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ACADEMY COUNCIL ON PROFESSIONALISM

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The Council on Professionalism of the AAA will present a brief update on its significant current projects. This presentation will be followed by a panel discussion of how the qualification standards, standards of practice (SOP), and the Code of Professional Conduct fit together and how these standards are applicable to the daily practice of all actuaries. The panel will include representatives of the Actuarial Standard Board (ASB), the Actuarial Board for Counseling and Discipline (ABCD), and the Academy's Committee on Qualifications.

MR. CHARLES BARRY H. WATSON: We will focus on a discussion of the professionalism questions raised by a case study (see Appendix A).

I'm the Academy's Vice President for Professionalism. Before we get to the case study, I will begin the session with a brief overview of what the Academy has been doing in the professionalism arena for the past year. We will then present, as a bonus treat, a brief video which illustrates, in somewhat lighthearted terms, the work of the ABCD. Then we will move to a discussion of this case study, drawing on opinions and comments from the audience and observations from the distinguished panel. Bob Likins is the Chairperson of the Committee on Qualifications. Ken Hartwell is the outgoing Chairperson of the Committee on Professional Responsibility. We also have Norm Crowder, the outgoing Chairperson of the ABCD. Dick Robertson is the incoming Chairperson of the ASB. These gentlemen are all very learned and very dispassionate. They are good, gentle souls, and they will provide a firm, yet sympathetic commentary on the issues raised in the case study.

Let me begin with the following general observations. The Council on Professionalism of the Academy is charged with the responsibility of trying to maintain and upgrade the standards of professionalism and discipline for actuaries practicing in the U.S. There are three major focal points of professionalism to be considered. One is the Code of Professional Conduct, which is ultimately the responsibility of the ABCD. Second is Actuarial Standards of Practice (ASP), which is the responsibility of the ASB. The third is the Standards of Qualification and the associated Program of Continuing Education, which are the responsibility of the Committee on Qualifications. These areas of responsibility with respect to actuarial practice in the U.S. relate not only to Academy members. Because the Codes of Professional Conduct, which are essentially the same for all actuarial bodies in the U.S., state that it is a requirement to follow the ASB's standards of practice and the qualification standards, a member of the SOA who is not a member of the Academy would still need to pay attention to these particular precepts.

At a general meeting of the Academy, held at this meeting, I discussed, in some depth, what our council has been doing to fulfill its charge over the past year, therefore I do not intend to repeat myself. I do want to emphasize that our major responsibility this coming

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year will be to try to improve the understanding of the members of the profession of what is involved in being a true actuarial professional in this country. We are working on a number of initiatives; the Committee on Professional Responsibility is particularly involved in these. They are looking into the question of peer review and how it might be encouraged. They are also looking into the question of whether there is enough support and understanding by employers of actuaries of what is involved in being a professional actuary.

We will now move to the entertainment section of this session. I will call on Norm Crowder to introduce the ABCD video.

MR. A. NORMAN CROWDER, III: This is a video that the Academy Communications staff put together to publicize the activities of the ABCD. It is about nine minutes long. It's available to any of you who would like to have a copy. We have encouraged employers to show it at internal actuarial staff meetings. ABCD board members have taken the videotape to a number of actuarial clubs, introduced it, and then answered questions. You will see five or six different types of incidents that are based on the first three-and-a-half years of experience of the ABCD. Some of these incidents may be similar to what you encounter in your work, and that's why the video is relevant.

VIDEO NARRATOR: The Actuarial Board for Counseling and Discipline was established in 1992 to encourage the maintenance of high standards of conduct, practice, and qualification throughout the actuarial profession. The American Academy of Actuaries, the American Society of Pension Actuaries, the Casualty Actuarial Society, the Conference of Consulting Actuaries, and the Society of Actuaries have joined in delegating to the ABCD full responsibility for the investigation, evaluation, and disposition of all complaints and other allegations against their members arising out of practice in the U.S. The Board has investigatory and counseling powers and has developed full procedures to govern its operations. While the ABCD itself does not enforce disciplinary actions against actuaries, it does recommend such actions to its member organizations.

That's quite a mouthful. But what does it mean? What it boils down to is that actuaries have arrived as full-fledged professionals. And, like all professionals, actuaries are bound to standards of qualification, ethics, and conduct. The Actuarial Board for Counseling and Discipline is the body that encourages us to uphold these standards and helps us with guidance when we need it.

The ABCD carries out four main tasks. It offers guidance to actuaries who have questions about ethics and professionalism. It investigates complaints against actuaries, and counsels actuaries on how to improve their compliance with standards. And, in certain cases, it recommends disciplinary action against actuaries who have committed serious breaches of professional responsibility. But don't mistake the ABCD for a punitive body. It is a group of actuaries who strive to be fair to their fellow professionals. It has emphasized remediation over reprimand at all stages of its work. Its goal is to assist actuaries in the important task of complying with standards in the rapidly evolving business and legal environment we face today. We all make mistakes, after all, and we all face ethical quandaries at one time or another in our professional careers.

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[Narrator received phone call] Excuse me. Yes, it is. Your boss wants you to set what assumptions? Sure, the ABCD can give you some guidance on that. Give them a call and they'll get you an answer right away. Sure. Interesting.

The ABCD gets many calls like that one from actuaries who find themselves in a tight squeeze between ethical requirements and an employer's demands. The ABCD stands ready to help actuaries navigate these treacherous waters. To my mind, the informal guidance that the ABCD offers in these cases is its most valuable service, because the ABCD's chief priority is helping actuaries avoid ethical problems and improve the quality of their work. All requests for guidance are kept strictly confidential, and can be made by letter or, as you just saw, over the phone. If you find yourself in an ambiguous ethical situation, or if you'd like to clarify a question for your own peace of mind, don't hesitate to call the ABCD for advice.

Responding to voluntary requests for guidance makes up the most pleasant aspect of the ABCD's work. Unfortunately, the ABCD receives many more calls than it would like from unhappy employers and clients of actuaries. The most frequent complaint is about an actuary's rudeness, lack of responsiveness, or just plain sloppy work.

OTHER VOICE: Frank, this is Joe Brown of the Medical Associates Group. I really need those pension numbers you were supposed to give me last month. This is the tenth message I've left. I thought actuaries were supposed to be professionals, but you won't even return my calls.

VIDEO NARRATOR: Guess what this disgruntled client did next? That's right, he called the ABCD. And it wound up investigating a situation, confidentially, of course. After the ABCD determined that Frank had indeed been negligent, it counseled him, and his business practices improved. The counseling was informal. It wasn't hard to convince him that responding to clients more promptly would enhance his reputation and his livelihood. The ABCD proved to the client and the public that the profession cares about the quality of all its members' work.

Sometimes the complaints are more serious. Insurance regulators are looking more closely at the role of actuaries who have worked for failed insurers. Regulators are asking if company actuaries recommend adequate reserves to management, and if consultants provide overoptimistic interest rate assumptions to companies that shop around for opinions. The ABCD's work demonstrates to regulators and the public that the profession is policing its own members.

Of course, the professional world is an increasingly hazardous place. Clients often disagree with their actuaries, and there's always the threat of litigation. And some think that actuaries have those deep pockets that make them prime targets. So we have to be careful. We need to keep our business practices above reproach, take on only those projects we're qualified for, according to the qualification standards, and follow standards of practice in choosing our assumptions. The best kind of litigation is the litigation you avoid.

Sometimes, however, staying out of court is not an option. Some appearances can even be lucrative. Actuaries are often called on to give expert testimony in civil suits. Actuaries who take the role of expert, however, should never advocate clients' positions at the expense of objectivity. Experts must be professionals first. One case, a divorce trial, led to a dispute between the actuaries involved. The bone of contention was the value of the spouse's pension plan. The actuaries disagreed about the plan's worth, and one of them thought the other's assumptions were so unreasonable that he complained to the ABCD. Such disputes between actuaries are not that uncommon. The ABCD appoints ombudsmen to resolve purely business-related conflicts. In this case, the ABCD investigation revealed no wrongdoing, merely disagreement, so the case was dropped.

Indeed, most ABCD cases do not go any further than the investigation stage, and those that do are usually resolved through informal counseling. However, some do require a formal hearing. Such hearings, like all the ABCD's work, are confidential, and are run according to the ABCD's rules of procedure. The rules have been designed to safeguard the actuary's right to due process every step of the way.

But, every profession has a few bad apples. Some violations just can't be counseled away. For more serious offenses, the ABCD can recommend public discipline, reprimand, suspension, or the actuary's expulsion from the member organizations. But this step is taken only after other measures have been considered, sort of as a last resort.

I hope these few minutes have given you a better insight into the ABCD. Remember, it works for the good of the entire profession, and its success depends on you—actuaries who recognize that we all benefit from high professional standards. I urge you to cooperate with the ABCD whenever possible. One way to participate is to seek guidance for yourself. Another is to encourage your colleagues whose practices seem outside the bounds of standards to come to the ABCD for help. That might be the smartest thing they ever did. While guidance from the ABCD might not be a day at the beach, it's much less painful than many other important parts of our lives (narrator shown sitting in dentist's chair). As a matter of fact, I'd rather be talking to the ABCD right now.

MR. WATSON: Well, that gives a clear, though succinct, view of how the ABCD operates.

Now let's discuss the case study described in Appendix A. Although the language may be lighthearted, the issues raised are serious. I want to begin by opening the discussion to the audience. I'll ask you to identify, and discuss, any professionalism issues you might see as being involved, and we will then get commentary from the panelists. At the end, our panel will sum up their view of the significant questions. Who sees a professionalism issue—conduct, qualifications, or practice—involved here? Mo Chambers, even though you're from Canada, do you see anything?

MR. MORRIS W. CHAMBERS: Yes. I'm probably not the proper person to discuss it because one of the first items I identified was that Ms. Heartbeat had, prior to receiving her fellowship, signed a financial statement for the company. In Canada, where I come from,

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that in itself would be a transgression. I'm not sure whether it is in the U.S., and therefore I must disqualify myself, at least in respect of this issue.

MR. WATSON: Does someone want to comment on this, within the U.S. context?

MR. TOM BAKOS: Based also on a quick review, it seems to me that the case was well constructed to include a lot of transgressions. So it's hard to focus on one, but generally, it seems to me that probably the only good thing Ophelia did was retire. And in my view, she probably should have stayed retired, because she appears to have taken on a task after retirement she wasn't qualified to do, and she didn't do it very well. In fact, she didn't do it at all. So, I believe there are some major issues here.

MR. WATSON: In what respect was she not qualified to do what she did?

MR. BAKOS: She took on an assignment to certify to a casualty company statement. She even recognized she wasn't qualified to do that, so she hired somebody to help her do it. Accepting an assignment you know you aren't qualified to do is a major issue.

MR. WATSON: Did she excuse her transgression, or cover herself, by hiring that student?

MR. BAKOS: Not if she was intending to sign the statement. I assume that the individual who does the signing needs to be competent to sign. Otherwise, she should have the person who was doing the work do the signing.

MR. WATSON: Bob Likins, qualifications are your special concern. What do you think?

MR. ROBERT B. LIKINS: I agree with Tom 100%. Will N. Tenshend's qualifications, whatever they were, do not seem adequate for him to accept the assignment on his own, and certainly did not give Ophelia Heartbeat adequate qualifications. So even the combination of the two were inadequate for the assignment, from a qualifications standards point of view.

MR. BAKOS: I have a question, largely about Will. I agree that, in this situation, Will would not have been qualified to sign the statement. Therefore, the arrangement couldn't have worked, no matter what, even if Ophelia had devoted the time and energy necessary to do the work. She wasn't qualified, and neither was Will, so the project was doomed from the beginning.

MR. WATSON: You said, or implied, that neither was qualified to do the work.

MR. BAKOS: I'm sorry, I meant they weren't qualified to make the certification.

MR. WATSON: The end product, yes. But was Will qualified to do what he did?

MR. BAKOS: I don't know him well enough. I think the intention was to imply that he was qualified to do the work.

MR. WATSON: Do you see any other problems?

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MR. WALTER S. RUGLAND: I'm only up to page three. The actuarial student is, I believe, not qualified to do this work. The qualification, I believe, for working on a casualty annual statement is Associateship, and he is not an associate; that, I believe, requires seven exams.

Another concern. This is a purchased opinion. There's a bonus involved that says, "if you do this work for us, we'll give you more than your normal fees." This raises questions to me. A second issue is that there was no concern about whether the data were appropriate for the analysis. I think the real issue is that there was apparently no consideration given to the effect of the recent developments. There was also no contact with the prior actuary, which there should have been, given the situation described in which there is a crisis and an opinion is needed quickly. Ophelia should have recognized right away that there was probably a problem with the prior actuary and she ought to have checked it out.

MR. WATSON: And that was something that she should have recognized, even aside from the qualifications question.

MR. RUGLAND: Correct, I believe so.

MR. WATSON: You said earlier that Will was not qualified to work on the statement. Is that really true?

MR. RUGLAND: Well, I believe that she is relying on his work to justify the qualification.

MR. WATSON: In other words, provide the expertise.

MR. RUGLAND: That she doesn't have? To me this means essentially that he should be able to sign the statement, or if she wants to sign it and she's relying totally on him, he should have the same degree of expertise.

MR. WATSON: Any other comments on this?

MR. CHAMBERS: I have some passing familiarity with the situation in Canada. In approaching this assignment with the casualty company, one of the first mistakes that Ophelia makes arises when Mr. Tooleigh told her that Tooleigh Casualty Company (TCC) had a falling out with its prior actuary. The very first thing that she should do, before considering accepting the appointment, is to find out what the problem was all about by going to the prior actuary. She has failed to do even that.

FROM THE FLOOR: Let's ignore all the other issues, and consider the one issue that involves accepting an assignment on short notice. Can we get an opinion from the ABCD members present about how you would counsel an actuary in such a situation?

MR. CROWDER: This is a real situation. We've seen something very similar at least one or two times. As several of you have identified, there are a number of warning signs in this assignment: the late date that you're given it; the falling out with the prior actuary; the double fee offered; and the suspicious nature of the whole activity connected with trying to do it in such a rush. I think the advice we would give if we were asked about this would be to investigate each of these aspects of the case, and not just with the proposed client, and

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try to get some resolution and some understanding of what these matters entail. Very definitely talk to the other actuary. There's a clear violation in signing an opinion when you did not look at the prior work. The opinion requires you to say something to the effect that the work is consistent with the prior year's opinion, and she has perjured herself on that count. I believe it is in the nature of best casualty practice to become familiar with the company and its operations. That involves understanding the underwriting process, the claims process, how the reserves are set, and many other things you can only learn from the management or the prior actuary, and he or she could tell you whether or not there were certain hidden things that might be involved. This assignment may be, in fact, underpriced at two times the normal fee. Some hazard premium is required. Whether it's an extra one times normal or four times normal is the issue.

