



# Actuarial Board for Counseling and Discipline

## Casualty Actuaries of the Mid-Atlantic Region

Penn State Great Valley  
Malvern, PA

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# Actuarial Board for Counseling and Discipline

## A Professionalism Update

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## Disclaimer

Any statements and opinions expressed are entirely my own, and are not to be interpreted as the opinion of the Actuarial Board for Counseling and Discipline (ABCD), nor the opinion of the American Academy of Actuaries.



## Agenda

- Introduction
- Importance of Self-Regulation
- Joint Discipline Council
- ABCD Annual Report
- Qualification Standards
- Attestation Form
- Your Questions



## Introduction

- Hallmark of a Profession, such as actuarial practice:
  - Code of Professional Conduct (Code)
  - Minimum qualification requirements
  - Technical standards of practice
  - Counseling and discipline body
- Fourteen Precepts of the Code, two deal with responsibilities in connection with violations of the Code (Precept 13 and 14)
- Precept 13 is not an “optional” section of the Code.



## How Actuaries Self-Regulate

### Self “Police”

- This means if actuaries see something that does not appear to follow the Code, we do something about it.
  - It is not just what you do personally, but how you hold all others in the professional accountable.
  - If someone questions your work, cooperate in answering the question.
- Not intended to address inconsequential things; therefore, only address “apparent, unresolved, material violations” of the Code.

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## Joint Discipline Council

- Established effective April 1, 2013
- Oversees discipline action process for all actuarial organizations after recommendation from ABCD
- Supplants part of the individual actuarial organizations' inconsistent decisions
- ABCD's role does not change
- Selection of a Discipline Panel comprised of members from all of the actuary's member orgs
- Rules of Procedure – see CAS website

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## Discipline Before The JDC

- Role of ABCD
  - Investigated complaints
  - Dismissed or recommended discipline to the Subject Actuary's (SA's) organization(s)
- Role of each involved organization
  - Held a hearing and made decision
  - If SA appealed, held another hearing and made final decision





## Discipline Before The JDC

- Problems with Prior Process
- Multiple memberships leading to
  - Disparate outcomes for the same violation
  - Inefficiencies/ burdens – multiple hearings
- Lack of Transparency



## JDC Critical Elements

- Single disciplinary hearing replaces multiple hearings
- Single appeal process with limited scope
- Each organization retains control over membership
- Retain most other features of current system
  - SA to be judged by panel of true peers
  - ABCD investigates and either dismisses or recommends discipline
  - Same types of penalties
- Expanding ABCD's role discussed but rejected
  - Continue separation of investigation and adjudication
- Improve transparency



## Joint Discipline Council

- Joint Discipline Council (JDC) composed of Presidents and Presidents-elect of participating organizations
  - Currently AAA, ASPPA, CAS, CCA and SoA
- JDC establishes rules of procedure after seeking comments from organization members
- JDC establishes a pool of organization members for the (potential) Disciplinary and Appeal panels
- JDC selects panels and their chairs
- JDC decisions are by majority vote with at least one from each organization voting with majority

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## Pool Rules

- Each participating organization should designate at least 8 of its members for the Pool
- The designees must hold memberships in one or more of the organizations; a significant number of Pool members should hold multiple memberships (*because a significant percentage of all actuaries hold multiple memberships*)
- Members should be available and willing to accept assignments for at least 2 years
- JDC can appoint special members to a Discipline Panel where sufficient members of the Pool without a conflict of interest cannot be found

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## Disciplinary Panel

- A Disciplinary Panel (DP) will consist of at least 5 members, with at least one member appointed by the JDC representatives from each of the organizations of which the Subject Actuary (SA) is a member
- Each DP member will belong to at least one of the organizations of which the SA is a member
- If feasible, the DP will have a majority of members in each organization to which the SA belongs



## Disciplinary Panel Hearing

- DP holds a hearing unless DP and SA agree not to
- SA may appear personally and with legal counsel (at SA's expense); counsel's role is limited to advising SA and articulating appropriate procedural objections; SA may present evidence not previously provided to ABCD
- DP chair may ask ABCD investigator to appear at hearing
- Supermajority (at most one dissent) required for any discipline; simple majority for referral to counseling; otherwise, dismissal



## Disciplinary Panel Hearing

- DP decision to privately reprimand, publicly reprimand, or suspend SA for up to 2 years effective 45 days after date of action, unless SA appeals
- DP decision to expel or suspend for over 2 years is referred to each organization to which SA belongs; each organization may affirm or reduce discipline to a suspension of no less than 2 years. For CAS, this would be the Discipline Committee



## Appeals

- If SA appeals, JDC will form an Appeal Panel (AP) from the pool (no DP members); AP will hold a hearing unless SA and AP agree otherwise
- Only allowable grounds for appeals:
  - Material procedural error in DP proceedings
  - Material factual error by DP evident from record
  - New evidence not reasonably available during DP hearing





## Appeals

- By simple majority vote, AP may affirm DP, or remand to original DP with instructions for further proceedings
- If and only if the procedural defect is in the composition of the original DP, a new DP will be formed by the JDC



## Confidentiality

- Proceedings are confidential unless waived by SA
- Information concerning decided cases shall be made available to a DP or AP to assist consideration of other matters pending before them
- This information will be redacted to omit the name of the SA when private or no discipline was imposed
- Such redacted information may also be made available to members of each organization for informational purposes



