

Professionalism and Malpractice

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Actuaries Club of Hartford & Springfield

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SOCIETY OF ACTUARIES

Overview

- § Professionalism and Malpractice Defined
- § Documenting the Agreement
- § Evidence of Professional Practice
- § Ethical Warning Signs
- § Getting Help



SOCIETY OF ACTUARIES

Professions

- § Specialized training/skill/knowledge
- § Service in the public's interest
- § Independent judgment
- § Code of ethics
- § Self-policing



Actuarial Profession

Create and manage sound financial security programs
(especially those that involve uncertain financial risk)



Reasons to Emphasize Professionalism

- § Personal accomplishment
 - Incl. individual professional standing
- § Respect for the profession
- § Avoid discipline
- § Reduce litigation risks
- § Importance of actuary's work to society



Litigation

- § Breach of contract
- § Negligence



Negligence

- § Duty owed (statute, regulation, contract, common law—due care)
- § Breach
- § Proximate cause
- § Loss/Damages



Malpractice

Professional misconduct or unreasonable lack of skill....Failure of one rendering professional services to exercise that degree of skill and learning commonly applied under all the circumstances in the community by the average prudent reputable member of the profession with the result of injury, loss or damage to the recipient of those services or to those entitled to rely upon them.

[*Law Dictionary* definition]



Malpractice (Cont.)

...any professional misconduct, unreasonable lack of skill or fidelity in professional or fiduciary duties, evil practice, or illegal or immoral conduct.

[*Law Dictionary* definition]



Evidence of Professional Practice

In the Event of
Discipline and/or
a Lawsuit



When Being Sued/Disciplined

DO NOT:

- § Destroy Documents
- § Withhold Information



When Being Sued/Disciplined

What you should do:

- § Get legal advice
- § Cooperate



Being Sued/Disciplined

What are the attorneys looking for:

§ Contract wording

- Who has the legal liability?
- What was the “deal”?
 - Explicit and/or
 - Implicit



Being Sued/Disciplined

What are the attorneys looking for:

§ Evidence re knowledge of and compliance with standards

- Were you qualified?
- Did you do what the Standards required?
 - Materiality will be considered



Evidence of Professional Practice

Before Taking on an Assignment



Document the “agreement”

This should cover:

- § Scope of assignment and limitations
- § Time it will take
- § Billing and payment arrangements
- § Staffing
- § Terms for terminating/modifying



Document the “agreement”

This should also cover:

- § Limitations on use of work product
- § Third party obligations
- § Any “hold harmless” agreement
- § Expected reliance on other people
- § Expected client or employer support



Performing the Assignment

- § Maintain orderly & complete work files
- § Check and follow your company’s document retention policy
- § Reliance on others is no excuse for inadequate work product



Performing the Assignment

- § Don't go overboard with your opinion
- § Include all appropriate disclaimers
- § Minimize the use of boilerplate language
- § Get peer review



Communications

- § Return telephone calls and e-mails
- § Issue accurate & detailed billing statements
- § Copy clients on correspondence



Ethical Warning Signs

- § Odd timing
- § Missing data
- § Imposing on a friendship or promise of advancement
- § If you have to lie



Where to Get Help

- § Talk to professional colleagues
- § Company attorney
- § ABCD in the U.S.
- § AAA's Committee on Qualification Standards in the U.S.
- § AAA's attorneys in the U.S.



Resources available to actuaries

- § Code of conduct
- § Regulations
- § Qualification standards
- § Actuarial Standards of Practice
- § Peers
- § Common sense
- § Other support networks



A Few Final Rules:

- § Signature test
- § Newspaper test
- § Be ready to walk



Q&A



Thank you!



Appendix



Code of Conduct



Pop Quiz

§ Which actuarial organization is responsible for adopting and overseeing the Code of Professional Conduct?

- A. AAA
- B. SOA
- C. CCA
- D. ASPPA
- E. CAS
- F. All of the above
- G. A and B
- H. A, B and E



Pop Quiz

§ Which actuarial organization is responsible for adopting and overseeing the Code of Professional Conduct?

- F. All of the above



Code of Professional Conduct

Actuaries
Risk & Opportunity

§ You are required to keep current with the Code, as well as applicable Law and other rules of professional conduct within your jurisdictions

- http://www.actuary.org/pdf/prof/code_of_conduct.pdf

§ We will review the code today

- Note: the paraphrasing is mine personally and should not be construed as an official SOA interpretation. It's simply meant to be helpful to us today!



