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# **MAINE BAR ADMISSION RULES**

## **I. SCOPE AND PURPOSE**

### **RULE 1. SCOPE**

These rules govern the performance of the duties of the Board of Bar Examiners and the administration of the examinations that the Board conducts.

### **RULE 2. PURPOSE**

These rules are intended to provide fair and efficient procedures and standards for determining the qualifications to practice law of applicants for admission to the bar.

## **II. THE BOARD OF BAR EXAMINERS**

### **RULE 3. COMPOSITION AND APPOINTMENT; TERM; OFFICERS**

(a) **Composition and Appointment.** The Board of Bar Examiners shall consist of seven lawyers of the State licensed to practice law in Maine and two representatives of the public. The lawyer members of the Board shall be appointed by the Governor on the recommendation of the Supreme Judicial Court. The public members shall be appointed by the Governor. Vacancies occurring from death, resignation, removal, or inability to act shall be filled in like manner for the unexpired term. An incumbent may continue to serve until a successor is appointed.

(b) **Term.** Each member of the Board shall hold office for a term of 5 years beginning on the first day of January of the year of appointment and ending on the last day of December of the year of expiration of the appointment.

(c) **Officers.** The members of the Board shall annually elect from their number a chair, a secretary, and a treasurer. The duties of the chair shall include calling and presiding at meetings of the Board, corresponding on behalf of the Board with applicants and others, and representing the Board in regional and national organizations. The duties of the secretary shall include giving notice and recording minutes of meetings. The duties of the treasurer shall include receiving all fees, charges, and assessments payable to the Board and accounting for and paying over the same according to law.

## RULE 4. TRANSACTION OF BUSINESS

(a) The Board shall meet from time to time at the call of the chairman or a majority of their own number as necessary for the performance of its duties and the conduct of other business. Such meetings shall be called on at least 5 days' written notice unless all members of the Board waive such notice. Meetings may be held by telephone conference or similar means enabling all members participating at the meeting to hear one another. Except as provided in Subsection 4(b), five members of the Board shall constitute a quorum for the transaction of business. The Board may act through the concurrence or vote of a majority of those members present at a meeting called on sufficient notice or waiver of notice.

(b) The Chairman may, in his discretion, designate a panel consisting of three Board members, at least one of whom shall be a public member, to transact the Board's business and responsibilities under Rule 9(b), (c), and (d).

### **III. APPLICATION FOR ADMISSION TO THE BAR**

#### RULE 5. APPLICATION PROCEDURE AND FORMS

(a) Application Deadlines. Any person who seeks admission to the bar of Maine shall file the application provided in subsection (b) of this rule, together with the fee provided in Rule 6, with the Board within the following time periods:

(1) For the February examination, between the preceding October 15 and the preceding December 20.

(2) For the July examination, between the preceding March 15 and the preceding May 20.

(3) For admission pursuant to Rule 11A, at any time.

(b) Application. The application, on a form to be provided by the Board in accordance with subdivision (d) of this rule, shall set forth the name, date and place of birth, social security number, permanent residence, and current address of the applicant; all secondary schools, undergraduate colleges, and law schools and other graduate or professional schools attended, together with the dates of attendance and degree received, or reason for leaving; the names and addresses of any employers within the preceding 5 years; the names and addresses of 3 persons to provide the

references to the applicant's character and fitness to practice law required by subdivision (c)(4); any criminal convictions (other than minor traffic violations) in any jurisdiction and the circumstances thereof; whether the applicant has been admitted, or denied admission, to the bar of any jurisdiction, together with a statement of the circumstances of any denial of admission and a statement whether the applicant is in good standing in each jurisdiction where admitted and, if not, an explanation of the circumstances; and a statement of any special circumstances, such as a physical handicap, for which the applicant requests the establishment of special rules for taking the examination in accordance with Rule 10(f).

(c) Additional Materials. The applicant shall cause to be filed with the Board with his or her application, the following items on forms to be provided by the Board in accordance with subdivision (d) of this rule.

(1) The certificate of the registrar, or other appropriate official, of each accredited college or university from which the applicant graduated with a bachelor's degree, or the applicant successfully completed at least 2 years' work as a candidate for that degree, together with the dates of attendance and award of the degree or completion of the work.

(2) The certificate of the dean of each law school attended as to the dates of attendance, the reason for leaving if other than the award of a degree, any degree awarded and the date of the degree, and any circumstances recorded in the applicant's file that reflect adversely on the applicant's character and fitness to practice law.

(3) The certificate of any attorney in whose office the applicant studied as to the dates of such study and the successful completion of the course of study.

(4) Completed reference questionnaires provided by the Board to the applicant and delivered to the Board directly by the person giving the reference. It shall be the applicant's duty to ensure that the persons providing the references submit completed reference questionnaires to the Board in a timely manner.

(5) A certificate of good standing from the bar of any other jurisdiction in which an applicant is currently admitted.

(6) Any other material requested by the Board pertaining to the applicant's character and fitness to practice law or to special circumstances for which the applicant has requested the establishment of special rules for taking the examination in accordance with Rule 10(f).

(7) The Board may exempt applicants for admission pursuant to Rule 11A from filing the documents listed in paragraphs (1), (2), and (3) of this subsection.

(d) Forms and Other Application Materials. The Board shall prepare, and may revise from time to time, forms for the application required in subdivision (b) of this rule and the certificates and questionnaires required in paragraphs (1) through (4) of subdivision (c) of this rule, as well as other necessary application materials. Applicants may obtain all necessary forms and other materials upon request to the Board.

