

STATE OF VERMONT
VERMONT SUPREME COURT
_____ TERM, 2008

**Order Promulgating Amendments to §§ 4(a)(1)(2)(3), 6(a)(b)(c)(e)(i), 8(a)
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 § 4(a)(1)(2)(3) of the Rules for Mandatory Continuing Legal Education is amended to read as follows (new matter underlined, deleted matter overstruck):

§ 4. Accreditation

(a) Educational activity shall be eligible for accreditation to satisfy the requirements of these rules if it has significant intellectual and practical content directed at increasing the professional competence of attorneys and is of the nature listed below:

(1) Law school or other classroom instruction or educational seminars with substantial written material available, whether conducted by live speakers, lecturers, panel members, video or audio tape presentation, in a classroom setting with a group of not fewer than three individuals. For video replays or computer generated courses to count as live credit, an expert moderator needs to be monitoring to answer questions and/or lead discussion; or

(2) Self-study ~~in graded courses~~ meaning individually viewing pre-recorded presentations and is limited to 10 hours per reporting period; or

(3) With prior approval, independent study in supervised and graded courses.

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Reporter's Notes - 2008 Amendment

Rule 4 governs the accreditation of continuing legal educational activity. The changes proposed to the Rule are designed to clarify credit available for programs involving electronic media and self study.

With respect to electronic media, Rule 4(a)(1) has been amended to clarify that video replays of courses and computer-generated courses may qualify for live study credit if the program has a moderator present or available to facilitate questions or discussion contemporaneous with the program.

With respect to self-study CLE, the Board limits self-study credit to ten (10) of the minimum twenty (20) hours of CLE required in each reporting period. The amendments to Rule 4(a)(2) and (3) are intended to clarify the rules with respect to self-study courses, and to confirm the limit of ten (10) hours per reporting period of credit from self-study versus live program. The amendment to Rule 4(a)(3) also is to emphasize that credit for independent course work completed by a practitioner must (i) be approved by the Board prior to credit being sought, and (ii) involve a supervised and graded course.

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2. That § 6(a)(b)(c)(e) and (i) of the Rules for Mandatory Continuing Legal Education is amended to read as follows (new matter underlined, deleted matter overstruck):

§ 6. Procedure

(a) The continuing legal education reporting requirement imposed by these rules shall be effective from and after July 1, 1999. All licensed attorneys are divided into two groups of approximately equal numbers. The first group shall be required to complete twenty hours of continuing legal education within two years after July 1, 1999, and thereafter all licensed attorneys in the first group shall complete twenty hours of continuing legal education during each subsequent two-year compliance period. The second group shall be required to complete twenty hours of continuing legal education within two years of July 1, 2000, and thereafter all licensed attorneys in the second group shall complete twenty hours of continuing legal education during each subsequent two-year compliance period. For licensed attorneys admitted to practice after July 1, 1999, the reporting period shall commence on the date of admission and end on ~~July 1st~~ June 30 of the second full year following the year of admission.

(b) Before ~~June 30~~ June 1 of each subsequent year, the Board shall cause to be sent to each attorney subject to reporting for that period a form affidavit for the recording and reporting of compliance with these rules.

(c) No later than ~~July 2nd~~ July 1st following the end of each applicable reporting period, each licensed attorney shall submit an affidavit attesting to the total hours of continuing legal education (~~up to~~ a minimum of twenty hours) that the attorney has completed during such period.

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(e) If an answer pursuant to subdivision (3) of paragraph (d) above is filed and the answer does not admit noncompliance, the Board shall schedule a hearing on the question of compliance within thirty days of the filing. Notice of the date, time and place of said hearing shall be given to the attorney at least ten days prior thereto. The attorney shall bear the burden of establishing compliance with the substance of these rules. The attorney may be represented by counsel. Witnesses shall be sworn; and if requested by the attorney a complete electronic recording shall be made of all proceedings and all testimony taken. The chairperson, or other presiding member of the Board, shall have the authority to determine all motions, objections and other matters presented in connection with the hearing. The hearing shall be conducted in conformity with the Vermont Rules of Civil Procedure. The presiding officer of the Board and the ~~in~~ attorney shall have the right to subpoena witnesses for said hearing. Application for a subpoena,

including a subpoena duces tecum, shall be made to the Clerk of the Supreme Court, who shall issue the same.

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(i) An attorney who has been suspended pursuant to order of the Court for noncompliance shall be deemed to be without a license to practice law pursuant to ~~the Rules for Annual Licensing of Attorneys~~ Administrative Order No. 41, Licensing of Attorneys, § 2 and, in the event the attorney should practice law during the period of suspension, the attorney may be punished for unauthorized practice of law.

Reporter's Notes - 2008 Amendment

Rule 6 governs the procedure for continuing legal education credit. The amendments to Rule 6 align the CLE reporting period under this Rule with the attorney licensing reporting period and to correct a typographical error in Rule 6(e). The change in Section 6(c) is also to confirm that, in accordance with Rule 3(a), a minimum of twenty hours of continuing legal education is required for each licensing period.

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3. That § 8(a) of the Rules for Mandatory Continuing Legal Education is amended to read as follows (new matter underlined, deleted matter overstruck):

§ 8. Inactive attorneys

(a) An attorney who is exempt from licensure shall be relieved thereby from the requirements of these rules during the period of exemption of said attorney. Upon application for reinstatement and issuance of a license to practice law pursuant to ~~Rules for Annual Licensing of Attorneys~~ Administrative Order No. 41, Licensing of Attorneys, the compliance period of the attorney shall commence on the date of reinstatement and end on June 1st 30th of the second full year following the year of reinstatement, provided the date of reinstatement is more than one year from the date of transfer to inactive status. Otherwise the compliance period shall be the same as it would have been absent inactive status. No attorney shall be permitted to transfer from active status to inactive status and vice versa in order to circumvent the requirements of these rules.

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Reporter's Notes - 2008 Amendment

Rule 8 governs inactive attorneys. The change in Rule 8 updates the title of the rules regarding the licensing of attorneys and aligns the reporting period with the attorney licensing rules.

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

5. 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

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