To: NAIC Casualty Actuarial (C) Task Force (CASTF)

From: Kevin Dyke, Chair, CASTF Appointed Actuary (C) Subgroup

Re: Subgroup Report on Proposed Amendment to the P&C Actuarial Opinion Model Law

Charge

The Casualty Actuarial and Statistical (C) Task Force (CASTF) created the Appointed Actuary (C) Subgroup (“subgroup”) at the 2012 Spring Meeting to proceed with appropriate draft paperwork to request parent and Executive Committee approval to work on the P&C Actuarial Opinion Model Law (“P&C AOML”), for future consideration by the Task Force.

Summary

The subgroup met six times over the course of several months to discuss the proposed changes to the P&C AOML as outlined in Richard Marcks’ proposal. Interested parties were invited to participate in the calls with the exception of two regulator-to-regulator calls needed to design and review a regulator survey.

While the subgroup’s charge was simply to complete the draft proposal to request opening of the model law for editing, the Subgroup had to prepare to answer whether the modified model law would be adopted by the membership. Hence, initial conference calls included discussions around the merits of the proposal. Interested parties and some regulators remained unconvinced that the model law should be opened up for this change. The subgroup decided to research the history of the Life Actuarial Opinion and Model Regulation #822 (“Life AOMR”) language and survey the membership to better inform the subgroup and CASTF about the proposed changes.

A final call was held on August 2 to review this report and the request for model law development. The call included a vote to adopt this report and the form to request to open up the model law.

Subgroup Activity

Research History of Discipline Language in Life AOMR and P&C AOML

Mark Birdsall volunteered to research the history of the proposed discipline language in the Life AOMR. The source of the language was New York Regulation 126 introduced in 1986. The industry and regulators agreed on the need for company actuaries to take the new regulations seriously. A few years later, in 1990, the Life AOMR was drafted and similar language was used as a compromise on discipline. The P&C AOML was introduced in 2003 and included alternative discipline language granting authority to the regulator to require a second actuarial opinion and report in the event the original opinion and report were substandard. It is unclear from the NAIC Proceedings why the Life AOMR discipline language was not included in the P&C AOML.

Survey Regulators about Current and Proposed Changes

The subgroup developed a survey to obtain regulators’ opinions of and utilization of current discipline and regulatory authority in both the Life AOMR and P&C AOML. The survey was sent to both chief financial regulators and chief actuaries in late June with responses due by July 9. We received 27 responses from 25 states and Puerto Rico with approximately equal representation of chief financial examiners and actuaries. The detailed survey results are attached and summarized as follows:

- Current AOML Use: We asked questions about the regulators’ use of the requirement that companies incur the cost of a second opinion and report if the initial report was deemed incomplete or inadequate. While a majority of states adopted the revised P&C AOML, only three states had ever invoked the provision requiring a second actuarial opinion and report be issued where two of the three states found the process to be effective at least some of the time.
- **Reporting of Actuaries to the Actuarial Board for Counseling and Discipline (ABCD):** We asked questions about the regulators’ reporting of actuaries to the ABCD. About two thirds of states had never reported an actuary to the ABCD while the remaining states had indicated at least some limited reporting. Of those that reported, a majority found the process not to be effective. However, when asked whether they had adequate authority to minimize or eliminate substandard actuarial work, about 70% responded affirmatively. Reasons cited included ability to refer or threaten to refer to the ABCD, the threat to require another actuarial opinion to be issued, and the independent exam process where state or independent actuaries provide a second opinion.

- **Use of Discipline Provisions of Life AOMR:** We asked about the frequency and effectiveness of disciplining life actuaries under the Life AOMR. Almost 90% of respondents had never sought to discipline a life actuary. Of those who did utilize the provision, five respondents felt it was effective at least some of the time. One respondent suggested a change to the proposed language.

- **Proposed Changes to P&C AOML:** We asked about the need to include the Life AOMR discipline language in the P&C AOML. About 75% of respondents would support inclusion. Multiple reasons were given for support, including ensuring consistency with Life AOMR and as a deterrent effect. Those that were opposed generally felt current authority was sufficient. Some written comments were made about the subjective nature of some of the violations, such as “lack of cooperation” and the costs of the hearing process as other reasons not to support the changes.

- **Actuarial Standards of Practice:** Although not directly related to our charge, we took the opportunity in the survey to ask regulatory actuaries whether current actuarial standards provided adequate guidance for P&C appointed actuaries. About 75% of the respondents indicated the current standards were adequate. The remainder generally would like to see additional guidance, with some offering specific recommendations (see responses 2, 4, and 5 to Question 19 in the free form response document).

### Related Activity of the Corporate Governance (E) Working Group

On April 27 the Corporate Governance (E) Working Group met to review Principle 4 of the U.S. Financial Solvency Framework governing the suitability of the appointed actuary. The current actuarial governance process was discussed, including the fact that actuaries are self-governed by the actuarial organizations, abide by a Code of Conduct including following standards set by the Actuarial Standards Board, and disciplined by the ABCD. A subgroup of the working group concluded that the current process provide a “reasonable basis for determining whether an appointed actuary is suitable.” However after reviewing the differences between the Life AOMR and P&C AOML the Working Group agreed to draft a referral to CASTF recommending changes to “allow the commissioner to deem an appointed actuary unqualified, similar to the authority provided under the Life AOMR.” To date CASTF has not received notice of this referral. We understand that the referrals may be held until all of the Principles have been reviewed.

### Discussions on Merits of Proposed Changes

Some calls included discussions around the merits of amending the model law. In addition, the survey highlighted some arguments made by regulators in support or against the changes. The following represent a summary of arguments:

**Arguments in Favor of Amendment**
- Brings the discipline authority in line with the Life AOMR. This achieves a consistency goal articulated by the CGWG.
- Achieves the desired deterrent effect that appears to be evident with the Life AOMR (based on the survey results)
- Provides regulatory oversight in lieu of or in addition to the current ABCD discipline process

**Arguments Against the Amendment**
- Regulators have enough authority in the P&C AOML and its general regulatory authority over companies to ensure any work performed on behalf of the companies is done properly.
- Other professionals such as accountants and attorneys are not regulated directly by the state insurance departments.
- Actuaries are governed by a Code of Professional Conduct, Actuarial Standards of Practice, and the Actuarial Board for Counseling and Discipline and an additional layer of regulation is unnecessary.
- Some of the violation language is ambiguous, making it difficult to enforce, and the hearing process would be costly both in time and expense for the regulators.
- The language in part (5) would effectively serve as a form of “death penalty” for actuaries due to a single state’s action.
Subgroup Recommendations

With the completion of its charge, the subgroup recommends that the CASTF:

(1) Adopt the proposed model law request.
(2) Initiate formal dialogue with the American Academy of Actuaries’ Council on Professionalism and Casualty Practice Council to address regulator concerns expressed in the survey about the actuarial guidance and discipline process.
(3) Continue to involve interested parties and regulators in discussions around the model law as it proceeds through the drafting process.

Appointed Actuary Subgroup Conference Calls (through 8/2/12):

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<th>Date</th>
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<tr>
<td>6/18/12</td>
<td>Regulator-to-Regulator call to discuss survey development</td>
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<tr>
<td>7/24/12</td>
<td>Regulator-to-Regulator call to discuss survey results</td>
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<tr>
<td>8/2/12</td>
<td>Open call to discuss CASTF report</td>
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Attachments

(1) Request for Model Law Development (including current P&C AOML)
(2) Proposal for Regulatory Oversight of P&C Actuaries (CT)
(3) Actuarial Opinion and Model Regulation #822
(4) 1990 NAIC Proceedings referencing Life AOMR
(5) CASTF Survey of State Financial and Actuarial Regulators
(6) CASTF Survey Results (including attachments)
REQUEST FOR MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC’s Executive Committee is required. The NAIC’s Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: box for New Model Law or box for Amendment to Existing Model

1. Name of group to be responsible for drafting the model:
   Casualty Actuarial & Statistical (C) Task Force

2. NAIC staff support contact information:
   Kris DeFrain
   Director, Research and Actuarial
   816-783-8229
   kdefrain@naic.org

3. Please provide a description and proposed title of the new model law. If an existing law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.

