

S4467-C GRIFFO Same as [A 5451-C](#) Lupardo (MS)

Education Law

TITLE....Provides for the licensing of licensed orientation and mobility specialists and vision rehabilitation therapists

This bill is not active in the current session.

03/23/15 REFERRED TO HIGHER EDUCATION

04/10/15 AMEND AND RECOMMIT TO HIGHER EDUCATION

04/10/15 PRINT NUMBER 4467A

05/05/15 REPORTED AND COMMITTED TO FINANCE

05/18/15 COMMITTEE DISCHARGED AND COMMITTED TO RULES

05/18/15 ORDERED TO THIRD READING CAL.724

05/19/15 AMENDED ON THIRD READING 4467B

05/27/15 PASSED SENATE

05/27/15 DELIVERED TO ASSEMBLY

05/27/15 referred to higher education

06/15/15 RECALLED FROM ASSEMBLY

06/15/15 returned to senate

06/15/15 VOTE RECONSIDERED - RESTORED TO THIRD READING

06/15/15 AMENDED ON THIRD READING (T) 4467C

06/18/15 REPASSED SENATE

06/18/15 RETURNED TO ASSEMBLY

06/18/15 referred to higher education

06/18/15 substituted for a5451c

06/18/15 ordered to third reading rules cal.646

06/18/15 passed assembly

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12/11/15 VETOED MEMO.295

STATE OF NEW YORK

4467--C

Cal. No. 724

2015-2016 Regular Sessions

IN SENATE

March 23, 2015

Introduced by Sens. GRIFFO, BRESLIN, LARKIN, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged and said bill committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the education law, in relation to the licensing of vision impairment specialists and certification/specialization of orientation and mobility specialists and rehabilitation therapists

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 168 to
2 read as follows:

ARTICLE 168

VISION IMPAIRMENT SPECIALISTS

Section 8900. Introduction.

8901. Definitions.

8902. Use of titles.

8903. State board for vision impairment specialists.

8904. Requirements for a license as a low vision specialist.

8905. Requirements for a license as an orientation and mobility specialist.

8906. Requirements for a license as a vision rehabilitation therapist.

8907. Limited permits.

8908. Exempt persons.

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

LBD07767-17-5

8909. Special provisions.

8910. Separability.

§ 8900. Introduction. This article applies to the profession of vision impairment specialists, and provides for the licensing of low vision therapists, orientation and mobility specialists and vision rehabilitation therapists. The general provisions for all professions contained in article one hundred thirty of this title shall apply to this article.

§ 8901. Definitions. For purposes of this article, the following terms shall have the following meanings:

1. The practice of "vision rehabilitation services" shall mean providing assessment and evaluation of, and training for, persons who are visually impaired when such assessment, evaluation and training incorporates the full range of specialized skills and tasks subsumed in the three professions defined in this section as: (a) low vision therapy, (b) orientation and mobility training, and (c) vision rehabilitation therapy. Such services shall be rendered on the prescription or referral which may be directive as to treatment by a licensed physician, nurse practitioner, ophthalmologist or optometrist, provided however that no such treatment directive and low vision examination shall be required when the person being referred has been diagnosed within the previous twelve months as visually impaired, blind or legally blind as those terms are defined in subdivision five of this section and such services are being rendered consistent with that diagnosis, prescription or referral. Low vision therapists, vision rehabilitation therapists, and orientation and mobility specialists may not prescribe optical low vision devices.

2. The practice of "low vision therapy" shall mean: (a) performance of functional low vision evaluation; (b) the use of functional vision evaluation instruments to assess visual acuity, visual fields, contrast sensitivity function, color vision, stereopsis, visual perceptual and visual motor functioning, literacy skills in reading and writing, etc. as they relate to vision impairment and disability; (c) evaluation of work history, educational performance, activities of daily living (ADL) and instrumental activities of daily living (IADL) performance, use of technology, quality of life and aspects of psychosocial and cognitive function; (d) work as part of an interdisciplinary team with ophthalmologists, optometrists, vision rehabilitation specialists, orientation and mobility specialists, rehabilitation counselors, educators, speech pathologists, occupational therapists, physical therapists, psychologists, social workers, nurses, orthoptists, opticians, other physicians, technologists, and technicians; (e) training the use of specific visual perceptual and visual motor skills; (f) training in the appropriate and safe use of low vision devices; and (g) instruction in the use of adaptive equipment.

3. The practice of "vision impairment specialist" shall mean one who specializes in orientation and mobility training and/or vision rehabilitation therapy.

4. The practice of "orientation and mobility training" shall mean: (a) the assessment of individual needs of persons who are visually impaired for skills training in methods of safe movement and in strategies to gather required environmental and spatial information; (b) the development of appropriate integrated service plans tailored to meet such individual needs as identified in such assessment process; (c) the provision of training in, and utilization of (i) equipment and adaptive devices intended and designed for use by persons who are visually impaired, and (ii) specialized techniques adapted for persons who are

1 visually impaired, including but not limited to orientation; sensory
2 development; systems of safe movement, including long cane techniques;
3 resource identification and, as appropriate, professional referrals;
4 and, in applied settings, reinforcing instruction for the use of optical
5 devices as prescribed by optometrists and ophthalmologists; and (d) the
6 evaluation of clients receiving such specialized training.

7 5. The practice of "vision rehabilitation therapy" shall mean: (a) the
8 assessment of individual needs of persons who are visually impaired for
9 skills training in independent living and communications; (b) the devel-
10 opment of appropriate integrated service plans tailored to meet such
11 individual needs as identified in such assessment process; (c) the
12 provision of training in, and utilization of (i) equipment and adaptive
13 devices intended and designed for use by persons who are visually
14 impaired, including, in applied settings, reinforcing instruction for
15 the use of optical devices as prescribed by optometrists or ophthalmolo-
16 gists, and (ii) specialized techniques adapted for persons who are visu-
17 ally impaired, including but not limited to Braille and other communi-
18 cation skills; adapted computer technology; personal management skills;
19 home management skills; problem solving skills; resource management and,
20 as appropriate, professional referrals; and (d) the evaluation of
21 persons receiving such specialized training.

22 6. "Applied settings" means those locations where persons who are
23 visually impaired engage in day-to-day activities utilizing the tools
24 supplied and techniques taught by the licensed practitioners defined in
25 this article.

26 7. "Visually impaired" means a person who is totally blind, legally
27 blind or partially sighted. A person who is blind is one who has no
28 useable vision. A person who is legally blind is one who satisfies the
29 definition set forth in subdivision b of section three of chapter four
30 hundred fifteen of the laws of nineteen hundred thirteen. A person who
31 is partially sighted is one who has functional vision impairment that
32 constitutes a significant limitation of visual capability resulting from
33 disease, trauma, or congenital condition, that cannot be fully amelio-
34 rated by standard refractive correction, medication, or surgery, and
35 that is manifested by one or more of the following: insufficient visual
36 resolution, inadequate field of vision or reduced peak contrast sensi-
37 tivity.

38 8. "Board" shall mean the state board for vision impairment special-
39 ists as provided for in section eighty-nine thousand three of this arti-
40 cle.

41 § 8902. Use of titles. Only a person licensed or otherwise authorized
42 under this article shall be authorized to practice vision rehabilitation
43 or use the title "licensed low vision therapist," "licensed orientation
44 and mobility specialist" or "licensed orientation and mobility special-
45 ist" in connection with his or her name or with any trade name in the
46 conduct of his or her profession.

47 § 8903. State board for vision impairment specialists. A state board
48 for vision impairment specialists shall be appointed by the board of
49 regents upon the recommendation of the commissioner for the purpose of
50 assisting the board of regents and the department on matters of profes-
51 sional licensing and professional conduct in accordance with section
52 sixty-five hundred eight of this title. The board shall consist of not
53 less than eight individuals, two of whom shall be certified orientation
54 and mobility specialists, two of whom shall be certified vision rehabil-
55 itation therapists, one ophthalmologist specializing in low vision
56 treatment, one optometrist specializing in low vision treatment and two

1 of whom shall be blind representatives of the public at large whose
2 names will be placed in nomination for the board from organizations of
3 the blind or visually impaired. Members of the initial board need not be
4 licensed or certified prior to their appointment to the board, so long
5 as they are certified by a national certifying or accrediting board,
6 acceptable to the department. Of the members first appointed, two shall
7 be appointed for a three year term, three shall be appointed for a four
8 year term, and three shall be appointed for a five year term. Thereafter
9 all members shall serve for five year terms. In the event that more than
10 eight members are appointed, a majority of the additional members shall
11 be certified orientation and mobility specialists and certified vision
12 rehabilitation therapists. The members of the board shall select one of
13 themselves as chair to serve for a one year term. An executive secretary
14 shall be appointed by the board of regents upon the recommendation of
15 the commissioner.

16 § 8904. Requirements for a license as a low vision therapist. To
17 qualify for a license as a low vision therapist, an applicant shall
18 fulfill the following requirements:

- 19 1. Application: file an application with the department;
- 20 2. Education: have satisfactorily completed an approved curriculum in
21 low vision therapy, visual disabilities, vision education, vision
22 impairment or other equivalent program in a baccalaureate or graduate
23 level program, or a foreign equivalent, satisfactory to the department
24 and in accordance with the commissioner's regulations; and
- 25 3. Experience: have a minimum of six months of supervised orientation
26 and mobility experience which shall be satisfactory to the department
27 and in accordance with the commissioner's regulations;
- 28 4. Examination: pass an examination satisfactory to the department in
29 accordance with the commissioner's regulations;
- 30 5. Age: be at least twenty-one years of age;
- 31 6. Character: be of good moral character as determined by the depart-
32 ment; and
- 33 7. Registration: all licensed low vision therapists shall register
34 triennially with the department in accordance with the commissioner's
35 regulation.

36 § 8905. Requirements for a license as an orientation and mobility
37 specialist. To qualify for a license as an orientation and mobility
38 specialist, an applicant shall fulfill the following requirements:

- 39 1. Application: file an application with the department;
- 40 2. Education: have satisfactorily completed an approved curriculum in
41 orientation and mobility services, visual disabilities, vision educa-
42 tion, vision impairment or other equivalent program in a baccalaureate
43 or graduate level program or a foreign equivalent, satisfactory to the
44 department and in accordance with the commissioner's regulations; and
- 45 3. Experience: have a minimum of six months of supervised orientation
46 and mobility experience which supervision and experience shall be satis-
47 factory to the department and in accordance with the commissioner's
48 regulations;
- 49 4. Examination: pass an examination satisfactory to the department in
50 accordance with the commissioner's regulations;
- 51 5. Age: be at least twenty-one years of age;
- 52 6. Character: be of good moral character as determined by the depart-
53 ment; and
- 54 7. Registration: all licensed orientation and mobility specialists
55 shall register triennially with the department in accordance with the
56 commissioner's regulation.

1 § 8906. Requirements for a license as a vision rehabilitation thera-
2 pist. To qualify for a license as a vision rehabilitation therapist an
3 applicant shall fulfill the following requirements:

4 1. Application: file an application with the department;

5 2. Education: have satisfactorily completed an approved curriculum in
6 vision rehabilitation therapy, visual disabilities, vision education,
7 vision impairment or other equivalent program in a baccalaureate or
8 graduate level program, or a foreign equivalent, satisfactory to the
9 department and in accordance with the commissioner's regulations;

10 3. Experience: have a minimum of six months of supervised vision
11 rehabilitation therapist experience which supervision and experience
12 shall be satisfactory to the department and in accordance with the
13 commissioner's regulations;

14 4. Examination: pass an examination satisfactory to the department in
15 accordance with the commissioner's regulations;

16 5. Age: be at least twenty-one years of age;

17 6. Character: be of good moral character as determined by the depart-
18 ment; and

19 7. Registration: all licensed vision rehabilitation therapists shall
20 register triennially with the department in accordance with the commis-
21 sioner's regulations.

22 § 8907. Limited permits. The following requirements for a limited
23 permit shall apply to all professions licensed or certified pursuant to
24 this article:

25 1. On the recommendation of the board, the department may issue a
26 limited permit to an applicant who meets the education requirements for
27 licensure, except the examination and/or experience requirements, in
28 accordance with regulations promulgated therefor.

29 2. Limited permits shall be for one year and may be renewed, at the
30 discretion of the department, for one additional year.

31 3. The fee for each limited permit and for each renewal shall be
32 seventy dollars.

33 4. A limited permit holder shall practice only under supervision as
34 determined in accordance with the commissioner's regulations.

35 § 8908. Exempt persons. This article shall not be construed to affect
36 or prevent the following, provided that no title, sign, card or device
37 shall be used in such manner as to tend to convey the impression that
38 the person rendering such service is a licensed vision impairment
39 specialist:

40 1. The practice of licensed vision impairment specialist as an inte-
41 gral part of a program of study by students enrolled in approved educa-
42 tional or training programs in (a) low vision therapy, (b) orientation
43 and mobility training, or (c) vision rehabilitation therapy.

44 2. The performance of any of the duties, tasks and responsibilities
45 included in the definition of low vision therapist by any other duly
46 licensed, certified or registered health care provider, provided that
47 such duties, tasks and responsibilities are within the scope of his or
48 her practice as defined in this article pursuant to which such person is
49 licensed, certified or registered; provided, however, that such practi-
50 tioners may not hold themselves out under the title "licensed low vision
51 therapist".

