



Actuarial Professionalism Responsibilities in the Expert Testimony Role

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Actuaries' Club of Hartford & Springfield

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- Member, Actuarial Standards Board (ASB) ASOP No. 1 Task Force
- Member, Life Committee, ASB, 2019–2025
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Speaking by arrangement with the American Academy of Actuaries.



About the American Academy of Actuaries

**Founded
1965**

**Key goal:
maintain and
promote
actuarial
professionalism
& self-
regulation**

**Represents
qualified
actuaries of
all
specialties**

**National
association
for U.S.
actuaries &
voice on
public
policy
issues**

**Membership
today:
>20,000
individual
actuaries**

Disclaimer

Please note: My statements and opinions are my own and do not represent the official statements or opinions of the Actuarial Board for Counseling and Discipline (ABCD), Actuarial Standards Board (ASB), any boards or committees of the American Academy of Actuaries, nor any other actuarial organization or employer. They are also **not legal advice**.

Agenda

1. Expert Witness — Background
2. Professional Responsibilities
3. Actuarial Standards of Practice (ASOPs)
4. ASOP No. 17, *Expert Testimony by Actuaries*
5. ASOP No. 1, *Introductory Actuarial Standard of Practice*
6. ASOP No. 23, *Data Quality*
7. ASOP No. 41, *Actuarial Communications*
8. Concluding Thoughts
9. Questions

Expert Witness — Background

What Is an Expert Witness?

- Person with specialized knowledge, skills, education or experience.
- Called upon to provide expertise in complex legal proceedings or arbitrations.
- Daubert Standard for expert testimony admissibility.

Source: https://www.law.cornell.edu/wex/expert_witness

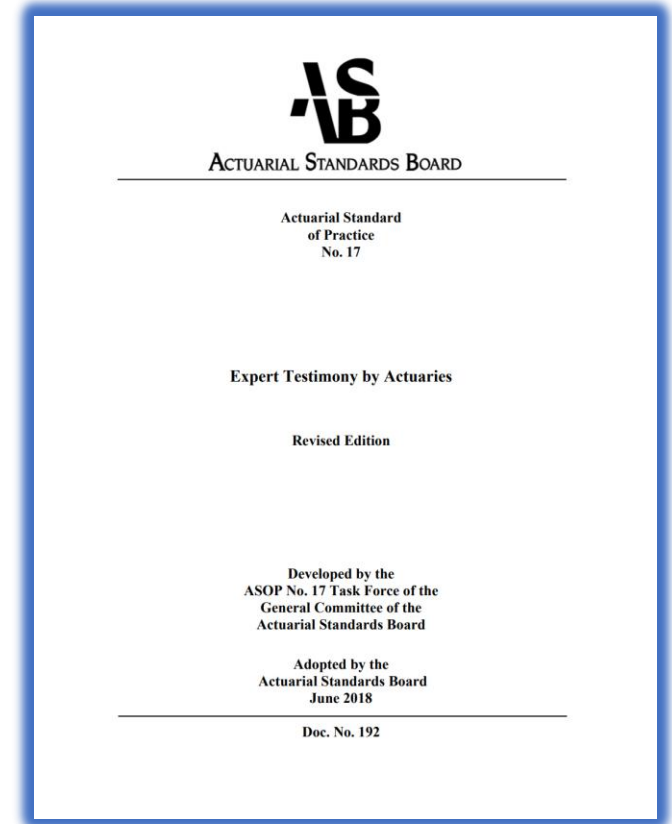


Mona Lisa Vito in *My Cousin Vinny* (1992)

Where Might I Provide Expert Testimony?

ASOP No. 17, [Expert Testimony by Actuaries](#)
– a **must-read** before testifying in forums
such as:

- Court hearings.
- Dispute resolutions.
- Depositions.
- Rate hearings.
- Legislative hearings.
- And other similar proceedings.



