

**STATE OF VERMONT
VERMONT SUPREME COURT
DECEMBER TERM, 2022**

Order Promulgating Amendments to Rule 79.1(e) of the Vermont Rules of Civil Procedure and Rule 44.2(b) of the Vermont Rules of Criminal Procedure, Rule 79.1(d) of the Vermont Rules of Probate Procedure, and Rule 15(e) of the Vermont Rules for Family Proceedings

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

1. That Rule 79.1(e) of the Vermont Rules of Civil Procedure be amended to read as follows (new matter underlined; deleted matter struck through):

RULE 79.1. APPEARANCE AND WITHDRAWAL OF ATTORNEYS AND SELF-REPRESENTED PARTIES

(e) **Attorneys Not Admitted to Practice in Vermont.** Any member in good standing of the bar of any other state or of the District of Columbia who has filed a pro hac vice licensing statement form with the Court Administrator and who has paid the required fee, in accordance with Administrative Order No. 41, § 16, ~~may, in the discretion of the court shall~~, on motion by a member of the bar of this state who is actively associated with that attorney in a particular action, be admitted to practice in that action. The motion shall designate which attorney will serve as lead counsel and be accompanied by the pro hac vice licensing card as required by Administrative Order No. 41, § 16. The court may at any time for good cause revoke such admission. An attorney so admitted to practice in a particular action shall at all times be associated in such action with a member of the bar of this state, upon whom all process, notices and other documents shall be served and who shall sign all documents filed with the court and whose attendance may be required by the court.

Reporter's Notes—2023 Amendment

Rule 79.1(e) is amended to make clear that admission pro hac vice is a matter of course on motion supported by the pro hac vice licensing card issued by the Court Administrator pursuant to A.O. 41, § 16. The card is issued on payment of fee and on the basis of the applicant's certification that the applicant is not suspended or disbarred in any jurisdiction and is in good standing and admitted to practice in the licensing state. The licensing card is sufficient to show the court where the case is pending that the applicant is in good standing and not subject to any discipline. The court retains control over the conduct of the out-of-state attorney and of the sponsoring attorney, whose signature is on the motion, and the court may revoke the admission for good cause. This amendment is made with contemporaneous amendment of identical provisions of V.R.Cr.P. 44.2(b), V.R.P.P. 79.1(d) and V.R.F.P. 15(a).

2. That Rule 44.2(b) of the Vermont Rules of Criminal Procedure be amended to read as follows (new matter underlined; deleted matter struck through):

RULE 44.2. APPEARANCE AND WITHDRAWAL OF ATTORNEYS

(b) **Attorneys Not Admitted in Vermont.** Any member in good standing of the bar of any other state or of the District of Columbia who has filed a pro hac vice licensing statement form with the Court Administrator and who has paid the required fee, in accordance with Administrative Order No. 41, § 16, ~~may in the discretion of the court~~ shall, on motion by a member of the bar of this state who is actively associated with ~~him or her~~ that attorney in a particular action, be admitted to practice in that action. The motion must designate which attorney will serve as lead counsel and be accompanied by the pro hac vice licensing card as required by Administrative Order No. 41, § 16. The court may at any time for good cause revoke such admission. An attorney so admitted to practice in a particular action must at all times ~~have~~ be associated with him or her in such action with a member of the bar of this state, upon whom all process, notices and other ~~papers~~ documents will be served and who must sign all ~~papers~~ documents filed with the court and whose attendance may be required by the court.

Reporter's Notes—2023 Amendment

Rule 44.2(b) is amended to make clear that admission pro hac vice is a matter of course on motion supported by the pro hac vice licensing card issued by the Court Administrator pursuant to A.O. 41, § 16. The card is issued on payment of fee and on the basis of the applicant's certification that the applicant is not suspended or disbarred in any jurisdiction and is in good standing and admitted to practice in the applicant's licensing state. The licensing card is sufficient to show the court where the case is pending that the applicant is in good standing and not subject to any discipline. The court retains control over the conduct of the out-of-state attorney and of the sponsoring attorney, whose signature is on the motion, and the court may revoke the admission for good cause. This amendment is made with contemporaneous amendment of identical provisions of V.R.C.P. 79.1(e), V.R.P.P. 79.1(d) and V.R.F.P. 15(a).

