

STATE OF MAINE
SUPREME JUDICIAL COURT
PROPOSED AMENDMENTS TO
MAINE BAR ADMISSION RULES

1. Rule 6 of the Maine Bar Admission Rules is amended to read as follows:

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.

....

(3) *Applicants seeking admission pursuant to Rules 11A and 11B.* Each application for admission to the bar upon motion pursuant to Rule 11A and by transferred Uniform Bar Examination score pursuant to Rule 11B 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 Rules 11A and 11B 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.

Advisory Notes – March 2017

Subdivision (a)(3) is amended to reflect the Supreme Judicial Court's adoption of the Uniform Bar Examination in January 2017. Pursuant to the Court's directive, the fee for admission by transferred Uniform Bar Examination score is the same fee applicable to applications for admission by motion.

2. Rule 8 of the Maine Bar Admission Rules is amended to read as follows:

RULE 8. CERTIFICATE OF QUALIFICATION

(a) 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)~~ A. attains a passing grade on the bar examination as provided in Rule 10; or

~~(b)~~ B. completes the requirements for reciprocal admission by motion as provided in Rule 11A; or

C. qualifies for admission by transferred Uniform Bar Examination score as provided in Rule 11B.

(b) An applicant who has been disbarred or is currently under suspension from the practice of law in any jurisdiction shall not be eligible to receive a certificate of qualification, 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 the issuance of a certificate of qualification 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 other state.

Advisory Notes – March 2017

Subdivision (3)(C) is added to reflect the adoption of the Uniform Bar Examination by the Maine Supreme Judicial Court in January 2017 and to identify admission by transferred Uniform Bar Examination score pursuant to Rule 11B as a third avenue for admission to the Maine bar.

This amendment also includes a new subdivision (b), previously located in Rule 11A(b), which remedies a prior inconsistency in the rules that permitted individuals who had been disbarred or suspended to seek admission by examination but prohibited those same individuals from seeking admission by motion. Inclusion of this provision in Rule 8 makes clear that an applicant who has been disbarred or is currently under suspension from the practice of law is not eligible for admission to the Maine bar by any avenue, including admission by examination, admission by motion, or admission by transferred Uniform Bar Examination score.

3. Rule 10 of the Maine Bar Admission Rules is amended to read as follows:

RULE 10. THE BAR ADMISSION BY EXAMINATION

(a) General Requirements. Each applicant for admission to the Maine bar must demonstrate sufficient learning in the law to practice as an attorney in this State by obtaining a passing grade on the bar 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.~~

(b) Educational 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~~ that had received its provisional or final accreditation from the American Bar Association by the time of the applicant's 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~~ that, 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 (c) The Bar Examination. The Maine bar examination shall be the Uniform Bar Examination prepared by the National Conference of Bar Examiners, which consists of the Multistate Essay

Examination, the Multistate Performance Test(s), and the Multistate 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 Procedure, the Maine Rules of Unified 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 (c)(1)(i) or (ii) may elect not to take the current MBE.~~

~~(c) 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 Procedure, and the Maine Rules of Unified 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.~~

(1) Administration of the Bar Examination. The Board shall administer the Maine bar 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 to be published not later than April 1 for that year's July administration and November 1 for the next year's February administration. Each applicant shall produce such identification at the examination as the Board shall require.

(2) Grading. The Board or its designees shall grade and assign raw scores to the Multistate Essay Examination and Multistate Performance Tests. The Board shall provide the raw scores to the National Conference of Bar Examiners, which then scales the raw scores to the Multistate Bar Examination for a determination of an overall scaled score for each applicant.

(3) *Passing Score.* Prior to the administration of each examination, the Board shall set the passing scaled score that it determines will demonstrate sufficient learning in the law to practice as an attorney in this State.

(4) *Finality of Scores.* An applicant's score on the Uniform Bar Examination, as certified by the National Conference of Bar Examiners, is final.

(f) (d) 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)~~ **(e) Notification of Results.** The Board shall complete the grading of the examinations and notify all applicants of the results by regular 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)~~ **(f) 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.

~~(k)~~ **(g) Extension of tTime for aAdmission to the bBar.** Any motion to enlarge the time for admission to the bar submitted pursuant to 4 M.R.S. § 805-A(3) shall be filed with the Executive Clerk of the Supreme Judicial Court prior to the expiration of the one-year deadline established by the statute. The applicant shall serve a copy of the motion upon the Board by electronic mail and by regular mail sent on or before the date of filing. Any response by the Board shall be filed within 14 days after the applicant's filing of the motion to enlarge.

Advisory Notes – March 2017

In June 2016, the Maine Supreme Judicial Court created an Advisory Commission to study the merits of adopting the Uniform Bar Exam (UBE). After six month of study, on November 18, 2016, the Commission issued the Report and Recommendations of the Advisory Commission on the Uniform Bar Examination. Among other things, that Report recommended

adoption of the UBE, acceptance of transferred UBE scores for a three-year period, and amendment of the admission by motion rule to make it more consistent with the ABA Model Rule for Admission by Motion.

