

RECORD, Volume 26, No. 2*

San Diego Spring Meeting
June 22–23, 2000

Session 13IF

Professional Standards—What is Your Awareness Level?

Track: American Academy of Actuaries

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Recorder: ALLAN W. RYAN

Summary: This session presents the results of a survey of the U.S. actuarial profession conducted by the Committee on Professional Responsibility of the American Academy of Actuaries. This survey asked questions relating to individual actuaries' awareness of and familiarity with the Code of Professional Conduct, Actuarial Standards of Practice, and qualification standards, as well as their understanding of the activities of the Actuarial Board for Counseling and Discipline.

Attendees are updated on the results of the survey and are encouraged to participate in this interactive session to share their opinion and personal reactions to the survey.

Mr. Allan W. Ryan: This session is similar to a presentation at the annual meeting in San Francisco, and it's based on a survey that was mailed to the membership a little over a year ago on the subject of professionalism. The survey was intended to help determine actuaries' level of familiarity and satisfaction with the Code of Professional Conduct, actuarial standards of practice, qualification standards, and the function of the Actuarial Board for Counseling and Discipline (ABCD).

We will have a survey as part of this session in which the audience will participate.

I currently chair the American Academy of Actuaries Committee on Professional Responsibility, which is the body that put this survey together. We'll get into that a little more later.

Lauren M. Bloom, the second speaker, is the General Counsel of the Academy of Actuaries, and is also the Director of Professionalism for the Academy.

Our third speaker was to be Lawrence Johansen, who is actuary for the New York State Teachers Retirement System, and is also President-Elect of the Academy of Actuaries. Lawrence, at the last minute, was not able to make it to the meeting, and his role will be assumed by Lauren.

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† Ms. Bloom, not a member of the sponsoring organizations, is General Counsel of the American Academy of Actuaries in Washington, D.C.

The overall umbrella group for the professionalism function is the Council on Professionalism, which is headed by Dan McCarthy. Dan is the Vice President for Professional for the Academy of Actuaries.

The council also includes the chairs of various professionalism committees and other entities, including the Actuarial Standards Board (ASB).

In addition, the council comprise the chair of the ABCD, currently Kenneth Porter, and the chair of the Committee on Qualifications. A committee of the Academy has significant authority in that it is responsible for developing the Qualification Standards for Prescribed Statements of Actuarial Opinion that were recently extensively revised.

The Committee on Professional Responsibility, which I chair, is also part of the council. This committee seeks to enhance among members of the profession the importance of standards of practice, qualification, and conduct.

The Task Force on Public Perception of Pension Actuaries no longer exists, but participated in the survey. I'm going to let Lauren speak about this.

Ms. Lauren M. Bloom: I would like to provide a bit of background. The American Academy of Actuaries, as the umbrella organization for actuaries practicing in the U.S., has two major responsibilities for all of the members of the profession in the U.S.

One responsibility is public policy. The Academy crosses practice areas, crosses practice types, and is really intended to cover the interest of all actuaries in the U.S. with respect to public policy. That is the work that's done by the profession to influence and bring its expertise to the formation of law and regulation on both the state and federal level. Our Director of Public Policy, Tom Wilder, is on a panel with Bob Wilcox. The public policy function is responsible for coordinating the efforts of the profession to reach out to the National Association of Insurance Commissioners, Congress, and the various federal and state regulatory agencies, to ensure that the actuarial profession's perspective and expertise are brought to bear to assist the development of public policy.

The other responsibility is professionalism. The professionalism function is intended to remind all five of the U.S. organizations that professionalism matters or, as we say, "professionalism counts."

The reason that professionalism counts, apart from the fact that it's nice to feel good about yourself as a professional, is because the actuarial profession occupies a position of tremendous trust in the U.S.

You really are responsible for the security of the American safety net. When people get sick, get old, or retire, or if someone's house burns down or encounters a personal tragedy that involves finance in any way, they are going to turn to a social benefit program like Social Security, a pension plan, or insurance.

It is actuaries who are responsible for making sure that those systems, and the companies that provide them, keep their promises. So it's very important that you, as actuaries, function in a very professional way.

About five years ago, there was some concern expressed at the Academy, through the Pension Practice Council, that perhaps the professionalism of pension actuaries was not as well understood by the public as it might be. People who look to actuaries for services, people who regulate actuaries, and the people who rely on actuaries in the pension area did not appreciate actuaries as professionals.

Larry Johansen, who wasn't able to be at this session, chaired the Task Force on Public Perception of Pension Actuaries that was formed in response to that concern. The purpose of the task force was to substitute facts for impressions. It was to talk to people who use actuarial services, who regulated actuaries, who work on Capitol Hill and in the various federal agencies who look to actuaries for advice. The task force was to get a sense for whether or not that concern was really valid. What happened was, the task force met several times and hired an outside firm to perform a confidential survey to sample people from these audiences.

This firm also met with representatives from the Joint Board for the Enrollment of Actuaries, the Actuarial Board for Counseling and Discipline, and the Actuarial Standards Board, to talk to them about their concerns, the feedback they were getting, and how to take the next steps that might enhance the public's appreciation of the professionalism of pension actuaries. All of the survey responses were confidential. In fact, there were government people who wouldn't talk to us on any other basis.

