Title of Exposure Draft: Statements of Actuarial Opinion Regarding Health Insurance Assets and Liabilities

Comment Deadline: November 13, 2020

Instructions: Please review the exposure draft, and give the ASB the benefit or your recommendations by completing this comment template. Please fill out the tables within the section below, adding rows as necessary. Sample for completing the template provided at the following link: http://www.actuarialstandardsboard.org/email/2020/ASB-Comment-Template-Sample.docx

Each completed comment template received by the comment deadline will receive consideration by the drafting committee and the ASB. The ASB accepts comments by email. Please send to comments@actuary.org and include the phrase 'ASB COMMENTS' in the subject line. Please note: Any email not containing this exact phrase in the subject line will be deleted by our system's spam filter.

The ASB posts all signed comments received to its website to encourage transparency and dialogue. Comments received after the deadline may not be considered. Anonymous comments will not be considered by the ASB nor posted to the website. Comments will be posted in the order that they are received. The ASB disclaims any responsibility for the content of the comments, which are solely the responsibility of those who submit them.

I. Identification:

Name of Commentator / Company
Dan Perlman

II. ASB Questions (If Any). Responses to any transmittal memorandum questions should be entered below.

Question No.	Commentator Response

III. Specific Recommendations:

Section # (e.g. 3.2.a)	Commentator Recommendation (Please provide recommended wording for any suggested changes)	Commentator Rationale (Support for the recommendation)
3.11	When the **assets** or **liabilities** fall outside a reasonable range for the intended purpose, the actuary should issue an unfavorable opinion (sometimes referred to as an "adverse opinion"). This includes cases where the **assets** or **liabilities** are, in the judgment of the actuary, excessively conservative for the intended purpose. … In order to issue an actuarial opinion that uses the language "good and sufficient," the actuary should determine that the assets and liabilities are sufficient to cover obligations under moderately adverse conditions, are not unreasonably conservative, and be satisfied… *- OR - [depending on the intent of the committee in this section]*	Two alternative recommendations are provided because it was not completely clear what the committee's intent was in this section. One important implication of 3.11(a) as drafted is that the ASOP requires an opinion be labeled as unfavorable/adverse if a liability is excessively conservative, in the opinion of the actuary (excessive conservatism being one way an asset/liability could fall outside a reasonable range). Because this is important and non-obvious, the ASOP should specifically state that excessive levels of conservatism trigger an unfavorable/adverse opinion under this ASOP, if that is indeed the intent. If that was not the committee's intent, then the section should be reworded to avoid this outcome. As indicated here, two parts of section 3.11 in the exposure draft are currently inconsistent with respect to whether excessive conservatism is or isn't a problem. The text in subsection (a) says that

	When the **assets** fall above a reasonable range for the intended purpose, or **liabilities** fall below a reasonable range for the intended purpose, the actuary should issue an unfavorable opinion (sometimes referred to as an "adverse opinion").	anything outside a reasonable range (presumably even if unreasonably conservative) triggers an unfavorable opinion. But the current discussion of "good and sufficient" near the end of 3.11 only mentions sufficiency as a consideration.
3.11	In order to issue an actuarial opinion that uses the language "good and sufficient," the actuary should determine that the ~~**assets** and~~ **liabilities** are sufficient to cover obligations under **moderately adverse conditions** and be satisfied…	The definition of "good and sufficient" in 3.11 is not clearly worded. It currently says "that the assets and liabilities are sufficient to cover obligations under moderately adverse conditions." However, the latter part of this does not make sense with respect to assets, which are a measure (estimate) of economic resources available to an entity rather than a measure (estimate) of an entity's obligations. Moreover, the prescribed wording of an NAIC Orange Blank opinion does not talk about "good and sufficient" with respect to assets, only with respect to "unpaid claims and other actuarial liabilities." This part of the exposure draft should be reworded to remove the reference to assets from the "good and sufficient" description. If the committee is seeking to impose an ASOP requirement for something like a "good and sufficient" standard for assets beyond what is mentioned in the NAIC prescribed wording, the ASOP could impose some other requirement on the evaluation of assets. In any case, "sufficient" is not really the right concept with respect to assets, since the key concern/worry for a user of a financial statement is typically not that an asset's recorded value will be understated, but rather that it will be overstated. If the committee was thinking of "assets and liabilities being sufficient to cover obligations" as a requirement for the actuary to opine on an entity's solvency, that would seem to be a departure from the usual scope of most actuarial opinions in this area and would necessitate numerous other changes to the ASOP. Note that there is similar text in section 3.6 that also appears to tie assets into the "good and sufficient" framework.
2.9, 2.10	2.9 Health Insurance Asset (Asset)—An asset that is estimated using actuarial considerations or any other asset included in the health benefit plan statement of actuarial opinion. ~~Examples include risk adjustment transfer payment receivables, pharmacy rebate receivables, provider settlement receivables, and Medicare Part D settlement receivables.~~	The lists of examples in sections 2.9 and 2.10 should be removed. The term "actuarial" (along with related terms like "actuarial considerations") is currently poorly defined across the ASOPs, the Code of Professional Conduct, and the US Qualification Standards, and different actuaries will therefore reasonably come to