   Existing Law: Property & Casualty Actuarial Opinion Model Law (#745)
   - Consider amending Section 2 to incorporate stronger actuarial discipline procedures. One option is wording that exists in the Actuarial Opinion and Memorandum Regulation (#822).

4. Does the model law meet the Model Law Criteria? box for Yes or box for No (Check one)
   (If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

   a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? box for Yes or box for No (Check one)
      If yes, please explain why

      Yes, uniformity amongst states is needed given that actuaries operate in all jurisdictions and it's not preferable for actuaries to operate under different discipline rules.
b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

☐ Yes  ☐ No  (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

☐ 1  ☑ 2  ☐ 3  ☐ 4  ☐ 5  (Check one)

High Likelihood  Low Likelihood

Explanation, if necessary: We believe we can produce a draft and adopt a model law within one year. As a Task Force, we have decided to propose this change, however, the adoption could possibly be delayed or opposed by those interested parties and some regulators who don't believe we need additional professionalism and discipline standards.

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

☐ 1  ☑ 2  ☐ 3  ☐ 4  ☐ 5  (Check one)

High Likelihood  Low Likelihood

Explanation, if necessary: (See #5 explanation)

7. What is the likelihood that state legislature will adopt the model law in a uniform manner within three years of adoption by the NAIC?

☐ 1  ☑ 2  ☐ 3  ☐ 4  ☐ 5  (Check one)

High Likelihood  Low Likelihood

Explanation, if necessary: The model law is an accreditation standard. To date about half of the states have adopted this model law, introduced in 2003 with others relying on the annual statement and financial examination requirements as a substantially similar enactment. With this change, states would need to adopt the model law to enact this power.

8. Is this model law referenced in the Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

Yes.
9. **Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.**

No.
PROPERTY AND CASUALTY ACTUARIAL OPINION MODEL LAW

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Section 1. Title
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Section 4. Effective Date

Section 1. Title

This Act shall be known as the Property and Casualty Actuarial Opinion Law.

Section 2. Actuarial Opinion of Reserves and Supporting Documentation

This section shall become operative at the end of the first full calendar year following the year of enactment.

A. Statement of Actuarial Opinion

Every property and casualty insurance company doing business in this state, unless otherwise exempted by the domiciliary commissioner, shall annually submit the opinion of an Appointed Actuary entitled “Statement of Actuarial Opinion.” This opinion shall be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions.

B. Actuarial Opinion Summary

(1) Every property and casualty insurance company domiciled in this state that is required to submit a Statement of Actuarial Opinion shall annually submit an Actuarial Opinion Summary, written by the company’s Appointed Actuary. This Actuarial Opinion Summary shall be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and shall be considered as a document supporting the Actuarial Opinion required in Subsection A.

(2) A company licensed but not domiciled in this state shall provide the Actuarial Opinion Summary upon request.

C. Actuarial Report and Workpapers

(1) An Actuarial Report and underlying workpapers as required by the appropriate NAIC Property and Casualty Annual Statement Instructions shall be prepared to support each Actuarial Opinion.

(2) If the insurance company fails to provide a supporting Actuarial Report and/or workpapers at the request of the commissioner or the commissioner determines that the supporting Actuarial Report or workpapers provided by the insurance company is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting Actuarial Report or workpapers.
Drafting Note: Even though the regulator as part of an exam or target exam usually has the authority to do this; this section reinforces the authority of the commissioner. The commissioner can also fine or require the company to have the workpapers redone with proper documentation.

D. The Appointed Actuary shall not be liable for damages to any person (other than the insurance company and the commissioner) for any act, error, omission, decision or conduct with respect to the actuary’s opinion, except in cases of fraud or willful misconduct on the part of the Appointed Actuary.

Section 3. Confidentiality

A. The Statement of Actuarial Opinion shall be provided with the Annual Statement in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and shall be treated as a public document.

B. (1) Documents, materials or other information in the possession or control of the Department of Insurance that are considered an Actuarial Report, workpapers or Actuarial Opinion Summary provided in support of the opinion, and any other material provided by the company to the commissioner in connection with the Actuarial Report, workpapers or Actuarial Opinion Summary, shall be confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

(2) This provision shall not be construed to limit the commissioner’s authority to release the documents to the Actuarial Board for Counseling and Discipline (ABCD) so long as the material is required for the purpose of professional disciplinary proceedings and that the ABCD establishes procedures satisfactory to the commissioner for preserving the confidentiality of the documents, nor shall this section be construed to limit the commissioner’s authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the commissioner’s official duties.

C. Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to Subsection B.

D. In order to assist in the performance of the commissioner’s duties, the commissioner:

(1) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Subsection B with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information and has the legal authority to maintain confidentiality;
(2) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(3) [Optional provision] May enter into agreements governing sharing and use of information consistent with Subsections B to D.

E. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection D.

Section 4. Effective Date

This Act shall take effect [insert date].
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Proposal for Regulatory Oversight of P&C Actuaries
Issuing Regulatory Statements of Actuarial Opinion

By Richard Marcks (CT), Chief Actuary

Regulators ought to express our expectations of actuaries issuing regulatory Statements of Actuarial Opinion for annual statement reporting and devise a way to respond when practicing actuaries fall short of those expectations.

I recommend the CASTF commit to the following three actions:

1. Revise the Property and Casualty Actuarial Opinion Model Law (#745) to provide additional regulatory authority for action. At a minimum, include Sections 5. B. (4) and (5) of the Actuarial Opinion and Memorandum Regulation (#822).

The following sections of the Actuarial Opinion and Memorandum Regulation (#822) (which applies to appointed actuaries issuing opinions on life insurance asset adequacy) should be considered for implementation in the Property and Casualty Actuarial Opinion Model Law (#745):

(4) Has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:
   (a) Violated any provision of, or any obligation imposed by, the Insurance Law or other law in the course of his or her dealings as a qualified actuary;
   (b) Been found guilty of fraudulent or dishonest practices;
   (c) Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;
   (d) Submitted to the commissioner during the past five (5) years, pursuant to this regulation, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this regulation including standards set by the Actuarial Standards Board; or
   (e) Resigned or been removed as an actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and
(5) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under Paragraph (4) above.

Regulators should also consider whether additional changes should be made to the model law.

(Note that prior to development of a new or amended Model Law, approval of the responsible Parent Committee and the NAIC’s Executive Committee is required.)

2. Develop and document expectations for Actuarial Report documentation and disclosure.

Two specific items regularly arise in discussions on the annual regulator calls on opinion issues relate to substandard documentation involving 1) reconciliation of data to Schedule P; and 2) development of expected loss ratios for use in reserve estimates. Other issues may be identified in the course of time.

3. Modify the Annual Statement Instructions for the Statement of Actuarial Opinion to address the regulatory expectations for documentation and disclosure and the changes to the model law.
ACTUARIAL OPINION AND MEMORANDUM REGULATION

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Section 1. Purpose

The purpose of this regulation is to prescribe:

A. Requirements for statements of actuarial opinion that are to be submitted in accordance with [insert state equivalent to Section 3 of the Standard Valuation Law], and for memoranda in support thereof;

B. Rules applicable to the appointment of an appointed actuary; and

C. Guidance as to the meaning of “adequacy of reserves.”

Section 2. Authority

This regulation is issued pursuant to the authority vested in the Commissioner of Insurance of the State of [insert state] under [insert citation, generally the state’s standard valuation law]. This regulation will take effect for annual statements for the year 20[ ].

Section 3. Scope

This regulation shall apply to all life insurance companies and fraternal benefit societies doing business in this State and to all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities or accident and health insurance business in this State. This regulation shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the commissioner shall have the authority to specify specific methods of actuarial analysis and actuarial assumptions when, in the commissioner’s judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items.