The results of the survey indicated that the people who use actuaries, the people who regulate actuaries, and the people who get the benefit of actuarial expertise in the development of public policy, think very highly of actuaries' intelligence and professional skills. The highly arcane mathematical projections are very much appreciated and their value is very much understood. But there was a perception to some degree, particularly among the pension regulatory community, that perhaps actuaries were a little too zealous in advocating something on behalf of their clients.

It was felt that perhaps pension actuaries might not understand that, as professionals, their job was to bring unbiased advice and not necessarily to serve in the kind of advocacy role that attorneys do, for example.

What came out of the survey and out of the task force were several recommendations. One was that there be regular meetings with the Joint Board for the Enrollment of Actuaries. This has happened about once every year since.

Second, the Academy should continue to meet on an annual or semiannual basis with the leadership of the National Association of Insurance Commissioners to talk about professionalism issues. That has been happening as well. Third, that a survey of the membership should be done to get a better sense for what the members thought about professionalism, how familiar they were with professionalism topics, how well they understood the code of conduct, the standards of practice, and the qualification standards. The results of the survey should be analyzed and used to drive the Academy's activities in the future. At this point, I'm going to hand it back over to Allan because his committee did that survey.

Mr. Ryan: Lawrence Johansen acted as a consultant to the Committee on Professional Responsibility throughout the survey process. His involvement with the task force was very useful in helping us to build on that work and to develop a more general survey.

The survey came officially from the Committee on Professional Responsibility, and it was mailed to the entire U.S. membership, which was defined as members of any of the actuarial organizations in the directory with a U.S. address, plus anyone living outside of the U.S. who is a member of the Academy. This was intended to include essentially anyone that practices under U.S. rules, and thus is subject to the standard of practice. It is important to emphasize that if you belong to any of the U.S. organizations that has adopted the Code of Professional Conduct, even if you're not an Academy member, you're bound by the code, as well as all the standards of practice and qualification.

The response rate to the survey was quite good; about 2,600 responded out of 14,000 surveys that were mailed.

We were trying to gauge the general level of familiarity and satisfaction with the whole professionalism structure. We wanted to know what they thought could be done to improve it.

Survey questions covered four categories. The first category is the Code of Professional Conduct, which provides overall guidance to the practicing actuary. This is, in a sense, the most basic and important professionalism guidance; any real profession has to have a code of conduct. Much of it should be common sense, although it's a good idea to read it every couple of months. At this time, there is a second exposure draft in front of the membership that makes certain changes to the code. It is primarily intended to make the code uniform among the adopting organizations. Comments had to have been submitted by July 15, 2000.

The second category covered in the survey was how, within the framework of the code, we have the Actuarial Standards of Practice (ASOPs), which the Actuarial Standards Board (ASB), along with its committees and the interaction of the membership, promulgates.

Third are the Qualification Standards for Prescribed Statements of Actuarial Opinion (PSAOs) which are the responsibility of the Committee on Qualifications. This goes a lot further than just the appointed actuary's role for the life and health blank or the property and casualty blank. The qualification standards apply to any communication that could be deemed to be a PSAO. This is a very important document. It provides a lot of examples and a common sense approach to determining what a PSAO is. It's an actuarial opinion that's required by law, required by a standard of practice, or required by one of the accounting pronouncements. I feel that "required by a standard of practice," is the broadest reach. Newer ASOPs tend to explicitly say that certain communications under the ASOP are or are not PSAOs, which is very helpful.

Ms. Bloom: That's exactly right. That has been true for about the last four years.

Mr. Ryan: Many of the older standards that are being rewritten will, I think, have that clearer guidance.

The fourth major area covered by the survey concerns the functions of the Actuarial Board for Counseling and Discipline. Questions were intended to gauge actuaries' familiarity with the entire counseling and discipline process. It is important to emphasize that counseling is an important part of the ABCD's mission. It's not just there to punish people; it's there to help people.

To summarize, the overall purpose of our survey was to "provide valuable feedback to assist the Academy in its mission to establish, maintain, and enforce high professional standards of qualification, practice, and conduct throughout the U.S. actuarial profession."

I will briefly summarize the overall survey results. One is the perception that standards are not necessary. That was a distinctly minority view. To be fair, some people thought maybe there were just too many standards. But there is some feeling that we don't need standards.

Ms. Bloom: There are a handful of actuaries out there who truly believe that, as professionals, they know what they're doing, and that the best thing the profession can do is go away and leave them alone. That view was, to some degree, expressed in the survey.

Mr. Ryan: There was also a desire for more professionalism sessions at meetings, but for them to not be held concurrently with other sessions. We know from past experience, when the professionalism session was the only thing you could go to, attendance was good, and we believe that's the way to go in the future.

Another theme that came out of the survey was the challenge of writing standards for a diverse profession. Lauren talked about the pension profession in the context of the task force, in particular the enrolled actuaries and those that serve pension clients. Pension actuaries have special issues, particularly because so many of them are sole practitioners. That creates its own problems.

Another theme that we got out of the survey was the desire for greater support when facing conflicts. I think that's one thing the ABCD is there for. This refers to a conflict with your employer. You might be trying to do the right thing but getting pressured to do something that you have a professional an issue with.

Ms. Bloom: You might hear, "We can't possibly need a reserve that high! Can't you change your assumptions?" We're referring to that kind of pressure.

