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AMERICAN ACADEMY *of* ACTUARIES

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*Objective. Independent. Effective.*<sup>™</sup>

Mary D. Miller, MAAA, FCAS  
*Academy Past President*

To: Casualty Actuarial (C) Task Force  
National Association of Insurance Commissioners  
c/o Kris DeFrain (kdefrain@naic.org)

From: Mary D. Miller Past President  
American Academy of Actuaries

Date: February 15, 2019

On behalf of the American Academy of Actuaries,<sup>1</sup> I appreciate the opportunity to comment on the exposed draft P/C 2019 Statement of Actuarial Opinion Instructions, which includes the Executive (EX) Committee's Ad Hoc group's draft qualified actuary definition and associated changes. Attached to this letter is our separate response to the ad hoc group of the Executive (EX) Committee.

We believe requiring documentation of an actuary's qualification to be included in the Actuarial Report is unnecessary. It will likely be a very rare occurrence that any regulator will want to review this documentation outside of the examination cycle when the Board documentation will be available. In addition, requiring that documentation to be available by Dec. 31 for regulatory review also seems unnecessary. Again, it is very unlikely that any regulator will actually want or need to review the documentation at all, much less so early in the year.

A greater problem with the documentation instruction is that there is no guidance as to what form the documentation should take. This leaves boards of directors in a very vulnerable position because they do not know what kind of documentation they need. It also places the regulator in a difficult position as they too may not have the experience necessary to advise the board regarding the sufficiency of the documentation. As we have stated many times in the past, the Academy has developed an attestation (at the request of the CASTF) that follows the U.S. Qualification Standards (USQS) precisely. It neither adds nor subtracts any requirements for qualification. At a minimum, it should be noted that the Academy attestation form is available for use by the Appointed Actuary. A regulator who reviews an attestation in a different format is

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<sup>1</sup> The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

going to have the additional burden of having to evaluate that attestation for adequacy and completeness.

The requirement for the documentation to include specific actuarial experiences relevant to the company's structure and lines of business is problematic as it transfers responsibility for the sufficiency of the Appointed Actuary's qualification from the actuary to the board of directors and the regulator. There is no problem that we are aware of with the experience of appointed actuaries that would cause placing this liability on the shoulders of boards of directors and regulators. It should remain with the Appointed Actuary as has always been the case. Boards and regulators still would have their role in questioning that experience if necessary. We believe this language should be eliminated here and in *iii* of the definition of a qualified actuary. The language defining the required experience in the USQS should be considered sufficient.

Consistent with our comments above, we believe the changes to paragraph 7 of the instructions are unnecessary and should be removed.

As always, the Academy remains available to answer any questions you may have about our proposal and to assist you and the CASTF as you bring this project to its conclusion.

Sincerely,

A handwritten signature in black ink that reads "Mary D. Miller". The signature is written in a cursive, flowing style.

Mary D. Miller, MAAA, FCAS  
Past President  
American Academy of Actuaries

Cc: Andrew J. Beal  
COO and Chief Legal Officer

Enc.



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Mary D. Miller, MAAA, FCAS  
*Academy Past President*

To: Ad Hoc (EX) group  
Superintendent Eric Cioppa  
Commissioner Jim Donelon  
Commissioner Jim Ridling

From: Mary D. Miller Past President  
American Academy of Actuaries

Date: February 15, 2019

On behalf of the American Academy of Actuaries<sup>1</sup>, I appreciate the opportunity to comment on the exposed draft P/C 2019 Statement of Actuarial Opinion Instructions which includes the Executive (EX) Committee's Ad Hoc group's draft qualified actuary definition and associated changes.

The Academy was created to be the national association for actuaries in the United States, and the only organization to be designated in state and federal laws and regulations. This was done to eliminate confusion about actuarial organizations and to create an independent, objective organization devoted solely to professionalism and public policy. For over 50 years the Academy has stayed true to its mission, and each year its volunteers and staff spend thousands of hours supporting NAIC workstreams.