## RULE 6. FEES

(a) Application Fees. Each application for admission to the bar shall be accompanied by the appropriate fee. Payment shall be made by personal check, cashier's check, certified check, or money order payable to the Board of Bar Examiners.

(1) *Applicants admitted in another jurisdiction for one year or more.* Each application for admission to the bar by an applicant who has been admitted to practice in any other jurisdiction for one year or more shall be filed with the Board on forms prepared by the Board and shall be accompanied by a fee of \$650 plus any applicable late fees. Applicants admitted to practice in any other jurisdiction for one year or more shall also authorize the National Conference of Bar Examiners to prepare a full investigative report and supply it to the Board in a timely manner and shall pay the fee the National Conference sets for that service directly to the NCBE.

(2) *Applicants never admitted in any jurisdiction or admitted in another jurisdiction for less than one year.* Each application for admission to the bar by an applicant who has never been admitted to any bar, or who has been admitted to another bar for less than one year, shall be filed with the Board on forms prepared by it and shall be accompanied by a fee of \$600 plus any applicable late fees.

(3) *Applicants seeking admission pursuant to Rule 11A.* Each application for admission to the bar upon motion pursuant to Rule 11A shall be filed with the Board on forms prepared by the Board and shall be accompanied by a fee of \$900. Applicants seeking admission under Rule 11A shall also authorize the NCBE to prepare a full investigative report and supply it to the Board in a timely manner and shall pay the fee the NCBE sets for that service directly to the NCBE.

(b) Late Fees. The Board may determine to accept applications after the deadlines set forth in Rule 5(a) if in the exercise of its discretion or in the opinion of the Court no undue hardship will result to the Board's administrative procedures by such acceptances. The Board may set a schedule of late fees if it decides to accept such submissions. Any policy and associated schedule of fees so adopted shall be made available to applicants on forms provided by the Board or on any other publicly available form of electronic transmission maintained by it.

(c) Additional Fees and Costs. The Board of Bar Examiners may assess and collect additional fees equal to any actual or administrative costs it expends or incurs on an applicant's behalf, including but not limited to, copying costs, investigative costs, or costs for special accommodations. If the Board seeks reimbursement, payment may be made by personal check, cashier's check, certified check, or money order payable to the Board of Bar Examiners.

(d) Fees Nonrefundable. All fees paid to the Board, including application fees, forms and materials fees, and late fees are nonrefundable. If an applicant does not take the examination for which application is initially made, the Board shall credit the application fee paid toward any one of the next four administrations of the examination for which application may be made and shall assess such additional charges as may be necessary to update the information in the applicant's file. If an applicant for reciprocal admission under M. Bar Admission R. 11A withdraws that application, the Board shall credit the application fee paid toward any one of the next four administrations of the examination from the date of the withdrawal of the application and shall assess such additional charges as may be necessary to update the information in the applicant's file.

(e) Use of Fees Paid. The fees collected pursuant to the foregoing sections, together with any other funds made available to the Board, shall, subject to the provisions of Rule 6A, be used to pay the costs of administering these rules, to pay the costs of performing the responsibilities charged to the Board, including the reasonable expenses of members and any per diem as may be fixed by the Court, and for such other purposes as the Board, with the approval of the Court, may determine.

(f) Audit. The Board shall annually obtain an independent audit by a certified public accountant of the maintenance and disposition of the funds entrusted to it. The Board shall file a copy of such audit with the Court.

## RULE 6A. FINANCIAL RIGHTS AND RESPONSIBILITIES

The Board of Bar Examiners:

(a) May appoint and compensate administrative and secretarial personnel as needed to assist the Board in the performance of its duties;

(b) May lease office space, acquire equipment and supplies, and make contracts and arrangements for the performance of administrative, professional and other services required or appropriate in the performance of the Board's duties;

(c) May invest or direct the investment of the fees or any portion thereof received pursuant to these rules, may cause funds to be deposited in any federally insured bank or financial institution in this State, and may adopt procedures for the orderly payment of charges and expenses as is required by the Board's financial needs, provided, however, that the Board shall have no obligation to cause such fees or any portion of them to be invested;

(d) Shall prepare and file with the Court for approval in May of each year its budget for the next fiscal year, including any recommendation to increase or decrease the application fee;

(e) Shall adopt the fiscal year used by the Judicial Department; and

(f) Shall, subject to the Court's approval, adopt and conform to personnel and financial policies and procedures, including accounting controls, purchasing, expense vouchering and capital equipment inventories consistent with those used by the Judicial Department.

## RULE 7. DISCLOSURE OF INFORMATION

Except as a Justice of the Supreme Judicial Court, for good cause shown, may order, the Board shall disclose to the applicant any information in the applicant's file. Except as otherwise provided in these rules, or as ordered by a Justice of the Supreme Judicial Court for good cause shown, the Board may determine from time to time as the need arises the type, form, substance, and subject of any other disclosures to applicants or the public of information received, generated, or maintained by the Board or its members in performing their duties.

## **IV. QUALIFICATIONS FOR ADMISSION TO THE BAR**

### **RULE 8. CERTIFICATE OF QUALIFICATION**

The Board shall issue a certificate of qualification stating that the applicant is a person of good character, is fit to practice law, and possesses sufficient learning in the law to practice as an attorney in this State to each applicant who:

(1) produces satisfactory evidence of good character and fitness to practice law as provided in Rule 9;

(2) attains a passing grade on the Multistate Professional Responsibility Examination as provided in Rule 11; and

(3) (a) attains a passing grade on the bar examination as provided in Rule 10; or (b) completes the requirements for reciprocal admission as provided in Rule 11A.

