The Carol of the Bells

THE HOLIDAYS WILL ARRIVE BEFORE WE KNOW IT, and I'm reminded of some professional advice I received about 25 years ago. I was chatting at a holiday party with the general counsel of an actuarial consulting firm, trying to find a common topic between an actuary and an attorney. He told me that, in his experience, almost all actuarial malpractice arises from one or more of three causes:

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- A very short time frame to complete the engagement;
- A smaller fee than is usual for the type of engagement;
- A topic that is near the edge of the actuary's personal expertise.

I have applied his advice to my actuarial practice since that conversation, and any one of these factors causes my personal warning bell to ring.

While the Actuarial Board for Counseling and Discipline (ABCD) isn't involved in malpractice litigation, it does address the professional behavior and practices of members of the five U.S.-based actuarial organizations. The following examples describe hypothetical circumstances that could cause an actuary to potentially violate the Code of Professional Conduct and indicate which precepts of the code the ABCD may consider if a complaint were filed. Let's take a look at how each of the three factors should cause your warning bells to ring.

I need this quickly!

Precept 1 of the code tells actuaries that we must act with honesty, integrity, and competence. Precept 3 states that the actuarial services that an actuary provides must satisfy applicable Actuarial Standards of Practice (ASOPs).

Suppose you've been periodically meeting with a large prospective client, trying to discover a project you can provide to her. At your next meeting, the client asks if you can prepare a due-diligence report for a proposed acquisition, and she indicates that the report is needed by the end of the week. Of course, you're thrilled to "strut your stuff" for this employer, and you have visions of large fees over several years. But you discover the target acquisition maintains eight collectively bargained pension plans, participates in four multiemployer plans, and sponsors two retiree medical plans. You also discover that two of the valuation reports aren't available and that three of the union plans have been recently amended, but the amendments aren't reflected in the most recent valuation reports. The actuary for the target company is using assumptions that you and your prospective client agree appear to be somewhat conservative. She tells you to also estimate the impact of using her company's current assumption set, which you believe is somewhat aggressive. Your two best actuarial students just left on their honeymoon, and you haven't done much programming over the past few years.

Can you competently prepare the report, without cutting necessary corners? Can you be certain that your report will satisfy all of the applicable ASOPs? Will you have time to document all your assumptions and methods and demonstrate how they satisfy the applicable ASOPs? Will your report contain any necessary deviation clauses? Do you even know which deviation clauses need to be included? What do you do if you discover an error in your report afterward? Do you hear a bell?

I can't pay that amount for this project.

Precepts 1 and 3 are pertinent for this example as well.

Many clients are currently experiencing financial difficulties, and their consulting budgets are being reduced across the board. Suppose you've proposed a project for your largest client that will help them address a significant cash-flow issue. The only problem is that the scope cannot be reduced any further without compromising the project's integrity, while the client insists that he can pay only half the fee you believe is necessary to adequately complete it. When you return to your office, your boss says billings are down and asks if you have any work for the actuarial staff. You mention the outcome of your meeting, and he encourages you to accept the project at the reduced fee to keep the client satisfied, but helpfully tells you "to find a way to make it work." You might be tempted to accept the reduced fee and not bill the client for the work necessary to complete the project. But your boss has been very clear recently that the firm cannot tolerate future cost overruns.

Are you certain you can complete the project for the stated fee, and withstand the pressures to finish it regardless of the need to thoroughly check and document it? If you delegate most of the work to junior staff to lower the cost, do you believe they are competent to produce an accurate report with minimal supervision? Can you be certain that your report will satisfy all of the applicable ASOPs? Are you merely postponing the collision between the end of the client's fee commitment and providing a complete, accurate, and thorough report? Will you be in any less of a professional dilemma then as compared to now? There's that darn bell again!

Can you do this for me?

This situation involves Precepts 1 and 3 like the previous examples but would probably also involve Precept 2 (only provide actuarial services when you are qualified to do so) and Precept 4 (actuarial communications are clearly appropriate to the circumstances).

Sometimes our clients think that because we're actuaries, we can provide any type of actuarial service. We may be reluctant to admit a professional shortcoming. ("Of course, I'm familiar with the Montana regulations regarding insurance policies that cover sunstroke.") We may hesitate to give our client the name and contact information of that pesky competitor who we know has done exactly that work and has spoken on that topic at actuarial meetings. So we convince ourselves that sunstroke is a health hazard, and as health actuaries we can muddle through this project. We don't know where to look for the necessary research for this hazard, and the Montana regulations haven't been published online yet.

Did you act honestly when you claimed familiarity with the specified regulations? Have you satisfied the Qualification Standards to provide this actuarial service? Do you have the experience to provide it? Can you look in the mirror and answer yes, or is the mirror somewhat foggy from your morning shower? Do you know someone (maybe even that pesky competitor) who can help you with the assignment? Will your report satisfy the requirements of the (fictional) Montana regulations? Are there ASOPs that apply to this coverage? So many bells!!

These three scenarios could happen to almost any actuary, and some variation of them will most probably happen to you at some point in your career. Thinking about your responses now will prepare you for a difficult professional situation when it actually occurs. Being aware of the hazards that are represented in these or similar scenarios can help you avoid potential violations of the code in the future.

The holidays are fast approaching. I hope that you heed the carol of the bells. □

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