



2013 Annual Report

ACTUARIAL BOARD FOR COUNSELING AND DISCIPLINE

Chairperson's Letter

The Actuarial Board for Counseling and Discipline (ABCD) lost two colleagues and dear friends in 2013. Paul Fleischacker had endured long-standing health issues during much of his ABCD tenure and resigned in September to focus on those issues and his family. Sadly, Paul passed away this month, and his judgment and health care expertise will be hard to replace. Curtis Huntington maintained full ABCD and academic workloads during a long illness, but finally succumbed to that illness in October. We will miss his wisdom, wit, and travel stories immensely. The Presidents and President-Elects of the U.S. actuarial organizations appointed Dave Ogden and Allan Ryan to complete Paul's and Curtis' terms respectively.

At the beginning of 2013, Rick Block and Jan Carstens joined the ABCD, replacing Jim Guterman and Kurt Piper, who completed their terms. We thank Jim and Kurt for their service, and Rick and Jan have already made significant contributions during their first year on the ABCD.

The ABCD conducted its regular activities in 2013 and also continued progress on several procedural improvements and outreach initiatives.

With regard to regular activities in 2013, the ABCD handled 116 cases, comprised of 82 requests for guidance (RFGs) and 34 inquiries. It provided guidance in response to the 82 RFGs and closed 22 inquiry cases. A chart showing the number of cases handled by the ABCD since its inception in 1992, including inquiry cases and RFGs, is included in this report.

The chart shows that RFGs are a significant portion of the ABCD caseload. The most common RFG is between a requestor and an individual ABCD member. The guidance often consists of listening to the requestor's issues, asking questions to elicit more facts and identify more issues, and perhaps providing a different perspective. Requestors usually come to a conclusion themselves at the end of the discussion. A summary of the types of issues raised in RFGs is included in this report. Individual RFGs are kept confidential and have not resulted in the ABCD initiating an inquiry on its own.

Inquiries are complaints submitted for ABCD consideration. Not all complaints lead to an investigation, and not all investigations result in a hearing. For complaints that result in an investigation followed by a hearing, the ABCD conducts the hearing, deliberates, and either dismisses, counsels, or recommends a level of discipline to the subject actuary's organization(s). The ABCD does not administer discipline. A description of the issues alleged in complaints that the ABCD handles is included in this report.

With regard to procedural improvements considered during 2013, the ABCD worked on the following initiatives:

- Revisions to our Rules of Procedure, which were exposed to the actuarial membership. The comments we received resulted in some changes to the proposed Rules of Procedure, which took effect January 1, 2014;
- Defining the roles and responsibilities of Case Monitors, who are ABCD members assigned to each investigation;
- Significantly reducing the time to complete an investigation, and thereby reducing the overall length of the disciplinary process, while continuing to protect the rights of the Subject Actuary;
- Adopting Discipline Guidelines to ensure consistency in discipline that the ABCD recommends to the membership organizations, particularly in the future;
- Improving our deliberation and voting process; and
- Providing a half day training for incoming members.
- The ABCD has continued prior efforts at improving communicating with the actuarial membership:
- An ABCD member continues to maintain a spreadsheet that records information regarding past inquiries;
- Each ABCD member authors timely and thought provoking "Up to Code" articles in *Contingencies*; and
- Various ABCD members presented at approximately 25 formal meetings, and spoke at about 8 webinars in 2013.

For 2014, CUSP re-appointed me to serve as Chairperson, assisted by Janet Fagan and Jan Carstens as the two Vice Chairpersons.

I have been an actuary during my entire working career, and I agree that it is the #1 job in America. Actuaries have a well-deserved reputation for integrity and expertise, and the discipline process is one tool that helps maintain that reputation. I thank all of my ABCD colleagues for their support and assistance during 2013. The accomplishments described in this report would not have occurred without them.