This regulation shall be applicable to all annual statements filed with the office of the commissioner after the effective date of this regulation. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Section 6 of this regulation, and a memorandum in support thereof in accordance with Section 7 of this regulation, shall be required each year.
Section 4. Definitions

A. “Actuarial Opinion” means the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Section 6 of this regulation and with applicable Actuarial Standards of Practice.

B. “Actuarial Standards Board” means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

C. “Annual statement” means that statement required by Section [insert applicable section] of the Insurance Law to be filed by the company with the office of the commissioner annually.

D. “Appointed actuary” means an individual who is appointed or retained in accordance with the requirements set forth in Section 5C of this regulation to provide the actuarial opinion and supporting memorandum as required by [insert reference to state equivalent of Section 3 of the Standard Valuation Law].

E. “Asset adequacy analysis” means an analysis that meets the standards and other requirements referred to in Section 5D of this regulation.

F. “Commissioner” means the Insurance Commissioner of this State.

G. “Company” means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this regulation.

H. “Qualified actuary” means an individual who meets the requirements set forth in Section 5B of this regulation.

Section 5. General Requirements

A. Submission of Statement of Actuarial Opinion

(1) There is to be included on or attached to Page 1 of the annual statement for each year beginning with the year in which this regulation becomes effective the statement of an appointed actuary, entitled “Statement of Actuarial Opinion,” setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with Section 6 of this regulation.

(2) Upon written request by the company, the commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

B. Qualified Actuary. A “qualified actuary” is an individual who:

(1) Is a member in good standing of the American Academy of Actuaries;

(2) Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;
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(3) Is familiar with the valuation requirements applicable to life and health insurance companies;

(4) Has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:

(a) Violated any provision of, or any obligation imposed by, the Insurance Law or other law in the course of his or her dealings as a qualified actuary;

(b) Been found guilty of fraudulent or dishonest practices;

(c) Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

(d) Submitted to the commissioner during the past five (5) years, pursuant to this regulation, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this regulation including standards set by the Actuarial Standards Board; or

(e) Resigned or been removed as an actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

(5) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under Paragraph (4) above.

C. Appointed Actuary. An “appointed actuary” is a qualified actuary who is appointed or retained to prepare the Statement of Actuarial Opinion required by this regulation, either directly by or by the authority of the board of directors through an executive officer of the company other than the qualified actuary. The company shall give the commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in the notice that the person meets the requirements set forth in Subsection B. Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the commissioner timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in Subsection B. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

D. Standards for Asset Adequacy Analysis. The asset adequacy analysis required by this regulation:

(1) Shall conform to the Standards of Practice as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this regulation, which standards are to form the basis of the statement of actuarial opinion in accordance with this regulation; and
(2) Shall be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

E. Liabilities to be Covered.

(1) Under authority of [insert state equivalent of Section 3 of the Standard Valuation Law], the statement of actuarial opinion shall apply to all in force business on the statement date, whether directly issued or assumed, regardless of when or where issued, e.g., reserves of Exhibits 8, 9 and 10, and claim liabilities in Exhibit 11, Part 1 and equivalent items in the separate account statement or statements.

(2) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in the Standard Valuation Law, the company shall establish the additional reserve.

(3) Additional reserves established under Paragraph (2) above and deemed not necessary in subsequent years may be released. Any amounts released shall be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation.

Section 6. Statement of Actuarial Opinion Based On an Asset Adequacy Analysis

A. General Description. The statement of actuarial opinion submitted in accordance with this section shall consist of:

(1) A paragraph identifying the appointed actuary and his or her qualifications (see Subsection B(1));

(2) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary’s work, including a tabulation delineating the reserves and related actuarial items that have been analyzed for asset adequacy and the method of analysis, (see Subsection B(2)) and identifying the reserves and related actuarial items covered by the opinion that have not been so analyzed;

(3) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see Subsection B(3)), supported by a statement of each such expert in the form prescribed by Subsection E; and

(4) An opinion paragraph expressing the appointed actuary’s opinion with respect to the adequacy of the supporting assets to mature the liabilities (see Subsection B(6)).

(5) One or more additional paragraphs will be needed in individual company cases as follows:
(a) If the appointed actuary considers it necessary to state a qualification of his or her opinion;

(b) If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

(c) If the appointed actuary must disclose whether additional reserves as of the prior opinion date are released as of this opinion date, and the extent of the release;

(d) If the appointed actuary chooses to add a paragraph briefly describing the assumptions that form the basis for the actuarial opinion.

B. Recommended Language. The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language that clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.

(1) The opening paragraph should generally indicate the appointed actuary’s relationship to the company and his or her qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion should include a statement such as:

“I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies.”

For a consulting actuary, the opening paragraph should include a statement such as:

“I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies.”

(2) The scope paragraph should include a statement such as:

“I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 20[ ]. Tabulated below are those
reserves and related actuarial items which have been subjected to asset adequacy analysis.

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<td>F Disability—Disabled</td>
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<td>G Miscellaneous</td>
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<td>A Active Life Reserve</td>
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<td>Statement Item</td>
<td>Formula Reserves (1)</td>
<td>Additional Actuarial Reserves (a) (2)</td>
<td>Analysis Method (b)</td>
<td>Other Amount (3)</td>
<td>Total Amount (1)+(2)+(3) (4)</td>
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<td>Premium and Other Deposit Funds</td>
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<td>Supplemental Contracts and Annuities Certain</td>
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<td>Dividend Accumulations or Refunds</td>
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<td><strong>Exhibit 11 Part 1</strong></td>
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<td>2 Health (Page 3, Line 4.2)</td>
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<td>Total Exhibit 11, Part 1</td>
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<td>Separate Accounts</td>
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<td>(Page 3 of the Annual Statement of the Separate Accounts, Lines 1, 2, 3.1, 3.2, 3.3)</td>
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<td><strong>TOTAL RESERVES</strong></td>
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### Actuarial Opinion and Memorandum Regulation

| IMR (General Account, Page ___ Line ___) |  |
| (Separate Accounts, Page ___ Line ___) |  |
| AVR (Page ___ Line ___) | (c) |
| Net Deferred and Uncollected Premium |  |

### Notes:

(a) The additional actuarial reserves are the reserves established under Paragraph (2) of Section 5E.

(b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in Section 5D of this regulation, by means of symbols that should be defined in footnotes to the table.

(c) Allocated amount of Asset Valuation Reserve (AVR).

(3) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as:

> “I have relied on [name], [title] for [e.g., “anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios” or “certain critical aspects of the analysis performed in conjunction with forming my opinion”], as certified in the attached statement. I have reviewed the information relied upon for reasonableness.”

A statement of reliance on other experts should be accompanied by a statement by each of the experts in the form prescribed by Section 6E.

(4) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should include a statement such as:

> “My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company’s current annual statement.”

(5) If the appointed actuary has not examined the underlying records, but has relied upon data (e.g., listings and summaries of policies in force or asset records) prepared by the company, the reliance paragraph should include a statement such as:

> “In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company’s current annual statement. In other respects, my examination included review of the
actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary.”

The section shall be accompanied by a statement by each person relied upon in the form prescribed by Subsection E.

(6) The opinion paragraph should include a statement such as:

“In my opinion the reserves and related actuarial values concerning the statement items identified above:

(a) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

(b) Are based on actuarial assumptions that produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

(c) Meet the requirements of the Insurance Law and regulation of the state of [state of domicile]; and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

(d) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and

(e) Include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on the assets, and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company. (At the discretion of the commissioner, this language may be omitted for an opinion filed on behalf of a company doing business only in this state and in no other state.)

The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.

or
The following material changes which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)

Note: Choose one of the above two paragraphs, whichever is applicable.

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company’s future experience may not follow all the assumptions used in the analysis.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary

Date

C. Assumptions for New Issues

The adoption for new issues or new claims or other new liabilities of an actuarial assumption that differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this Section 6.

D. Adverse Opinions

If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary’s opinion is adverse or qualified, then he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reasons for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

E. Reliance on Information Furnished by Other Persons

If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as
applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed.