### **RULE 9. GOOD CHARACTER AND FITNESS TO PRACTICE LAW**

(a) General Requirement. Each applicant shall produce to the Board satisfactory evidence of good character and fitness to practice law. This burden is initially met by establishing in the completed application and additional materials required by Rule 5 the absence of any information adverse to the applicant's character and fitness to practice law. If any such adverse information is provided in the application and additional materials, or otherwise received by the Board, the applicant has the burden of producing further evidence to explain or rebut such information sufficiently to satisfy the Board that the applicant is of good character and is fit to practice law. The attributes of character and fitness to practice law that are relevant to this determination are those pertinent to the trust placed in lawyers by the public and clients as well as to the requirement that lawyers in this state comply with the Maine Bar Rules and the Maine Rules of Professional Conduct.

(b) Board Review of Character and Fitness. The Board may verify all information that it receives by any appropriate means, including the use of a three-member review panel designated by the Chair pursuant to Rule 4(b). The Board shall publish the list of applicants as soon as possible after May 20 and December 20 of each year with a request that anyone having adverse information bearing on the character and fitness to practice law of any applicant communicate it to the Board.

(c) Review and Additional Investigation.

(1) *Determination of Need for Three-Member Panel.* Notwithstanding the provisions of (2) herein, if the Chair, based upon the application, certificates, references, unsolicited communications, or other information received, determines that a hearing pursuant to Rule 9(d)(5) is necessary to resolve doubt regarding the applicant's good character and fitness to practice law, then the Chair may forego the designation of a three-member review panel, and direct the matter be set for hearing.

(2) *Additional Investigation and Recommendations.* If the application, certificates, references, unsolicited communications, or other information received by the Board cause the Board to doubt the good character and fitness to practice law of an applicant, the Chair, if it has not already done so, shall designate a three-member review panel pursuant to Rule 4(b) to conduct an investigation on behalf of the Board. The review panel may request that Counsel for the Board assist in conducting the investigation. The review panel or, at its request, Counsel for the Board shall notify the applicant of the nature of the investigation and that the investigation is going forward and shall request that the applicant furnish explanations and further information concerning the matter or matters in question. For each investigation, a separate investigative file shall be maintained and shall be available to the review panel and Counsel for the Board. The investigative file shall contain all records and other information pertinent to the investigation, including all information received by the review panel or Counsel for the Board. If the investigation has been conducted by Counsel for the Board, at the conclusion of the investigation Counsel for the Board shall make a recommendation to the review panel, either that the Board find the applicant to be a person of good character and is fit to practice law, or that the Board conduct a hearing to resolve any doubt that remains concerning the applicant's good character and fitness to practice law. Counsel for the Board shall summarize with the recommendation the evidence upon which it is based.

(d) Hearing on Applicant's Character and Fitness.

(1) *Determination of Need.* If the review panel, on the basis of all material produced by the applicant or otherwise acquired by the review panel or Counsel for the Board pursuant to subdivisions (a), (b), and (c) of this rule and in light of any recommendation of Counsel for the Board, determines that doubt remains concerning the applicant's good character and fitness to practice law, the Board shall conduct a hearing to determine whether the applicant is a person of good character and is fit to practice law.

(2) *Hearing Panel.* The matter shall be heard by a panel consisting of all members of the Board except the members of the review panel. The hearing panel shall exercise all powers of the full Board in the conduct of the hearing, and the determination of the panel after hearing shall be the determination of the full Board. Four members of the hearing panel, including one public member, shall constitute a quorum for all actions and decisions.

(3) *Representation by Counsel for the Board.* Counsel for the Board shall prepare and present the case against the applicant at the hearing under paragraph (5) of this subdivision and shall represent the Board before a single justice of the Supreme Judicial Court or the Law Court on petition under paragraph (6) of this subdivision.

(4) *Time of Notification and Hearing.* The Board shall notify the applicant and Counsel for the Board of the time, place, and purpose of the hearing immediately after the review panel has decided that a hearing is required. Unless that decision is made after the bar examination, such notification shall be given to the applicant prior to the bar examination. The applicant shall be permitted to sit for the examination if the hearing cannot be held before that time or if the Board has not reached its decision.

(5) *Conduct of Hearing.*

A. At least 15 days before the time set for hearing, Counsel for the Board shall mail to the applicant and file with the Board a written statement summarizing the evidence that reflects adversely on the applicant's character and fitness to practice law, and stating that all material in the investigative file, other than Counsel for the Board's work product, will be available to the applicant at Counsel for the Board's office during usual office hours for inspection and copying at the applicant's expense. At least 15 days before the time set for the hearing, Counsel for the Board and the applicant or Counsel for the applicant, as the case may be, shall exchange witness and exhibit lists, and each shall provide the Board seven (7) copies of each exhibit intended to be introduced at the hearing by such party.

B. The hearing shall be open to the public, except that to protect the interests of an applicant, witness, or third party, the Board may, upon application and for good cause shown or on its own motion, issue a protective order prohibiting the disclosure of specific information otherwise privileged or confidential and direct that the proceedings be conducted so as to implement that order. The deliberations of the Board following any hearing under this subdivision shall not be open to the public.

The decision of the Board following any hearing under this subdivision shall be made available to the public.

C. Evidence shall be admitted at the hearing if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The Board may exclude irrelevant or unduly repetitious evidence and shall observe the rules of privilege recognized by law.

D. The applicant may be represented by counsel and may present evidence. The applicant and Counsel for the Board may call, examine, and cross-examine witnesses.