Robert J. Rietz

2013 ABCD Chairperson
March 2014

Summary of Alleged Violations

There were 34 inquiries in process with the ABCD during 2013, based on either complaints or adverse information. Twenty-two of these were disposed of during 2013. While detailed information cannot be released about any of these inquiries, the table below provides a summary of the major issue areas into which the alleged violations of the Code of Professional Conduct fall. Note that some inquiries involve multiple issues. Note also that an ABCD disposition of discipline means the ABCD recommended discipline to the appropriate organization(s).

Major Issue Alleged	ABCD Disposition				Initiated in			Total
	Discipline	Counsel	Dismiss	Mediate	Total	Earlier	2013	
Precept 1: Failure to act with integrity			3		3	6	2	8 11
Failure to perform services with competence	2	2	1		5	2	4	6 11
Calculation or data errors	2	2			4		3	3 7
Other errors in work	2	2			4		2	2 6
Failure to uphold reputation of Actuarial profession			2		2	1	1	2 4
Precept 2: Performing work when not qualified		3	2		5	1	1	2 7
Precept 3: Work fails to satisfy an ASOP	2	5	3		10		3	3 13
Use of unreasonable assumptions	2	5			7		2	2 9
Precept 4: Inadequate actuarial communication	2	2	3		7		3	3 10
Precept 5: Failure to identify Principal, capacity								
Precept 6: Failure to disclose								
Precept 7: Conflict of Interest								
Precept 8: Failure to take reasonable steps to prevent misuse of work product								
Precept 9: Disclosure of confidential information								
Precept 10: Failure to cooperate with other actuary						1	1	1
Precept 11: Improper advertising								
Precept 12: Improper use of designation						1	1	2
Precept 13: Failure to report violation								
Precept 14: Failure to respond completely, honestly and promptly to the ABCD								

Some of the issues alleged:

- Expert testimony: failure to act with integrity; failure to perform services with skill and care; failure to maintain continuing education requirements; calculation or data errors; performing work when not qualified; inadequate actuarial communication; failure to disclose.
- Actuary's failure to sign valuation reports, thereby not identifying himself as the actuary responsible for the work
- Sending multiple sexually explicit, vulgar e-mails to another actuary
- Selection of unreasonable interest rates, retirement age assumptions, mortality rates, withdrawal rates, and disability rates in actuarial valuations of pension plans
- Inadequate actuarial communication: failure to communicate either assumptions or methods used to reach conclusions
- Failure to adequately value gain-sharing provisions in public pension plans
- Use of a rating methodology that did not fully disclose the nature of the rate increases sought in individual health insurance premium rate filings.
- Lack of competence in the Health practice area to render a GASB 45 actuarial opinion.
- Significantly understating liabilities when performing valuations for a retiree group benefit plan under GASB 43 & GASB 45

CASES CONSIDERED DURING 2013

Type of Case	Pending from 2013 and Earlier	Received in 2013	Total
Conduct	6	2	8
Practice	9	11	20
Conduct & Practice	4	2	6
Requests for Guidance	0	82	82
Total	19	97	116

Cases by Practice Area	Pending from 2013 and Earlier	Received in 2013	Total
Casualty	3	1	4
Health	1	3	4
Life	4	0	4
Pension	11	11	22
Total	19	15	34

CASES CLOSED

Action by Individual ABCD Members

Replied to requests for guidance 82

Disposition by Chairperson and Vice Chairpersons

Dismissed	10
Dismissed with Guidance	1

Disposition by Whole ABCD After Investigation

Dismissed	1
Counseled	8
Recommended Suspension	2

Total Cases Closed (including requests for guidance) 104

Since its inception in 1992, the ABCD has completed its cases as follows:

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

Dispositions	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Dismissed	7	5	5	1	5	11	29	16	9	48	10	285
Dismissed with Guidance	2	2	4	1	—	1	5	1	2	1	2	70
Counseled	4	1	4	3	1	2	—	—	—	2	8	56
Mediated	1	—	—	—	1	—	—	—	—	—	—	12
Recommended Private Reprimand	—	—	—	—	—	1	—	2	—	1	—	6
Recommended Public Discipline	1	—	2	1	1	3	2	3	2	4	2	31
Request for Guidance	30	46	37	31	35	48	46	55	55	62	82	777
Total	45	54	52	37	43	66	82	77	68	118	104	1237

2013 Summary of Requests for Guidance-RFGs

The ABCD members responded to 82 requests for guidance during 2013. While detailed information cannot be released about any of these RFGs, the tables below provide summaries by practice area, by precepts of the Code of Professional Conduct, and by the major issues involved in these requests. Note that many RFGs involve multiple issues.