F. Alternate Option

(1) The Standard Valuation Law gives the commissioner broad authority to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to a company domiciled in this state in the aggregate. As an alternative to the requirements of Subsection B(6)(c), the commissioner may make one or more of the following additional approaches available to the opining actuary:

(a) A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile.” If the commissioner chooses to allow this alternative, a formal written list of standards and conditions shall be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year shall apply to statements for that calendar year, and they shall remain in effect until they are revised or revoked. If no list is available, this alternative is not available.

(b) A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company’s request to file an opinion based on the law of the state of domicile has been approved and that any conditions required by the commissioner for approval of that request have been met.” If the commissioner chooses to allow this alternative, a formal written statement of such allowance shall be issued no later than March 31 of the year it is first effective. It shall remain valid until rescinded or modified by the commissioner. The rescission or modifications shall be issued no later than March 31 of the year they are first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request shall be deemed approved on October 1 of that year if the commissioner has not denied the request by that date.

(c) A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this state.”

(i) If the commissioner chooses to allow this alternative, a formal written list of products (to be added to the table in Item (ii) below) for which the required comparison shall be provided will be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year shall apply to statements for that calendar year, and it shall remain in effect until it is revised or revoked. If no list is available, this alternative is not available.
(ii) If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided shall be at least:

<table>
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<th>(1) Product Type</th>
<th>(2) Death Benefit or Account Value</th>
<th>(3) Reserves Held</th>
<th>(4) Codification Reserves</th>
<th>(5) Codification Standard</th>
</tr>
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(iii) The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.

(iv) If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held.

(v) The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(2) Notwithstanding the above, the commissioner may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on the laws of this state. If a company is unable to provide the opinion within sixty (60) days of the request or such other period of time determined by the commissioner after consultation with the company, the commissioner may contract an independent actuary at the company’s expense to prepare and file the opinion.

Section 7. Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary

A. General

(1) In accordance with [insert state equivalent of Section 3 of the Standard Valuation Law], the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves. The memorandum shall be made available for examination by the commissioner upon his or her request but shall be returned to the company after such examination and shall not be considered a record of the insurance department or subject to automatic filing with the commissioner.
(2) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of Section 5B of this regulation, with respect to the areas covered in such memoranda, and so state in their memoranda.

(3) If the commissioner requests a memorandum and no such memorandum exists or if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this regulation, the commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the commissioner.

(4) The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commissioner pursuant to the statute governing this regulation. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this regulation for any one of the current year or the preceding three (3) years.

(5) In accordance with [insert reference to state equivalent to Section 3 of the Standard Valuation Law], the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection C. The regulatory asset adequacy issues summary will be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

B. Details of the Memorandum Section Documenting Asset Adequacy Analysis

When an actuarial opinion is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in Section 5D of this regulation and any additional standards under this regulation. It shall specify:

(1) For reserves:

(a) Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;

(b) Source of liability in force;

(c) Reserve method and basis;
(d) Investment reserves;
(e) Reinsurance arrangements;
(f) Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis;
(g) Documentation of assumptions to test reserves for the following:
   (i) Lapse rates (both base and excess);
   (ii) Interest crediting rate strategy;
   (iii) Mortality;
   (iv) Policyholder dividend strategy;
   (v) Competitor or market interest rate;
   (vi) Annuity rates;
   (vii) Commissions and expenses; and
   (viii) Morbidity.

The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

(2) For assets:

(a) Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;
(b) Investment and disinvestment assumptions;
(c) Source of asset data;
(d) Asset valuation bases; and
(e) Documentation of assumptions made for:
   (i) Default costs;
   (ii) Bond call function;
   (iii) Mortgage prepayment function;
   (iv) Determining market value for assets sold due to disinvestment strategy; and
(v) Determining yield on assets acquired through the investment strategy.

The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

(3) For the analysis basis:

(a) Methodology;

(b) Rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;

(c) Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of “materiality” that was used in determining how rigorously to analyze different blocks of business);

(d) Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under “moderately adverse conditions” or other conditions as specified in relevant actuarial standards of practice); and

(e) Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis;

(4) Summary of material changes in methods, procedures, or assumptions from prior year’s asset adequacy analysis;

(5) Summary of results; and

(6) Conclusions

C. Details of the Regulatory Asset Adequacy Issues Summary

(1) The regulatory asset adequacy issues summary shall include:

(a) Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.
(b) The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;

(c) The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

(d) Comments on any interim results that may be of significant concern to the appointed actuary. For example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;

(e) The methods used by the actuary to recognize the impact of reinsurance on the company’s cash flows, including both assets and liabilities, under each of the scenarios tested; and

(f) Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

D. Conformity to Standards of Practice. The memorandum shall include a statement:

“Actuarial methods, considerations and analysis used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum.”

E. Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve

An appropriate allocation of assets in the amount of the interest maintenance reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the asset valuation reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

The amount of the assets used for the AVR shall be disclosed in the table of reserves and liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

Drafting Note: It has been suggested by some that, if the required interest rate scenarios are removed, they should be restored in five years if the commissioner is not satisfied with the scenarios upon which the asset adequacy opinion is based.
F. Documentation. The appointed actuary shall retain on file, for at least seven (7) years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

Chronological Summary of Action (all references are to the Proceedings of the NAIC).

2001 Proc. 1st Quarter 918, 999-1015 (amendments adopted later are printed here).
2001 Proc. 2nd Quarter 11, 14, 80, 112 (amended).
2009 Proc. 3rd Quarter (amended).
B. Selection of Assets for Analysis

The actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereafter called "specified reserves." A particular asset or portion thereof supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be prorated over several groups of specified reserves.

C. Use of Assets Supporting the MSVR

D. Documentation

The actuary shall retain on file sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, and the results obtained.

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ATTACHMENT ONE-E

Letter On Proposed Valuation Law Amendments and Model Regulation

STATE OF NEW YORK INSURANCE DEPARTMENT
Agency Building One
Empire State Plaza
Albany, New York 12257

May 22, 1990

Mr. John Montgomery, FSA
Vice President, Chief Actuary and Deputy Insurance Commissioner
California Department of Insurance
3450 Wilshire Boulevard
Los Angeles, CA 90010

Dear John:

Following our meeting on March 7, 1990, Ira Friedman forwarded you some proposed revisions with his letter of March 14, 1990. Such new draft noted that I was to supply the insert for Article X: Section 3, Use of Assets Supporting the Mandatory Securities Valuation Reserve (MSVR).

Enclosed is my proposal for revising Section 2 and the insert for Section 3.

I had originally planned to write much more detail for the C-1 risk and the use of the MSVR. However, I felt that further detail than as proposed belongs elsewhere in the regulation. Thus, I expect to have further comments on the C-1 risk.

Over past years you often spoke about tying down the rules for the actuarial opinion and memorandum, such as the starting new money rate, perhaps based on an index, and specifying the various interest scenarios for projections. More recently you are somewhat inclined to rely solely on the Actuarial Standards Boards (ASB). I still feel that such standards are too general and the regulators need to add some specific criteria such as the new money rate and the interest scenarios.

Furthermore, some actuaries do not want to consider the C-1 risk but simply rely on the MSVR. I have checked the ASB's "Actuarial Standard of Practice Concerning Cash Flow Testing for Life and Health Insurance Companies" dated October 1988 and the Exposure Draft "When to do Cash Flow Testing for Life and Health Insurance Companies" dated October 1989. I cannot find where the C-1 risk is specifically covered by either document. It is my understanding that we reached agreement the advisory committee that the C-1 risk and the quality of assets had to be considered and that assets supporting the MSVR could be used but only for the C-1 risk. The regulators need to supplement the ASB's standards.

As a compromise on the question of discipline, I have redrafted Article V, Section 2, Qualified Actuary (copy enclosed) along the lines of New York's Regulation 126 but with limited reciprocity.

It is my understanding that in Section 3(a) of the Standard Valuation Law we would seek a word other than "appropriate." The word "adequate" has been suggested and would appear to be acceptable and should be so reflected.

