



# Precept 13: Preserving Integrity and Public Trust

Webinar – March 14, 2014  
Washington, D.C.

Sponsored by the Academy's Council on Professionalism, and cosponsored by the ASPPA (ACOPA), CAS, CCA, and SOA





# Panelists

**John Purple, MAAA, FCAS**

Member, Actuarial Board for Counseling and Discipline

**Lisa Ullman, MAAA, EA, FSA, FCA**

Member, Academy Committee on Professional Responsibility

**Sheila Kalkunte, Esq.**

Academy Assistant General Counsel





# Disclaimer

**Please note:** The panelists' statements and opinions are their own and do not represent the official statements or opinions of the Actuarial Board for Counseling and Discipline (ABCD), the Committee on Professional Responsibility, or any Academy boards, councils, committees, or task forces.



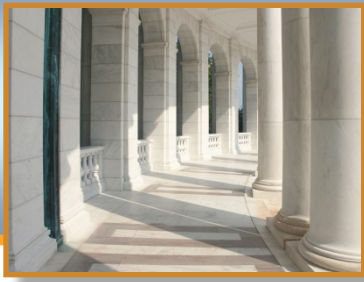


# Introduction

## Agenda

- Introduction
- Importance of Self-Regulation
- What Is Precept 13?
- Issues Related to Precept 13
- Reporting Particulars
- Case Examples
- Your Questions





# Introduction

- Hallmark of a Profession, such as actuarial practice
  - Code of Professional Conduct (Code)
  - Minimum qualification requirements
  - Technical standards of practice
  - Counseling and disciplinary body
- Fourteen Precepts of the Code, two deal with responsibilities in connection with violations of the Code (Precept 13 and 14)
- Precept 13 is not an “optional” section of the Code.





# Introduction

“In recent years, anecdotal statements from members of the profession indicate a disconnect associated with actuarial work product and Precept 13 of the Code: regulatory and other credentialed actuaries say they ‘frequently’ see work that appears to violate the Code, yet the average number of cases reported to the ABCD each year has generally not risen. This suggests that some actuaries ... are not reporting it—and thus likely violating Precept 13 of the Code.”

—Excerpt from discussion paper “The Application of Precept 13 of the Code of Professional Conduct” (Dec. 2013)  
[http://www.actuary.org/files/Precept\\_13\\_Discussion\\_Paper\\_FINAL121913.pdf](http://www.actuary.org/files/Precept_13_Discussion_Paper_FINAL121913.pdf)





# What the Code Addresses

- How actuaries do and deliver their work
  - Professional integrity, qualification standards, standards of practice, communication and disclosure
- How actuaries remain ethical in their work
  - Conflict of interest, control of work product, confidentiality, courtesy and cooperation
- How actuaries present themselves to the public and those seeking actuarial services
  - Advertising, titles and designations
- How actuaries self-regulate
  - Violations of the Code of Professional Conduct





# How Actuaries Self-Regulate

## Self “police”

- This means if actuaries see something that does not appear to follow the Code, we do something about it.
  - It is not just what you do personally, but how you hold all others in the profession accountable.
  - If someone questions your work, cooperate in answering the question
- Not intended to address inconsequential things; therefore only address “apparent, unresolved, material violations” of the Code.



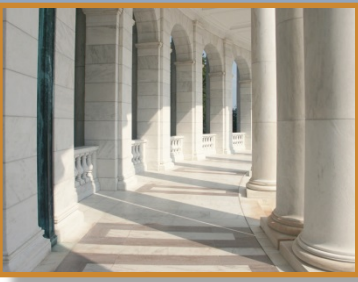




# Importance of Self-Regulation

- Actuaries versus Credentialed Actuaries
- Who Regulates Credentialed Actuaries
  - Joint Board for the Enrollment of Actuaries
  - The five U.S.-based actuarial organizations
- Actuarial Board of Counseling and Discipline





# Importance of Self-Regulation

- Advantages of being a self-regulated profession
- Are there disadvantages of being self-regulated?
- Is there potential for credentialed actuaries to be regulated by government?.....YES





# Importance of Self-Regulation

- Ongoing discussions at the National Association of Insurance Commissioners (NAIC)
- NAIC Joint Qualified Actuary Subgroup's discussion paper and final recommendations to the NAIC task forces





# What Is Precept 13?

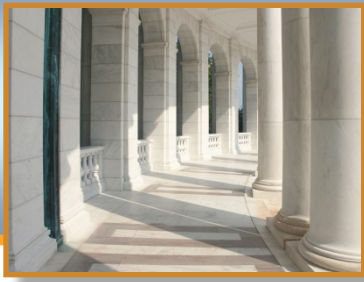
**PRECEPT 13.** An Actuary with knowledge of an apparent, unresolved, material violation of the Code by another Actuary should consider discussing the situation with the other Actuary and attempt to resolve the apparent violation. If such discussion is not attempted or is not successful, the Actuary 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.

