


Actuarial Board
for Counseling and
Discipline

CAS Discipline
Committee

The ABCD's of the CAS Counseling and Discipline Process


Orin M. Linden
FCAS, MAAA
Michael L. Toothman
FCAS, MAAA



Disclaimer

The opinions expressed here are those of the panelists.

They are not necessarily the same as those of their employers, the ABCD or the CAS. In particular, this presentation has not been endorsed or sanctioned by either the CAS or the ABCD



PRECEPT 1

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.

Actuarial Board for Counseling and Discipline

- Role of ABCD is 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.

Actuarial Board for Counseling and Discipline

The CAS Discipline Committee is responsible for considering recommendations for disciplinary actions against members presented by the appropriate investigatory body, e.g., Actuarial Board for Counseling and Discipline (ABCD) or the Canadian Institute of Actuaries (CIA) and for taking actions on those recommendations as it deems appropriate in accordance with procedures described in the Bylaws and the CAS Rules of Procedure for Disciplinary Actions.


ABCD Membership

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

Member	Area of Practice
Carol Sears, Chairperson	Pension
Paul Fleischacker, Vice Chairperson	Health
Curtis Huntington, Vice Chairperson	Life
Linda Bell	Casualty
Jim Gutterman	Health
Kurt Piper	Pension
John Purple	Casualty
Bob Rietz	Pension
Dick Robertson	Life

 **The CAS Discipline Committee**

- Janet Fagan, Chairperson
- Amy Bouska
- Michael Fusco
- Alice Gannon
- Steven Goldberg
- C.K. (Stan) Khury
- Orin Linden
- Sheldon Rosenberg
- Richard Roth
- Cynthia Ziegler, CAS Staff Liaison

 **CAS Relevant Documents**

Casualty Actuarial Society

- [Code of Professional Conduct](#)
- [Code of Professional Ethics for Candidates](#)
- [Statements of Principles](#)

Actuarial Standards Board

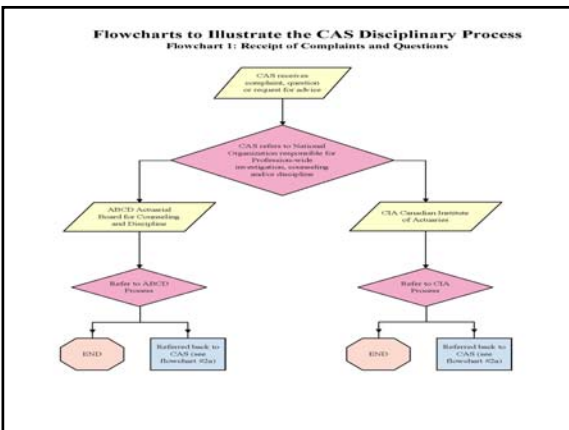
- [Actuarial Standards of Practice](#)
- [Actuarial Compliance Guidelines](#)


American Academy of Actuaries

- [Qualification Standards \(Including Continuing Education Requirements\)](#)
- [Practice Note on Statements of Actuarial Opinion on P&C Loss Reserves as of Dec. 31, 2009](#)

Canadian Institute of Actuaries


- [Standards of Practice](#)






ABCD Process

- Follows Article X of AAA bylaws and ABCD Rules of Procedure
- All ABCD guidance, mediation and inquiries are confidential.
 - Actuary may make public or agree to publication



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
 - Additional information sought as needed
 - Sent to subject actuary for response
 - Information based
 - Chairs review public document and decide to proceed
 - Sent to subject actuary for response




ABCD Inquiry Process

- Step 2: Chairs' review
 - Inquiry documents sent to chairs
 - 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
 - Notify subject actuary for opportunity to object
 - Send direction and documents to investigator
 - 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 SA question investigator
 - SA presents case
 - ABCD questions SA




ABCD Inquiry Process

- Step 8: Deliberations
 - Meet to discuss hearing and documents
 - Decide 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 “show cause” hearing according to its rules
 - May decide to
 - Impose discipline recommended
 - Impose greater level of discipline
 - Impose lower level or none




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




Potential Challenges/Weaknesses

- Lack of understanding within the profession of the counseling and discipline process and the role of the ABCD (exacerbated by confidentiality issues)
- Reliance on practitioners to self-police in many cases
- Timing of the process