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Precept 1: Professional Integrity

Actuaries
Risk & Opportunity

§ Be honest

§ Use **Skill** and **Care**

- Don't be deceitful or intentionally **misrepresent**

§ Don't do anything **illegal**, or that would hurt our **reputation**

- Includes using 3rd party relationships to engage in improper activity



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Precept 2: Qualification Standards

Actuaries
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Make sure you're qualified

- § Basic education
- § Experience
- § Continuing education



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Precept 3: Standards of Practice

Actuaries
Risk & Opportunity

- § You must satisfy applicable **Standards of Practice**
 - It's your **responsibility** to know what those are and keep up with changes
- § If no Standard applies to the work, use **professional judgment** and generally accepted actuarial principles and practices
- § If you **depart** from the Standards you must justify why



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Precepts 4, 5 and 6: Communications and Disclosure

Actuaries
Risk & Opportunity

Actuarial communications must:

- § Be **clear** and **appropriate**
- § Identify the **responsible actuary**
- § Indicate who can provide **supplementary** information
- § Identify the **Principal**



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Precepts 4, 5 and 6: Communications and Disclosure

Actuaries
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You must disclose **sources of compensation** in relation to an assignment

- § If you are **not independent** you must disclose this to the Principal
- § Disclosure is required regardless of your firm's operating locations



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Precept 7: Conflict of Interest

Actuaries
Risk & Opportunity

You should not perform Actuarial Services involving an actual OR potential conflict of interest, unless:

- § You are able to act **fairly**
- § You have **disclosed** the conflict to all Principals
- § **All Principals** have agreed on your performance of the services



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Precept 8: Control of Work Product

Actuaries
Risk & Opportunity

- § You should make sure your work is not used to **mislead** others
- § Recognize the risks of **misquotation and misinterpretation**
- § Construct and present your Actuarial Communication to avoid this
- § Include **limitations** on the distribution and utilization of the Communication



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Precept 9: Confidentiality

Actuaries
Risk & Opportunity

Don't disclose **confidential** information

§ Unless Principal **authorizes**

§ Unless required by Law



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Precept 10: Courtesy and Cooperation

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Risk & Opportunity

§ Use **courtesy** and **respect**

§ **Cooperate** with others in the Principal's best interest

- You can work for a Principal even if another actuary is already doing so
- Differing opinions are allowed by the Code
- You can (should) consult with the prior actuary, but only with consent of the Principal
- And if you are the prior actuary, you should cooperate with the new actuary



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Precept 11: Advertising

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Don't use false or misleading **advertisement**
for Actuarial Services

§ Includes **all media** trying to influence any
person or organization



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Precept 12: Titles and Designations

Actuaries
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Your **designation** should be only used in a
way that is authorized by the organization



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Precept 13 and 14: Violations of the Code

Actuaries
Risk & Opportunity

§ If you are aware of a **material violation** of the Code by another Actuary

- First **discuss** it with the other actuary
- Then you should **disclose** to the Counseling and Discipline body
 - Unless contrary to law, or violating confidentiality

§ Material violation:

- **Important**
- Affects the **outcome** of a situation



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Precept 13 and 14: Violations of the Code

Actuaries
Risk & Opportunity

§ If you are asked to provide information or cooperate with a counseling or disciplinary body, you should do so **promptly** and **truthfully**

- Subject to restrictions of the Law, or confidentiality

§ The ABCD stresses the “**C**”

- <http://www.abcdboard.org/>



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Qualification Standards



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How Most* SOA Members will Meet the SOA CPD Requirement

Practicing in the United States?	Practicing in Canada?	Member of the Faculty or Institute of Actuaries (UK) or the Institute of Actuaries of Australia?	Retired?
If yes , then meet the U.S. (Academy) Qualification Standard.	If yes , then meet the CIA Qualification Standard.	If yes , then meet the Category 1 or 2 of UKAP CPD Scheme or the IA Aust CPD Standard (respectively).	If yes , then the membership directory will show your status as "Retired."
Annually notify the SOA you fulfilled the SOA CPD Requirement by meeting U.S. Qualification Standard, beginning Dec. 31, 2010.	Annually notify the SOA you fulfilled the SOA CPD Requirement by meeting CIA Qualification Standard, beginning Dec. 31, 2010.	Annually notify the SOA you fulfilled the SOA CPD Requirement by meeting the UK or Australian CPD requirements, beginning Dec. 31, 2010.	You may voluntarily comply and attest compliance with the SOA CPD Requirement, if you wish, beginning Dec. 31, 2010.
<p>† none of the above (e.g., practicing in Asia) then meet the Basic Requirement Provisions of Section B. Annually notify the SOA you fulfilled the SOA CPD Requirement by meeting the Basic Requirement Provisions, beginning Dec. 31, 2010.</p>			
<p><small>*All SOA members must use Section B to comply, and individuals may have more than one route available, based on their individual circumstances. Please see the SOA CPD Requirement's document and the Frequently Asked Questions at www.soa.org for more information.</small></p>			

