The ABCD’s of the CAS Counseling and Discipline Process

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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.
• 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.

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**

<table>
<thead>
<tr>
<th>Member</th>
<th>Area of Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carol Sears, Chairperson</td>
<td>Pension</td>
</tr>
<tr>
<td>Paul Fleischacker, Vice Chairperson</td>
<td>Health</td>
</tr>
<tr>
<td>Curtis Huntington, Vice Chairperson</td>
<td>Life</td>
</tr>
<tr>
<td>Linda Bell</td>
<td>Casuality</td>
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<tr>
<td>Jim Gutterman</td>
<td>Health</td>
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<tr>
<td>Kurt Piper</td>
<td>Pension</td>
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<tr>
<td>John Purple</td>
<td>Casuality</td>
</tr>
<tr>
<td>Bob Rietz</td>
<td>Pension</td>
</tr>
<tr>
<td>Dick Robertson</td>
<td>Life</td>
</tr>
</tbody>
</table>
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

Flowcharts to Illustrate the CAS Disciplinary Process

June 9, 2005
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

• 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

• 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 ABKD 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 ABKD (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

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 (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
### 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.

<table>
<thead>
<tr>
<th>Issue</th>
<th>Number</th>
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<tbody>
<tr>
<td>General</td>
<td>1</td>
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<tr>
<td>What should I treat a personal conversation as confidential?</td>
<td>1</td>
</tr>
<tr>
<td>What should I do when others' assumptions affect results?</td>
<td>1</td>
</tr>
<tr>
<td>What makes an opinion &quot;qualified&quot;?</td>
<td>1</td>
</tr>
<tr>
<td>How can I do &quot;best practice&quot; work?</td>
<td>1</td>
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<tr>
<td>Does the ABCD make legal determinations?</td>
<td>1</td>
</tr>
<tr>
<td>What should actuarial students do to avoid unprofessional actions?</td>
<td>1</td>
</tr>
<tr>
<td>When is an error material?</td>
<td>1</td>
</tr>
<tr>
<td>If a report is not signed by an actuary but an actuary prepared it,</td>
<td>1</td>
</tr>
<tr>
<td>is it an &quot;actuarial opinion&quot;?</td>
<td>1</td>
</tr>
</tbody>
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| Precept 1                                                              | 2      |
| What is inadvisable to reveal insider information disclosed?           | 2      |
| What are unreasonable assumptions?                                     | 2      |
| Are unreasonable assumptions possible to disclose?                    | 2      |
| How do I treat an opinion for data problems?                          | 2      |
| When a mistake is corrected, if the impact was immaterial?            | 2      |
| What should I do if I make an error in my own work?                   | 2      |
| How can I ensure compliance with legal requirements?                  | 2      |
| When should the claims under an actuarial opinion be disclosed?        | 2      |
| What should I do if I find my designation has inadvertently lapsed?    | 2      |

| Precept 2                                                              | 2      |
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| When should the claims under an actuarial opinion be disclosed?        | 2      |
| What should I do if I find my designation has inadvertently lapsed?    | 2      |
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

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 appropriate to use "safe harbor" assumptions?  7
What should I do about an audit that was not following an ASOP?  1
When can I deviate from an ASOP?  1
What are the documentation requirements in ASOP 16?  1
When should I restate prior incorrect results?  1
Which assumption is an "accepted option?"  1
How can I be sure I have followed all applicable ASOPs?  1
How to provide asset sufficiency testing for a small company?  1
How do I determine if an internal opinion is effective?  1

Precept 4  How do I proceed when an actuarial opinion is rejected?  2
How do I communicate with a client?  1
How do I communicate appropriate information?  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

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
What 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

June 9, 2005
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