Title of Exposure Draft: Statements of Actuarial Opinion Regarding Health Insurance Assets and Liabilities

Comment Deadline: November 13, 2020

	2.10 Health Insurance Liability (Liability)—A **liability** that is estimated using actuarial considerations or any other **liability** included in the health benefit plan statement of actuarial opinion. ~~Examples include unpaid claims liabilities, unpaid loss adjustment expenses, medical loss ratio rebates, liabilities for settlements of provider contracts, contract reserves, experience refund liabilities, premium deficiency reserves, premium stabilization reserves, and liabilities for reinsurance payable.~~	different conclusions about whether a given item is or isn't "actuarial" in the context of an ASOP, the Code of Professional Conduct, or the NAIC statement blank instructions. And those conclusions may be dependent on the circumstances of a particular situation. While I believe it would be extremely valuable for some ASOP (presumably ASOP 1) to attempt to more concretely define what "actuarial considerations" means, this is such a broadly applicable term that ASOP 28 is not the place for it. I would therefore recommend significantly simplifying 2.9 and 2.10 by deleting the examples from each. As well, the ASOP repeatedly uses the short forms "asset" and "liability" (or plurals thereof) in bold font. This appears to be a reference to 2.9 and 2.10 based on the parentheticals at the end of the titles of those sections, since there are no standalone definitions in Section 2 for "asset" or "liability." But 2.9 and 2.10 are both worded circularly, using the defined terms "asset" and "liability" in their own definitions. Section 2.10 has a boldfaced "liability" in two places, implying that there is a separate definition for that word (when there is none). I recommend adding separate definitions in Section 2 for "asset" and "liability." Note that depending on how the definitions for these are worded, other uses of "asset" and "liability" throughout the ASOP should be reviewed. For instance, is "liability" intended to refer to the liability itself, or to an actuary's estimation of the value of that liability, or to the value recorded on the financial statement for it?
3.4(b)	the ~~individual~~ assets and liabilities included in the scope of the actuary's opinion. This should include any major components of the ~~individual~~ assets and liabilities. For example, unpaid claims liabilities may include amounts determined based on lag-based methodologies, capitation amounts, and offsets for reinsurance;	The word "individual" as currently drafted introduces more confusion than clarity as to the level of granularity the ASOP expects. The discussion of "major components" seems sufficient to convey the point that, as appropriate, the actuary should provide more granularity than simply describing a financial statement line item in its entirety. If the committee sees a need for more emphasis on this point, something more descriptive than the word "individual" should be used. For example, surely actuaries should not be itemizing unpaid claims on a claim-by-claim basis, even though it's clearly true that each incurred claim represents a distinct ("individual") liability within the line item that appears on the financial statement. While the itemization of "major components" seems reasonable, the committee should be mindful of the language in section 3.2 to identify in-scope items

Title of Exposure Draft: Statements of Actuarial Opinion Regarding Health Insurance Assets and Liabilities

Comment Deadline: November 13, 2020

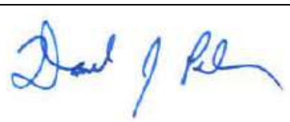
		even if they are zero. An item like "aggregate health policy reserves" on the Orange Blank is the place where health insurers record a number of loosely related items. For any given health insurer, some of these components are not relevant. For example, an insurer that writes only vision insurance will never have a liability associated with ACA risk adjustment, but that insurer could have a PDR (and both of these are "aggregate health policy reserves," part of the prescribed scope of an Orange Blank SAO). The ASOP should not require (or appear to require) an exhaustive itemization of every item that could theoretically be included within an in-scope financial statement line item.
3.6	The actuary should document the methods, assumptions, and procedures used in the analysis upon which the opinion is based. When complex calculations or concepts are involved, the actuary should include technical explanations and exhibits in the documentation. Examples of complex calculations may include the determination of unpaid claim liabilities, premium deficiency reserves, sensitivity tests, and follow up studies. In some circumstances, the actuary may determine it is appropriate to develop an opinion on **assets** or **liabilities** without the use of complex calculations, or where some inputs to complex calculations are selected based on the actuary's experience and judgment rather than developed from a calculation.	The ASOP should not pre-suppose that all of the items listed in this section always stem from "complex calculations." Often they will, but they do not always. As one simple and extremely common example: One or two weeks of run-out is often sufficient for prescription drug claims to be 100% complete or very nearly so, and therefore an opinion being prepared with even a small amount of hindsight available can satisfactorily address unpaid prescription drug claims by a simple review of records rather than a complex model. More generally, the ASOP ought to specifically state that not every element of an opinion must be the result of a calculation. It could be appropriate to include a cross-reference to the discussion of assumptions in ASOP 56. Depending on the timing of the finalization of this ASOP revision, there could also be appropriate cross-references to the currently pending draft of the "Setting Assumptions" ASOP.

IV. General Recommendations (If Any):

Commentator Recommendation (Identify relevant sections when possible)	Commentator Rationale (Support for the recommendation)
Although Section 1.2 indicates that this ASOP is applicable to actuaries reviewing statements of actuarial opinion and associated memoranda, Section 4 does not currently contain any required disclosures that specifically relate to communications from a reviewing actuary to the author of the statement of actuarial opinion being reviewed, or from a reviewing actuary to some other principal (such as a non-actuary insurance commissioner). A list should be developed for these sorts of communications.	Because reviewing actuaries frequently must communicate to other actuaries (and non-actuaries) regarding actuarial reports subject to this ASOP, the ASOP ought to contain a set of "should" instructions that are directly relevant to this type of communication.
Section 3 of the exposure draft does not contain descriptions of practices and procedures specific to what a reviewing actuary is expected to do (or not do) when reviewing a statement of actuarial opinion. A list should be developed.	Since the scope in Section 1.2 indicates that the ASOP applies to reviewing actuaries, there should be material in Section 3 that is specific to that function. Currently, there is only a statement that reviewing actuaries should use the ASOP to the extent practicable. But the focus of Section 3 is entirely on

	actuaries preparing statements of opinion. Rather than have that one statement in Section 1.2, the ASOP content in Section 3 should be made much more inclusive of the reviewing actuary's role.
The ASOP should address to what extent it is permitted, required, or prohibited to defer to accounting standards (which are outside the purview of the actuarial profession) when opinion on an asset or liability. For example, accounting standards (e.g., GAAP, SAP, GASB) may have specific standards or definitions for concepts such as "material" or "probable" that have a large impact on whether an amount is recognized in a particular financial statement, and if so what the value is.	Accounting standards/definitions, which are crucial determinants for how entities develop financial statements, do not necessarily align with how actuaries might approach those questions if it were entirely up to actuaries to decide. Since the intended purpose of a financial statement is almost always to align with the applicable accounting standards, ideally this ASOP would explicitly allow for a degree of deference to those standards. There is an allusion to this in 3.14(a), but more specificity would be helpful to (1) clarify the precedence of ASOPs vs. GAAP/SAP/GASB/etc. accounting standards, (2) as much as possible, avoid putting actuaries in a position of having to judge the propriety of accounting advice, and (3) clarify the role of a reviewing actuary (who is also not an accountant) in assessing accounting instructions provided by an accountant to an opining actuary.

V. Signature:

Commentator Signature	Date
	11/12/2020

All comments above are my own, not submitted on behalf of my employer or any other party.