

SUPREME COURT OF VERMONT
OFFICE OF THE COURT ADMINISTRATOR

PATRICIA GABEL, ESQ.
State Court Administrator
patricia.gabel@vermont.gov



www.vermontjudiciary.org

Mailing Address
Office of the Court Administrator
109 State Street
Montpelier, VT 05609-0701

Telephone (802) 828-3278
FAX: 802 828-3457

TO: Members of the Vermont Bar

FROM: Patricia Gabel, Esq., State Court Administrator

RE: Sixteenth Amendment to A.O. 49, Promulgated, Proposed Rules & Miscellaneous Information

DATE: November 3, 2020

For your information, please find:

- [AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 11-2-20](#)
- [Order Promulgating Amendments to Administrative Order No. 9, Permanent Rules Governing Establishment and Operation of the Professional Responsibility Program](#)
- [Proposed Order Abrogating and Replacing Rule 16 of the of the Vermont Rules of Admission](#)
- *Odyssey Electronic Filing & Other Important Info*
- *Updated Court Forms*
- *Obligations Under A.O. 41*
- *eCabinet Registration*

I. PROMULGATED RULE AMENDMENTS

- a. [AO 49 Amendment - Declaration of Judicial Emergency and Changes to Court Procedures 11-2-20](#)

This Order was promulgated on November 2, 2020, effective immediately.

This order further amends A.O. 49, which declared a Judicial Emergency on March 16, 2020, in response to the COVID-19 pandemic.

The amendment lifts the ban on evidentiary hearings for Boards and Committees of the Supreme Court. Under the revised language, Boards and Panels can hold evidentiary hearings subject to the availability of adequate staffing and resources. The amendment directs that hearings should be conducted by remote video or audio technology to the maximum extent possible. The Boards or Panels may preside remotely and require participants to participate or testify remotely. Any objection to the use of remote audio or video technology will be evaluated by the Board or Panel using the standards in Vermont Rule of Civil Procedure 43.1. If the Board or Panel concludes that it is necessary to preside in person or have some or all participants in person, the protocols for entering judiciary buildings, including screening and social distancing, must be followed.

The full Order and other updates regarding the Coronavirus Disease 2019 (COVID-19) and court operations are available at [<https://www.vermontjudiciary.org/about-vermont-judiciary/covid-19-and-court-operations>]

- b. [*Order Promulgating Amendments to Administrative Order No. 9, Permanent Rules Governing Establishment and Operation of the Professional Responsibility Program*](#)

This Order was promulgated on November 2, 2020; effective February 1, 2021.

Vermont's Professional Responsibility Program has long focused on prevention and education as much as on disciplinary prosecution. Assisting attorneys to achieve professional competence is as critical to an effective system of attorney regulation as investigating and prosecuting violations of the Rules of Professional Conduct. Proactive regulation serves to protect the public and instill confidence in the profession while promoting professionalism and civility.

The amendments to A.O. 9 establish a Bar Assistance Program within the purview of the Professional Responsibility Board. The program will continue to provide guidance and educational programs on "traditional" legal ethics and professional responsibility. In addition, the Bar Assistance Program will assist by:

- developing programs to educate judges, lawyers, legal professionals, law students, and the public on issues related to professional competence, professional responsibility, legal ethics, law practice management, and behavioral health issues that impact the practice of law;
- developing programs that promote lawyer wellness and educate judges, lawyers, legal professionals, and law students on issues related to the signs, symptoms, causes, and prevention of behavioral health issues that affect professional competence and impact the practice of law; and
- helping impaired lawyers and judges to begin and continue recovery.

The amendment assigns Bar Counsel with the responsibility for operating the Bar Assistance Program. Although Bar Counsel will continue to respond to ethics inquires, Bar Counsel will not have any role in screening formal disciplinary complaints. The amendment assigns this task to Screening Counsel. The proposed rules contain a confidentiality provision, specifying that information related to the operation of the Bar Assistance Program is confidential except for a limited list of exceptions.

II. PROPOSED RULE AMENDMENT

(NOTE: THE FOLLOWING AMENDMENT HAS BEEN PROPOSED AND HAVE NOT BEEN APPROVED BY THE SUPREME COURT.)

[*Proposed Order Abrogating and Replacing Rule 16 of the of the Vermont Rules of Admission*](#)

Proposed new Rule 16 adopts essential character and fitness eligibility requirements that affirmatively state the abilities needed to become a licensed lawyer. These requirements provide a clear framework to guide applicants and the Character and Fitness Committee in the determination of whether an applicant has the requisite moral character and fitness to practice law in the state. Further, the American Bar Association has recommended that states adopt essential eligibility requirements to promote lawyer well-being by providing clear eligibility guidelines for lawyers with mental or physical impairments.

The definition of character and fitness in proposed new Rule 16(b) includes a provision making it clear that health conditions, including substance-use disorders or mental-health impairments, are relevant only so far as they impact the applicant's present ability to meet the essential eligibility requirements.

Other than the new provisions noted above, the substance of the rule remains unchanged, although somewhat reorganized to incorporate the new provisions.

Comments on these proposed amendments should be sent by **January 4, 2021**, to Andrew Strauss, Licensing Counsel of the Office of Attorney Licensing, at the following address:

Andrew Strauss, Licensing Counsel
Andrew.Strauss@vermont.gov

III. MISCELLANEOUS

a. Odyssey, Electronic Filing, and Other Important Information

The Addison, Bennington, Chittenden, and Rutland trial courts and Environmental Division began using Odyssey on September 1, and electronic filing through Odyssey File & Serve began in these courts on October 19. Odyssey and electronic filing are already operational in the Orange, Windsor, and Windham trial courts and the Judicial Bureau. Please use the following links to access Odyssey electronic filing and portal systems and for more information.