Mr. Ryan: It's one thing to say, "Can we revisit your assumptions?" We can look at the overall situation and we might say, "Maybe we were being too conservative." It is another thing to say, "We need two more cents earnings per share to meet expectations and to get everyone a bonus, so why don't you just move that reserve?"

On a similar note, we also found that people thought it was important for the profession's leadership to demonstrate high standards.

Ms. Bloom: One of the results of an anonymous survey, in which you invite comments at the end, is that you're going to get them. Those comments are not necessarily always going to be nice ones. I don't tend to take anonymous snipes of that sort terribly seriously, but this does highlight the importance of the folks who are at the head of the professionalism effort carrying themselves with a lot of professional integrity.

Mr. Ryan: There was also the perception that regulatory actuaries are not held to the same standards.

Ms. Bloom: I think the regulatory community, particularly regulatory actuaries, face a tremendous challenge. They're essentially being asked to do a little of everything. They must have a very broad-based expertise to be able to cover a lot of things that private firms can hire several people to do.

Again, those comments came in anonymously and they might reflect frustrations of individual actuaries. I do think it highlights the importance of providing regulatory actuaries with the support that they need to practice in a professional way.

Mr. Ryan: Finally, there was the perception that standards are too numerous and too complex. My answer to that would be that as actuaries go into more and more diverse areas, they will need more standards. I don't think the standards are too complex. I think, in general, they're good in that they provide the actuary with an outline. They provide guidelines and always allow the actuary to exercise professional judgment. Furthermore, they allow the actuary to materially deviate, if there is a valid reason for it. The actuary documents the deviation and the reasoning behind it.

Ms. Bloom: One of the funniest and best ways we try to educate the profession about professionalism is mock ABCD hearings. We actually set up a case and bring people up from the audience to participate as ABCD members, and let the audience see what an ABCD hearing looks like.

A couple of years ago we did one in Hawaii. It was the case of Hans Solo, MAAA. He was a solo practitioner, after all. The actor who played Hans Solo broke up the panel when he said, "There are so many rules. I just can't follow all of these rules." I think a little of that was coming through in the session. It was very funny and very effective. Although the mock hearings are labor-intensive, they do tend to draw a crowd, and I think they're very instructive. So that's a format we intend to work with more.

Mr. Ryan: While there is a little bit of controversy about this, especially from the pension community, I think we're trying to, in a humorous way, present some of the real issues that we deal with. In reality, it's very serious.

Ms. Bloom: The idea is to take the pressure off by making it humorous and clearly fictional. That is why the last one we wrote was based on the Wizard of Oz, and all the characters were named for actors in the movie. By the same token it does give the profession an opportunity to see the inside of an ABCD hearing, which I hope most of you never will, and to understand a little better what the process is and how it works.

Mr. Ryan: At this time we will start the interactive exercise.

Ms Bloom: For those of you who didn't participate in the survey before, this is your opportunity to take it now. What we're going to do is walk you through the survey questions, let you answer them here, and then let you see how your answers compare with the answers that were given in the original survey.

From the Floor: There were 2,600 responses out of 14,000 surveys mailed. Was any thought given to the possibility that this response rate biased the results? People who are more aware of what's going on and what the requirements are might tend to be the people who actually fill out the survey?

Ms. Bloom: Yes, it was recognized that, to some degree, the responses are going to be self-selective. It's the people who are interested in these issues who are going to take the time to fill out the survey.

Mr. Ryan: Or, those with strong negative feelings have responded.

Ms. Bloom: Absolutely. The folks who care one way or another are going to take the time to fill in and return a survey like this. I'm not sure how you adjust to this. I think the data have been useful to the Academy's Council on Professionalism. The first question that we asked pertained to the primary practice area. Overall, the responses we got stretched pretty well all across the profession: life, 30%; health, 20%; pension, 27%,; casualty, 18%,; and other, 5%. This is not inconsistent with the overall distribution of the profession. So, in that sense, I think this was at least fairly statistically consistent with what you see throughout the profession.

From the Floor: The next question is about the number of years since obtaining your earliest designation. In other words, when did you first join the profession? Zero to four years ago? Five to nine years ago? Ten to 19 years ago? Twenty to 29 years ago? And 30 or more years ago?

The people we heard from the most in the survey were in the 10–19-year category. Then, 20–29 years was next. Six percent of those responding had been in the profession for more than 30 years, 12% were from the 0–4-year group, and 24% were from the 5–9-year group.

It didn't surprise me much that we tended to get a slightly higher response rate from people who were further along in their actuarial careers. It has been my sense that professionalism issues become more significant with career experience.

Next we get into the substantive questions. The first concerns your level of awareness of the code of conduct. The choices are: unaware, read it once, refer to it as necessary, and review it regularly. Overall, 4% said they were not aware of it. Those are the people we were really trying to reach. Twenty-six percent said they read it only once. Sixty four percent said they refer to it as necessary, and 6% say they review it regularly.

The next question was, is the code too strict, too lenient, about right, or no opinion? Three percent answered too strict; 3% said it was too lenient, and 94% said it was about right. One reason for the survey was to get, for example, the 4%

who weren't familiar with the code to go back and read it. While it's nice to have the data, we also hope that the survey serves as a teaching tool for at least some of the folks who responded.

The next question is, is the code of conduct very clear; somewhat clear; somewhat unclear; or very unclear?