E. The Chair of the Board, or the member of the Board presiding at the hearing in the absence of the Chair, shall have the power to administer oaths.

F. The Board shall cause all hearings to be stenographically or electronically recorded in a form that will readily permit transcription.

G. Subpoena. A witness or the applicant may be summoned by subpoena to give evidence or appear before the Board at the hearing. Any member of the Board, a notary public, or any clerk of the Superior or District Court may issue such subpoenas as well as subpoenas duces tecum to compel the production of books, papers, and photographs or other documents or tangible things at or before the hearing. At or before the time specified in the subpoena for compliance therewith, the Board may quash or modify any subpoena issued under this rule if it is determined that the subpoena is unreasonable or oppressive. Witness fees in all proceedings before the Board shall be the same as for witnesses in a civil action in the Superior Court. When a witness who has been subpoenaed fails to appear without reasonable excuse, the Supreme Judicial Court or any justice thereof, or the Superior Court or any justice thereof, or the District Court or any judge thereof, may, on application of the Board, invoke the provisions of Rule 45(f) of the Maine Rules of Civil Procedure for such failure.

H. The Board shall render a written decision within 30 days after the conclusion of the hearing, determining either that the applicant is a person of good character and is fit to practice law or that the applicant has not satisfied the Board that the applicant is a person of good character and is fit to practice law. At the applicant's request, or in the discretion of the Board, a decision adverse to the applicant shall include specific findings sufficient to support the Board's determination. A copy of the Board's written decision and findings, if any, shall be

promptly mailed to the applicant or the applicant's counsel and to Counsel for the Board.

*(6) Proceedings Following Board Determination.*

A. Within 30 days after receipt of the Board's written adverse decision, an applicant may file with the Executive Clerk of the Supreme Judicial Court a petition for admission to the bar seeking a determination that the applicant is a person of good character and is fit to practice law. At the time of filing, the applicant shall serve a copy of the petition upon Counsel for the Board and the Board by ordinary mail.

B. Within 15 days after receipt by the Board of the petition, Counsel for the Board shall file a response on behalf of the Board.

C. Proceedings upon the petition shall be a hearing de novo before a single justice of the Supreme Judicial Court assigned by the Chief Justice to hear the matter. In this paragraph (6), the word "court" shall mean the single justice of the Supreme Judicial Court assigned to hear the proceeding. The following procedures shall apply:

(i) The applicant shall be treated as plaintiff and the Board as defendant, and the proceeding shall be captioned "[name of applicant] v. Board of Bar Examiners."

(ii) Counsel for the Board shall furnish to the applicant, within a reasonable time after the filing of the Board's response, at the applicant's expense, copies of all information in the applicant's Board file and Counsel for the Board's investigative file not previously disclosed, other than Counsel for the Board's work product, and copies of any exhibits presented at the Board's hearing not previously furnished. The stenographic or electronic record of the hearing made in accordance with Rule 9(d)(5)F and any other matter within the possession or control of Counsel for the Board or the Board that is discoverable under Rule 26 of the Maine Rules of Civil Procedure shall be made available to the applicant at Counsel for the Board's office during usual office hours for inspection and copying at the applicant's expense.

(iii) The court may order further production of documents, or may limit production, on motion and a showing of good cause.

(iv) The court may in its discretion hold a prehearing conference with Counsel for the Board and the applicant, or the applicant's attorney, to consider such matters as may aid in the disposition of the proceeding. The court may by written order limit the issues to be heard.

(v) At the hearing, evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The court may exclude irrelevant or unduly repetitious evidence and shall observe the rules of privilege recognized by law.

D. At all times, the applicant retains the burden of producing to the court satisfactory evidence of good character and fitness to practice law and of persuading the court that the applicant is a person of good character and is fit to practice law.

E. If the court is not satisfied that the applicant is a person of good character, or if the court is not satisfied that the applicant is fit to practice law, the court shall enter judgment accordingly. If the court finds that the applicant is a person of good character and is fit to practice law, it shall enter judgment accordingly and shall remand the proceeding to the Board with instructions to issue a certificate of qualification to the applicant, provided that the requirements of Rule 8(2) and Rule 8(3) are met.

F. The applicant or the Board may appeal to the Law Court as in a civil action within 10 days from the entry of the judgment of the single justice.

G. When the court enters a judgment against the applicant, if it determines that the grounds of the petition were frivolous, it may require the applicant to pay the reasonable expenses incurred by the Board and Counsel for the Board in the investigation of the matter or in the conduct of hearings before the Board or before the single justice or the Law Court. The court may make such orders as are just concerning the payment of such expenses.

#### RULE 9A. CONDITIONAL ADMISSION

(a) Conditional Admission. Following a determination that an applicant has not produced satisfactory evidence of good character and fitness to practice law pursuant to Rule 9 and upon findings that:

(1) the conditions that led to the determination that the applicant has not produced satisfactory evidence of good character and fitness to practice law are in the past and are not likely to recur;

(2) the applicant has made and is making a good faith effort to cure or avoid the conditions that led to the determination; and

(3) the applicant has in place a support system, including an identified responsible individual, to monitor and assist the applicant in maintaining good and ethical conduct and to regularly report on the applicant's progress and any problems to the Board of Overseers of the Bar;

the Board, with the written consent of the applicant, may recommend to the Court that the applicant be admitted on a conditional basis. Provided, however, that a lawyer who has been disbarred or suspended from the practice of law or has resigned from the practice of law in another jurisdiction, and has not been reinstated to the practice of law in that other jurisdiction shall be ineligible for conditional admission pursuant to these Rules.

