# The Challenge of Ethics

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# THE CHALLENGE OF ETHICS
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# Chapter 1
## The Foundation of Ethics

### Defining Ethics

Ethics is, at heart, the work of humankind, of sentient creatures as they evolve, develop, and come to understand the world around them. Ethics is tied intimately to one's beliefs. So first, maybe we need to define beliefs. Ethics is fundamentally different than science, reflected in a bifurcation of truth predicates. Ethics are generally perceived as a set of societal standards that encompass the norms of the community. For many in Western societies, ethical and moral behavior is based upon Christian teachings, the primary principles being the 10 commandments. This standard then becomes the established guideline by which all action is judged.

Ethical behavior is not black or white, right or wrong. That purports the reasons for ambiguity of defining ethics and gives permission to many to interpret ethics in the way each person desires. The fanatics at either end of the spectrum of a single issue can claim that their viewpoint is the only correct one and at the same time spew forth biblical passages to support their stance. Then that makes it all right.

On a whole, ethics are relative to our perception of reality, and are based upon a specific point of view. As such, ethics are not a natural set of values. If this were true, except in the cases of abhorrent behavior, we as human beings would operate on a more animalistic level. Consequently, no one viewpoint can seek to define ethics. It is impossible for any one individual to claim total universal awareness and objectivity. Humans are not omnipotent and infallible.

Ethics can be defined as the "Conscience" of an individual, the keeper of the moral standards by which the individual reacts to the world around. Ultimately, it is YOU, the individual, who will chart your ethical course. It is you who must determine right from wrong. It is you who must decide if you'll follow a group mindset or strive towards a value system based upon your experiences and beliefs.

### The History of Ethics

The boundaries of the study called Ethics are variously and often vaguely conceived. Both Ethics and Politics are distinguished from positive sciences by

having as their special and primary object to determine what ought to be and not to ascertain what merely is, has been, or will be. Ethics is the discipline relating to right and wrong, moral duty and obligation, moral principles and values, and to moral character. To many people ethics and morality are synonymous terms. Although Socrates and Plato discussed moral questions at length, it was Aristotle who first made a serious and systematic study of moral principles, and he called that ethics.

Ethics is not part of the fabric of the world, but is part of the fabric of human experience and interaction – and it is the sort of objectivity upon which the ordinary practice of moral inquiry rests. Well-known variations in moral codes from one society to another and from one period to another, including differences in moral beliefs between different groups and classes within a complex community

## Greek Ethics

The study of ethics began in the Greek culture. They attempted to categorize fallible human behavior against divine ideals. Europeans of the eighteenth and nineteenth centuries, disillusioned with what they saw as the modern condition of disharmony and fragmentation, had entertained admiration for the harmony of ancient Greece, its culture, art, sculpture, architecture and political institutions. Our word "ethics" today is derived from two Greek antecedents: "ethikos", or correct social behavior; and "ethos", or character. However, the Greek term "ethics" also implies character, whereas "mores" refers to social customs. Ethics became the philosophy of the rightness of actions, as defined by their consequences.

Greek ethical theories are theories about the good life; their starting point is Socrates' question in the Gorgias (472C-D) — how should we live to be happy? So is that what ethics is about? – being happy? Modern philosophers are unwittingly heir to the tradition of the harmony of ancient Greece, which includes its culture, art, sculpture, architecture and political institutions when they attribute to all the ancient Greek philosophers a matching philosophical view aimed at minimizing conflicts in practical reasoning. According to this view, which some philosophers call "harmonizing eudaimonism", each human being has a single ultimate rational aim, happiness (eudaimonia); all worthwhile aims are harmoniously subsumed under this one aim in such a way that happiness cannot conflict with any other (rational) aim beyond itself.

Aristotle's ethical theory follows the eudaimonist pattern set out by Plato where the main concern is with virtue as a constituent of the good life. Consequently, it concentrates on moral psychology, working out what seems still to be one of the most insightful accounts of character traits and their genesis.

## Roman Ethics

To the Romans the controlling doctrine was "mores", or the proper customs of the people. From this we get our word "moral". And that is the source of much confusion: many people try to draw distinctions between ethics and morals. The Hellenistic and Roman periods saw a convergence of three great cultures: Greek, Roman, and Judeo-Christian. The Greek translation of the Hebrew biblion ("bible" or papyrus) around 332 BCE both gathered the stories of Abraham and his people in much the same way that Homer gathered the stories of Agamemnon and the battle of Troy and interpreted those stories through the translation of key terms.

## Christian-Based Ethics

One of the great expressions of situational ethics is the Golden Rule, a cornerstone of Judeo-Christian behavior. It has also been expressed by most of the world's major religions. But it is not merely a religious concept. To the Confucian ethics is a set of instructions for a harmonious life within society, a concept shared by groups as diverse as the ancient Egyptians and the modern Navajo.

Today there are circumstances where individuals and career persons are faced with moral choices in difficult and complicated situations when trying to follow the Judeo-Christian morals and beliefs. But it is not only the existential situations in which one makes ethical decisions that are becoming more complex but the issues themselves are often complex. So the individual has to take into account the complexity of change and problems in order to continue being faithful to their lived faith tradition. When so many social customs and principles are seemingly contrary to the Christian moral philosophy, it is important to ask how a Christian ethos can provide an atmosphere in which people will have suitable models so as to develop Christian attitudes and values.

*Truth*
There is a need for a sincere search for truth in sharing experiences and in co-reflection on contemporary and often controversial social issues in a passionate concern for human values. There is no definition of truth. Truth is the opposite of falsehood, and in order to know what Truth is one must have fortitude and

patience in order to obtain the wisdom needed for decisions. Justice and humility is later needed in order to see the truth from one's wisdom, honor and honesty is required in order to express the truth as one sees it.

A coherence theory of truth in ethics can provide a reasonable accommodation of moral argument. Truth is certainly an important principle and being honest or telling the truth is generally recognized in ethics as a moral obligation. Truth is what keeps us in contact with reality, another divine principle but more important in metaphysics than as an ethical value.

The experience of truth is neither a thought nor a feeling. It is a vibrating and a throbbing of all the vital components of one's entire being. Truth has no words, no sounds. Truth is an experience of the extreme depths of the self. Truth is not the opposite of untruth. Truth is the mean between extremes. In other words, truth transcends all extremes.

By examining specific issues in ethics that may be considered to be of a controversial nature, one may be able to see that a depth of understanding will depend on many dimensions. Religion, science, education and our cultural traditions are but some of the factors that must be considered in making moral choices. It is necessary to understand that there will always be varying responses to moral situations: the role that personal freedom, authority and tradition play in shaping our social and personal ethics must also be examined in the light of the processes involved in reaching decisions in moral matters.

The task of Christian ethical reflection, for each generation and in every society, is the same – to discover and to recommend gospel-shaped patterns of living. When Christ was called on to identify the greatest laws in the Bible, He referred to the passages which included love of God and love of one's neighbor. So what about justice? Justice can indeed be inferred from natural law.

The doctrine of equality of all social classes, sexes, and races would imply justice in the sense of equity, but this would probably not include the retributive aspects of justice, which are left to the civil authorities, or to God. Therefore, it may only be the positive aspects of justice in the sense of fairness that the Christian should pursue, thus linking it again with love. If this is true there are two sides to justice. Justice is justice in the clearest sense of the word. It seems if there are two sides of justice then it isn't justice with the interpretation that we are most familiar with.

## Modern Day Ethics

People in modern societies are often faced with the task of making moral choices in difficult and complicated situations. But it is not only the existential situations in which one makes ethical decisions that are becoming more complex in a rapidly changing world; the issues themselves are often of such a complicity that the modern day person of high morality and integrity often must enter into a dialogue with persons of varying moral ideologies and beliefs, as well as understand the problems with a certain measure of technological expertise.

One of the main contentions has been that modern philosophy's position on ethics is confused; in particular, arguing that many contemporary philosophers reject the distinctive moral claim that there are correct judgments of human action without recognizing that this involves rejecting ethics.

## *The Interpretation of Ethics*

Ethics are re-interpreted usually at times of crisis or an internalized change. This happens because a viewpoint has been shown to be inaccurate or when the belief fails to take into consideration a very specific set of circumstances. At such times, the individual should rationally view their beliefs, and make internal inquiries as to the experiences that produced them. Reflection is needed to determine if a new set of values is necessary, or if existing values need only be modified to reflect the situation.

The classification of values differed from the usual classifications in failing to make ethical values fundamental. Two reasons were given for this: first, because all values are "moral" in the broadest sense, since they are normative or imperative; and second, because ethical values, or moral values in the more specific sense, are a species of the values of love, being, in fact, the characteristic values of what I have called "community love."

## *The Philosophies of Ethics*

The attempt to distinguish between ethics and morals often creates great confusion. Most people, and most societies, may consider something to be immoral, although there are few laws actually prohibiting a particular practice. So is it unethical? The debate can be fruitless, and confuse agents into thinking anything is acceptable as long as it is "open" and no one "gets hurt." That's not always true.

The early developments in moral and political philosophy left a lasting effect through the history of those.

## Deontological Ethics

Deontological ethical theories, in contrast, maintain that whether an action is right or wrong is for the most part independent of whether its consequences are good or bad. From the deontologist perspective, there are several distinct moral rules or duties, the observance/violation of which is intrinsically right/wrong. When asked to justify an alleged moral rule, duty or its corresponding right, deontologists may appeal to the intrinsic value of those beings to whom it applies.

*Monistic deontology* -- Kant's Categorical Imperative -- "Act only on that maxim whereby thou canst at the same time will that it should become a universal law") provides the source of right action. Its first formulation states; "Act as if the maxim of one's action were to secure through his or her will a universal law of nature;" its second formulation states; "Always act so as to treat humanity, whether in your own person or that of another, as an end in itself, never as a means only." Actions that conform to these imperatives or right actions and are, furthermore, done from a sense of duty, are the epitome of morally praiseworthy actions.

Critics of Kant's approach claim that his Categorical Imperative does not contain within it a way to resolve conflicts of duties. "Lying is wrong" can be interpreted as "Never lie" and thus Universal Principles can 'harden' into Absolute Principles.

*Pluralistic deontology* -- For the 20th Century philosopher W. D. Ross, there are a number of duties that reflection reveals -- and these form a group of prima facie obligations. The phrase "prima facie" ('all things being equal') refers to the fact that these duties do not bind us absolutely, but rather that they generally hold -- absent any further considerations. Two key duties are non-maleficence or in layman's terms, "don't harm others" and help others. Other prima facie duties include 'don't lie,' 'don't kill,' keep promises,' etc.

