

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE.

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1910.

AUGUSTA

KENNEBEC JOURNAL PRINT

1910

Are affidavits received after the lapse of said ninety days entitled to consideration or are they not?

It seems that when a statute prescribes the doing of an act and fixes the time for such doing, the requirement as to time is to be regarded as directory, and not a limitation of the exercise of the power, unless it contain some negative words, denying the exercise of the power after the time named.

This is the conclusion of the courts of last resort in our own and several other states where the question has been considered.

Had the legislature added a negative provision, that no affidavits should be entertained after the passage of ninety days from the time said act took effect, no discretion would have been left to the Board.

Such negative was omitted and the general interpretation giving said Board the liberty to exercise its discretion upon the question of entertaining such delayed affidavits without question obtains.

In my judgment the Maine State Board of Registration and Examination in Optometry may exercise a wide discretion as to receiving and acting upon affidavits filed after the first day of October, 1909.

Yours very truly,

CHARLES P. BARNES,
Assistant Attorney General.

OFFICE OF THE ATTORNEY GENERAL.
WATERVILLE, MAINE, March 22, 1910.

Subject: Dental Registration, Statute of 1891, Reciprocity with other states.

Langdon S. Chilcott, President, Board of Dental Examiners of the State of Maine, Bangor, Maine.

SIR:—I have the honor to acknowledge receipt of two inquiries upon which you desire my opinion.

“First. A man who was formerly in the practice of dentistry in this State, moved away prior to 1891. He has been in practice in another state, but did not register in Maine in accordance with Section 4 of the Dental Registration Act. He has now returned and desires to re-enter the practice of dentistry in Maine. Can he register without an examination, or has he forfeited his right to do so by his own neglect?

Second. Can the Board of Dental Examiners of the State of Maine under the present Dental Law, enter into reciprocity agreements with the dental examining boards of other States and accept certificates issued by such State boards in lieu of examinations by the Maine board?"

The dental registration act so-called, was enacted in 1891 and contained some provisions which are now obsolete and some of the provisions of the act of 1891 have been modified by subsequent acts of the legislature so that the law as now recorded in R. S. Chap. 17, Secs. 18 to 23 inclusive, is the law of the State today although the wording in some respects differs from the original act of 1891.

Sec. 4 of the act of 1891 provided as follows :

"Every person engaged in the practice of dentistry or dental surgery in this state at the time of the approval of this act shall, within three months thereafter, cause his or her name, residence and place of business to be registered with said board of examiners. The statements of every such person shall be verified under oath before a notary public or justice of the peace in such manner as may be prescribed by the board, and upon due compliance and payment of the fee as provided in section seven of this act, shall receive from said board a certificate in due form, signed by the president and attested by the secretary authorizing such persons to practice dentistry in this state."

This provision you will observe related only to those who were engaged in the practice of dentistry or dental surgery in this State at the time of the approval of the act. Your question involves the right of a dentist who had moved away from this state prior to 1891 and, as I assume from your statement, was not a resident of the State at the time of the approval of the act of 1891. The provisions of the act above quoted could not apply to him under any circumstances for it only applied to those who were engaged in practice in this State at the time of the approval of the act. It will therefore be necessary for him to comply with the law as it now stands as to examination and payment of fees.

Your second question must be answered in the negative. Examination in certain subjects as well as the payment of a fee is made by our law a fundamental prerequisite to the issuance of the certificate referred to as entitling a man to practice dentistry

in this State. The board of dental examiners have no power whatever to enter into reciprocal arrangements with dental examining boards of other states whereby a certificate issued by another state would stand in lieu of the examination which the law requires to be made under the statute as it now stands upon the books.

Respectfully yours,

WARREN C. PHILBROOK,
Attorney General.