(b) **Circumstances Warranting Conditional Admission.** The Board, having made the findings stated in subdivision (a), may allow an applicant whose record shows (1) a history of acts or omissions constituting a lack of good character and fitness to practice law, and (2) evidence of rehabilitation from the conditions that caused the acts or omissions to current good and trustworthy conduct, to be conditionally admitted to the practice of law, subject to certain terms and conditions set forth in a written conditional admission consent agreement. Only an applicant whose record of conduct at the time of the Rule 9 determination evidences a commitment to continued rehabilitation and an ability to meet the essential eligibility requirements for admission to the practice of law under these Rules may be considered for a Board recommendation of conditional admission.

(c) **Consent Agreement.** The written consent agreement shall (1) state the terms and conditions of conditional admission; (2) be signed by the Chair of the Board of Bar Examiners or his or her designee, by the applicant, and by a designated representative of each individual, agency, or entity agreeing to supervise the conditionally-admitted lawyer during the conditional admission period; and (3) be placed in the conditionally-admitted lawyer's permanent application file.

(d) **Disclosure and Confidentiality.**

(1) Except as otherwise provided herein with respect to disclosure to the Board of Overseers of the Bar, and subject to the provisions of the Bar Rules, the Rules of Professional Conduct, and Rule 7 of these Bar Admission Rules, or as may be ordered by the Supreme Judicial Court, the fact that an individual is conditionally admitted and the terms of a conditional admission consent agreement shall be confidential; provided, however, that (i) an applicant shall disclose the fact and terms of any conditional admission consent agreement to the bar admission authority in any

jurisdiction where the applicant is admitted or applies for admission to practice law; and (ii) the Board of Bar Examiners is authorized to disclose the fact and terms of any conditional admission consent agreement and the fact and terms of any modification or revocation to the bar admission authority in any jurisdiction where the applicant practices or applies for admission to practice law and to the National Conference of Bar Examiners and its designated agents, investigators, administrators, and representatives.

(2) In addition to maintaining the confidentiality of the fact that an individual is conditionally admitted and the terms of a conditional admission consent agreement in the records maintained by the Board of Bar Examiners pursuant to this Rule, the Board shall structure the terms, conditions, and monitoring or supervision of conditional admission such that they do not pose a significant risk to the maintenance of confidentiality. Nothing in this Rule shall require that records or documents that are public records in Maine or any other jurisdiction shall be confidential if those records or documents become part of the Board of Bar Examiners file.

(3) This subdivision shall not prohibit or restrict the applicant from disclosing to third parties that the applicant has been conditionally admitted under this Rule.

(4) This subdivision shall not prohibit or restrict the authority or ability of the Board of Bar Examiners or the Board of Overseers of the Bar to disclose an applicant's record of compliance or noncompliance with a conditional admission consent agreement to bar admission authorities in other jurisdictions where the conditionally-admitted lawyer practices or applies for admission to practice law and to the National Conference of Bar Examiners and their designated agents, investigators, administrators, and representatives.

(e) Transmittal of Consent Agreement to the Board of Overseers of the Bar and to Conditional Admission Supervisors. A copy of each executed consent agreement conditionally admitting an individual to the Maine Bar shall be transmitted, upon its execution, to the applicant, to the Board of Overseers of the Bar, and to a designated representative of each individual, agency, or entity agreeing to supervise the conditionally-admitted lawyer during the conditional admission period. In the event a complaint of professional misconduct or a violation of the consent agreement is filed with the Board of Overseers of the Bar against a conditionally-admitted lawyer during the conditional admission period, a copy of the lawyer's

Board of Bar Examiners bar admission application file shall be transmitted to the Board of Overseers of the Bar upon the request of that office.

(f) Length of Conditional Admission Period. The initial duration of a conditional admission period shall be established in the conditional admission consent agreement but shall not exceed sixty (60) months unless, prior to completion of the conditional admission period, a complaint of violation of the consent agreement or a complaint of professional misconduct or violation of the Bar Rules or the Rules of Professional Conduct is filed with the Board of Overseers of the Bar. The filing of any such complaint shall automatically extend the conditional admission period until final disposition of the complaint and any resulting appeals.

(g) Monitoring and Violations.

(1) During any conditional admission period, the conditionally-admitted lawyer's compliance with the terms of the consent agreement shall be enforced by the Board of Overseers of the Bar or one of its Commissions, which is authorized to conduct such investigations and take such action as necessary to monitor and determine compliance with the terms of the consent agreement, including but not limited to requiring the conditionally-admitted lawyer to (i) submit written verification of compliance with all conditions of admission; (ii) appear before the Board of Overseers of the Bar or one of its Commissions; and (iii) respond to any request for evidence concerning compliance.

(2) Any determination by the Board of Overseers of the Bar or one of its Commissions of a violation of a conditional admission consent agreement shall state in writing the basis for finding that a condition or conditions of admission established pursuant to the consent agreement have been violated. Written notice of a determination of a violation of a conditional admission consent agreement and the basis for such finding shall be provided by the Board of Overseers of the Bar to the conditionally-admitted lawyer, Bar Counsel, the Board of Bar Examiners and the designated representative of each individual, agency, or entity agreeing to supervise the conditionally-admitted lawyer during the conditional admission period.

(3) Violation of a conditional admission consent agreement may result in modification of the conditional admission consent agreement. Such modification may include, but shall not be limited to, extension of the period of conditional admission for an additional specified period of time.

