

PRACTICAL APPLICATIONS OF THE CODE OF PROFESSIONAL CONDUCT

MARCH 28, 2017



AMERICAN ACADEMY *of* ACTUARIES

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Presenters

- **Tom Wildsmith, MAAA, FSA**
Immediate Past President, American Academy of Actuaries
- **Joeff Williams, MAAA, FSA**
Vice President of Professionalism, American Academy of Actuaries
- **Chad Wischmeyer, MAAA, FCAS**
Member, Council on Professionalism
- **Moderator: Paul Kollmer-Dorsey**
Academy General Counsel and Director of Professionalism



Disclaimer

Please note: The presenters' statements and opinions are their own and do not necessarily represent the official statements or opinions of the ABCD, ASB, any boards or committees of the American Academy of Actuaries, or any other actuarial organization, nor do they express the opinions of their employers.



Agenda

- Overview of the Code and Professionalism Framework
- Professional Integrity
- Competence and Control of Work Product
- Standards of Practice and Communication
- Counseling and Discipline
- Q&A



Why the Academy?

“...our laws today demand no more proof of the actuary’s competence than did the laws of ancient Rome.”

“Address by Henry Root Stern, Jr.,” *Transactions of the Society of Actuaries*, 1965, Vol. 17, Pt. 1, No. 47AB, p. 74.



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The Goal

- A self-regulating profession
- That could serve the public
- And earn regulatory recognition



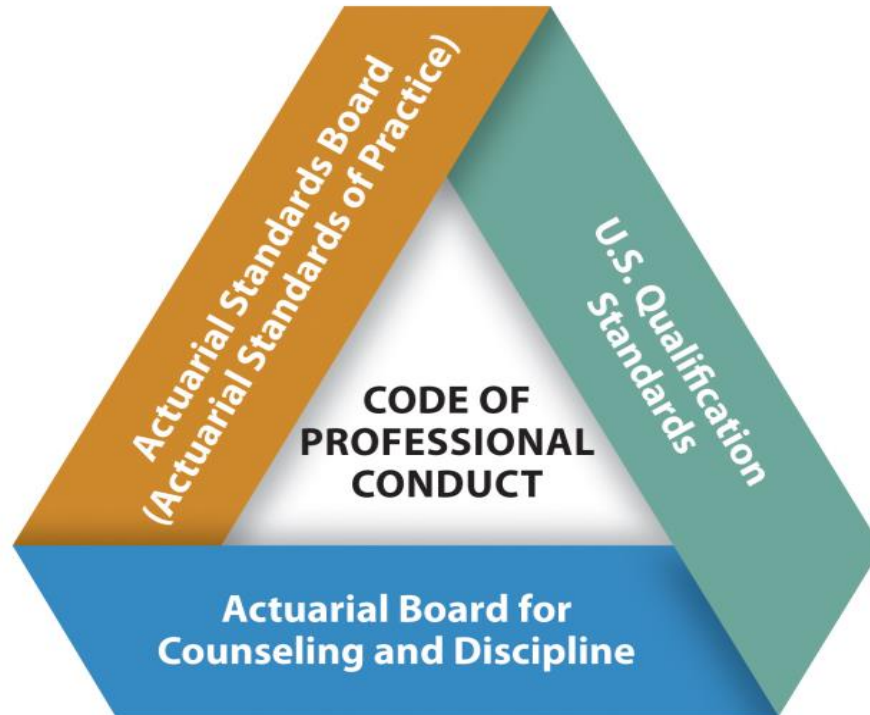
Academy Mission Statement

The mission of the American Academy of Actuaries is to serve the public and the United States actuarial profession.



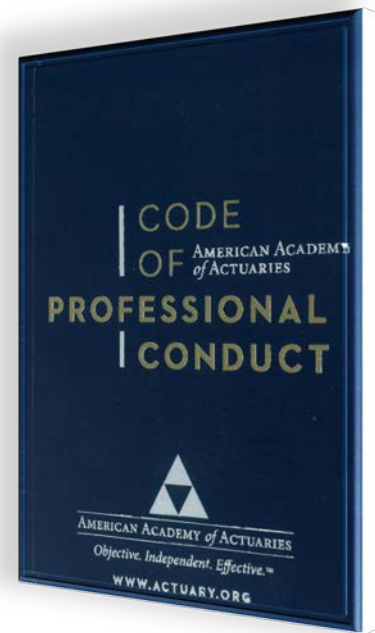
The Code of Professional Conduct

The Heart of Our “Web of Professionalism”



It All Starts With the Code

“The *Code of Professional Conduct* sets forth what it means for an actuary to act as a professional. It identifies the responsibilities that actuaries have to the public, to their clients and employers, and to the actuarial profession.”



