

CALIFORNIA BOARD OF ACCOUNTANCY

INITIAL STATEMENT OF REASONS

Hearing Date: March 17, 2016

Subject Matter of Proposed Regulations: Credentials Evaluation Service Status

(1) Section Affected: 9.1

Specific Purpose of each adoption, amendment, or repeal:

1. Problem being addressed:

Applicants for the Uniform Certified Public Accountant Examination (CPA Exam) and CPA licensure who attended or graduated from foreign schools may satisfy their respective education requirements based upon an evaluation of foreign transcripts by a CBA-approved credentials evaluation service (“CES”). When requesting an evaluation of foreign transcripts, CPA candidates must submit an application and processing fee to the chosen CBA-approved CES and must provide authenticated, original transcripts and degrees. The CES determines and affirms that the evaluation is based on authenticated, original transcripts, and degrees. When the CES submits an evaluation report to the CBA, it must come directly from the evaluation service with certified copies of all original transcripts.

Existing law, Business and Professions Code (BPC) section 5094, authorizes the California Board of Accountancy (CBA) to adopt regulations specifying the criteria and procedures for approval of credentials evaluation services. Current law in California Code of Regulations (CCR) Title 16, section 9.1 defines the criteria entities providing credentials evaluations services must meet to receive and maintain CBA approval to provide evaluations of education from a college, university, or other institution of learning located outside the United States that assess foreign education equivalency.

The CBA presently has eighteen CBA-approved credentials evaluation service firms. To become a CBA-approved credentials evaluation service the evaluation service must meet the requirements in CCR Title 16, section 9.1 which was initially adopted by the CBA in 2000 based on the requirements of BPC section 5094(d). New and more specific standards should be added so that the CBA has some assurances of the accurateness, completeness and timeliness of the information it receives from these firms regarding their operating procedures, membership, translators, written evidence regarding staff reviews, record retention policies, and ownership. The regulation also needs to be updated to provide the CBA with clear authority to withdraw approval if the CES provides false, inaccurate, incomplete or misleading information to the CBA.

In addition, under current law, there is the potential that CPA candidates could be misled by credential evaluation services, who may promise the candidate will meet the CBA's licensing requirements. A requirement for a disclaimer to be used in the evaluation provided to candidates by all Board-approved credential evaluation services would help address this problem. Finally, renewal of the evaluation service's approval is required every five years. Staff notify the evaluation service when it is due for renewal. The renewal process is, for the evaluation service, identical to the initial approval process. To ensure standards are implemented uniformly and allow sufficient time for existing CES to comply, the regulation would need to be updated to reflect these new requirements and specify that these requirements would need to be met by the next renewal for all currently CBA-approved credential evaluation services.

The proposal also incorporates by reference the Credentials Evaluation Service Application (Form 11A-54 (9/15)) that requires CES applicants to document and attest to the accuracy of information submitted and also to authorize verification of the information submitted to the CBA. The form would be used by CES applicants seeking Board initial approval and renewal pursuant to BPC section 5094.

2. Anticipated benefits from this regulatory action:

This proposal would strengthen oversight and provide greater assurances of the accuracy, completeness and timeliness of CES applicant submissions by amending the minimum requirements for CBA approval of credential evaluation services, incorporating an application form, specifying definitions, and requiring credentials evaluation service firms to attest to facts and representations made to the CBA.

Factual Basis/Rationale

The CBA proposes to amend Section 9.1 to eliminate inconsistent and incomplete information in credentials evaluation service applications. In addition, the CBA proposes to amend section 9.1 to add specificity, definitions, and require certification of procedures, and standardize the information provided the CBA by approved credentials evaluation service applicants by use of form ((11A-54 (9/15)) which is incorporated by reference. Certification requirements help ensure that declarations contain a truthful factual representation and are made in good faith by the applicant (see, e.g., judicial explanation of the use of certifications in *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223). The CBA will be better able to meet its obligation to protect the consumers of California as a result of these proposed amendments since only a CES who meets these new minimum standards will be authorized to provide evaluation reports for consideration of a CPA candidate's eligibility by the CBA. Setting minimum standards for licensure helps protect the public by helping ensure that only qualified applicants practice public accountancy.

The CBA proposes the following amendments to section 9.1 of Title 16 of the CCR.

Section 9.1(a) – The proposed amendment requires a credentials evaluation service to submit an application on Form 11A-54 (9/15), which is incorporated by reference. This will ensure complete information is available to CBA in a consistent format, that the required applicant information is provided to enable identification and accuracy in the processing of the application (by requesting name, address, telephone number, email address, website address, name of contact person), and specific certifications are made by the credentials evaluation service applicant. Further, providing the requirements in a checklist format on this form provides clear guidance and notice to the CES applicant of the requirements that must be met to obtain CBA approval. A list of required documentation to qualify for Board approval is also included for ease-of-reference in complying with Section 9.1 and to help prevent incomplete applications from being submitted by CES applicants.

The form referenced in proposed Section 9.1(a) would be cumbersome, unduly expensive and otherwise impractical to publish in the California Code of Regulations. The form is available on the CBA's website and from the CBA upon request.