Mr. Friedman's 3-14-90 draft shows the addition of the phrase "the investment earnings on such assets" in Section 3(a) of the Standard Valuation Law. I would prefer that such phrase be deleted or else expanded to refer to "all characteristics of the assets affecting cash flows including coupons, maturity, quality, default risk, calls."

Very truly yours,

Robert J. Callahan
Chief, Life Actuary and
Chief, Actuarial Valuation Bureau

Life & Health Actuarial Task Force
ARTICLE X: ADDITIONAL CONSIDERATIONS FOR ANALYSIS

The following amendments to Mr. Friedman's 3-14-90 version are suggested.

Section 2. Selection of Assets for Analysis

The actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereinafter called "specified reserves." A particular asset or portion thereof supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be prorated over several groups of specified reserves. The annual statement value of assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in Section 3 below.

The following insert is suggested for Mr. Friedman's 3-14-90 version. Section 3. Use of Assets Supporting the Mandatory Securities Valuation Reserve (MSVR)

To the extent that the MSVR is reported as a liability in the annual statement, that portion of an allocated share of the assets supporting the MSVR needed for the C-1 default risk may be used to supplement the assets in support of the specified reserves in the specific analysis.

****

ARTICLE V: GENERAL REQUIREMENTS

The following amendments to Section 2 of Mr. Friedman's 3-14-90 version are suggested.

Section 2. Qualified Actuary

A qualified actuary is an individual who:

(a) is a member in good standing of the American Academy of Actuaries; and

(b) is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements; and

(c) is familiar with the valuation laws of this state; and

(d) has not been found by the Commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:

(i) violated any provision of, or any obligation imposed by, the Insurance Law or other law in the course of his or her dealings as a qualified actuary; or

(ii) been found guilty of fraudulent or dishonest practices; or

(iii) demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary; or

(iv) submitted to the Superintendent during the past five years, pursuant to this Regulation, an actuarial opinion or memorandum that the Commissioner rejected because it did not meet the standards of this Regulation including those of the Actuarial Standards Board; or

(v) resigned or been removed as an actuary within the past five years in connection with any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

(e) has failed to notify the Commissioner of any action taken by any Commissioner of any other state similar to that under Section (d) above.

*********
The Appointed Actuary Subgroup of the Casualty Actuarial and Statistical (C) Task Force (CASTF) is discussing a proposal to strengthen the regulatory discipline authority for actuaries who issue Statements of Actuarial Opinion. This survey is intended to inform the Subgroup of current practices and procedures and gauge the level of interest among financial and actuarial regulators for stronger discipline procedures for actuaries. Please take a few minutes to complete this survey. If you have any questions, please contact Kris DeFrain at the NAIC at kdefrain@naic.org. We would appreciate your response by Monday, July 9, 2012.

Current P&C AOML Authority
The Property and Casualty Actuarial Opinion Model Law (P&C AOML, #745) contains a provision granting the insurance department authority to require additional actuarial analysis be performed if the Actuarial Report or workpapers are inadequate. Specifically, section 2C(2) states the following:

If the insurance company fails to provide a supporting Actuarial Report and/or workpapers at the request of the commissioner or the commissioner determines that the supporting Actuarial Report or workpapers provided by the insurance company is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting Actuarial Report or workpapers.

Has your state adopted the above section of the P&C AOML?

☐ Yes [Skip to 3]
☐ No [Skip to 4]
How often have you or your insurance department invoked this provision with a P&C insurer since implementation of the law (around 2003)?

- Never
- 1 - 3 times
- 4 - 9 times
- 10 or more

If you or your insurance department has utilized this provision, did you find it to be effective?

- Yes
- No
- Sometimes

Please describe any situations where you or your insurance department determined the P&C AOML was effective or ineffective with regard to getting acceptable actuarial work.

The Confidentiality section of the P&C AOML grants the commissioner authority to release documents to the Actuarial Board for Counseling and Discipline for purposes of disciplinary proceedings. Specifically, section 3B(2) states the following:

This provision shall not be construed to limit the commissioner's authority to release the documents to the Actuarial Board for Counseling and Discipline (ABCD) so long as the material is required for the purpose of professional disciplinary proceedings and that the ABCD establishes procedures satisfactory to the commissioner for preserving the confidentiality of the documents, nor shall this section be construed to limit the commissioner's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

How often have you or your insurance department reported an actuary to the ABCD for either counseling or discipline?

- Never
- 1 - 3 times
- 4 - 9 times
- 10 or more

Where any of these situations related to Question (1) on the previous page?

- Yes
- No
- Please explain.
Page 4 - Question 8 - Choice - One Answer (Bullets)

Was the process effective?

- Yes
- No
- Sometimes

Page 4 - Question 9 - Open Ended - Comments Box

If there were times where the process was effective or ineffective, please explain why.

Page 4 - Question 10 - Yes or No

Do you or your insurance department believe you have adequate authority in your state through the above provisions to minimize or eliminate substandard actuarial work in the Statement of Actuarial Opinion and associated documents?

- Yes
- No
- Please explain.

Page 5 - Heading

Use of Discipline Provisions of Life AOMR and Proposed Changes to the P&C AOML

The CASTF has received a proposal to adopt the language in whole or in part of the (life insurance) Actuarial Opinion and Memorandum Regulation (#822) relating to regulatory discipline of actuaries. The language was introduced in 1990 to be consistent with NY Model Regulation 126 to address concerns that actuarial work would not be performed professionally. The relevant section of the AOMR is as follows:

A qualified actuary is an individual who:

......
(4) Has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:
(a) Violated any provision of, or any obligation imposed by, the Insurance Law or other law in the course of his or her dealings as a qualified actuary;
(b) Been found guilty of fraudulent or dishonest practices;
(c) Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;
(d) Submitted to the commissioner during the past five (5) years, pursuant to this regulation, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this regulation including standards set by the Actuarial Standards Board; or
(e) Resigned or been removed as an actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and
(5) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under Paragraph (4) above.

Page 5 - Heading

The questions below relate to the application of the above actuarial discipline sections of the life AOMR.
Page 5 - Question 11 - Choice - One Answer (Bullets)

How often have your or your insurance department sought to discipline a life actuary under the above provisions?

- Never
- 1 - 3 times
- 4 - 9 times
- 10 or more

Page 5 - Question 12 - Choice - One Answer (Bullets)

If you or your insurance department has utilized this provision, did you find it to be effective?

- Yes
- No
- Sometimes

Page 5 - Question 13 - Yes or No [Mandatory]

Would you support the inclusion of the above or similar language in the P&C AOML?

- Yes [Skip to 6]
- No [Skip to 7]

Page 6 - Question 14 - Choice - Multiple Answers (Bullets)

Why would you support the inclusion of the language in the P&C AOML?

- To ensure consistency with the Actuarial Opinion Model Regulation.
- To address shortcomings of the ABCD process.
- To implement powers that will motivate actuaries to do the job appropriately the first time.
- To prevent actuaries who perform unprofessional work for issuing opinions in YOUR state.
- To prevent actuaries who perform unprofessional work for issuing opinions in ANY state.
- Other, please explain.

Page 7 - Question 15 - Choice - Multiple Answers (Bullets)

Why wouldn't you support the inclusion of the language in the P&C AOML?

- The combination of the P&C Actuarial Opinion Model and other state regulatory authority gives the Commissioner enough tools to address unprofessional actuarial work.
- The ABCD process to seek discipline or counseling of actuaries meets our needs.
- Other, please explain.

Page 7 - Question 16 - Open Ended - Comments Box

I would propose an alternative as follows:

__________________________________________________________________________________________

__________________________________________________________________________________________
(For Department Actuaries) General Questions about the Actuarial Standards of Practice

Page 8 - Question 17 - Yes or No [Mandatory]
Do you believe the current Actuarial Standards of Practice provide adequate guidance for appointed actuaries with meeting the actuarial regulatory filing expectations for the P&C annual statement?

☐ Yes  
☐ No

Page 8 - Question 18 - Yes or No
If you answered "no" to the previous question, do you believe it would be useful to provide appointed actuaries with additional guidance to assist them in meeting such actuarial regulatory filing expectations?