## Virtue Ethics

There is a long tradition in ethics that places great importance on the "kind of person one is." We not only want those around us to "tell the truth", but also to be honest. Both Aristotle and Aquinas emphasized this aspect of ethics by highlighting the role of what we would today call character in their discussions of ethics. David Hume also gave virtue and personal merit a key role in his ethical theory. The recent revival of interest in virtue ethics can be traced back to Philippa Foot. She writes that a person's "virtue may be judged by his innermost desires as well as by his intentions; and this fits with our idea that a virtue such as generosity lies as much in someone's attitudes as in his actions"

*The Moral Concept of Virtue* -- We should distinguish the virtues found in a particular society or culture (e.g., chastity) from those virtues that can be supported by moral reasoning or honesty). "A virtue is a trait of character that is socially valued, and a moral virtue is a trait that is morally valued…Moral reasons must support a claim…of moral virtue".

By emphasizing the priority of character in discussions of ethics, virtue theorists can say: "…rather than using rules and government regulations to protect subjects in research, some claim that the most reliable protection is the presence of an 'informed, conscientious, compassionate, responsible researcher'". The underlying view here is that "character is more important than conformity to rules and that virtues should be inculcated and cultivated over time through educational interactions, role models," etc.

A practical consequence of this view is that the education of, for example medical doctors, should include the cultivation of virtues such as compassion, discernment, trustworthiness, integrity, conscientiousness as well as benevolence (desire to help) and nonmalevolence (desire to avoid harm).

*Critical Evaluation of "Virtue Ethics"* -- Often times we encounter "morality between strangers". Most important is not the person's character, but his or her need to follow rules and procedures that seem to come to the forefront. So in other words, "Virtue is not enough". Furthermore, persons of good character can certainly formulate bad policy or make a poor choice -- and we need to evaluate those policies and choices according to moral principles.

*Constructive Evaluation of "Virtue Ethics"* -- Yet "…ethical theory is more complete if the virtues are included…motives deserve to be at center stage in a way that

some leading traditional theories have inadequately appreciated" … "To look at acts without also looking at the moral appropriateness and desirability of feelings, attitudes, forms of sympathy, and the like is to miss a large area of the moral picture.

## Normative Ethics

Normative ethics is interested in determining the content of our moral behavior. Normative ethics involves creating or evaluating moral standards, so is an attempt to figure out what people should do or whether current moral behavior is reasonable. Normative ethical theories seek to provide action-guides; procedures for answering the Practical Question ("What ought I to do?").

Traditionally, most moral philosophy has involved normative ethics — few philosophers haven't tried their hand at explaining what they think people should do and why. Religious, theistic normative ethics often rely on the commands of an alleged god; for atheists, normative ethics can have a variety of sources. Debates between the two thus frequently revolve around what the best basis for morality is as much as what the proper moral behavior should be.

The moral theories of Kant and Bentham are examples of normative theories that seek to provide guidelines for determining a specific course of moral action. Think of the Categorical Imperative in the case of the former and the Principle of Utility in the case of the latter.

## Analytic Ethics (Metaethics)

Analytic ethics, also called metaethics, is disputed by some philosophers disagree as to whether it should be considered an independent pursuit, arguing that it should be included under Normative Ethics. In principle, metaethics is the study of assumptions people make when engaging in normative ethics. Such assumptions may include the existence of gods, the usefulness of ethical propositions, the nature of reality, whether moral statements convey information about the world, etc. Debates between atheists and theists over whether morality requires the existence of a god can be classified as metaethical debates.

Analytic ethics is referred to as meta-ethics because it analyzed and examines normative ethics and moral terminology.  Normative ethics and moral terminology represent a sequential study but descriptive ethics is more in the social science domain than in the philosophy domain.

## Situational Ethics

Situational Ethics was pioneered by Joseph Fletcher. Situational Ethics, according to Fletcher's model, states that decision-making should be based upon the circumstances of a particular situation, and not upon fixed Law. The only absolute is Love. Love should be the motive behind every decision. As long as Love is your intention, the end justifies the means. Justice is not in the letter of the Law, it is in the distribution of Love.

Fletcher believed that in forming an ethical system based on love, he was best expressing the notion of 'love thy neighbor', which Jesus Christ taught in the Gospels of the New Testament of the Bible. Through situational ethics, Fletcher attempted to find a 'middle road' between legalistic and antinomian ethics. Fletcher founded his model upon a statement found in the New Testament of the Bible that reads, "God is Love" (I John 4:8).

If Situational Ethics is based upon "God is Love" in I John 4:8, then how is the content of the very next chapter explained, "This is the love of God, that we keep His commandments. And His commandments are not burdensome" (I John 5:3). While Fletcher holds that any commandment may be broken in good conscience if Love is one's intention, the Bible states that the keeping of God's commandments is loving God.

To break any commandment, regardless of your intentions, is to not love God. Situational ethics is a teleological, or consequential theory, in that it is concerned with the outcome or consequences of an action; the end, as opposed to an action being intrinsically wrong such as in deontological theories. In the case of situational ethics, the ends can justify the means. Therefore, logic holds that the breaking of the commandment was not done in Love. Joseph Fletcher argued that there were only three possible approaches to ethics:

- *The legalistic approach* -- Legalistic ethics has a set of prefabricated moral rules or laws. Many western religions, such as Judaism and Christianity have a very legalistic approach to ethics. Through history, Christianity has focused on Natural Law and Biblical commandments, such as the Ten Commandments of Moses. Fletcher states that life runs into many difficulties when its complexities require additional laws arguing that the error of a legalistic approach to ethics has been made by Catholics through their adherence to Natural Law and by Protestants through puritanical observance of the texts in the Bible.
- *The antinomian approach* -- Antinomian ethics is the opposite to legalism, it does not imply an ethical system at all. An antinomian enters decisions

making as if each situation was unique and making moral decisions is based on the matter of spontaneity. Fletcher argues that the antinomianism approach to ethical decision making is unprincipled so is an unacceptable approach to ethics.

- *The situational approach* -- Situational ethics relies on one principle, what best serves love. Christian love is unconditional and unsentimental. Situational ethics is based on the golden rule "love your neighbor as yourself" and altruism which is putting others before yourself and showing agape towards everyone. It agrees on reason being the instrument of moral judgments, but disagrees that the good is to be unconcerned from the nature of things.

## Descriptive Ethics

Descriptive ethics involves describing how people behave and/or the moral standards they claim to follow. Descriptive ethics incorporates research from anthropology, psychology, sociology and history to understand beliefs about moral norms. Atheists who compare what religious theists say about moral behavior or the basis for morality against how they actually behave need to understand how to properly describe both their ethical beliefs and their actions. To defend their own moral philosophy, atheists need to know how to accurately explain the nature of their moral standards as well as the moral choices they make.

## Consequentialist Ethics

Consequentialist ethical theories consider intrinsic "value" vs, "disvalue" or "goodness" vs. "badness" to be more fundamental moral notions than "rightness" vs. "wrongness", and maintain that whether an action is right/wrong is determined by whether its consequences are good or bad. Utilitarianism, a paradigm case of consequentialism, regards pleasure (or, more broadly construed, the satisfaction of interest, desire, and/or preference) as the only intrinsic value in the world, whereas pain (or the frustration of desire, interest, and/or preference) the only intrinsic disvalue, and maintains that right actions are those that would produce the greatest balance of pleasure over pain.

## *Dominant Ethical Philosophies*

The aim of ethics is to systematize and free from error the apparent cognitions that most men have of the rightness or reasonableness of conduct, whether the conduct is considered as right in itself, or as the means to some end commonly conceived as ultimately reasonable. These cognitions are normally accompanied by emotions of various kinds, known as "moral sentiments": but an ethical

judgment cannot be explained as affirming merely the existence of such a sentiment: indeed it is an essential characteristic of a moral feeling that it is bound up with an apparent cognition of something more than mere feeling.

Such cognitions could be called dictates, or imperatives; because, in so far as they relate to conduct on which any one is deliberating, they are accompanied by a certain impulse to do the acts recognized as right, which is liable to conflict with other impulses. Provided this impulse is effective in producing right volition, it is not of primary importance for ethical purposes to determine the exact characteristics of the emotional states that precede such volitions.

## Ethical Relativism

There is a distinction between "morals" and "mores" -- the latter can be defined as "harmless customs"; the former as "treatment of others."  Ethical relativism is the position that there are no moral absolutes, no moral right and wrongs. In discussing Relativism, we are concerned only with "moral practices." Instead, right and wrong are based on social norms. When stated so vaguely relativism is embraced by numerous laypersons and a sizeable contingent of philosophers.

Ethical relativism is the theory that holds that morality is relative to the norms of one's culture.  This is true whether an action is right or wrong depends on the moral norms of the society in which it is practiced.  The Problem of Relativism: What one society considers Right, another Society considers Wrong. Therefore, right and wrong are RELATIVE to a particular society. Here we need to be aware of two things:

- Confusing "harmless conventions" (The British drive on the left side of the road) with "harmful practices".
- Even if "moralities" may differ from society to society, it need not follow that Morality Itself is relative -- for there is a further distinction between cultural ("descriptive") relativism and normative ("Ethical") relativism.

Most ethicists reject the theory of ethical relativism. Some claim that while the moral practices of societies may differ, the fundamental moral principles underlying these practices do not. For the ethical relativist, there are no universal moral standards -- standards that can be universally applied to all peoples at all times. The only moral standards against which a society's practices can be judged are its own. If ethical relativism is correct, there can be no common framework for resolving moral disputes or for reaching agreement on ethical matters among members of different societies.

Relativism also does not allow for the existence of an absolute set of ethics. One advantage of ethical relativism is that it allows for a wide variety of cultures and practices. It also allows people to adapt ethically as the culture, knowledge, and technology change in society.

This is good and a valid form of relativism. The disadvantage of ethical relativism is that truth, right and wrong, and justice are all relative. Just because the group of people thinks that something is right does not make it so. Slavery is a good example of this. Two hundred years ago in America, slavery was the norm and morally acceptable. Now it is not.

Those who whole-heartedly embrace relativism note salient respects, in which ethics is relative, yet erroneously infer that ethical values are noxiously subjective. Those who reject relativism do so because they think ethics is subject to rational scrutiny, that moral views can be correct or incorrect. But in rejecting objectionable features of relativism they overlook significant yet non-pernicious ways in which ethics is relative. Most ethicists reject the theory of ethical relativism.