52 3. The performance of any of the duties, tasks and responsibilities
53 included in the definition of orientation and mobility training by any
54 other duly licensed, certified or registered health care provider,
55 provided that such duties, tasks and responsibilities are within the
56 scope of his or her practice as defined in this article pursuant to

1 which such person is licensed, certified or registered; provided, howev-
2 er, that such practitioners may not hold themselves out under the title
3 "certified orientation and mobility specialist" or "licensed vision
4 impairment specialist".

5 4. The performance of any of the duties, tasks and responsibilities
6 included in the definition of vision rehabilitation therapy by any other
7 duly licensed, certified or registered health care provider, provided
8 that such duties, tasks and responsibilities are within the scope of his
9 or her practice as defined in this article or commissioner's regulations
10 pursuant to which such person is licensed, certified or registered;
11 provided, however, that such practitioners may not hold themselves out
12 under the title "certified vision rehabilitation therapist" or "licensed
13 vision impairment specialist".

14 5. The practice, conduct, activities, services or use of any title by
15 any person licensed or otherwise authorized to practice medicine within
16 the state pursuant to article one hundred thirty-one of this title or by
17 any person registered to perform services as a physician assistant
18 pursuant to article one hundred thirty-one-B of this title.

19 6. The practice of vision impairment specialist by any legally quali-
20 fied practitioner of vision impairment specialist of any other state or
21 territory who is serving in the armed forces or the public health
22 service of the United States while engaged in the performance of his or
23 her duties.

24 7. The instruction in the use of a dog guide.

25 8. Nothing in this article shall be construed as prohibiting a
26 licensed teacher of the visually impaired from performing any of the
27 duties, tasks or responsibilities within that scope of practice.

28 9. The instruction in the use of Braille.

29 § 8909. Special provisions. An individual who meets the requirements
30 for a license as a licensed vision impairment specialist and certif-
31 ication as a certified orientation and mobility specialist and/or a
32 certified vision rehabilitation therapist, except for examination, expe-
33 rience and education, and who is certified or registered by a national
34 certifying body having certification or registration standards accepta-
35 ble to the commissioner, may be licensed or certified, without meeting
36 additional requirements as to examination, experience and education,
37 provided that such individual submits an application to the department
38 within two years of the effective date of this section.

39 § 8910. Separability. If any section of this article, or part thereof,
40 shall be adjudged by any court of competent jurisdiction to be invalid,
41 such judgment shall not affect, impair or invalidate the remainder of
42 any other section or part thereof.

43 § 2. The education law is amended by adding a new section 6503-c to
44 read as follows:

45 § 6503-c. Waiver for certain not-for-profit corporations and education
46 corporations providing orientation and mobility training services or
47 vision rehabilitation services. 1. Waiver. a. No not-for-profit corpo-
48 ration or education corporation may employ individuals licensed pursuant
49 to this title to provide orientation and mobility training services or
50 vision rehabilitation services, unless such not-for-profit corporation
51 or education corporation obtains a waiver pursuant to this section. All
52 not-for-profit corporations or education corporations approved by the
53 commissioner as of the effective date of this section shall be deemed
54 operating under a waiver pursuant to this section for a period commenc-
55 ing on such effective date and ending on July first, two thousand seven-
56 teen.

1 2. Obtaining a waiver. a. A not-for-profit corporation or education
2 corporation shall obtain an application for a waiver on a form
3 prescribed by the department. The department may issue a waiver on or
4 after July first, two thousand fifteen to an entity which was created
5 before, on or after the effective date of this section if there is
6 demonstration of need of the entity's services satisfactory to the
7 department. The application for an initial waiver shall be accompanied
8 by a fee of three hundred forty-five dollars.

9 b. Within one hundred twenty days after the commissioner prescribes
10 the application form and posts notice of its availability on the depart-
11 ment's website, a not-for-profit corporation or education corporation
12 must apply for a waiver. Upon submission of such application, the corpo-
13 ration may continue to operate and provide services until the department
14 shall either deny or approve the application. After the department
15 renders a timely initial determination that the applicant has submitted
16 the information necessary to verify that the requirements of paragraphs
17 c, d and e of this subdivision are satisfied, applications for waivers
18 shall be approved or denied within ninety days, provided however that if
19 the waiver application is denied the corporation shall cease providing
20 services pursuant to this subdivision in the state of New York.