☐ Yes  
☐ No

Page 9 - Question 19 - Open Ended - Comments Box
The Appointed Actuary Subgroup of the Casualty Actuarial and Statistical (C) Task Force appreciates your time to complete this survey. Should you have any further comments, please provide in the space below or email Kris DeFrain at kdefrain@naic.org. Thank you!

Thank You Page
The Appointed Actuary Subgroup of the Casualty Actuarial and Statistical (C) Task Force appreciates your participation.
<http://www.naic.org/>
Thank you this survey is not closed. Please contact Kris DeFrain at kdefrain@naic.org. Thank you!

<http://www.naic.org/>
CASTF Survey of State Financial and Actuarial Regulators

Presentation

Has your state adopted the above section of the P&C AOML?

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>19 (70 %)</td>
</tr>
<tr>
<td>No</td>
<td>8 (30 %)</td>
</tr>
</tbody>
</table>
CASTF Survey of State Financial and Actuarial Regulators Regarding Proposal for Regulatory Oversight of P&C Actuaries

**Issuing Regulatory Statements of Actuarial Opinion:** How often have you or your insurance department invoked this provision with a P&C insurer since implementation of the law (around 2003)?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Never</td>
<td>16</td>
<td>84%</td>
</tr>
<tr>
<td>1 - 3 times</td>
<td>1</td>
<td>5%</td>
</tr>
<tr>
<td>4 - 9 times</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>10 or more</td>
<td>2</td>
<td>11%</td>
</tr>
</tbody>
</table>

**If you or your insurance department has utilized this provision, did you find it to be effective?**

<table>
<thead>
<tr>
<th>Effectiveness</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>1</td>
<td>33%</td>
</tr>
<tr>
<td>No</td>
<td>1</td>
<td>33%</td>
</tr>
<tr>
<td>Sometimes</td>
<td>1</td>
<td>33%</td>
</tr>
</tbody>
</table>
CASTF Survey of State Financial and Actuarial Regulators Regarding Proposal for Regulatory Oversight of P&C Actuaries

Issuing Regulatory Statements of Actuarial Opinion: How often have you or your insurance department reported an actuary to the ABCD for either counseling or discipline?

- Never: 18 (67%)
- 1 - 3 times: 8 (30%)
- 4 - 9 times: 1 (4%)
- 10 or more: 0 (0%)

CASTF Survey of State Financial and Actuarial Regulators Regarding Proposal for Regulatory Oversight of P&C Actuaries

Issuing Regulatory Statements of Actuarial Opinion: Where any of these situations related to Question (1) on the previous page?

- Yes: 2 (14%)
- No: 12 (86%)
- Please explain: 0 (0%)
CASTF Survey of State Financial and Actuarial Regulators Regarding Proposal for Regulatory Oversight of P&C Actuaries Issuing Regulatory Statements of Actuarial Opinion:

**Was the process effective?**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>2 (20%)</td>
</tr>
<tr>
<td>No</td>
<td>6 (60%)</td>
</tr>
<tr>
<td>Sometimes</td>
<td>2 (20%)</td>
</tr>
</tbody>
</table>

**Do you or your insurance department believe you have adequate authority in your state through the above provisions to minimize or eliminate substandard actuarial work in the Statement of Actuarial Opinion and associated documents?**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>19 (70%)</td>
</tr>
<tr>
<td>No</td>
<td>8 (30%)</td>
</tr>
<tr>
<td>Please explain</td>
<td>0 (0%)</td>
</tr>
</tbody>
</table>
How often have your or your insurance department sought to discipline a life actuary under the above provisions?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Never</td>
<td>21</td>
<td>88%</td>
</tr>
<tr>
<td>1 - 3 times</td>
<td>3</td>
<td>12%</td>
</tr>
<tr>
<td>4 - 9 times</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>10 or more</td>
<td>0</td>
<td>0%</td>
</tr>
</tbody>
</table>

If you or your insurance department has utilized this provision, did you find it to be effective?

<table>
<thead>
<tr>
<th>Response</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>2</td>
<td>40%</td>
</tr>
<tr>
<td>No</td>
<td>1</td>
<td>20%</td>
</tr>
<tr>
<td>Sometimes</td>
<td>2</td>
<td>40%</td>
</tr>
</tbody>
</table>
CASTF Survey of State Financial and Actuarial Regulators Regarding Proposal for Regulatory Oversight of P&C Actuaries

Issuing Regulatory Statements of Actuarial Opinion: Would you support the inclusion of the above or similar language in the P&C AOML?

<table>
<thead>
<tr>
<th></th>
<th>20 (74%)</th>
<th>7 (26%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Why would you support the inclusion of the language in the P&C AOML?**

- To ensure consistency with the Actuarial Opinion Model Regulation: 11 (58%)
- To address shortcomings of the ABCD process: 10 (53%)
- To implement powers that will motivate actuaries to do the job appropriately the first time: 9 (47%)
- To prevent actuaries who perform unprofessional work for issuing opinions in YOUR state: 9 (47%)
- To prevent actuaries who perform unprofessional work for issuing opinions in ANY state: 9 (47%)
- To implement consistent state acts with the Uniform Actuarial Violation Regulation: 7 (37%)
- Other, please explain: 3 (16%)
CASTF Survey of State Financial and Actuarial Regulators Regarding Proposal for Regulatory Oversight of P&C Actuaries

Issuing Regulatory Statements of Actuarial Opinion: Why wouldn’t you support the inclusion of the language in the P&C AOML?

- The combination of the P&C Actuarial Opinion Model and other state regulatory authority gives the Commissioner enough tools to address unprofessional actuarial work. 6 (86%)
- The ABCD process to seek discipline or counseling of actuaries meets our needs. 3 (43%)
- Other, please explain. 3 (43%)

CASTF Survey of State Financial and Actuarial Regulators Regarding Proposal for Regulatory Oversight of P&C Actuaries

Issuing Regulatory Statements of Actuarial Opinion: Do you believe the current Actuarial Standards of Practice provide adequate guidance for appointed actuaries with meeting the actuarial regulatory filing expectations for the P&C annual statement?

- Yes 20 (74%)
- No 7 (26%)
If you answered "no" to the previous question, do you believe it would be useful to provide appointed actuaries with additional guidance to assist them in meeting such actuarial regulatory filing expectations?

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>5 (71%)</td>
</tr>
<tr>
<td>No</td>
<td>2 (29%)</td>
</tr>
</tbody>
</table>
5. Please describe any situations where you or your insurance department determined the P&C AOML was effective or ineffective with regard to getting acceptable actuarial work.

<table>
<thead>
<tr>
<th>#</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>While we haven't had to use the provision, I think it is an excellent tool.</td>
</tr>
<tr>
<td>2</td>
<td>By the time we have proven that the actuarial report is not adequate, and determined that other options are not working, and that the promised revision by the company is not forthcoming, it is the next year end.</td>
</tr>
<tr>
<td>3</td>
<td>The options in the law provide leverage with the actuary to comply with what we require. [STATE] has not &quot;invoked&quot; to the extent of charging the company for a second actuary's opinion and report.</td>
</tr>
<tr>
<td>4</td>
<td>N/A</td>
</tr>
<tr>
<td>5</td>
<td>We see problems with inadequate work/inappropriate opinions, i.e., we disagree with assumptions made and results. To address this we call a target exam, engage a consultant and get an independent estimate of reserves. We do not require additional analysis be created to support the opinion already provided. Therefore, we do not rely on P&amp;C AOML, #745 for effective regulation.</td>
</tr>
<tr>
<td>6</td>
<td>N/A</td>
</tr>
<tr>
<td>7</td>
<td>[STATE] has had very few instances of poor actuarial work. Generally, reserving issues have related to management decisions to intentionally book to the low end of the actuaries reasonable range. In those instances, conducting limited scope examinations on reserves on a regular basis has been sufficient to entice management to change their practices.</td>
</tr>
<tr>
<td>8</td>
<td>At every opportunity, we make an effort to inform companies and actuaries of the Commissioner’s authority and responsibilities. Making companies aware of this and other statutes / regulations/ expectations . . . and our willingness to act upon them. For example; Poor actuarial work products will make exams more expensive to the company in the fees of hired consultants.</td>
</tr>
<tr>
<td>9</td>
<td>see answer above</td>
</tr>
<tr>
<td>10</td>
<td>fyi For [STATE], the implementation of P&amp;C AOML was for Annual Statement year 2011.</td>
</tr>
</tbody>
</table>
7. Where any of these situations related to Question (1) on the previous page?