Some claim that while the moral practices of societies may differ, the fundamental moral principles underlying these practices do not. Ethical relativism reminds us that different societies have different moral beliefs and that our beliefs are deeply influenced by culture. It also encourages us to explore the reasons underlying beliefs that differ from our own, while challenging us to examine our reasons for the beliefs and values we hold. Some have heard of the term situational ethics which is a category of ethical relativism. At any rate, ethical relativism would mean that our morals have evolved, that they have changed over time, and that they are not absolute.

## *The Duty of Ethics*

Duty-based ethics also are called "deontological" ethics. The Greek word deon means duty or obligation. Deontological theories of ethics focus on (1) the rights of all individuals and (2) the intentions of the person(s) performing an action. The main proponent of this ethical framework was the German philosopher Immanuel Kant. Kant believed that there are higher principles that are good in every time, every culture, and every situation. When faced with an ethical dilemma, he believes we should ask ourselves: "To whom do I owe a duty and what duty do I owe them?"

Ethics based on the notion of duty or what is right are often termed deontological ethics. It may be thought that the best way of treating the subject would have been to divide Duty generally into Social and Self-regarding, and again to subdivide the former branch into the heads; and afterwards adding such minor details of duty as have obtained special names and distinct recognition.

The division of duties into Social and Self-regarding, though obvious, and acceptable enough as a rough prima facie classification, does not on closer examination seem exactly appropriate to the Intuitional Method. For these titles naturally suggest that the happiness or well-being, of the agent or of others, is always the end and final determinant of right action.

While the varieties of ethical theories are many, one basic distinction between traditional ethical types is that between duty-based ethics and results-oriented or consequentialist ethics. Duty-based ethics are often called deontological and consequentialist ethics are often labeled as utilitarian. A third variety is virtue-based ethics, which concern themselves with developing character more so than with particular conduct in particular situations. We shall mostly concentrate on the distinction between the first two.

Deontology proposes that the principles of ethics are permanent and unchanging—and that adherence to these principles is at the heart of ethical behavior. Many deontologists believe that the rights of individuals are grounded in "natural law." Deontology is most closely associated with the German philosopher Immanuel Kant.

## The Duty of Social Virtue

Duty is broadly convertible with Right Conduct--like "ought" and "moral obligation"--implies at least the potential presence of motives prompting to wrong conduct; and is therefore not applicable to beings to whom no such conflict of motives can be attributed. For a similar reason, we do not commonly apply the term 'duty' to right actions--however necessary and important-- when we are so strongly impelled to them by non-moral inclinations that no moral impulse is conceived to be necessary for their performance. We should therefore perhaps keep most close to usage if we defined Duties as 'those Right actions or abstinences, for the adequate accomplishment of which a moral impulse is conceived to be at least occasionally necessary.'

When inquiring how far the minor social duties and virtues appear on examination to be anything more than special applications of the Benevolence, the element of duty is that which deals with the existence, and determines the legitimacy.

Malevolent affections are as natural to man as the benevolent: even though not in the same sense. Man tends to have some kindly feeling for any fellowman, when there is no special cause operating to make him love or hate; but still such special causes of malevolent feeling continually occur, and exemplify a psychological by which the growth of benevolent feelings could be explained.

For just as we are apt to love those who are the cause of pleasure to us; so by strict analogy we naturally dislike those who have done us harm, whether consciously from malevolence or mere selfishness, or even unconsciously. We feel ill-will to a rival who deprives us of an object of competition: and so in persons in whom the desire of superiority is strong, a certain dislike of any one who is more successful or prosperous than themselves is easily aroused.

## The Duty of Responsibility
The concept of responsibility is integrally related to the concept of obligation. Generally a person is responsible for the performance of his obligation; and generally a person is obligated to do a particular act only if he is responsible for it. It is the same act which is obligatory and responsible. But the conditions of the two are not the same. An act is obligatory in so far as it realizes good; while this act is responsible in so far as it is 'voluntary'.

This relation between the obligatory and the responsible has another important aspect. We hold persons responsible in different degrees for particular acts, and this degree depends not merely upon the degree of voluntariness of the act but upon its degree of obligatoriness.

We are most responsible for acts of the highest degree of obligatoriness and voluntariness, and least responsible for acts of the lowest degrees of obligatoriness and voluntariness. The degree to which a person is responsible for an act may be increased or diminished by an increase or reduction in either factor. A threat of death is in general more terrible than a threat of poverty, and a threat of death to oneself and one's family is more terrible than a threat of death to oneself. An obligation to protect the welfare of one's nation is greater than an obligation to protect the welfare of one's club.

## The Behavior of Ethics

Ethics is defined as the study of the moral value of human behavior. Ethics are rules for behavior, based on beliefs about how things should be. Ethical statements involve:

- assumptions about humans and their capacities;
- logical rules extending from these assumptions; and
- notions of what is good and desirable.

Ethics as a division of philosophy uses the methods of philosophy, not the methods of religion. In other words, it is not faith in the writings of religious figures which is used to develop ethical positions, it is the application of human reasoning to ethical issues.

Ethics are personal and, at the same time, a very public display of your attitudes and beliefs. It is because of ethical beliefs that we humans may act differently in different in situations. Ethics can and do shift, whether we are with family, at work, at a sports event, at a religious gathering, in a professional organization, with friends, or alone. The list is endless.

The assessment of whether a behavior is ethical is divided into four categories, or domains: consequences, actions, character, and motive. In the domain of consequences, a behavior is determined to be "right" or "wrong" based on the results of the action, whereas the domain of actions looks only at the act itself.
A behavior may be deemed "ethical" according to one domain of assessment, but appear "unethical" according to another. For example, a poor person steals a small amount of food to feed her starving child from a wealthy, well-fed person who does not even notice that the food is missing.

## Summary

Ethics is a major branch of philosophy, encompassing right conduct and good life. It is significantly broader than the common conception of analyzing right and wrong. A central aspect of ethics is "the good life", the life worth living or life that is simply not satisfying, which is held by many philosophers to be more important than moral conduct.

Ethics can also be divided into two main schools, absolutism and relativism. Absolutists believe that ethical rules are fixed standards. Relativists, on the other hand, believe that all ethics are subject to context. Moral awareness is the ability to recognize the ethical element of a given situation. Ethical maturity involves

accepting full responsibility for one's ethical choices and their consequences. An ethically mature person obeys her or his own, inner authority (or conscience), rather than an outside authority figure.

Behavior analysis, a rapidly growing profession, began with the use and application of conditioning and learning techniques to modify the behavior of children or adults presenting severe management problems, often because of developmental disabilities.

# Chapter 2
## The Development of Personal Ethics

## *Personal Ethics*

Personal convictions form the most effective basis for moral and ethical behavior. Personal convictions develop from family, community, education, religious/spiritual upbringing, and peer influence. Religion and spiritual upbringing are still very effective, but decreasing numbers of young people fall under the influence of the church. In previous decades, parents sent their children to religious education even if the parents themselves did not attend. Such a sense of obligation to expose children to religious training and its consequent moral commandments no longer exists. This situation is exacerbated by the church-state debate, which presents even more of a barrier to the influence of the church.

Ethics are a personal set of values used by an individual to guide their actions, and to recognize any obligation. Ethics are not objective, but are subjective to the individual. Ethics are a continuously evolving code of conduct dependent upon circumstances and the life experiences of the individual. But as human beings, moral order is defined by the individual. It begins when children are taught acceptable behaviors based upon societal norms and parental values. These norms and values are used to provide a framework for the development of individual values.

But societal standards vary so the impacts vary of the standards include: community, language, religion, economics, politics, stability, government, education, culture, history, race, and gender. The key to understanding our ethics is to understand our own belief systems. What do you believe and why? What people, readings, or events have led you to believe what is right and wrong? As you progress through your undergraduate major course of study, you will be expected to understand and apply appropriate ethics in any given scenario.

### Developing Personal Ethics

Ethics are personal. Personal ethics act as the foundation for one's moral compass; the internal guide that tells an individual what's right and wrong. They drive actions and, to a certain extent, drive one's emotions, on a daily basis.

Everyone has a different foundation on which they build their moral code. Love is the ultimate ethical code. When you love yourself and you love others, ethical temptations disappear. Most individuals have developed negative emotional patterns that prevent them from entering this state.  Explore five factors that contribute to the development of personal ethics.

Whether taught by a parent, a teacher or a religious leader, the Golden Rule not only promises spiritual satisfaction and fulfillment, it serves as a practical guide to everyday life. When we discuss ethics, we are not dealing with a set of fixed scientific rules, but rather with attitudes, ideas and beliefs. You can easily determine whether a course of conduct is ethical by asking, "Would I want someone else to act in this manner toward me?" Failure to apply the Golden Rule will result in two separate standards of ethics, or a double standard. One standard is how you treat others; the second is how you expect others to treat you.

*Influence From Family*
While one's parents cannot dictate their kid's morality, they are typically the first to voice and demonstrate ethical boundaries for them. Most parents consider it one of their critical jobs to instill a strong sense of right and wrong in their children. When parents tell their children that stealing is wrong, they are building a foundation for their child's personal ethics.

How parents behave has a strong impact as well. Parent's personal values are the beliefs a person possesses in which they have a strong feeling regarding, whether for or against. On a very basic level, personal values are our sense of identity meaning that with different personal values, we would essentially be different people. As a society, we begin acquiring our personal values from the beginning of our lives.  The beginning of our lives is under the family umbrella.

*Influence of Culture*
Culture can dictate the ethical norms that people are used to and come to expect. The culture you live in may impact your ethical code more than you even realize, simply because it surrounds you. The customs and traditions of the society you inhabit become ingrained in your psyche, and the ethics of the group are generally accepted. Racism, gender discrimination and other forms of prejudice can become an accepted part of a person's ethical standards when surrounded by people who do it and allow it.

*Influence of Religious Beliefs*

Religious beliefs have a unique impact on personal ethics. In general, religion allows people to accept an established set of moral rules. By following these spiritual laws, people feel they are behaving ethically. But we still have to ask the question: "what makes an act ethical?" Most people think vaguely in terms of "doing the right thing," but few give serious thought to what actually makes an act ethically right.

This lack of reflection and delving into poses a danger because when there's a conflict between two apparently ethically right acts, people will be at a loss about what to do. Religion may promise rewards in the afterlife as motivation for following the "rules". But the catch here is that religion can inspire all kinds of acts, including violence as some devout followers come to embrace an ethical code that allows for actions of incredible cruelty in the name of a greater spiritual being.

