

STATE OF VERMONT
VERMONT SUPREME COURT

_____ TERM, 2017

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

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

1. That Section 9 of the Rules for Mandatory Continuing Legal Education is amended to read as follows (deleted matter struck through; new matter underlined):

§ 9 Procedure

* * * * *

(d) In the event a licensed attorney fails to file the compliance form, files an incomplete compliance form, or files a form which does not demonstrate substantive compliance with the requirements of these rules, the Board shall promptly notify such attorney of the fact and nature of noncompliance, by certified or registered mail, return receipt requested. Failure of the Board to send timely notice shall not relieve the attorney of his or her duty to comply with the rules. The statement of noncompliance shall advise the attorney that the attorney must respond within ~~fifteen~~ 14 days by:

- (1) filing the form which reflects compliance;
- (2) filing a makeup plan as described in § 10, below, along with the makeup plan filing fee; or
- (3) filing with the Board a written answer to the Board's notice of noncompliance.

(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~~ 14 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 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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Board’s Notes—2017 Amendment

Section 9(d) and (e) is amended to change its 10- and 15-day time periods to 14 days, consistent with the simultaneous “day is a day” amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter’s Notes to simultaneous amendments of V.R.C.P. 6.

2. That Section 10(b) of the Rules for Mandatory Continuing Legal Education is amended to read as follows (deleted matter struck through; new matter underlined):

§ 10. Makeup Plans

(b) The makeup plan must contain a specific plan for correcting the attorney's noncompliance within 120 days from the date of filing. The plan shall be accompanied by a makeup plan filing fee of \$50.00. The plan shall be deemed accepted by the Board unless within 30 days after its receipt the Board notifies the attorney to the contrary. Full completion of the plan shall be reported by the compliance form filed with the Board not later than ~~45~~ 14 days following the 120-day period. If the attorney shall fail to file an acceptable plan, or shall fail to complete and report completion of the plan within the aforementioned 135 days, the Board shall proceed as set forth in paragraphs (d) through (k) of § 9 of these rules.

Board’s Notes—2017 Amendment

Section 10(b) is amended to change its 15-day time period to 14 days, consistent with the simultaneous “day is a day” amendments to V.R.C.P. 6, which adopts the day-is-a-day counting system from the Federal Rules. See Reporter’s Notes to simultaneous amendments of V.R.C.P. 6.

3. That these rules, as amended, are prescribed and promulgated to become effective on _____. The Board’s Notes are advisory.

4. 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 _____, 2017.

Paul L. Reiber, Chief Justice

Marilyn S. Skoglund, Associate Justice

Beth Robinson, Associate Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

PROPOSED