

March 8, 2008

The Honorable Patty Berg
California State Assembly
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0001

Re: AB2150 – A bill to regulate the use of “senior financial advisor” credentials

Dear Assemblywoman Berg:

The National Organization for Competency Assurance (NOCA) appreciates the opportunity to comment on AB2150, a bill to regulate the use of “senior financial advisor” credentials” to ensure that elderly persons do not entrust their finances to untrained individuals. This important issue was first brought to NOCA’s attention in 2006 when the Securities Division of the Massachusetts Secretary of the Commonwealth requested public comment on its proposal to bring further regulatory oversight to broker-dealer agents and investment advisor representatives working with seniors. See Attachment 1 for our comments on the legislation.

NOCA supports this additional oversight as a means to provide an added layer of consumer protection to seniors. In general, NOCA is supportive of proposals that would prohibit the use of credentials or professional designations purporting to indicate special expertise or training in advising or servicing senior investors, except where such credentials or designations have been developed and are administered in a manner that is consistent with nationally accepted standards such as those developed by the National Commission for Certifying Agencies (NCCA), the standards and accrediting division of NOCA. In addition, NOCA supports third-party verification through accreditation indicating that the credentialing program is occupationally relevant and provides a credible measure of competence resulting in increased health, welfare, and safety of the public. In this way, reputable credentialing organizations help further serve the public interest— most directly, employers, consumers, government regulators, and business partners of the credential holder.

NOCA again supported this concept in its written testimony to the United States Senate Special Committee on Aging hearing, *Advising Seniors About Their Money: Who Is Qualified - and Who Is Not?* (Attachment 2).

Terminology

It is critical to ensure that any statutory language is clear, concise and uses generally accepted definitions for industry terms, particularly when attempting to distinguish a certification from a certificate program. Consideration should be given to referencing NOCA's *Basic Guide to Credentialing Terminology (2006)*¹. Certification terms relevant to this issue that may prove instructive to the overarching consumer protection goals of the legislation include:

Certification-

- 1. A process, often voluntary, by which individuals who have demonstrated the level of knowledge and skill required in the profession, occupation, role, or skill are identified to the public and other stakeholders.*
- 2. The voluntary process by which a non-governmental entity grants a time-limited recognition and use of a credential to an individual after verifying that he or she has met predetermined and standardized criteria. It is the vehicle that a profession or occupation uses to differentiate among its members, using standards, sometimes developed through a consensus-driven process, based on existing legal and psychometric requirements.*

Certificate program-

*A training program on a topic for which participants receive a certificate after attendance and/or completion of the coursework. Some programs also require successful demonstration of attainment of the course objectives. One who completes a professional certificate program is known as a **certificate holder** [emphasis in original]. A credential is usually NOT granted at the completion of a certificate program. There are three types of certificate programs: **knowledge-based certificate, curriculum based certificate, and certificate of attendance or participation** [emphasis in original].*

Certificate of attendance or participation-

*Issued after an individual attends or participates in a particular meeting or course. Usually, there is no knowledge assessed prior to issuing this type of certificate. A certificate of attendance or participation is **not a credential** [emphasis in original], because the recipients are not required to demonstrate competence according to professional or trade standards.*

Credentialing-

The umbrella term that includes the concepts of accreditation, licensure, registration, and professional certification. Credentialing can establish criteria for fairness, quality, competence, and/or safety for professional services provided by authorized individuals, for products, or for educational endeavors. Credentialing is the process by which an entity, authorized and qualified to do so, grants formal recognition to, or records the recognition status of individuals, organizations, institutions,

¹ Available at <http://nocca.org/Resources/Publications/tabid/77/Default.aspx>

programs, processes, services, or products that meet predetermined and standardized criteria.

If there is not a clear understanding of the terms being used, misunderstanding may occur in interpreting the statute after its adoption. NOCA recognized the potential for confusion concerning the use of these conformity assessment terms and brought together a group in January of 2007 to develop a document that outlines the features of a certification program and a certificate program (Attachment 3). In relation to AB2150, it is important to understand the following:

- Certification programs:
 - are developed based on the knowledge and skill requirements for a specific occupation.
 - are time-limited and require some form of ongoing re-certification process.
 - utilize assessment tools developed with a high level of psychometric rigor.
 - have in place disciplinary policies in place.
- *Certificate* programs
 - typically based on defined learning objectives for a given course.
 - not typically time-limited.
 - should not grant the right for an individual to use a credential with their name.

In developing the proposed legislation, policymakers should determine which form(s) of conformity assessment best fit the legislative intent. Both certification and certificate programs provide value; however, that value is based on the purpose.