MR. WATSON: I assume you're not saying the extra fee is charged just for comfort but to resolve concerns enough so you have comfort, and it might take five times the normal work.

MR. CROWDER: Yes, that's very true. But even with five times the amount of work, you might want to first inquire whether this is a shopped opinion. In other words, the company wants a result that will yield a surplus position. As you see in the case study, there is, in fact, a \$6 million swing from a \$1.5 million surplus to a deficit. So, it's a defunct company. In that case there may be no price that will be right, and it would be better, for your own peace of mind, though maybe not your revenue statement, to avoid this assignment. She apparently did not consider these issues adequately, based on the circumstances that are stated.

MR. WATSON: More comments? I'm still rather puzzled by the assertion that Will N. Tenshend, as a student with qualifications below the associateship level, shouldn't even have been working on this. Do people agree with that?

MR. RUGLAND: That's not what I meant. My belief is that Will could not be relied upon because he's not qualified. That does not mean that he shouldn't work under supervision.

MR. WATSON: I agree with that. Sorry for the misunderstanding.

MR. CHAMBERS: I have one further comment that just occurred to me. There's an impression given here that perhaps both Will and Ophelia found themselves in this unhappy situation through bad luck, such as the ice storm that led to the significant drain on surplus in the last period of the year. Even if there hadn't been an ice storm, I think there would still have been a problem. Presuming that a satisfactory assumption of experience for the final portion of the year would simply be an extrapolation of the experience of the first portion of the year, without any consideration of prior company experience is, in my view, simply unacceptable.

MR. WATSON: What do the standards of practice have to say about this, Dick Robertson?

MR. RICHARD S. ROBERTSON: I was able to find at least three standards of practice that were not properly followed here. When I first read this case, I thought it was rather basic. Surely we didn't write an ASOP that says that even if you have fourth-quarter data, you could use data as of the start of the fourth quarter. But it turns out we did. *ASOP 23*,

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on data quality, says that the actuary should select the data with due consideration of appropriateness for the intended purpose of the analysis, including whether the data are sufficiently current. I suppose there might be a difference of opinion as to whether third-quarter data was sufficiently current, if there was any more relevant data. Of course, the ice storm resolved that. I think I would agree with Mo when he said that, even absent the ice storm, there were issues here that needed to be addressed, and that probably the data used was not sufficiently current and could not be relied on for forming an opinion. That's one problem.

The second problem involves the subject of actuarial communications. I think, that, as a general practice, it is important for any actuarial communication to be clear enough that the user can understand any limitations on the report, and under what circumstances it may or may not be valid. It turns out that *ASOP 23*, on data quality speaks to that issue as well. It says that the actuary should include in the communication sufficient information so that users may be aware of material data limitations, known to the actuary, and their implications. Clearly, the draft opinion that was delivered just prior to the end of the year should have said that the opinion will have to be reviewed in light of year-end data. Moreover, in retrospect, it would have been helpful, if the client is aware of any unusual occurrence in the fourth quarter, to request that he or she report it to the actuary, as it may very well affect the opinion. That limitation should have been, and was not, communicated to the client.

I could not find an ASOP that directly addressed the third issue I identified. I think it arises out of the code of conduct. The issue is this: when you state that something is true, you have a responsibility to investigate and determine whether, in fact, your statement is correct. In this particular case, the actuarial opinion stated that the valuation was performed in a manner consistent with the valuation of the previous year-end. Ophelia had no basis for making that statement, and it was not true.

There are also a number of issues involving just good practice, and these, too, go back to the code of conduct, which basically requires that the actuary perform according to good actuarial practice. Norm Crowder mentioned the failure of the actuary to familiarize herself with the company's practices, like reserving practices, underwriting practices, and so on. It is normally good practice, in the process of forming an opinion, to pull out the previous year's opinion, find out what it had to say, look at the kinds of trends that were behind it and then see to what extent those have changed or are valid. Under the circumstances stated here, it should have been quite clear to the actuary that there are some things in the prior year's opinion that should have been looked at. I suspect there are probably some more things that were not done as they should have been done, but this certainly is a good start. Do any of you have any comments or further observations that affect the standards of practice?

MR. WATSON: Norm, the video referred to an actuary who never returned telephone calls. Ophelia was a follower of that practice and, with Mr. Tooleigh, she didn't even reply to faxes. I suppose that if she had received an e-mail message, she wouldn't have replied to that, either.

MR. CROWDER: That could well be true. It might surprise you all to know that about 20% of the complaints that we see have to do with this issue of failing to communicate on

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very necessary issues, or a lack of response to the client's inquiries. They just stonewall it. Sometimes it's an argument over fees. Sometimes it's just inattention. Responsiveness seems basic to a good relationship with your clients, whether your client is the president of your company, or whether it is a paying client, if you are a consultant. There are many of these incidents, and they often are a complication in the case even where there are underlying practice issues or qualification issues.

MR. WATSON: But Norm, Ophelia was very responsive to her client, even wishing him a Happy New Year. The only person she stiffed was the commissioner, and the actuary for the department.

MR. CROWDER: That's right.

MR. ROBERTSON: So it might be that the regulatory actuary would be the one that would raise the issue of noncooperation. And that is supposed to be the issue.

MR. WATSON: Well, does she have a responsibility to be responsive to someone that wasn't even her client? Like the commissioner?

MR. CROWDER: Oh, very definitely. After all, the ultimate client is the regulator who's going to review and approve the statement. And I would think the client would tell the actuary to make this problem go away. The problem was, I think, Ophelia didn't have any rabbits in the hat that she could use to make it go away.

MR. WATSON: It struck me as interesting that Ophelia really was quite indifferent to the problem about getting updated data. The person who immediately started to produce this, without, as I gather, any pushing from Ophelia, was Mr. Tooleigh, who asked for the information to be produced immediately, and forwarded it right to her. I mean, he at least recognized the problem. Does that make Ophelia more responsible, or would that have any bearing on this issue?

MR. CROWDER: I think you could read it two ways. Maybe Tooleigh waited until he had the opinion in hand before he bothered to look. So you could read in a sinister motive in that once he had the opinion, then he wanted to know the real truth. Or, it could be viewed the other way around; he knew better, even though he was apparently not an actuary. He knew that you should be using year-end data. He also, obviously, knew about the ice storm. When we were preparing for this session, I asked how could anybody have failed to know about the ice storm? Ophelia could be from the other side of the country and not have known there was an ice storm. Even that was clearly a warning sign, and it's more than appalling that she did not even inquire about whether there had been some unusual circumstances since the latest data. She was apparently oblivious to the possible problem.

MR. ROBERTSON: She's a life actuary. Life actuaries don't care if there's an ice storm on Christmas. That doesn't affect our statements.

MR. KENNETH W. HARTWELL: That's part of the problem.