Section 9.1(a)(1) – The proposed amendment requires the applicant to certify to its membership in applicable professional organizations. This provision assures compliance with BPC 5094(d)(3).

Section 9.1(a)(2) – The proposed amendment would require a credentials evaluation service applicant to certify compliance with its written procedure for identifying fraudulent transcripts. This provision assures the CBA that the evaluation service is complying with its written procedure required by BPC 5094(d)(7).

Section 9.1(a)(3) – The proposed amendment requires the credentials evaluation service applicant to certify it maintains a complete set of reference materials. This amendment provides the CBA with the assurance that the credentials evaluation service provider has the materials needed to provide an accurate evaluation.

Section 9.1(a)(4) – The proposed amendment would require the credentials evaluation service to provide the required biographical information in the form of a resume or curriculum vitae so the CBA can evaluate the information provided in a standardized format.

Section 9.1(a)(6) and (7) – The proposed amendment would define “written evidence” in section 9.1(a)(6) to mean the credentials evaluation service will provide, as part of the application, for the previous five years, the total number of evaluations performed by junior staff members, and the total number of evaluations performed by junior staff members that were reviewed by senior staff members. Obtaining this information would clarify what the service must submit as written evidence and satisfy the requirements of

paragraph (7) allowing that paragraph to be removed. The amendment allows the CBA to determine actual ratios identified in paragraph (6) and provides a number that can be verified should the need arise to investigate compliance with this Section.

Section 9.1(a)(8), (9), and (10) – The proposed amendment would renumber these to section 9.1(a)(7), (8), and (9) respectively.

Section 9.1(a)(9) – The proposed amendment adds a provision requiring the credentials evaluation service to certify compliance with its appeal procedure for applicants. This certification further assures the CBA that the credentials evaluation service is following its own procedures required by BPC 5094(d)(9).

Section 9.1(a)(11) – The proposed amendment would remove this section as it is duplicative of section 9.1(a)(10).

Section 9.1(a)(12) – The proposed amendment would renumber this section to section 9.1(a)(10) and requires the sample evaluation submitted with the credentials evaluation service's application to be in compliance with the requirements of section 9.1(b). This allows the CBA to determine whether the evaluations provided by the credentials evaluation service will meet the CBA's standards.

Section 9.1(a)(11) – The proposed amendment would add subsection 9.1(a)(11) to require credentials evaluation service to certify it will establish, within thirty days of CBA approval, a minimum six-year document retention policy. Retention of documents over a six year period allows the CBA the ability to gather information to determine whether the credentials evaluation service was in compliance with section 9.1 throughout its five year renewal period (e.g., audits or investigation of complaints). Establishing the retention policy within thirty days ensures that evaluation submitted to CBA after approval will be available for inspection if needed throughout the six year period.

Section 9.1(a)(12) – The proposed amendment will require credentials evaluation service as a condition of renewal, to certify continued compliance with minimum six-year document retention. The six-year document retention period allows the CBA to review the entire history of evolutions during the five year CES renewal period. Retention of documents allows the CBA the ability to gather information to determine whether the credentials evaluation service is in compliance with section 9.1 should the need arise.

Section 9.1(b)(1) – The proposed amendment requires credentials evaluation service to affirm in writing that the transcripts and degrees being authenticated were received directly from the educational institution or its governing body. The amendment ensures consistency with Title 15, California Code of Regulations section 2.8 regarding transcripts, and the accuracy of the educational qualifications received by the CES and relied upon by the CBA.

Section 9.1(b)(4) – The proposed amendment is added to identify the primary and secondary evaluators. The amendment holds the evaluation service accountable for

compliance with section 9.1(a)(6). This requirement allows the CBA to calculate the ratio of primary to secondary evaluators by reviewing the records and tabulating the primary or secondary evaluators used in evaluations as required in section 9.1(a)(4).

Section 9.1(b)(5) – The proposed amendment requires a credentials evaluation service to include the name or names of the applicant as shown on the transcripts as well as the name under which the applicant requested the evaluation. This requirement allows the CBA to determine if applicants are the same individuals associated with the transcripts being evaluated.

Section 9.1(b)(4) – The proposed amendment renumbers section 9.1(b)(4) to section 9.1(b)(6).

Section 9.1(b)(7) – The proposed amendment requires a credentials evaluation service to provide the total number of semester units completed and evaluated. This information aids the CBA in making appropriate evaluations of the total US equivalent course work completed by applicants.

Section 9.1(b)(5) – The proposed amendment renumbers this paragraph to subsection 9.1(b)(8) and requires a credentials evaluation service to list the coursework in chronological order without categorization, extra emphasis, or distinguishing formatting for any courses listed. This method of providing information ensures that the CBA evaluation and determination are unbiased, and the CPA applicant is not misled as to acceptable coursework.

Section 9.1(b)(9) – The proposed amendment requires the following disclaimer: “This evaluation service is not authorized by the CBA to include in this evaluation any opinion as to whether certain courses will be accepted by the CBA as meeting the CBA’s requirements or whether the applicant meets the CBA’s requirements for taking the Uniform CPA Examination or for licensure.” This requirement ensures CPA applicants have not been promised by the credentials evaluation service a predetermined outcome regarding their transcript evaluation and understand the limits of the credential evaluation service’s authority.