*Influence of Habits*

Everything you do is more or less the result of habit, and those habits which have persisted and are most often repeated become the deeply seated ones which govern your actions. Your most dominant impressions will always be those that come into your mind at your most emotional periods and those which you plant in your mind as a result of a strong desire or belief. Earl Nightingale described this best when he said, "You become what you think about." Here are seven principles that will help develop your personal standard of ethics:

- Always be cheerful and optimistic no matter what circumstances you find yourself in;
- Always be honest in all your relationships;
- Always be generous and unselfish with everyone you associate with;
- Always be kind to everyone regardless of time, place, person, or circumstances;
- Believe and practice that love is stronger than hate, right is more powerful than force;
- Never engage in a business transaction which does not benefit all the participants;
- Never slander another person.

The universal Law of Substitution is very important in developing one's standard of ethics. This law says that a mind can hold only one thought at a time,

positive or negative. An individual can substitute a positive thought for a negative thought whenever he or she chooses.

## *Principles of Personal Ethics*

Ethics must guide not only what we do, but how we do it. Personal ethics might also be called morality, since they reflect general expectations of any person in any society, acting in any capacity. These are the principles we try to instill in children, and expect of one another without needing to articulate the expectation or formalize it in any way. Organizational ethical culture affects individual personal values.

You may not realize that the ethical principles you've built your life on are not an established set of rules handed to you at birth. They grow and develop with you over time and many things influence how they're crafted. In today's competitive and often cutthroat world people often try to get ahead at any cost. It is rare that you meet a person with high standard of ethics and integrity, yet it is the people with the highest standard of ethics that achieve and maintain success. Principles of personal ethics include:

- Concern for the well-being of others;
- Respect for the autonomy of others;
- Trustworthiness & honesty;
- Willing compliance with the law (with the exception of civil disobedience);
- Preventing harm;
- Benevolence: doing good;
- Refusing to take unfair advantage;
- Basic justice; being fair.

It is difficult at times to find the distinction between individual ethics and the ethics or standards and policies of an organization or profession. These general definitions may be helpful as a start:

- Collective Standards -- particular methods of practice;
- Code of Ethics -- formal rules which govern behavior of a group;
- Ethics -- a particular code of values;
- Policies -- guidelines for behavior in particular situations;
- Values -- core beliefs that guide actions.

Whereas most of us think of ethics in very personal terms, the word actually assumes a much greater meaning the minute we become part of an organization or established group of people. At that point, individual values are not enough to define what behavior will or will not be acceptable or tolerated. Definitions of right and wrong may vary, even if the group is composed of individuals who all consider themselves to be "ethical."

## Creating a Personal Code of Ethics

Developing your own personal code of ethics is one of the most important things you can do for yourself. A personal code of ethics puts into writing those ideas and philosophies that are the essence of your life and allows you to say I will do this because I believe this. A code of ethics is a document, which you can look to each day not only as a reminder of what you believe in but also as an encouragement to carry on with your daily walk.

It is important to think about what you believe. Make a list of all of your ethical beliefs.  After having the personal beliefs written down, think about why you believe them.  Then it is important to create a code of ethics that is unique to one's own styles and talents.  Here are some items that will help to develop one's personal ethics.

The first part of your personal code of ethics is the purpose for your personal code of ethics. Are you writing it to regulate your behavior or to inspire you to greater heights? Whatever your reason, this is where you will develop the philosophy behind your code of ethics. The only requirement is that the purpose, as well as the code of ethics, be tailored to your needs.

The second part of the personal code of ethics is the "I will" section of your personal code of ethics. God, in the Bible, set up His "I will's" which are based on who He is. This is the same thing you need to do. Go through the list of how people see you and look to see if any match up to what you believe. This is the aspirations section of the document. All the traits that one now exhibits as well as those on the wish list to develop should be included.

The third part of the personal code of ethics is the rules or beliefs you expect yourself to follow when dealing with other people. These are all the "why's" listed in the information gathering part of the process of writing a personal code of ethics.

Personal ethics act as the foundation for one's moral compass; the internal guide that tells an individual what is right and wrong. They drive your actions and, to a certain extent, your emotions, on a daily basis. But where do they come from? And why do people who appear similar sometimes have completely different sets of personal ethics?

Ethics is traditionally an intellectual activity. There are three basic grounds that an individual can consider for an act ethical rightness.

- The first is religious;
- The second is consequentialist;
- The third is deontological;

*Guidelines For Creating a Code of Ethics* -- The basic knowledge of what is right and what is wrong make up our "internal" code of ethics and the best way to know what those internal guidelines are is to create a written code to follow.

- Making a profit will never outweigh wrong;
- The solution to a tricky ethical dilemma is often to just say "no" and simply walk away;
- If your gut or consciousness warns you of impending trouble, listen and come up with a better idea.
- Do not blame others when you are caught up in ethically questionable behavior. There are no victims when "no" is available.
- Your own ethical character is tied in with the companies you do business with;
- Being a citizen of humanity eliminates selfish goals;
- Writing down a code of conduct will be established when it is backed up by example.

# Chapter Three
## Business Ethics

### *Understanding Professional Ethics*

Professional ethics concerns the moral issues that arise because of the specialist knowledge that professionals attain, and how the use of this knowledge should be governed when providing a service to the public. Individuals acting in a professional capacity take on an additional burden of ethical responsibility. For example, professional associations have codes of ethics that prescribe required behavior within the context of a professional practice such as medicine, law, accounting, or engineering. These written codes provide rules of conduct and standards of behavior based on the principles of Professional Ethics, which include:

- Impartiality;
- Objectivity;
- Openness; full disclosure;
- Confidentiality;
- Due diligence / duty of care;
- Fidelity to professional responsibilities;
- Avoiding potential or apparent conflict of interest.

For us to "do ethics"--to reflect critically on the character and action of ourselves and our communities—we must recognize "where in the world we are" and "where we come from." We abide in personal and cultural stories and in institutions ranging from the family to the nation and beyond. Our pasts precede us, our futures lie before us, our cultures surround us, our values infuse us, our absorbed images shape us, and our myths and worldviews locate us. We become more ethically perceptive and sensitive people when we understand ourselves in our layers of contexts and understand what creates and changes those contexts.

Even when not written into a code, principles of professional ethics are usually expected of people in business, employees, volunteers, elected representatives and so on.

Professional ethics are meaningless unless they fit well with what we actually do. We're not in a good position to consider the ethical implications of our acts unless we clearly understand what we do as psychologists. Teaching, research,

supervision, mentoring, assessment, and intervention are abstractions until we understand what they mean in specific terms. This is not always easy.

One of the most difficult challenges in developing professional ethics is acknowledging the sometimes overwhelming complexity. The situation that a psychologist encounters may have layer upon layer of complexity; moreover, the ethical standards, laws, and research relevant to that situation may form a complex tangle. The concept of dual relationships (aka multiple or overlapping relationships) exemplifies this lack of simplicity.

A firm's ethical culture dictates its ethical norms and the behaviors expected, and it has been shown to affect the ethical behaviors of its members. It has been suggested that creating an ethical culture within the organization may provide ethical standards for its members.

## *The Importance of Ethics in Professionalism*

The professional carries additional moral responsibilities to those held by the population in general. This is because professionals are capable of making and acting on an informed decision in situations that the general public cannot, because they have not received the relevant training. You cannot be held accountable for failing to do something that you do not have the ability to do.

The additional knowledge also comes with authority and power. The client places trust in the professional on the basis that the service provided will be of benefit to them. It would be quite possible for the professional to use his authority to exploit the client. Questions arise as to the ethical limits of the professional's responsibility and how power and authority should be used in service to the client and society. Most professions have internally enforced codes of practice that members of the profession must follow, to prevent exploitation of the client and preserve the integrity of the profession. This is not only to the benefit of the client but to the benefit of those belonging to the profession.

On a theoretical level, there is debate as to whether an ethical code for a profession should be consistent with the requirements of morality governing the public. Separatists argue that professions should be allowed to go beyond such confines when they judge it necessary. This is because they are trained to produce certain outcomes which may take moral precedence over other functions of society. Separatism is based on a relativist conception of morality that there can be different, equally valid moral codes that apply to different sections of society and differences in codes between societies. If moral

universalism is ascribed to, then this would be inconsistent with the view that professions can have a different moral code, as the universalist holds that there is only one valid moral code for all.

The profession of business ethics has long needed a highly practical resource that is designed particularly for leaders and managers -- those people charged to ensure ethical practices in their organizations. Unfortunately, far too many resources about business ethics end up being designed primarily for philosophers, academics and social critics. As a result, leaders and managers struggle to really be able to make use of the resources at all.

## *Approaches To Ethical Standards*

Business owners often face difficult ethical dilemmas, such as whether to cut corners on quality to meet a deadline or whether to lay off workers to enhance profits. A current ethical debate concerns the use of extremely low-wage foreign workers, especially in the garment industry.  The intense pressures of business may not always allow you the luxury of much time for reflection, and the high stakes may tempt you to compromise your ideals. Even though an individual has a well-developed ethical outlook; by considering various approaches to ethical decision making, you may be better able to make the right choice when the need arises.

The subject of business ethics is complex. Fair-minded people sometimes have significant differences of opinion regarding what constitutes ethical behavior and how ethical decisions should be made. This article discusses four approaches that business owners can use to consider ethical questions. The method you prefer may not suit everyone. Hopefully, by considering the alternatives, you will be able to make decisions that are right for you.

### Common Good Approach

The Greek philosophers have also contributed the notion that life in community is a good in itself and our actions should contribute to that life. The common good approach suggests that the interlocking relationships of society are the basis of ethical reasoning and that respect and compassion for all others-especially the vulnerable-are requirements of such reasoning. This approach also calls attention to the common conditions that are important to the welfare of everyone. This may be a system of laws, effective police and fire departments, health care, a public educational system, or even public recreational areas.

### Fairness or Justice Approach

Aristotle and other Greek philosophers have contributed the idea that all equals should be treated equally. Justice-based theories of ethics concern the perceived fairness of actions. Today we use this idea to say that ethical actions treat all human beings equally-or if unequally, then fairly based on some standard that is defensible. We pay people more based on their harder work or the greater amount that they contribute to an organization, and say that is fair.

A just (ethical) action is one that treats all fairly and consistently in accord with ethical or legal standards. To determine the fairness of an action, one often appeals to distributive, procedural, and/or interactional rules. Distributive fairness is based on the outcomes received by individuals and their perceptions of these outcomes. The study of organizational justice has become a major field within organizational behavior. To date there has not been a complete integration between justice perceptions and ethical theory.

