Actuarial Board for Counseling and Discipline

CASUALTY ACTUARIES Of GREATER NEW YORK

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A Presentation by Michael Toothman, December 3, 2008

Actuarial Board for Counseling and Discipline

The ABCDs of Counseling and Discipline

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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?

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Example #1: CONSIDERATIONS/ADVICE

- **A's responsibility under Precept 13**
- **B's Behavior**

  - Possible violations of Precepts 1 & 8, maybe Precept 3, possibly others
- **ABCD Process: A's Options**

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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

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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 #2

CONSIDERATIONS/ADVICE

- **SA should reread the Code and the applicable Standards with this situation particularly in mind.**
- **SA should set the reserves as if he were being paid equally by both parties.**
- **SA should disclose the unusual circumstances to both parties.**
- **If SA feels he should add an additional risk margin to his reserves due to the increased uncertainty caused by these claims, he should identify that risk margin separately.**
- **Basically, follow Precepts 1 and 4.**

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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”.**

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?

REQUESTS FOR GUIDANCE

Example #3
CONSIDERATIONS/ADVICE

- Precepts 1, 4 and 8
- Deficiencies in SA's past actions
- ASOP 36
- Ways to improve SA's work in the future in similar situations

Case Study:
A Tale of 6 Actuaries in 4 Acts

Scene 1:

- ***Young Pricing Actuary* is employed by Huge Insurance Group. He is assigned to Workers Insurance Company to set their prices.**
- **Workers Insurance is 90% Workers Comp and 90% in solid state – it is a leading WC market in that state.**
- **When he develops his losses to ultimate, he notice that his reserves for the three years he uses for prices are all far larger than the reserves on the statutory Annual Statement of Workers Insurance Company.**

Case Study:
A Tale of 6 Actuaries in 4 Acts

Scene 1(continued):

- ***Young Pricing Actuary* has no responsibility whatsoever for loss reserves.**
- **They are set somewhere in the Corporate Actuarial department of Huge Insurance Group in the Head Office.**
- **He doesn’t even know who is responsible.**
- **What should *Young Pricing Actuary* do?**

Case Study:
A Tale of 6 Actuaries in 4 Acts

Scene 2:

- **It is several years later. Workers Insurance Company is consistently profitable (because *Young Pricing Actuary* has used his own reserves) but looks outrageously profitable because HQ continues to post severely inadequate reserves in the Annual Statement.**
- **Huge Insurance Group has decided to sell Workers Insurance Company.**
- **Healthco is interested in buying it – they are 95% health insurance, 85% in solid state – it looks like a good match.**

Case Study:
A Tale of 6 Actuaries in 4 Acts

Scene 2 (continued):

- ***Healthco's health actuaries*** **like the match, but wisely recommend that Healthco Management hire** ***Comp Consulting Actuary*** **to do due diligence on the WC business – it is <u>not</u> Health + disability.**
- **As soon as** ***Comp Consulting Actuary*** **starts his due diligence he is shocked to find reserves that seem to be low by $hundreds of millions. More than a year of revenues! More than 70% of Surplus!**
- **He goes straight to** ***Young Pricing Actuary.***
- **What should** ***Young Pricing Actuary*** **do?**
- **What should** ***Comp Consulting Actuary*** **do next?**

Case Study:
A Tale of 6 Actuaries in 4 Acts

Scene 3:

- ***Young Pricing Actuary*** **in practice confirmed *Comp Consulting Actuary*'s findings**
- ***Comp Consulting Actuary*** **in practice requested a meeting between the investment bankers, Healthco Management, Huge Insurance Group, and the consultants.**
- **The leading representative for Huge Insurance Group happens to be *Big Exec Actuary.***
- **When the situation is described to him, what does *Big Exec Actuary* do?**

Case Study:
A Tale of 6 Actuaries in 4 Acts

Scene 4:

- **The worst fears about the reserves were confirmed.**
- **But the profitability for each of the past five years was also confirmed.**
- **What does Comp Consulting Actuary do?**
- **What do Healthco's Health Actuaries recommend to management?**

Case Study:
A Tale of 6 Actuaries in 4 Acts

Postlogue:

- In the actual situation that inspired this case study, as far as I know, no actuary ever requested counseling from the ABCD (but these things are confidential) --
- Nor was any actuary reported to the ABCD for any alleged violation.
- Should anyone have sought counseling?
- Should anyone have been disciplined?