

MAINE STATE LEGISLATURE

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CHAPTER 17

ATTORNEYS AT LAW

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SUBCHAPTER I

ADMISSION TO PRACTICE

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§ 801. Board of examiners; tenure; compensation; meetings

The Board of Examiners for the Examination of Applicants for Admission to the Bar, as heretofore established and hereinafter in this chapter called the "board," shall be composed of 5 competent lawyers of the State; one member of said board shall be appointed annually by the Governor on the recommendation of the Chief Justice of the Supreme Judicial Court and shall hold office for the term of 5 years beginning on the first day of September of each year. Vacancies occurring from death, resignation, removal or inability to act shall be filled in like manner for the unexpired term. Such board shall hold at least 2 sessions annually at such times and places in the State as the Supreme Judicial Court shall direct, for the purpose of examining all applicants for admission to the bar, as to their legal learning and general qualifications to practice in the several courts of the State as attorneys and counselors at law and solicitors and counselors in chancery. Upon such examination being had, the board shall issue to each applicant who shall pass the required examinations and satisfy all other requirements of this chapter a cer-

tificate of qualification stating the standing of the applicant and recommending his admission to the bar. The members of the board shall elect from their number a secretary and shall make such rules and regulations relative to said examination as to them may seem proper. The president of said board shall be the member whose term of office soonest expires. Three members of said board shall constitute a quorum for the transaction of business.

The secretary of the board shall be the treasurer thereof and shall receive all fees, charges and assessments payable to the board and account for and pay over the same according to law.

The members of the board shall each receive as compensation for their services \$10 a day for the time actually spent and their necessary expenses incurred in the discharge of their duties, to be certified by the secretary of the board.

R.S.1954, c. 105, § 1; 1963, c. 369, § 1.

§ 802. Attorneys from other states; fee

Practicing attorneys, residents of other states and territories or from foreign countries may be admitted on motion to try cases in any of the courts of this State by such courts, but shall not be admitted to the general practice of law in this State without complying with section 803. Where any applicant, who has been a member of the bar of another state or the District of Columbia in good standing and in active practice for at least 3 years and has been a bona fide resident of this State for the 6 months last past, shall furnish the Supreme Judicial Court a certificate of admission to practice in the court of last resort of such state or a certificate of admission to any district court of the United States, together with the recommendation of one of the judges of the court of last resort of such state or of the District of Columbia, and a certificate of good moral character and of fitness to practice law from the board, said Supreme Judicial Court may in its discretion, if satisfied as to his qualifications, admit such person to practice on motion made by some member of the bar of said court.

Any such applicant, when making application for such certificate of good moral character and of fitness to practice law, shall pay to the board a fee of \$150, all or any part of which may be used by said board to defray the expense of investigation of such applicant.

No person shall be admitted as an attorney upon motion, without the certificate of qualification mentioned in section 801

from the board, until he has paid to the treasurer of the county where he is admitted, \$20, and produced a receipt therefor to the court.

R.S.1954, c. 105, § 2; 1961, c. 157.

§ 803. Qualifications

Every other person who shall be of full age, a resident of this State and a citizen of the United States and of a good moral character may be admitted to practice as an attorney and counselor at law and solicitor and counselor in chancery in all the courts of record of this State on motion made in open court, but the applicant shall first produce the certificate provided for in this chapter from the board that he possesses sufficient learning in the law and moral character and ability to enable him to properly practice as an attorney and counselor at law and solicitor and counselor in chancery in the courts of this State. No person shall be entitled to practice as an attorney and counselor at law and solicitor and counselor in chancery in this State until he shall be licensed to do so by said courts. No person shall be denied admission or license to practice as an attorney at law on account of sex.

R.S.1954, c. 105, § 3.

§ 804. Further qualifications; examination; fee; grade of standing

Each applicant, unless heretofore qualified, before taking examination for admission to the bar of this State shall produce to said board satisfactory evidence of good moral character and of having received a preliminary education sufficient to entitle him to admission as a member in good standing of the 3rd year class of Bates College, Bowdoin College, Colby College or the University of Maine, or any other college or university approved by said board, as a candidate for the degree of Bachelor of Arts, Science, Education or Business Administration. Such preliminary education shall be proved by a certificate of the satisfactory completion of 2 years' work as a candidate for such degree at one or more of such colleges or universities or by a certificate of admission as a candidate for such degree to the 3rd year class of any such college or university. Any applicant may register with said board at any time by filing with said board a certificate stating his name, address, age and the date on which the study of law is commenced, and at the same time may submit to the board the

proof of preliminary education, which proof shall be at once acted upon by the board and the result of such action communicated to the applicant.

