

THE IMPORTANCE OF PROFESSIONALISM, COUNSELING AND DISCIPLINE IN ENSURING A RESPECTED SELF-REGULATED PROFESSION

CECIL BYKERK

AMERICAN ACADEMY OF ACTUARIES



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The American Academy of Actuaries

- The American Academy of Actuaries is an 19,000+ member professional association whose mission is to serve the public and the United States actuarial profession.
- To accomplish this (among other activities), the Academy provides for the establishment, maintenance, and enforcement of high professional standards of actuarial **conduct**, **qualification**, and **practice**.



Hallmarks of a Profession

- Code of Conduct
- Qualification requirements
 - ▣ Initial education
 - ▣ Continuing education
 - ▣ Practical experience
- Standards of Practice
- Disciplinary Process

But professional requirements differ by jurisdiction...



IAA Full Member Association Requirements

- FMAs must have a code of professional conduct that is consistent with the principles described in the IAA internal regulations.
- Key principles:
 - An actuary shall perform professional services with integrity, skill and care.
 - An actuary shall act in a manner that fulfills the profession's responsibility to the public and upholds the reputation of the actuarial profession.
 - An actuary shall co-operate with others serving the actuary's client or employer and maintaining confidential information unless required to disclose by law or the discipline process of the actuary's association.



IAA Full Member Association Requirements

- An actuary shall perform professional services only if the actuary is competent and appropriately experienced to do so.
- An actuary is responsible for ensuring that the actuary's work conforms to applicable practice standards in the actuary's area of work.
- An actuary shall, in communicating professional findings, show clearly that the actuary takes responsibility for them and identify the client for whom these findings are made and the capacity which the actuary serves.



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IAA Full Member Association Requirements

- An actuary shall not perform professional services where the actuary is involved in an actual or potential conflict of interest, unless the actuary's ability to act fairly is unimpaired and there has been full disclosure to the client and all principals of the actual or potential conflict.
- When an actuary is asked to take on professional services previously provided by another actuary, the actuary shall consider whether it is appropriate to consult with the previous actuary to ensure that there are not professional reasons to decline taking on the new responsibility.



IAA Full Member Association Requirements

- An actuary shall disclose to the actuary's client the sources of material compensation or income from any other source that is related to any service provided for a client as soon as such a source is identified.
- An actuary shall be subject to the disciplinary procedures prescribed in the rules of the actuary's association, including the right of appeal.



IAA Full Member Association Requirements

- FMAs must also have a formal discipline process in place, including:
- Key elements:
 - There is a complaint process accessible to anyone affected by an actuary's work and the actuary's professional peers.
 - There is due process accessible to the actuary complained against, and the actuary's rights are fully respected.
 - There is an objective formal appeal process independent of the body that has ruled at the prior level.



IAA Full Member Association Requirements

- There are available sanctions appropriate to the seriousness of the violations committed, including termination of membership in the association.
- The process shall enable the association to give appropriate notice and information to the public of the results of the complaint process where any penalty is imposed, including providing information to other actuarial associations. Any notice to the public shall be consistent with the discipline process.



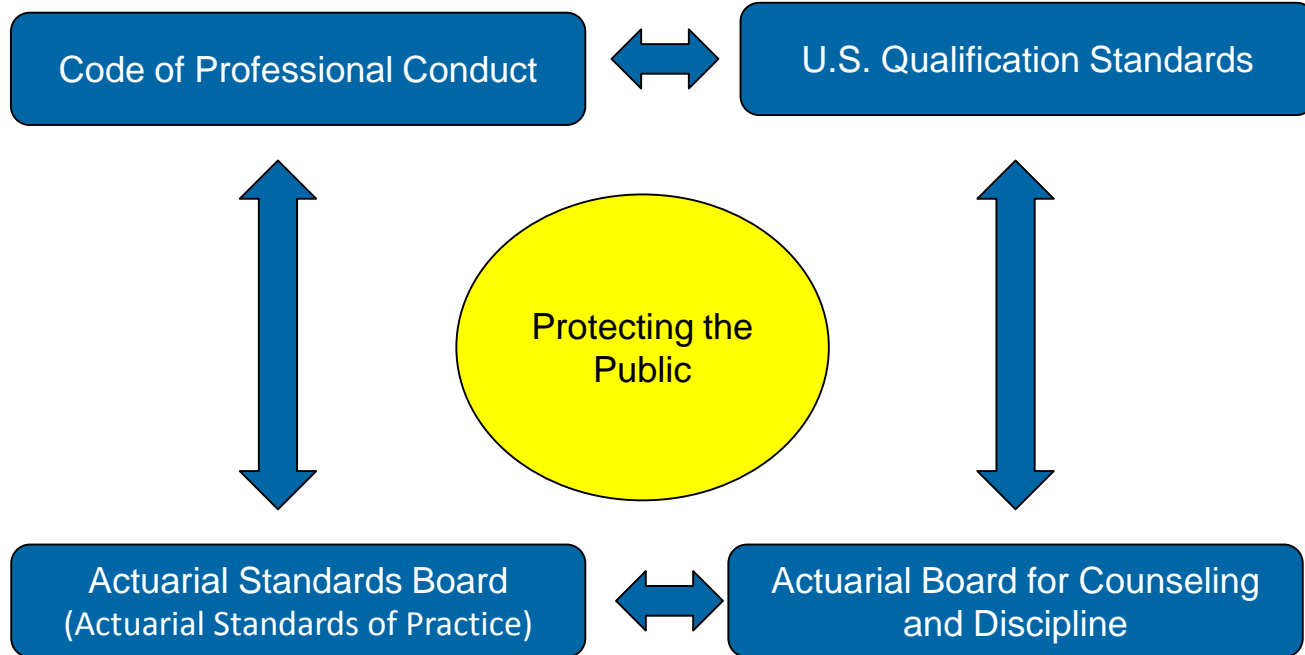
The Pillars of U.S. Actuarial Professionalism

