S T A T E O F N E W Y O R K

2616

2011-2012 Regular Sessions

I N A S S E M B L Y

January 19, 2011

Introduced by M. of A. JACOBS, V. LOPEZ, ORTIZ -- Multi-Sponsored by -- M. of A. WEINSTEIN -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to licensing government benefits advocacy

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The education law is amended by adding a new article 154-A to read as follows:

ARTICLE 154-A

GOVERNMENT BENEFITS ADVOCATE

SECTION 7720. INTRODUCTION.
7721. DEFINITION.
7722. USE OF THE TITLE "CERTIFIED GOVERNMENT BENEFITS ADVOCATE."
7723. STATE BOARD FOR GOVERNMENT BENEFITS ADVOCACY.
7724. REQUIREMENTS FOR CERTIFICATION.
7725. SEPARABILITY.

S 7720. INTRODUCTION. THIS ARTICLE APPLIES TO THE PROFESSION OF GOVERNMENT BENEFITS ADVOCACY. THE GENERAL PROVISIONS FOR ALL PROFESSIONS CONTAINED IN ARTICLE ONE HUNDRED THIRTY OF THIS TITLE APPLY TO THIS ARTICLE.

S 7721. DEFINITION. THE PRACTICE OF THE PROFESSION OF GOVERNMENT BENEFITS ADVOCACY IS DEFINED AS ENGAGING IN THE REPRESENTATION OF GOVERNMENT BENEFITS RECIPIENTS AT FAIR HEARINGS AND APPEALS WHERE THE GOVERNMENT BENEFITS RECIPIENT HAS HAD GOVERNMENT BENEFITS DENIED, TERMINATED, OR SUSPENDED. NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO PERMIT ANY HOLDER OF A CERTIFICATION OF GOVERNMENT BENEFITS FAIR HEARING ADVOCATE TO PRACTICE LAW OR ASSUME PARA-LEGAL STATUS.

S 7722. USE OF THE TITLE "CERTIFIED GOVERNMENT BENEFITS ADVOCATE." ONLY A PERSON CERTIFIED OR AUTHORIZED UNDER THIS ARTICLE SHALL USE THE TITLE "CERTIFIED GOVERNMENT BENEFITS ADVOCATE."

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 7723. STATE BOARD FOR GOVERNMENT BENEFITS ADVOCACY. A STATE BOARD FOR GOVERNMENT BENEFITS FAIR HEARING ADVOCACY SHALL BE APPOINTED BY THE BOARD OF REGENTS ON THE RECOMMENDATION OF THE COMMISSIONER FOR THE PURPOSE OF ASSISTING THE BOARD OF REGENTS AND THE DEPARTMENT ON MATTERS OF CERTIFICATION AND PROFESSIONAL CONDUCT IN ACCORDANCE WITH SECTION SIXTY-FIVE HUNDRED EIGHT OF THIS CHAPTER. THE BOARD SHALL BE COMPOSED OF FOUR ATTORNEYS LICENSED TO PRACTICE LAW IN THIS STATE, TWO SOCIAL WORKERS CERTIFIED IN THIS STATE AND TWO GOVERNMENT BENEFITS ADVOCATES. NOTWITHSTANDING THE FOREGOING, THE MEMBERS OF THE FIRST BOARD WHO ARE GOVERNMENT BENEFITS FAIR HEARING ADVOCATES NEED NOT BE CERTIFIED PRIOR TO THEIR APPOINTMENT.

S 7724. REQUIREMENTS FOR CERTIFICATION. 1. TO QUALIFY FOR CERTIFICATION TO USE THE TITLE "CERTIFIED GOVERNMENT BENEFITS ADVOCATE," AN APPLICANT SHALL FULFILL ALL THE FOLLOWING REQUIREMENTS:

(A) APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT;

(B) EDUCATION: HAVE A SECONDARY EDUCATION AND HAVE COMPLETED A PROGRAM OF STUDY COVERING ALL ASPECTS OF GOVERNMENT BENEFITS APPROVED BY THE DEPARTMENT;

(C) EXPERIENCE: HAVE EXPERIENCE SATISFACTORY TO THE BOARD AND IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

(D) EXAMINATION: PASS AN EXAMINATION SATISFACTORY TO THE BOARD AND IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

(E) AGE: BE AT LEAST EIGHTEEN YEARS OF AGE;

(F) CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT; AND

(G) FEES: PAY A FEE OF ONE HUNDRED DOLLARS TO THE DEPARTMENT FOR ADMISSION TO A DEPARTMENT CONDUCTED EXAMINATION AND FOR AN INITIAL CERTIFICATION; A FEE OF EIGHTY DOLLARS FOR EACH RE-EXAMINATION; A FEE OF ONE HUNDRED DOLLARS FOR AN INITIAL CERTIFICATION FOR PERSONS NOT REQUIRING ADMISSION TO A DEPARTMENT CONDUCTED EXAMINATION AND A FEE OF ONE HUNDRED FIFTY DOLLARS FOR EACH TRIENNIAL REGISTRATION PERIOD;

2. ON THE RECOMMENDATION OF THE BOARD, THE DEPARTMENT MAY EXEMPT:

(A) FROM THE REQUIREMENTS OF PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION, AN APPLICANT WHO HOLDS A LICENSE OF CERTIFICATION TO PRACTICE AS A GOVERNMENT BENEFITS ADVOCATE OR SIMILAR TITLE ISSUED TO HIM OR HER UPON EXAMINATION BY A LEGALLY CONSTITUTED BOARD OF EXAMINERS IN ANY OTHER STATE OR POLITICAL SUBDIVISION OF THE UNITED STATES, PROVIDED THAT THE APPLICANT CAN MEET THE REQUIREMENTS OF PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION;

(B) FROM THE REQUIREMENTS OF PARAGRAPH (B) AND PARAGRAPH (D) AND FROM THE INITIAL CERTIFICATION FEE OF PARAGRAPH (G) OF SUBDIVISION ONE OF THIS SECTION, AN APPLICANT WHO SUBMITS, PRIOR TO THE DATE OF ENACTMENT, SATISFACTORY EVIDENCE THAT THE APPLICANT HAS BEEN PRACTICING AS A GOVERNMENT BENEFITS ADVOCATE FOR A PERIOD OF THREE YEARS.

S 7725. SEPARABILITY. IF ANY SECTION OF THIS ARTICLE, OR PART THEREOF, SHALL BE ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER OR ANY OTHER SECTION OR PART THEREOF.

S 2. This act shall take effect on the three hundred sixtieth day after it shall have become a law, provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.