



# Actuarial Board for Counseling and Discipline

## Southwest Actuarial Forum

Austin, Texas

12 June 2009



# Actuarial Board for Counseling and Discipline

## Professionalism in Practice

[An ABCD Overview]  
Curtis E. Huntington  
FSA, MAAA, FCA, COPA



## Agenda

- Background on ABCD
- Code of Professional Conduct
- ABCD Processes
- Existing proposals to improve effectiveness
- Examples



## Actuarial Board for Counseling and Discipline

ABCD was established in 1991 by the U.S. actuarial organizations to

- **Investigate** alleged violations of the Code of Professional Conduct by members and recommend discipline
- **Counsel** (provide guidance to) members
- **Mediate** disputes between members and others.



## ABCD Membership

Appointed by Selection Committee (Presidents and Presidents-elect of U.S. organizations)

Member	Area of Practice
<b>Curtis Huntington, Chairperson</b>	<b>Life</b>
<b>Julia Philips, Vice Chairperson</b>	<b>Health</b>
<b>Carol Sears, Vice Chairperson</b>	<b>Pension</b>
<b>Linda Bell</b>	<b>Casualty</b>
<b>Paul Fleishacker</b>	<b>Health</b>
<b>Kurt Piper</b>	<b>Pension</b>
<b>Dick Robertson</b>	<b>Life</b>
<b>Bob Rietz</b>	<b>Pension</b>
<b>Michael Toothman</b>	<b>Casualty</b>



## ABCD Processes

- Follow Article X of AAA bylaws and ABCD Rules of Procedure
- All ABCD inquiries, guidance and mediation confidential, unless
  - Actuary makes public or agrees to publication
  - Court requires disclosure
  - Redacted, generic situation used for educational purposes



## An ABCD Inquiry

- Is a fact-finding effort, not an adversarial forum
- Examines whether or not an actuary materially violated the Code of Professional Conduct
  - not whether the actuary is liable for damages



## U.S. Code of Professional Conduct

- The revised U.S. Code of Professional Conduct (“Code”) was adopted by the five U.S.-based actuarial organizations (Academy, ASPPA, CAS, CCA & SoA), and took effect 1 January 2001.
- The Code sets forth professional/ethical standards for actuarial members of the five U.S.-based actuarial organizations.





## U.S. Code of Professional Conduct

- The Code contains 14 Precepts, along with annotations providing further guidance on adhering to the Precepts.
- The Precepts are standards that must be followed by credentialed actuaries who are members of one of the U.S.-based organizations or whose member organizations require their members to follow the U.S. Code.



## U.S. Code of Professional Conduct

- **Precept 1 Professional Integrity:**  
An actuary shall act honestly, with integrity and competence, and in a manner to fulfill the profession's responsibility to the public and to uphold the reputation of the actuarial profession



## U.S. Code of Professional Conduct

- **Precept 2 Qualification Standards:**

An Actuary shall perform Actuarial Services only when the Actuary is qualified to do so on the basis of basic and continuing education and experience and only when the Actuary satisfies applicable qualification standards.



## U.S. Code of Professional Conduct

- **Precept 3 Standards of Practice**

An Actuary shall ensure that Actuarial Services performed by or under the direction of the Actuary satisfy applicable standards of practice.



## U.S. Code of Professional Conduct

- **Communications and Disclosure (Precepts 4, 5 and 6)**
- **Conflict of Interest (Precept 7)**
- **Control of Work Product (Precept 8)**
- **Confidentiality (Precept 9)**



## U.S. Code of Professional Conduct

- **Courtesy and Cooperation (Precept 10)**
- **Advertising (Precept 11)**
- **Titles and Designations (Precept 12)**
- **Violations of the Code of Professional Conduct (Precepts 13 and 14)**



## ABCD Inquiry

- Based on complaint from individual, typically
  - Client
  - Regulator
  - Other actuary
- At ABCD's initiative
  - Based on public document that suggests possible violation



## ABCD Inquiry Process

- **Step 1: Initiation of Inquiry**
  - Complaint received
    - Reviewed by staff for completeness
  - Information based
    - Chairs review public document and decide to proceed
  - Sent to subject actuary for response





## ABCD Inquiry Process

- **Step 2: Chairs' review**
  - Chairs evaluate for possible material violation
  - Chairs decide whether to
    - Seek additional information
    - Dismiss complaint
    - Offer mediation
    - Commence investigation



## ABCD Inquiry Process

- **Step 3: Notification**
  - Notify subject actuary and complainant, if any, of Chairs' decision
  - Notify ABCD at next meeting



## ABCD Inquiry Process

- **Step 4: Investigation**
  - Appoint investigator, subject to challenge
  - Investigator
    - obtains and reviews documents,
    - interviews individuals involved,
    - prepares report of results, i.e. facts as investigator understands them
  - Report sent to subject actuary for response



## ABCD Inquiry Process

- **Step 5: ABCD consideration**
  - All documents sent to ABCD members
  - Case discussed at ABCD meeting
  - ABCD decides whether to
    - Seek additional information
    - Dismiss (with/without guidance)
    - Counsel the actuary
    - Conduct a hearing