Odyssey File & Serve. Odyssey File & Serve (OFS) is the platform through which you will electronically file with the courts. To access Odyssey File & Serve, please visit <https://vermont.tylerhost.net/ofsw eb>. This page contains user guides in the lower left-hand corner. They include instructions on how to register and use OFS. For information about OFS processing fees and for docket specific user guides, please visit <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing>.

For technical support regarding Odyssey File & Serve, please contact Tyler Technologies at 800-297-5377 or efiling.support@tylertech.com

Odyssey Public Portal. The Odyssey Public Portal allows you to view your case files. To access the portal, please visit <https://publicportal.courts.vt.gov/Portal/>. Before you can view your case files, you must first register in the portal and then request elevated access. The Public Portal User Guide contains instructions on how to register and request elevated access. You can read the user guide via this link: <https://www.vermontjudiciary.org/sites/default/files/documents/VT%20Public%20Portal%20User%20Guide%20v8.pdf>. For full information on how to use the portal, please visit <https://www.vermontjudiciary.org/about-vermont-judiciary/public-portal>.

For technical support regarding the Public Portal, please contact the Vermont Judiciary's HelpDesk at Jud.helpdesk@vermont.gov. When emailing, please write "**Public Portal**" in the subject line.

FAQ. Please visit <https://www.vermontjudiciary.org/odyssey> for answers to frequently asked questions and updates about the project.

Efiling Training Opportunities

Register for a live e-filing training webinar. Tyler Technologies offers online training session on how to electronically file documents using Odyssey File & Serve. These sessions are offered for free and registration is open to all, including attorneys, firm administrators, self-represented litigants, and state agency employees. To register please click here:

<https://register.gotowebinar.com/rt/7806326256261273102>

Watch a pre-recorded e-filing training webinar. The judiciary's NG-CMS project team recorded a demonstration of how to use Odyssey File & Serve that you can view here: https://www.youtube.com/watch?v=ke2ouMDK4VQ&feature=emb_title. You may also watch a pre-recorded webinar by Tyler Technologies, by visiting <https://register.gotowebinar.com/recording/5669820132306504203> and registering.

Practice setting up your firm and submitting filings. Do you want hands on practice using the system? Create your firm, register users and begin filing practice cases in the Vermont "Stage" environment. Be sure that the web address you're using includes the word "stage" (<https://vermont-stage.tylerhost.net/ofswab>). The Stage environment is available any time. Please note that submissions will only be reviewed periodically, so you may not get a timely response on whether your practice submissions have been accepted. The Stage environment is available now only for familiarity and direct hands-on experience and is not a substitute for registering on the actual e-filing site when you are ready.

Read Vermont specific e-filing guides. The Vermont Judiciary's website includes several e-filing guides to help you navigate Odyssey File & Serve. Visit <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing> and click on Odyssey File and Serve User Guides to view the most updated versions.

b. Court Forms

Court forms are constantly being updated. Please refer to the judiciary website for the most up-to-date forms, <https://www.vermontjudiciary.org/court-forms>.

Please use the link below to report any form question, concern or issue <http://www.vermontjudiciary.org/website-feedback-form> or you can access our Website Feedback program at the bottom of each web page.

c. Obligation under A.O. 41

Attorneys are reminded that an "attorney must report to the State Court Administrator within thirty days any change of the office mailing or electronic mail address" and that "[n]otice sent to a reported address is sufficient even if not received by the attorney because of failure to report the proper address or failure of delivery not caused by the court." A.O. 41, § 4(c); see A.O. 44, § 1.

Please email those changes to JUD.AttyLicensing@vermont.gov. Your cooperation is very much appreciated.

To ensure you continue to receive these emails, please add JUD.AttyLicensing@vermont.gov to your Safe Senders list.

d. eCabinet Registration

Administrative Order No. 44 requires attorneys in active status to register up to three email addresses in **eCabinet** for purposes of receiving notices of hearing and other documents. *You may include staff email addresses in the three email addresses that you specify. eCabinet registration is required whether you practice in court or not.*

If you have already registered in **eCabinet**, the email address(es) you provided as part of that process will be used.

If you have not already registered in **eCabinet**, please go to <https://efiling.eservices.crt.state.vt.us/>, click **Register Now**, and follow the simple prompts. Attorneys will need their attorney license numbers to register. Helpful information about the Attorney Email Registration process is also available on the *Electronic Filing* page of the judiciary website at <https://www.vermontjudiciary.org/about-vermont-judiciary/electronic-access/electronic-filing>. Please contact jud.helpdesk@vermont.gov or call the Helpdesk at 802-828-4357 with any questions in the meantime.

You are also reminded that you are required to update the email address(es) and other contact information you have registered as soon as there are any changes, including changes to staff email addresses you may have included with your registration. To revise the information, please go to <https://efiling.eservices.crt.state.vt.us/>, log into **eCabinet**, click “**Account**,” choose “**My Profile**,” and make the necessary changes to your contact information.

Notification to JUD.AttyLicensing@vermont.gov or in **eCabinet** of a change to your contact information does not automatically notify the other. It is your responsibility to notify both. If you are a member of the Vermont Bar Association, you will also need to separately notify the VBA.