

108 CMR 14.00: CERTIFICATION OF VETERANS' AGENTS

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14.01: General Requirements

(1) Every person who receives an appointment as a veterans' agent or who is currently employed as a veterans' agent under M.G.L. c. 115, § 3 shall be certified. To be certified as an agent, the candidate shall, at a minimum, meet the following qualifications:

- (a) be appointed pursuant to the provisions of M.G.L. c. 115, § 3;
- (b) attend a mandatory training within six months of appointment, administered by the Secretary;
- (c) following the initial mandatory training within six months of appointment, attend a mandatory training once every calendar year, as scheduled by the Secretary; and
- (d) take and pass, once every three years, the certification examination which will be offered at each mandatory training.

(2) Persons subject to the requirements of 108 CMR 14.00 include existing full-time and part-time veterans' agents, full-time directors of veterans' services districts, county veterans' agents, and the veterans' benefits and services commissioner in and for the city of Boston.

(3) At the request of any city or town, the Secretary may offer training and testing to any person who works for or in conjunction with a certified veterans' agent. 108 CMR 14.01(3) does not remove the requirement that the veterans' agent and other persons defined in 108 CMR 14.01(2) must be certified under the provisions of 108 CMR 14.00.

14.02: Applications for Certification

(1) Currently Employed Veterans' Agents. Within six months of September 25, 2015, currently employed veterans' agents shall submit an application to take the certification examination to the Secretary. Applications which are not complete or not legible shall not be accepted and shall be returned to the Agent for re-submission.

(2) New Veterans' Agents. All veterans' agents appointed after September 25, 2015 shall submit an application for examination to the Secretary for approval within six months of the appointment. Applications which are not complete, not legible, or are not accompanied by the required documentation shall not be accepted and shall be returned to the applicant for re-submission. Required documentation for new veterans' agents shall include a copy of the letter of the applicant's appointment as a veterans' agent and proof that the applicant meets the definition of a veteran as set out in M.G.L. c. 4, § 7, clause forty-third and M.G.L. c. 115, § 3.

14.03: Examination Administration, Passing Requirements and Reexamination Requirements

(1) General Examination Format. The content of the veterans' agent certification examination shall be determined by the Secretary and shall assess areas of knowledge in two parts:

- (a) Part One shall include veterans' benefits contained in M.G.L. c. 115, the regulations contained in 108 CMR, and the Directives issued by the Secretary, as well as federal and local benefits, including employment, education, health care, including treatment for a substance use disorder, retirement and other veterans' benefits, and alternative resources, including those partially or wholly subsidized by the federal government, such as Medicaid, Supplemental Security Income and Social Security Disability benefits and federal pension and compensation entitlements.

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(b) Part Two of the examination may be satisfied by proof by the veterans' agent that he or she has taken and passed the Training Response Involvement and Preparation course (TRIP) offered through the VA and has been certified as a National Service Officer by a federally chartered national veterans' service organization.

(c) The certification examination may be amended at the sole discretion of the Secretary to reflect the adoption of existing or new procedures, or adoption of other related regulations or laws from the date of enactment of such regulation or law.

(2) Passage Requirements. Candidates shall obtain a grade of at least 70% on each part of the certification examination defined in 108 CMR 14.03(1) to become a certified veterans' agent.

(3) Reexamination Requirements. Candidates who have failed both or only passed one part of an examination will have three months, from the score report date, to re-take and pass the part or parts that he or she failed. Candidates who have failed to pass an examination shall wait a minimum of 15 days to reschedule and sit for an exam.

(4) Failure to Pass Certification Examination. Cities or towns employing candidates who have not successfully passed the examination after three attempts shall be considered not compliant with M.G.L. c. 115, §§ 3 and 6, and shall be subject to the reduction in reimbursement allowance as set forth in 108 CMR 14.05.

(5) Recertification. Following the initial certification of the veterans' agent, the agent must be re-certified every three years pursuant to the requirements set out in 108 CMR 14.00.

14.04: Examination Review and Appeal

(1) Procedure.

(a) Any candidate who fails an examination may apply to the department in writing for an opportunity to review the examination. Requests for review of an examination will not be accepted more than 30 days from the score report date.

(b) Candidates permitted to review an examination may be accompanied by an attorney or other representative while engaged in such review. Under no circumstances, however, will a veterans' agent who has not yet taken the examination be permitted to accompany the requesting candidate to the requested review.

(c) The candidate will then have 30 days from the date of the examination review to submit an appeal of the content of the examination questions or items and to seek an adjustment or reversal of the failing score on any part of the certification examination.

(2) Decision. The initial decision on the candidate's appeal shall be made within 30 days of the date of said appeal by the Director of Compliance of DVS and the General Counsel of DVS.

(3) Further Appeal. The candidate may appeal the decision of the Director of Compliance and the General Counsel, within 30 days of the date of said decision, to the Secretary. The Secretary shall make all final decisions with respect to the content of examination questions and applicant scores. The decision of the Secretary shall be final.

14.05: Failure to Comply with Requirements of the 108 CMR 14.00

(1) Reduction in Reimbursement Allowance. Failure of a veterans' agent to comply with the requirements of 108 CMR 14.00 shall result in a finding that the city or town which employs the veterans' agent is not in compliance with the requirements of M.G.L. c. 115, § 3, and shall further result in the reduction of the reimbursement allowance, paid by the Commonwealth under M.G.L. c. 115, § 6, to 50%. The reduction shall remain in effect:

(a) until the city or town is in full compliance pursuant to a time period designated by the Secretary; or

(b) until a plan is agreed upon by the Secretary and the city or town that employs the veterans' agent for that agent to be in full compliance by an agreed-upon date; or

(c) until such time as the veterans' agent has been removed.

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(2) Trust Account. The Department shall, for any reduction in the reimbursement allowance made under 108 CMR 14.05(1), deposit the reimbursement in a trust account. Upon the appointing authority's full compliance under 108 CMR 14.05(1), the Department shall add this amount to a subsequent reimbursement made to the city or town under M.G.L. c. 115, § 6.

14.06: Certification of Veterans' Agent Does Not Relieve Cities and Towns of Obligation to Comply with Statutory and Regulatory Requirements

The veterans' agent's certification pursuant to the requirements of 108 CMR 14.00 does not relieve the cities and towns of their general obligation to comply with the requirements of M.G.L. c. 115 and 108 CMR, and any failure to do so may result in a finding of non-compliance by the Secretary, which shall result in the reduction of the reimbursement allowance, paid by the Commonwealth under M.G.L. c. 115, § 6 to 50%.

14.07: Exemption from Certification Requirement

A person who is appointed as a veterans' agent may be exempted, for a maximum period of six months and for good cause only, from the training and examination requirements of 108 CMR 14.00. A request for exemption shall be made in writing to the Secretary and shall set out a detailed statement of reasons why good cause exists for such an exemption. The decision by the Secretary on said request shall be final.

REGULATORY AUTHORITY

108 CMR 14.00: St. 2014 c. 62; M.G.L. c. 115, § 3B.