**It is important to acknowledge that Precept 13, as an integral part of the Code, establishes principles with which Actuaries are required to comply.**





# What Is Precept 13?

- First, you need to understand the other Precepts of the Code.
- Second, you should plan to exercise professional judgment in accessing potential apparent, unresolved, material violations of the Code.





# Why Do We Need Precept 13?

- Remember, we are a self-regulated profession.
- ABCD and the profession's resources.
- We estimate there are approximately 20,000 credentialed actuaries who render actuarial services in the United States.
- Actuaries are in the best position to assess potential violations of the Code because:
  - They have actuarial knowledge.
  - Their job is often to review another actuary's work.





# What Is Precept 13?

## What Do the Words Mean?

- Apparent: What is considered an “apparent” violation of the Code?





# What Is Precept 13?

## What Do the Words Mean?

- Unresolved: What is considered an “unresolved” violation of the Code?
- Is there a statute of limitations?







# What Is Precept 13?

## What Do the Words Mean?

- Material: What is considered a “material” violation of the Code?
- Resources include discussion paper on materiality.
- ASOP No. 1 defines “materiality” as used in connection with actuarial standards of practice.





# Issues Related to Precept 13

## Precept 13 Exceptions

- **Confidential Information:** Disclosure would divulge “Confidential Information,” which is defined in the Code as “Information not in the public domain of which an Actuary becomes aware as a result of providing Actuarial Services to a Principal. It includes information of a proprietary nature and information that is legally restricted from circulation.”
- **Law:** Disclosure would be contrary to Law, which is defined in the Code as “Statutes, regulations, judicial decisions, and other statements having legally binding authority.”





# Issues Related to Precept 13

## Precept 13 Exception: Confidential Information

How do you deal with **Confidential Information**?

- Precept 9—“An Actuary shall not disclose to another party any Confidential Information unless authorized to do so by the Principal or required to do so by Law.
- Not everything is confidential. Do not hide behind this exception unless it applies.





# Issues Related to Precept 13

## Precept 13 Exceptions: Law

How do you deal with applicable **Law**?

- Effect of Law on reporting
- Applicability of foreign Law or Code
- ASOPs





# Issues Related to Precept 13

## Other Issues

- How is the Professional Judgment of an actuary involved?
- Is there any relationship between allowed ASOP deviations and Precept 13?
- Sensitivities in One-On-One Resolution
- Can you report someone that has violated Precept 13 itself, as opposed to another Code Precept?
- \* ABCD receives many requests for guidance on Precept 13 questions, and actuaries are encouraged to use ABCD.





# Reporting Particularities

## How to Make a Precept 13 Disclosure

- Consider discussing the apparent violation with the actuary (this step is not REQUIRED under Precept 13 but may be helpful)
- You are not expected to investigate an apparent material violation of the Code, just have good faith belief that there has been a potential violation...the ABCD will investigate.
- Visit the ABCD website for information about the process:  
<http://www.abcdboard.org/complaints/>.





# Case Examples

## Illustration: Procedure

You have taken over a defined benefit pension plan from another Actuary. On reviewing the plan you develop some concerns about the way the previous Actuary has administered or valued the plan. Your concerns persist even though you recognize that Actuaries may have different approaches to the same problem. What should you consider doing?





# Case Examples

## Illustration: Cumulative Errors

Using the above scenario, assume the error with respect to any one plan is small and not material for any given plan but that the same error was made consistently in a large number of plans taken over from the same previous Actuary. What should you consider doing?







# Case Examples

## Illustration: Strong Disagreement

The Code requires Actuaries to comply with Law and regulation but does not address the interpretation of Law and regulation. You have a strong disagreement with another Actuary regarding the application of a particular Law because you interpret it differently and you strongly believe that your interpretation is correct. There is no general consensus or common interpretation within the profession on the matter because the Law involved is relatively new and no regulatory experience yet exists. What should you consider doing?





# Case Examples

## Illustration: Internal Reporting

A colleague within your consulting firm is on vacation. One of his clients calls with questions on the report your colleague sent recently. You review the report and answer the client's questions. However, in reviewing your colleague's report, it becomes apparent that your colleague violated not only the firm's procedures but also the Code. Your firm has an internal process for handling such matters, and you report the situation internally in accordance with that process. Two months later, you have heard nothing about your internal reporting. In addition, no new or revised report has been prepared for the client. In following up on your initial inquiry, you are politely told that the matter is still being investigated internally. What should you consider doing?





# Case Examples

## Illustration: Regulatory

You have submitted a LTC rate filing to an insurance department for a sizable increase. The department actuary responds with an approval for only one-half of the requested increase. You contact the actuary for an explanation (including documentation of his analysis) of how he arrived at his conclusion. He replies that it was the “Commissioner’s decision” and he doesn’t have documentation to share. What do you do?





# QUESTIONS?