- Code of Professional Conduct
- U.S. Qualification Standards (USQS)
- Actuarial standards of practice
- Counseling and discipline

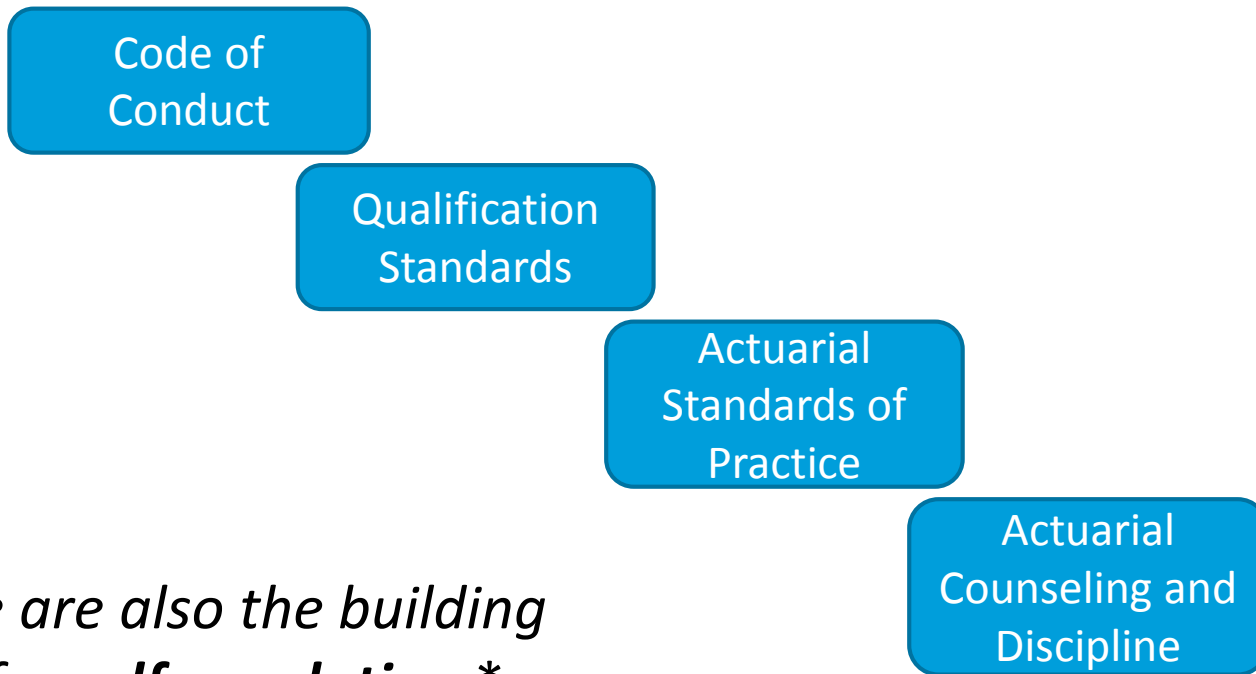
These are the building blocks for self-regulation in the United States.



Objective of Professionalism



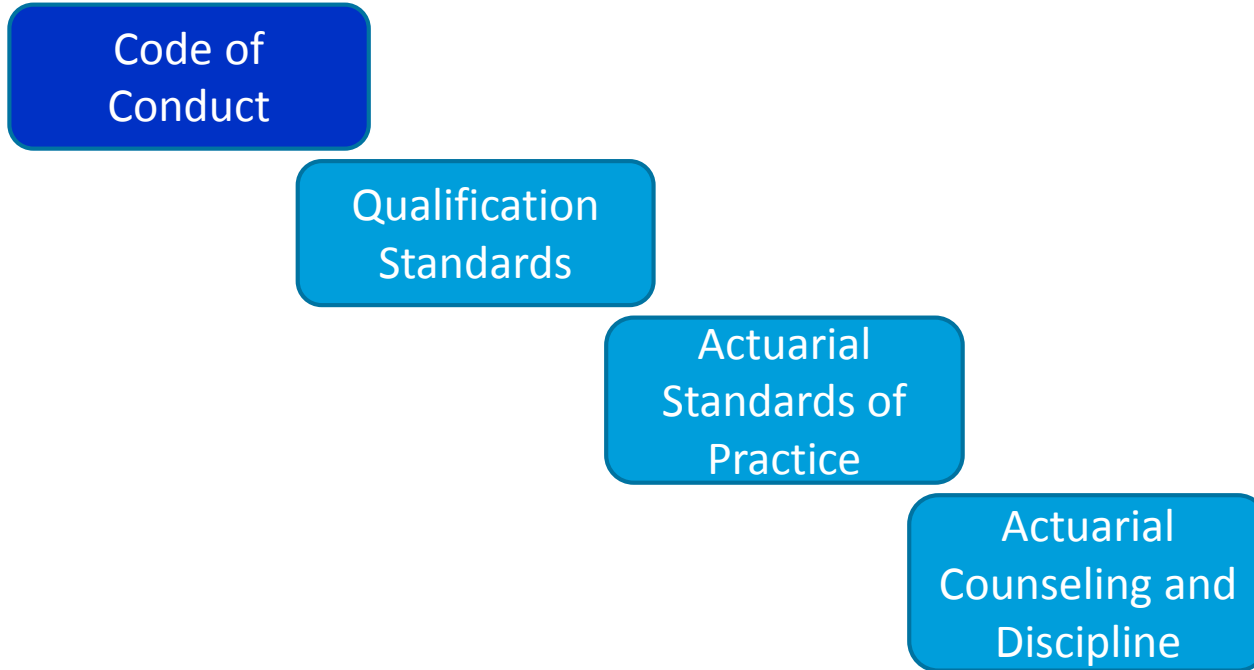
Building Blocks of Professionalism in the U.S.



** These are also the building blocks for **self-regulation** **



Building Blocks of Professionalism in the U.S.



Code of Professional Conduct

- The current identical Code was individually adopted by the five U.S.-based actuarial organizations (Academy, ASPPA, CAS, CCA, and SOA) and took effect Jan. 1, 2001.
- The Code sets forth professional/ethical standards for actuarial members of the five U.S.-based actuarial organizations.
- Actuaries who commit material violations of the Code are subject to counseling or discipline.



Precepts

- Professional Integrity: Precept 1
- Qualification Standards: Precept 2
- Standards of Practice: Precept 3
- Communications and Disclosure: Precepts 4, 5, and 6
- Conflict of Interest: Precept 7
- Control of Work Product: Precept 8
- Confidentiality: Precept 9
- Courtesy and Cooperation: Precept 10
- Advertising: Precept 11
- Titles and Designations: Precept 12
- Violations of the Code of Professional Conduct: Precepts 13 and 14



Precept 13: Duty to Resolve or Report Material Violations of the Code

- “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.” *[emphasis added]*



Precept 13 and Self-Regulation in the U.S.

- Why is Precept 13 important to self-regulation in the United States?
 - ▣ Actuaries in best position to observe other actuarial work.
 - ▣ Actuaries have best knowledge to audit poor actuarial work.
 - ▣ If a self-regulating profession does not prevent unethical behavior and practice by relying on members to monitor compliance, it is highly likely that some other body will emerge who can and will do so.



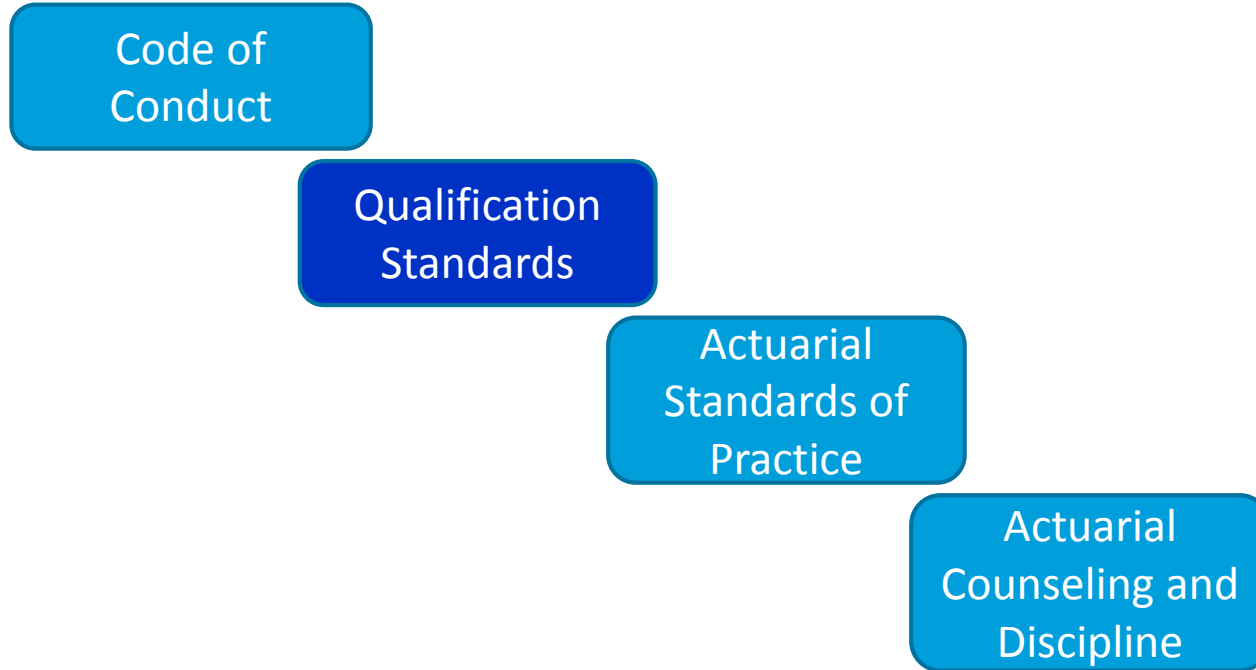
Precept 14:

Duty to Cooperate in the Discipline Process

“An Actuary shall respond promptly, truthfully, and fully to any request for information by, and cooperate fully with, an appropriate counseling and disciplinary body of the profession in connection with any disciplinary, counseling, or other proceeding of such body relating to the Code. The Actuary’s responsibility to respond shall be subject to applicable restrictions on Confidential Information and those imposed by Law.”



Building Blocks of Professionalism in the U.S.



U.S. Qualification Standards

- **Code of Conduct PRECEPT 2.** “An Actuary shall perform Actuarial Services **only when the Actuary is qualified to do so** on the basis of basic and continuing education and experience, and only when the Actuary satisfies applicable qualification standards.”
[emphasis added]



U.S. Qualification Standards

- Academy Board adopted the current *Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States (USQS)* in 2008.
- If an actuary issues Statements of Actuarial Opinion (SAOs) in the U.S. – and almost every U.S. actuary does – that actuary is required to meet the US Qualification Standards.

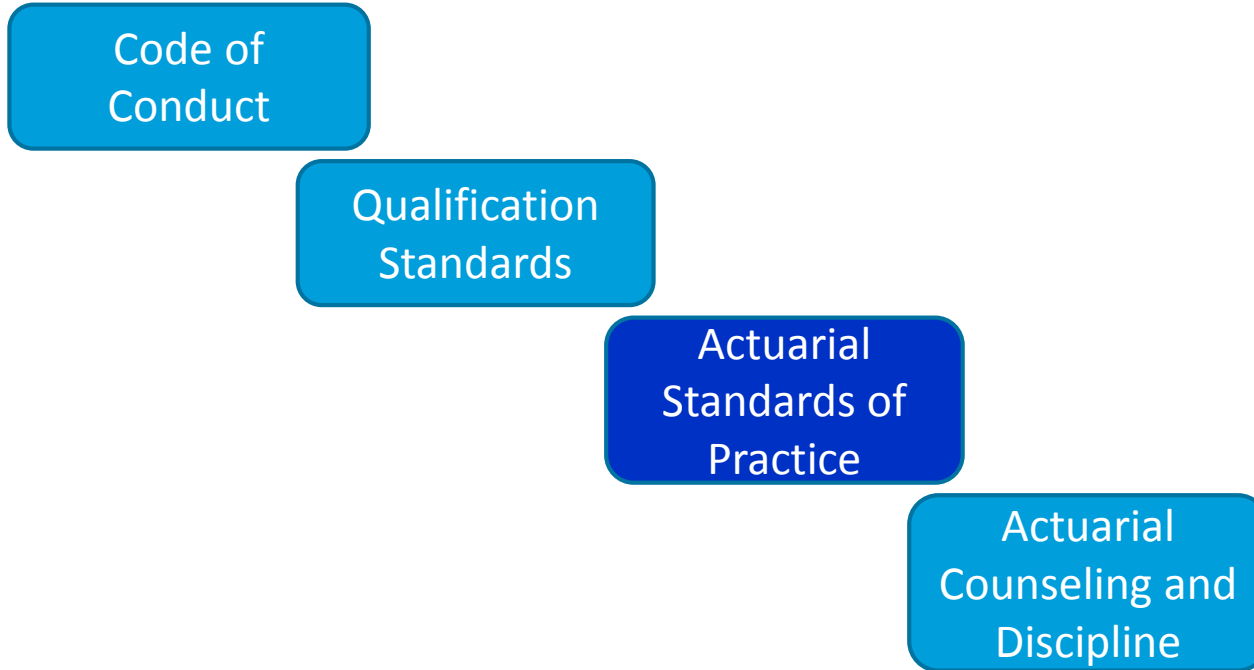


U.S. Qualification Standards

- USQS defines a Statement of Actuarial Opinion (SAO) as having two components:
 - (i) an opinion expressed by an actuary in the course of performing actuarial services; and
 - (ii) an opinion that is intended by the actuary to be relied upon by the person or organization to which it is addressed.



Building Blocks of Professionalism in the U.S.

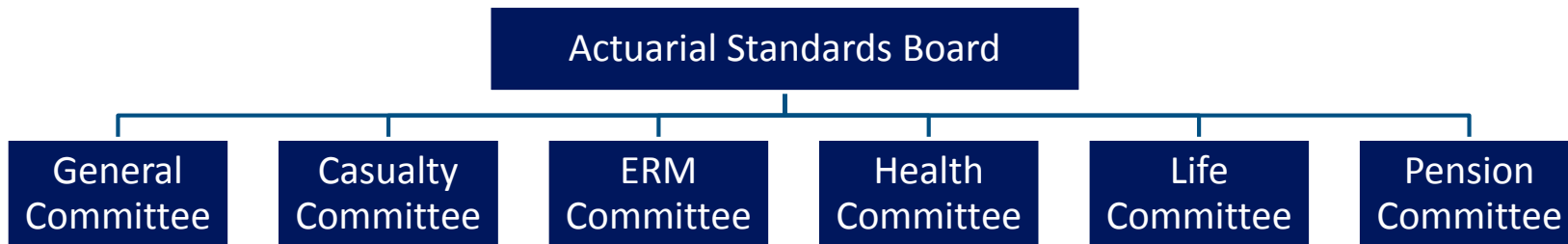


Reasons for Development of ASOPs

- Actuaries must effectively police ourselves to:
 - ▣ Protect the public
 - ▣ Protect the reputation of the profession
 - ▣ Avoid or reduce risk of external regulation
 - ▣ Provide a defense against charges of bad practice



