

**ACTUARIAL BOARD FOR COUNSELING
AND
DISCIPLINE**

**ACTUARIES' CLUB
OF
THE SOUTHWEST**

Houston, TX – 16 November 2012

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**ACTUARIAL BOARD FOR COUNSELING
AND
DISCIPLINE**

**THE ABCDs
of
PROFESSIONALISM**

Brian Jackson
ABCD Counsel

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AGENDA

- Background on ABCD
- Code of Professional Conduct
- Discipline Process
- Case Studies

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BIRTHDAY

ABCD was established in 1991 by the U.S. actuarial organizations to:

- Investigate
- Provide guidance
- Mediate disputes

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MEMBERSHIP

Appointed by Council of U.S. Presidents - CUSP
(Presidents and Presidents-elect of U.S. organizations)

Member	Area of Practice
Paul Fleischacker, Chairperson	Health
Janet Fagan, Vice Chairperson	Casualty
Robert Rietz, Vice Chairperson	Pension
Nancy Behrens	Life
James Gutterman	Health
Curtis Huntington	Life
Kurt Piper	Pensions
John Purple	Casualty
Kathleen Riley	Pension

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ABCD PROCESSES

- Academy Bylaws Article X
- ABCD Rules of Procedure
- All ABCD inquiries, guidance and mediation confidential, **unless**
 - Actuary makes public or agrees to publication
 - Court requires disclosure
 - Redacted, generic situation used for educational purposes

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AN ABCD INQUIRY

- Is a fact-finding effort, not an adversarial forum
- Examines whether or not an actuary materially violated the Code
- Does **not** administer discipline.

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U.S. CODE OF PROFESSIONAL CONDUCT

- The revised U.S. Code of Professional Conduct (“Code”) was adopted by the five U.S.-based actuarial organizations (AAA, ASPPA, CAS, CCA & SoA), and took effect 1 January 2001.
- The Code sets forth professional/ethical standards for actuarial members of the five U.S.-based actuarial organizations.

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U.S. CODE OF PROFESSIONAL CONDUCT

- The Code contains 14 Precepts, along with annotations providing further guidance on adhering to the Precepts.
- The Precepts are standards that must be followed by credentialed actuaries who are members of one of the U.S.-based organizations or whose member organizations require their members to follow the U.S. Code.

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U.S. CODE OF PROFESSIONAL CONDUCT

- Precept 1: Professional Integrity
- Precept 2: Qualification Standards
- Precept 3: Standards of Practice
- Precept 4: Actuarial Communications
- Precept 5: Principal
- Precept 6: Disclosure
- Precept 7: Conflict of Interest

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U.S. CODE OF PROFESSIONAL CONDUCT

Precept 8: Control of Work Product

Precept 9: Confidentiality

Precept 10: Courtesy and Cooperation

Precept 11: Advertising

Precept 12: Titles and Designations

Precept 13: Knowledge of Violation

Precept 14: Cooperation with ABCD

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REQUEST FOR GUIDANCE

- Private guidance by ABCD member
 - Expresses member's own opinion
- Private guidance by ABCD
 - Expresses views of board
- Public guidance by ABCD
 - At request or agreement of actuary(ies)
 - Provides guidance to profession
 - Expresses views of board
 - Usually printed in *Contingencies*

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REQUEST FOR GUIDANCE

Example of RFG Topics:

- How do I know if I am qualified?
- How can I become qualified?
- How can I do a job that involves more than one area of expertise?
- How much can I rely on my supervisor?
- How much can I rely on my staff?
- How much documentation of my work should I save?
What if I leave my company?
- When should I refuse an assignment?
- When should I make a complaint about another actuary?
- When is a violation of the Code material?
- When is a violation of the Code resolved?

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MEDIATION

- If all parties agree
- Facilitate resolution of issue without inquiry

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2011 CASELOAD

- 55 Requests for Guidance
- 21 Discipline cases
 - 9 pension
 - 6 life
 - 5 casualty
 - 1 health

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CONTACTING THE ABCD

- **Letter:** 1850 M St., N.W., Suite 300,
Washington, D.C. 20036
- **Telephone:** (202) 223-8196
- **Website:** www.abcdboard.org
- **Contact me:** 202-785-7862 or
Jackson@actuary.org

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ABCD INQUIRY PROCESS

• **Step 1: Initiation of Inquiry**

- COMPLAINT RECEIVED
 - Reviewed by staff for completeness
- INFORMATION BASED
 - Chairs review public document
- SENT TO SUBJECT ACTUARY (“SA”) FOR RESPONSE

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ABCD INQUIRY PROCESS

• **Step 2: Chairs’ review**

- CHAIRS EVALUATE COMPLAINT AND RESPONSE FOR POSSIBLE MATERIAL VIOLATION
- CHAIRS DECIDE WHETHER TO:
 - Seek additional information
 - Dismiss complaint
 - Offer mediation
 - Commence investigation

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ABCD INQUIRY PROCESS

• **Step 3: Notification**

- NOTIFY SUBJECT ACTUARY AND COMPLAINANT OF CHAIRS' DECISION
- NOTIFY ABCD AT NEXT MEETING

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ABCD INQUIRY PROCESS

• **Step 4: Investigation**

- APPOINT INVESTIGATOR, SUBJECT TO CHALLENGE BY THE SUBJECT ACTUARY
- INVESTIGATOR
 - Obtains and reviews documents,
 - Interviews individuals involved,
 - Prepares report of results, i.e. facts as investigator understands them
 - does not offer opinions or conclusions
- REPORT SENT TO SA FOR RESPONSE

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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 Subject Actuary
 - Conduct a hearing

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ABCD INQUIRY PROCESS

• **Step 6: Notification**

- NOTIFY SUBJECT ACTUARY, COMPLAINANT AND INVESTIGATOR OF DECISION
- SCHEDULE HEARING, IF SO DECIDED

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ABCD INQUIRY PROCESS

• Step 7: Hearing

- CONDUCT FACT FINDING HEARING ATTENDED BY
 - Investigator
 - Subject Actuary
 - Witnesses
- HEARING IS RECORDED BY A COURT REPORTER
- INVESTIGATOR PRESENTS RESULTS
 - ABCD and SA question investigator
- Subject Actuary presents case
 - ABCD questions Subject Actuary

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ABCD INQUIRY PROCESS

• Step 8: Deliberations

- ABCD DISCUSSES HEARING AND DOCUMENTS
- DECIDES WHETHER TO
 - Dismiss
 - Counsel
 - Recommend discipline
 - ❖ Private Reprimand
 - ❖ Public Reprimand
 - ❖ Suspension
 - ❖ Expulsion
 - OBTAIN MORE INFORMATION, REOPEN HEARING

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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

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ABCD INQUIRY PROCESS

• **Step 10: Member Organization**

- IF DISCIPLINE IS RECOMMENDED
- CONDUCTS HEARING ACCORDING TO ITS RULES
- MAY DECIDE TO
 - Impose recommended discipline
 - Impose greater level of discipline
 - Impose lower level of discipline
 - Not impose any discipline

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CASE STUDIES

CASE STUDY #1

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CASE STUDY #1

You have been working at your current company for a year and it recently came to your attention that your company had an extensive backlog of Rate Filing compliance issues. Your CEO instructed that the necessary filings be prepared in order to be in compliance with state regulations. However, based on discussions with the legal department, as well as outside counsel, Management decided not disclose the non-compliance as part of the filing process. If questioned by regulators as part of the filing review process, the company would admit to the previous non-compliance and take their medicine ONLY if the Regulators asked the right questions

Is taking action to become compliant sufficient or are you required to disclose to the Regulators the company's current non-compliance? You brought this issue with Management and they tell you to keep your mouth shut unless asked.

What do you do?

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CASE STUDY #1

- **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.
- **ANNOTATION 1-2.** An Actuary shall not provide Actuarial Services for any Principal if the Actuary has reason to believe that such services may be used to violate or **evade the Law** or in a manner that would be detrimental to **the reputation of the actuarial profession.**
- **ANNOTATION 1-4.** An Actuary shall not engage in any professional conduct involving dishonesty, fraud, deceit, **or misrepresentation** or commit any act that reflects adversely on the actuarial profession

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CASE STUDIES

CASE STUDY #2

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CASE STUDY #2

In December 2011, Sid the Actuary went to his Actuary Company's Christmas party. The past few months had been tough for Sid. In August, his only child passed away suddenly after a brief but brutal fight with Leukemia. She was only 17 years old. Then in September, his wife informed Sid that she could not continue with their marriage and filed divorce papers. On top of all that, Sid started to self-medicate with alcohol. By November, Sid's drinking had gotten out of control and started to affect his job performance.

But by the Christmas party in December, Sid had decided that he was going to turn his life around. He decided that he was going to have a better outlook on life and try to enjoy the things that he still had. He decided that he was going to have one last night of drinking at the party and then he would never take a drink again.

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CASE STUDY #2

Sid went to the office party and drank to excess. By the time the party ended, he was obviously very drunk and could hardly walk. In fact, he tripped and fell while he was trying to leave. While trying to stand up, he realized that he had dropped his car keys and fell again while trying to retrieve them.

Sid's boss, Steve, is also an actuary and knew about Sid's latest problems. Steve had monitored him during the party and knew that Sid was very, very drunk. While Sid was trying to pick up his car keys, Steve walked up to him, retrieved the keys and helped Sid to his feet.

Sid thanked Steve and asked for his car keys. Although Steve knew that Sid was far too drunk to drive, Steve gave Sid the car keys and did not try to stop Sid from driving home.

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CASE STUDY #2

On Sid's way home, he went the wrong way down a one-way highway and ran head-on into a family of four driving a Honda Accord.

All four in the Accord died – including two small children.

Sid Survived.

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CASE STUDY #2

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**

Did Steve (Sid's Boss) violate Precept 1?

Did Sid violate Precept 1?

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CASE STUDIES

CASE STUDY #3

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CASE STUDY #3

- You are the senior partner in a consulting firm (or the chief actuary in a company, a government office, or other organization). You hear that one of your actuaries may have committed an egregious, though unintentional, act of professional misconduct. What if anything, do you do?
- What if you are not the top actuary, but a senior actuary? What, if anything, do you do?
- What if you are a new actuary in the organization with the status of most junior member? What, if anything, do you do?

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CASE STUDY #3

PRECEPT 13. An Actuary with knowledge of an apparent, unresolved, material violation of the Code by another Actuary should consider discussing the situation with the other Actuary and attempt to resolve the apparent violation. If such discussion is not attempted or is not successful, the Actuary shall disclose such violation to the appropriate counseling and discipline body of the profession, except where the disclosure would be contrary to Law or would divulge Confidential Information.

- ANNOTATION 13-1. A violation of the Code is deemed to be material if it is important or affects the outcome of a situation, as opposed to a violation that is trivial, does not affect an outcome, or is one merely of form.
- ANNOTATION 13-2. An Actuary is not expected to discuss an apparent, unresolved material violation of the Code with the other Actuary if either Actuary is prohibited by Law from doing so or is acting in an adversarial environment involving the other Actuary.

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QUESTIONS?

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THANK YOU !

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