

STATE OF VERMONT
VERMONT SUPREME COURT
_____ TERM, 2008

**Order Promulgating Amendments to § 3
of the Rules for Mandatory Continuing Legal Education**

Pursuant to Chapter II, Section 37, of the Vermont Constitution and 12 V.S.A. § 1, it is hereby ordered:

1. That § 3(b) of the Rules for Mandatory Continuing Legal Education §3 is amended to read as follows: (new matter underlined):

(a) Every licensed attorney admitted to the Bar of the Supreme Court shall complete twenty hours of accredited continuing legal education during each two year compliance period established by these rules:

(b) At least two of the twenty hours required by paragraph (a), above, shall be devoted to continuing legal education specifically addressed to legal ethics and at least two hours shall be devoted to education specifically in the area of professionalism. The courses meeting the professionalism requirement shall be pre-approved by the Board of Continuing Legal Education.

(1) While courses that qualify for ethics credits should focus specifically on the Rules of Professional Conduct and their applicability to specific problems and situations lawyers face in their practice, courses that qualify for professionalism credits address conduct consistent with the tenets of the legal profession as demonstrated by a lawyer's civility, honesty, integrity, character, fairness, competence, attention to mental and physical health, public service, and respect for the rule of law, the courts, clients, other lawyers and parties. While courses related to the subject of law office management may satisfy this requirement, the substance of these courses shall be directed to a discussion of the areas described above and not merely education related to management tools, technology and the like. Courses meeting the professionalism requirement must be live, face to face and participatory and may not be fulfilled by self-study.

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Reporter's Note – 2008 Amendment

The practice of law and the legal profession have undergone radical changes with developments in technology and through societal evolution. As a result, practicing attorneys currently are exposed to pressures from clients, courts, and general business concerns that have not existed in the past. These pressures place additional stress on attorneys, both personally and professionally, and may have a direct and significant impact on the ability of attorneys to provide proper and competent legal services to the public. The result, too often, is to undermine public confidence in the legal profession and the integrity of the entire justice system.

In an effort to address the concerns and issues identified above, the Vermont Bar Association's Roundtable on the Profession appointed a sub-committee to investigate existing programs and additional opportunities, including attorney education, public education, and stress treatment options. The purpose of this investigation was to seek ways to improve the quality of legal services through the promotion of programs and education designed to address the physical and emotional well being of practicing attorneys, all of which would enhance the integrity of the justice system. The continuing legal education requirements set forth in the amended rules and accompanying regulation represent the recommendations of the Roundtable as adopted by the Mandatory Continuing Legal Education Board.

The Vermont Rules of Professional Conduct set the floor that supports one's status as a lawyer in good standing. Professionalism is the ceiling or higher standard to which all lawyers should aspire. Professionalism embodies tenets such as honesty, civility, integrity, character, physical and emotional fitness, fairness, competence, ethical conduct, public service and respect for the rule of law, the courts, clients, other lawyers, witnesses, and unrepresented parties.

Laws and the Rules of Professional Conduct establish minimal standards of consensus impropriety; they do not define the criteria for truly ethical behavior. In the traditional sense, persons are not "ethical" simply because they act lawfully or even within the bounds of an official code of ethics. People can be dishonest, unprincipled, untrustworthy, unfair, and uncaring without breaking the law or the code. Truly ethical people measure their conduct not by rules but by basic moral principles such as honesty, integrity, and fairness.

"Ethics" are commonly understood in the CLE context to mean "the law of lawyering" and the rules by which lawyers must abide in order to remain in good standing before the bar. "Professionalism" harkens back to the traditional meaning of ethics discussed above. The Supreme Court believes that lawyers should remember, in counseling clients and determining their own behavior, that the letter of the law is only a minimal threshold describing what is legally possible, while professionalism is meant to address the aspirations of the profession and how we as lawyers should behave. Ethics discussions tend to focus on misconduct--the negative dimensions of lawyering. Professionalism discussions should have an affirmative dimension--a focus on helping, caring, protecting, counseling, and setting a good example.

The general goal of the Vermont professionalism CLE requirement is, therefore, to create a forum in which lawyers, judges and legal educators can explore and reflect upon the meaning and goals of professionalism in contemporary legal practice. Building a community among the lawyers of this state is a specific goal of this requirement.

It is the intent and the goal of the professionalism educational requirements to address the needs of attorneys in terms of those factors that directly, as well as indirectly, affect the justice system and the delivery of competent legal services. The professionalism educational requirements are intended to protect, enhance and promote knowledge, confidence, and respect for the justice system by promoting the health, competence, and integrity of attorneys engaged in the practice of law.

2. That these rules as amended or added are prescribed and promulgated to become effective on _____. The Reporter's Notes are advisory.

3. That the Chief Justice is authorized to report these amendments to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont this ____ day of _____, 2008.

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice