







# **St. John's Colloquium 2016**

**June 28, 2016**



# **The Actuarial Discipline Scheme in the U.S.**

**Michael L. Toothman**  
**FCAS, MAAA**

- 
- 
- Role of ABCD is to
    - **Investigate** alleged violations of the Code of Professional Conduct by members and recommend discipline
    - **Counsel** (provide guidance to) members
    - **Mediate** disputes between members and others.

# ABCD Membership

Appointed by Selection Committee (Presidents and Presidents-elect of U.S. organizations)



Member	Area of Practice
<b>Janet Fagan, Chairperson</b>	<b>Casualty</b>
<b>Richard Block, Vice Chairperson</b>	<b>Pension</b>
<b>Janet Carstens, Vice Chairperson</b>	<b>Health</b>
<b>Nancy Behrens</b>	<b>Life</b>
<b>David Ogden</b>	<b>Health</b>
<b>Kathleen Riley</b>	<b>Pension</b>
<b>Debbie Rosenberg</b>	<b>Casualty</b>
<b>Allan Ryan</b>	<b>Life</b>
<b>John T. Stokesbury</b>	<b>Pension</b>

## ABCD Process

- Follows Article X of AAA bylaws and ABCD Rules of Procedure
- All ABCD guidance, mediation and inquiries are confidential
  - Actuary may make public or agree to publication



## ABCD Inquiry

- Based on complaint from individual, typically
  - Client
  - Regulator
  - Other actuary
- At ABCD's initiative
  - Based on public document that suggests possible violation



## An ABCD Inquiry

- Is a fact-finding effort, not an adversarial forum
- Examines whether or not an actuary materially violated the Code of Professional Conduct
  - not whether the actuary is liable for damages





## PRECEPT 1:

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.

# ABCD Inquiry Process

- Step 1: Initiation of Inquiry
  - Complaint received
    - Reviewed by staff for completeness
      - Additional information sought as needed
    - Sent to subject actuary (SA) for response
  - Information based
    - Chairs review public document and decide to proceed
    - Sent to subject actuary for response



# ABCD Inquiry Process

- Step 2: Chairs' review
  - Inquiry documents sent to chairs
  - Chairs evaluate for possible material violation
  - Chairs decide whether to
    - Seek additional information
    - Dismiss complaint
    - Offer mediation
    - Commence investigation



## ABCD Inquiry Process

- Step 3: Notification
  - Notify subject actuary and complainant, if any, of Chairs' decision
  - Notify ABCD at next meeting



# ABCD Inquiry Process

- Step 4: Investigation
  - Appoint investigator
    - Notify subject actuary for opportunity to object
  - Send direction and documents to investigator
  - Investigator
    - obtains and reviews documents,
    - interviews individuals involved,
    - prepares report of results, i.e. facts as investigator understands them
  - Report sent to subject actuary for response



## ABCD Inquiry Process

- Step 5: ABCD consideration
  - All documents sent to ABCD members
  - Case discussed at ABCD meeting
  - ABCD decides whether to
    - Seek additional information
    - Dismiss (with/without guidance)
    - Counsel the actuary
    - Conduct a hearing



# ABCD Inquiry Process

- Step 6: Notification
  - Notify subject actuary, complainant and investigator of decision
  - Schedule hearing, if so decided



# ABCD Inquiry Process

- Step 7: Hearing
  - Conduct fact finding hearing attended by
    - Investigator
    - Subject actuary
  - Hearing is recorded by a court reporter
  - Investigator presents results
    - ABCD and SA question investigator
  - SA presents case
    - ABCD questions SA



# ABCD Inquiry Process

- Step 8: Deliberations
  - Meet to discuss hearing and documents
  - Decide whether to
    - Dismiss (with/without guidance)
    - Counsel the actuary
    - Recommend discipline
    - Obtain more information, reopen hearing



# ABCD Inquiry Process

- Step 9: Notification
  - Notify subject actuary, complainant and investigator of decision
  - If discipline is recommended, transmit to appropriate organization(s)
    - Statement of ABCD findings
    - All documents used by ABCD
    - Transcript of hearing



## ABCD Inquiry Process

- Step 10: Member Organization
  - If discipline is recommended
  - Conducts “show cause” hearing according to its rules
  - May decide to
    - Impose discipline recommended
    - Impose greater level of discipline
    - Impose lower level or none



## Challenges/Weaknesses

- Lack of understanding within the profession of the counseling and discipline process and the role of the ABCD (exacerbated by confidentiality issues)
- Reliance on practitioners to self-police in many cases
- Timing of the process



## Possible Changes

- Information Disclosed when Discipline Occurs (Tombstones)
- High-Profile Cases
  - Balance between Disclosure and Confidentiality
- Automatic Triggers