21 c. Such waiver shall provide that services rendered pursuant to this
22 section, directly or indirectly, shall be provided only by a person
23 appropriately licensed to provide such services, except as otherwise
24 provided in law, or by a professional services entity authorized by law
25 to provide such services.

26 d. An application for a waiver to provide professional services pursu-
27 ant to this section shall be on a form prescribed by the commissioner.
28 Such application shall include: (i) the name of the not-for-profit
29 corporation or education corporation; (ii) the names of the directors or
30 trustees and officers of such corporation; (iii) a listing of any other
31 jurisdictions where such corporation may provide services; and (iv) an
32 attestation made by an officer authorized by such corporation to make
33 such attestation that identifies the scope of services to be provided;
34 includes a list of professions under this title in which professional
35 services will be provided by such corporation; includes a statement
36 that, unless otherwise authorized by law, the corporation shall only
37 provide services authorized under this section; includes a statement
38 that only a licensed professional, a person otherwise authorized to
39 provide such services, or a professional services entity authorized by
40 law to provide such services shall provide such services as authorized
41 under this section; and attests to the adequacy of the corporation's
42 fiscal and financial resources to provide such services. Such applica-
43 tion shall also include any other information related to the application
44 as may be required by the department. A corporation with an approved
45 waiver may apply, on a form prescribed by the commissioner, to amend the
46 waiver to add additional professional services.

47 e. Each officer, trustee and director of such corporation shall
48 provide an attestation regarding his or her good moral character as
49 required pursuant to paragraph g of this subdivision. The commissioner
50 shall be further authorized to promulgate rules or regulations relating
51 to the standards of the waiver for not-for-profit corporations and
52 education corporations pursuant to this section. Such regulations shall
53 include standards relating to the corporation's ability to provide
54 services, the corporation's maintenance of student or client and busi-
55 ness records, the corporation's fiscal policies, and such other stand-
56 ards as may be prescribed by the commissioner.

1 f. The not-for-profit corporation or education corporation operating
2 pursuant to a waiver shall display, at each site where services are
3 provided to the public, a certificate of such waiver issued by the
4 department pursuant to this section, which shall contain the name of the
5 corporation and the address of the site. Such corporations shall obtain
6 from the department additional certificates for each site at which
7 professional services are provided to the public. Each corporation shall
8 be required to re-apply for a waiver every three years. Except as other-
9 wise provided in subdivision four of this section, if any information
10 supplied to the department regarding the corporation shall change, the
11 corporation shall be required to provide such updated information to the
12 department within sixty days.

13 g. All officers, trustees and directors of such corporations shall be
14 of good moral character. Corporations operating pursuant to a waiver and
15 their officers and directors shall be entitled to the same due process
16 procedures as are provided to such individuals and professional services
17 corporations. No waiver issued under this section shall be transferable
18 or assignable, as such terms are defined in the regulations of the
19 commissioner.

20 3. Renewal of waiver. All not-for-profit corporation and education
21 corporation waivers shall be renewed on dates set by the department. The
22 triennial waiver fee shall be two hundred sixty dollars or a pro-rated
23 portion thereof as determined by the department.

24 4. Change of location. In the event that a change in the location of
25 the chief administrative offices of a not-for-profit corporation or
26 education corporation is contemplated, the owner shall notify the office
27 of professions of the department of the change of location at least
28 thirty days prior to relocation.

29 5. Professional practice. A not-for-profit corporation or education
30 corporation operating under a waiver shall not practice any profession
31 licensed pursuant to this title or hold itself out to the public as
32 authorized to provide professional services pursuant to this title
33 except as authorized by this section or otherwise authorized by law.

34 6. Supervision of professional practice. A not-for-profit corporation
35 or education corporation shall be under the supervision of the regents
36 of the university of the state of New York and be subject to discipli-
37 nary proceedings and penalties. A not-for-profit corporation or educa-
38 tion corporation operating under a waiver shall be subject to suspen-
39 sion, revocation or annulment of the waiver for cause, in the same
40 manner and to the same extent as is provided with respect to individuals
41 and their licenses, certificates, and registrations in the provisions of
42 this title relating to the applicable profession.

43 § 3. This act shall take effect eighteen months after it shall have
44 become a law. The commissioner of education and the board of regents
45 are authorized to promulgate such rules and regulations and take any
46 other measures as may be necessary for the timely implementation of this
47 act on or before its effective date, including but not limited to the
48 appointment of the state board for vision rehabilitation services, the
49 acceptance and processing of applications for licensure, and the issu-
50 ance of licenses.