Section 9.1(c) – The proposed amendment requires credentials evaluation service to notify the CBA of any changes in the ratio required in section 9.1(a)(5), or any change in ownership. Change of Ownership means: any change in legal ownership of the approved credentials evaluation service or its business entity form, including the acquisition by a person of more than 50% of an interest in or stock of the business entity’s parent company, change of the business entity by incorporation or conversion of the business to another business entity form or a change in the corporate status that requires a new corporate number as issued by the Secretary of State. Having the ownership information ensures the CBA has the updated information regarding who is responsible for compliance with this section and who is in control of the entity for the purposes of possible Board approval and responsibility for compliance with this Section.

Section 9.1(d) – The proposed amendment requires the credentials evaluation service to respond to any inquiries by the CBA, submit any documents requested by the CBA, provide any information requested by the CBA and cooperate in any investigation conducted by the CBA regarding the service’s compliance with the CBA’s requirements. The amendment ensures the CBA has the ability to gain access to the information and achieve sufficient cooperation from the credentials evaluation service to meet the CBA’s requirement of protecting the consumers of California by ensuring that credentials evaluation services are complying with the requirements of this section.

Section 9.1(e) – The proposed amendment clarifies that, in addition to failing to comply with any of the requirements of this section, approval may be withdrawn for furnishing false, inaccurate, incomplete, or misleading information to the CBA. The amendment would specify the severity of action that might be taken by the CBA if the credentials evaluation service provides false, inaccurate, incomplete, or misleading information. CES applicants should not be permitted to continue with Board approval if the CES fails or refuses to come into compliance with CBA standards or commits dishonest or negligent acts in responding to the regulating authority. Such conduct is evidence of the CES’ inability to meet minimum standards and the honesty and integrity of the CES in dealing with the CBA and the regulated public. However, current regulations do not address such conduct. This amendment would provide the CBA with clear authority to withdraw approval if any of the aforementioned acts are committed by the CES.

Section 9.1(f) – The proposed amendment allows credentials evaluation services with approval prior to the date this subdivision becomes effective to meet the requirements of this section at its next renewal. This would allow current providers to be grandfathered into these requirements.

Consumer Protection

The CBA mission to protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards is enhanced by the proposed amendment of section 9.1. Specifically, through improved oversight of credentials evaluation services who evaluate foreign educated CPA candidates and as a result of eliminating inconsistent and incomplete information provided in credentials evaluation service reports. In addition, consumers will experience enhanced protection through the addition of specificity, definitions, and certification of procedures, and standardization of information provided the CBA regarding foreign educated CPA applicants.

Underlying Data

Technical, theoretical, or empirical studies, reports, or documents relied upon:
Minutes of the May 29, 2015 CBA and May 29, 2015 CBA’s Committee on Professional

Conduct Meeting
Minutes of the September 17-18, 2015 CBA Meeting

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The CBA presently has eighteen CBA-approved credentials evaluation service firms who would be directly affected by this proposal. On average the CBA receives less than one new CES applicant in any given year. Entities that provide credentials evaluation services would not experience a significant financial burden in completing the application and complying with the proposed amendments to Title 16, California Code of Regulations section 9.1 since they currently provide, through a less formal manner, the information required on the proposed application. Costs associated with changes to the evaluation reports, including a single disclaimer, provided to CPA candidates and statistical reporting should be minor and absorbable by the firms. Any potential adverse economic impact would only occur if a CES failed or refused to meet minimum standards and their approval was withdrawn. Given the volume of approved credential evaluation services and the level and number of the changes proposed, no "significant" adverse impact is expected.

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the proposed changes affect only eighteen CBA approved credentials evaluation service providers, which are not sufficient to create or eliminate jobs or businesses.
- It will not create new business or eliminate existing businesses within the State of California because the proposed changes will not be of sufficient magnitude to have the effect of creating or eliminating businesses. The regulatory proposal only affects a limited number of CES providers in this State and will have no adverse impact to a CES who provides truthful, accurate, complete and timely information to the CBA.
- It will not affect the expansion of businesses currently doing business within the State of California because the proposed changes will not be of sufficient magnitude to have the effect of creating or eliminating businesses.
- This regulatory proposal benefits the health and welfare of California residents because it will help ensure that the CBA's minimum standards for education are met by foreign-educated CPA candidates. The CBA will be better able to meet

its obligation to protect the consumers of California as a result of these proposed amendments since only a CES who meets these new minimum standards will be authorized to provide evaluation reports for consideration of a CPA candidate's eligibility by the CBA. Setting minimum standards for licensure helps protect the public by helping ensure that only qualified applicants practice public accountancy.

- This regulatory proposal does not affect worker safety because it has nothing to do with worker safety.
- This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

The only alternative considered was to maintain the status quo. The CBA rejected this alternative because it would not improve the ability of the CBA to maintain sufficient oversight on the credentials evaluation service firms to ensure improved protection of California consumers.