Early in 2018, this Ad Hoc (EX) group removed membership in the Academy as a proposed requirement for being a qualified actuary under the definitions in section 1A of the Property & Casualty Annual Statement of Actuarial Opinion Instructions without providing any rationale for the change. It was replaced by a proposed requirement to be a member of an actuarial association subject to the Code of Professional Conduct promulgated by the Academy, the U.S. Qualifications Standards (USQS) promulgated by the Academy's Committee on Qualifications, and discipline recommendations provided by the Actuarial Board for Counseling and Discipline (ABCD) which is created and defined in the Academy's Bylaws. There was no reason given for the proposed change and there has been no opportunity to speak to the Ad Hoc group. In fact, CASTF advised those at its meetings and conference calls not to comment on the proposed definition. Thus, this exposure period appears to be the only opportunity we will have to address this proposed definition. We believe the inability to communicate to and the absence of communication from the Ad Hoc group demonstrates a fundamental lack of the kind

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of transparency and purposeful dialogue that have heretofore been the hallmarks of NAIC interactions both with the Academy and the public.

Before addressing the proposed definition on an item-by-item basis, we ask you to consider and understand the history and uniqueness of the Academy's position as the U.S. national association. Academy membership, since its establishment in 1965, has been the hallmark used by the actuarial profession in the U.S. to demonstrate that actuaries who are our members are qualified to perform their duties in a fully competent manner and in the interest of the public. There is no state licensing required for actuarial practice, unlike other professions such as medicine, law, accountancy, architecture, etc. In the late 1950s, despite the fact that most of the practicing actuaries in the U.S. belonged to one or more of four existing actuarial organizations, not one of those could speak for the whole U.S. profession. After full discussion between the then-existing organizations, it was decided that the proper vehicle for the approach to professional recognition must be a new body embracing all existing qualified actuaries practicing in the U.S. The American Academy of Actuaries was formed to take the first step toward the accreditation of actuaries and the official recognition of the actuarial profession.

Academy membership criteria have, since our beginning, required our members either to be a resident of the U.S. or meet other requirements established by the Academy Board to assure competency in U.S. laws and practice. This is true today, and is a requirement mandated even for those who may have a basic education credential from the Casualty Actuarial Society (CAS) or the Society of Actuaries (SOA). An actuary who receives a fellowship designation from either of those organizations and has not been a resident of the U.S. in the three years before applying for Academy membership must demonstrate knowledge of U.S. laws and practice. While we do have some members residing in other countries, our membership criteria requires such applicants to demonstrate why they "need" Academy membership if they reside outside the U.S. as well as demonstrating their knowledge of U.S. laws and practice. The Academy is the only actuarial association in the U.S. with this focused criteria for membership. Some years ago when the SOA removed nation-specific content from some of its exams in the Life and Health syllabi, the Academy established its Life and Health Qualifications Seminar, both to provide the missing basic education material, and to test that knowledge in a manner that would allow one to meet the USQS exam requirements for basic education to sign statutory statements in those areas. While the SOA has since returned nation-specific content to many exams, this seminar remains an effective and objective way to demonstrate qualification to sign such statutory opinions. Only the Academy had the expertise, the interest, and the essential purpose to undertake providing that then-missing link.

Since the inception of the requirement for a P&C actuarial opinion, Academy members have spent thousands of hours devoted to assisting appointed actuaries improve the quality of their opinions and provide regulators with clear and consistent documentation of the actuary's work. This includes the creation of an attestation vehicle at the request of the CASTF which allows actuaries to demonstrate their compliance with the USQS. The annual practice note for opining actuaries which is updated every year, includes regulatory guidance for appointed actuaries, and assists actuaries in writing quality opinions. The law manual is updated annually and directs actuaries to the most up-to-date information on state laws and regulations in the domiciliary states where their opinions are filed. The Seminar on Effective P/C Loss Reserve Opinions provides training for opining actuaries and their staffs not only on how to write opinions and to document their work in the Actuarial Report but also on how to deal with difficult situations with company management who may not like their estimates. Finally the Academy offers webinars, which like the Seminar are free for regulators, to educate the opining actuary on timely topics. Knowing all this, some have asked why the apparent bias against the Academy when life and health blanks both recognize the value of the effort and products the Academy provides for opinion writers and regulators alike by requiring Academy membership for opinion writers.