Practice Area	No. of RFGs
General	5
Pension	22
Health	20
Life	8
Property & Casualty	27
Total	82

Precept	No. of RFGs
1	28
2	18
3	31
4	19
5	0
6	0
7	2
8	8
9	4
10	8
11	0
12	1
13	8
14	0

Major Issues

Qualification Issues

- Qualification standards and requirements for issuing various types of actuarial communications
- Qualification requirements for performing actuarial work in certain practice areas and in new practice areas
- Concerns on the qualifications and skills of another actuary on work performance and misrepresentation of skills
- ASOP 38, using models outside the actuary's expertise

Communication Questions

- Rendering statements of actuarial opinions and other types of reports when some of the work performed by others was not under your control.
- Reliance on work of others
- Use of assumptions prescribed by a non-actuary regulator
- Elements to be included in various types of actuarial communications
- Reviewing and reporting on work of others
- Types of communication subject to the Code of Professional Conduct and Actuarial Standards of Practice
- Actuary's professional responsibility/obligation related to the discovery of an error.
- Appropriate testing and use of data in Statements of Actuarial Opinion
- How do I caveat an opinion for data problems
- Whether new data and developments would make a material difference in actuarial opinion
- Definition of Statement of Actuarial Opinion when applied to specific scenarios
- Completing an assignment with inadequate data

Professional Integrity / Skill and Care

- When is a failure to reveal known information dishonest
- Must a mistake be corrected if the impact was immaterial
- How can I ensure compliance with legal requirements
- What should I do when others may act dishonestly
- Issues related to co-signing a Statement of Actuarial Opinion prepared by another actuary
- Actuary's professional requirements and guidelines when interfacing with a client's auditors
- Concern over accuracy of information in rate filings
- Appointed Actuary's role and obligations
- Reasonableness of assumptions
- Requirements regarding assumptions and actuarial cost methods for: pension plans; retiree health and welfare plans; and workers compensation reserves

Conflicts of Interest

- What constitutes a conflict of interest
- Conflict of interest disclosures
- Conflict of interest when performing volunteer work

Precept 13 Issues

- Requirements for reporting potential material violations of the Code of Professional Conduct
- What constitutes potential material violations of the Code of Professional Conduct
- Concerns regarding quality and accuracy of work product prepared by other actuaries
- How to file a complaint
- When is a potential material violation considered resolved
- Precept 13 obligation –vs- confidentiality obligations
- Discussing a potential material violation with the responsible actuary
- How can I determine the materiality or illegality of actions?
- What constitutes a conduct violation in Precept 1
- Obligation to report an apparent miscalculation of reserves by another actuary to state regulators



2013 Actuarial Board for Counseling and Discipline

Kathleen A. Riley; Richard A. Block; John M. Purple; Nancy A. Behrens, Vice Chairperson; Robert J. Rietz, Chairperson; Janet L. Fagan, Vice Chairperson; Curtis E. Huntington; Janet M. Carstens; and Paul R. Fleischacker

Cooperation with Successor Actuaries

- Actuary cooperation with principal after being terminated
- Obtaining information from prior actuary
- Cooperation requirements in a non-payment of fees situation
- How much cooperation is necessary
- Turning over proprietary data, models and software
- Cooperation in an adversarial or competitive situation
- Potential misuse or misinterpretation of information by successor actuary
- Requirements on redoing prior work

Control of Work Product

- Potential misuse of work product
- Dealing with a client's possible illegal act
- Correcting a prior inadvertent error
- Issues associated with developing and selling actuarial software



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