



Actuarial Board for Counseling and Discipline

CASUALTY ACTUARIES Of GREATER NEW YORK

May 29, 2008



Actuarial Board for Counseling and Discipline

The ABCDs of Counseling and Discipline

Michael L Toothman
FCAS, MAAA, FCA



Actuarial Board for Counseling and Discipline

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.



ABCD Membership

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

Member	Area of Practice
Larry Johansen, Chairperson	Pension
Bill Falk, Vice Chairperson	Health
Curtis Huntington, Vice Chairperson	Life
Linda Bell	Casualty
Julia Philips	Health
Kurt Piper	Pension
Dick Robertson	Life
Carol Sears	Pension
Michael Toothman	Casualty



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



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**



REQUESTS FOR GUIDANCE

Some Examples



REQUESTS FOR GUIDANCE

Example #1: SITUATION

- Inquiry from Actuary A for a large audit firm
- Inquiry concerns Client Actuary B
- B issued a report saying reserves should be \$X, which company booked
- A has determined that B believes \$X is not correct but that reserves should be \$Y (Y materially different from X) and company intends to correct over several accounting periods.
- A believes B has “crossed the line”. What should A do?



REQUESTS FOR GUIDANCE

Example #2: SITUATION

- **Subject Actuary (SA) is actuary for an insurer which is being sold**
- **Sales agreement calls for a “true-up” of balance sheet within 90 days after effective date of sale**
- **SA established reserves recorded on the balance sheet at effective date of sale**
- **Subsequent to effective date, SA became aware of 4 potentially large claims**
 - **Two were reported just before effective date**
 - **Third occurred before effective date but was reported afterwards**
 - **Fourth occurred just after effective date**



REQUESTS FOR GUIDANCE

Example #2: SITUATION (Cont.)

- All were unusual and potentially severe claims that would have a material impact on SA's reserve estimate.
- SA feels a duty to both the seller (his former employer) and the buyer (his new employer).
- What should SA do?



REQUESTS FOR GUIDANCE

Example #3: SITUATION

- **Subject Actuary (SA) has been consultant for privately-held insurer for several years and has issued a Statement of Actuarial Opinion each year.**
- **Management has at all times wished to be “quite prudent” in its reserving. SA’s reports have therefore shown “best estimates” that in truth have been based on “conservative” assumptions. Management and Board members have at all times been aware of and indeed desired this “bias”.**



REQUESTS FOR GUIDANCE

Example #3: SITUATION (Cont.)

- Majority owner now wishes to buy out the interests of the minority owners. All parties therefore now desire a “true” estimate of the reserves.
- Impact of change from “conservative” assumptions to “realistic” assumptions may be material to the balance sheet and is certainly material to the income statement for the year of the change.
- What should SA do?