## Moral Rights Approach

The moral rights approach concerns itself with moral principles, regardless of the consequences. Under this view, some actions are simply considered to be right or wrong. This approach starts from the belief that humans have a dignity based on their human nature per se or on their ability to choose freely what they do with their lives. From this standpoint, if paying extremely low wages is immoral, your desire to meet the competition and keep your business afloat is not a sufficient justification. The list of moral rights -including the rights to make one's own choices about what kind of life to lead, to be told the truth, not to be injured, to a degree of privacy, and so on-is widely debated; some now argue that non-humans have rights, too

## Utilitarian Approach

The utilitarian approach to ethical standards focuses on taking the action that will result in the greatest good for the greatest number of people. Considering our example of employing low-wage workers, under the utilitarian approach you would try to determine whether using low-wage foreign workers would result in the greatest good. This approach also encompasses what has been referred to as cost-benefit analysis. In this, the costs and benefits of a decision, a policy, or an action are compared. Sometimes these can be measured in economic, social, human, or even emotional terms. When all the costs are added and compared with the results, if the benefits outweigh the costs, then the action may be considered ethical.

If an employer uses low-wage foreign workers in response to price competition, he or she might retain a market share, making it possible to avoid laying off the U.S. employees, and perhaps even allowing for the payment of the U.S. employees higher wages. If this employer refuses to use low-wage foreign workers regardless of the competition, he or she may be unable to compete. This could result in layoffs of the U.S. workers and even the foreign workers, for whom the relatively low wages may be essential income. On the other hand, using low-wage workers may tend to depress the wages of most workers, thus reducing almost everyone's standard of living and depressing their ability to purchase the very goods you and others are trying to sell.

Utilitarianism is like egoism in that it advocates judging actions by their consequences, but unlike egoism utilitarianism focuses on determining the course of action that will produce the greatest good for the greatest number of people. Thus, it is the ends that determine the morality of an action and not the action itself

## Universalism Approach

The universalist approach to ethical decision making is similar to the Golden Rule. Teleological, utilitarian, and justice theories of ethics are all "universal" theories, in that they purport to advance principles of morality that are permanent and relatively enduring. Relativism states that there are no universal principles of ethics and that right and wrong must be determined by each individual or group.

This approach has two steps. First, you determine whether a particular action should apply to all people under all circumstances. Next, you determine whether you would be willing to have someone else apply the rule to you. Under this approach, for example, you would ask yourself whether paying extremely low wages in response to competition would be right for you and everyone else. If so, you then would ask yourself whether someone would be justified in paying you those low wages if you, as a worker, had no alternative except starvation.

The concept of relativism can probably be summarized as "What's right for one may not be right for another," or "When in Rome, do as the Romans do." The relativist believes that standards of right and wrong change over time and are different across cultures—and does not accept that some ethical standards or values are superior to others.

## Virtue Approach

A very ancient approach to ethics is that ethical actions ought to be consistent with certain ideal virtues that provide for the full development of our humanity. These virtues are dispositions and habits that enable us to act according to the highest potential of our character and on behalf of values like truth and beauty. Honesty, courage, compassion, generosity, tolerance, love, fidelity, integrity, fairness, self-control, and prudence are all examples of virtues. Virtue ethics asks of any action, "What kind of person will I become if I do this?" or "Is this action consistent with my acting at my best?"

## Steps in Ethical Decision Making

Simply stated, ethics refers to standards of behavior that tell us how human beings ought to act in the many situations in which they find themselves-as friends, parents, children, citizens, businesspeople, teachers, professionals, and so on. Ethics is not the same as feelings. Ethics is not science. Social and natural science can provide important data to help us make better ethical choices. But science alone does not tell us what we ought to do. Science may provide an explanation for what humans are like. But ethics provides reasons for how humans ought to act. And just because something is scientifically or technologically possible, it may not be ethical to do it.

### Identifying the Situation

The first thing to identify is the clearest possible statement of the ethical question or issue. Another item to consider is if there are other valid ways to define the situation. Eliminate the fluff and chaff from the issue in order to understand the situation and decide what to do.

### Determine Who'll be Affected by The Decision.

Since no one lives in a vacuum, it is rare that our ethical decisions affect only a single client or a single colleague and no one else. An insurance claims manager may refuse to authorize additional sessions for a client he or she believes is at risk for killing his wife and children and then committing suicide. A supervisor may agree with the manager that no more sessions are needed. How the individual determines the most ethical path may help decide whether the family lives or dies. That is an enormous burden to bear and must me borne responsibly.

### Assess Relevant Aspects Of The Situation

The process of assessing the relevant aspects of the situation involves being well-prepared to handle the situation. There will be steps that the individual can take to make himself or herself more effective. In light of all relevant factors, it is

important to access if there is anyone else who is available to step in and do a better job. All of these items are in the assessment process and must be evaluated in detail.

## Relevant Formal Ethical Standards Review

The ethical standards may speak directly to the situation or it may be more indirectly. This is a determination that one has to make and when the ethical standards are ambiguous when applied to this situation, the individual must do further research to clear up the cloudiness. When the situation involves conflicts within the ethical standards or between the ethical standards and legal requirements those have to be resolved before the issue itself is resolved.

## Review Relevant Legal Vs. Ethical Standards

Law and ethics are different so when evaluating a decision that has to be made, the individual must look at the legal side of it then review the ethical side of it. The law and/or case law speak directly or indirectly to this situation. Either way, there may be direction to the situation at hand. If the legal standards do not speak to this situation in a clear defined manner then there may be conflicts within the legal standards or between the law and other requirements or values.

## Understand The Relevant Research And Theory

New research is coming out all the time so the individual responsible for ethical and legal decisions must keep abreast of there to conceptualize, understand, or respond to the situation.

## Consider The Effects

There may be social, cultural, religious, or similar factors that have an impact on the situation and on identifying ethical responses. The same act may take on sharply different meanings in different societies, cultures, or religions. What seems ethical in one context may violate fundamental values in another society, culture, or spiritual tradition.

## Evaluate Possible Alternative Courses Of Action.

The challenge here is to determine the impact that each course of action will have -- under the best possible and worst possible outcome. Almost any significant action has unintended consequences so these will need to be evaluated.

## Make a Decision Then Reconsider It

Once you have decided on a course of action, you can--if time permits--rethink it. Sometimes simply making a decision to choose one option and exclude all others makes you suddenly aware of flaws in that option that had gone unnoticed up to that point.

**Assume Personal Responsibility for The Decision**
In some cases, trying to weigh ethical options or reconcile ethical conflicts could be the hardest part. Once the decision is made, acting is relatively easy. The most ethical response may seem to come at overwhelming personal risk or cost. When risks or costs overwhelm us, it is a natural temptation to blur or evade personal responsibility.

**Evaluate The Results**
What happened when you acted? To what extent, if at all, did your action bring about the expected consequences? To what extent, if at all, were there unforeseen consequences? Knowing what you know now, would you have acted in the same way or chosen a different response to the situation?

## Summarizing Ethical Decision Making
The influence of ethics on decision-making and the impact of technology on work-related stress are just a few trends in organizational behavior. There are many kinds of influence that ethics has on decision-making.

The difference of ethical beliefs has a strong impact on the decisions being made throughout a company for several reasons. The first reason is that if individuals throughout the company have difference ethical beliefs on what is right and wrong then there will be conflict on what needs to be done. Usually regardless of who is correct on which belief is correct, the manager's final decision is usually the definitive. The second reason would be that depending on the individuals cultural background there might end up being different ethical beliefs. Each of these beliefs is considered to be ethically correct, based on those individuals' cultural beliefs.

## Guidelines for Managing Ethics in the Workplace
The following guidelines ensure the ethics management program is operated in a meaningful fashion:

- **Recognize that managing ethics is a process**

Ethics is a matter of values and associated behaviors. Values are discerned through the process of ongoing reflection. Therefore, ethics programs may seem more process-oriented than most management practices. Managers tend to be skeptical of process-oriented activities, and instead prefer processes focused on deliverables with measurements. However, experienced managers realize that the deliverables of standard management practices (planning, organizing, motivating, controlling) are only tangible representations of very process-oriented practices. For example, the process of strategic planning is much more important than the plan produced by the process. The same is true for ethics management. Ethics programs do produce deliverables, e.g., codes, policies and procedures, budget items, meeting minutes, authorization forms, newsletters, etc. However, the most important aspect from an ethics management program is the process of reflection and dialogue that produces these deliverables.

- **An ethics program is to accomplish preferred behaviors**
  As with any management practice, the most important outcome is behaviors preferred by the organization. The best of ethical values and intentions are relatively meaningless unless they generate fair and just behaviors in the workplace. That's why practices that generate lists of ethical values, or codes of ethics, must also generate policies, procedures and training that translate those values to appropriate behaviors.

- **Handle ethical dilemmas to avoid occurrence in the first place**
  That's why practices such as developing codes of ethics and codes of conduct are so important. Their development sensitizes employees to ethical considerations and minimize the chances of unethical behavior occurring in the first place.

- **Make ethics decisions in groups, and make decisions public, as appropriate**
  This usually produces better quality decisions by including diverse interests and perspectives, and increases the credibility of the decision process and outcome by reducing suspicion of unfair bias.

- **Integrate ethics management with other management practices**
  When developing the values statement during strategic planning, include ethical values preferred in the workplace. When developing personnel policies, reflect on what ethical values you'd like to be most prominent in the organization's culture and then design policies to produce these behaviors.

- **Cross-functional teams can develop and implement an ethics management program**

It's vital that the organization's employees feel a sense of participation and ownership in the program if they are to adhere to its ethical values. Therefore, include employees in developing and operating the program.

- **Value forgiveness**

  This may sound rather religious or preachy to some, but it's probably the most important component of any management practice. An ethics management program may at first actually increase the number of ethical issues to be dealt with because people are more sensitive to their occurrence. Consequently, there may be more occasions to address people's unethical behavior. The most important ingredient for remaining ethical is trying to be ethical. Therefore, help people recognize and address their mistakes and then support them to continue to try operate ethically.

- **Trying to operate ethically and making mistakes is better than not trying**

  Some organizations have become widely known as operating in a highly ethical manner, e.g., Ben and Jerrys, Johnson and Johnson, Aveda, Hewlett Packard, etc. Unfortunately, it seems that when an organization achieves this strong public image, it's placed on a pedestal by some business ethics writers. All organizations are comprised of people and people are not perfect. However, when a mistake is made by any of these organizations, the organization has a long way to fall. In our increasingly critical society, these organizations are accused of being hypocritical and they are soon pilloried by social critics. Consequently, some leaders may fear sticking their necks out publicly to announce an ethics management program. This is extremely unfortunate. It's the trying that counts and brings peace of mind -- not achieving an heroic status in society.

## *Results of Unethical / Illegal Behavior in Business*

Although ethics in business has been an issue for academics, practitioners, and governmental regulators for decades, some believe that unethical, immoral, and/or illegal behavior is widespread in the business world. Numerous scandals in the late 1990s and early 2000s seemed to add credence to the criticism of business ethics. Corporate executives of WorldCom, a giant in the telecommunications field, admitted fraud and misrepresentation in financial statements. WorldCom's former CEO went on trial for alleged crimes related to this accounting ethics scandal.