(4) Upon the determination by the Board of Overseers of the Bar that the conditions of a conditional admission consent agreement have been violated, the Board may petition the Supreme Judicial Court for an order suspending the conditionally-admitted lawyer from the practice of law, in which case the conditionally-admitted lawyer shall have twenty-one (21) calendar days from the date of the filing with the Court to file a written response with the Court. If no timely response is filed, the lawyer's conditional admission license to practice law in the State of Maine shall be suspended upon expiration of the period allowed for response. If the lawyer files a timely response, the matter shall be addressed as the Court directs, including but not limited to an order of suspension.

(5) Unless terminated earlier by the Court, a suspension for a violation of a conditional admission consent agreement shall remain in effect until final disposition of all discipline and/or grievance procedures, including review of a finding of a violation of conditions of admission, commenced against the conditionally-admitted lawyer. A final disposition may include, but shall not be limited to, revocation of the lawyer's conditional admission license.

(6) Nothing in this Rule shall prohibit or restrict in any way the investigation and discipline under the Maine Bar Rules or the Maine Rules of Professional Conduct of a conditionally-admitted lawyer by Bar Counsel and the Board of Overseers of the Bar for conduct violating the Bar Rules or the Rules of Professional Conduct.

(h) **Reapplication After Revocation of Conditional Admission.** A lawyer whose conditional admission license has been revoked is prohibited from applying for reinstatement pursuant to Maine Bar Rule 7.3(j), for five (5) years after the date of the revocation.

(i) **Costs of Conditional Admission.** The applicant shall be responsible for all conditional admission costs, including but not limited to application fees and expenses of investigation, testing, monitoring, enforcement, and prosecution incurred by the Board of Bar Examiners, the Board of Overseers of the Bar, or by any individual, agency, or entity agreeing to supervise or supervising such applicant during the conditional admission period and any extension thereof.

(j) **Expiration of Condition.** Unless the conditional admission is modified, revoked, or extended as provided herein, including any extension for the period required to resolve a complaint of a violation of the consent agreement, the Maine Bar Rules, or the Maine Rules of Professional Conduct, upon completion of a period

of conditional admission the conditions imposed by a conditional admission consent agreement shall expire. A conditionally-admitted lawyer whose conditions of admission have expired shall be timely notified by the Board of Overseers of the Bar.

(k) **Ultimate Authority.** Nothing herein shall diminish the authority of the Supreme Judicial Court with respect to any applicant's admission to the practice of law in Maine. Nothing herein shall diminish in any way the ability or authority of the Board of Overseers of the Bar, Bar Counsel, or any court in the State of Maine to discipline or seek discipline of a conditionally-admitted lawyer for violation of the Bar Rules or the Rules of Professional Conduct.

## RULE 10. THE BAR EXAMINATION

(a) **General Requirement.** Each applicant for admission to the bar must demonstrate sufficient learning in the law to practice as an attorney in this State by obtaining a passing grade on the examination provided in this rule. Any individual who completes the application and pays the fees required by Rule 6 and produces satisfactory evidence of the educational qualifications required by subdivision (c) of this rule is eligible to take the examination.

(b) **Time and Place of Examination.** The Board shall administer the examination twice a year, in February on the last Wednesday and the preceding Tuesday, and in July on the last Wednesday and the preceding Tuesday. The hours and places at which the examination is to be administered shall be announced by the Board in a public notice of the examination to be published not later than April 1 and November 1 in each year. Each applicant shall produce such identification at the examination as the Board shall require.

(c) **Education Qualifications.** Before taking the bar examination, each applicant shall produce to the Board satisfactory evidence that the applicant.

- (1) graduated with a bachelor's degree from a college or university; and
- (2) graduated with a juris doctor or a bachelor of laws from a law school which had received its provisional or final accreditation from the American Bar Association by the time of the graduation of the applicant; or
- (3) graduated from a law school accredited by the United States jurisdiction in which it is located and has been admitted to practice by examination in one or more

jurisdictions within the United States and has been in active practice there for at least 3 years; or

(4) graduated from a foreign law school with a legal education which, in the Board's opinion pursuant to regulations adopted by the Board, is equivalent to that provided in those law schools accredited by the American Bar Association and has been admitted to practice in that country or by examination in one or more jurisdictions within the United States and has been in active practice in a jurisdiction in which the applicant is licensed for at least 3 years; or

(5) successfully completed two thirds of the requirements for graduation from a law school that had received its provisional or final accreditation from the American Bar Association by the time of the applicant's completion of those requirements and then within 12 months following such successful completion pursued the study of law in the law office of an attorney in the active practice of law in the State of Maine continuously on a full-time basis for at least one year; provided that the attorney must, in advance, present the proposed course of study to the Board for its approval and, at its conclusion, certify that the course, as approved, was completed.

(d) Contents of the Bar Examination.

(1) The first day of the examination shall consist of questions selected by the Board with the assistance of such consultants as the Board may deem appropriate. The examination may include the Multistate Essay Examination (MEE) and/or the Multistate Performance Test prepared by the National Conference of Bar Examiners. The examination shall cover the Maine Rules of Civil and Criminal Procedure, the Maine Rules of Appellate Procedure, the Maine Rules of Evidence, the Maine Rules of Professional Conduct, and several, but not necessarily all, of the following subjects: business associations, conflict of laws, constitutional law, contracts, creditors' rights, criminal law, equity, estates, wills and trusts, evidence, family law, agency, partnerships, real property, statute of frauds, statutes of limitations, federal income taxation, torts, and the Uniform Commercial Code.

(2) The second day of the examination shall consist of the Multistate Bar Examination (MBE) prepared by the National Conference of Bar Examiners and administered in this State or in another jurisdiction. An applicant who qualifies under either (e)(1)(i) or (ii) may elect not to take the current MBE.