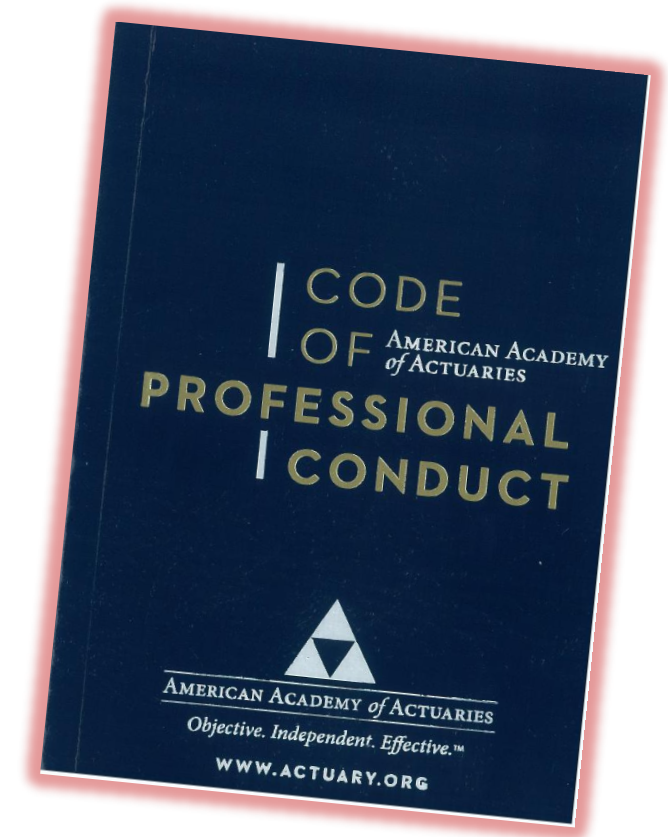
Professionalism Responsibilities

Professionalism Responsibilities Flow from the Code of Professional Conduct

The Code of Professional Conduct applies to any actuary who is a member of the five U.S.-based actuarial organizations.

And, yes, it does apply to you when serving as an expert for testimony on U.S. actuarial matters!

Download your copy at actuary.org.



Key Precepts (by Precept Number) When Considering the Expert Testimony Role

1. Professional Integrity

- Can I uphold the reputation of the profession?

2. Qualification Standards / Evidentiary rules of court

- Am I qualified to opine?

4. Communications and Disclosure

- Can I make my communications clear to the intended audience?

7. Conflict of Interest

- Have I disclosed potential conflicts of interest?

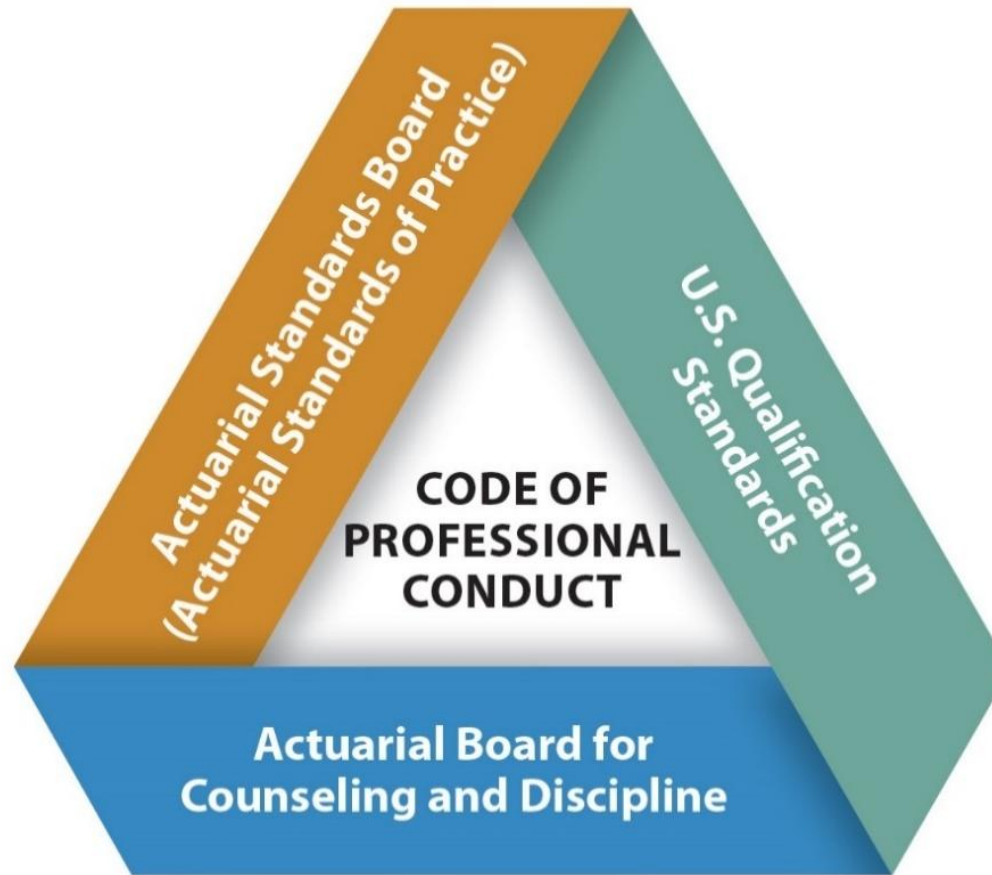
8. Control of Work Product

- Can I balance my advocacy role with my duty to ensure that my services are not used to mislead?

