

REPORT OF THE COMMITTEE ON PROFESSIONAL CONDUCT

(PRESENTED BY WILMER A. JENKINS, CHAIRMAN)

THE purpose of this report is to lay the groundwork for a discussion today as to what would go into a code of ethics, or a set of guides to professional conduct, if we were to adopt one for the Society. Before talking specifically about guides of this kind, I should report on the principal activities of the Committee on Professional Conduct.

At our Boston meeting in October 1954 the Board decided that the Society needed a standing committee in this field of endeavor. Previously there had been at various times one or two, more or less informal, special committees concerned with certain phases of professional conduct, but nothing formal or inclusive.

During the new committee's first year its main activity was to orient itself in the area of professional conduct in general, and among actuaries in particular. This was an area about which we were originally quite ignorant, and still do not know as much as we should like. The committee began gathering information as to what other professional organizations do in this matter. During that year the suggestion of a set of guides to professional conduct for the Society was heard from various actuaries on a number of occasions, but comments at that time were far from uniformly favorable. There was considerable difference of opinion. This suggestion of a code was debated by several regional or local actuarial groups. For example, an excellent discussion was had by the Canadian Association of Actuaries on March 8, 1955. Late in its first year the committee agreed that it could not reach a conclusion by talking in generalities about this idea of a set of guides. It seemed to us that the only way to further a decision would be to try to draft a set of guides. If we could do so, we would then be in a position to judge whether they showed promise of becoming useful.

A milestone in the work of our committee was Walter Klem's presidential address at our Montreal meeting in October 1955. Most of that fine address was devoted to the broad question of professional ethics, discussing especially the matter of codes in general and an actuarial code in particular. Mr. Klem listed the pros and cons of adopting a set of guides to professional conduct for the Society. I think that his address reflected the opinion of a large part of our membership at that time when it stated that he (Mr. Klem) was by no means convinced that it would be wise to spell out a code in detail. Certainly, that was the opinion of the

Committee on Professional Conduct at the time. We were not convinced that this action should be taken, but we were convinced—as I believe Mr. Klem was—that the question should be actively studied.

During its second year, 1955–56, the committee proceeded further to consider what, if anything, the Society should do, and to collect more information about other professional societies. As a result, our files now encompass copies of the codes of a number of organizations, including some which, because of the nature of the particular profession, are not especially helpful to us. But there are also some which should be reasonably suitable for the Society with a minimum of adaptation. Of course, you all know the extent to which doctors and lawyers have developed extensive rules, regulations, and elaborate procedures. Perhaps, however, your attention has not been directed to the degree to which other professions have moved in this matter. The fact is that practically every important profession about which the committee obtained data, including the British Institute of Actuaries, has adopted a code or set of guides, canons, regulations, or something of that kind. One code—that of the National Society of Professional Engineers—was especially interesting to the committee, because many of these engineers, like actuaries, are employees of corporations, rather than independent practitioners. Their problems are thus similar to ours. Clearly, the questions of professional conduct which will arise from time to time in the Society will be raised sometimes by company men and sometimes by consultants. Guides which apply to only one group or the other have not been considered and never should be. The Society needs professional conduct among all of its members. It is no coincidence, I suppose, that certain specific ideas about professional conduct appear in many codes. But I think that this is a significant fact. In the notice of this meeting there are listed thirteen items of this kind. In addition to these often-repeated items, there are, of course, other items. Some of these reflect conditions peculiar to the profession in question, but no doubt others arose simply from differing ideas as to what is right and what is wrong in professional conduct.

Early in 1956 the committee proceeded with the idea of drafting a set of guides—as I have said, mainly to see what they would look like. An excellent start was made in March 1956 by a subcommittee consisting of Dorrance Bronson, a consultant, and Henry Rood, a company actuary. Later in the year the committee discussed and revised several times the various provisions which had been drafted. But even so, our attempts were—and still are—imperfect. These attempts are not confidential but considerable study and revision is needed before they are fit for even

trial circulation. Consequently, copies have not yet been distributed. Naturally, this will be done if, and when, the committee is ready to recommend a set of guides for the Society. However, the important part of these proceedings heretofore, it seems to me, was not what the committee wrote and rewrote. The important development was that the more we thought about what actuaries should do and what they should not do—about what kinds of situations arise and how guides might act—the more the members of the committee became convinced that a set of guides for the Society was not only desirable but actually necessary.

It is interesting that during these same months in 1956 our then President, William Anderson, came to approximately the same conclusion as our committee did on the need for a set of guides to professional conduct for the Society. In his scholarly presidential address at our fall meeting at White Sulphur Springs, he discussed the matter of professional conduct from several points of view, including the possibility of a statutory definition of the term "actuary." Because he deemed this most unsatisfactory, and for several other cogent reasons, Mr. Anderson concluded that it appeared highly desirable that the Society adopt a set of guides to professional conduct.

You will notice that I have used the words "code" and "guides" rather interchangeably. However, the committee has become convinced that there is a substantial difference between the two terms in that a code tends to be more inflexible and detailed—a book of rules, as it were. We think it is clear that more flexible and less detailed provisions would be preferable for the Society, provisions which guide or interpret basic ideas. Therefore we believe that the term "guides" is much better.