In addition to the foregoing requirements, each applicant shall produce to the said board satisfactory evidence that he has been a bona fide resident of the State for 6 months prior to the examination which he seeks to take and that he has graduated from a law school approved by said board, provided that any person otherwise qualified may qualify to take the bar examinations upon proof that he has studied law in an office of some attorney in the State of Maine for 3 years prior to September 1, 1963, or that he has studied law for a continuous period of at least 6 months in such law office prior to September 1, 1963, and in an approved law school for a combined period of 3 years or he has successfully completed $\frac{2}{3}$ of the requirement for graduation from a law school approved by said board, and thereafter has pursued the study of law in the office of some attorney within the State of Maine for at least one year. When an applicant shall have satisfied said board that all the foregoing requirements have been fulfilled, said applicant shall pay a fee to be fixed by said board of not more than \$35 and shall then be required to submit to a written examination which shall be prepared by said board, and an oral examination by said board, if deemed necessary. Any applicant who receives a grade of 70% or better as an average of all of the examinations given and who has satisfied all of the requirements and qualifications set forth in this chapter shall be entitled to the certificate of qualification mentioned in section 801.

R.S.1954, c. 105 § 4; 1963, c. 369, §§ 2, 3.

§ 805. Examination papers kept on file; limitation on number of examinations

The examination papers shall be kept on file in the office of the secretary of the board for a period of one year, after which time the same may be destroyed and a record kept of each application, the name of the applicant and his qualifications and general standing as ascertained by such examination, and the secretary of the board shall furnish each applicant with a card showing the proficiency he has attained in each branch or subject upon which he has been examined, whether a certificate of qualification is issued or not. Any applicant failing to pass the first examination may again apply after 6 months by showing to the board that he has diligently pursued the study of the law 6

months prior to the examination and shall pay the same fee for each re-examination as is at that time payable by an original applicant.

Any applicant who fails in 2 examinations shall not be allowed to take any examination within 11 months after his last previous failure. No applicant may take any examination after his 4th failure except by special permission of the board and for good cause shown. A decision of said board refusing such permission may be reviewed by any Justice of the Supreme Judicial Court upon petition by the applicant for such review filed with the clerk of the judicial courts in and for the County of Cumberland or the County of Penobscot within 90 days after the giving of written notice in hand or by mail, postage prepaid, by any member of said board to the applicant of the board's decision. The applicant shall cause notice of the time and place of hearing upon such petition for review, together with a copy of such petition, to be served upon the secretary of said board at least 60 days before the date of such hearing.

R.S.1954, c. 105, § 6.

§ 806. **Attorney's oath**

Upon admission to the bar, every applicant shall, in open court, take and subscribe an oath to support the Constitution of the United States and the Constitution of this State, and take the following oath:

"You solemnly swear that you will do no falsehood nor consent to the doing of any in court, and that if you know of an intention to commit any, you will give knowledge thereof to the justices of the court or some of them that it may be prevented; you will not wittingly or willingly promote or sue any false, groundless or unlawful suit nor give aid or consent to the same; that you will delay no man for lucre or malice, but will conduct yourself in the office of an attorney within the courts according to the best of your knowledge and discretion, and with all good fidelity, as well as to the courts, as to your clients. So help you God."

R.S.1954, c. 105, § 7.