10. Courtesy and Cooperation.

- Professional courtesy doesn't stop at the door of a testimony forum!

The Web of Professionalism With the Code at the Heart



Before Moving on to the ASOPs...

- Qualification considerations in testimony: Look to the USQS
 - The [USQS](#) are housed in the Academy, and there's a webpage to [ask questions to the Committee on Qualifications](#).
- Could challenging standards interpretation or a potential violation be at play in your testimony?
 - The [Actuarial Board for Counseling and Discipline](#) is housed in the Academy; use the [Request for Guidance](#) feature for help with clarifying responsibilities and difficult situations. This type of service is not commonplace among professions, but it is in ours.

Actuarial Standards of Practice

What Are ASOPs?

ASOPs:

- Are promulgated by the ASB after task force/committee development, which follows the [standard-setting process](#).
- Describe the procedures an actuary should follow when performing actuarial services and identify what the actuary should disclose when communicating the results of those services.
- Serve to assure the public that actuaries are professionally accountable.
- Provide practicing actuaries with a basis for assuring that their work will conform to appropriate practices.

Philosophy of ASOPs

- Guidance for appropriate practice.
- Principle-based.
- Flexible.
- Disclosure.
- Broad applicability.
- Cannot cover all circumstances.
- Support profession's self-regulation.
- Don't guarantee good work.

Structure: ASOPs by Practice Area

Cross-Practice ASOPs

ASOP No. 1 Introductory ASOP

ASOP No. 41 Actuarial Communications

ASOP No. 12	Risk Classification	ASOP No. 32	Social Insurance
ASOP No. 17	Expert Testimony by Actuaries	ASOP No. 38	Catastrophe Modeling
ASOP No. 21	Responding to or Assisting...	ASOP No. 55	Capital Adequacy Assessment
ASOP No. 23	Data Quality	ASOP No. 56	Modeling
ASOP No. 25	Credibility Procedures	ASOP No. 58	Enterprise Risk Management

Practice-Specific ASOPs

Casualty

7, 13, 19, 20, 29, **30**, 36,
39, 43, 53

Health

3, 5, **6**, 7, 8, 11, 18, 19,
22, 26, 28, 42, **45**, **49**, 50,
Reinsurance pricing

Life

2, 7, 10, 11, 15, 19, 22,
24, 33, 37, 40, 48, 52, 54,
57, **Reinsurance pricing**

Pension

4, **6**, 27, 34, 44,
51

Green indicates an ASOP under revision and *green italics* indicates a proposed new ASOP.

Know Applicable ASOPs and Stay Aware of the ASOP Pipeline



ASOP No. 17, *Expert Testimony by Actuaries*

ASOP No. 17, *Expert Testimony by Actuaries*

- Provides guidance to actuaries providing expert testimony.
- Applies to actuaries “who are qualified as experts under the evidentiary rules applicable in a forum when they provide testimony in court hearings, dispute resolutions, depositions, rate hearings, legislative hearings, or other similar proceedings.”
- Reference should also be made to other ASOPs concerned with the actuarial substance of the assignment.
- Does not discourage reasonable differences of actuarial opinion, or innovation in advancing the practice of actuarial science.

ASOP No. 17—Compliance

- An actuary providing expert testimony should comply with the requirements of the Code of Professional Conduct
 - Expert testimony – an important service
 - Explaining complex technical concepts to audience
 - Recognizes actuaries may differ in opinion even when applying reasonable actuarial assumptions and appropriate actuarial methods
 - Act honestly, with integrity and competence, in a manner to fulfill the profession's responsibility to the public
- Actuary may rely on attorney for advice, information or instruction
- Actuary should comply with rules of evidence and procedure in the forum (as well as ASOPs, Qual. Standards, and Code)

ASOP No. 17—Compliance

- Guidance includes:
 - Conflict with laws and regulations.
 - Conflict of interest.
 - Advocacy.
 - Actuarial assumptions prescribed by law / selected by others.
 - Hypothetical questions.
 - Testifying concerning other relevant testimony.
 - Cross-examination.
 - Consistency with prior statements.
 - Discovery of error.
 - Limitation of expert testimony.