<table>
<thead>
<tr>
<th>#</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>These situations involved two life actuaries separated in time by over ten years.</td>
</tr>
<tr>
<td>2</td>
<td>We do not have that provision</td>
</tr>
<tr>
<td>3</td>
<td>[STATE] has not adopted the language regarding the report or workpapers being unacceptable.</td>
</tr>
<tr>
<td>4</td>
<td>N/A</td>
</tr>
<tr>
<td>5</td>
<td>Confusing, inadequate documentation in workpapers.</td>
</tr>
<tr>
<td>6</td>
<td>Referral was a matter of lack of documentation of risk transfer analysis</td>
</tr>
<tr>
<td>7</td>
<td>The situation related to the qualifications of the appointed actuary. On the Health side where we received an inadequate actuarial product, we requested the actuary get counseling from ABCD about his work or we would report him to ABCD.</td>
</tr>
<tr>
<td>8</td>
<td>N/A</td>
</tr>
<tr>
<td>9</td>
<td>Two referrals were made by [STATE] prior to 2003. Neither related to an inadequate Actuarial Report or workpapers.</td>
</tr>
<tr>
<td>10</td>
<td>He was turned in for the poor quality of the review he did on the company’s booked reserves.</td>
</tr>
<tr>
<td>11</td>
<td>For [STATE], the implementation date was for 2011 annual statement in 2012.</td>
</tr>
</tbody>
</table>
### CASTF Survey of State Financial and Actuarial Regulators

**Results Overview [Redacted]**

Date: 7/27/2012 1:12 PM PST  
Responses: Completes  
Filter: No filter applied

9. If there were times where the process was effective or ineffective, please explain why.

<table>
<thead>
<tr>
<th>#</th>
<th>Response</th>
</tr>
</thead>
</table>
| 1  | This is my understanding of the process based on my interactions: In order for any discipline measures to be applied  
   1) I must work with the actuary to try to resolve the issue. This could take a year as it will not be for a year that the next annual statement and report is available. Only then will I know if the actuary has improved compliance with standards.  
   2) After a year, the actuary may have improved in some areas but not others.  
   3) Then it becomes my job to prove to the ABCD that there has been a breach of the standards. Simply providing a copy of correspondence requesting adherence, and a copy of a subsequent report that contains examples of non-compliance is not sufficient. I must spend hours and hours documenting exactly which precepts, and exactly which ASOPs are violated, pointing to the portions of the document where they were violated. Furthermore, I must prove to the ABCD that I was sufficiently cooperative in working with the non-compliant actuary. I do not have that kind of time, especially for a task that I believe may or may not result in any benefit to the actuarial reputation. |
| 2  | The people from the ABCD were friendly and contacted me within two days of my inquiry. However, I found the guidance too general. |
| 3  | The ABCD process is slow and largely secretive with little or no feedback to states if any processes are taking place. |
| 4  | The Commissioner has means, such that we can negotiate with the actuary with reference to the ASOP’s, without placing the ABCD in the middle. |
| 5  | Not Used |
| 6  | Two of the complaints were dismissed, and the other two took a long time to be resolved. However, the actuaries started doing better work because of the fact that they had been reported. |
| 7  | We have never referred anyone that I am aware, but I have called ABCD members for guidance on what to do in particular situations. |
| 8  | N/A |
| 9  | We have found the ABCD process to be ineffective because to our knowledge the ABCD has not taken disciplinary action. |
| 10 | N/A |
| 11 | In the case referred to above, the actuary was not formally disciplined but the work going forward was done in an acceptable manner either by a new actuary or management. Our goal has always been to have future work be up to standards. |
| 12 | N/A |
| 13 | Case 1. This involved a difference of interpretation of ASOP 36 between the Appointed Actuary at an insurance company and the department on an examination issue. My desire was to get clarity from the ABCD. The Academy General Counsel informed me that the only way to receive feedback on an ABCD decision was to take the most aggressive action against the actuary. In other words, I had to “make a mountain out of a molehill”.  
   Feeling that the outcome was simple, yet absolutely clear from the language of ASOP 36 regarding required disclosure on the risk of material adverse deviation, I proceeded with the expectation that the decision from the ABCD would simply state that more clarity in disclosure was called for by the Appointed Actuary.  
   Instead the ABCD presented the situation as our aggressive attempt to have the actuary publicly reprimanded and credentials revoked – essentially that we sought to destroy the actuary’s career. The Appointed Actuary clearly interpreted that was the situation as was presented by the ABCD in communications with me. In my mind, it was to be a simple resolution regarding clarity of the expected disclosure under ASOP 36. That resolution would provide sufficient clarity for all to know what would be expected going forward. Instead of this outcome, our relationship with the Appointed Actuary and the |
company was severely damaged due to the unwillingness of the ABCD and the Academy General Counsel to seek a simple resolution to a simple question.

I am prepared to reveal more of the details of the issue for broader evaluation to let fellow regulators see:

1. How the ABCD process advocates and encourages an unnecessary image that any referral to the ABCD needs to be construed as an effort to ruin an actuary;
2. How the process is overly burdensome on one who might consider a referral; and
3. That the actual decision rendered by the ABCD was in conflict with the standard in question.

<table>
<thead>
<tr>
<th>Case 2. This involved a situation in which a new Appointed Actuary performed a simple Schedule P reserve analysis that revealed poor work in several areas. The Company had recently redefined its categorization of CMP vs Special Property (Fire, Allied) / Other Liability. They did it wrong, creating a mismatch after calendar date 19XX between premiums and losses in the various lines of Schedule P. The mismatch was visually apparent, yet the actuary failed to recognize the aberrations in loss emergence. On questioning it also became clear that the actuary did not make an effort to explore the assignment he was accepting, particularly with respect to recent changes in company operations (i.e. reclassification). In short, the actuary did no background work on the assignment (Precept 1 of the Code calls for competent work), plopped the data into a simple Excel file, cranked out a number, and billed the company for substandard work.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upon discussion with an ABCD representative on how to approach the referral I was essentially asked if the actuary’s actions placed the company in financial stress. I replied that it did not – so I was informed that the ABCD was not interested. In other words, a professional actuary can sell his signature with substandard work, as long as the company does not go under.</td>
</tr>
<tr>
<td>With these two experiences, why would I have any interest in breaking a sweat with the ABCD?</td>
</tr>
</tbody>
</table>
10. Do you or your insurance department believe you have adequate authority in your state through the above provisions to minimize or eliminate substandard actuarial work in the Statement of Actuarial Opinion and associated documents?