From the Floor: I think that "somewhat unclear" is not a bad answer.

Ms. Bloom: Absolutely. To say that something is somewhat unclear does not necessarily mean that it's a bad thing because there might be times that you want flexibility in something like the Code of Conduct. Twenty-five percent answered that it was very clear, 65% said it was somewhat clear. 9% said it was somewhat unclear, and 1% said it was very unclear. One of the difficulties in doing a survey like this is trying to get the survey sufficiently clear. Allan's committee struggled with this for a long time. Unfortunately, language is not as precise as mathematics. But every actuary I know keeps trying to make it so. It takes a long time to put something like this together. If you have not, by the way, taken a look at the second exposure draft of the Code of Conduct, please do so. It's posted on the Academy Web site. It was also sent out with the updates some months back. One of the efforts of the committee was to make the code more precise by adding a section of definitions. Now there are some defined capitalized terms in the proposed Code that weren't there before. I think the committee would be very interested to know whether you think that's helpful, and whether it adds to clarity as well as precision.

The next question asks, is the Code of Professional Conduct very useful, somewhat useful, or not useful. Overall, 29% felt it was very useful, 66% thought it was somewhat useful, and 5% thought it was not useful at all. Is the code consistent with your particular practice? Yes or no. Ninety-nine percent said yes and 1% said no.

From the Floor: Perhaps a more relevant question is, is your practice consistent with the code?

Ms. Bloom: The next question is has the code ever changed your actuarial practice? Yes, no, or not sure? Fifteen percent said yes, 67% said no, and 18% said not sure.

From the Floor: The most helpful time the code modifies practice is when the client is putting pressure on, like you were describing. You can say, "I can't do that. My professional code of conduct says I can't do that." So rather than doing what you're asking me to do, this is what I've got to do. It can be very helpful in that way.

Ms. Bloom: Has the code ever conflicted with your obligations under the law? Yes, no, or not sure?

From the Floor: Well, by definition, I don't think it can.

Ms. Bloom: Very good. You would have had to read it to know that, but you're right. Essentially, the code says, when in doubt, follow the law. Overall 1% said that it had, 89% said that it hadn't, and 10% weren't sure.

We now move from the code into the Actuarial Standards of Practice. One of the things that the code requires is that we follow the standards of practice when performing professional services in the U.S. The first question is what is your level of awareness and use of the standards of practice? The choices are: not aware, read them once, refer to them as necessary, or use them regularly. Overall, 4% said they were not aware, 15% said they'd read them once, 74% said they referred to them as necessary, and 7% reviewed them regularly. The standards board was generally pleased with these numbers.

The second question is, in your primary practice area, are there too many, too few, or just the right number of standards? This is one instance where this group's answers differ significantly from the answers we got on the survey.

From the Floor: Maybe there's room for both too many and too few simultaneously. Some of the standards should be combined into fewer standards. In addition, we need some new standards on additional topics.

Ms. Bloom: In the eight years I've been with the Academy, it has been interesting to watch how the standards have changed from when they started. The format is very different, and the approach is very different. I think the standards board is writing better standards today than it did eight years ago. I think the profession's needs have shifted over time as well.

The third question is, in your primary practice area, are the actuarial standards of practice too strict, too lenient, or about right? Seven percent thought they were too strict, which I thought was interesting. Six percent thought they were too lenient, and 87% thought they were about right.

From the Floor: Regarding the question about referring to the standards, I assume this would refer to the ones that you work with.

Ms. Bloom: Yes.

Mr. Ryan: You probably won't read the property and casualty ones unless you really have a lot of time.

From the Floor: There is some value in reviewing standards that apply to areas of actuarial science in which you don't practice, particularly in the exposure draft stage. A life actuary can take a pension topic, for example, and approach it with less bias if you don't have preconceived ideas about how things should be done. You can read that and ask, "Why did they ask us to do it that way?" I think it's a very healthy exercise to look at those areas in which you don't practice because actuaries in other areas are solving the same kinds of problems that relate to the financial implications of contingent events, but it is just in a different field of practice. I think it is very useful.

From the Floor: Not only that, but sometimes you get an ambiguous statement in a standard in one practice area and a standard from another practice area might give you an analogy to follow.

From the Floor: That's true. I've found instances in which actuarial standards in the life area left out very key definitions, but there were very good definitions in the property and casualty (P&C) standards of practice. Unfortunately, by definition, they don't apply, but they should. Perhaps some of the people who wrote the life standards said, "That's obvious, we don't need that definition." Then you find a time when you desperately need that definition.

Ms. Bloom: It has been interesting for me to watch the ASB. You have nine people from different practice areas and they all work together on the final standards. I find that people from different practice areas can often contribute to the development of the standard very nicely, even though that isn't their particular area of expertise.

From the Floor: Sometimes they're the key writers.

Ms. Bloom: Absolutely. It's sometimes difficult for me to appreciate that the distinctions between practice areas are as strong as the profession tends to see them. This is particularly true when people from one discipline can add so much to another. By all means, I do encourage you to take a look at standards outside your practice area.