(e) Modified Bar Examinations.

(1) An applicant who (i) has been admitted by examination to practice in one or more jurisdictions in the United States and has been in the active practice of law in a jurisdiction in which the applicant is licensed for at least 3 of the preceding 5 years or (ii) has taken the MBE within the 61 months prior to the current administration of the examination, may elect to take only the first day of the examination. "The active practice of law" includes the teaching of law full time at a law school accredited by the American Bar Association or serving as a judge or post-graduate law clerk full time.

An applicant who qualifies under (i) of this rule is not required to have an MBE score. An applicant who qualifies under either (i) or (ii) may elect not to take the current MBE and to use a prior MBE score, or to take the current MBE and to use the higher of the score achieved or a prior score. The MBE score shall be the scale score established by the National Conference of Bar Examiners. If an applicant desires to elect any of these options, the applicant shall notify the Board and, if applicable, shall arrange to have the prior MBE scale score sent to the Board.

(2) An applicant qualified under either (e)(1)(i) or (e)(1)(ii) of this rule and who has achieved a useable MBE scale score may be admitted on the basis of a further modified written examination that shall include two or more of the subjects of the Maine Rules of Professional Conduct, the Maine Rules of Evidence, the Maine Rules of Appellate Procedure and the Maine Rules of Civil and Criminal Procedure, if the Board determines that the applicant's minimal competence in every subject tested in such modified examination, combined with the applicant's MBE examination record, demonstrates sufficient learning in the law to practice as an attorney in this State.

For purposes of subdivision (e)(2), "a useable MBE score" is defined as a certain MBE scale score as established by the Board from time to time which was achieved by the applicant as part of a bar examination administered in another jurisdiction in which the applicant was successful on the entire exam given by such other jurisdiction.

(f) Special Examination Circumstances. Upon appropriate written request by an applicant in the application, the Board may, in order to provide for special circumstances such as a physical handicap, establish special rules for the taking of the examination by the applicant and may provide for an oral examination to supplement the written examination.

(g) Grading.

(1) The scores of the separate examinations administered on the first day shall be determined by lawyer members of the Board, with or without the assistance of readers selected by them, and then combined with and scaled to the Multistate Bar Examination scale score, using accepted statistical methodology. In the combining process, a weight of 7/11 this shall be given to the resulting average of the first day's scores, and a weight of 4/11 this shall be given to the Multistate Bar Examination scale score. The passing score shall be that score set by the Board, prior to the administration of each examination, which will demonstrate sufficient learning in the law to practice as an attorney in this State. The Board may use such historical data and statistical analysis as it finds appropriate to determine the passing score.

(2) For applicants taking the modified examination provided in subdivision (e) of this rule, the passing score for the separate examinations administered on the first day shall be determined as provided for the full examination in paragraph (1) of this subdivision.

(3) An applicant who passes one part of the examination and fails another part may not carry forward that partial passing score to a subsequent examination, except in the case of an election to use a prior MBE score as provided in subdivision (e)(1) of this rule.

(h) Notification of Results. The Board shall complete the grading of the examinations and notify all applicants of the results by mail within 75 days after the final day of an examination. Three days after the results have been mailed to individual applicants, the Board shall release for general public distribution and publication a list of successful applicants.

(i) Review Procedure for Unsuccessful Applicants. An unsuccessful applicant may obtain a copy of any essay questions, corresponding answers by the applicant and sample answers by requesting such materials within 30 days after the mailing of the examination results.

(j) Reexamination.

(1) Any applicant who fails to pass an examination may reapply to take a subsequent examination upon payment of the same fee then required of an original applicant.

(2) Any attorney who is otherwise qualified shall be permitted to take the modified examination, despite having previously failed the Maine examination.

## RULE 11. THE MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION

(a) General Requirement. Each person who is admitted after July 1, 1987, shall have obtained a passing grade on the Multistate Professional Responsibility Examination (MPRE) prepared and administered by the National Conference of Bar Examiners. The MPRE may be taken at any time and place that is offered by the National Conference of Bar Examiners, within or without the State of Maine.

(b) Educational Qualifications. The MPRE may be taken at any time after an applicant has entered law school.

(c) Passing Score. A scale score of 80 as established by the National Conference of Bar Examiners shall be the passing score in this State for the MPRE, except that an MPRE scale score of 75 as established by the National Conference of Bar Examiners for an MPRE taken before July 1, 2006, shall be accepted from any applicant who is not admitted in any other jurisdiction.

(d) Applicants for Admission by Examination. An applicant for admission by examination must have taken and obtained a passing score on the MPRE within 15 years prior to the date on which the application is filed.

(e) Applicants for Reciprocal Admission on Motion. An applicant for reciprocal admission on motion must either (1) have taken and obtained a passing score on the MPRE within 15 years prior to the date on which the application is filed or (2) if relying on a passing score on the MPRE that is more than 15 years old, demonstrate to the Board that the applicant in the past was admitted to practice law in another United States jurisdiction that, at the time of the applicant's admission in that jurisdiction, required a passing score on the MPRE that was equal to or greater than the passing score in this State.