3. That Rule 79.1(d) of the Vermont Rules of Probate Procedure be amended to read as follows (new matter underlined; deleted matter struck through):

RULE 79.1. APPEARANCE AND WITHDRAWAL OF ATTORNEYS AND SELF REPRESENTED PARTIES

(d) **Attorneys Not Admitted to Practice Law in Vermont.** Any member in good standing of the bar of any other state or of the District of Columbia who has filed a pro hac vice licensing statement form with the Court Administrator and who has paid the required fee, in accordance with Administrative Order No. 41, § 16, ~~may, in the discretion of the court~~ shall, on motion by a member of the bar of this state who is actively associated with that attorney in a particular action, be admitted to practice in that action. The motion shall designate which attorney will serve as

lead counsel and be accompanied by the pro hac vice licensing card as required by Administrative Order No. 41, § 16. The court may at any time for good cause revoke such admission. An attorney so admitted to practice in a particular action shall at all times be associated in such action with a member of the bar of this state, upon whom all process, notices and other documents shall be served and who shall sign all documents filed with the court and whose attendance may be required by the court.

Reporter's Notes—2023 Amendment

Rule 79.1(d) is amended to make clear that admission pro hac vice is a matter of course on motion supported by the pro hac vice licensing card issued by the Court Administrator pursuant to A.O. 41, § 16. The card is issued on payment of fee and on the basis of the applicant's certification that the applicant is not suspended or disbarred in any jurisdiction and is in good standing and admitted to practice in the licensing state. The licensing card is sufficient to show the court where the case is pending that the applicant is in good standing and not subject to any discipline. The court retains control over the conduct of the out-of-state attorney and of the sponsoring attorney, whose signature is on the motion, and the court may revoke the admission for good cause. This amendment is made with contemporaneous amendment of identical provisions of V.R.C.P. 79.1(e), V.R.Cr.P. 44.2(b) and V.R.F.P. 15(e).

4. That Rule 15(e) of the Vermont Rules for Family Proceedings be amended to read as follows (new matter underlined; deleted matter struck through):

RULE 15. APPEARANCE AND WITHDRAWAL OF ATTORNEYS

(e) **Attorneys Not Admitted to Practice in Vermont.** Any member in good standing of the bar of any other state or of the District of Columbia who has filed a pro hac vice licensing statement form with the Court Administrator and who has paid the required fee, in accordance with Administrative Order No. 41, § 16, ~~may, in the discretion of the court~~ shall, on motion by a member of the bar of this state who is actively associated with the attorney in a particular action, be admitted to practice in that action. The motion shall designate which attorney will serve as lead counsel and be accompanied by the pro hac vice licensing card as required by Administrative Order No. 41, § 16. The court may at any time for good cause revoke such permission. An attorney so admitted to practice in a particular action shall at all times be associated in such action with a member of the bar of this state, upon whom all process, notices, and other ~~papers~~ documents shall be served and who shall sign all ~~papers~~ documents filed with the court and whose attendance may be required by the court.

Rule 15(e) is amended to make clear that admission pro hac vice is a matter of course on motion supported by the pro hac vice licensing card issued by the Court Administrator pursuant to A.O. 41, § 16. The card is issued on payment of fee and on the basis of

the applicant’s certification that the applicant is not suspended or disbarred in any jurisdiction and is in good standing and admitted to practice in the licensing state. The licensing card is sufficient to show the court where the case is pending that the applicant is in good standing and not subject to any discipline. The court retains control over the conduct of the out-of-state attorney and of the sponsoring attorney, whose signature is on the motion, and the court may revoke the admission for good cause. This amendment is made with contemporaneous amendment of identical provisions of V.R.C.P. 79.1(e), V.R.Cr.P. 44.2(b), and V.R.P.P. 79.1(d).

5. That these amendments be prescribed and promulgated, effective on February 13, 2023. The Reporter’s Notes are advisory.

6. That the Court finds the amendments to Rule 44.2(b) of the Vermont Rules of Criminal Procedure, Rule 79.1(d) of the Vermont Rules of Probate Procedure, and Rule 15(e) of the Vermont Rules for Family Proceedings may be promulgated without resort to the notice and comment procedures set forth in Administrative Order No. 11, because the amendments are identical to the simultaneous amendment of Rule 79.1(e) of the Vermont Rules of Civil Procedure, which was sent out for public comment and received no comment, and because the amendments comport with and implement the already-promulgated amendment of Administrative Order No. 41, governing attorney admissions.

7. 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 12th day of December, 2022.



Signed by the Vermont Supreme Court

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice

Nancy J. Waples, Associate Justice