Some have asserted that redefining the instructions to eliminate reference to any organization is objective and neutral. However, that argument fails to note that the actuarial organizations being considered are fundamentally different. Other actuarial associations are focused on membership growth through examinations offered globally. The CAS and SOA, who are likely to be the providers of the “NAIC-Accepted Actuarial Education Designations,” are superlative international educational associations, whose requirements for membership are essentially that actuaries pass their exams. Those who do achieve associateship or fellowship are then bound, according to the discretion of each organization, by the mandate that those members must abide by the Code of Professional Conduct. While even their growing number of international members must abide by the Code of Professional Conduct, SOA and CAS examinations, to a greater or lesser degree, will, depending on their own approaches to local content in the jurisdictions where they offer exams, include some or no education on U.S. statutory accounting or U.S. laws and regulations to exam takers outside of the U.S. Both of those organizations describe themselves as global educators. The Academy is the only organization that requires non-residents and resident aliens of fewer than three years’ residence to demonstrate their knowledge of U.S. laws, regulations, and standards before they are admitted as members. We believe the current proposed definition leaves open the possibility that it could be viewed as a ‘passport’ to U.S. work. Other North American countries and many major European countries require an actuary to be a member of that country’s national association when performing work prescribed by law without regard for where they received their education. Requiring Academy membership will discourage or possibly eliminate the ‘passport’ aspect included in the current proposed definition.

Membership in the Academy is a current requirement in the Life and Health Opinion Instructions. The existing language in the P&C Instructions does recognize that one must be a member of the CAS or be approved as qualified by the Academy’s Casualty Practice Council (CPC). The reason that the CAS is the sole basic educational credential mentioned in the P/C Statement instructions is that, some years ago, some actuaries who held basic education credentials from the SOA were issuing statutory statements in areas that regulators thought they were not qualified to do by their basic educational curriculum. Since the CAS was the only society that provided the specific property and casualty basic education, it was common sense to identify CAS as the basic education credential at that time. Had this situation not existed, Academy membership would have been required for P&C just as it is today for life and health.

We believe the definition of a “Qualified Actuary” should be simplified as follows:

“Qualified Actuary” is a person who:

- (i) is a member of the American Academy of Actuaries who meets the basic education, experience and continuing education requirements of the Specific Qualification Standard for Statements of Actuarial Opinion, NAIC Property and Casualty Annual Statement, as set forth in the *Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States* (U.S. Qualification Standards), promulgated by the American Academy of Actuaries (Academy) and
- (ii) has obtained an NAIC-Accepted Actuarial Designation.

Item (iii) in the current proposed definition is unnecessary and potentially problematic in many ways. The USQS already require the actuary to have “responsible experience relevant to the subject of the Statement of Actuarial Opinion.” We know of no issues with the experience of opining actuaries currently. In fact prior reviews have shown that the vast majority of opining actuaries have 20 or more years of experience. Item (iii) will also be confusing for boards of directors to comply with. What exactly is meant by the company’s lines of business and business activities? If a company writes Workers’ Compensation in Missouri, does the actuary need Missouri-specific experience if they have many years of experience with Workers’ Compensation in twenty other states? What does “business activities” mean? If a board member contacts its domiciliary regulator with questions, will the regulator know what that means? Might a board

with companies domiciled in multiple states get different answers from their various domiciliary regulators? These are only a few of the problems the inclusion of (iii) in the definition will present to boards of directors, opining actuaries, and regulators. We know of no issues that warrant inclusion of item (iii).

Item (iv) becomes unnecessary because the Academy is such an organization.

The exception identified following items (i)-(iv) regarding actuaries evaluated by the Academy's Casualty Practice Council (CPC) needs clarification. Does it apply only to actuaries who have already received the approval of the CPC? Does it anticipate future referrals to the CPC? If so, there needs to be significantly greater definition of what will trigger a referral to the CPC.

As always, the Academy remains available to answer any questions you may have about our proposal and to assist you and the CASTF as you bring this project to its conclusion.

Sincerely,

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Cc: Andrew J. Beal  
COO and Chief Legal Officer  
NAIC Executive Committee