

DISCUSSION PAPER

SELF-REGULATION AND THE ACTUARIAL PROFESSION

JUNE 2020



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Self-Regulation and the Actuarial Profession

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This discussion paper was prepared by the Committee on Professional Responsibility in order to generate discussion among actuaries about the importance of self-regulation and how individual actuaries can help preserve self-regulation.

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Purpose

This paper was developed to encourage discussion among actuaries about self-regulation of the U.S. actuarial profession, and particularly to:

- Raise actuaries' awareness of the importance and value of self-regulation, and
- Identify actuaries' responsibilities with respect to maintaining self-regulation of the actuarial profession in the United States.

Self-Regulation and How it Applies to the U.S. Actuarial Profession

To ensure that professions meet their obligations to the public, some are regulated and licensed by government entities. Alternatively, governments may rely on a profession to regulate itself because of its specialized knowledge and understanding of standard practices, provided that the self-regulation assures competent and ethical services. A self-regulated profession generally sets its own rules for admission, education, standards of practice, and disciplinary process to best serve the needs of the public.

The U.S. actuarial profession is self-regulated. Actuaries are not generally required to have a government-issued license or other certification in order to practice. This is an important distinction between actuaries and many other professions. Of course, there are myriad regulations that govern the work of actuaries, but, for the most part, the government and the public allow the U.S. actuarial profession to regulate itself. (Enrolled actuaries are a notable exception to this self-regulation, as discussed in the sidebar at the end of this paper.)

Let's consider how the U.S. actuarial profession meets some general characteristics of a profession and the steps the U.S. actuarial profession has taken to regulate itself.

- **Specialized knowledge**—Actuaries have a rigorous and specialized course of study, have experience doing actuarial work, and are required to obtain continuing education (CE).
- **Responsibility to the public**—The profession recognizes that the work of actuaries affects the financial well-being of individuals and companies and that the public depends on this work.

- **Accepted practice**—Actuarial standards of practice (ASOPs) define appropriate actuarial practice and are mandatory for actuaries. The Actuarial Standards Board (ASB) creates new ASOPs and continually reviews existing ASOPs to ensure standards are current. The ASOPs are principles-based, rather than narrowly prescriptive, meaning that the standards leave room for professional judgment.
- **Code of conduct**—The Code of Professional Conduct has been independently and uniformly adopted by each of the five U.S.-based actuarial organizations. Members of any of these organizations are required to comply with the Code of Professional Conduct.
- **Discipline process**—The discipline process for the U.S. actuarial profession begins with the Actuarial Board for Counseling and Discipline (ABCD). The ABCD receives and reviews complaints against actuaries, investigates complaints that indicate the possibility of a material violation of the Code of Professional Conduct, and recommends discipline, where indicated, to the U.S. actuarial membership organizations, ranging from admonishing members of the profession for unacceptable behavior or practice to expelling them from the profession. Each organization then makes an independent decision on discipline for each specific case.

The ABCD also serves the profession as a resource by responding to requests for guidance (RFGs) from individual actuaries. Through this process, an actuary may confidentially discuss with a member of the ABCD a particular situation in which the actuary is uncertain of the appropriate action. The guidance provided may reduce the likelihood of the actuary taking actions that might violate the Code of Professional Conduct. In recent years, the ABCD responded to over 100 RFGs annually.

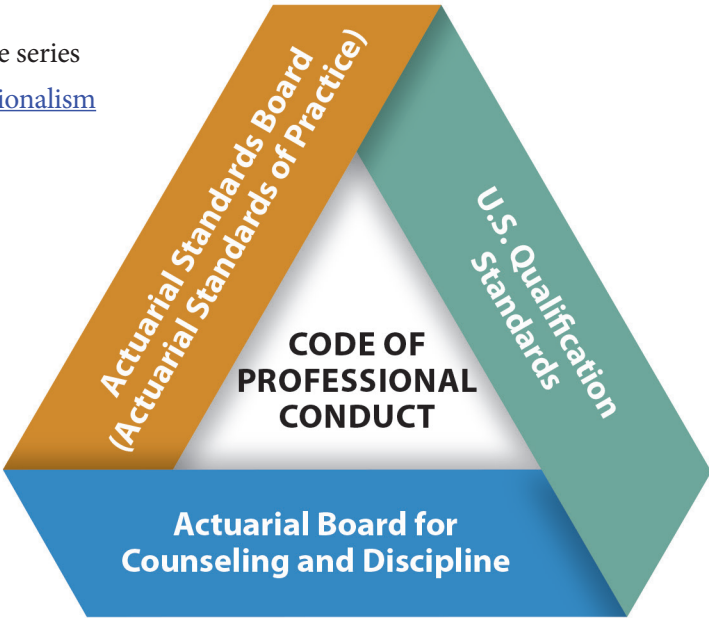
Actuaries may also receive counseling after a complaint has been made against an actuary. In these cases, a member of the ABCD will discuss with the subject actuary potential improvements to the subject actuary's processes that will make it less likely for the subject actuary to be in violation of the Code of Professional Conduct. Counseling may occur whether or not the ABCD recommends discipline.

