

Actuarial Malpractice

May 7, 2007

Actuaries are recognized for using mathematics in certain ways to estimate the financial obligations of a company. These approximations directly affect the company's financial situation and outlook for the year. As any other professional occupation, standards must be followed to ensure the validity of the work being done. Risks of malpractice may arise if actuarial principles are not followed carefully. Actuarial malpractice has become a rising concern in holding actuaries liable for their work, where in previous years it was unheard of.

For most professionals, designations must be acquired through a series of training and schooling. In the United States, actuarial candidates have the opportunity to be a part of the following organizations: the Society of Actuaries, the Casualty Actuarial Society, the Conference of Actuaries in Public Practice, and the American Academy of Actuaries. Each of these societies has specific requirements in the realm of passing exams and attaining work experience in the actuarial field.

According to William Hager in The Emerging Law of Actuarial Malpractice, "the actuarial consultant is specifically holding himself out to the public as an expert in the actuarial field and as a result, has rather significant exposure". Examples of liability exposure could be flawed benefit calculations in a valuation, incorrect funding calculations leading to an excise tax penalty, or not giving proper precautions to the company. Even in the case where given data is erroneous; the actuary is responsible for clarifying the questionable data with the client. Therefore, they are held accountable in a court of law for being aware of all errors and not assuming any information given.

Like a doctor, the actuary is responsible for telling the client of any risks or changes that may occur with their investments. According to Hager, "a professional does not guarantee

correct judgment, only that in formulating his judgment and work product he exercise reasonable skill and competence in good faith without fraud”.

Similar to the accounting occupation, generally accepted principles are used to define the accuracy of an actuary’s work. These are taken from actuarial textbooks and literature from actuarial journals. These principles are the backbone of the actuarial profession and guide actuaries in their everyday work. These principles are also used when actuaries are defendants in court. They are expected to follow these principles to their best ability when assessing a client’s work.

ERISA is a government law created in 1974, which requires an enrolled actuary to approve all work associated with pension plans. According to Hager, this enrolled actuary must follow the, “standards and requirements for actuaries of all employee pension benefit plans covered by ERISA and enroll those qualified to practice before the Department of Labor and the Internal Revenue Service”. These enrolled actuaries are deemed fiduciaries and therefore are legally liable for the plan.

Actuarial malpractice has increased as courts have been holding actuaries to professional standards in their work. Because of ERISA, more lawsuits are expected to question the validity of actuarial efforts.

Works Cited

Hager, William. "The Emerging Law of Actuarial Malpractice." Expert Insurance Witness.

Drake Law Review. 6 May 2007 <http://www.expertinsurancewitness.com/Actuarial-Malpractice.htm#*>.