MR. LIKINS: Actually, the fact that she was a life actuary points to one of the basic problems, which several of you have identified in your comments already. She was not

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qualified to do this work. The qualifications standards, as set out in Document 043 which appears in Volume Two of the ASB binders, state that three types of requirement must be met for a person to be qualified. This relates particularly to the making of public statements of actuarial opinion, which certainly include annual statement opinions. Those three requirements lie in the areas of basic education, continuing education, and experience. Ophelia, and for that matter Will, did not have the necessary basic education to issue casualty opinions. They apparently did not have sufficient continuing education—at least it was not indicated in our case—and they didn't have the experience. So they really failed on all three counts of the requirements to be qualified to give a public statement of actuarial opinion with respect to casualty insurance, and especially so for an annual statement opinion, which may be seen as the highest level of opinion that we are asked for, as actuaries.

MR. TURNQUIST: I'm curious how she dealt with the need to state in the opinion that she's a Fellow of the CAS, or the equivalent. How could the regulators accept the opinion, when she couldn't state this?

MR. LIKINS: Interestingly, the case description doesn't go into that. The regulatory actuary might have been asking her about that, which would help to explain why she was stammering on the telephone.

MR. CROWDER: She probably didn't read the instructions, Jack.

MR. TURNQUIST: Then is the state actuary guilty of accepting an opinion which doesn't conform to the requirements?

MR. WATSON: He hadn't accepted it, I believe.

MR. LIKINS: That raises an interesting point, though. I would suspect there are a great deal of public statements of actuarial opinion that are sent from actuaries to regulators that get piled someplace or filed someplace, and never are reviewed. If they were reviewed and deficiencies were brought to our attention more frequently, we would probably be much more sensitive to these kinds of issues.

MR. WATSON: Well, anything else? Ken Hartwell, you've been very quiet so far. Is there anything here that you identify as an issue? One of your particular concerns at the moment is peer review. Does this case raise peer review problems?

MR. HARTWELL: Yes, I think there are many problems. You said I've been quiet, but that's because you didn't ask me any questions. I did prepare some remarks about peer review (a peer review section appears as Appendix B). Many would expect one to start with a definition of peer review, but I'm not going into that minefield. There are just two distinctions that I'd like to make as to type of peer review: prerelease and postrelease. It seems to me that Ophelia was so busy composing her Happy New Year message that she didn't do any prerelease peer review at all. She only checked the spelling mistakes afterwards.

But I think some background to Appendix B would be in order. In 1994, the Council on Professionalism asked my committee to prepare a report on peer review, and a subgroup of the Professional Responsibility Committee spent a great deal of time and effort on this. In

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due course, Tom Custis, who really deserves many thanks as leader of the subgroup, presented a draft report to the full committee for discussion. After we had made a few fairly minor suggestions, the report was submitted to the Council, just a few weeks ago. So this is a very new document.

As I considered the circumstances of this case study, I would suggest that even some rudimentary peer review would have helped Ms. Heartbeat to avoid some of the worst aspects of the situation in which she found herself. As you can see, she failed to follow most of the suggestions set out on page one of Appendix B. For example, she did not allow time for peer review in her work plan, and she did not seek out a second opinion review outside her firm. Obviously, that was very important, given the whole qualifications issue. Furthermore, she did not have Will N. Tenshend understand that peer review is an important step to be completed before a project is finished. In our view, peer review, properly executed, invariably results in a better work product.

Now please look at the table in Appendix B. Line four of the table calls for, in these circumstances, at least a prerelease peer review of the procedures, as opposed to just checking the spelling, and even that was done after release. I would also suggest that the prerelease peer review might have been conducted almost entirely by someone outside the firm, as referred to in Appendix B. Even solo practitioners who are protective of their client relationships can go to retired actuaries, or people from a local college who have experience in that field. On a lighthearted note, I would remind you that Ms. Heartbeat had been offered twice her usual rate, and so she could afford to bring in somebody else.

Please read Appendix B. There is a great deal there that is worth thinking about, whether or not you currently have an organized peer review program in your organization. If you do, it might be checked out against some of the points made in the Appendix. And if you don't, please think about instituting such a peer review program. Appendix B makes some powerful points about the benefits of peer review, including educational benefits, which in this case, would have been of inestimable value to the leading figure in the little drama. If she was able to get Mr. H. G. Wells to make his time machine available and relive this episode in her life, she would have instituted some organized approach to peer review, and avoided some of her trouble. Perhaps she would not have taken on the work from her previous employer without ensuring that the casualty client would still receive the proper attention. To conclude, I would emphasize that the primary focus of peer review is the positive goal of producing a better work product, rather than the negative goal of avoiding getting into trouble with the ABCD.

MR. WATSON: Ken, I see from the report that your committee is submitting, that you are not proposing the introduction of any particular form of peer review. The report discusses the various types, and what various firms might want to do, without implying the imposition of any sort of peer review.

MR. HARTWELL: That's absolutely correct. There's nothing prescriptive. It's meant to be educational and make people aware of the benefits of peer review to the actuary and to the client or other users of the information.

MR. WATSON: With that in mind, does anyone have any comments on peer review?

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MR. BAKOS: Let's suppose that Ophelia had engaged someone named Barely Lookin to do a peer review. Barely reviewed the work and said, "It looks fine to me." How does that affect the responsibilities of Ophelia? Would Barely Lookin, who provided the peer review, be partly responsible for the obvious problems that existed in this situation? In other words, what kind of professional responsibility does a person providing a peer review take on, and to whom are they responsible? Would this be a matter for the ABCD?

MR. WATSON: It's certainly a question that could be asked of the ABCD. Would Mr. Crowder care to comment on this?

MR. CROWDER: Well, speaking as an individual, and not as a member of the ABCD, the peer reviewer certainly assumes a good share of responsibility here. If Barely did such a shoddy piece of work, he or she is in trouble, at least with respect to not identifying some of the practice issues that we have talked about already. And whether or not Barely was paid an insufficient fee for the peer review, or no fee at all, has no bearing at all on the issue. We have a responsibility to produce an accomplished and proper piece of work regardless of how much or whether we're paid. This is not a generally accepted opinion among a large number of small plan practitioners in the pension field, and also some small life consultants. They feel that, when the money runs out, their responsibility ends. I think that many of us would take serious issue with that. However, the client, Tooleigh, may not even know about the peer review, and so Barely may not have any apparent liability or relationship that is affected.

I think the ABCD would look seriously at the entire picture. It might have a less severe set of quarrels with Barely than with Ophelia, but they're of the same general breadth. For example, the fact that the insurance department quarreled with the opinion and is starting to ask questions might not involve Barely. The other basic practice issues are still there, and Barely has obviously failed to look closely enough to pick up any of those. You have to wonder if Ophelia failed to ask the right questions about Barely's qualifications, and made a mistake by being "too quick," as you posed it.

MR. WATSON: The questions about Barely's performance would relate to practice issues. They would not necessarily relate to Ophelia's own qualification problems. Or should Barely raise a question about that as well?

MR. CROWDER: Conceivably, Barely should take on some responsibility to the profession and to say to Ophelia that she's not qualified to do the work. If she replies, "Oh, well don't worry about it," a good case could be made that Barely should bring this matter to the attention of the ABCD identifying Ophelia as a person who is not qualified to carry out her assignment and who has made some serious practice mistakes. I think the regulatory actuary also has a responsibility to call into question the practices that have gone on, and if he knows about Barely and what he has done, he should question Barely's performance.