A similar scandal engulfed Enron in the late 1990s and its former CEO, Ken Lay, also faced trial.  Arthur Andersen, one of the largest and oldest public accounting

firms; and Healthsouth, a large healthcare firm located in the southeast United States were also caught up in the unethical events of the decade. These companies eventually suffered public humiliation, huge financial losses, and in some cases, bankruptcy or dissolution. The ethical and legal problems resulted in some corporate officials going to prison, many employees losing their jobs, and thousands of stockholders losing some or all of their savings invested in the firms' stock.

It is the awareness of and judgments made in ethical dilemmas by all that determines the overall level of ethics in business. Many unethical events and calamities have involved top management, huge sums of money, and thousands of stakeholders but business ethics is also concerned with the day-to-day ethical dilemmas faced by millions of workers at all levels of business enterprise. Thus, the field of business ethics is concerned not only with financial and accounting irregularities involving billions of dollars, but all kinds of moral and ethical questions.

# Chapter Four
## Ethics For The Insurance Agent

## *The Insurance Agent*

An insurance agent is anyone who solicits insurance or who aids in the placing of risks, delivery of policies or collection of premiums on behalf of an insurance company. The acts of agents are binding upon the company only to the extent specified in their contracts or otherwise authorized to do so. Agents cannot delegate their rights or powers unless expressly authorized. In most states, insurance solicitors are regarded as agents of the insurance company and not of the insured. Agents act in a fiduciary capacity and occupy a position of special trust and confidence, as in handling or supervising the affairs or funds of another.

## *Establishing Ethics for Insurance Professionals*

The American Institute for Chartered Property and Casualty Underwriters (AICPCU), the American College and the Society of Financial Service Professionals founded Ethics Awareness Month in 1990. While it is impossible for all insurance professionals to reach consensus on every aspect of their ethical ideology, those professional organizations have recognized the merit in providing a platform for continued ethics awareness and discussion.

The question of ethics and the insurance industry arises frequently. Ethics is the science of human duty; values are set of individual or expressed group beliefs that provide a basis for action. Often it is the industry expressing ethical concerns about fraudulent claims but it is also in the form of agent behavior. When discussing professional ethics, it is necessary to examine the core beliefs and underlying precepts that comprise our particular value system. What forms the basis for your values--is it religion, philosophy, family, tradition, society, mentor, etc?

For the good of the society, we should not unquestioningly embrace just any value system. Rather one could consider at least three universal precepts that exist in nearly every civilized society and in most every religion: honesty, respect for other persons and respect for others' property. Those ought to be the qualifying parameters for any belief system chosen by an insurance professional.

## *Considering Corporate Social Responsibility*

There is literature that promotes the idea of corporate social responsibility (CSR). The CSR theories range from a description of corporation responsibility as lower than that of individuals to theories that assign greater social responsibilities to corporations. The existence of the various theories highlights the point that there is no fixed standard for evaluating the ethical behavior of corporations.

A proliferation of lawsuits against leading insurance companies and renowned industry leaders, for multi-year illegal activities could be an obvious signal that the insurance industry has a share of ethical issues to address. There are particular ethical issues facing the industry. The most important role of the insurance industry is to pay contractual claims when a loss occurs. It is often the case that the precise responsibility for a loss is not certain and a negotiation results. There are times that the negotiation results in the aligned interests of insurers at the expense of providing justice to policy-holders.

The debate over the legitimacy of CSR raises fundamental questions that, too often, are ultimately unanswerable.

- Why do corporations exist?
- To whom are corporations responsible?
- What does it mean to be socially responsible?
- How can social performance be measured?
- Should economic performance be sacrificed for social performance?

Social responsibility is a balancing act:

- Business must balance economic performance;
- Ethical performance;
- Type of performance reduce performance in other areas.

One view of corporate responsibility is that behavior dedicated to something other than profit maximization, staying within the realm of law, is a violation of the fiduciary obligations of employees and is therefore unethical. A great philosopher of this century, says that markets operate efficiently and that business executives, who are neither democratically elected nor accountable to the general public; should not impose their own vision of the public good on the society by strength of their access to a corporate treasury.

## Core Beliefs

Beliefs are those convictions or doctrines that we assume to be true. A belief system forms from a person's interpretation of and response to various life experiences. People's beliefs influence their choices, decisions and life directions. People sometimes act on beliefs without testing their validity, because beliefs can become synonymous with facts in their minds.

Defining the terms "values," "ethics," and "social responsibility" is an almost impossible task yet the first two could be interchanged. One of the core beliefs is honesty. Without honesty, there is no chance of a successful business relationship. While dishonesty is destructive in one's personal life, it usually is fatal in business. People are inclined to be more forgiving in personal relationships than they are in business relationships. One dishonest act can tarnish an entire career. Would you buy anything from someone you knew to be dishonest?

The second core belief is respect for other persons. Disrespect could manifest itself by such actions as rudeness, harassment, slander, discrimination, abuse, assault and murder. Some transgressions of this tenet, as well as the other two, are so nefarious that there are laws against such behavior. While there may be no law against rudeness, would you continue to do business with someone who was rude to you?

The third core belief is respect for a person's property. Disrespect could manifest itself by such actions as neglect, carelessness, vandalism, theft and destruction. Property and casualty insurance producers are in the express business of preserving the assets of clients. Disrespect for a person's property is the antithesis of the noble mission of an insurance professional.

## Accountability

Once you have identified the basis for your values, ask what authority that basis holds over your life. A moral or ethical person can be without accountability. That seems hard to believe but it can be. Everyone is ultimately accountable to our justice system, but that is negative accountability, occurring after the deeds have been done. Each individual, particularly those who are striving for a high ethical plain have to make themselves voluntarily accountable to someone. No matter one's age or social status or career heights, it is vitally important to be accountable to someone. Me, myself, and I can become so tangled up in me, myself, and I that this individual has one perspective and one focus.

Find your own accountability upon which to build your ethics. It may be important at this point to determine from where were your core values derived. Were they derived from your religious faith, from parents and grandparents, from philosophers? The important thing is that each individual and each professional knows where his or her ethical foundation lies and to whom you are accountable to.

## Integrity

People do not always behave in a way that is consistent with their moral code. In other words, people do not act according to their beliefs at all times. Perhaps we all are hypocrites, to some degree because there is something about our nature that gets in the way of moral perfection.

Overcoming the tendency to deviate from a moral code requires discipline of will. Since many people look upon discipline as unpleasant accountability is of great assistance.

However, when an individual acts consistently with his or her beliefs, no matter what the circumstances, then he or she is considered to have integrity. Someone with integrity is the same whether they are in the light of public exposure or in the darkness of solitude. A business woman or man should look on integrity as one of the most sought after assets.

# Leadership

Leadership and the gift of a moral compass are communicated by managers of a company. In an insurance agency, the insurance agents could read the moral direction by the way management treats such matters as the proper licensing of employees, fair treatment of competitors, full disclosure to insurers and faithful control over other people's money. The two areas where producers are most vulnerable are in their stewardship of money and handling of information.

Think for a moment about the impact a manager has on subordinates. If the manager has moral clarity and a disciplined will, the worker will be governed by the manager's integrity. If the manager has moral clarity but an undisciplined will, the worker will be governed by the manager's hypocrisy. If the manager has moral confusion but has a disciplined will, the worker will be governed by the manager's tyranny. If the manager has moral confusion and has an undisciplined will, the worker will be governed by the manager's anarchy.

## Professionalism

On one end of the spectrum are people who work solely for monetary gain, and on the other end are people who work to pursue a vocation. These individuals are referred to as professionals. Henry David Thoreau proposed this aspiration: "Aim above morality. Be not simply good; be good for something." That simple statement goes a long way toward defining a professional.

To be an insurance professional means having a passion about coming alongside people to help when they are experiencing some of the worst moments of their lives. In the Gulf States, this industry has heroes who go far beyond their job expectations and give selflessly to those in distress. Many employees toil numerous hours each week to help the industry achieve its full potential.

## *Personal vs. Professional Ethics*

It is important to note that principles of personal ethics are the first checkpoint in any situation, often overriding those at the professional levels. This shows the importance of having a foundation of personal ethics before entering the realm of constructing the framework of professional ethics. They impact one in their personal life and in their professional life. Trustworthiness is fundamental to up-standing-personal behavior and professionalism.

There are many times when principles will collide with other principles and at that time those principles must be viewed in the context of universality. There are many tools for decision making, but few (secular) guides to indicate when situations might have an ethical implication. Recognizing the moral context of a situation must precede any attempt to resolve it.

Ethical dilemmas rarely present themselves as such. They usually pass us by before we know it or develop so gradually that we can only recognize them in hindsight. An ethical framework is a great detector of pending ethical issues.

There are principles compatible with the argument that we should simply follow our intuition and rely on the 'inner voice'. However, that voice is not always audible, and today's society presents a wide range of complex circumstances that require more guidance than simply 'concern for others'.

In a sense, the principles are outcomes of the mother of all principles - unconditional love and compassion - which appears in virtually all faiths. At first glance, they will appear obvious and perhaps trite or simplistic. The principles could be organized into two categories for ease of use: personal and professional ethics.

## Principles of Personal Ethics

Personal ethics might also be called morality, since they reflect general expectations of any person in any society, acting in any capacity. Moral behaviors, as well as moral judgments, are dependent on the formation of a strong moral conscience. These are the principles we try to instill in our children, and expect of one another without needing to articulate the expectation or formalize it in any way. Principles of Personal Ethics include:

- Being fair;
- Benevolence;
- Concern for the well-being of others;
- Respect for the autonomy of others;
- Refusing to take unfair advantage;
- Trustworthiness & honesty;
- Willing compliance with the law;
- Preventing harm.

## Principles of Professional Ethics

Individuals acting in a professional capacity take on an additional burden of ethical responsibility. Many professional organizations have codes of ethics that prescribe required behavior within the context of a specific professional practice. These written codes provide rules of conduct and standards of behavior based on the principles of Professional Ethics, which include:

- Avoiding potential conflict of interest;
- Confidentiality;
- Duty of care;
- Fidelity to professional responsibilities;
- Objectivity;
- Openness.

Even when not written into a code, principles of professional ethics are usually expected of people in business, employees, volunteers, elected representatives and so on.


