

Comment #8 - 4/3/24

The following are my comments regarding the exposure draft of ASOP 12:

1: Identification

Eliezer Blum, ACAS, MAAA, CPCU, Verisk Analytics – These comments are my own, and are not on behalf of or authorized by my company.

As a general comment, when revising or introducing an ASOP, it is critical for the ASB to give a more complete explanation regarding why it is appropriate for the ASOP to be revised or introduced. The two sentences included in the exposure draft are both vague and uninformative, and do not explain the wide scope of the changes made. The documentation for your intended users (members of the Academy) should be as complete per ASOP 41, as if this were an actuarial report. I'm still uncertain why many of these changes were made.

3: Specific recommendations / comments:

Section 1.2 – The second half of the section applies this standard to those merely using the risk classification framework. However, the last part of the section “to the extent practical and consistent with the scope of the actuary’s assignment”, removes most instances where the actuary is merely “using” the framework, as “use” means that changing or even reviewing the framework is outside the scope of the assignment. Furthermore, if more generally applicable, consultants and regulators who may be reviewing compliance with a filed rating plan would be guilty of violating this ASOP merely by reviewing (i.e. “using”) rating that may not be compliant under the new standard, or would have to provide free cover on why the risk classification framework should be updated. I would suggest that the “use” case be removed. If it remains, then it should be added that the actuary need not review any risk classification framework that is allowed for use by insurance regulators within that state. Historical acceptability is in some instances a good reason not to revise a risk classification framework, see my comment on section 3.2.7.

Section 2.3 – The beginning of the definition of “Risk Characteristics” is changing from “Measurable or observable factors or characteristics” to “Attributes”. The term “Attributes” is not as expansive, as it implies inherent to the subject (per Merriam Webster online) vs. factors that may not be inherent to the subject but still predictive of risk, such as the average age of the drivers with whom the risk subject may interact. I would ask that the prior definition be maintained.

Section 2.8 – The definition of “Unintended bias” is still unclear. If the intent is that protected classes (or certain protected classes) should have equity of outcomes, we should say so in plain language. If not, there is always going to be “unintended bias” in any risk classification system as in the real world, risks have distributions that makes one risk class (per the definition) have a higher or lower rate on average, even though there is no such intent in the risk classification structure. For example, if risk subjects with last names starting with the letters “A” through “E” have higher rates on average for no discernable reason, would one be violating this ASOP? Furthermore, the definition as currently written would seem to be not applicable. Any application of a risk classification framework intentionally applies the intended result to the specific, i.e. individual, risk subject. The question of unintended bias may be understood to be if the risk classification framework is doing something unintended in the aggregate to a

“classification” not included in the risk classification framework, such as risk subjects whose last names start with the letters “A” through “E”, or some protected class.

On the other side, perhaps what is intended by this section is that the “Impacts or outcomes” should be those intended, and not those not intended. Meaning, an insurance company may appropriately apply ASOP 53 (or other for non P&C) and obtain a price which is compliant with regulations and ASOPs, but they know full well that they won’t be able to write at that price level, thereby having the “unintended outcome” (which perhaps is truthfully intended) that those risk classes (or other classifications highly correlated with those risk classes) are not written by the company.

It would be prudent to define this term in a more meaningful and intended manner, and I’m uncertain if this definition should be maintained. See my comment on section 3.4. Also the appendix uses the term “proxy discrimination”, which you may wish to consider using either instead of or within the definition of “unintended bias”.

Section 3.2.3 is highly revised from the prior version, section 3.2.1. It no longer allows for correlation as sufficient for inclusion in the risk classification framework, but now requires a rational explanation, which may not be available. We as actuaries need to follow what the data tells us, even if we can merely speculate why those results occurred. Who is the final arbiter that the explanation is rational, or is the actuary’s belief that the explanation is rational sufficient? This draft ASOP drops the use of clinical experience and expert opinion, both of which are valid to use when designing a risk classification system and need to be maintained within the ASOP. The ASOP also drops the ability to make obvious inferences, such as the example given in the current ASOP (which may need to be replaced with a different example). These should all be restored. In addition, the section on “fair” discrimination should be maintained in some form (although perhaps changed) to support and contrast with the legal term “unfair discrimination” used in many states.

Section 3.2.7 – I appreciate the changes from the prior section on “Practicality” (current 3.2.4). The writers of the “Notable Changes from the Existing Standard” glossed over the material and significant changes to this section by describing them as “The section on practicality has been revised to include a discussion of considerations related to homogeneity.” With all due respect, there are numerous material changes, but for the better. Simplicity and ease of use are now explicit reasons to select a risk characteristic. The one item I would add in this section is “regulatory acceptance”, which is not only the consideration of written law, but also how regulators will react to changes in classification and that process.

Section 3.2.8 should include “any incentives” (or similar) within the list of external influences that may impact the effectiveness of the risk classification system. This way we make sure that economic and tax incentives are considered on how risk subjects will react to the revised risk classification framework.

Section 3.3 would seem to contradict the aforementioned section 1.2, which states that users need only consider the existing risk classification framework only “to the extent practical and consistent with the scope of the actuary’s assignment.” Again, I would request that “use” be removed from this section as well.

Section 3.4 should be revised to “Unintended effects on protected classes - The actuary should consider unintended effects on protected classes in the aggregate as appropriate within the scope of the

actuary's assignment." This dovetails with my comment regarding the definition of "Unintended Bias" above.

Section 3.5 seems to be redundant, as it only applies to the extent as required to be in compliance with the "applicable law". We do not need ASOPs to tell us that we need to be compliant with the law. Besides, this section of the draft ASOP implies that where not prohibited by applicable law, it is appropriate to use protected class (for example, states where there are no LGBTQIAA+ protections) within the risk classification framework? Please remove or revise this section.

Thank you for your consideration,

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