§ 807. **Persons not admitted forbidden to practice law; cannot recover pay for services**

Unless duly admitted to the bar of this State, no person shall practice law or any branch thereof, or hold himself out to practice

law or any branch thereof, within the State or before any court therein, or demand or receive any remuneration for such services rendered in this State. Whoever, not being duly admitted to the bar of this State, shall practice law or any branch thereof, or hold himself out to practice law or any branch thereof, within the State or before any court therein, or demand or receive any remuneration for such services rendered in this State, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 3 months, or by both. The word "person" as used herein shall include a body corporate. This section shall not be construed to apply to practice before any Federal Court by any person duly admitted to practice therein nor to a person pleading or managing his own cause in court. The Supreme Judicial Court and the Superior Court shall have concurrent jurisdiction, upon petition of 3 or more members of any bar association within the State or of the Attorney General, to restrain violations of this section. In all proceedings under this section, the fact, as shown by the records of the clerk of courts in the county in which a person resides, that such person is not recorded as a member of the bar in such county shall be prima facie evidence that he is not a member of the bar licensed to practice law in the State. The Supreme Judicial Court or any justice thereof shall have the power to issue a rule requiring any person alleged to have violated any of the provisions of this section to appear on a day fixed and show cause why he should not be adjudged in contempt, and abide the order of such court or justice in the premises, which order shall be served by a copy in hand at least 5 days before the return day. In the event that such court or justice finds said person guilty of violating any of the provisions of this section, the person so adjudged shall be punished by a fine of not more than \$500 or by imprisonment for not more than 3 months, or by both. This power vesting authority in the Supreme Judicial Court, or any member thereof, to punish for contempt is not to supersede any of the other provisions of this section but is in addition to any other remedy provided herein.

R.S.1954, c. 105, § 8; 1961, c. 317, § 323.

SUBCHAPTER II

REMOVAL AND RESIGNATION

Sec.

- 851. Information against attorney.
- 852. Denial of charges; information to stand for hearing.
- 853. Proceedings on default or hearing.
- 854. Judgment final unless appealed.
- 855. Appeals.
- 856. Conduct of prosecution.
- 857. Interpretation of provisions.
- 858. Resignation and reinstatement of attorneys.
- 859. False advertising or representation to be an attorney.
- 860. Management of causes by parties or counsel.

§ 851. Information against attorney

Whenever an information is filed in the office of the clerk of courts in any county by the Attorney General, or by a committee of the State Bar Association, or by a committee of the bar or bar association of such county, charging that an attorney at law has become and is disqualified for the office of attorney and counselor at law, for reasons specified in the information, any Justice of the Supreme Judicial Court may, in the name of the State, issue a rule requiring the attorney informed against to appear on a day fixed to show cause why his name should not be struck from the roll of attorneys, which rule, with an attested copy of the information, shall be served upon such attorney in such manner as the justice directs at least 14 days before the return day, and shall be made returnable either in the county where such attorney resides or where it is charged that the misconduct was committed.

R.S.1954, c. 105, § 15.

§ 852. Denial of charges; information to stand for hearing

If the attorney on whom such service has been made, on or before said return day files in the office of the clerk of courts in said county of return a denial of the charges specified in the information, the information shall thereupon stand upon the docket for hearing at such time and place as said justice shall order, upon such lawful evidence as may be produced either by the State or by the respondent.

R.S.1954, c. 105, § 16.

§ 853. Proceedings on default or hearing

If such attorney fails to file his denial, the facts set forth in the information shall be taken as confessed. If the justice finds that the facts so confessed are sufficient to disqualify the respondent from holding the office of attorney and counselor at law, or if, in case of denial, the justice upon hearing finds that any of the charges specified are true and that the acts proved are sufficient to disqualify the respondent, he shall give judgment accordingly, and shall enter a decree that the respondent be removed from the office of attorney and counselor at law in all the courts of the State and that his name be struck from the roll of attorneys.

R.S.1954, c. 105, § 17.

§ 854. Judgment final unless appealed

The judgment of such justice shall be final unless the respondent within one week files his appeal therefrom to the law court by entering his claim therefor upon the docket.

R.S.1954, c. 105, § 18.

§ 855. Appeals

The appeal shall be heard upon printed copies of the case furnished by the respondent at the next law term. If the case is not argued, it shall be decided upon the record, and if the respondent fails to enter his appeal with the printed copies of the case during the first 3 days of said law term, the counsel for the prosecution shall enter the appeal with an attested copy of the judgment and decree, whereupon the same shall be affirmed by the law court.

R.S.1954, c. 105, § 19.

