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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

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Common Professionalism Problems

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### 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

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### Sources of Professionalism Problems

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

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### Sources of Professionalism Problems

- Regulators – trouble if they're:
  - Stubborn
  - Aggressive
  - Incompetent
  - Nonresponsive
- Client expects *you* to fix it

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### Sources of Professionalism Problems

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

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### Sources of Professionalism Problems

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

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### 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

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## Educational Resources

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## Code of Professional Conduct

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

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## 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"

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## 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

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## 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

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## Other Resources

- Your boss
- Your mentor
- Friends/loved ones
- Peer reviewer
- Legal counsel

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## Professionalism and Litigation

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## Elements of a Malpractice Claim

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

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## 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

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### 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

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### 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

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### What Else to Do

- When in doubt, overcommunicate
- Follow your company's document retention policy
- Practice thoughtfully
- Don't presume liability

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## About the ASOPs

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## 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

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## 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

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