The next question is, in your primary practice area, do you think the actuarial standards of practice are very clear, somewhat clear, somewhat unclear, or very unclear? In the survey, 20% said very clear, 67% said somewhat clear, 11% said somewhat unclear, and 1% said very unclear. So the numbers with this group tally with the overall numbers. Are the actuarial standards of practice in your primary practice area very useful, somewhat useful, or not useful? In the survey, 24% thought they were very useful, 70% thought they were somewhat useful, and a grouchy 6% thought they were not useful. As I say, overall, I think the ASB is pleased with these numbers because they put a lot of work into the standards. I think they're pleased to know that most of the profession finds them to be at least somewhat useful.

Are the actuarial standards of practice in your practice area consistent with your approach to practice? Everyone here says yes. In the survey 98% said yes, and 2% said no.

Have the standards ever changed your actuarial practice? Yes, no, or not sure? In the survey, 29% said yes, 56% said no, and 15% said they were not sure. In our group 5 said yes and 3 said no.

Mr. Ryan: That's interesting. I don't remember the percentage of "no's" on the survey being that high.

Ms. Bloom: Have the standards in your primary practice area ever conflicted with your obligations under law? This is possible, by the way. Yes, no, or not sure? Two percent said yes, 88% said no, and 10% said not sure.

From the Floor: How is it possible for standards to conflict with your obligation under the law?

Ms. Bloom: Technically, standards can't conflict with your obligations under the law, because the code of conduct says, when in doubt, follow the law. The standards will also say, if there's an applicable law, follow the law. But there are times when, because of the law, you won't do what you otherwise might do under a standard. In the pension area, for instance, this has come up.

This becomes an issue when the law requires something different than what would otherwise be generally accepted actuarial practice. In that case, you have to follow the law. But do you disclose that? How do you disclose it? What do you say about it as a professional? Those are the issues. Sometimes, within the framework of law or an accounting requirement, an actuary can be asked to do something that the actuary typically would not do otherwise.

From the Floor: A good example is the standard providing guidance on cash-flow testing and the "section seven" life insurance company statutory opinion.

Ms. Bloom: Exactly. Actuaries would usually do cash-flow testing, but there are times when the law says you are not required to do so.

Mr. Ryan: In this example, the guidance is in the form of a Compliance Guideline, which explicitly gives the actuary the right to not do something he might otherwise have done. That was why the compliance guidelines are not called standards of practice.

Ms. Bloom: What's interesting is the standards board will no longer write compliance guidelines. There is tremendous confusion about what they were and how they function. The board is now writing standards for compliance with a particular law, regulation or accounting requirement, for instances where you're working within a regulatory framework that really shapes what you do. So they're still very clearly actuarial standards of practice, but they are for purposes of complying with this artificial external requirement rather than something that typically makes sense from the actuarial perspective. The standards on illustrations are a good example of that.

Let's move on to the qualification standards. They are published by the Academy's Committee on Qualifications, after being adopted by the Academy's Board of Directors. Although they are an Academy document, members of all U.S. organizations are required to follow them under Precept 3 of the Code of Conduct. So the question then becomes, do the members understand their obligations and are they even aware of them?

The first question in this area is, what is your level of awareness and use of the qualifications standards? The choices are not aware of them, refer to them as necessary, read them only once, or review them on a regular basis. Overall 19% were unaware. That's a significant percentage that certainly gives the Committee on Qualifications something to focus on. Twenty-five percent said they'd read them once, 49% said they referred to them as necessary, and only 7% said they reviewed them regularly. This is unfortunate because these are standards that you

need to look at, at least periodically, as they set the standards for continuing education requirements. If you don't look at them periodically, it's very easy to quickly forget exactly what your obligations are.

Mr. Ryan: It should be noted that there are some practicing actuaries who would never need to sign a PSAO.

Ms. Bloom: Correct. If you're not signing a PSAO, then you don't have to follow the qualification standards. However, there is discussion within the Academy's leadership to consider whether continuing education should be mandatory for all actuaries. I don't know whether that's going to happen or not, but there's some push within the leadership to at least consider that.

Mr. Ryan: However, the concept of the PSAO is fairly broad. It's not just applicable for appointed actuaries. You must read the standards and decide whether you do anything that comes under this PSAO.

From the Floor: The definition of PSAO has been extended over time.

Ms. Bloom: Over time that obligation has grown.

Mr. Ryan: This is, in part, the reason that the wording, "Public Statement of Actuarial Opinion" was changed to "Prescribed Statement of Actuarial Opinion." A PSAO is not something that necessarily goes through the state commissioner or the state insurance department.

From the Floor: You have to read the qualification standards to understand the definition of PSAO.

Mr. Ryan: That's exactly right. The Committee on Qualifications did a good job in revising the standards. If you go through it, it will really give you a good feel for what is or isn't a PSAO.

Ms. Bloom: If you're doing anything that meets the description of a PSAO, then you do have to have the continuing education. I think that's something about which we can notify the members. It should be noted that keeping records of continuing education is an honor system. Although the ABCD has never formally requested the records, per se, there have been instances in which an actuary's qualifications did become an issue. Then the question becomes, "what are you doing for continuing education?" Actuaries have voluntarily brought their records in.

From the Floor: I've been tempted to ask people to do that.

Ms. Bloom: I think there could be some real benefit to that.

From the Floor: It would be controversial.

Mr. Ryan: Does a state regulator have the authority to go to somebody and say, "Let me see your continuing education requirement records?" That's an interesting question.

