

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
DEC 04 2009
Clerk of the Courts

**IN RE: AMENDMENT TO RULE 9, SECTION 34
RULES OF THE TENNESSEE SUPREME COURT**

No. M 2009-02505-SC-RL2-RL

ORDER

1999 Tenn. Pub. Ch. 476 amended Title 56, Chapter 1, Part 3 (Insurance, Department of Commerce & Insurance, Division of Regulatory Boards) and Title 63, Chapter 1, Part 1 (Professions of the Healing Arts, Division of Health Related Boards, General Provisions) to provide for the suspension, denial or revocation of the license of, or the taking of other such appropriate disciplinary action against, any person who has defaulted on a repayment or service obligation under any of the student loan programs specified in the act. Section 4 of 1999 Tenn. Pub. Ch. 476 went on to provide:

The Supreme Court is encouraged to establish guidelines to suspend, deny or revoke the license of an attorney who is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (a) or such attorney has failed to enter into a payment plan or comply with a payment plan previously approved by TSAC [Tennessee Student Assistance Corporation] or a guarantee agency. [Sic.]

In light of the General Assembly's request that the Court adopt guidelines applicable to attorneys licensed to practice law in this State, the Supreme Court is considering a proposed amendment to Tenn. Sup. Ct. R. 9, adopting new Section 34, to establish procedures to promote attorneys' compliance with repayment or service obligations under any of the student loan programs covered by 1999 Tenn. Pub. Ch. 476. Attached as an Appendix to this order is the proposed amendment being considered by the Court.

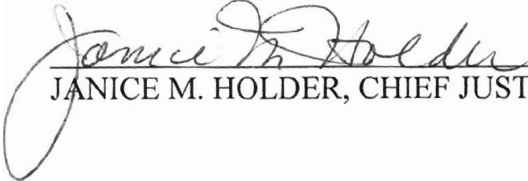
The Court hereby publishes the proposed amendment for public comment and solicits written comments from judges, lawyers, bar organizations, members of the public, and any other interested parties. The deadline for submitting written comments is Wednesday, December 30, 2009. Written comments should be addressed to:

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

and should reference the docket number set out above.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters/West. In addition, this order shall be posted on the Tennessee Supreme Court's website.

FOR THE COURT:



JANICE M. HOLDER, CHIEF JUSTICE

APPENDIX

TENN. SUP. CT. R. 9, PROPOSED NEW SECTION 34

Section 34. Suspension of Law License for Delinquency or Default Under Guaranteed Student Loan. — 1999 Tenn. Pub. Ch. 476 amended Title 56, Chapter 1, Part 3 (Insurance, Department of Commerce & Insurance, Division of Regulatory Boards) and Title 63, Chapter 1, Part 1 (Professions of the Healing Arts, Division of Health Related Boards, General Provisions) to provide for the suspension, denial or revocation of the license of, or to take other such appropriate disciplinary action against, any person who has defaulted on a repayment or service obligation under any of the student loan programs specified in the Act. Section 4 of 1999 Tenn. Pub. Ch. 476 went on to provide:

The Supreme Court is encouraged to establish guidelines to suspend, deny or revoke the license of an attorney who is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (a) or such attorney has failed to enter into a payment plan or comply with a payment plan previously approved by TSAC [Tennessee Student Assistance Corporation] or a guarantee agency.

Upon due consideration of the General Assembly's request, the Supreme Court establishes the following procedures to promote attorneys' compliance with repayment or service obligations under any of the student loan programs covered by 1999 Tenn. Pub. Ch. 476.

34.01. The provisions of Tenn. Code Ann. § 63-1-141(a) and (b) are hereby incorporated by reference to apply to attorneys licensed to practice law in Tennessee. Upon receipt of a copy of a final order as provided in Tenn. Code Ann. § 63-1-141(b) from the Tennessee student assistance corporation ("TSAC") or a guarantee agency that has an agreement with the United States secretary of education ("guarantee agency"), the Chief Disciplinary Counsel of the Board of Professional Responsibility ("the Board") shall initiate the suspension procedure set out in this section against any attorney licensed to practice law in this state ("attorney" or "debtor") who has defaulted on a repayment or service obligation under any loan listed in Tenn. Code Ann. § 63-1-141(a).

34.02. The Board and the Court shall accept any determination of default from TSAC or a guarantee agency after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with Tenn. Code Ann. § 63-1-141(b)(2).

34.03. Upon receipt of a final order from TSAC or a guarantee agency pursuant to section 34.01, the Board shall prepare a proposed order suspending the attorney's license to practice law. The Board shall serve the attorney with a copy of the proposed suspension order and a Notice of Pending Suspension. The Notice shall state that TSAC or a guarantee agency has issued a final order finding that the attorney has defaulted on a repayment or service obligation under a loan covered by this section and that the Board is initiating a suspension of the attorney's law license pursuant to this section. The Notice shall be served upon the attorney by registered or certified mail, return receipt

requested, at the address shown in the most recent registration statement filed by the attorney pursuant to Supreme Court Rule 9, Section 20.5 or other last known address.

34.04. The Board shall transmit the proposed suspension order to the Supreme Court upon the expiration of sixty (60) days after the date of mailing of the Notice and proposed suspension order to the attorney named therein, unless the TSAC or guarantee agency terminates its final order pursuant to Tenn. Code Ann. § 63-1-141(b)(2)(F)(i) prior to the expiration of such sixty (60) day period. Upon the Court's review and approval of the suspension order, the Court shall file the order suspending the attorney's license to practice law. Upon the filing of the suspension order, the attorney's law license shall remain suspended until the TSAC or guarantee agency's final order is terminated pursuant to Tenn. Code Ann. § 63-1-141(b)(2)(F)(i).

34.05. An attorney whose license is suspended pursuant to this section shall comply with the applicable provisions of section 18 of this rule.

34.06. Each attorney who is issued a Notice of Suspension shall pay to the Board a fee in the amount of \$50 to defray the Board's costs in issuing the Notice. Each attorney whose license to practice law is suspended by the Court pursuant to this section shall pay to the Board a reinstatement fee in the amount of \$50 as a condition of reinstatement of his or her law license upon termination of the TSAC or guarantee agency's final order pursuant to Tenn. Code Ann. § 63-1-141(b)(2)(F)(i). The reinstatement fee shall be paid in addition to the fee for issuance of the Notice. Upon termination of the final order and upon payment of the fees imposed by this section, and if the attorney is otherwise eligible for reinstatement, the attorney's law license shall be reinstated without further order of the Court.

(end of Appendix)