



NOWICKI
AND COMPANY, LLP

Certified Public Accountants

3198 Union Road / Suite 100
Buffalo, New York 14227
Phone / 716.681.6367
Fax / 716.681.6711
www.nowickico.com

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Raymond M. Nowicki, CPA
Managing Partner

Paul E. Kiel, CPA
Partner

Theresa M. Buckley, CPA
Manager

Laura M. Geiger, CPA
Manager

Erin C. Kropfski, CPA
Manager

Jill M. Gish
Administrator

AICPA Peer Review Program
Attn: LaShaun King, Technical Manager
220 Leigh Farm Road
Durham, NC 27707-8110

RE: Exposure Draft on Peer Review on QCM and CPE Materials

Dear Members of the AICPA Peer Review Board:

My response to the Exposure Draft is intended to address the matter from several views (i.e. theoretical, practical and financial) which are inter-related.

First, let me go on record as supporting the existing standard embodied in the Paragraph 159 model, which I clearly believe has adequate safeguards.

My first portion of this response covers my opinion regarding your questions 1, 2 and 3. The problem, of a CPE/ QCM provider being also on a peer review team is analogous to a college professor who writes a book, publishes it, markets it at the college book store, and then makes the book a required reading of a course on which he grades his student.

The analogy is similar in a number of ways:

1. The teacher is recognized for his work, and has proven that his treatise is a good product. This assumption is supported by the fact that the product has been peer reviewed before publication. His overall lesson plan must also be reviewed by the college department chair. Finally, the outcome of his teaching is usually scrutinized, by virtue of the grades and complaints of his students. These are safeguards employed by academia. The existing Paragraph 159 maintains a number of quality control safeguards, which are independently applied visa-vie the provider. Further, the peer review process itself over the firm's QC system strengthens the support for the fair use and application of the practice aids/CPE. Finally, oversight is performed on the firm using the CPE/QCM by civil authorities (i.e. DOL, GAO, SBA, AICPA, etc.) in a number of settings, which reinforces the scrutiny of the CPE/QCM. These are clearly stronger safeguards than those employed by academia.
2. The college professor gains economically from both the selling of the treatise and, again, teaching in the class in which it is presented. Yet this is not viewed as a problem in the academic world. Sometimes, the CPE/QCM producer is similarly rewarded (and sometimes not). The Exposure Draft suggests that there needs to be a new firewall of safety and that CPE/QCM products would be administered under the auspices of other providers not directly involved in peer review of the firm, and the peer reviewer will not reap cash flow from both sources. It suggests that this is a major problem. It seems that academia is not concerned with the potential issue, while the CPA community seems focused on it. Also, the Exposure Draft's position is ironic.

I am both an author and a lecturer for several teaching institutions (some fee-paid, some gratis), the AICPA and the New York State Society of CPAs. These same teaching institutions also control peer review and its oversight. Therefore, one might argue that the AICPA and the State AE's ultimately have a clear appearance of being equally biased. If this logic is taken to its next logical position, what about those of us who serve as lecturers for these entities, whether fee-paid or not? Are we now painted with the brush of non-objectivity because we lectured to an AICPA-sponsored class that included our peer review clients? Are those attendees to be banished from that class? Or are we to refuse to do their peer reviews? What might AICPA and the State AE's lose in terms of knowledge base if these peer reviewer-lecturers decide to stop teaching, for fear of a conflict?

3. The student is ultimately graded on performance, and whether the student read and understood the treatise. Ultimately, quality control and peer review is about standards and the application thereof. Many peer review findings suggest that a firm failed to use practice aids or attend CPE to its proper extent. The truth of the matter is, the failure or success of the firm rests primarily in the performance of the firm, and not exclusively or even primarily in the hands of the QCM/CPE or its provider. It is a "convenient excuse" to blame misuse of CPE/QCM products for failures, and to blame the provider by "inference". We are professionals and must exhibit judgment or face the blame for failure to perform. As in the case of the student, the success of the firm rests in the firm's ability to follow standards and to document performance. Further, a peer reviewer is not likely to be biased with respect to the impact of his QCM/CPE material, but would likely act like the college professor and admonish the student saying "You did not read and apply the information correctly!". Isn't that what most peer reviewers do now with respect to the various independent canned programs offered by the major supplier(s)? As I see it, the peer reviewer will usually call a break from standards as he/she sees it.
4. The college professor who writes a treatise and follows a peer reviewed process is usually an expert in the field and substantially qualified to discuss the topic. I would argue that an author or lecturer regarding QCM/CPE has also proven mastery of a topic in a field-tested environment. Further, his/her professional reputation is at stake.

The analogy contains some very subtle differences:

1. The college student is usually inexperienced and unassertive, compared to the professional CPA. The CPA may, and usually does, exercise his authority to override the use of certain practice aids or to blend them into the practice's QC System, as he sees fit. Therefore, the CPE/QCM product is really of less significance to the overall peer review result when compared to the individual performance aspect of engagements and thought process of the professional practitioner.
2. The college student may, in fact, have no options or alternatives such as attending a different class or a different school. The professional CPA does have alternatives, including the ability to purchase and implement a number of other CPE/QCM products from a broader market. In reality, the firm expresses their opinion on the quality and value of the CPE/QCM with its checkbook. We still have a choice and we express it monetarily.

Regarding your question number 4, I believe that the concept of peer reviewing the QCM/CPE and then separately peer reviewing the processes of the provider are both adequate safeguards. First, the peer review process itself is onerous, and therefore will discourage providers who are "hobbyists" or who do not take the product development seriously. Secondly, peer review of the products and process protects the public to the same extent that the FDA's or FTC's review of consumer products protects the public. If the product is used as intended, it will work as intended and may benefit the user and the outcome. If, on the other hand, a purchaser uses a caustic commercial cleanser to wash his face, no amount of regulatory oversight will protect that individual.

Regarding your question number 5, I believe the Exposure Draft creates an unnecessary impediment to market-driven decision-making. It may, and will harm some minor players in both the QCM/CPE and peer review markets, but will have done very little to enhance the public trust or protect the public. A non-scientific market analysis of small CPA firms suggests that 90-95% of small firms are using a certain specific practice aid. The company producing this practice aid is not in the market of doing peer reviews. Therefore, it would seem that the primary benefactor of this Exposure Draft, if upheld, is that one significant provider. It would further their ability to monopolize the world of CPA practice aids. Competition in the market place is good. This exposure draft is bad for competition. I believe there are somewhere near 5 other such providers of materials who garner the remainder of the market share. It will harm one or two of those providers.

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It may also enhance the AICPA's ability to market its own material (as shown on CPA2Biz) and put other providers at a disadvantage. It ultimately will hurt our ability to avail our firm of the use of certain practice aids, since the Exposure Draft may put at least one or two providers out of the market which are small, reputable and in the field. The Board may wish to consider the potential for a complaint regarding restraint of trade (rest assured, I have not heard anyone threaten this, but believe it's a possibility).

I would like to offer one more respectful perspective to the Board. If you look at the demographics of the overlap between QCM/CPE providers and peer reviewers, it seems that the exposure draft impacts an incredibly finite percentage of reviewed firms and providers. Why are we focusing a standard on such a small concentration of peer review risk, when there are so many broader issues to address?

I would be genuinely disappointed if this exposure draft succeeds.

Your consideration is gratefully appreciated.

Sincerely,



Raymond M Nowicki, CPA
Managing Partner
Nowicki and Company, LLP