ASOP No. 17—Disclosures

- Guidance covers:
 - Written reports
 - Scope, including limitations and constraints
 - Descriptions and sources of data, actuarial methods, and actuarial assumptions
 - Appropriate to intended audience
- Oral Testimony
- Prescribed Statement of Actuarial Opinion
- Deviation from Standard

ASOP No. 1, Introductory Actuarial Standard of Practice

ASOP No. 1, Introductory Actuarial Standard of Practice

- Provides guidance to actuaries on how to read and interpret the other actuarial standards of practice.
- Defines or discusses key terms used in the other ASOPs.
- Defines the purpose and format of the ASOPs.
- Discusses how ASOPs are binding on actuaries.
- Provides useful background information in appendices.
- Carries the same weight and authority as other ASOPs.
- Applies to all ASOPs and all practice areas.

ASOP No. 1—'Must' / 'Should' / 'Should Consider' / 'May'

- **Must** = ASB does not anticipate that the actuary will have any reasonable alternative but to follow a particular course of action.
- **Should** = what is normally the appropriate practice for an actuary to follow.
- **Should consider** = used to suggest potential courses of action. The actuary may use professional judgment to determine an action is not appropriate; the action is not required.
- **May** = used to indicate that the course of action described is one that would be considered reasonable and appropriate in many circumstances.
- Allowed to deviate if actuary follows ASOP No. 41.

ASOP No. 1 — Compliance

- Use “good faith” approach: reasonable professional judgment / professional integrity (Precept 1 of the Code).
- Strained interpretations are not appropriate.
- Responsible for determining which ASOPs apply.
- If it is necessary to deviate from the guidance in an ASOP, it is not a breach if disclosed as described in the ASOP.

ASOP No. 23, *Data Quality*

ASOP No. 23, *Data Quality*

- What does ASOP No. 23 apply to when performing actuarial services?
 - **S**electing data
 - **P**erforming review of data
 - **U**sing data
 - **R**elying on data supplied by others
- Other applicability
 - When selecting or preparing data used by other actuaries
 - When preparing data, apply guidance as though using data
 - When making appropriate data quality disclosures
- Does not apply to the generation of a wholly hypothetical data set

ASOP No. 23—Key Definitions

Data is:

- ✓ Numerical, census, or classification information
- ✓ Information derived mathematically from such items

Data is not:

- ✗ General or qualitative information
- ✗ Assumptions

What makes data “appropriate”:

1. Suitable for the intended purpose of an analysis
2. Relevant to the system or process being analyzed

ASOP No. 23—Limits of Actuary's Responsibility

The actuary is not required to do any of the following:

- Determine whether data or other information supplied by others is falsified or misleading.
- Compile additional data solely for the purpose of searching for questionable or inconsistent data.
- Perform an audit of the data.

ASOP No. 23—Review vs. Audit

Review

An examination of the obvious characteristics of data to determine if such data appear reasonable and consistent for purposes of the assignment.

Audit

A formal and systematic examination of data for the purpose of testing its accuracy and completeness.

ASOP No. 23 does not require the actuary to perform an audit of the data (sections 1.2 and 3.8[c])

