

**Title of Exposure Draft:** Proposed Revision of Actuarial Standard of Practice (ASOP) No. 41

**Comment Deadline:** [November 1, 2022]

Instructions: Please review the exposure draft, and give the ASB the benefit of 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](mailto: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
Health Practice Council, American Academy of Actuaries

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

Question No.	Commentator Response
2	We believe that "not unreasonable" is the appropriate disclosure language.

**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)
1.2	It would be helpful to clarify if the standard applies only to practicing actuaries or if it also applies to actuaries who are retired or no longer practicing as an actuary.  It would be helpful for the standard to clarify if the actuary has the final say as to whether the communication is an actuarial communication.	Does this standard apply to retired actuaries who are not necessarily subject to CE requirements but maintain their MAAA only?  Does this standard apply if the content of a written communication meets the definition of an actuarial communication but the actuary states that it does not?
2.3	Revise the definition of "Actuarial Finding." Potentially do not use word being partly defined in definition.	Do not use word "finding" in the definition of "Actuarial Finding."
2.4	Revise the definition of "Actuarial Report."	Do not use word "report" in the definition of "Actuarial Report".
2.7	Revise the definition of "Oral Communication."	Do not use word "orally" in the definition of "Oral Communication."
2.9	We recommend defining "client" in ASOP.	During the webcast, the presenters indicated that pro bono/unpaid work could be considered for a client. The ASOP should provide clear guidance related to unpaid work and situations where the client could not be clearly identified.

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		There are circumstances where the “client” may not be clearly identified. For example, if an actuary is providing uncompensated written testimony, with actuarial considerations, to a state regulatory body or the state legislature related to an issue, it may not be clear who could have been the “client” had the actuary been compensated or whether this standard applies.
3.1.4	We recommend deleting “Unless the actuary determines it inappropriate, the actuary issuing an actuarial communication should also indicate the extent to which the actuary is available to provide supplementary information and explanation.”	The indicated language does not appear to be necessary. What options does the actuary have regarding availability to provide additional information? The current language suggests that the actuary has the option to indicate in the report that he/she would not be available to provide supplementary information. The ASOP should avoid real or perceived conflict(s) with the code of conduct.
3.1.5	We recommend replacing “cautions” with “statements,” “information,” or “disclosure,”	We suggest using neutral language, and replacing “cautions” with a more neutral word (e.g., “statements,” “information,” or “disclosure”).
3.1.6	We suggest clarifying what “key” and “significantly later” mean.	These terms are not defined and are therefore subject to a wide range of interpretations and practice.
3.2	We suggest clarifying 3.2 to better explain when you can/cannot comply with those items listed in 3.1 via subsequent activities.	The timing or other considerations regarding the subsequent activities related to oral communications that would allow for compliance with section 3.1 are unclear.
3.3.2	We recommend deleting the last sentence: “This includes any situation where the actuary acts, or may appear to be acting, as an advocate.”	This sentence does not add any guidance and may appear to impose informal limits on the actions of actuaries.
3.3.3.	Suggest replacing title of section with “Responsibility for Assumptions, Methods, and other items and inputs that materially impact findings.”  This change would need to be made throughout 3.3.3 to provide more context and explanation.	This comment addresses the concept that the actuary’s responsibility should be for more than just assumptions and methods.
3.3.3.a	We recommend reinstating the actuary’s obligation to comply with 3.3.3b when the assumptions or methods are prescribed by a regulatory authority.	The actuary’s obligation to comply with 3.3.3.b. when assumptions or methods have been prescribed by law has been removed—was that intentional? The removal of this language removes the actuary’s obligation to indicate if the methods or assumptions specified by applicable law conflict with what the actuary believes to be unreasonable. This appears to have lowered the bar related to the objectivity of the actuary’s opinion.  The standard does not indicate the actuary’s obligation with assumptions or methods prescribed using sub-regulatory guidance. Federal and state regulatory authorities may issue guidance using bulletins or other regulatory modes that may not have the force of law but are expected to be followed.

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3.3.3.b	Clarify "another party," as used in items 1., 2., and 3.	Practitioners have interpreted the term "another party" in a variety of ways. Does it include individuals under the supervision of the responsible actuary or under the same supervisory structure as the responsible actuary?
3.3.3.b.5	Consider simplifying all wording for i and ii, and/or defining/clarifying "not significantly conflict(s)" and/or replacing that phrase with "not unreasonable."	The meaning of "does not significantly conflict" is not clear.
3.3.5	Consider replacing "The actuary should disclose those events and their potential implications." with "The actuary should disclose those events and the potential material effect on actuarial findings."	Disclosure of "potential implications" is too broad. 3.3.5.c indicates that the standard for disclosure is "the material effect on actuarial findings." Therefore, the disclosure should be limited to indicating the material effect on the actuarial findings.
3.3.6	Suggest deleting "or the need for an actuarial report" and adding guidance with regard to when an actuary does not need to issue a report to the beginning of section 3.3.	Including "or the need for an actuarial report" under the section labeled "Limitation of Content of an Actuarial Report" is confusing. It would be more appropriate to expand section 3.3 to add guidance related to when an actuary does not need to issue a report.
3.3.6.a	Suggest adding an example that considers limited scope engagements, i.e., wording akin to: "when the actuarial work is specifically defined to be limited in nature."	
3.3.6	We suggest revising the paragraph that follows after 3.3.6.d as follows: "When such circumstances exist, the actuary may choose to omit some of the otherwise required content in the actuarial report <del>or choose not to issue an actuarial report but should follow the guidance of this standard to the extent practicable.</del> Limiting the content of, <del>or not issuing,</del> an actuarial report may not be appropriate if the actuarial findings may receive broad distribution."  The beginning of 3.3. could be revised to address when not to issue an actuarial report.	The guidance related to not issuing a report is better placed at the beginning of section 3.3.
3.6	Define or clarify what "other sources" means.	The use of other sources seems to lower the bar since the actuary could use these other sources without assuming responsibility and these other sources are not defined. ASOP 23 Data Quality does not necessarily address all other sources of information.
4.1	We recommend striking "Required" here and in 4.2.	"Required" and "if applicable" could create confusion.
4.1.b	We recommend replacing "cautions" with "statements" "information", or "disclosure".	We suggest using neutral language and replacing "cautions" with a more neutral word.
4.2	We recommend striking "Required" here and in 4.1.	"Required" and "if applicable" could create confusion.

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**IV. General Recommendations (If Any):**

Commentator Recommendation (Identify relevant sections when possible)	Commentator Rationale (Support for the recommendation)

**V. Signature:**

Commentator Signature	Date
Barbara Klever, MAAA, FSA Vice President, Health Practice Council American Academy Of Actuaries	November 1, 2022