

SUPREME COURT OF VERMONT
OFFICE OF THE COURT ADMINISTRATOR

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TO: Members of the Vermont Bar

FROM: Patricia Gabel, Esq., State Court Administrator

RE: Proposed Rules and Miscellaneous Information

DATE: October 1, 2019

For your information, please find the following information:

- [Proposed Order Abrogating and Replacing the Vermont Rules for Mandatory Continuing Legal Education](#)
- [Proposed Order Amending Rule 804a of the Vermont Rules of Evidence](#)
- [Proposed Order Adding Rule 4.3\(f\) and Rule 6.2 to the Vermont Rules for Family Proceedings](#)
- [Proposed Order Amending Rule 62\(a\)\(3\)\(A\) of the Vermont Rules of Civil Procedure](#)
- *Updated Court Forms*
- *Obligations Under A.O. 41*
- *eCabinet Registration*

I. PROPOSED RULE AMENDMENTS

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

- a. [Proposed Order Abrogating and Replacing the Vermont Rules for Mandatory Continuing Legal Education](#)

The proposed 2019 amendments to the Rules for Mandatory Continuing Legal Education are comprehensive and implement much of the ABA's February 2017 Model Rule for Minimum Continuing Legal Education ("Model Rule"). The Board's Notes attempt to identify the relevant prior rules and to point out where the proposed new rules reflect a significant substantive change from the prior rules.

Some of the proposed changes include the following. The proposal increases the total number of credit hours per reporting period from 20 to 24. The prior distinction between live and self-study programming is replaced with three types of programming and definitions of those are provided. In addition to the prior ethics requirement, the proposal requires attorneys to complete one credit hour of attorney wellness and one of diversity and inclusion programming in a reporting period. The proposal adds a carryover provision so that attorneys can use excess credit from the second year of the reporting period in the next reporting period. The proposal gives the MCLE Board the authority to audit attorneys and requires attorneys to keep records for two reporting periods.

Comments on these proposed amendments should be sent by **December 2, 2019**, to Andrew Strauss, Licensing Counsel of the Office of Attorney Licensing, at the following address:

Andrew Strauss, Licensing Counsel
Office of Attorney Licensing
Costello Courthouse
32 Cherry Street, Suite 213
Burlington, VT 05401
Andrew.Strauss@vermont.gov

b. [Proposed Order Amending Rule 804a of the Vermont Rules of Evidence](#)

The proposed amendment to Rule 804a reflects the Legislature's efforts to eliminate offensive language, and to make this rule's language more consistent with the language of Rule 807. The proposal maintains the definition of "mental illness" provided in 18 V.S.A. § 7101(14), rather than using the term "psychiatric disability" provided by 1 V.S.A. § 147. The latter is a broader term that encompasses a wider arc of impairments. Its use here would cause the expansion of a rule that was originally intended to be applied narrowly.

Comments on this proposed amendment should be sent by **December 2, 2019**, to Elizabeth Miller, Esq., Chair of the Advisory Committee on Rules of Evidence, at the following address:

Elizabeth Miller, Esq.
Dunkiel Saunders
91 College Street
Burlington, VT 05401
emiller@dunkielsaunders.com

c. [Proposed Order Adding Rule 4.3\(f\) and Rule 6.2 to the Vermont Rules for Family Proceedings](#)

The proposed addition of Rule 4.3(f) gives a uniform procedure in the Family Division for the enforcement of judgments or orders to pay money rendered in Family Division proceedings under V.R.F.P. 4.0-4.3. Paragraph (1) provides that V.R.C.P. 4.1 (attachment) and 4.2 (trustee process) apply in the Family Division and may be used to enforce such judgments or orders with two exceptions.

The proposed addition of Rule 6.2 provides a single procedure for mental-health proceedings under 18 V.S.A. Chapters 179 and 181 (Involuntary Treatment); 18 V.S.A. § 8840 (Commitment to the Commissioner for Custody, Care, and Habilitation); and 18 V.S.A. Chapter 215 (Guardianship Services for People with Developmental Disabilities). The proposed rule delineates which civil rules apply in these proceedings, indicates the proper venue for these proceedings, addresses appointment of counsel, and includes provisions on scheduling, discovery, and consolidation. The proposed rule allows documents to be filed electronically in these proceedings.

Comments on these proposed amendments should be sent by **December 2, 2019**, to Hon. Michael Kainen, Chair of the Advisory Committee on Rules for Family Proceedings, at the following address:

Hon. Michael Kainen, Chair
Windham Civil Division
PO Box 207
Newfane, VT 05345
Michael.kainen@vermont.gov

d. [Proposed Order Amending Rule 62\(a\)\(3\)\(A\) of the Vermont Rules of Civil Procedure](#)

The proposed amendment to Rule 62(a)(3)(A) deletes a comma after the word “chattel” in the second line to eliminate an ambiguity regarding the timing of when an order for possession could be issued. The proposed change is meant to clarify that the 14-day limit applies to issuance of an order of possession as well as to commencement of enforcement proceedings, consistent with the original intent of paragraph (3) to provide “a single uniform procedure for final judgements in possessory all actions.” See Reporter’s Notes to 1996 amendment adding Rule 62(a)(3).

Comments on this proposed amendment should be sent by **December 2, 2019**, to Allan Keyes, Esq., Chair of the Advisory Committee on Rules of Civil Procedure, at the following address:

Allan Keyes, Esq., Chair
Civil Rules Committee
Ryan Smith & Carbine, Ltd.
P.O. Box 310
Rutland, VT 05702 0310
ark@rsclaw.com

II. MISCELLANEOUS

a. *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.

b. *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.

c. 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.