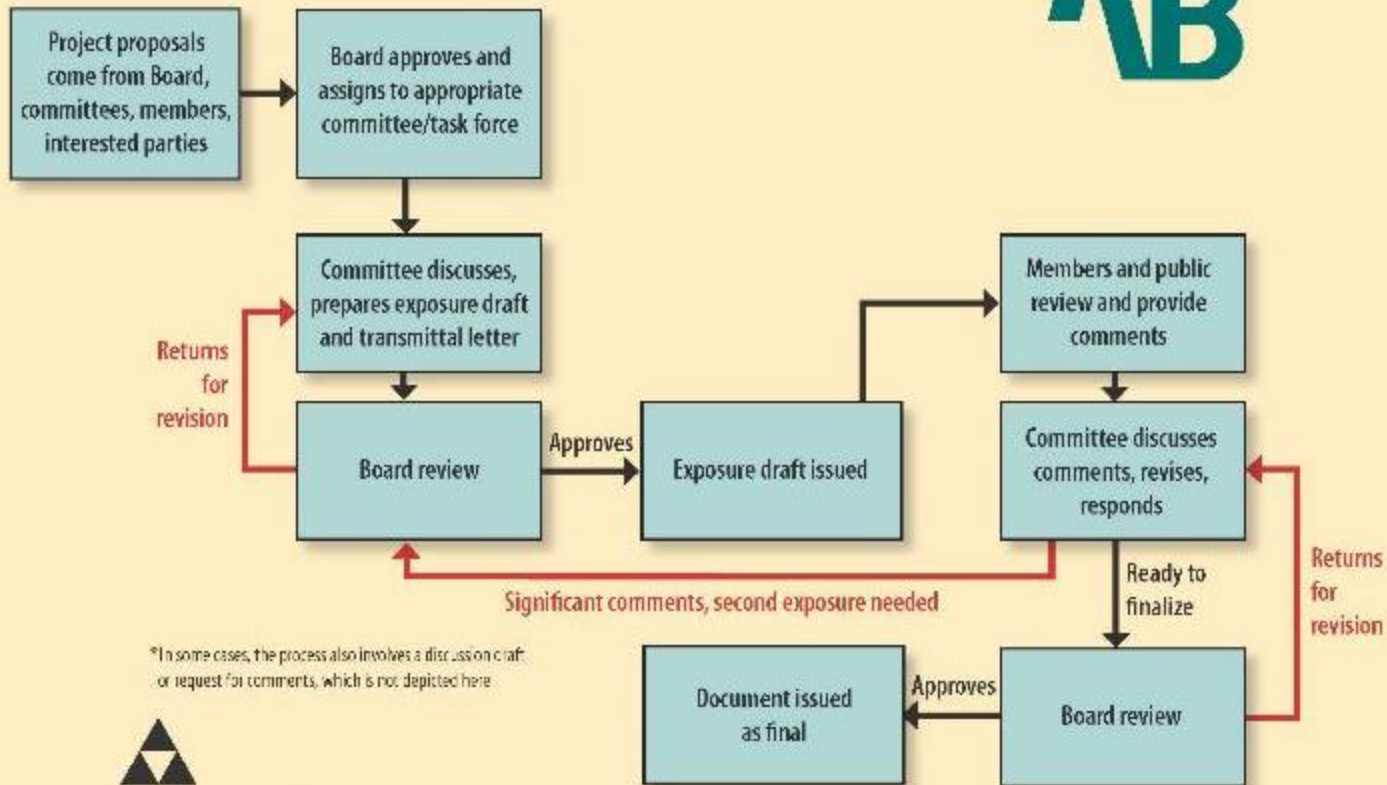
ASB Structure



- The ASB's 9 members broadly represent of all areas of actuarial practice.
- ASB members play a standard-setting role, not an advocacy role, and serve the profession rather than any individual interest groups or coalitions.



Actuarial Standards-Setting Process*



*In some cases, the process also involves a discussion draft or request for comments, which is not depicted here.

Standard-Setting Principles

- ❑ Actuarial standards of practice (ASOPs) should provide guidance for appropriate practice, not merely codify current practice or best practice.
- ❑ ASOPs set principles to guide actuaries and users of actuarial services, but do not replace professional judgment.
- ❑ ASOPs should apply as broadly as possible.
- ❑ Disclosure is a cornerstone of compliance with standards.



Structure of ASOPs – 53 adopted to date!

Cross-Practice ASOPs

ASOP No. 1 – Introductory ASOP

ASOP No. 41 – Actuarial Communication

ASOP No. 12	Risk Classification
ASOP No. 17	Expert Testimony by Actuaries
ASOP No. 21	Responding to or Assisting Auditors...
ASOP No. 32	Social Insurance

ASOP No. 23	Data Quality
ASOP No. 25	Credibility Procedures
Exposure	Modeling
Exposure	Assumptions