Ms. Bloom: I would suggest a regulator raise the issue with the counsel for that state. I don't know what your scope of authority is under the laws of a particular state. Depending on how the department's authority has been defined, you might be able to request the records.

From the Floor: Such a request would probably come on behalf of the superintendent through the office of general counsel. If I were to satisfy my curiosity, I wouldn't ask myself. Then the matter might be referred to the ABCD. It could become a quagmire.

Ms. Bloom: We talk a lot with the regulators about their use of the ABCD. Bob Wilcox is familiar with some of these conversations because he was the insurance commissioner for the state of Utah when I started working for the Academy.

From the Floor: All of this raises an interesting issue with regard to the qualification standards. If I write an opinion and submit it to the state of New York, for example, I have to meet the qualification standards for signing this opinion; the regulator has to meet the qualification standards for reviewing that opinion.

Ms. Bloom: That's right. There's a separate appendix in the qualification standards describing what is and isn't a PSAO from the regulatory perspective. Public service actuaries are often in a position where they are facing, through the profession, obligations that their nonactuary colleagues don't have. It's important for the state to understand and appreciate the value of what actuaries bring as actuaries. Even though there are some costs to go with that.

From the Floor: That's right. My first allegiance would be to the superintendent, and not to the profession. That's the code of conduct that applies, or that's my interpretation of it anyway.

Ms. Bloom: If there's ever any clash, please pick up the phone and we'll talk. There are often ways to resolve these clashes without having to sacrifice your actuarial position. That becomes important.

Mr. Ryan: Is there a code of conduct that you work under as a state employee?

From the Floor: There's a public officers' law. It's a law, not something you voluntarily adopt.

Ms. Bloom: The ABCD is, in some ways, the most controversial area of the survey. We've gotten a pretty good idea of where the survey went on qualification standards. What we have discovered is that a lot of the members are not really aware of them or familiar with them, and they definitely want more information about them. You will see more in the actuarial press about qualification standards and how they apply. In fact, there have already been a couple of articles published this year in the update to try to address some of these issues.

Mr. Ryan: There was an article in a question-and-answer format, as I recall, from Charles McClenahan and the Committee on Qualifications.

Ms. Bloom: He has done another piece on math education that's going to be running in August 2000. It's absolutely hysterical. I really do recommend it to you.

From the Floor: Are the standards of practice and qualification standards part of the SOA exam syllabus?

Ms. Bloom: They should be. Now I don't know to what extent the change in the syllabus has altered that. The SOA has changed to a more international perspective on the examinations, so there might be less on the standards of practice than there used to be because they are country specific. However, the Fellowship Admissions Course (FAC) covers the Code of Conduct and discusses standards of practice and qualification. Although the SOA is an international organization, most of its members are still practicing in the United States and need to be aware of the applicable standards. In addition, the SOA now holds a session for new associates at its meetings. In fact, I'll be going there to talk about ethics, professionalism, standards, and so forth. When I can't get there they now have me on videotape!

In addition, in November 2000, the Academy will run, for the first time, a seminar on life and health annual statement practice for actuaries who need to demonstrate that they meet the basic education requirements of the specific qualification standard to sign life and health annual statement opinions. The Society has cooperated on this project, recognizing that the new syllabus will not provide sufficient basic education to meet this requirement.

From the Floor: My recollection is that statutory codification incorporates Actuarial Standards of Practice as authoritative literature, as well as the valuation laws of the states.

Ms. Bloom: This would have to be the case for codification, because, by definition, codification is statutory or regulatory. It's going to tie back to U.S. regulations.

From the Floor: By law, you must follow the standards of practice.

Ms. Bloom: I find that conversations about the Actuarial Board for Counseling and Discipline often get exciting real fast. I think the survey was no exception on this. The first question is, before reading this survey, were you aware that the ABCD (a) investigates complaints against actuaries; (b) confidentially counsels actuaries; (c) recommends discipline to the membership organizations; (d) offers confidential guidance to actuaries; and (e) serves as a mediator in disputes involving actuaries?

Not surprisingly, mediation was the area of which most people were unaware. This is obviously something that we need to publicize. This happens most frequently when somebody calls saying, "My actuary won't give me something." Maybe it's a Schedule D, maybe it's an annual statement opinion, or maybe it's an illustration certification. The actuary says, "The client has not paid my bill for the last several months." Sometimes the ABCD just gets in the middle and says, "Give me the report, and give me the check." Other situations in which the ABCD becomes involved include: disputes over who owns reports, who owns work papers, and

what happens when a firm changes actuaries? It's not something that members are particularly aware of.

From the Floor: What if two actuaries are arguing about whether assumptions are reasonable?

Ms. Bloom: The ABCD has become involved in disputes between actuaries about the reasonableness of assumptions and methods. These often come in the form of complaints and sometimes they are even cross-complaints between two actuaries, each complaining against the other to the ABCD. Not surprisingly, the profession is most aware of the investigatory and disciplinary functions and less aware of the confidential counseling, particularly the fact that you can contact the ABCD and get support before you get in trouble. The next question is do you believe that the ABCD is fair? The overwhelming survey response was no opinion. Thirty-eight percent said yes, 1% no, and 61% had no opinion.

From the Floor: Some of that 1% probably reflects people who had trouble with the ABCD at some point or another.