MR. ROBERTSON: I think you can easily come to the conclusion that, if an actuary does not have the basic qualifications to issue an opinion, that lack cannot be removed by a review, unless the reviewer assumes responsibility for the opinion. But let me look at a more debatable issue, and perhaps we've got a good case in point here: namely, the question of whether Ophelia was, time pressures aside, qualified to take on her second assignment, the Enormous Life Insurance Company statement. Now, clearly she meets the basic educational requirements, as it is a job that she has done before. It is not clear,

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however, whether she has met the continuing education requirements, although I think, given the facts, there's a significant likelihood she has not. But let's suppose, for the sake of discussion, that she has. Let's say she's still rusty though and needs to do some things to get her qualifications back in line to do the job. Could a peer review help with that aspect of the qualifications? Maybe I should be asking Bob Likins about this, as it's a qualifications issue.

MR. LIKINS: Dick, I think a peer review could be helpful. As I understand it, she was away from annual statement work for about three years; she did it in 1990 and now is picking up an annual statement review in 1993 or 1994. She obviously meets the basic education requirements; once you have met them, you're not going to lose credit for them. If we assume that she meets the continuing education requirements, though we don't believe she does based on the facts of the case, then that could well be enough to keep her experience recent and relevant, even though she hadn't worked in the area in the last few years. Some areas of practice might be changing quickly, and you may need to be more involved in the actual work. For annual statement work, though, if she was doing something like reviewing life reserves, and there hadn't been any great changes, her continuing education activities could well carry her, and she might be deemed qualified to give the annual statement opinion being called for here.

MR. HARTWELL: If I could make one quick comment on what Dick said, I hope everyone realizes that in my remarks, I wasn't trying to say that peer review would have solved everything, I was deliberately trying to stay away from the qualifications and standards issues.

MR. MICHAEL E. MATEJA: I would agree with Dick's apparent belief that the life company workload question would probably not involve a professionalism issue. The market mechanisms will ultimately take care of Ophelia, in that she's obviously not a qualified businesswoman by reason of her inability to manage the workload. If she continued on in this manner, she would no longer be a practicing consultant. You can't take on more work than you're capable of delivering within an allotted time frame, and that's a matter of basic business practice, as opposed to professional practice. Certainly you can't take on work and then opine that you have done it, and not do it. To me, that's a travesty, and I would expect that the ABCD and the whole profession would come down pretty hard on Ophelia in that regard.

On another issue, this whole discussion about peer review is quite timely, because my presence here is part of an effort on my part to upgrade professionalism in the small consulting practice we have at Chalke. We work very hard there; everybody's basically working flat out. I have the dubious distinction of being the chief actuary of the firm, and as such, I'm responsible for professional standards and professionalism of the organization. It's something that I have not yet really devoted much attention to. But that's all to be corrected in the coming fiscal year.

The practical problems of peer review in an organization like ours are overwhelming. I hardly know where to start. When I get called upon to provide a review, they say, "OK, Mike, we're ready." But the report is already in the drafting stage, and I have to try to get caught up and put the whole perspective of the project on the table and understand whether we've done the job. I would be interested in any observations, either from the panel or others in attendance, as to how they really deal with recognizing the financial implications

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of professional review from the standpoint of passing costs on to clients. From my perspective, as I've gotten into some of the jobs, I could only see myself doing a truly responsible job by almost matching, stride for stride, one of my peers, who has labored through the guts of the problem and attempted to organize the response. Certainly I can sit and listen to all of the analysis that has preceded me, and accept that to a certain extent. But to truly get in and do peer review, at the level that I think some of this would warrant, is a daunting task. I'm here to find out what I can about the problem.

MR. WATSON: That's an excellent question, Mike. Jack Turnquist, you've done this before.

MR. TURNQUIST: I'd like to talk about my prior position as professional standards officer for a large consulting firm. Basically what you need is a formal program. In our case, for example, any high-profile project required peer review before a report could be released. We even terminated principals of the firm for failure to follow that rule. You must be that strict. You must avoid the situation where a report is due tomorrow but peer review is needed. When the assignment is accepted, you log it in and you schedule with the professional standards officer when peer review will start. It may take place several times during the process. I'll have one final observation on the questions raised. Cost would be passed on. However, if, in fact, it could not be recovered, that was no excuse for not doing the peer review. It just wouldn't be charged.

MR. WATSON: Jack, when you were with a large firm, you could have that sort of formalized structure. What's the situation for a small firm? Now you represent the epitome of the small firm, in that you're a solo practitioner. How do you handle peer review now?

MR. TURNQUIST: In the cases I've been involved with, which are primarily in the litigation area, there are other actuaries involved on the same side. This gives you the luxury of reviewing what you're doing with someone knowledgeable in the same area. Basically I would not do something, if I had to do it without any review. I just wouldn't accept the assignment.

MR. WATSON: Ken Hartwell alluded to a possible conflict of financial interests with the person who was doing the peer review. If you have to get peer review, would you go to a retired actuary, or an academic, as he suggested?

MR. TURNQUIST: It really depends upon the particular situation. I think you could always find someone you would be comfortable with, and someone you didn't have to worry would steal your client. I think that's an overblown concern.

FROM THE FLOOR: What about the responsibility, both professional and legal liability, of the reviewer? It seems to me that if the reviewer doesn't do an adequate job and trouble arises, there is some responsibility that gets passed on. How do you, as the reviewer, control that situation?

MR. TURNQUIST: I don't know that I can control it, but certainly, if I agree to review someone's work, I'm taking that as an assignment, and I have the same obligation to that actuary that I would have if I was doing it directly for the client. At least, that's the way I

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would view it. If I do a poor job, I should be as liable to that actuary, and ultimately to the ABCD, as in any other situation.

FROM THE FLOOR: So you would follow the same guidelines in accepting a review assignment?

MR. TURNQUIST: Yes, but I regard this now as an actuarial assignment.

FROM THE FLOOR: Would you have a letter of assignment, outlining the scope of what review was needed?

MR. TURNQUIST: Right, and I would render an opinion.

FROM THE FLOOR: And your opinion would be an actuarial opinion, subject to all the normal professional constraints?

MR. TURNQUIST: Correct.

MR. GARY CORBETT: Doesn't all this mean that retired actuaries can't be reviewers because they don't generally have any professional liability insurance unless they're an associate of a firm? I don't see how a person could accept exposure to the risks of a review situation without professional liability insurance.

MR. WATSON: You're talking about the problem of the reviewer, not of the actuary who asks him to do it.

MR. CORBETT: Yes.

MR. BAKOS: I have a question about peer review. The discussion that has occurred so far has seemed to involve the review of one individual actuary's work by another individual actuary. But is there ever a situation where it is appropriate or wise to apply peer review to the overall work of a group of actuaries, let's say, a small consulting firm, which may develop ingrained habits, or the actuarial division of a life insurance company?

MR. HARTWELL: Our committee's discussions brought out that some of the larger firms do this. They have reviews of their procedures in general. I'm reminded that accounting firms are required by either the American Institute of Certified Public Accountants (AICPA) or the Financial Accounting Standards Board (FASB), to have another firm come in from time to time to review their general procedures. So I would imagine there's some close analogies.

