

Comments to Massachusetts Securities Division on Proposed Regulations

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I am addressing my comments as a private citizen, as the executive director of a financial professionals’ association and as a professional who has worked in the certification/designation arena for the past 20 years. I commend the Commonwealth of Massachusetts for taking the necessary steps in protecting its citizens from the potential misuse of trust and credibility in the financial advice area. As support for this important step, I offer the following comments:

1. The world of certifications and designations is a relatively new (since World War II) phenomenon in the US. These designations and certifications tend to be outside the traditional avenue of higher education. They are career-oriented, vocational in nature and are usually driven by a professional association or a subsection of a broader profession. These certifications exist outside of the states’ licensing mandates but often work in concert with states in assuring that the licensed professionals remain current in theory and practice while licensed. In paraphrasing the language used in IRS regulations on non-profit registration, particularly 501(c)(3), these certifications “lessen the burden of government.” The example that comes to mind would be a licensed medical doctor who receives a license to practice in a state. If the licensed doctor chooses to specialize, he/she may obtain a specialty designation but it is not issued through the state but rather through a private entity. If the doctor chooses to leave the specialty field, this does not mean that he/she stops being licensed as a doctor by the state. The professional desire for further specialization, for adding work-related specialties to a resume, for advancing a career: these have led to a recent “burst” of designations in many fields based on the “boom” in adult education. This then leads to the question of what constitutes a bona fide designation/certification/credential.
2. Professional certifications started primarily in the health field due to the ever-increasing specialty areas in that field. But over the last 20 years, this specialization has proliferated in a variety of other fields: IT, financial services, law, etc. Models have been created and re-created. In order to separate the bona-fide processes from the others, the federal government gave a grant (over 20 years ago) to the National Organization for Competency Assurance (this group had a different name 25 years ago) to broaden its health-related scope of “watching

over” certification programs to now looking at all certifications that wanted to meet standards, thus assuring the professional and the consumer that the certification process was legitimate and based on protecting the consumer. NOCA and its affiliate, the National Commission for Credentialing Agencies – NCCA, have developed and maintained research-based criteria as standards for certification programs to meet in order to maintain credibility with the public and the profession. NCCA standards are mentioned as requirements at both the state and federal level for certification programs to be recognized as bona fide programs (i.e., Medicare reimbursement criteria). Following on the NCCA standards in the US, the American National Standards Institute (ANSI) has become the US accreditor for ISO/IEC standard 17024 (personnel certification), a very similar process to the NCCA standards and charged with protecting the professional and the consumer by setting program standards as well. Both organizations will be able to tell their stories much better than I can. I am affiliated with both organizations and subscribe to both of their philosophies and missions. To have at least two private sector “protectors” works in the state’s favor. Massachusetts does not have to create a system of assuring that a program is bona fide; this is an economic benefit, as well as the benefit of creating a professional partner.

3. Financial advice is a confusing area, even for the most sophisticated investor. I won’t repeat how we got here because I would be preaching to the choir. We can all agree that it doesn’t get easier to sort through all of the information that bombards us every day, even if I can “do-it-myself.” Thus we all turn to “professional” advice – personal, educational, internet, library, a neighbor. But how do we know if we can trust the advice giver. Financial services firms ask that we trust them but we read the newspapers everyday with confusing headlines and corporate scandals. So now we look to the individual advice giver; how can we trust that person? One way that advisers expand their knowledge and expertise is to voluntarily learn new subject matter, demonstrate proficiency through some method of assessment and subscribe to a code of ethics, for example. In most instances this process would result in the individual’s use of some method of publicly attesting to that process, like a designation or title, beyond the state requirement of the NASD series of examinations. But because of the proliferation of such designations, how is a consumer, the state or even a financial services firm/employer, to know if that designation is actually what it purports to be. In fact, I believe, that anyone can put any letters or title after their name; for example, Dede Pahl, RGE or Dede Pahl, Really Good Executive. This then calls for third-party accreditation that the voluntary certification or designation has met certain standards, just as we ask an individual to meet certain standards to obtain and maintain a state license to practice.
4. Massachusetts stands to set the standard for the other states by promulgating third-party accreditation for designations being used by financial advisors in the senior market. I have volunteered time with the Colorado joint venture – Elder Watch – sponsored by the Colorado Attorney General’s office and the AARP Foundation to help protect the state’s elderly from financial fraud. The stories of elder financial abuse are numerous and tragic. The states must step up their

- efforts to protect this segment of its citizenry quickly because we all know how rapidly this demographic is growing and how little protection there is currently in place.
5. The added benefit of third-party accreditation is that it shifts the fiscal burden to the certification program, away from the state. As a citizen, I certainly prefer this type of arrangement. As a professional in the arena of certification, the burden is properly placed with the originator of the certification as a cost of doing business and agreeing to meet standards – best for all concerned, especially the citizen.
 6. Finally, do not be persuaded that third-party accreditation is difficult (it is not), expensive (it is not), time consuming (it is not), not consumer-focused (it very much is). The recommended accreditors are professional, centered, consumer-oriented, and non-political. I have personally worked with both organizations, as a volunteer and as a paid sub-contractor. If any designation that is currently being used in the senior financial advisory field is not meeting these accreditation standards, it should want to meet these standards as an attestation to professionalism and citizen-protection. Arguments to the contrary are hollow and meaningless.

Thank you for the opportunity to make these comments. As always, if I can be of any further assistance, please let me know

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