§ 856. Conduct of prosecution

The prosecution shall be conducted by the county attorney for the county where the rule is returnable, unless the justice issuing the rule appoints some other suitable counsel to perform said duty. Compulsory process shall issue to compel the attendance of witnesses, and in case of decree of removal, judgment shall be rendered in behalf of the State against the respondent for full costs to be taxed by the court.

R.S.1954, c. 105, § 20.

§ 857. Interpretation of provisions

Sections 851 to 856 do not annul or restrict any authority hitherto possessed or exercised by the courts over attorneys.

R.S.1954, c. 105, § 21.

§ 858. Resignation and reinstatement of attorneys

Any member of the bar of this State may resign from the office of attorney and counselor at law by submitting his resignation to any Justice of the Supreme Judicial Court who may or may not, in his discretion, in the name of the State of Maine accept such resignation and order that such attorney's name be stricken from the roll of attorneys of the State. No person whose resignation from his office of attorney and counselor at law has been accepted by a Justice of the Supreme Judicial Court shall be readmitted to the practice of law in any of the courts of the State or entitled to practice law within said State unless and until he shall have been reinstated as an attorney and counselor at law by a Justice of the Supreme Judicial Court. The procedure for such reinstatement shall be the same as in the case of attorneys who have been disbarred.

R.S.1954, c. 105, § 22.

§ 859. False advertising or representation to be an attorney

If any person who has not been admitted to practice law in this State or whose name has been struck from the roll of attorneys advertises as or represents himself to be an attorney or counselor at law, he shall be punished by a fine of not more than \$500 or by imprisonment for not more than 3 months.

R.S.1954, c. 105, § 23.

§ 860. Management of causes by parties or counsel

Parties may plead and manage their own causes in court or do so by the aid of such counsel as they see fit to employ. No person whose name has been struck from the roll of attorneys for misconduct shall plead or manage causes in court under a power of attorney for any other party or be eligible for appointment as a justice of the peace.

R.S.1954, c. 105, § 24; 1959, c. 40; 1963, c. 402, § 139.

SUBCHAPTER III

CENTRAL REGISTER

Sec.

- 901. Establishment and maintenance.
- 902. Preparation.
- 903. Revision.
- 904. Register as evidence.
- 905. Certificates.

§ 901. Establishment and maintenance

It shall be the duty of the Secretary of State to establish and maintain a central register of all persons who have been duly admitted as members of the bar in this State.

1955, c. 446.

§ 902. Preparation

Said list shall be prepared from information furnished to the Secretary of State by the clerk of courts from the several counties, each of whom shall within 3 months after August 20, 1955, prepare in writing, certify and mail to the office of the Secretary of State, a full, true and complete list of all members of the bar now living who have been admitted in their respective counties.

1955, c. 446.

§ 903. Revision

It shall likewise be the duty of the clerk of courts in each of the several counties to furnish to the Secretary of State by registered mail a written certificate setting forth any and all additions to the list of members of the bar from his county as well as all deletions by reason of death, resignation, disbarment, suspension or otherwise, and all reinstatements or readmissions not otherwise reported to the Secretary of State as and when they occur and thereupon it shall become the duty of the Secretary of State, forthwith upon receipt of each amendatory certificate, to revise the central register of attorneys accordingly, to the end that said register may be perpetually maintained with current corrections from each county. A list of persons admitted each year together with the date and place of taking the oath and the

date of admission shall be supplied annually to the secretary of the Board of Bar Examiners by the Secretary of State.

1955, c. 446.

§ 904. Register as evidence

If and whenever in any proceedings before any court of civil or criminal jurisdiction within the State of Maine, it becomes an issue as to whether or not any individual is or is not duly admitted to practice law as a member of the bar in the State of Maine, the certificate of the Secretary of State as to whether or not his name then appears upon the said central roll or register of attorneys shall be prima facie evidence of the fact.

1955, c. 446.

§ 905. Certificates

It shall be the duty of the Secretary of State upon payment of a fee of \$5 to furnish his certificate in respect of any individual as to whether he is or is not recorded as a member of the bar on the said central register except that such certificate shall be furnished without charge to the Attorney General, his deputies and assistants and the county attorneys of the several counties for use in connection with their public duties.

1955, c. 446.