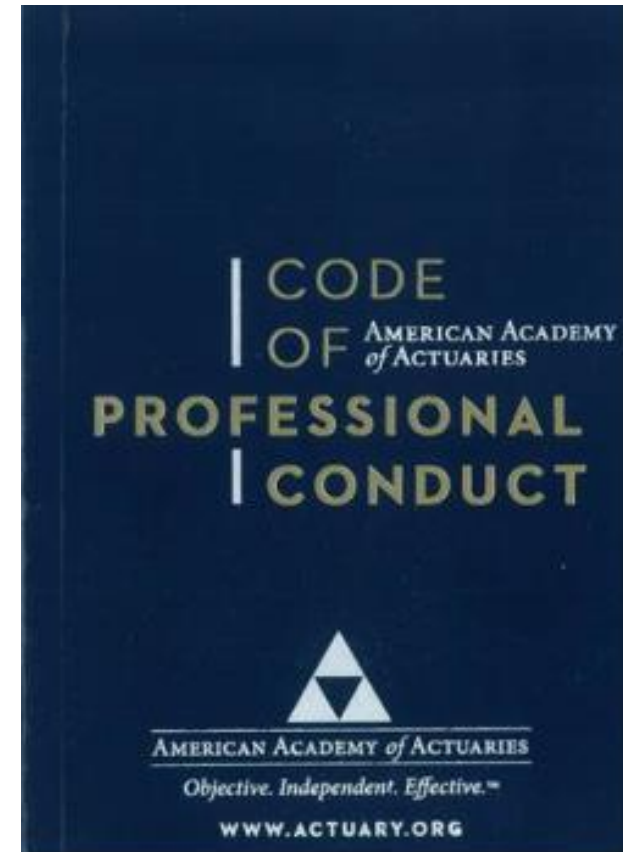
ASOP No. 41, *Actuarial Communications*

ASOP No. 41—Definitions

Term	Definition
Actuarial Services	Professional services provided to a principal by an individual acting in the capacity of an actuary. Such services include the rendering of advice, recommendations, findings, or opinions based upon actuarial considerations.
Actuarial Finding	The result (including advice, recommendations, opinions, or commentary on another actuary's work) of actuarial services.
Actuarial Communication	A written, electronic, or oral communication issued by an actuary with respect to actuarial services.
Actuarial Report	The set of actuarial documents that the actuary determines to be relevant to specific actuarial findings that is available to an intended user.

Communication and Disclosure: It All Starts With the Code

“The Code of Professional Conduct sets forth what it means for an actuary to act as a professional. It identifies the responsibilities that actuaries have to the public, to their clients and employers, and to the actuarial profession.”



Communication and Disclosure: Code and ASOP No. 41

Communications and Disclosure

- **PRECEPT 4.** An Actuary who issues an Actuarial Communication shall take appropriate steps to ensure that the Actuarial Communication is clear and appropriate to the circumstances and its intended audience and satisfies applicable standards of practice.
 - **ANNOTATION 4-1.** An Actuary who issues an Actuarial Communication shall ensure that the Actuarial Communication clearly identifies the Actuary as being responsible for it.
 - **ANNOTATION 4-2.** An Actuary who issues an Actuarial Communication should indicate the extent to which the Actuary or other sources are available to provide supplementary information and explanation.

Communication and Disclosure: Code and ASOP No. 41

Communications and Disclosure

- **PRECEPT 5.** An Actuary who issues an Actuarial Communication shall, as appropriate, identify the Principal(s) for whom the Actuarial Communication is issued and describe the capacity in which the Actuary serves.
- **PRECEPT 6.** An Actuary shall make appropriate and timely disclosure to a present or prospective Principal of the sources of all direct and indirect material compensation that the Actuary or the Actuary's firm has received, or may receive, from another party in relation to an assignment for which the Actuary has provided, or will provide Actuarial Services for the Principal.

Concluding Thoughts

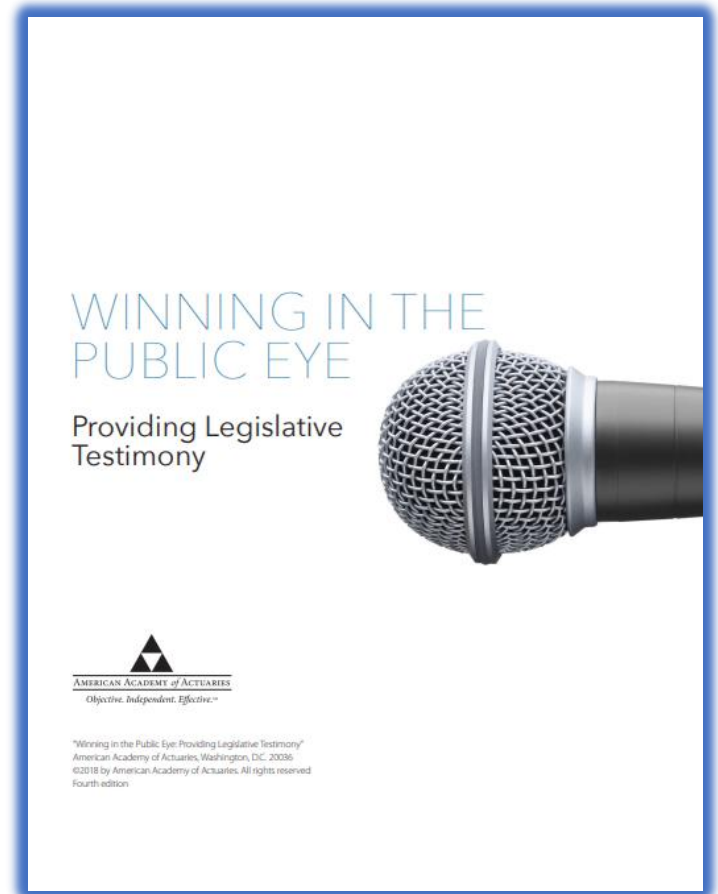
Be Ready to Work With Others to Prepare for Your Testimony

Attorney/Principal

- Expert report comments—but must still be YOUR work product!
- Deposition do's and don'ts.
- Direct and cross-examination prep.

