



AMERICAN ACADEMY *of* ACTUARIES

June 10, 2013

Via e-mail to staff@oal.ca.gov
OAL Reference Attorney
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814-4339

RE: Proposed Regulations Related to Workers' Compensation Self-Insurance Plans

Dear Sir or Madam:

Introduction

The security of workers' compensation benefits is important to our society. Indeed, casualty actuaries have played a major role in the evolution of workers' compensation. Self-insurance and group self-insurance are key components of the workers' compensation system. Within the American Academy of Actuaries,¹ the Committee on Property Liability Financial Reporting (COPLFR) is charged with addressing the public policy implications of financial reporting as it relates to actuarial issues.

COPLFR reviewed the recently proposed regulations² regarding the administration of self-insurance plans by the Department of Industrial Relations (Department) and respectfully recommends for your consideration changes to the definition of "qualified actuary" to achieve greater consistency with other workers' compensation regulations and for the public's protection.

Proposed Regulatory Definition of Qualified Actuary

Section 15201. Definition of a qualified actuary – By its reference to Section 15209, this paragraph defines a qualified actuary as "any actuary that meets the minimum standards of experience, certification, licensure, insurance, and qualifications set forth in section 15209, subdivisions (a)(2) and (3), for private self-insurers or section 15481, subdivisions (a)(3) & (4), for self-insured groups."

The relevant portions of Section 15209 and Section 15481 define a qualified actuary as one that meets each of the following qualifications:

¹ The American Academy of Actuaries is a 17,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

² Title 8. Industrial Relations, Division 1. Department of Industrial Relations, Chapter 8. Office of the Director Subchapter 2. Administration of Self-Insurance Plans, Section 15.201, et seq.

- (A) The actuary must be independent with no common ownership or financial interest in the entity that is the subject of the actuarial study and summary, and
- (B) Within the past ten (10) calendar years the actuary must have a minimum of five (5) years of experience making California workers' compensation actuarial projections, and
- (C) The actuary must have a designation of Fellow of the Casualty Actuarial Society (FCAS), or be a member of the American Academy of Actuaries (MAAA), or a member of the Society of Actuaries who is qualified to sign a statement of actuarial opinion on loss reserves.

COPLFR Recommendation

The regulation would be clearer and would better serve the public interest if it were amended to track more closely with the definition of "qualified actuary" in the Statement of Actuarial Opinion Instructions included in the NAIC's Annual Statement Instructions for property and casualty insurers. That definition was developed by state insurance regulators through extensive discussion and consideration of input received through an open exposure period and comment process. For your reference, the relevant sections of the NAIC Annual Statement Instructions are as follows:

"Qualified Actuary" is a person who meets the basic education, experience and continuing education requirements of the Specific Qualification Standard for Statements of Actuarial Opinion, NAIC Property and Casualty Annual Statement, as set forth in the *Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States*, promulgated by the American Academy of Actuaries, and is either:

- (i) A member in good standing of the Casualty Actuarial Society, or
- (ii) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries.

Specifically, we recommend that the language of Section 15209(a)(2)(C) and Section 15481(a)(3)(C) be replaced by the following language: "The actuary must be a current member of the Casualty Actuarial Society (CAS) or the American Academy of Actuaries (MAAA), and must be qualified to sign a statement of actuarial opinion on loss reserves under the American Academy of Actuaries' Specific Qualification Standard for Statements of Actuarial Opinion, NAIC Property and Casualty Annual Statement."

We believe that this definition can improve the Department's and the public's confidence that only individuals who are truly qualified to perform such services will be authorized to do so.

The proposed definition is overly broad and somewhat ambiguous. Specifically, our primary concern is that this definition makes no reference to the U.S. Qualification Standards that are promulgated by the American Academy of Actuaries (and apply to credentialed actuaries practicing in the U.S.; see http://www.actuary.org/files/qualification_standards.pdf), particularly the basic education component, and that are required for Appointed Actuaries signing National Association of Insurance Commissioners' (NAIC) Statements of Actuarial Opinion (SAOs) for property-casualty insurance reserves. We note that Section 3 of the U.S. Qualification Standards, the Specific Qualification section, contains the following requirements for actuaries to sign NAIC Property and Casualty Annual Statement Opinions:

3.1.1.2 Statement of Actuarial Opinion, NAIC Property and Casualty Annual Statement — An actuary should successfully complete relevant examinations administered by the American Academy of Actuaries or the Casualty Actuarial Society on the following topics: (a) policy forms and coverages, underwriting, and marketing; (b) principles of ratemaking; (c) statutory insurance accounting and expense analysis; (d) premium, loss, and expense reserves; and (e) reinsurance.

In the alternative, an actuary may meet the requirements of the Specific Qualification Standards by completing “alternative basic education”:

3.1.2 Alternative Basic Education — An actuary may also satisfy the basic education requirement by acquiring comprehensive knowledge of the applicable topics through responsible work and/or self-study. To comply with the basic education requirement through self-study, an actuary must obtain a signed statement from another actuary who is qualified to issue Statements of Actuarial Opinion under the specific qualification standard being met. This statement must indicate that the writer is familiar with an actuary's professional history and that an actuary has obtained sufficient alternative education to satisfy the basic education requirement for the specific qualification standard ... This statement should be obtained before an actuary issues a Statement of Actuarial Opinion and should be retained by the actuary.

As written, the proposed regulation's definition of “qualified actuary” includes many persons who have neither completed examinations covering workers' compensation topics and many other relevant topics, nor demonstrated sufficient knowledge of the relevant materials. Its over broadness and vagueness primarily arise from the requirement that actuaries be “qualified to sign a statement of actuarial opinion on loss reserves,” without specifying the type of actuarial opinion (i.e., property and casualty) for which they must be qualified. Admittedly, the type of analysis required by the regulations is narrower than that required for many other types of NAIC Property and Casualty Annual Statement opinions, but it also requires specific expertise in workers' compensation reserving, which is primarily a property and casualty SAO type of analysis. California should be confident that the actuaries signing reserve opinions for self-insured workers' compensation reserves are as qualified as the actuaries signing property and casualty insurance company reserve opinions.

We appreciate the opportunity to comment on the proposed revisions, and we hope you find these comments helpful. If you have any questions about our comments, please contact Lauren Pachman, the Academy's casualty policy analyst, at pachman@actuary.org.

Very truly yours,

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American Academy of Actuaries

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