On January 25, 2017, the Supreme Judicial Court indicated its acceptance of the Commission’s recommendations and its intent to adopt the UBE, effective with the July 2017 administration of the bar examination. The amendments to Rule 10 reflect implementation of the Court’s adoption of the UBE, which examination supplants both the full and modified Maine bar examination formats.

4. Rule 11 of the Maine Bar Admission Rules is amended to read as follows:

RULE 11. THE MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION

....

(e) Applicants for Reciprocal Admission ~~on~~ by Motion. An applicant for ~~reciprocal~~ admission ~~on~~ by 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.

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

Advisory Notes—March 2017

Consistent with the concurrent amendments to Rule 11A, subdivision (e) is amended to delete reference to the reciprocity requirement for applicants seeking admission by motion.

Subdivision (f) is amended to reflect the adoption of the Uniform Bar Examination by the Maine Supreme Judicial Court in January 2017.

5. Rule 11A of the Maine Bar Admission Rules is amended to read as follows:

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 in Maine without taking and passing the Maine 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 three of the 7 five 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 when performed on a full time basis:

- A. Representation of one or more clients in the private practice of law;
- B. Service as a lawyer with a local, state, territorial or federal agency including military service;
- C. Teaching law at a law school approved by the American Bar Association;
- D. Service as a judge in a federal, state, or local court of record;
- E. Service as a judicial law clerk; or
- F. 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.~~ juris doctor or ~~LL.B~~ bachelor of laws degree from a law school approved by the American Bar Association (A) 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 (B) 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 (C) has graduated from a foreign law school with a legal education that, in the Board's opinion pursuant to regulations adopted by the Board, is in an

~~English-speaking, common law country having pursued a course of study substantially equivalent to that provided in those of a law schools approved accredited~~ 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 that~~ conducts its courses by correspondence or does not require attendance of its students at its lectures or classes shall not constitute compliance with ~~the~~ this ~~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 the State of Maine 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.

Advisory Notes - March 2017

In June 2016, the Maine Supreme Judicial Court created an Advisory Commission to study the merits of adopting the Uniform Bar Exam (UBE). After six month of study, on November 18, 2016, the Commission issued the Report and Recommendations of the Advisory Commission on the Uniform Bar Examination. Among other things, that Report recommended adoption of the UBE, acceptance of transferred UBE scores for a three-year period, and amendment of Rule 11A to make it more consistent with the ABA Model Rule for Admission by Motion. On January 25, 2017, the Supreme Judicial Court indicated its acceptance of the Commission's recommendations.

Subdivision (a)(2) is amended to reflect the adoption of the Uniform Bar Examination by the Maine Supreme Judicial Court in January 2017 and the corresponding directive that the time-in-practice requirement for admissions by motion shall be three out of five years rather than the current five years out of seven.

Subdivision (a)(3)(C) is amended to make it consistent with Rule 10(b)(4) and clarify that the educational requirements applicable to individuals who graduated from a foreign law school are the same regardless whether the applicant is seeking admission by examination, admission by motion, or admission by transferred UBE score.

The provision in subdivision (b) prohibiting individuals who are disbarred or suspended from seeking admission by motion is relocated to Rule 8(b).

6. Rule 11B of the Maine Bar Admission Rules is adopted to read as follows:

**RULE 11B. ADMISSION BY TRANSFERRED
UNIFORM BAR EXAMINATION SCORE**

(a) General Requirements. An applicant for admission to the Maine bar may transfer a Uniform Bar Examination score earned in another jurisdiction upon filing of an application and payment of the fees required by Rule 6.

(b) Qualifying Scores. A Uniform Bar Examination score qualifies for transfer if it meets the passing score for the Maine bar examination set by the Board pursuant to Rule 10(c)(3) and was earned in an administration of the Uniform Bar Examination that occurred within 3 years before the applicant's application for admission to the Maine bar.

(c) Educational Qualifications. Before transferring any Uniform Bar Examination score, each applicant shall produce to the Board satisfactory evidence that the applicant meets the educational qualifications required for admission to the Maine bar by examination.

Advisory Notes – March 2017

In June 2016, the Maine Supreme Judicial Court created an Advisory Commission to study the merits of adopting the Uniform Bar Exam (UBE). After six month of study, on November 18, 2016, the Commission issued the Report and Recommendations of the Advisory Commission on the Uniform

Bar Examination. Among other things, that Report recommended adoption of the UBE, acceptance of transferred UBE scores for a three-year period, and amendment of the admission by motion rule to make it more consistent with the ABA Model Rule for Admission by Motion.

On January 25, 2017, the Supreme Judicial Court indicated its acceptance of the Commission's recommendations and its intent to adopt the UBE, effective with the July 2017 administration of the bar examination. Rule 11B implements the Court's adoption of the UBE and its directive that qualifying UBE scores may be transferred in support of an application for admission to the Maine bar for no more than three years after the applicant takes the UBE.