Ms. Bloom: Or maybe they were just afraid of them for whatever reason. There are people out there who, for as long as I've been with the Academy, are convinced that the ABCD is the Gestapo or the KGB. There's nothing we've been able to do to persuade them otherwise. There are people who truly believe that, by its very existence, the ABCD is not fair. They make up a small minority, but they are out there. It's something that the ABCD has to deal with all the time.

The next question is, do you believe the ABCD is effective? Overall, 32% said yes, 6% said no, and 62% had no opinion. Knowing how actuaries tend to think, I suspect that those with no opinion never had this experience and can't comment. Some of the folks who think it's ineffective think it's too harsh and some people think it's not harsh enough. I think some of both of those things show up in that 6%.

Mr. Ryan: They might think of the ABCD as a "black box." They don't know what actually happens because so much of it is confidential.

From the Floor: So how can people comment?

Ms. Bloom: I think that is why the percentage of no opinions is so high. The next question is, have you ever been aware of an actuary who seemed to be in breach of professional standards? In the survey, 31% said yes and 69% said no. The next question is, if yes, did you bring that actuary to the attention of the ABCD? Eight percent said yes, and 92% said no.

Mr. Ryan: No might be the right answer, depending upon what transpired.

Ms. Bloom: Exactly. No might be the right answer. The reason that no might be the right answer is because, in the survey we gave respondents many reasons why they might not have notified the ABCD. Many of those reasons were good reasons. All the reasons that applied were part of the next question: If not, why not?

One reason was that the breach was not particularly material. If you look at the code of conduct, it says only unresolved material breaches of the code have to be reported. If you see something that seems to be a minor breach, you're not obliged to report it. If you talk to the actuary privately and you've been satisfied that either the breach has been corrected or didn't actually happen, then you don't have to report it.

It might be in litigation. If it is, the code says that you're not obliged to report it until the matter has been resolved. You might not be able to report the matter without divulging confidential information. This is a problem that a lot of regulators have. There's no way they can report an actuary without handing over confidential taxpayer information. Then you're not obliged to report it.

In another situation, someone else might have reported it and you might know that. If it's a case that received a whole lot of press, and you're already quite sure, based on people you've talked to, that there are eight complaints in front of the ABCD, you don't have to pile on a ninth. So there are many reasons why an actuary might very legitimately decide not to submit something to the ABCD.

Now some of the answers we received weren't quite as positive. Some people said that they thought it wouldn't do any good, and others were afraid of being sued. Some people were afraid that the ABCD would come back against them. Others were just unfamiliar with the process, and didn't know how to go about it. There are some opportunities for education there; nevertheless, a lot of no answers came back, and they were no for some legitimate reasons.

The next question was, would you ever come to the ABCD for private guidance? Twenty three percent said yes and 77% said no. The next question provided lots of possible reasons for answering no. Many of the replies were, I'll go for my guidance other places primarily; I'm more comfortable talking to my colleagues or I don't particularly feel the need for guidance, or I'll work this out myself. But there also were answers like, I'm not sure it would do any good. I'm afraid that if I come to the ABCD, it could result in an investigation against me. So again, I think there's some opportunity to educate the profession.

Recognize that the ABCD operates under a very difficult environment. On the one hand, there's the investigatory function, which usually begins with a complaint, although, the ABCD can investigate on its own, but it doesn't often do so. If it does, then, to some degree, the ABCD's burden becomes higher because generally speaking, the profession doesn't seem to want the ABCD going out and proactively beating the bushes for actuaries who've done wrong. They want the ABCD investigating complaints as they come up and trying to resolve them, rather than being predisposed against the members.

So there is the investigatory function, which often involves a complaint, which means there's going to be at least some level of unpleasantness in a whole lot of circumstances. On the other hand, there is a counseling function, which is confidential guidance. It's intended to be beneficial, positive and nonpunitive. I've heard from actuaries who have been through it that it's tremendously valuable. In fact, I know people who have come back multiple times for advice when the rubber hits the road in their practice.

I think there's a certain reluctance to use the advisory function. That's something the ABCD struggles with, and it might be that those functions will eventually have to be separated out. So far they haven't been, but the day might come.

From the Floor: If you need counseling, you have probably already done something. If you need guidance, you probably haven't done something and you need to know what to do.

Ms. Bloom: That's a good point. I didn't make that distinction, and I should have. You'll find that the ABCD does two things within its rules. They counsel. For example, someone might complain and bring an actuary to the ABCD's attention. The ABCD might look at the actuary's conduct and say that the person could do a better job. At the initiation of the process, they then go to the actuary and counsel him or her as a result of an investigation or a complaint.

Confidential guidance is different. In that case, the actuary contacts the ABCD by picking up the phone or writing a letter. I'd rather see you get the guidance before you get in trouble than not get the guidance and get in trouble.

You can write an anonymous letter. Then, you can write another letter that says, "An actuary friend of mine has a situation he is worried about and he would like some guidance from the ABCD." We won't know it's the same person necessarily. I take anonymous phone calls. Sometimes actuaries are in a position in which their bosses, who are actuaries are asking them to do something they're uncomfortable with. They don't want to talk about it at the office. I take calls at home, and even in the evenings or on weekends occasionally. The ABCD will do the same. They're very nice and very thoughtful people who really want the profession to do a good job. They work very hard at being as accessible and supportive as they can be, recognizing that if, in investigating complaints, they find that something needs to be done, they will recommend that to the membership organization.

