional regulation as the supreme court may direct.

Penalty ~~Schedule~~schedule:

If Filed <u>filed</u> :	Penalty:
After March 10 but before April 12	\$100
After April 11 but before May 12	\$150
After May 11 but before June 12	\$200
<u>After June 11</u>	<u>\$250</u>

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Rule 41.5 Penalty for failure to satisfy continuing legal education requirements.

41.5(1) Attorneys who fail to comply with the provisions of rule 41.4 or who file a report showing on its face that they have failed to complete the required number of hours of continuing legal education may have their right to practice law suspended by the supreme court, provided that at least 15 days prior to such suspension, notice of such delinquency has been served upon them in the manner provided for the service of original notices in Iowa ~~R.~~ Civ. P. Rule of Civil Procedure 1.305 or has been forwarded to them by restricted certified mail, return receipt requested, addressed to them at their last-known address. Such attorneys ~~shall~~**must** be given the opportunity during said 15 days to file in the office of professional regulation an affidavit disclosing facts demonstrating their noncompliance was not willful and tendering such documents and sums and penalties which, if accepted, would cure the delinquency, or to file in duplicate in the office of clerk of the supreme court a request for hearing to show cause why their license to practice law should not be suspended. A hearing ~~shall~~**must** be granted if requested. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, an attorney is suspended, the attorney ~~shall~~**will** be notified thereof by either of the two methods above provided for notice of delinquency.

41.5(2) Any attorney suspended pursuant to this chapter ~~shall~~**must** do all of the following:

a. Within 15 days in the absence of co-counsel, notify clients in all pending matters to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another ~~lawyer~~attorney.

b. Within 15 days, deliver to all clients being represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.

c. Within 30 days, refund any part of any fees paid in advance that have not been earned.

d. Within 15 days, notify opposing counsel in pending litigation or, in the absence of such counsel, the adverse parties, of the suspension and consequent disqualification to act as a lawyer after the effective date of such discipline.

e. Within 15 days, file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.

f. Keep and maintain records of the steps taken to accomplish the ~~foregoing~~requirements of this rule.

g. Within 30 days, file ~~proof~~ with the supreme court and with the Iowa Supreme Court Attorney Disciplinary Board proof of complete performance of the foregoing, ~~and this shall be~~which is a condition for application for readmission to practice.

41.5(3) Any attorney suspended pursuant to this chapter ~~shall~~must refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, ~~including a~~conservatorship, or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

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41.5(5) For good cause shown, the commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the ~~same~~requirements or make the required reports.

Rule 41.6 Confidentiality. Unless otherwise directed by the supreme court, the files, records and proceedings of the commission, as they relate to or arise out of any failure of any attorney to satisfy the requirements of this chapter, ~~shall be~~are deemed confidential and ~~shall~~must not be disclosed, except in furtherance of ~~its~~the commission's duties or upon the request of the attorney affected, or as they may be introduced in evidence or otherwise produced in proceedings taken in accordance with this chapter.

Rule 41.7 Inactive practitioners. A member of the bar who is not engaged in the practice of law in the ~~state~~State of Iowa as defined in Iowa ~~Ct. R.~~Court Rule 39.7, upon application to the commission, may be granted a waiver of compliance with this chapter and obtain a certificate of exemption. No person holding such certificate of exemption ~~shall~~is permitted to practice law in this state until reinstated. The supreme court will make rules and regulations governing the continuing legal education requirements for reinstatement of attorneys who, for any reason, have not ~~theretofore~~ been entitled to practice law in this state for any period of time subsequent to their admission to the bar. Applications for a certificate of exemption must be submitted concurrently under ~~rules~~Iowa Court Rules 39.7, 42.6, and this rule.

Rule 41.8 Application of this chapter. This chapter ~~shall~~apply to every person licensed to practice law in the ~~state~~State of Iowa.

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Rule 41.10 Reinstatement from suspension.

41.10(1) An attorney who has been suspended for failure to pay the annual fee, complete required continuing legal education, or file the annual report required by rule 41.4 may be

reinstated upon a showing that such failure was not willful and by filing such report showing completion of all continuing legal education required by ~~Iowa Ct. Rs. rules~~ 41.3 and 42.2 through the end of the last complete reporting year. An attorney seeking reinstatement after suspension for failure to comply with the provisions of this rule ~~shall~~must pay all delinquent fees and late filing penalties due under rule 41.4 and a reinstatement fee of \$100.00.