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Purpose of the Code

- “To require Actuaries to adhere to the high standards of conduct, practice, and qualifications of the actuarial profession, thereby supporting the actuarial profession in fulfilling its responsibility to the public.”



Professional Integrity

Precepts 1, 6, 7, and 9



Precept 1: Professional Integrity

- “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.”



Precept 6: Who's Paying Me?

- “An Actuary shall make appropriate and timely disclosure to a present or prospective Principal of the sources of all direct and indirect material compensation that the Actuary or the Actuary’s firm has received, or may receive, from another party in relation to an assignment for which the Actuary has provided, or will provide, Actuarial Services for that Principal. The disclosure of sources of material compensation that the Actuary’s firm has received, or may receive, is limited to those sources known to, or reasonably ascertainable by, the Actuary.”



Precept 7: Am I Conflicted?

- “An Actuary shall not knowingly perform Actuarial Services involving an actual or potential conflict of interest unless:
 - A. the Actuary’s ability to act fairly is unimpaired;
 - B. there has been disclosure of the conflict to all present and known prospective Principals whose interests would be affected by the conflict; and
 - C. all such Principals have expressly agreed to the performance of the Actuarial Services by the Actuary.”



Precept 9: Confidential Information

- “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.”



Competence and Control of Work Product

Precepts 2, 8, 11, and 12



Qualification Standards

- “An integral part of the actuarial standards of conduct in the U.S. has always been a requirement that actuaries provided services or give advice only when they are qualified to do so. To assist the actuary in this determination and to satisfy the profession’s collective responsibility to the general public and users of the actuary’s services, the Academy has established Qualification Standards that should be satisfied before an actuary undertakes certain types of assignments or provides services in a given specialized practice area.”



Precept 2: Qualification Standards

- “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.”



Actuarial Services

- “Professional services provided to a Principal by an individual acting in the capacity of an actuary. Such services include the rendering of advice, recommendations, findings, or opinions based upon actuarial considerations.”



Professional Responsibilities

- Observe promulgated applicable qualification standards.
- Absence of qualification standards for an assignment or jurisdiction.



Qualification Standards

- Effective January 1, 2008.
- Applies to members of all five U.S.-based actuarial organizations (Academy, ASPPA/ACOPA, CAS, CCA, and SOA).
- Requirements for actuaries practicing in the U.S.



Common Qualification Issues

- Changing Practice Area
- Relevant Experience
- Continuing Education
- [FAQs on the U.S. Qualification Standards](#)



Precept 8: Control of Work Product

- “An Actuary who performs Actuarial Services shall take reasonable steps to ensure that such services are not used to mislead other parties.”



Precept 11: Advertising

- “An Actuary shall not engage in any advertising or business solicitation activities with respect to Actuarial Services that the Actuary knows or should know are false or misleading.”



Precept 12: Titles and Designations

- “An Actuary shall make use of membership titles and designations of a Recognized Actuarial Organization only in a manner that conforms to the practices authorized by that organization.”



Standards of Practice and Communication

Precepts 3, 4, 5, and 10



Precept 3: Standards of Practice

- “An Actuary shall ensure that Actuarial Services performed by or under the direction of the Actuary satisfy applicable standards of practice.”
- Actuarial Standards of Practice (ASOPs) are promulgated by the Actuarial Standards Board.
- Applicability Guidelines (AG) list the ASOPs that usually apply to common assignments.
 - Not created by ASB - resource document only.
 - Not authoritative guidance – does not create obligation on Actuary to comply with referenced ASOPs.



Precept 3: Standards of Practice

Annotation 3.1

- ❑ Must observe applicable standards of practice that have been promulgated by a Recognized Actuarial Organization for the jurisdiction where the actuarial services are RENDERED.
- ❑ Ignorance is not an acceptable excuse.