## ABCD Inquiry Process

- **Step 6: Notification**
  - Notify subject actuary, complainant and investigator of decision
  - Schedule hearing, if so decided



## ABCD Inquiry Process

- **Step 7: Hearing**
  - Conduct fact finding hearing attended by
    - Investigator
    - Subject actuary
  - Hearing is recorded by a court reporter
  - Investigator presents results
    - ABCD and actuary question investigator
  - Actuary presents case
    - ABCD questions actuary



## ABCD Inquiry Process

- **Step 8: Deliberations**
  - ABCD discusses hearing and documents
  - Decides whether to
    - Dismiss
    - Counsel
    - Recommend discipline
    - Obtain more information, reopen hearing



## ABCD Inquiry Process

- **Step 9: Notification**
  - Notify subject actuary, complainant and investigator of decision
  - If discipline is recommended, transmit to appropriate organization(s)
    - Statement of ABCD findings
    - All documents used by ABCD
    - Transcript of hearing





## ABCD Inquiry Process

- **Step 10: Member Organization**
  - If discipline is recommended
  - Conducts “proceedings” hearing according to its rules
  - May decide to
    - Impose recommended discipline
    - Impose greater level of discipline
    - Impose lower level of discipline or none



## Request for Guidance

- Private guidance by ABCD member
  - Expresses member's own opinion
- Private guidance by ABCD
  - Expresses views of board
- Public guidance by ABCD
  - At request or agreement of actuary(ies)
  - Provides guidance to profession
  - Expresses views of board



## Request for Guidance

### Example of RFG Topics

- How do I know if I am qualified?
- How can I become qualified?
- How can I do a job that involves more than one area of expertise?
- How much can I rely on my supervisor?
- How much can I rely on my staff?
- How much documentation of my work should I save?  
What if I leave my company?
- When should I refuse an assignment?
- When should I make a complaint about another actuary?
- When is a violation of the Code material?
- When is a violation of the Code resolved?



## Mediation

- If all parties agree
- Facilitate resolution of issue without inquiry



## Contacting the ABCD

- **Letter:** 1850 M St., N.W., Suite 300, Washington, D.C. 20036
- **Telephone:** (202) 223-8196; (202) 872-1948 (fax)
- **Website:** [www.abcdboard.org](http://www.abcdboard.org)
- Contacting any individual ABCD member or ABCD staff (contact information on website)



## Change Proposals

- Improve process for learning about potential violations
  - Outreach to regulators and actuaries
  - Follow up to discipline or counseling
  - Automatic triggers for inquiries
  - Legislative changes to
    - Allow sharing with JBEA
    - Protect whistleblowers



## Change Proposals

- Have ABCD issue private reprimands
- Create combined discipline body
  - Replace individual organization discipline committees
  - Impose uniform discipline
  - Appeals process to member organizations



## Change Proposals

- Create ASB/ABCD oversight board
  - Include non actuaries
  - Select ABCD members
  - Oversee ABCD process





## Change Proposals

- Clarify ABCD relationships to organizations
  - Formal feedback process to ASB, etc.
  - Selection Committee approves budget of ABCD/ASB/oversight board
    - Transparent member dues for these



## Ethical Dilemmas

### **SITUATION ONE:**

- A client of yours has retained another independent firm to provide a second opinion on some of your work.
- The other firm is a competitor.
- The other firm is now requesting information from you.
- They ask for copies of your notes, test runs and assumption setting analysis.



## Ethical Dilemmas

### **SITUATION ONE [Questions]**

1. What are your professional responsibilities to support their work?
2. What part of the Code of Conduct and ASOPs apply to you? to them?
3. Do you need a release from the client?
4. How do you retain your proprietary rights without inappropriately frustrating their audit of your work?



## Ethical Dilemmas

### **SITUATION TWO:**

1. You are attending a 60 minute session at the SWAF Spring 2009 Meeting.
2. 20 minutes into the session, your seat neighbour leaves the room.
3. You notice that she completes an attendance ticket, including ratings for speakers who have yet to present.
4. You witness that she drops the ticket in the attendance basket.



## Ethical Dilemmas

### **PRECEPT 13:**

An Actuary with knowledge of an apparent, unresolved, material violation of the Code by another Actuary should consider discussing the situation with the other Actuary and attempt to resolve the apparent violation.

If such discussion is not attempted or is not successful, the Actuary shall disclose ...



## Ethical Dilemmas

### **PRECEPT 13 (Continued):**

...such violation to the appropriate counseling and disciplinary body of the profession, except where the disclosure would be contrary to Law or would divulge Confidential Information.



## Ethical Dilemmas

### **SITUATION TWO [QUESTIONS]:**

1. Should you do anything about this occurrence?
2. Under what circumstances would this definitely create a possible Code violation?
3. Under what circumstances would it appear not to have constituted a Code violation?



## Ethical Dilemmas

# OTHER SITUATIONS





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THANK YOU



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