

## Question Time

In a recent interview, James Gutterman, who joined the Actuarial Board for Counseling and Discipline (ABCD) in 2010, discussed his first-year impressions.

**As an actuary who has worked both as a regulator and on the corporate side, you bring a particularly ecumenical point of view to the ABCD. How do you think this helps you in your work on the board?**

The most obvious aspect is that it has helped me to understand the different perspectives of company people and regulators. I also probably have a somewhat richer appreciation of the real-life operational aspects and working environment under which company compliance actuaries and regulators operate. Company actuaries often have difficulty appreciating the practical constraints and pressures that regulators encounter—and vice versa.

**What advice do you have for corporate actuaries in their interactions with regulators?**

A couple of things stand out, based on requests for guidance that either I or other members of the ABCD have received. First, be very familiar with—and keep current with—the applicable state law and regulations. This is the basic touchstone that state insurance department actuaries and other regulators work from while reviewing various submissions for compliance. Second, certain situations that company actuaries encounter may not fit neatly into existing regulations and/or professional guidance (i.e., a newer, nontraditional product). When an actuary approaches a member of the ABCD for counsel on how to handle this, we often simply advise him or her to talk to the appropriate regulator and mutually work out the best way to approach the situation. Regulators do try to

be helpful in this regard. In my opinion, people shouldn't be reluctant to involve their regulator up front. It avoids problems down the road.

**What advice do you have for all actuaries in balancing their relationships with their employers and their compliance with the Code of Professional Conduct?**

For the most part, I believe that actuaries are considered knowledgeable professionals. Most employers and clients respect our need to operate in a completely ethical manner. I am aware, however, that this understanding doesn't always hold true, particularly when you are working primarily for, or with, people who aren't actuaries. If you are the only actuary in

your firm, you may feel somewhat isolated. You may be reporting up through a chain of superiors, with very different backgrounds, who never have heard of the Code of Professional Conduct or of the Actuarial Standards of Practice.

The first step, of course, is to make your employer aware of the various professional standards under which all actuaries operate—preferably before any problems arise. If you are being pressured to do something that you believe is improper or unethical, these standards can provide you with guidance on how to act in such situations. You can point to the fact that you must comply with the Code of Professional Conduct. Establishing early on that you are held to these standards will help you avoid confrontations.

If you encounter a situation in which you are not sure how to proceed, you can reach out to any member of the ABCD to request confidential guidance. Details on how to request guidance can be found on the ABCD's website at [www.abcdboard.org](http://www.abcdboard.org). You will receive a response within a day or two. In particularly urgent matters, someone from the ABCD usually can contact you that same day. The ABCD has members from the health, life, casualty, and pension areas, and generally we make an effort to have someone from your practice area respond whenever specific practice issues are involved. You are welcome, however, to get in touch with any member directly using contact information found on the ABCD website.

**You have been on the ABCD for a little over a year. Any surprises? What strikes you about the board that you hadn't realized before you became a member?**

As I suspect is the case for a majority of actuaries, I really



hadn't given the board much thought. I knew it existed, but had never had any occasion for contact. As a result, I thought of the ABCD as solely a disciplinary organization. I would take note on those limited occasions when public discipline was instituted by one of the sponsoring organizations as a result of a complaint and investigation by the board. I took comfort in the fact that the ABCD existed as a recourse should I ever need to make a formal complaint. And I was proud of the fact that the actuarial profession was self-policing.

What I realize now is that the board spends as much (if not more) time providing guidance to members as it does on disciplinary matters. We are also doing an increasing amount of outreach, addressing various audiences (such as local actuarial clubs) and writing Up to Code in *Contingencies*.

I've been impressed by how thorough

and fair the ABCD is throughout the entire disciplinary process. Every step—from initial complaint to investigation to possible hearing—is designed to ensure that all the relevant facts are uncovered in an objective manner. An actuary who is the subject of a complaint is afforded proper administrative rights. He or she is given the opportunity to present his or her side of the matter and respond in detail at various stages in the investigation (for those who are interested, the board's procedures are spelled out in detail on the ABCD website).

Before I became a member of the board, I knew, of course, that it operates in a fair and ethical manner. I just didn't realize the possible complexities involved, and I have been impressed by the amount of effort and discussion that goes into evaluating a situation even before it possibly reaches the hearing stage. We are all human, but I have found

that the board's internal discussions are unbiased and extremely analytical (we are, after all, also all actuaries).

I have seen firsthand the difficulties involved in making the whole disciplinary process more efficient and transparent. Recent Up to Code articles ("Your Comments, Please: Changing the Disciplinary Process," May/June 2010 *Contingencies*; "Comments on Changing the Disciplinary Process," January/February 2011 *Contingencies*) speak to this in greater detail. But I want to reiterate that board members walk a fine line between protecting the rights and reputations of individual actuaries and speeding up the disciplinary process. Likewise, a similar balance applies in discussions of what can or should be made public. The board supports both efficiency and transparency and has been working with the Council of U.S. Presidents on various ideas that would expand both.

My service on the ABCD has broadened my perception of the profession. While I previously have had some interaction with actuaries in other practice areas, it's illuminating to learn how varied their working situations are, as well as the professional issues they may face.

On a more personal note, I suspect that nobody who comes onto the ABCD is prepared for the amount of time and effort that he or she will be investing in the position. Planning for a hearing, for example, can involve reading voluminous amounts of material, such as detailed actuarial reports and/or court transcripts. But it's also hard for a new member of the ABCD to know just how interesting and rewarding your work will be. Time on the ABCD is time well-spent. □

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