MR. CHAMBERS: I have a comment and a question. A recent case in Canada, which led to discipline of an actuary, involved peer review. In fact, there were three levels of peer review applied by the firm involved, and the discipline applied carried through those same three levels. At levels further removed from the actual act that was the transgression, the penalty was of course reduced. But there was still a penalty imposed two levels removed from the individual directly involved. My question rather follows on that. In the case of Ophelia, I think there's a general feeling that some pretty egregious transgressions have taken place. I'd be interested in hearing Norm speculate on how this case might flow through the discipline process, on the presumption that it goes to the ABCD as a complaint.

MR. CROWDER: I will take you through it. Let's first consider how this might emerge as a complaint. It could be the regulatory actuary or a nonactuary regulator who would bring the complaint. About a third of our complaints are received from nonactuaries, clients, regulators, and outside attorneys that are party to some issue. So these outsiders are aware of us, and they are trying to raise the issues. The other person that might easily bring this up is Mr. Tooleigh, because if he's in serious trouble with the department, which he obviously is, and if he has a company that is under water, he might very well bring a complaint saying he has been misled by his actuary. It must be noted, though, that some facts posited about the assignment would lead one to suspect that there might have been some malicious intent on Mr. Tooleigh's part. In any event, the complaint comes to us. The first step in the process is that the staff would try to gather some basic information (reports, materials) that are readily available from the complainant or perhaps, in this case, from the client company. When they have a basic amount of that material, they would submit it to the chairperson and the two vice chairs of the ABCD. We do a quick review to decide whether the issue has merit. In about a third of the cases, we can dismiss it as being without merit. Perhaps it's not a substantial matter—sometimes it's more of a competitive or a product issue, or it doesn't really have to do with standards of practice, or qualification or the code of conduct. But let's assume that, in this case, based on the material readily available, we could say that it looks like there's something here.

The next step would require me, as the Chairperson, to start looking for an investigator. The first issue is to find somebody who's qualified. Who knows this area of practice? Who knows about automobile coverage? Who does reserve opinions? Who is familiar with the issue raised by geographic proximity to the client company? And I go around until I find some poor soul who doesn't say no. As a matter of fact, I've only had two turndowns by people who refused to take an assignment as an investigator, where there was not a conflict of interest, which occurs when they know the person to be investigated. (We do not reveal the name of that person until we have established the qualifications and general willingness of the investigator.) Some 50 Chairpeople have stepped up to the plate and done very good jobs, or at least average jobs. We have a little peer review problem at times with investigators. In any event, we find an investigator. We arm him or her with all the information that we have received. We notify the subject actuary; we tell Ophelia that so-and-so is looking into the matter. We suggest that the investigator go to see Mr. Trueblue, the regulator. They have, at their disposal, the help of the Academy staff, not only on legal issues, but in terms of advice on how to get things done. If they need help in the investigation, we'll recruit additional people.

As soon as the investigators feel that all the issues have been looked at adequately, they draft a report for us which summarizes the findings on the issues. Sometimes they will uncover more issues and more problems as the case is looked into than were originally apparent. If there was a peer reviewer who rubber-stamped the work, this issue would probably surface during the course of the investigation. They're going to look at the work papers; and they will obviously jump on issues such as the use of October 31 data. And they will try to lay out all of the issues. In the case we've posited here, we have qualification matters, and we have obvious violations of standards of practice and codes of conduct.

And maybe I'll just stop for a minute on those and tell you the ones that occur to me. In order of importance, first I think is precept three, which says you only do work when you're qualified to do so, and we would cite chapter and verse on that. Second is the failure to meet standards of practice, which is covered under precept four. And then we go back to

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the motherhood issue set out in precept two, the responsibility to perform work with integrity, skill, and care.

Once we feel the investigative report is complete and understandable, it is finalized and submitted to the entire Board, which deliberates about what to do. This is the first time the full nine-member ABCD has seen it. Our discussion would be based on the report. We could decide to dismiss the complaint; perhaps to counsel the actuary, because we'd found some things that were not satisfactory, but probably were not sufficiently bad to warrant going to a hearing; or to have a hearing.

In the case under consideration, I would suspect we would conclude there are enough matters of substance to justify a hearing, so we can talk to the subject actuary and find out why she did some of the things she did, and the extent to which she understood how far off base she was on these matters. We would draw up a specific set of charges enumerating the major areas of violation and send that to the subject actuary. We'd give her something like 45 days' notice to appear. She has the option to bring counsel, or to be represented entirely by counsel and not even show up, which has happened once or twice.

We would then prepare for the hearing. At the hearing, we would have the investigator appear so that the Board and the subject actuary could ask questions. I should say, by the way, that the subject actuary would have seen the investigator's report and all the materials that we have had access to, so that he or she is fully informed as to the information on which our decision was based. The actuary has an opportunity to comment in writing before the hearing, which is normally done, but then we go back over all the issues at the hearing, and the subject actuary gets an opportunity to discuss his or her reasoning and methods and to question the investigator. The Board can ask questions of all the individuals involved, and then will decide whether to deliberate.

In the 200 or so cases we have considered, we have so far made only three decisions to recommend a form of public discipline. Remember, we're an investigative body. The D for Discipline in our name is really incorrect; it might be better called the Actuarial Board for Counseling and Investigation. We make recommendations to the SOA or the CAS. We send a full transcript of our hearing, all of the report materials, including the investigator's report, and everything that has been gathered. In fact, it is the Discipline Committee of each of the actuarial organizations that Ophelia belongs to that will decide what is to be done. So far, the recommendations that we have made have been accepted, with minor variations. This is not a refusal to take the same general action, but maybe some nuances could be applied that would put their own spin on it. This whole process can take upwards of a year, depending on how much complication there is. After all, we're using volunteers. They are, by the way, covered by the liability insurance of the AAA, which also covers the ABCD and all of its staff and volunteers.

That's the way the process would go. If this was the reasonable statement of circumstances of an actual case, I think the recommendation would be for public discipline. In fact, this is a compilation of a number of different problems that we have seen, all piled into one case. Poor Ophelia has really been painted in black.

FROM THE FLOOR: Norm, there's another person involved here, Will N. Tenshend. What would you have done with him?

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MR. CROWDER: I've thought carefully about this one. Will N. Tenshend is an interesting case. He is not yet a member of the CAS, because you have to have passed seven exams to be an associate/member. However, my understanding is that, as a student of the CAS and taking exams, he pledges some allegiance to the standards of the CAS. I think it would not be a matter for the ABCD to investigate, but we would suggest that the CAS Discipline Committee consider it. We probably would give them all the material we have collected, and they could then look into the issues. I know that the SOA has disciplined a few students who were not yet members. I believe most of the situations involved exam violations, but I think that's the way it would be handled. Is that your understanding, Dick?

MR. ROBERTSON: I haven't seen a case that fits the issues posed by Mr. Tenshend, and so I can't say for sure what I'd recommend. The first thing I'd do is call the SOA's attorney and ask for advice as to what is and is not appropriate.

MR. WATSON: Of course, he is not accused of violating any exam conditions.

MR. ROBERTSON: In any event, the question is, "To what extent should Mr. Tenshend be subject to discipline and counseling?" He has done a couple of things inappropriately, although I think the most serious thing he has done is to take work from somebody who is not qualified to properly supervise him. But there are some things that he has done. Clearly, the failure to follow through is one. He was smart enough to know that they had to check year-end data, but he wasn't diligent enough to follow through on it, and that's an issue. He also is the person that did not bother to contact the company's prior actuary, but simply assumed the philosophy was developed in a consistent manner.