In addition, the Committee may need to consider if the intent of the measure is to provide assurance that a certificant continues to verify his/her knowledge and skills through some form of re-certification. Any diploma/certificate programs would not typically require any form of recertification.

As a point of information, NOCA has recently initiated a project to develop national standards defining minimum quality systems for assessment-based certificate programs. Once completed, the standard will be available for use by accrediting bodies to determine a certificate organizations' compliance. The foundation of the standard will be the attached features document (Attachment 3).

A key point for your consideration is that accreditation of educational programs and accreditation of certification programs cannot be looked at on an equivalent basis. Certification programs focus specifically on the profession and determining an individuals' knowledge and competency within that profession.

Implementation Considerations

Sec. (a)(2) indicates that “[i]n determining whether to authorize use of a title, designation, credential or description, the commissioner shall determine that the user has undertaken significant specialized education or training, and possesses a substantial level of expertise beyond what is expected of a life insurer or life agent of reasonable training or competence.”

NOCA suggests that the bill may want to reference a requirement for accreditation of certification organizations that offer credentials serving all aspects of personal finance, including financial advising, investment advisors, and insurance and mortgage brokers. The National Commission for Certifying Agencies (NCCA) is the accreditation division of NOCA. The NCCA has been involved with the implementation of the Massachusetts regulations and has gained valuable experience that might be of assistance in developing this legislation. A key issue is that the anticipated length of time to prepare for, apply and ultimately become accredited can vary depending on the status of the specific programs.

Organizations that are running programs based on the rigor specified in the NCCA *Standards* should anticipate the process, after submittal of their application, taking at least 6 months to achieve accreditation. In addition, the accreditation process is a highly credible and thorough process that requires a significant amount of time in preparing material and documentation to be submitted with the application.

Experience to date has shown that some organizations have been operating what are closer to certificate programs rather than certification programs, thereby requiring a significant amount of time to develop a certification program prior to even considering submitting an application to NCCA for review. If psychometric rigor has not been utilized during the development of a job analysis, item writing, and validation/reliability analysis, an organization could require a year or more before being prepared to apply for accreditation.

Existing statutes in the state of California address certification for other professions and reference a requirement that those certification bodies be accredited by the NCCA. The professions are drug and alcohol counselors² and crane operators³. These pieces of legislation have been implemented successfully and may serve as a model for your use in the proposed legislation.

About the National Organization for Competency Assurance (NOCA)

² The California Department of Alcohol and Drug Programs requires that alcohol and drug counselors working in California be certified by an NCCA-accredited program. The requirement went into effect in 2005 with a 2007 deadline for all certification programs named in the legislation to have achieved NCCA accreditation. The regulations may be viewed here: <http://www.adp.ca.gov/Licensing/LCBhome.shtml>.

³ CAL OSHA requires that all crane operators working in California be certified by an NCCA accredited program. You may find the legislation and other information at <http://www.nccco.org/CaliforniaCentral.htm>.

NOCA, the oldest and largest organization representing certification agencies, testing companies, consulting firms and individuals involved in professional certification, was created in 1977 as the National Commission for Health Certifying Agencies (NCHCA) with federal funding from the Department of Health and Human Services. Its mission was to develop standards for quality certification in the allied health fields and to accredit organizations that met those standards. With the growing use of certification in other fields, NCHCA's leaders recognized that what is essential for credible certification of individuals in the healthcare sector is equally essential for other sectors. With this vision, NCHCA evolved into the National Organization for Competency Assurance.

NOCA is a non-profit, 501(c) (3) organization, committed to serving the public interest by ensuring adherence to standards that ensure the highest competence of certification programs. NOCA's membership is composed of more than 600 organizations responsible for certifying specific skill sets and knowledge bases of professions and occupations at the national and international level. Through certification, NOCA members represent more than 15 million individuals around the world and include certification programs of some 150 professions and occupations, including 60 healthcare professions. NOCA members certify individual skills in fields as diverse as construction, healthcare, automotive, and finance. A current roster of NOCA members is included in the appendix.

NOCA's mission is to promote excellence in competency assurance for individuals in all occupations and professions. No other organization has the presence in or commits the resources to the field of certification. NOCA is proud of its position as the international leader in competency assurance for certification programs, as well as its role in promoting excellence in competency assurance for practitioners in all occupations and professions.

Please feel free to contact me directly if you have any questions.

Sincerely,

Jim Kendzel, MPH, SPHR
Executive Director, NOCA

CC: California State Assembly Committee on Banking and Finance

Enclosures