Academy

- Situations such as preparing for legislative or NAIC testimony.



Use of Generative AI

- Professional standards still apply:
 - Code
 - USQS
 - ASOPs

[Actuarial Professionalism Considerations for Generative AI](#)

- Be familiar with rules of forum and confidentiality
 - Consult with your attorney/principal!
 - For example, ARIAS-US — Consent of all parties, disclosure, potential limitations, confidentiality

[Rules for the use of AI tools in ARIAS-US arbitrations](#) (external link)

An Informal Golden Rule: Don't Assume Others Know or Understand Your Role or Work as an Actuary

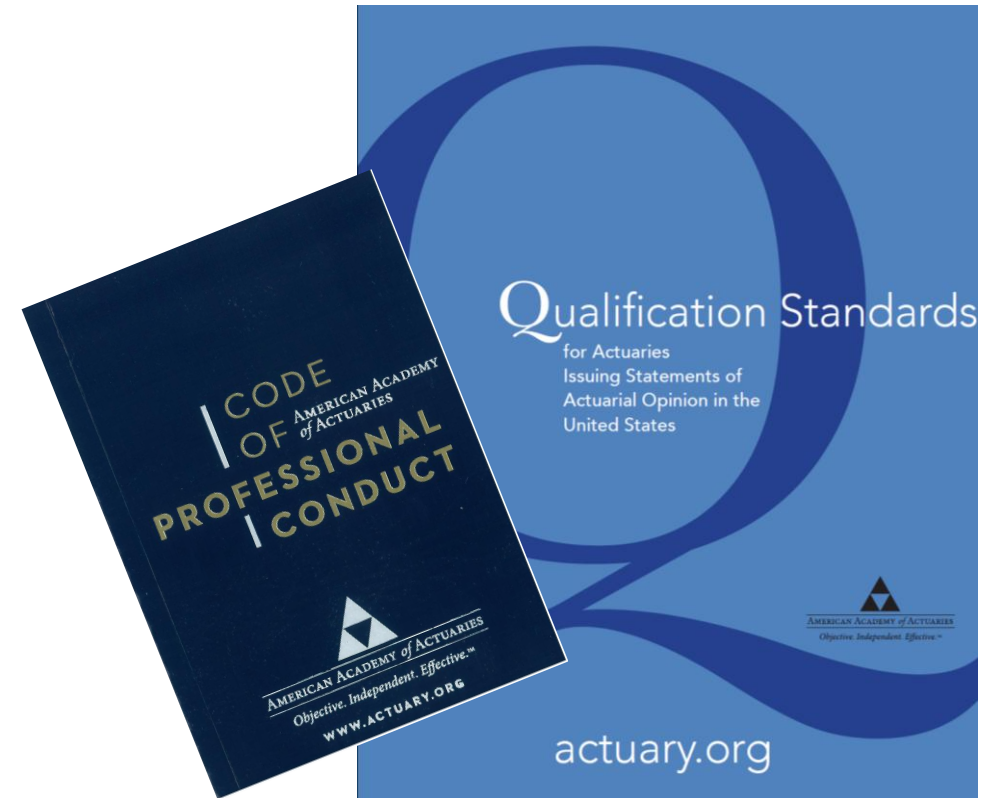
- Depends on:
 - Forum (and don't forget, some forums make testimony publicly available)
 - Audience (judge, attorneys, arbitrators, legislators, regulators, other actuaries, the public, etc.)
- Be prepared to communicate your points in a way that relates to the specific audience/actors
- If there are reasonable differences of opinion on actuarial matters, be prepared to explain that

Questions?

Academy Professionalism Resources

Professionalism Webpage actuary.org/professionalism

- Code of Professional Conduct
- ASOPs
- U.S. Qualification Standards
- Discussion papers
- Applicability Guidelines
- Professionalism Counts



Thank You

For more information, visit actuary.org