Myth #1: alternative compliance

- § Meeting the CPD requirements of one of the alternative compliance standards is not compliance in full.
- § False. Meeting the provisions of an alternative compliance standard fulfills the SOA CPD Requirement.
- The only difference between the SOA Requirement and some of the alternative compliance standards is that all SOA members must notify the SOA annually of compliance.
 - Methods of compliance: Section B, the U.S. Qualification Standard, the CIA Qualification Standard, Categories 1 or 2 of the UKAP CPD Scheme, or the IAAust CPD Standard.



Myth #2: Not subject to U.S. Qual. Standard

- § I'm an SOA member, based in the U.S., but not an Academy member. Therefore, I'm not subject to the Academy Qualification Standard.
- § False. As an SOA member, you are subject to the provisions of the U.S. Qualification Standard (aka Academy Qualification Standard).
- Any actuary who is a member of a U.S.-based actuarial organization (including the SOA) who issues Statements of Actuarial Opinion (SAOs) in the United States is subject to that standard.



Myth #3: If I don't issue SAOs ...

- § I don't issue SAOs; I can't use the U.S. Qualification Standard to meet the SOA CPD Requirement.
- § False. An SOA member who practices in the U.S. is always potentially subject to the U.S. Qualification Standard and therefore can always use that standard to meet the SOA CPD Requirement.
 - Under a principles based test, you had a reasonable expectation of being an issuer of SAOs by practicing in the U.S.



Myth #4: If I'm exempt from the CIA Standard ...

- § I'm exempt from the CIA Qualification Standard; I can meet the SOA CPD requirement using alternative compliance and earning ZERO CPD credits?
- § False. Earning ZERO credits is never compliance. You must always fulfill the requirements of your alternative standard (e.g. the CIA Qualification Standard).
 - i.e., 100 hours in 2 years, 12 structured hours in technical skills, 4 hours in professionalism, with 24 hours in structured credit.



Myth #5: Use of other alternative standards

- § I'm a CIA member who does not work or reside in Canada and I am a member of another IAA association (with CPD). Since meeting the "other" CPD standard meets the CIA Standard, that fulfills the SOA CPD Requirement.
- § False. CIA Paragraph 3.3 is an exemption to the CIA standard. You NEVER meet the SOA CPD Requirement by meeting an exemption in an alternative compliance standard.
- It must be one of the listed alternative compliance standards



Myth #6: Must attend SOA events

- § I must attend an SOA meeting, seminar or webcast to earn structured credit to meet the SOA CPD Requirement.
- § False. You are NEVER required to attend a PD event of the SOA or any other actuarial organization to earn structured CPD credit (organized activity credit). You can earn structured credit/organized activity credit from any source that you believe provides you with job relevant (relevant) credit (aka acceptable activities).



Myth #7: No value to employer credit

- § My employer runs excellent in-house training sessions. Why is it that when my colleagues speak at an in-house training session it is worth less credit than if these colleagues speak at an external meeting?
- § The SOA CPD Requirement (Section B) and the U.S. Qualification Standard each require some structured credit (organized activities) beyond in-house training.
 - You need to understand how your colleagues' wisdom compares to the rest of the profession.
 - If you only receive in-house education from your employer, you may not know if your employer's practices deviate in potentially unhealthy ways.



Myth #8: My MBA doesn't count

- § Earning an MBA earns me (virtually) nothing for CPD because it's all business skills credit.
- § False. False. False. Most of what you learn in an MBA program would be considered to be job relevant structured CPD credit (or relevant, organized activity)
 - CPD requirements allow for "material [that] expands an actuary's knowledge of practice in related disciplines that bear directly on an actuary's work."
 - Much of an MBA program meets this definition: finance, accounting, marketing, economics, capital markets, organizational behavior.



Myth #9: Why is it so complicated?

§ Why didn't the SOA just adopt the U.S. Qualification Standard?

- ~20% Canadian, ~10% international SOA members
- Treating the U.S. and CIA Qualification Standards as alternative compliance standards treats each standard, and U.S. and CN members, equally and equitably.
- Practical reasons why the provisions of the U.S. Qualification Standard did not work outside the U.S.