## Notification(s)

- Final decisions of DPs and APs are transmitted to the SA, the organizations to which the SA belongs, the ABCD, and in the case of public discipline, to other organizations designated by the DP, such as government entities or news organizations
- Each organization to which the SA belongs will, within a reasonable time, notify its members of any public discipline imposed
- If a suspended or expelled member is reinstated, the organization will notify its members and entities previously advised of the suspension or expulsion



## COP Task Force on Discipline

- Formed in 2012 to identify potential improvements to the Academy and ABCD processes for counseling and discipline
- Progress to-date has been made on improved communications, including:
  - Implementation of a new Academy policy on the content of discipline notifications to be educational in nature
  - Plans for improved status communications to complainants
  - Better information on the ABCD website on the typical timeline for resolving complaints
  - Plans for updating the format on the ABCD website of the annual statistics on discipline and requests for guidance to be more educational and easier to access



## Summary of Alleged Violations

Major Issue Alleged	Disposed in 2014				Active on 12/31/14	TOTAL CASES
	Discipline	Counsel	Dismiss	Total		
<b>Precept 1:</b> Failure to act with integrity	2	4	11	17	4	21
Failure to perform services with competence	3	1	1	5	4	9
Calculation or data errors	2		1	3	5	8
Other errors in work	3	1	1	5	3	8
Failure to uphold reputation of Actuarial profession	3	1	3	7	1	8
<b>Precept 2:</b> Performing work when not qualified	2	1	7	10		10
<b>Precept 3:</b> Work fails to satisfy an ASOP	2		14	16	3	19
Use of unreasonable assumptions	1		2	3	1	4



## Summary of Alleged Violations

Major Issue Alleged	Disposed in 2014				Active on 12/31/14	TOTAL CASES
	Discipline	Counsel	Dismiss	Total		
<b>Precept 4:</b> Inadequate actuarial communication	1		8	9	2	11
<b>Precepts 5, 6, 7, 8, 9</b>						
<b>Precept 10:</b> Failure to cooperate with other actuary			4	4	2	6
<b>Precept 11:</b> Improper advertising					1	1
<b>Precept 12:</b> Improper use of designation	2			2		2
<b>Precepts 13, 14:</b>						



## Cases Considered During 2014

Type of Case	Pending From 2013 and Earlier	Received in 2014	Total
Conduct	7	7	14
Practice	4	24	28
Conduct & Practice	1	4	5
<b>TOTAL</b>	<b>12</b>	<b>35</b>	<b>47</b>

Cases by Practice Area	Pending From 2013 and Earlier	Received in 2014	Total
Property & Casualty	4	3	7
Health	1	1	2
Life	0	1	1
Pension	7	30	37
<b>TOTAL</b>	<b>12</b>	<b>35</b>	<b>47</b>



## Cases Closed in 2014

<b>Disposition by Chairperson and Vice Chairpersons</b>	<b>TOTAL</b>
Dismissed	19
Dismissed with Guidance	5
<b>Disposition by Whole ABCD After Investigation</b>	
Dismissed	5
Counseled	4
Recommended Suspension	4
<b>TOTAL CASES CLOSED</b>	<b>37</b>





## 2014 Requests for Guidance

Practice Area	Number of RFGs
General	4
Pension	30
Health	19
Life	17
Property & Casualty	20
<b>TOTAL</b>	<b>90</b>



## 2014 Requests for Guidance

Precept	Number of RFGs
1	35
2	24
3	28
4	18
5	0
6	4
7	4

Precept	Number of RFGs
8	11
9	1
10	12
11	11
12	11
13	23
14	0



## NAIC Joint Qualified Actuary Subgroup

- Discussion draft issued on August 15, 2013, including questions to interested parties
- Definition of Qualified Actuary
  - Should it require membership in a specified actuarial organization?
  - Should it require documentation of CE history to be available in a public forum?
  - Should it require a written statement, available for public inspection, describing how one's credentials, experience and CE history relate to the subject of the opinion?

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# Proposed Attestation Form



AMERICAN ACADEMY of ACTUARIES

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## U.S. Qualification Standards Attestation for 2014

The purpose of this form is to aid actuaries' understanding of the "Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States" (promulgated by the American Academy of Actuaries, effective January 1, 2008) and to provide a means to attest how these standards are satisfied. Complete the following to demonstrate how you are qualified to issue, during 2014, Statements of Actuarial Opinion (SAOs) in your area of expertise.

### Part 1: General Qualification Standards

#### 1) Basic education and experience, General Qualification Standard

The US Qualification Standards require actuaries to meet basic education and experience requirements, as well as continuing education requirements. In terms of basic education and experience, to be qualified to issue a SAO, actuaries must meet the following criteria. Please indicate if you have satisfied each condition:

- Yes  No I am a Member of the Academy, a Fellow or Associate of the SOA or the CAS, a Fellow of the CCA, a Member or Fellow of ASPPA, or a fully qualified member of another IAA-member organization; and
- Yes  No I have three years of responsible actuarial experience, which is defined as work that requires knowledge and skill in solving actuarial problems; and



## Proposed Attestation Form

- Based on AAA Qualification Standards
- Separate sections for General and Specific Qualification Standards
- Will ask for a summary of qualifying experience and CE log
- Will be voluntary
- Will be online
- Testing is currently underway



## QUESTIONS