## RULE 11A. RECIPROCAL ADMISSION BY MOTION.

(a) An applicant who is an attorney admitted to practice law in a state or territory of the United States or the District of Columbia and meets the following

requirements may, upon motion, be admitted to the practice of law without taking and passing the bar examination required by Rule 10, provided that the state or territory of the United States in which the applicant is admitted to practice law allows admission without examination of persons admitted and in good standing to practice law in the State of Maine under circumstances comparable to those set forth in this rule. The applicant shall present evidence that the applicant:

1. Is admitted to practice law in, and is an active member in good standing of the bar of, another state or territory of the United States (or the District of Columbia) that allows admission without examination of persons admitted and in good standing to practice law in the State of Maine under circumstances comparable to those set forth in this rule;

2. (A) Has been an active member in good standing of the bar of the State of New Hampshire and has been primarily engaged in the active practice of law in the State of New Hampshire for no less than three years immediately preceding the date upon which the application is filed;

(B) Has been an active member in good standing of the bar of the State of Vermont and has been primarily engaged in the active practice of law in the State of Vermont for no less than three years immediately preceding the date upon which the application is filed; or

(C) Has been primarily engaged in the active practice of law in one or more United States jurisdictions (which may include the active practice of law in the State of Maine to the extent permitted by Rule 5.5(d) of the Maine Rules of Professional Conduct) for at least 5 of the 7 years immediately preceding the date upon which the application is filed.

For the purposes of this Rule, the “active practice of law” shall include the following activities, either separately or in the aggregate, if performed on a full time basis:

- (i) Representation of one or more clients in the private practice of law;
- (ii) Service as a lawyer with a local, state, territorial or federal agency including military service;
- (iii) Teaching law at a law school approved by the American Bar Association;
- (iv) Service as a judge in a federal, state, or local court of record;

- (v) Service as a judicial law clerk; or
- (vi) Service as in house counsel providing legal services to the lawyer's employer.

The "active practice of law" shall not include work undertaken during any period in which the applicant is not an active member in good standing of the bar of a United States jurisdiction and shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.

3. Has graduated with a J.D. or LL.B degree from a law school approved by the American Bar Association (i) having a three (3) school year course of study and requiring students to devote substantially all their working time to study, called a full-time law school; or (ii) having a course of study of not less than four (4) school years, equivalent in the number of credit hours to a three (3) school year course of study in a full-time law school and in which students devote only part of their working time to their studies, called a part-time law school; or (iii) has graduated from a law school in an English-speaking, common law country having pursued a course of study substantially equivalent to that of a law school approved by the American Bar Association. A combination of study in full-time and part-time law schools will be accepted only if such law schools meet the above requirements, and the applicant shall have graduated from one or the other. Study in any law school which conducts its courses by correspondence or does not require attendance of its students at its lectures or classes shall not constitute compliance with the rule;

4. Has satisfactorily completed the Multistate Professional Responsibility Examination in accordance with Rule 11, prior to the date on which the application is filed;

5. [Deleted]

6. Is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

7. Possesses good character and is fit to practice law in the State of Maine;

8. Has completed at least fifteen hours of continuing legal education in Maine practice and procedure in courses approved by the Maine Board of Overseers of the Bar within one year immediately preceding the date on which the applicant is certified for admission; and

9. If domiciled in or maintaining a principal office in another jurisdiction, will, upon admission to the bar of the State of Maine, designate the Board of Overseers of the Bar as the agent to receive service of process if the attorney cannot, with due diligence, be served with process in any action arising out of or related to the practice of law.

(b) An applicant who has failed the Maine bar examination within five years of the date of filing an application for admission without examination shall not be eligible for admission on motion. An applicant who has resigned from the practice of law in the State of Maine, or who has been disbarred or is currently under suspension from the practice of law in any jurisdiction shall not be eligible for admission under this Rule, provided, however, that an administrative suspension from the practice of law in a jurisdiction other than the State of Maine, for failure to comply with that jurisdiction's registration, dues, or continuing legal education requirements, shall not preclude admission under this Rule if the Board determines that the applicant has demonstrated that requiring the applicant to return to good standing in, or resign from, the jurisdiction that imposed the administrative suspension would impose an undue hardship on the applicant and the applicant is in good standing in at least one state of reciprocal admission.

(c) Any applicant for admission by motion shall comply with the application and good character and fitness requirements of Rules 5, 6 and 9 of the Maine Bar Admission Rules.

(d) Any applicant admitted to practice in accordance with this Rule shall register as required by Rule 6(a)(1) of the Maine Bar Rules and pay the annual fees required by Rule 10 of the Maine Bar Rules, and shall otherwise comply with the requirements of the Maine Bar Rules and the Maine Rules of Professional Conduct in the same manner as any other attorney admitted to active practice in the State of Maine.

## **V. GENERAL PROVISIONS**

### **RULE 12. IMMUNITY**

The duties and responsibilities of members of the Board and its staff are duties and responsibilities owed to the Court and the public in general, not to any individual applicant or other person. Nothing in these rules shall be construed as creating a civil cause of action or right of suit, and members of the Board and members of its staff

shall in any event be immune from liability for any omission or conduct in the course of their official duties relating directly or indirectly to their administering or interpreting these rules or fulfilling or failing to fulfill their duties and responsibilities under these rules or under statute.

### RULE 13. PRACTICES AND REGULATIONS

The Board is empowered to adopt and employ such practices and regulations as are reasonably necessary to administer its duties under these rules; provided, however, that such practices and regulations shall not conflict with these rules.

### RULE 14. EFFECTIVE DATE; AMENDMENT

(a) Effective Date. Rules 5(c)(4) and 9(a) shall become effective April 10, 1988. These rules shall otherwise become effective January 1, 1988, and shall be first applied in the administration of the bar examination in February, 1988.

(b) Amendment. These rules may be amended from time to time by the Supreme Judicial Court. Any amendment shall take effect on the date specified therein.

### RULE 15. TITLE

These rules may be known and cited as the Maine Bar Admission Rules.