## *The Ethical Landscape of The Insurance Industry*

Corporate ethics is taking on increased prominence at U.S. companies. The current investigations of the insurance industry emphasize the need for stricter adherence to ethical market conduct standards. It is not exempt from ethical dilemmas. It is a part of the fabric of so much of life – health, property, auto, fire, to name a few. But some say that the only people that will be ethical , with new laws, will be the ones that were ethical before the law was in place.

This is a new revelation that ethics happens within an individual and actually cannot be coerced from the outside. Just like those employed in other areas of business, those working in the insurance industry face a variety of ethical dilemmas on a daily basis and often encounter various factors that present challenges to their efforts to resolve these dilemmas in an ethical manner. Likewise, just as other areas of business face occasional sensational and highly publicized examples of unethical behavior by major corporations, so does the insurance industry.

There has been a recent spotlight on the insurance industry which is a powerful reminder that ethical business practices are more than just the right thing to do. The need for rigorous standards of ethical business practices is key to any discussion about the future of market conduct regulation. This decade, it has been the property-liability insurance industry's turn to face charges of unethical/illegal behavior on the part of its largest insurance companies and brokerage firms. Eleven issues which have received low ratings ethically in the insurance industry are:

- Failure to identify the customer's needs and recommend products and services that meet those needs;
- Lack of knowledge or skills to competently perform one's duties;
- Pursuit of personal financial gain or other personal benefits interfering with the proper performance of one's duties;
- Conflicts of interest involving business or financial relationships with customers, suppliers or competitors that influence, or appear to influence, one's ability to carry out his or her responsibilities;
- Failure to provide prompt, honest responses to customer inquiries and requests;
- Misrepresenting or concealing limitations in one's abilities to provide services;
- Failure to provide products and services of the highest quality in the eyes of the customer;

- False or misleading representation of products or services in marketing, advertising or sales efforts;
- Making disparaging remarks about competitors, their products or their employees or agents;
- Inaccuracy of books, records or reports;
- Failure to be objective with others in one's business dealings.

## Primary Ethical Responsibilities

Business ethics is a multifaceted field that cannot be defined with a single definition. This area is addresses numerous issues, problems, and dilemmas within the management of businesses. There are many differences of opinion in the role that ethics ought to play at the third level of evaluating policies and practices. This is because every person within a corporation may be held toward a different set of ethics depending upon the position that they hold. An agent's four primary ethical responsibilities are to:

- the agent's insurer;
- the agent's policy owners;
- the general public; and
- the state.

After defining what ethics are, we then need to see how these are played out within management. This will show the decline and fall of business ethics over time and how whistle blowing has played its part. Business ethics not only portray to humans, but also to how businesses treat the environment.

# Responsibilities to the General Public

A professional insurance agent has two ethical responsibilities to the public:

- to inform about insurance with the highest level of professional integrity;
- to strive for an equally high level of professionalism in order to foster and maintain a strong positive image of the industry.

An agent's ethical duties to the public and your prospects are quite demanding. In addition to the attributes that most clients expect from their agents are skill, competence, professionalism and moral integrity. Let's review three ways in which you can enhance the public's perception of insurance and the insurance industry:
- communication:
- complete and honest representation; and

- selling to fit needs.

## Responsibilities to the Potential Client

The agent also has an ethical responsibility to educate his or her prospective client as to the following elements so that he or she fully understands the nature of the application process:

- why the information is required;
- how it will be evaluated;
- the need for accuracy and honesty in answering all questions; and the meaning of insurance terms included in the contract, such as coinsurance, care, custody and control and subrogation.

It is an agent's duty to present each policy with complete honesty and objectivity. This means pointing out any limitations, exclusions or drawbacks the product may have, along with its features and benefits. In all cases, a simple, straightforward explanation of the policy and how that policy will help fit the prospect's needs is always the proper ethical course

*Explaining the Underwriting Process*
An ethical responsibility which the insurance agent owes the applicant is to briefly explain the underwriting process for the application. Underwriting is important because the class of risk the underwriter selects affects the ratio of claims paid to premiums collected. The major function of an underwriter is to select risks that will fall into a normal range of expected losses thus making the different premiums that may be presented to the applicant.

## Responsibilities to the Policy owners

A professional agent meets ethical responsibilities to the insured by selling to needs and providing quality service. Clients are a good source of future sales and references so the way an agent provides service will often determine one's future. The agent also owes the policy owner the same degree of loyalty provided to the insurer. Some of the general responsibilities are confidentiality, timely submission of all applications and prompt policy delivery.

## Responsibilities to the Insurer

The concept of agency establishes the duties of an insurance agent to the insurer. This concept is tangibly represented by the agency contract, which both parties agree to and sign. As representatives of insurance companies, you may have authority to:

- inspect risks;
- immediately bind an insurer by oral or written agreement;
- issue various types of contracts; or
- collect premiums due

The concept of agency defines "insurance" as a contractual arrangement by which one party, the insurer, assumes all or part of a risk that would otherwise fall upon another party-the insured.  The concept of agency also defines "agency" as the insurance company appoints licensed insurance agents as representatives to act on its behalf to sell insurance to the consumer. The concept of agency governs the relationship between an agent and the company he or she represents.  The concept of agency defines "Agency" is a legal term that describes the relationship between two parties -- the principal; and the agent.

**Ethics for Insurance Brokers**
An agent represents an insurance company while a broker is someone who legally represents the insured. Brokers may be used to find insurance for difficult to place risks or to place business with more than one insurance company.  He or she has no exclusive contract requiring that all of the business go to a single company. However, brokers do not have the authority to legally bind coverage until an insurer accepts the risk. Brokers take applications and then attempt to place the coverage through an agency or with an appropriate insurer. Many insurance brokers are also licensed agents and may bind coverage in their capacity as an agent.

## Responsibilities to the Government
Today, there is joint federal and state supervision of the insurance industry, with the federal government retaining control in matters that are, or should be, uniform across state lines. Federal and state governments share the responsibility to regulate the insurance industry.

*Federal Government*
The federal government has jurisdiction in matters concerning employee relations, fair labor standards, insurance programs in areas where commercial

insurers are unable or unwilling to provide insurance, such as federal flood insurance, FAIR plans, federal crime insurance and federal crop insurance.

*State Government*

The states carry the burden of regulating insurance affairs, including the ethical conduct of licensed insurance agents. In some states, the regulation of ethical conduct falls under the category of marketing practices. Other states refer to it in the context of unfair trade practices. All states have established a code of ethical standards for insurance agents by defining through laws what an agent can and cannot do. These laws do differ from state to state, but there are enough similarities to discuss them in general terms. State insurance departments, divisions or boards operate under the direction of a commissioner, a director, or a superintendent of insurance, who may be elected or appointed. Duties and operations of the various state departments of insurance include issuing rules and regulations;

- approving policy forms and insurance rates;
- examining insurance companies' financial operations;
- licensing insurers, agents and brokers;
- overseeing advertising and marketing practices.
- suggesting laws to the legislators;

However, no amount of government regulation or corporate intervention can prevent some people from acting unethically or illegally. Some people clearly know the difference between right and wrong while others learn the difference the hard way. Those insurance professionals who have strong moral character will also have high ethical standards.

## Responsibilities to The Insurance Agent

Agent Authority refers to an individual acting as an agent and establishing contracts between the principal and third parties. Before he or she can do these things the agent must have the power to do so. In the case of an insurer and an agent, power comes from the agency contract, which is how an insurer appoints an individual to act on its behalf. The concepts of authority and power are related. The agency contract gives the agent the power to act on behalf of the principal. At the same time, it describes the authorized actions the agent can take on behalf of the insurer. Technically, only the authorized acts of an agent can bind a principal. Practically and legally, however, an agent's authority can be quite broad.

*Moral Issues*

Finally, insurance professionals face at least two problems when they are competing with other agents or brokers who are less principled than they should be:

- agents who offer false or misleading representations of products or services;
- the temptation that exists between opportunities for financial gain and the proper performance of one's ethical responsibilities.

## *The Need for Ethical Education*

Business schools have been under pressure to improve their teaching of ethics in the wake of corporate scandals over the last few years. In January 2004, business schools and the Business Roundtable, an association of CEOs, joined together to form a new ethics institute. Its function was to be to conduct research, create courses, and lead executive seminars on business ethics. The Institute is a first step toward convincing business schools to take that information and overhaul their curricula, which is what is really needed.

### Skill and Competence

Many ethical problems agents face arise because of a simple lack of skill and competence. Some agents feel that failure to identify prospects' needs and recommend appropriate products is a problem. Another problem is agents who misrepresent their ability to provide competent service. It is obvious that these problems would not exist if agents were knowledgeable and competent. A thoroughly trained, knowledgeable and competent agent would not fail to identify a prospect's needs, nor would the agent have to misrepresent his or her insurance capabilities.

### Commitment to Professionalism

Since professionalism requires an agent to place the client's interest beyond his or her own self-interest, there are several ethical issues that can develop when an agent **lacks** a commitment to professionalism. For instance, disparaging the competition, failing to be objective with others in business dealings, not providing prompt, honest answers to clients' questions and failing to provide products and services of the highest quality in the eyes of the clients are problems the industry faces. However, agents who make a true commitment to professionalism will not be hampered by these conflicts.

### Ethics and Business Education

There is some evidence that the teaching of ethics is becoming more central to business education. One university now requires its professors to weave in ethics into the content of its core courses. This business school's program also features many activities outside the classroom, such as a morality play, guest lecturers, and panel discussions. Columbia's business department claims that its approach of blending ethics with social responsibilities and corporate governance is not an attempt to teach students right from wrong but rather to give students strategies for protecting their integrity in the workplace.

It is believed that the combination of improved ethics education in business schools and the introduction of cultural audits of businesses would have a profound effect on improving corporate governance and decreasing the risk of fraudulent financial reporting.

Every property-casualty insurance agent faces vigorous competition from other agents when soliciting, servicing and renewing accounts. From time to time, most agents feel compelled to practice some form of deception when negotiating with clients, government units or their own insurance companies. They may feel pressured to make conscious mis-statements, conceal pertinent facts or exaggerate a situation to persuade others to purchase insurance coverage. It simply is not practical, they say, to allow someone else to make the sale, even if they have to overstate the difference between the two products.

Ethics does not have to be incompatible with business success; after all, most businesses are profit-seeking organizations and profit is not a dirty word. In fact, in the end, good ethics is good business. Most clients prefer to work with an ethical insurance agent-someone they can trust. Faced with a choice between doing right and wrong, people should do what they think is moral or ethical.