One of the things that's currently under consideration is whether the ABCD needs to change its name. They really don't discipline. They investigate and they recommend discipline, but they don't do the disciplining.

From the Floor: I think your observation about people's reluctance to call for advice is very much a part of our culture. If you think you may have broken the law you call your own attorney.

Ms. Bloom: This is why I also tell people that it's really okay to call me. I try to be nonthreatening, recognizing that the actuarial profession has a well-deserved good reputation. While I can't give individual legal advice to the members, most of them have some idea who I am, and I can help them get the advice that they want. The attorney-client privilege does not pertain to individual members when they call me because it can't. I'm counsel to the association, not to the individual members, and I have to tell them that.

Mr. Ryan: Suppose somebody calls you and discusses something that you believe is so egregious, you have to report it to the ABCD. What happens?

Ms. Bloom: It has never happened. I hope it never will. There have been two or three instances in which actuaries have called me, started to tell me something and I had to say, "Stop. Please don't say any more to me. It is very possible that this will end up in front of the ABCD or the Academy. Talk to your attorney. Please don't tell me another word." That has happened on two or three occasions.

From the Floor: But you would not be bound by the Code of Professional Conduct of the actuarial profession.

Ms. Bloom: I am bound by the ethical code of my profession. My ethical code doesn't require me to report scraps of conversation. Again, it's going to be done on a case-by-case determination. So far, I have never been in a position where I have felt obliged to report an actuary for his conduct. There have been a handful of situations where I might have liked to, but I have never done so. I don't because, among other things, I think it's important that the profession feels free to look to me as counsel, particularly because I am so closely identified with the professionalism function.

From the Floor: The biggest problem I see with the ABCD is that people are reticent to report other people.

Ms. Bloom: People are very reticent to report each other because people are afraid of being sued. I think there's a certain attitude within the profession of, "There but for the grace of God go I."

Mr. Ryan: What happens when a regulator gets an opinion that's obviously very bad?

From the Floor: We would probably proceed with disqualification of the actuary first. We might talk to the ABCD, but I think going to the ABCD first would just be like putting the cart before the horse. Due process under state law must be followed. I don't know if anyone has ever been totally disqualified as a result of a hearing. I know some people have been encouraged to go elsewhere voluntarily.

Ms. Bloom: To my knowledge, you've never actually disqualified an actuary. If an actuary is disqualified, then it is a matter of public record.

From the Floor: Once it's a matter of public record, the members of the profession would be aware of that public record and would be obligated to report it.

Ms. Bloom: Right. We've had these conversations with regulators all over the country. One of the things we finally came up with a few years ago, and regulators have said it has worked extraordinarily well, is to say to them, "Look, if you're not willing to start by reporting, tell the actuary that if you can't straighten it out with the actuary you will report it." If the actuary believes that the ABCD might be involved, then the actuary will be forthcoming and usually the problem can get resolved, which ultimately is the goal.

In the case of the "other" category of questions, the first was, do you attend sessions on professionalism at meetings and seminars? In the survey, 17% said

they often attend, 64% said they rarely attend, and 19% said they never attend, so we've got to work on that 19%.

The next question was, would you attend a session on the Code of Professional Conduct? Fifty-five percent said yes and 45% said no. Another question was, would you attend a session on the Actuarial Standards of Practice? Seventy-four percent said yes and 26% said no. Next year, the Academy is going to start putting together seminars on actuarial standards of practice to be offered to actuaries as a continuing education opportunity. Then we asked if people would attend a session on the qualification standards? Fifty-five percent said yes and 45% said no. We might try to tie the qualification standards back in with the Actuarial Standards of Practice, so that both of them get covered in the same kind of seminar. One subject that we have for a possible seminar is expert testimony.

The next question was one I'm particularly interested in. Do you think the Academy's activities in supporting actuarial professionalism are: about right, more than you need, less than you need, or no opinion? The survey results showed that 62% said they are more than they need, 12% said they are less than they need and 20% had no opinion. Since we've done the survey, I think the Academy is already more active than it was a year ago in the area of professionalism, and particularly with respect to professionalism communications.

Again, it is important to get more people to attend professionalism sessions. We are looking for ideas. Allan's committee is charged, among other things, with professionalism education for actuaries around the country. We're always looking for ways to do things that will be interesting and different. We have discovered that these mock ABCD hearings tend to draw a tremendous crowd, and people really enjoy them. They can get a little silly when people start improvising too much, in terms of the facts. Nevertheless, I think they're a valuable teaching tool, and I hope, in the process, they let people know more about the ABCD and maybe they might feel a little less threatened.

If you have ideas that you'd like to share either now or with me later, drop me a note, call me, or contact me by e-mail. My e-mail address is bloom@actuary.org. I'd love to hear from you. Getting the word out about professionalism in a creative and different way is a challenge.

For instance, you might have noticed in the *Actuarial Update* that we started running professionalism cartoons that are based on different precepts of the code of professional conduct. They've been very well received. There's also a line between doing things that are fresh and interesting and not being quite as dignified as you need to be.

We need feedback. Give us any ideas you have for different kinds of sessions. Are there ways to make things more interesting or more accessible, or are there articles you'd like to see? Are there speakers you'd like to hear from? We would love to hear from you.

Professionalism really does count, as you do, so it's important to get that message around.