Precept 3: Standards of Practice

- How do I determine the jurisdiction where services are RENDERED?
 - Physical location of Actuary?
 - Physical location is irrelevant to determining where services are rendered.
 - “Rendered” indicates jurisdiction in which the actuarial services are intended to be used (“ultimate purpose”).
- For more detail see publication from the Academy’s Committee on Professional Responsibility of the Council on Professionalism:
Considerations of Professional Standards in International Practice



Precepts 4 & 5 Can Be Thought of Together

Precept 4: Communications and Disclosure

- “An Actuary who issues an Actuarial Communication shall take appropriate steps to ensure that the Actuarial Communication is clear and appropriate to the circumstances and its intended audience, and satisfies applicable standards of practice.”
 - ▣ Must clearly identify actuary responsible for the work.

Precept 5: Communications and Disclosure

- “An Actuary who issues an Actuarial Communication shall, as appropriate, identify the Principal(s) for whom the Actuarial Communication is issued and describe the capacity in which the Actuary serves.”

Precepts 4 & 5 Can Be Thought of Together

Communication needs to:

- ❑ Be clear
- ❑ Be appropriate for intended audience
- ❑ Satisfy applicable standards of practice (e.g. ASOP 41).
- ❑ Clearly identify actuary responsible for the work
- ❑ Identify Principal
- ❑ Describe capacity in which Actuary serves



Precept 10: Courtesy and Cooperation

- “An Actuary shall perform Actuarial Services with courtesy and professional respect and shall cooperate with others in the Principal’s interest.”
- Precept 10 is so important that it has the most annotations of any of the Precepts.



Precept 10 – Case Study

In the middle of a project, you are notified that you are being replaced as the reserving Actuary for Corporation XYZ. The client is refusing to pay you for the work performed to date on this project.

The succeeding Actuary asks you to assemble and transmit pertinent data and documents.

Can you refuse to provide the information requested by the new Actuary until you are paid for services rendered?



Precept 10 – Case Study

- Can you refuse to provide the information requested until paid?
 - NO – even if there is a fee dispute, you have an obligation to cooperate in the Principal's interest, **subject to receiving reasonable compensation for the work required to assemble and transmit the pertinent data and documents.** However, you are not required to provide items of a proprietary nature.
 - Responsibility to the public and reputation of the profession outweigh the individual dispute.
 - An exception exists if your refusal is in accordance with a pre-existing agreement with the Principal.



Counseling and Discipline

Precepts 13 and 14



Precept 13: 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. Something is material if its omission or misstatement could influence a decision of an intended user (see ASOP 1).

Precept 13: Violations of the Code

- Precept 13 is an integral part of the Code.
 - Critical to Self-Regulated Profession.
- Precept 13 is NOT AN OPTIONAL part of the Code.
- Concern about frequency that Precept 13 is not followed.
- Discussion Paper: [The Application of Precept 13 of the Code of Professional Conduct.](#)



Actuarial Board for Counseling and Discipline

COUNSELING (2 Forms)

- Most common – informal discussion with individual ABCD members.
 - Represents considered opinion of individual member not ABCD.
- On occasion, ABCD does provide public guidance.

DISCIPLINE

- ABCD role is to investigate and make recommendations, but does not have authority to impose discipline.
 - Discipline is decided upon/imposed by Actuarial Organizations.



Precept 14: Violations of the Code

- “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.”



Precepts and ABCD Inquiries

Major Issue Alleged	ABCD Disposition in 2016					Active on 12/31/16			TOTAL
	Discipline	Counsel	Dismiss	Mediate	Total	Initiated before 2016	Initiated in 2016	Total	
Precept 1	3		21		24	13	28	41	65
Precept 2		1	1		2	2		2	4
Precept 3	1		7		8	4	18	22	30
Precept 4	2		5		7	1	9	10	17
None for Precepts 5, 6, or 7									
Precept 8	1				1	1	2	3	4
Precept 9			1		1				1
Precept 10	1		1		2		2	2	4
None for Precepts 11, 12, or 13									
Precept 14	2				2				2

Contact the ABCD

- Mail to:
ABCD
1850 M Street NW
Suite 300
Washington, DC 20036
- Telephone: (202) 223-8196; ask for ABCD
- Fax: (202) 872-1948
- Email: abcdboardguidance@actuary.org
- Website: www.abcdboard.org
- Or by directly contacting a member of the ABCD



Questions?

Thank you.