Possible Changes

- Information Disclosed when Discipline Occurs (Tombstones)
- High-Profile Cases
 - Balance between Disclosure and Confidentiality
- Automatic Triggers




**Current Proposal to Amend Discipline Action
As Best As We Know**

- ABCD will remain as an independent body and they will receive all complaints and requests for guidance, as is currently the case .
- ABCD will make a recommendation for discipline after investigation, as is currently the case .
- Instead of separate recommendations for discipline to each of the subject actuary's membership organizations, each of which conducts its own hearing and determines their own discipline actions, the ABCD investigation would make one referral to a joint panel.




**Current Proposal to Amend Discipline Action
As Best As We Know**

- Currently the proposal indicates the joint panel would contain a majority membership from the subject actuary's organizations.
 - In cases of a subject actuary with multiple memberships, rules will need to be worked out.
 - Can only discipline if there is a supermajority of all but one member agreeing so a majority of the CAS members on the panel judging a CAS actuary must agree before a CAS member can be disciplined




**Current Proposal to Amend Discipline Action
As Best As We Know**

The current proposal is a work in progress and may change.




Proposed Reasons

- Provide greater transparency to the process
- Provide more information to the membership for cases in process, actions taken and the reasons for the actions
- Avoid inconsistent actions by different societies when an actuary has multiple memberships
- Attempt to anticipate such a body being imposed by a regulatory authority
- Did occur in the UK when there were some large insolvencies
 - Regulatory Board has very specific financial requirements



Proposed Reasons

- Sarbanes-Oxley created a new, quasi-public agency, the [Public Company Accounting Oversight Board](#), or PCAOB, charged with overseeing, regulating, inspecting and disciplining accounting firms in their roles as auditors of public companies.
- Canada has a public system and it's expensive to defend one's self.
 - Does not have the US court system (loser pays costs)
 - Has a different legal system



Is It Really Necessary?

- The current procedure has served us well.
- Very few actions to date
- Appears to be a radical solution to problems that can be dealt within the existing structure
- Unclear that this would head off a government body from doing what they want
- Some members are wary about having non-CAS members as part of the process.



Discussion

- Not exactly uniformly accepted by all who have seen the proposal. In our opinion there is a fair amount of controversy
- Been discussed at the CAS Board of Directors and the CAS Discipline Committee
- It will require a 2/3 vote of the Fellows voting of the CAS.



2009 Summary of Requests for Guidance

- The following information has been taken from the website of the ABCD.
- They may be found at
 - <http://abcdboard.org/publications/annual.asp>
 - <http://abcdboard.org/publications/annual/current/cases09.pdf>
 - <http://abcdboard.org/publications/annual/current/guidance09.pdf>

CASES* CONSIDERED DURING 2009

Type of Case	Pending from 2008 and Earlier	Received in 2009	Total
Conduct	13	32	45
Practice	6	6	12
Conduct & Practice	0	2	2
Requests for Guidance	0	46	46
Total	19	86	105

Cases by Practice Area	Pending from 2008 and Earlier	Received in 2009	Total
Casualty	0	22	22
Health	1	20	21
Life	2	20	22
Pension	7	24	31
Total	19	86	105

* Including requests for guidance

CASES CLOSED

Action by Individual ABCD Members	46
Disposition by Chairpersons and Vice Chairpersons	27
Dismissed	27
(Referred to Investigators in 2009: 7)	3
Disposition by Whole ABCD After Investigation	2
Dismissed	2
Dismissed with guidance	0
Committed without hearing	0
Counseled after hearing	0
Recommended private reprimand	2
Recommended public reprimand	0
Recommended suspension	0
Total Cases Closed (including requests for guidance)	82

CASES IN PROGRESS (AS OF 12/31/09)

Pending disposition	2
Pending hearing	2
Pending investigation	2
Pending receipt of more information (from complainant, subject, other)	16
Cases suspended	1
Total Cases in Progress	23

Since its inception in 1992, the ABCD has completed its cases as follows:

Dispositions	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Dismissed	12	24	9	11	8	11	13	10	5	20
Dismissed with guidance	6	10	5	—	8	1	5	2	8	5
Counseled	—	2	8	1	6	2	5	—	2	3
Mediated	5	1	1	—	—	—	—	1	—	4
Recommended private reprimand	—	—	—	—	—	—	—	—	1	1
Recommended public discipline	—	1	2	—	3	—	1	—	3	—
Replied to requests for guidance	8	8	8	10	28	31	22	31	36	21
Total	29	46	31	22	50	45	46	44	55	54

Dispositions	2002	2003	2004	2005	2006	2007	2008	2009	Total
Dismissed	16	7	5	5	1	3	11	29	202
Dismissed with guidance	4	2	2	4	1	10	1	5	64
Counseled	2	4	1	4	3	1	2	0	46
Mediated	—	1	—	—	—	1	0	0	12
Recommended private reprimand	—	—	—	—	—	0	1	0	3
Recommended public discipline	—	1	—	2	1	1	3	2	20
Replied to requests for guidance	47	30	46	37	31	35	48	46	523


2009 Summary of Requests for Guidance

The ABCD members responded to 46 requests for guidance during 2009. While detailed information cannot be released about any of these RFGs, the table below provides a summary of the major issues involved in these requests. Note that many RFGs involve more than one issue.

Issue	Number
General	1
When should I treat a personal conversation as confidential?	1
What should I do when others' assumptions affect results?	1
What makes an opinion "qualified"?	1
How can I do "best practice" work?	1
Does the ABCD make legal determinations?	1
What should actuarial students do to avoid unprofessional actions?	1
When is an error material?	1
If a report is not signed by an actuary but an actuary prepared it, is it an "actuarial opinion"?	1


2009 Summary of Requests for Guidance

Precept 1	When is a failure to reveal known information dishonest?	3
What are unreasonable assumptions?		1
Is it permissible to use unreasonable assumptions if I caveat them?		4
How do I caveat an opinion for data problems?		1
Must a mistake be corrected if the impact was immaterial?		1
How should I resolve an error in my own work?		1
How can I ensure compliance with legal requirements?		2
What should I do when others may act dishonestly?		1
What should I do if I find my designation has inadvertently lapsed through nonpayment of dues?		1




2009 Summary of Requests for Guidance

Precept 2	When is an actuary qualified? How do I determine if an actuary is qualified?	6
	What do I do when my continuing education is short?	1
	Is qualification to review work different than qualification to do the work?	1
Precept 3	How much documentation is necessary in a report? How do I document sources of assumptions, or prescribed assumptions, or select reasonable assumptions? When is it appropriate to use "safe harbor" assumptions?	7
	What should I do about an inadvertent error in following an ASOP?	1
	When can I deviate from an ASOP?	1
	What are the documentation requirements in ASOP 41?	1
	When should I restate prior incorrect results?	1
	When is an opinion an "Actuarial Opinion"?	1
	How can I be sure I have followed all applicable ASOPs?	1
	How to provide asset adequacy testing for a small company?	1
	How do I proceed when an actuarial opinion is rejected?	1



2009 Summary of Requests for Guidance

Precept 4	How do I proceed when an actuarial opinion is rejected?... that work is not acceptable?	2
	How do I communicate with a client?	1
	How do I communicate appropriate informations?	1
Precept 5	Who is the Principal?	1
Precept 6	none	0
Precept 7	How do I determine if there is a conflict of interest?	1
	How much information must I provide at no charge?	1
Precept 8	How can I ensure my work product is not misused?	4
	How do I deal with a client's possible illegal act?	2
	How do I correct a prior inadvertent error?	1
	How do I prevent another firm from copying my work?	1
Precept 9	When is information confidential?	1



2009 Summary of Requests for Guidance

Precept 10	How much detail must I provide to reviewer of work?	1
	How must I cooperate appropriately with a successor actuary?	1
	What information is proprietary?	1
Precept 11	none	0
Precept 12	none	0
Precept 13	Should I file a complaint? How do I file a complaint?	8
	When should I discuss a possible violation with the other actuary?	1
	When is a possible violation considered resolved?	1
	How can I determine the materiality or illegality of actions?	1
Precept 14	none	0
	Total issues considered	76
