

3780

2013-2014 Regular Sessions

I N A S S E M B L Y

January 29, 2013

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:

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

3 ARTICLE 154-A

4 GOVERNMENT BENEFITS ADVOCATE

5 SECTION 7720. INTRODUCTION.

6 7721. DEFINITION.

7 7722. USE OF THE TITLE "CERTIFIED GOVERNMENT BENEFITS ADVOCATE."

8 7723. STATE BOARD FOR GOVERNMENT BENEFITS ADVOCACY.

9 7724. REQUIREMENTS FOR CERTIFICATION.

10 7725. SEPARABILITY.

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

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

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

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

LBD03025-01-3

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

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

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

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

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

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

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

24 (F) CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPART-
25 MENT; AND

26 (G) FEES: PAY A FEE OF ONE HUNDRED DOLLARS TO THE DEPARTMENT FOR
27 ADMISSION TO A DEPARTMENT CONDUCTED EXAMINATION AND FOR AN INITIAL
28 CERTIFICATION; A FEE OF EIGHTY DOLLARS FOR EACH RE-EXAMINATION; A FEE OF
29 ONE HUNDRED DOLLARS FOR AN INITIAL CERTIFICATION FOR PERSONS NOT REQUIR-
30 ING ADMISSION TO A DEPARTMENT CONDUCTED EXAMINATION AND A FEE OF ONE
31 HUNDRED FIFTY DOLLARS FOR EACH TRIENNIAL REGISTRATION PERIOD;

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

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

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

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

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