MR. WATSON: Of course, he's not the one who should have made that assumption.

MR. ROBERTSON: But he didn't sign the statement.

MR. WATSON: True.

MR. ROBERTSON: My personal view is that he needs a little counseling, but probably not more than that.

MR. CROWDER: I would agree.

MR. WATSON: I believe that we've had an interesting time here. I think there's little doubt that Ophelia Heartbeat is going to have a nervous condition again.

MR. ROBERTSON: I think her retirement is about to be reinstated.

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APPENDIX A
AMERICAN ACADEMY OF ACTUARIES
COUNCIL ON PROFESSIONALISM PRESENTATION
CASE STUDY

Ophelia Heartbeat, FSA, MAAA, worked as the senior actuary at Enormous Life Company (ELC) from 1980 to 1990, where she had primary responsibility for all the operations of ELC's Actuarial Department, including production and filing of annual statement opinions. Five years before that she worked in the same area doing essentially the same work, including signing the annual statement opinion since 1978. Ms. Heartbeat completed her Fellowship exams in 1980.

In January 1991, Ms. Heartbeat was promoted to vice president of ELC. She occasionally reviewed other actuaries' work after her promotion, but Ms. Heartbeat ceased to perform actuarial work herself.

In December 1993, Ms. Heartbeat was diagnosed with a chronic nervous condition, and was ordered by her doctor to take early retirement. The severance package and pension benefits that Ms. Heartbeat received from ELC were not sufficient to support the lifestyle to which she had become accustomed. To supplement her income, Ms. Heartbeat opened an actuarial consulting practice, Heartbeat Actuarial, Unlimited (HAU), out of her home in the State of Bliss.

Consulting opportunities began coming in, but many of them called for Ms. Heartbeat to work in areas of practice with which she was unfamiliar. To supplement the expertise in her office, Ms. Heartbeat hired an actuarial student, Will N. Tenshend, to work 20 hours a week for HAU. Mr. Tenshend was a casualty student, and had passed the first five exams offered by the CAS.

On December 15, 1994, Ms. Heartbeat received a call from Mr. Ready Tooleigh, President of the Tooleigh Casualty Co. (TCC), a small casualty insurance company writing automobile insurance in the State of Euphoria. Mr. Tooleigh told Ms. Heartbeat that TCC had a "falling out" with its prior actuary, and asked if HAU would be willing to provide an annual statement opinion for TCC for 1994. "Given that we're asking for the opinion on such short notice," Mr. Tooleigh said, "we'd be happy to pay twice your usual rate for this opinion." Ms. Heartbeat promised that HAU would provide TCC with a draft opinion "in time for you to toast in the New Year." Mr. Tooleigh agreed to provide Ms. Heartbeat with all the necessary data within three days' time. On December 20, 1994, Mr. Tooleigh's packet of data arrived at Ms. Heartbeat's office. Recognizing that her qualifications to provide a casualty opinion were limited, Ms. Heartbeat assigned the task of preparing the first draft of the opinion to Mr. Tenshend.

Mr. Tenshend discovered that the claim counts and other data provided by Mr. Tooleigh were only for the period January 1, 1994–October 31, 1994. Mr. Tenshend made a note to the file to obtain year-end data from Mr. Tooleigh. However, because Ms. Heartbeat had promised Mr. Tooleigh a draft opinion by January 1, 1995, Mr. Tenshend decided not to wait for the year-end data to begin work. Rather, he projected out earned premium, assumed loss ratio and estimated unreported claims to year-end based on the data Mr. Tooleigh had provided. Mr. Tenshend assumed a loss ratio of 65%, and an estimated unreported percentage of 20%. Mr. Tenshend also concluded that, because he had so little

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time to work, he would not bother to contact TCC's prior actuary, but would simply assume that the loss reserve opinion for 1993 had been developed in a manner that was generally consistent with Mr. Tenshend's work.

On December 23, 1994, the State of Euphoria was blanketed by a freak ice storm. Power lines were brought down throughout the state, putting traffic signals out of commission. As drivers struggled on the icy streets to gather with family and friends for the holidays, traffic accidents, and related injuries were 20 times worse than normal.

On December 30, 1994, Mr. Tenshend gave Ms. Heartbeat a draft of an unqualified opinion that showed TCC with a \$1.5 million surplus. Ms. Heartbeat stamped "Draft" on the first page, and faxed it to Mr. Tooleigh. The fax cover sheet had a handwritten note from Ms. Heartbeat that said, "Happy New Year!"

On January 2, 1995, Ms. Heartbeat reviewed Mr. Tenshend's draft opinion. She compared the draft to the NAIC instructions and recommended some changes to bring the draft into conformance with the NAIC's recommended format. She also reviewed Mr. Tenshend's draft memorandum, and corrected some spelling and grammatical errors. She noted that Mr. Tenshend had projected out assumptions based on October 31, 1994 data, and wrote on the cover of the draft, "Don't forget to follow through on the data." Later that afternoon, Ms. Heartbeat received a call from ELC's President, Yule B. Sari. Mr. Sari explained that ELC's appointed actuary had left ELC to join another company and asked if Ms. Heartbeat would accept the appointment for the 1994 year-end annual statement. Ms. Heartbeat readily accepted.

Cartons of data from ELC began arriving at HAU's office the following morning. Ms. Heartbeat and Mr. Tenshend were so busy working on the ELC annual statement that they both forgot to follow up on TCC's data until the day before TCC's opinion was due to be filed. "How far off could the data be?" Ms. Heartbeat rhetorically asked. She had Mr. Tenshend run a clean copy of the opinion and memorandum. Ms. Heartbeat signed them, and arranged for the opinion to be delivered to the State of Euphoria Department of Insurance by overnight delivery, with a copy of the opinion and the memorandum sent to Mr. Tooleigh by regular mail.

Three days later, when Mr. Tooleigh received Ms. Heartbeat's opinion and memorandum, he asked the claims department to run updated claims information for the period November 1, 1994– December 31, 1994. That data showed that reported claims were up 200%, and the claims department manager also informed Mr. Tooleigh that staff was "still digging out from under claims received as a result of the ice storm." Mr. Tooleigh faxed the new data to Ms. Heartbeat, who gave it to Mr. Tenshend. Using the same estimated premiums and an estimated unreported percentage of 35%, Mr. Tenshend concluded that, instead of a \$1.5 million surplus, TCC had a \$4.5 million deficit.

The same day, Ms. Heartbeat received a telephone call from Stu Trueblue, the chief actuary from the State of Euphoria Insurance Department. Mr. Trueblue noticed that Ms. Heartbeat's opinion for TCC was significantly different from the prior year's opinion, and that TCC appeared to be the only automobile insurer in the state that had not suffered heavy losses due to the December ice storm. "Yes, well, we've had a bit of a problem with data," Ms. Heartbeat stammered. "Let me get back to you in a day or two." She quickly hung up the phone.

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Three weeks later, Mr. Trueblue still had not heard from Ms. Heartbeat, despite several phone calls and two faxed letters requesting that she contact him. Angered by Ms. Heartbeat's failure to return his calls and faxes, Mr. Trueblue reported Ms. Heartbeat to the ABCD.