- **Membership**—Actuaries who belong to one of the five U.S.-based actuarial organizations and are subject to the Code of Professional Conduct are generally considered part of the U.S. actuarial profession. Members of these organizations must meet the qualification standards and conform their actuarial practice to the requirements established by the Code.

Professionalism Infrastructure

The U.S. actuarial profession takes self-regulation very seriously and is committed to maintaining the public’s trust in the work of actuaries. The Code of Professional Conduct is foundational to maintaining this trust. The American Academy of Actuaries establishes qualification standards for the U.S. actuarial profession. The Academy also formed and houses the ASB and ABCD. This professionalism infrastructure, depicted in the graphic, demonstrates the profession’s consistent, decades-long support for self-regulation.

(For further information about the professionalism infrastructure, see the series [The Academy and the Web of Professionalism](#) by Tom Wildsmith.)



Self-Regulation Is the Preferred Approach for the Public and the Profession

The U.S. actuarial profession has earned the trust and confidence of the public by performing actuarial services with honesty, integrity, and competence within the professionalism infrastructure—with self-regulation as the cornerstone. In addition, the profession makes ongoing contributions to public policy development and oversight efforts of government regulators and legislators. These efforts, along with effective self-regulation, make government regulation of the U.S. actuarial profession unnecessary.

The following are some of the benefits to the public and actuaries of continued self-regulation by the actuarial profession:

- Self-regulation is a more efficient and effective way to govern the profession. Actuaries are in the best position to set standards of practice, to determine who is qualified to practice, to recognize unsound or unqualified practice by other actuaries, and to discipline those who fail to comply with the Code of Professional Conduct.
- Under self-regulation, ASOPs are designed to be appropriately flexible rather than prescriptive. They are not detailed step-by-step instructions. There is, appropriately, room for an actuary's professional judgment, within prescribed boundaries and, of course, in compliance with existing laws and regulations.
- Without self-regulation, laws and regulations may be influenced by parties beyond the reach of the profession. They may be developed, in whole or in part, by non-actuaries, and they may reflect considerations that actuaries would not consider to be actuarially sound. Once adopted by a duly authorized government authority, laws and regulations may be difficult to change.
- Actuaries have an experienced knowledge base that non-actuarial stakeholders such as legislators and regulators do not regarding actuarial issues. This knowledge allows the profession to provide input on actuarial issues on public policy and respond more quickly to the actuarial implications of rapidly changing financial, economic, and demographic environments, and self-regulation gives the public confidence in the information provided.

- A self-regulated profession is seen by the public as responsible if it can effectively govern itself and the actions of individual members.
- Self-regulation allows actuaries the flexibility to apply their specialized knowledge and skills in emerging areas of practice while maintaining high professional standards. For example, data science is an area where the oversight and professionalism standards of the actuarial profession are particularly relevant. As data science and machine learning techniques are used by insurtechs and insurance companies to improve the efficacy of insurance practices and predictive models for risk classification and pricing, actuarial expertise and professional standards will provide critical oversight mechanisms in the applications of these models.

Every Actuary Is Responsible for Preserving Self-Regulation

Along with the merits of self-regulation outlined above, the actuarial profession and individual actuaries have significant responsibilities. Actuaries must not only regulate themselves effectively but must be seen as regulating themselves effectively. Here are several ways you as an individual actuary can fulfill these responsibilities:

Exemplify professionalism—Actuaries must be aware of and demonstrate all aspects of professionalism, including adhering to the principles in the Code of Professional Conduct, U.S. Qualification Standards (USQS), and ASOPs, and cooperating with the ABCD.