41.10(2) An attorney who seeks or applies for reinstatement from suspension under the provisions of chapter 35 of the Iowa Court Rules must first file the annual report required by rule 41.4 showing completion of all continuing legal education required by ~~Iowa Ct. Rs. rules~~ 41.3 and 42.2 through the end of the last complete reporting year, pay all fees and late filing penalties due under rule 41.4 and unpaid at the time of the suspension, and pay a reinstatement fee of \$100.00. The commission may grant an attorney additional time after the effective reinstatement date, on such terms and conditions as it may prescribe, to complete and furnish evidence of compliance with these continuing legal education requirements.

Rule 41.11 Denial of reinstatement for failure to comply with certain obligations.

41.11(1) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the ~~Centralized-Central~~ Collection Unit of the Iowa Department of Revenue.* The supreme court may deny a lawyer's application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the ~~Centralized-Central~~ Collection Unit of the Iowa Department of Revenue. The procedure ~~shall be~~is governed by ~~rule-Iowa Court Rule 35.22~~34.22.

41.11(2) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission.* The supreme court may deny ~~a lawyer's~~an attorney's application for reinstatement under ~~rule-Iowa Court Rule~~ 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. The procedure ~~shall~~is be governed by ~~rule-35.21~~Iowa Court Rule 34.21.

41.11(3) *Denial of reinstatement for failure to comply with a support order.* The supreme court may deny ~~a lawyer's~~an attorney's application for reinstatement under ~~rule-Iowa Court Rule~~ 41.7 or 41.10 for failure to comply with a support order. The procedure ~~shall be~~is governed by rule ~~35.20~~34.20.

Rule 41.12 Basic skills course requirement.

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41.12(2) The Basic Skills Course must total at least eight actual hours of instruction and include at least one actual hour qualifying for credit in the area of legal ethics. The course ~~shall~~will include instruction on Iowa law selected from at least eight of the following topic areas:

- Civil Procedure
- Criminal Law
- Criminal Procedure
- Family Law
- Guardianships, Conservatorships, Trusts, and Powers of Appointment
- Business Entities

Probate
Torts
Contracts
Real Estate Transactions
Ethics and Professionalism

41.12(3) Newly admitted ~~lawyers-attorneys~~ shall be entitled to claim credit for attendance at an accredited Basic Skills Course against the continuing legal education requirements of rules 41.3 and 42.2, but are not exempt from reporting and fee payment duties of rule 41.4.

41.12(4) ~~A lawyer~~ An attorney who fails to complete the Basic Skills Course within one year of the date of admission may have the right to practice law suspended under the provisions of rule 41.5.

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41.12(6) The Basic Skills Course may be offered by any provider of continuing legal education, but must be reviewed and accredited by the Commission on Continuing Legal Education as provided in ~~rule-Iowa Court Rule~~ 42.4. The Basic Skills Course may be conducted in installments over time, and may be offered by computer-based transmission as provided in ~~rule-Iowa Court Rule~~ 42.3. Any provider of the Basic Skills Course is required to report attendance in the manner specified by the commission.

Rule 41.13 Retired practitioners.

41.13(1) *Certificate of retirement.* A member of the bar of the supreme court who is fully retired from the practice of law in the ~~state-State~~ of Iowa and does not intend ever again to practice law in Iowa may be granted a certificate of retirement. Thereafter, no continuing legal education, annual report, or annual fee is required from such member. A member granted a certificate of retirement is not entitled to practice law in the ~~state-State~~ of Iowa and may not apply for reinstatement, but the member may be certified as an emeritus attorney under ~~rule-Iowa Court Rule~~ 31.19. A member granted a certificate of retirement who desires to again practice law other than as an emeritus attorney must seek admission under the provisions of chapter 31 of the Iowa Court Rules. A member of the bar requesting a certificate of retirement ~~shall~~must file with the director an application in such form as the director may deem necessary to determine the member's status. Applications for a certificate of retirement must be submitted concurrently under ~~rule-rules~~ 39.7(2) and ~~rule~~-41.13(1).

41.13(2) *Transition provisions.*

a. The provisions of rule 41.13(1) regarding a separate fully retired status and the provisions of rules 41.7 and 42.6 regarding concurrent applications for exempt status are effective January 1, 2018.

b. On or before December 31, 2017, attorneys in active status may apply for and be granted exempt status under rules 41.7 and 42.6 or emeritus status under rule 31.19.

c. On or after January 1, 2018, attorneys in active status may apply for and be granted exempt status under rules 41.7 and 42.6, emeritus status under rule 31.19, or retired status under rule 41.13(1).

d. Attorneys in active status under rules 41.7 and 42.6 but exempt status under rule 39.7 as of December 31, 2017, will be administratively transferred to exempt status under rules 41.7 and

42.6 as of January 1, 2018. Attorneys administratively transferred to exempt status under this provision nonetheless will be allowed to record their continuing legal education attendance on their attorney account pages while in exempt status.