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APPENDIX B AMERICAN ACADEMY OF ACTUARIES COUNCIL ON PROFESSIONALISM PRESENTATION PEER REVIEW

Acknowledgment: The material summarized here is taken from a report made to the Council on Professionalism by the Academy's Professional Responsibility Committee. The report was substantially the work of a subgroup chaired by Tom Custis.

1. A key to a successful peer review program is "getting it done." Here are some thoughts.
 - a. Allow time in your work plan for peer review.
 - b. Make peer review a priority.
 - c. Make peer review a habit.
 - d. Make sure that all staff understand that peer review is an important step to be completed before a project is finished.
 - e. The use of forms and checklists may be helpful, particularly if work procedures and products tend to be similar from project to project.

2. A common problem for the small practice is what to do when there are no "peers" readily available? Here are some ideas:
 - a. An actuary in a small and isolated practice of a larger company may need to plan ahead to get review help from another location. Since this may necessitate the transmission of files and perhaps more discussion time to resolve questions, more time may need to be allowed.
 - b. Actuaries Online provides a nonthreatening, nonadversarial forum for asking questions, floating new ideas, or seeking guidance. Other services or another medium may provide similar opportunities.
 - c. The development and use of appropriate forms and checklists may be particularly valuable to the sole practitioner. For most routine projects, a "self-review" utilizing a comprehensive checklist may be nearly as helpful as a second-opinion review.
 - d. For nonroutine or particularly sensitive projects, a second opinion review can be especially important. The sole practitioner may wish to seek out (ahead of time) other knowledgeable professionals who can perform this function on an as-needed basis. Practitioners who are concerned or unable to reach a reasonable agreement with potentially competing individuals, might look for help among university professors or recently retired actuaries.

PRERELEASE PROJECT REVIEW

As its name implies, a prerelease project review amounts to checking of a work product before the product is passed on to the client (or user within the context of an insurance company). It is important to remember that the depth and breadth of the review will vary based on the nature, complexity, and potential business risk associated with a particular assignment, and on the availability of a qualified reviewer. Outlined below is a simple chart, constructed in a consulting context, that demonstrates a typical correlation between the intensity of review and the nature of the work product. A major consideration in interpreting how this chart may apply is to remember who the client is, identify not only

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the end user of the work product, but also how it will be used and the level of reliance that the user is expected to place on the work product.

	Nature of Assignment		Level of Review	
Level of Complexity	Simple letter with commentary (no conclusions).	1	Proofreading.	Level of Intensity of Review
	Straightforward calculation result to client.	2	Checking arithmetic.	
	Analysis, commentary, simple recommendation, or conclusion.	3	Second opinion read-over.	
	Substantial analysis or numerous calculations of routine nature—significant financial implications.	4	Prerelease peer review of procedures and report.	
	Report including analysis and conclusions of uncertain or nonroutine nature that has substantial financial implications.	5	Substantial concurrent peer review or parallel calculations and analysis.	

In general, the review is intended to assure the correctness of the results and the proper applicability of the work product to the issue being addressed, i.e., is the answer right *and* is it answering the right question? The qualified reviewer is also providing a second opinion on compliance issues (laws, regulations, professional standards), business risk issues (data reliance, limitation of use, appropriate caveats), and qualitative issues (thoroughness, clarity, proper methods, and assumptions). There may be instances where the qualified reviewer may not be an actuary.

POST-RELEASE PROJECT REVIEW

In some circumstances, it may not be feasible to conduct a thorough review of a work product before it is passed on to its user. This, however, does not necessarily preclude a post-release project review. The basic issues to be addressed are the same as the pre-release project review—was the work product correct and did it address the proper issues? This review is most beneficial if completed as soon as possible following release of the work product. It is not intended to be a second-guessing exercise undertaken after subsequent developments may have impacted the results of the work.

Although review of a project after its release may somewhat diminish the direct value of the review to the user of the work product, it often occurs that a more thorough (less hurried) review is possible, thereby having greater potential benefit to future projects.

POST-RELEASE PROCEDURAL REVIEW

A procedural review is generally performed by a senior actuary (or perhaps another professional) from another office, department, or company. The procedural review typically has a somewhat different focus than the project review. The emphasis is not so

much on the quality of a specific work product, but rather on the work *procedures* which are used by the practitioner to produce and assure a quality work product.

BENEFITS OF PEER REVIEW TO THE USERS OF THE ACTUARY'S WORK

1. The first benefit is that properly executed peer review usually results in a better work product. A second opinion may identify a new perspective to be considered, a point of confusion that needs to be clarified, or a questionable assumption that should be disclosed, if not changed. Furthermore, the valuable insights of a second opinion tend to improve not only the specific work product being reviewed, but also the professional practices of the reviewed actuary when performing future work.
2. Users can have more confidence in the results reflected in a work product that has had the scrutiny of a second professional. This can be particularly valuable in cases where the recipient of the work product is using the results as a basis for making significant business decisions.

BENEFITS TO THE ACTUARY

1. The actuary can realize substantial professional growth through the peer review process, both as a reviewer and as a reviewee. A properly executed peer review program creates an exchange of ideas which might not otherwise occur. Furthermore, peer review can be a very effective educational process. Both the reviewee and the reviewer often learn a great deal by being exposed to new ideas and procedures.
2. The actuary can achieve a higher level of confidence in his or her work having had a second opinion. This can be particularly useful when pursuing work assignments in new or nonroutine areas. In a very real sense, it frees the actuary to be more innovative and creative, because he or she knows that another professional will be reviewing the work for correctness, reasonableness, and appropriateness. With the assurance that work will be appropriately reviewed, assignments can, in some instances, be given to less experienced actuaries than might be the case otherwise.
3. The knowledge that someone else will be looking at his or her work encourages an actuary to complete various work projects with even greater care and sensitivity than he or she might use otherwise.
4. The actuary, and the actuary's employer, can realize an enhanced reputation through the production of higher quality work products. Work products tend to be more complete, less narrowly focused, and more user-friendly through the peer review process.
5. In most cases, peer review can strengthen the actuary's position should his or her work be questioned or challenged. This is true whether the challenge may come from elsewhere in the company, as a professional inquiry, or as a potential malpractice claim.

COMMON CHARACTERISTICS OF EFFECTIVE PROGRAMS

Effective peer review programs have certain principles in common:

1. Effective programs are supported by strong commitment from top management. Adequate resources are made available to help ensure that peer review happens.

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Commitment is made in writing as part of corporate materials. Peer review becomes part of the corporate culture.

2. Effective programs are viewed by both reviewee and reviewer as positive, constructive exercises aimed at improving overall quality and professionalism, as opposed to some sort of police action based on intimidation and/or embarrassment.
3. Educational aspects are emphasized. Criticism, while a necessary part of the process, is constructive, not demeaning.
4. Open communication between the reviewee and the reviewer is encouraged to avoid misunderstandings or inappropriate findings.
5. Findings are to be treated with utmost confidentiality. As one company put it, "We want to clean up our act, but we don't want to air our dirty laundry."
6. The process is given adequate priority. If peer review is treated by reviewer or reviewee as having lower priority than other work, then it may not accomplish its objectives.
7. Feedback and follow-through are important. Effective programs push towards the objective of higher quality. They are not just "feel-good" exercises.