Myth #10: SOA CPD redundant

§ The SOA CPD Requirement is redundant because other organizations (CIA, AAA) have qualification standards.

§ False. Many SOA members practice in countries without qualification standards.

- Some qualification standards don't always apply to all actuaries (e.g. exemptions for nontraditional roles).
- Need to preserve the market value of the SOA credentials.



CPD Compliance



CPD Compliance 1-2-3

- Know your CPD compliance path
- Track and earn CPD credits
- Attest at year end



Based on your compliance path

- § What, where, when & how much
- § How does it meet your compliance path?
- § “XYZ” webcast on Feb. 28, 2010, 90 minutes
 - 1.8 units of relevant, organized CPD credit (US Qual Standard)
 - 1.5 hours of structured, technical skills credit (CIA Standard)
- § Reading standards of practice #X and #Y, 120 minutes, Mar 1, 2010
 - 2.4 units of professionalism (US Qual Standard)
 - 2 hours of professionalism (CIA Standard)



Keep track (systematically)

- § You may use any tracking system you want, as long as you have the information
 - TRACE (AAA)
 - CIA tracking software for members



Tracking tips

- § DON'T (need to) keep slides, notes or meeting registration
- § DO document descriptively (what activity, about what, for how long)
- § DO be sure it's relevant to the standard you're following



Continuing Education

- § **30 CE Hours** – Actuaries subject to the revised Qualification Standards must complete and document at least **30 hours** each calendar year of relevant CE.
- § **Organized Activity Requirement** – At least six (6) hours must be from “Organized Activities.”
- § **Professionalism Requirement** – At least three (3) hours must be on professionalism topics.
- § **Cap on General Business Courses** - General business courses are limited to three (3) hours per year.



Continuing Education

(continued)

- § The CE requirement will typically be met in the calendar year preceding the year in which the actuary issues the SAO.
- § If, however, an actuary fails to meet the CE requirement in the preceding year, the shortfall may be earned in the year the SAO is issued, but must be met before the SAO is issued.
- § A CE hour is defined as 50 minutes.



Relevant Continuing Education

- § Continuing education is “**relevant**” if
 - (1) it broadens or deepens an actuary’s understanding of one or more aspects of the work an actuary does;
 - (2) the material expands an actuary’s knowledge of practice in related disciplines that bear directly on an actuary’s work; or
 - (3) it facilitates an actuary’s entry into a new area of practice.



Organized Activities

- § “Organized activities” involve interaction with actuaries or other professionals working for different organizations.

- § Examples of organized activities include, but are not limited to, conferences, seminars, webcasts, in-person or online courses, or committee work that is relevant CE.



Organized Activities

(continued)

- § In-house meetings can constitute “organized activities” by using outside speakers, otherwise in-house meetings without an outside speaker could qualify as an “other activity” for CE credit purposes.

- § “Outside speaker” does not include someone employed by the same company working at a different location.



Case Studies



The Do Over

Yan felt pretty good about the work of his staff over the past three months. They had pulled together the design and rates for a new set of whole life insurance products in record time. They were able to use the recently completed company expense study and experience studies from the companies' research team. They had created a competitive product that met the company's profit goals.

The final step was the presentation to the senior product committee.

Ravi, the senior vice president of marketing, started the meeting by thanking Yan for the long hours logged by Yan and his staff. He continued by stating that senior management had set aggressive sales goals for the next two years. In order to meet those goals the pricing of the whole life product needed to be done over to obtain lower premium and higher cash values.



The Do Over Questions

- a. How should Yan respond to Ravi?
- b. What guidance can Yan use?



Great Expectations

George, a consulting actuary working for a major firm, is the lead consultant on a major class action litigation. His client is the law firm defending a life insurance company against various allegations. He has signed a typical confidentiality agreement on behalf of his firm.

George has built a model to illustrate the potential value to the members of the class of a proposed settlement. Using his best estimate assumptions the model produces a value of \$50 million. He has not yet delivered a draft of his report to anyone outside his firm.



Great Expectations (continued)

The lead attorney (and George's client) tells George he has committed to plaintiff counsel that George's model will illustrate a value of at least \$100 million. George thinks he can stretch the assumptions to get to a value of \$75 million but is uncomfortable going beyond that.



Great Expectations Questions

- a. What guidance can George find in the ASOPs?
- b. Can George contact anyone outside his company for advice?
- c. What should George do?