Practice-Specific ASOPs

Casualty

ASOP Nos. 13,
19, 20, 29, 30,
36, 38, 39, 43, 53

ERM

ASOP Nos. 46,
47

Health

ASOP Nos. 3, 5,
6, 8, 11, 18, 19,
22, 26, 28, 42,
45, 49, 50

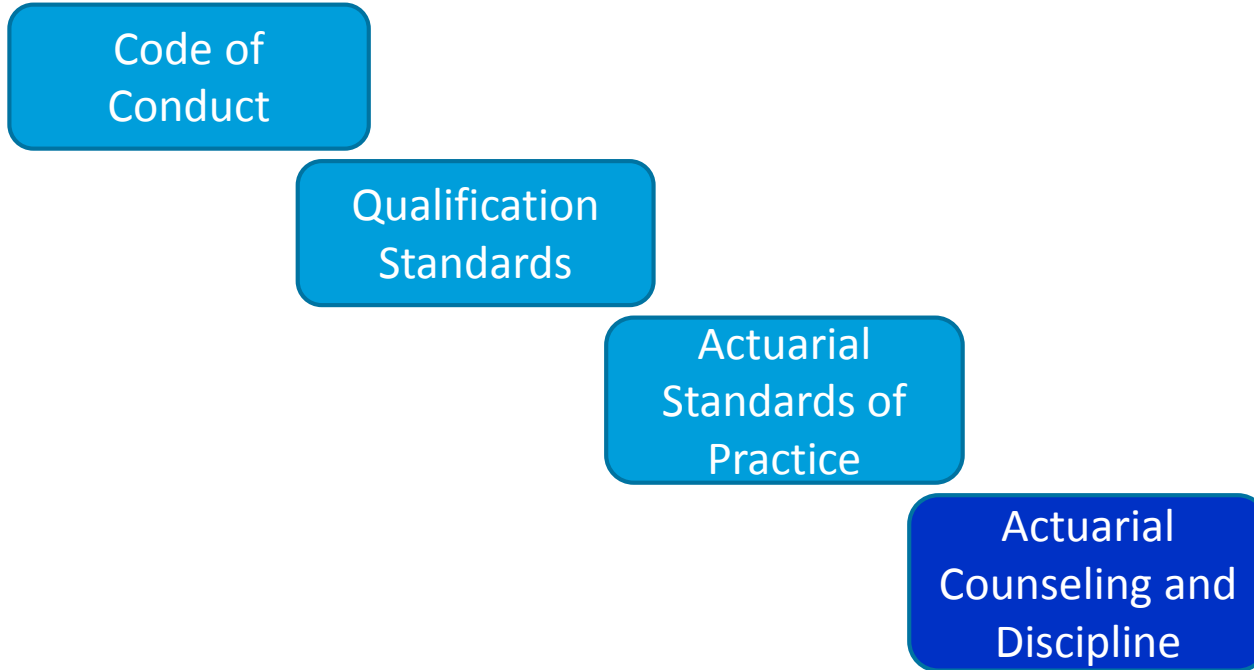
Life

ASOP Nos. 2, 7,
10, 11, 15, 19,
22, 24, 33, 37,
40, 48, 52

Pension

ASOP Nos. 4, 6,
27, 34, 35, 44,
51

Building Blocks of Professionalism in the U.S.



About the ABCD



The ABCD

- The ABCD was established within the Academy in 1991 to provide a single counseling and discipline body for the U.S. actuarial profession.
- Established under Article X of the Academy bylaws



The ABCD

- ABCD members are appointed by a selection committee comprised of the Presidents and Presidents-elect of the five U.S.-based organizations.
- 9 members total (1 chairperson; 2 vice-chairpersons; 6 regular members) who are broadly representative of all areas of actuarial practice.
- Supported by Academy staff but acts autonomously with respect to its decision-making, operations, and budget (subject to audit).



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The ABCD

Two primary functions:

- Respond to requests for guidance (RFGs) on professionalism issues.
- Consider complaints about possible violations of the Code.



Requests for Guidance

- Actuaries may seek guidance on an actuarial matter that they believe may affect their obligations under the Code.
- Confidential and can be made anonymously.
- An individual member of the ABCD or the whole ABCD may respond with confidential advice on good professional practice.
- RFGs are not a substitute for peer review.



Requests for Guidance

- “The ability of individual actuaries to engage in confidential dialogue with ABCD members, each of whom is an experienced actuary with expertise in a particular practice area, improves practice by helping actuaries determine how to apply the standards of practice and qualification appropriately, and how to make choices that adhere to the Code.”
 - ▣ Janet Fagan, former ABCD Chair



Examples of Requests for Guidance

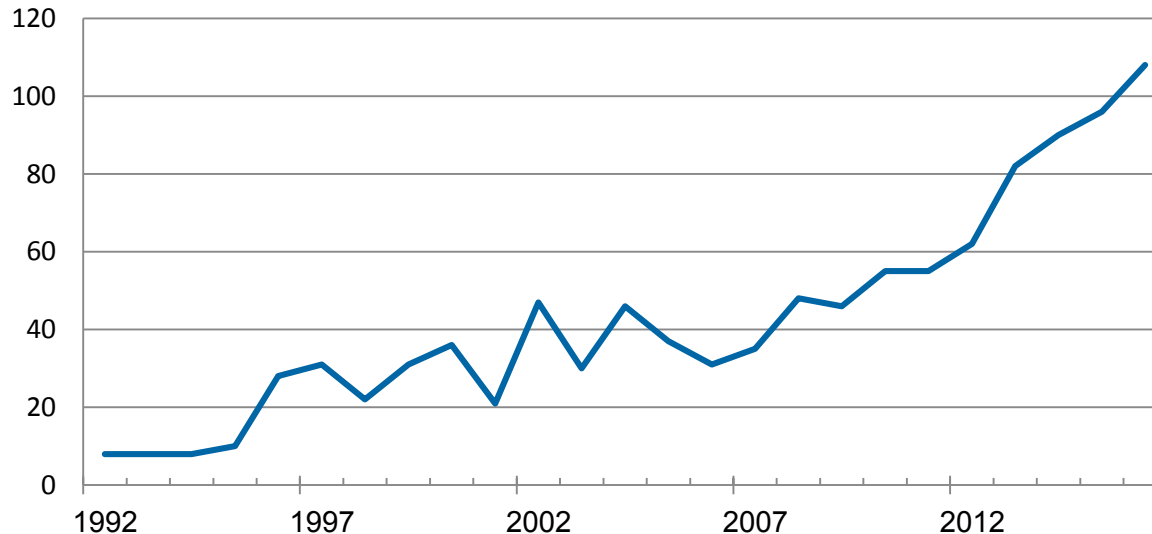
- ❑ How do I know if I'm qualified?
- ❑ How can I become qualified?
- ❑ How can I do a job that involves more than one area of expertise?
- ❑ How much can I rely on my staff?
- ❑ How much documentation of my work should I save? What if I leave my company?
- ❑ When should I refuse an assignment?
- ❑ When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



ABCD Requests for Guidance

- There has been a significant increase in RFGs over the years.

