Ethics and Professionalism

• Not just good in theory
• Attention to professionalism has practical benefits
• Lack of attention can crush your practice
• We’ll look at:
  – Common professionalism problems
  – Educational resources
  – Professionalism and litigation
  – How to apply professional standards

Common Professionalism Problems
Sources of Professionalism Problems

• Clients
  – Pressure to “adjust” facts, findings or opinions
  – Nonresponsive, incompetent or (maybe) dishonest
  – Free to switch actuaries
  – Can lead to disputes
  • Fees
  • Ownership of documents

• Other professional(s) serving client
  – Nonresponsive, controlling or uncooperative
  – Incompetent or unethical
  – Own agenda, not client’s good
  – Out to replace you

• Regulators – trouble if they’re:
  – Stubborn
  – Aggressive
  – Incompetent
  – Nonresponsive

• Client expects you to fix it
Sources of Professionalism Problems

- Other actuaries
  - Predecessors
  - Competitors
  - Your partners
  - Your subordinates

Sources of Professionalism Problems

- You
  - Overworked
  - Overcommitted
  - Overconfident
  - Hurried
  - Out of your depth

Professionalism Problems

- Any situation where:
  - You’re asked to lie or conceal
  - You have to produce shoddy/dishonest work
  - You’ve made a material mistake
  - You’re offered something you don’t deserve
  - You haven’t communicated adequately
  - You’d be ashamed if it showed up online
  - It keeps you up at night
Educational Resources

Code of Professional Conduct

• Foundation of actuarial professionalism
• Current version adopted in 2001
• Addresses almost all professionalism problems
• 14 Precepts
  – Annotations
  – Definitions

Actuarial Standards of Practice

• Apply to all U.S. actuarial work
• Most are practice- and subject-specific
  – 7 for pension practice
• General standards apply more broadly
  – ASOP 23, “Data Quality”
  – ASOP 41, “Actuarial Communications”
Qualification Standards

• Apply through the Code
• Maintained by the Academy
• Three areas:
  – Basic education
  – Experience
  – CE
• If you meet the Joint Board’s rules, you’re (normally) okay

If the Code and Standards Confuse You

• Organizations have supplemental material
  – Conference: Guidelines
  – Academy:
    • Practice Notes
    • Discussion Papers
    • Applicability Guidelines
    • FAQs for Qualification Standards
  – Conferences, webinars, publications
  – ABCD
    • Request for guidance
    • Statement of opinion
• Government resources

Other Resources

• Your boss
• Your mentor
• Friends/loved ones
• Peer reviewer
• Legal counsel
Professionalism and Litigation

Elements of a Malpractice Claim

- Duty of care
- Breach of duty
- Injured plaintiff
- Resulted in material harm

Elements of a Malpractice Claim

- Duty of care
  - Created by client relationship
- Breach of duty
  - This is where professional standards come in
- Injured plaintiff
- Resulting in material harm
Defendant’s Duty of Care

- Courts don’t expect perfection
- Want to know:
  - What prudent actuary would do
  - Whether generally-accepted standard of practice exists
- Code, ASOPs and Qualification Standards
  - Adopted nationwide
  - Define “generally-accepted practice” in most circumstances

What to Do

- For each assignment:
  - Dig out applicable rules and read them
  - Follow or be prepared to explain deviation
  - Use the ASOPs to document compliance
- Consider peer review

What Else to Do

- When in doubt, overcommunicate
- Follow your company’s document retention policy
- Practice thoughtfully
- Don’t presume liability
About the ASOPs

ASOPs Are Very Broadly Applicable

• Written to address a range of situations
• May not fit well with small plan practice
• Disclosing deviation may create other problems
  – Difficulty of explanation
  – Regulatory objections
  – Litigation risk
  – Professional credibility

Additional Considerations

• ASB and ABCD Selection Committee
  – ACOPA and CCA no longer represented
• Want to ensure ASOPs are helpful to pension actuaries
• Work under way to address
• Look for updates later this year
Questions?

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