

Chapter 2: STANDARDS FOR QUALIFICATIONS OF ASSIGNED COUNSEL

Summary: This chapter establishes the standards prescribing minimum experience, training and other qualifications for contract counsel and assigned counsel to be eligible to accept appointments to represent indigent people, who are eligible for a constitutionally-required attorney.

SECTION 1. Application

All attorneys wishing to accept case assignments by the Commission must complete an application in the manner prescribed by the Commission. The Commission will not act on an application until it is complete. No attorney will be assigned a case until that attorney completes an application and is placed on the roster of attorneys eligible to receive assignments.

SECTION 2. Minimum Experience, Training And Other Eligibility Requirements

Any attorney wishing to accept case assignments from the Commission, serve as contract counsel or otherwise be approved by the Commission to accept assignments must satisfy the following conditions.

1. Licensed To Practice

a.) The attorney must be licensed to practice law in the State of Maine ~~and~~ ~~The attorney must~~ be in good standing with the Maine Board of Overseers of the Bar.

b.) The attorney ~~and~~ must promptly inform the Commission, in writing, of ~~a any~~ complaint against the attorney ~~him or her~~ filed with ~~before~~ the Maine Board of Overseers of the Bar that has been set for a grievance ~~or~~ panel hearing or hearing before a single justice of the Supreme Judicial Court. Failure to comply with this requirement is grounds for removal from the roster.

c.) The attorney must promptly inform the Commission, in writing, ~~within 30 days~~ of any criminal charge filed against the attorney ~~conviction or any other resolution of a eriminal charge~~ in any jurisdiction and promptly inform the Commission of any disposition of such charge. that is not an outright dismissal or acquittal, including but not limited to a deferred disposition pursuant 17-A M.R.S.A. §1348-A or a Maine Rule of Criminal Procedure 11B filing of a criminal charge against the attorney. Failure to comply with this requirement is grounds for removal from the roster.

2. Attorney Cooperation with Procedures and Monitoring

The attorney must register with the Commission annually in a manner prescribed by the Commission. The attorney must comply with all applicable Commission rules and procedures. The attorney must comply with Commission monitoring, and performance evaluations. The attorney must also comply with any Commission, ~~and~~ investigations of

~~any complaints, including billing discrepancies, or other information that, in the view of the Executive Director, concerns the question of whether the attorney is fit to remain on the roster. Except as pertains to indigent cases assigned to the attorney, the Executive Director cannot require an attorney to disclose information that is privileged or made confidential by statute, by court rule or by court order, by the Commission or its designee.~~

3. Malpractice Insurance

The attorney must maintain malpractice insurance.

SECTION 3. Office, Telephone, and Electronic Mail

The attorney must maintain an office or have the use of space that is reasonably accessible to clients and that permits the private discussion of confidential and other sensitive matters.

The attorney must maintain a telephone number, which shall be staffed by personnel available for answering telephone calls or an answering service, an answering machine or voicemail capability that ensures client confidentiality.

The attorney must maintain a confidential working e-mail account as a means of receiving information from and providing information to the Commission.

The attorney must keep the Commission and the courts in which the attorney represents indigent clients apprised of the attorney's work telephone number and postal and electronic mail addresses. The attorney must ensure that the court has the ability to contact the attorney by mail and by telephone.

SECTION 4. Experience and Proficiency

The attorney shall demonstrate the necessary and sufficient experience and proficiency required to accept appointments as provided below.

- ~~1. For the first year of the Commission's operation, which is July 2010 to June 30, 2011, if the attorney has been assigned cases by the judicial branch prior to July 1, 2010, the attorney must satisfactorily complete a Commission-approved training course for the area of the law for which the attorney is willing to accept appointments, including but not limited to, criminal defense, juvenile defense, civil commitment or child protective, within 12 months of first assignments from the Commission; or~~
12. After the first year of the Commission's operation, Any attorney not previously having been accepted to receive assignments appointments from the Commission must satisfactorily complete a Commission-sponsored or Commission-approved training course for the area of the law for which the attorney is willing to accept appointments seeking to receive assignments, including but not limited to, criminal defense, juvenile defense, civil commitment, or child protective, or emancipation prior to accepting assignments being placed on the roster and receiving assignments; or

23. An attorney may be accepted for placement on the roster and to receive assignments from the Commission without completing a Commission-sponsored or Commission-approved training course as provided above if the attorney demonstrates to the Commission a commitment to and proficiency in the practice of the area of law for which the Attorney is willing to accept assignments~~appointments~~ over the course of at least the three years prior to receiving assignments~~appointments~~ from the Commission.

SECTION 5. Training

The attorney shall annually complete 8 hours of continuing legal education (CLE) approved by the Commission.

The attorney shall meet any specific training requirements of any specialized panels, ~~which may include but are not limited to homicide, child protective, or involuntary commitment, as is required by those panels.~~

SECTION 6. Removal or Suspension from the Roster

The Executive Director may remove indefinitely or suspend an attorney from the roster completely or from the roster for certain case types and court locations for any failure to comply with this or any other Commission rule. In addition, the Executive Director may remove indefinitely or suspend an attorney from the roster completely or from the roster for certain case types and court locations if the Executive Director determines that the attorney is no longer qualified to provide quality indigent legal services based on the nature of any criminal charge or on investigation by the Executive Director or the Executive Director's designee of any complaint or other information. The Executive Director's decision to remove or suspend an attorney from the roster shall be in writing and shall reflect the Executive Director's reasoning in a manner sufficient to inform the attorney and the public of the basis for the Executive Director's action.

Attorneys removed indefinitely must re-apply to the Commission if they wish to receive assignments in the future. Attorneys suspended from the roster need not re-apply, but must demonstrate compliance with any conditions made part of a suspension. Removal or suspension may also include a requirement that the attorney immediately identify to the Commission all open assigned cases and file a motion to withdraw in each case.

The Executive Director's decision to remove or suspend an attorney may be appealed to the full Commission pursuant to 4 M.R.S.A. § 1804(3)(J) and Commission Rule 94-649 Chapter 201.

STATUTORY AUTHORITY: 4 M.R.S.A. § 1804(2)(B), (2)(G), and (4)(D) ~~4 M.R.S.A. §§ 1804(2)(B), 1805~~

EFFECTIVE DATE:

~~June 25, 2010~~