As a result of the developments during 1956, which I have described, the committee made certain recommendations to the Board at its White Sulphur Springs meeting last fall. These recommendations were approved by the Board and announced by the Secretary at the Society meeting on November 12, 1956. These recommendations were as follows:

1. That the Board *approve in principle* the idea of broadening the statement of purposes of the Society which appears in Article II of the Constitution, so as to include appropriate wording regarding the professional conduct of members. (This recommendation arises from the fact that the statement of purposes in Article II is probably too narrow.)
2. That the Board *authorize the committee to study* the procedures provided in Article VII of the Constitution in reference to the discipline of members, and to bring its specific recommendations back to the Board. (This recommendation has to do mainly with questions of procedure and provision for more flexibility.)

3. That the Board *direct that serious consideration be given* to the possibility of adopting a code or set of guides as to professional conduct, and that the committee be directed to study the matter and report back to the Board. (This recommendation derives from a number of sources. The committee is concerned over the problems which are likely to arise in the future if some sort of guides of professional conduct are not established.)

We are not directly concerned today with items 1 and 2 of these three votes. These have to do with legal and procedural, rather technical, questions. They will be brought up for discussion at a later date when they have received more study. We are today implementing item 3: that is, giving serious consideration to the possibility of adopting a set of guides to professional conduct by discussing what kinds of guides we might need. The more we know about what the guides would likely be, the more intelligently we can decide, when the time comes, whether we want them at all and, if we do, what they would be.

In discussing today's subject, the proper content of a possible set of guides for the Society, the committee has rather informally come to accept three general but important principles which seem appropriate to mention now. The first is that, as Mr. Klem said, guides to be effective "must be comprehensive and fairly specific." The main purpose of guides would be to tell the actuary, when he finds himself in a specific situation, whether or not he is on solid ground. If the guides are not specific enough, the actuary would either have an insufficient idea of where he stands, or he would have to do a substantial amount of interpretation. We have all read enough law cases to know that interpretations by equally competent persons frequently differ a great deal.

Our second conclusion may seem fairly obvious: that a set of guides, like constitutional law, has to be a living thing, changing with the times. Fixed and immutable guides not only would be impossible to formulate, but would doubtless soon become unsuitable or unworkable. This principle leads to the reassuring conclusion that we should not be too concerned as to the *details* of an initial set of guides, because there would doubtless be many changes and any initial unwisdom could be corrected easily. This has been the experience of other professions.

The third general conclusion of the committee is that we should select guides for the sole purpose of protecting and benefiting other people, not ourselves. Protection should be extended to our clients and employers, to the participants in the insurance and annuity plans with which we are working, and to the public at large. Elevating our profession is, of course, a proper and worthy purpose, but it is not an end in itself—the real

purpose of bettering the status of the Society is that it can better serve others. There are some professions that do not strictly follow this principle; operating under statutory authority they incorporate in one area or another self-protective rules which restrict competition, increase income, or in other ways prevent the free advancement of the public value of the profession. The committee thinks that provisions of this kind would be a mistake for the Society.

A most important question arises as a corollary of this principle: *i.e.*, should our guides deal only with purely professional conduct, and not with trade or business practices? Let me first emphasize that the committee has not yet considered this specific question and consequently I cannot yet report a committee position. However, I can say that several members (including the chairman) have discussed the question and are convinced that trade and business practices would have no place in a set of guides for the Society. Among other things, this would mean that we would be speaking of the actuary himself and his own actions—not the acts of his employer, his partner, or the agent of his employer. We would be guiding the actuary in his own practice of his profession for the benefit of others, either as an employee or as an independent practitioner. This concept would probably exclude consideration of such things as compensation, soliciting clients, hiring actuaries away from others, etc. All of these, it may be argued, should be classed as trade or business practices, and not as matters of professional conduct of the kind we should now consider. Trade practices are, of course, fitting and proper for trade associations, but are they for a professional society such as ours? This whole question is an additional indication that guides for the Society should apply equally to the company employee and to the consultant. Your ideas on this subject will, of course, be welcomed.

The thirteen items listed in our program today as being candidates for inclusion in a list of guides for the Society were, I should explain, selected somewhat at random from the guides of other professions. They are in no particular order. Inclusion of an item does not mean that the committee favors it, nor does the omission of an item indicate a contrary opinion. In fact, some would be eliminated if we adhere to the principles I have stated. These thirteen items are simply listed to be provocative and to sharpen up our discussion.

The committee hopes that many of you will express your thoughts freely on these really difficult questions. Naturally, we hope that you will agree with the opinions I have reported, but whether you do or not you may be sure that the Society will be guided and helped considerably by your discussions.

The members of the committee are:

William M. Anderson, President, North American Life Assurance Co.

Dorrance C. Bronson, Actuary, The Wyatt Company

John K. Dyer, Jr., Vice-President and Actuary, Towers, Perrin, Forster & Crosby

Gilbert W. Fitzhugh, Second Vice-President, Metropolitan Life Insurance Co.

Walter Klem, Senior Vice-President and Actuary, Equitable Life Assurance Society

Harold R. Lawson, President, National Life Assurance Co.

Robert J. Myers, Chief Actuary, Social Security Administration

Henry F. Rood, Vice-President and Actuary, Lincoln National Life Insurance Co.

Wilmer A. Jenkins (Chairman), Executive Vice-President, Teachers Insurance and Annuity Association