Requests for Guidance, 1992-2016



ABCD Requests for Guidance

- Why the increase in RFGs?
- The Academy promotes the availability of informal and timely guidance from the body charged with discipline investigations for all of the U.S. organizations.
- We believe this is unique “in the world” and a significant benefit to actuaries who practice in the U.S.



Complaints

Inquiries into possible material violations of the Code can be initiated by

- a complainant – actuary or non-actuary
- receipt of outside information
- other means (i.e., court cases, newspaper articles, etc.)



Complaints

The ABCD can initiate an inquiry without a complaint from an actuary or outside source.

- Example: An ABCD board member sees a newspaper article about an actuary being indicted.

That member brings the information to the chair and vice chairs of the ABCD.

If they decide a possible material violation exists, they can vote for the ABCD to initiate an inquiry based on that article and any other public documents.



ABCD Complaint Process



Ignorance is not bliss. The Actuarial Board for Counseling and Discipline is an important part of our profession and we should all be familiar with its purpose and procedures. Precept 14 of the Code of Professional Conduct requires actuaries to respond promptly, truthfully, and fully to any request for information by the ABCD.

- Complaint is sent to Subject Actuary (SA), and a response is requested.



ABCD Complaint Process

- ABCD chairperson and vice chairs perform preliminary review and decide whether to
 - ▣ dismiss the case (with or without guidance),
 - ▣ refer the case for mediation, or
 - ▣ investigate further.
- If decision is to continue investigation, ABCD appoints an investigator and informs SA.
 - ▣ SA can object to investigator for good cause.



ABCD Investigation and Hearing

- Investigator obtains relevant materials and has discussions with SA.
- ABCD hearing is held with SA (and counsel, if desired), investigator, and court reporter.
- Investigator presents report and takes questions from ABCD and SA.
- SA is questioned by ABCD.



Findings and Recommendation

After hearing, ABCD decides whether to

Confidentially
Counsel

Recommend
Discipline

Request
Additional
Information

Dismiss



Findings and Recommendation

- If decision is to recommend discipline, ABCD prepares a Findings and Recommendation report.
 - ▣ Disciplinary recommendations may include private or public reprimand, suspension, or expulsion from membership (i.e., losing one's actuarial credentials).
- ABCD does *not* impose discipline, but sends findings and recommendations to membership organizations.



A Look at ABCD Activity Since Its Creation

Dispositions	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Dismissed	12	24	9	11	8	11	13	10	5	20	16	7	5
Dismissed With Guidance	6	10	3	-	5	1	5	2	8	5	4	2	2
Counseled	-	2	8	1	6	2	5	-	2	3	2	4	1
Mediated	3	1	1	-	-	-	-	1	-	4	-	1	-
Recommended Private Reprimand	-	-	-	-	-	-	-	-	1	1	-	-	-
Recommended Public Discipline	-	1	2	-	3	-	1	-	3	-	-	1	-
Request for Guidance	8	8	8	10	28	31	22	31	36	21	47	30	46
Total	29	46	31	22	50	45	46	44	55	54	69	45	54

Dispositions	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	TOTAL
Dismissed	5	1	5	11	29	16	9	48	10	19	11	9	324
Dismissed With Guidance	4	1	-	1	5	1	2	1	2	10	-	1	81
Counseled	4	3	1	2	-	-	-	2	8	4	3	2	65
Mediated	-	-	1	1	-	-	-	-	-	-	-	-	12
Recommended Private Reprimand	-	-	-	1	-	2	-	1	-	-	-	-	6
Recommended Public Discipline	2	1	1	3	2	3	2	4	2	4	1	2	38
Request for Guidance	37	31	35	48	46	55	55	62	82	90	96	108	1,071
Total	52	37	43	66	82	77	68	118	104	127	111	122	1,597



Notice

- Once a final determination of discipline has been made by a membership organization, public notice is provided to membership and other interested parties if the final outcome was either a public reprimand or more severe.



Academy Public Discipline Notices

- ❑ Must be educational in nature for both public and members.
- ❑ Describe behavior provoking discipline.
- ❑ List precepts of the Code of Professional Conduct violated.
- ❑ Prominently displayed on website permanently.



Questions?

Thank you