<table>
<thead>
<tr>
<th>#</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Look to their licensing board to regulate.</td>
</tr>
<tr>
<td>2</td>
<td>In making the referral to the ABCD, there has always been uncertainty as to whose name would be associated with that action and also attendant liability issues should the actuary in question challenge the action.</td>
</tr>
<tr>
<td>3</td>
<td>I don't recall any significant issues. With minor issues, we have always been able to obtain corrections/compliance.</td>
</tr>
<tr>
<td>4</td>
<td>I have seen many instances of substandard work. When I was new with the department, I called the ABCD. I expected the ABCD to be supportive and to work with me in increasing the quality of the work. Instead, I was told that most of the onus was on me to fix the problem. I had to communicate and work with the other actuary. Then wait and see if there was improvement. I wish I had known how difficult it was to be disciplined when I was a consultant. I tried very hard to adhere to the standards. Now I find out that if you make a mistake, the worst that will happen is that someone will call you and ask you to do better.</td>
</tr>
<tr>
<td>5</td>
<td>Actuaries work for their clients, not state regulators. As long as their clients are happy with the services they have provided, they will keep on doing the same quality of work.</td>
</tr>
<tr>
<td>6</td>
<td>Actuaries must make accusations of other actuaries for the ABCD Board to seriously consider the issues.</td>
</tr>
<tr>
<td>7</td>
<td>[STATE] law provides adequate authority.</td>
</tr>
<tr>
<td>8</td>
<td>We do not have the above provisions in our state.</td>
</tr>
<tr>
<td>9</td>
<td>We have broad authority to require revisions of such documents if we believe they are not properly prepared.</td>
</tr>
<tr>
<td>10</td>
<td>We utilize either a Department or independent actuary (with Departmental oversight) on every financial examination and make adjustments to the reserves where necessary.</td>
</tr>
<tr>
<td>11</td>
<td>This is a qualified Yes because [STATE] has not adopted this provision. If they had, I believe it would be useful.</td>
</tr>
<tr>
<td>12</td>
<td>We believe that it would be appropriate to have authority for P&amp;C similar to the provisions in the Life AOMR.</td>
</tr>
<tr>
<td>13</td>
<td>The actuaries in which this Department has concerns regarding their work product continue to opine on reserves of companies in our state.</td>
</tr>
<tr>
<td>14</td>
<td>Additional actuarial oversight is used to requiring revisions to the Actuarial Report and/or using target or accelerated examinations with an outside actuarial consultant.</td>
</tr>
<tr>
<td>15</td>
<td>The exam authority and P&amp;C opinion model law provide for multiple avenues to address substandard actuarial work should it exist. Generally the threat of an ABCD referral or conducting multiple limited scope exams has been effective in changing behavior going forward.</td>
</tr>
<tr>
<td>16</td>
<td>We are prepared to be assertive when necessary by pushing the limits of our authority to make our expectations known to a company. The most readily identifiable way to do that is during a financial examination where we choose to utilize external consultants at company expense, with little effort on our part to review an inadequate actuarial work product that we believe the company failed to do correctly for us to be able to rely on.</td>
</tr>
<tr>
<td>17</td>
<td>While we look at only our domestics, the domestics have reputable actuarial firms. If we do have issues, we will turn them into ABCD or try to get company to switch actuaries.</td>
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14. Why would you support the inclusion of the language in the P&C AOML?

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<th>#</th>
<th>Response</th>
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<tbody>
<tr>
<td>1</td>
<td>No opinion</td>
</tr>
<tr>
<td>2</td>
<td>In general, to limit actuaries when unprofessional work is being done.</td>
</tr>
<tr>
<td>3</td>
<td>From the Life language I’d make the following suggestions; (d) remove <em>including standards set by the Actuarial Standards</em></td>
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15. Why wouldn't you support the inclusion of the language in the P&C AOML?

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<tbody>
<tr>
<td>1</td>
<td>There's too much vague language that would make enforcing it difficult.</td>
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<tr>
<td>2</td>
<td>Some triggers look subjective, e.g. &quot;lack of cooperation,&quot; or appear to be summary reactions to the actuary's work (both (d) and (e) give the actuary no opportunity to respond after failing to meet expectations identified in retrospect). Uniformity between P&amp;C, Life and even Title would be nice, but rather than proceed with notice and hearing that would have extraterritorial impact on the actuary, the Commissioner would prefer to see the Actuarial Profession discipline itself.</td>
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<td>3</td>
<td>Holding a hearing would consume department resources - both human and financial. The state has authority to regulate companies not actuaries. The language above was written before there was an ABCD. It has been our experience that management decisions have been more problematic than actuarial work products. It is the company management's responsibility to submit to the state a proper financial statement and supporting documentation. The above language effectively allows management to absolve themselves of that responsibility and push everything off on the actuary. There is no guarantee that states have adequate resources to conduct and adjudicate a hearing of this type.</td>
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16. I would propose an alternative as follows:

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<tr>
<td>1</td>
<td>A stronger ABCD that is able to discipline actuaries and publish its findings.</td>
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<tr>
<td>2</td>
<td>[STATE] is not in support, but is also not irrevocably opposed.</td>
</tr>
<tr>
<td>3</td>
<td>The inclusion of a &quot;hearing&quot; makes this no different from the ABCD process in my opinion and in fact makes it worse because there would be 50 different state applications of it. Further, regulators regulate companies, not actuaries. If the work performed for the company was unsatisfactory, regulators can inform company management. If management does not take action, the regulator can seek better work at the company's expense. The regulator can then choose to refer an actuary to the ABCD in order to redirect the behavior of the actuary. This is analogous to the mechanisms in place for audit firms and audit work, from what I understand.</td>
</tr>
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</table>
19. The Appointed Actuary Subgroup of the Casualty Actuarial and Statistical (C) Task Force appreciates your time to complete this survey. Should you have any further comments, please provide in the space below or email Kris DeFrain at kdefrain@naic.org. Thank you!

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<tbody>
<tr>
<td>1</td>
<td>Regarding question 15, I gave it a tentative 'yes' since we haven't had many problems, but I don't really know.</td>
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<tr>
<td>2</td>
<td>Although the ASOP's together with AS Instructions provide adequate guidance, I perceive some &quot;conflicting guidance&quot; in the P&amp;C Reserving Practice Note and intentional ambiguities in some actuaries' SAO's and Actuarial Reports. So we need to supplement guidance with vigilance.</td>
</tr>
<tr>
<td>3</td>
<td>We do not systematically review actuarial opinions for P&amp;C companies, but concentrate our resources on the review of Opinions and their supporting Actuarial Reports at examination time. We do systematically review actuarial opinions etc. for life insurers, and have required an additional opinion at least once, but on both sides we do not pursue either professional discipline referrals or disapprovals of actuarial opinions because we do not want to get bogged down in litigation. We do, however, view actuarial opinions with a healthy dose of skepticism, and perform our own actuarial reviews as part of each examination. Fairly frequently these result in significant differences of opinion with the Appointed Actuary, which we review with the actuary and the company. On most of these occasions, a significant difference remains after discussion, and in these cases we require an examination change. This is true even if the resulting examination change places the company in an RBC Action Level or results in conservation of the company. In this way the Appointed Actuary's opinion is effectively replaced with the Department's opinion. We view this as a more efficient way of dealing with substandard actuarial opinions.</td>
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<td>4</td>
<td>We believe more guidance should be given to actuaries with respect to the Standards of Practice that apply to regulatory filings, i.e., a questions and answer page. For example we rely on the requirements of ASOPs 36 and 41 in our regulatory review of companies. This year, during our annual Statement of Actuarial Opinion review, we followed up with many actuaries based on the changes made to ASOP 36 and the Appointed Actuaries' lack of disclosure to address those changes in the SAO. The Appointed Actuaries' interpretations of the requirement varied considerably. When we find inadequate documentation in the workpapers supporting an SAO, we rely on NAIC Annual Statement Instructions requirements because the Instructions language is stronger than that of ASOP 41. In addition, with the regulators moving to risk focused exams, we review workpapers of internal actuaries more frequently because of management's reliance on them in determining carried reserves. However, we cannot hold internal actuaries' workpapers to the standard established in the Instructions because they are not the workpapers that support the SAO. We can only hold them to the weaker ASOP 41 requirements.</td>
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<tr>
<td>5</td>
<td>#18 Explanation of No: The AS Instructions and annual Regulatory Guidance document provided sufficient baseline information. Feedback through examination and annual reviews can offer appropriate attention on company specific situations. I am reluctant to move toward greater formalization &amp; standardization of guidance (similar to Life Actuarial Guidelines). Let the growing body of actuarial literature do that. And let regulators be more active in contributing to that growing body of actuarial literature. #12 Comment: If provisions utilized. . . The question seems to imply that use of the provision requires action to impose penalties on a company or an actuary. We believe that having the authority to act, and making it known to a company or actuary that we will act, can head off most issues and conflicts before it gets to the &quot;send 'em to the gallows&quot; course of action.</td>
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