The USQS require all actuaries to be qualified in the area of practice for which they are issuing statements of actuarial opinion. This includes a CE requirement that must be met each year in order to remain current with changes in actuarial science, new and emerging practice, impacts from technology, and changing regulations. The USQS requires a minimum of 30 hours of relevant CE each year. Take this responsibility seriously—and remember that it is a minimum requirement. If you are entering a new area of practice, or if your area of practice has significantly changed, you may need much more than 30 CE hours to be qualified to do your work. The USQS also requires that at least 3 of the 30 CE hours cover professionalism. The professionalism credit requirement helps ensure that actuaries are aware of the requirements of the Code of Professional Conduct, the ASOPs, and the USQS, as well as the profession's counseling and discipline process.

Be sure that others see you as an actuary who actively engages in professional behavior that is consistent with the Code of Professional Conduct. Provide guidance to junior actuaries, speak up when questionable strategies are being considered, and speak often about the professional responsibilities of actuaries. If you are in a position of leadership over other actuaries, it is especially important that those actuaries see you as one who expects actuaries to be qualified for the work they are doing and who conducts him- or herself in a manner consistent with the Code of Professional Conduct. If you have not already done so, consider developing a program of peer review to help ensure that the work done by the actuaries under your guidance conforms with all relevant standards. By maintaining high standards, we can continue to demonstrate that the profession is meeting its obligations to the public.

Participate—As new areas of practice emerge, or existing areas of practice evolve, actuaries can participate in the development of standards of practice. The principle-based standards allow room for professional judgment while defining parameters for what actuaries should do, consider, document, and disclose when performing actuarial assignments. It is vitally important that actuaries participate in the process of updating existing standards and developing new standards. You do not need to be a member of the ASB to participate. As exposure drafts of new or revised standards are released by the ASB, review them carefully, and discuss them with your colleagues. If you see areas for improvement, submit comments on the draft to the ASB, which carefully reviews every comment to help ensure that the new or revised standard reflects appropriate actuarial practice.

Monitor other actuaries—This is perhaps the most difficult aspect of a self-regulating profession, but it is of utmost importance. Under Precept 13 of the Code of Professional Conduct, actuaries are encouraged to discuss apparent, unresolved, material violations of the Code of Professional Conduct with another actuary, if possible, and try to resolve the differences. If the differences are not resolved or if the discussion does not happen, the actuary who noted the potential violation of the Code is required to report the incident to the ABCD, unless doing so would violate the law or disclose confidential information. In other words, *every* actuary has the responsibility to act if he or she suspects inappropriate or unqualified actuarial practices or conduct that materially violates the Code. By showing that the profession holds its members accountable for their professional and personal conduct, actuaries can help earn and maintain the trust of the public every day.

Summary

For the U.S. actuarial profession to maintain its status as a self-regulated profession, every actuary must demonstrate the high standards for which the actuarial profession is known. Successful self-regulation imposes specific responsibilities on individual actuaries and on the profession as a whole. If you, as an actuary, do your work every day, you will continue to build and support the solid, long-standing reputation of the actuarial profession and our privilege to remain self-regulated.

Enrolled Actuaries

The Joint Board for the Enrollment of Actuaries (JBEA) is a notable exception to the self-regulatory status of the U.S. actuarial profession. For enrolled actuaries, membership, qualification, and practice standards are established by the JBEA, which is comprised of representatives from the U.S. departments of Treasury and Labor and a nonvoting member of the Pension Benefit Guaranty Corporation (PBGC). The JBEA also manages its own discipline process. The JBEA was established to ensure that individuals performing actuarial services under the Employee Retirement Income Security Act of 1974 (ERISA) are appropriately qualified to do so, and it oversees implementation of the body of U.S. federal regulations that apply to the “enrolled actuaries” involved in ERISA plans.

Enrolled actuaries who are members of any of the U.S.-based actuarial organizations that have adopted the Code of Professional Conduct are also subject to the self-regulatory aspects of those organizations.

In addition to the oversight by the JBEA, the Academy actively monitors the impact of the work of enrolled actuaries on the public, such as commenting on the funding challenge of the PBGC with respect to multiemployer plan benefit security.

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