# Chapter Five
## Ethics Vs. The Law

### *Defining Law*

Laws are an expression of the protection of society from selfish individuals, and the legal profession has been in existence since the Code of Hammurabi, 3500 years ago. So lawyers have created an extremely precise definition of "ethics," a definition that applies to any other profession, including insurance: According to the most common definition in Black's Law Dictionary, legal ethics are "usages and customs among members of the legal profession, involving their moral and professional duties toward one another, toward clients, and toward the courts; that branch of moral science which treats of the duties which a member of the legal profession owes to the public, to the court, to his professional brethren, and to his client."

Can an insurance agent ever find himself in such a position where a violation of specific law is the only ethical course of action? Have you ever advocated for your client against your company? If you have, you may have violated your contract--and your contract is a legally enforceable document, a codification of your correct behavior toward your company.

In my view (and that is my view and, therefore, may well be wrong) one of the measures of civilization in a society is to see if its laws derive from ethics or if its ethics (or at least its ethos) derive from laws. In my view, the more civilized a society the more is the former the case. Another measure is the protection of the vulnerable within such a society, something which is closely related.

The question, of course, is "how do you translate ethics into law?". As I tell my students: like two porcupines making love: very carefully!!! To translate ethical precepts into laws must, I think, meet at least two conditions. First it should be something about which a wide consensus exists in society (murder might be an example); secondly it should be the doing of which is not only held to be ethically wrong but "threatens the king's peace" (the origin of law, really: in other words something which seriously impacts the peace of the realm).

Obedience to law is, in my view, not absolute. When important ethical principles are jeopardized by law citizens are confronted with an ethical problem. An attempt to alter the law and, if need be, civil disobedience remains one of the corner stones of democratic process.

## *The Great Philosophers on Ethics vs. Law*

*Edmund Burke (1790/1961)* stated the importance of absolute compliance with the law: "One of the first motives to civil society, and which becomes one of its fundamental rules, is, that no man should be judge in his own cause". The U.S. Supreme Court, *in Walker V. Birmingham* (1967), underscored this "belief that in the fair administration of justice no man can be judge in his own case, however exalted his station, however righteous his motives, and irrespective of his race, color, politics, or religion".

*Henry David Thoreau (1849/1960)*, however, urged that if a law "requires you to be the agent of injustice to another, then, I say, break the law". Even the California Supreme Court seemed to give tacit approval to breaking the law as long as it is done within the framework of civil disobedience: "If we were to deny to every person who has engaged in... nonviolent civil disobedience... the right to enter a licensed profession, we would deprive the community of the services of many highly qualified persons of the highest moral courage"

Professionals enter into a covenant with society. In this covenant, they make a vow to serve others, upholding a professional standard of conduct. With the role and professional title they are granted, they assume a position of power in society and receive special rights corresponding to the responsibilities they assume.

All professions have clearly defined codes of ethics, establishing standards of behavior. Professional adherence to these standards, are reviewed and upheld by the various licensing agencies and organizations. Civil and criminal laws exist to further strongly deter professional misconduct or malpractice which causes harm to individuals.

## Law or Ethics First

Ethics usually precedes the law. While many ethical standards of conduct have been codified, many have not. Therefore, something can be legal but not ethical. For example, it is legal to sell property insurance to a prospect that he or she does not need; however, it is not ethical. Ethics goes beyond the letter of the law and entails not only what one must do but also what one should do. The law does provide a very specific ethical direction for everyone, through civil and criminal statutes. Under the law, ethical conduct is that which a reasonable person is expected to do under any circumstances. Also defined in the law are illegal and improper conduct, and the penalties for such conduct.

In spite of this merger of the legal and ethical, there is still a distinction between the two. How often have you heard people say, "Well, is what I've done illegal?" When told no, they assume that their actions must then be acceptable. Misleading advertising, questionable management procedures and gifts to obtain business may not always be illegal but they may be unethical. The integrity and truthfulness of a company's policies are subject to scrutiny by the general public. Public pressure may force a business to revise its practices.

## Differences Between Law and Moral Ethics

At first there seems to be no distinction between law and morality. There are passages in ancient Greek writers which seem to suggest that the good person is the one who will do what is lawful. It is the lawgivers, in these early societies, who determine what is right and wrong. But then thoughtful people recognized the difference between what was actually legal, or legally right and what should be legal. What should be legal roughly corresponds to what is really right or just, that is or what we would call morally right. The distinction between what is legally or conventionally right and what is naturally or morally right does span a wide chasm.

Ethics appeals to the ideal or purpose a rule serves.  Plato, for example, holds that knowledge of what is just or moral, and the ability to distinguish true justice or morality from what is merely apparently just depends on the full development and use of human reason.  Many debates about the law, when they are not merely debates about how legal precedent mechanically applies in a particular situation, are also ethical debates.

Morality, when it is internalized, when it has become habit-like or second nature, governs conduct without compulsion. Law can be a public expression of morality which codifies in a public way the basic principles of conduct which a society accepts.

## The Absoluteness of Law

Absoluteness is perfect in quality or nature and complete.  It is not limited by restrictions or exceptions; unconditional.  So the absoluteness of law is in respect to the fact that there are some things that only law rules the domain.  Some of these are listed below.

*Mandatory Licensing and Training*

All states have laws that require insurance agents, brokers and producers to be licensed.  The various state insurance departments administer these laws, with the objective of permitting only competent and honest producers to act as representatives of insurance companies. However, the standards for licensing vary widely from state to state, from simple exams to a comprehensive written examination followed by mandatory continuing education approved by the insurance department.

Pre-licensing education requirements cover a full spectrum. Some states require several hours in a classroom environment, while others permit self study courses. Mandatory continuing education requirements in some states require that the licensed insurance professionals may fulfill continuing education requirements for license renewal through a correspondence course or by attending an insurance seminar. Other states require detailed outlines of course content before courses are approved, while other states require affidavits certifying adherence to the law.

## Cross-Over Between Law and Ethics

Some things are by the law for the agent but then it is so tightly tied in to ethical standards that it is right defined as a law/ethics crossover.  Some of these are listed below.

### Full Disclosure

The agency contract obligates the agent to fully disclose all information that may affect the insurer and its ability to conduct business.  Practically speaking, full disclosure is most significant during the application and claims handling processes. You must complete all applications and claims forms as accurately and completely as possible. Failure to do so could lead the insurer to follow a course of action it would not otherwise take. Thus, it is your responsibility to record answers to questions on the application fully and accurately. Anything less than full disclosure may prompt the insurer to act in a way that is contrary to its own interests.

### Agent Solicitation

An agent has the ethical duty to protect the insurer's interests by soliciting business that appears to be profitable for the insurer. But there are also laws that control and rule solicitation and other types of marketing. It is vital to exercise the highest degree of care in soliciting quality business is obvious. Once an agent has taken an application, he or she has the duty to submit it, even if it appears

that the applicant may be a poor or uninsurable risk. Whether an individual is issued coverage is a decision for the insurer's underwriters.

**Information and Follow Up**
An agent has the obligation to act promptly in all matters regarding the insurer's business. A significant obligation applies to the responsibility to transmit completed applications and notice of bound coverages as quickly as possible. The insurer cannot begin the process of underwriting and issuing insurance until it has received an application.

## *Law and Ethical Standards*
Ethics is not following the law. A good system of law does incorporate many ethical standards, but law can deviate from what is ethical. Law can become ethically corrupt, as some totalitarian regimes have made it. Law can be a function of power alone and designed to serve the interests of narrow groups. Law may have a difficult time designing or enforcing standards in some important areas, and may be slow to address new problems.

For some, there is a conflict because ethics deals with the way things ought to be-which is not necessarily practical in our society. These individuals are confused by the differences between what is ethical and what is legal, two completely separate concepts. Ethics is right for right's sake while the law represents a set of minimum standards that society demands for its survival.

There has long been ethical dilemmas and conflicts that deal with the power and fairness as to how the worker is treated by management. The main dilemma that will be addressed, will be based upon and addressing ethical issues in business as it relates to management vs. labor; or the treatment of human resources.

## *Regulatory Entities of NAIC*
All state insurance commissioners, by whatever title they hold in their respective states, are voluntary members of the National Association of Insurance Commissioners (NAIC). The organization has standing committees and has worked to examine various aspects of the insurance business and recommend appropriate state insurance laws and regulations. Its recommendations and model laws are studied by its committees and discussed at semiannual meetings in an attempt to create uniformity in insurance regulation and practice among the various states.

Regulation of an insurance agent's ethical conduct is usually conducted through an insurance commissioner's or director's powers to oversee the marketing practices of both agents and insurance companies in that state. As discussed earlier, many of the regulations governing ethical conduct are derived from model legislation developed by the National Association of Insurance Commissioners (NAIC).

## *Results of Illegal and Unethical Actions*

An agent or broker may lose his or her license by engaging in misleading or unethical marketing practices. Because many consumers are uninformed about insurance, it is possible for unscrupulous agents to take advantage of individuals by inducing them to buy unnecessary policies or policies that duplicate existing coverage. To combat this unethical behavior, professional insurance agents must offer the public an honest and fair explanation of the policies and services they represent. They should clearly understand all federal and state rules, regulations and laws governing insurance. They should also have the desire to perform their insurance duties in compliance with these restrictions. The State Insurance Code or Regulations contains the statutes designed to uphold the insurance professional's fiduciary position.

# Chapter Six
## Ethics and Marketing Practices

## *Ethics and Marketing*

Most theories on marketing ethics depict that organizational norms of ethics and ethical policy will affect individuals' personal ethical philosophies and subsequently influence their ethical judgment and behavior. This is based on the conceptualization of organizational ethical culture and the prior empirical evidence. An organizational environment with a positive ethical culture may lessen the potential role conflict in marketing managers.

The following hypotheses are formulated accordingly:

- Marketing managers in organizations with more ethical culture are more idealistic than those in organization with less ethical culture.
- Marketing managers in organizations with more ethical culture are less relativistic than those in organization with less ethical culture.

## Consumer Protection

All states have laws that regulate the sales and marketing practices, as well as the licensing, of brokers and agents. If the state finds a person holding an insurance license is incompetent or dishonest, the state insurance commissioner has the authority to suspend or revoke that license. This authority provides powerful control over the insurance producer's behavior.

## *The Ethical Sales Process*

Ethical sales persuasion is a little about proper technique and about people However, relationships, and attitudes are generally found to be more compelling.

In today's world, salespeople do have a bad reputation and there is a huge gap between ethics and sales in a large percentage of our society. There has to be a criteria to determine ethical sales behavior. We will develop our ideas on the human aspect of ethical sales persuasion by presenting the elements of the sales profession that influence public opinion, analyzing the consequential dilemma resulting from the effort to standardize ethical behavior, and we hope to offer some theories as to the causes of unethical sales behavior.

He or she has the ability to determine which of the basic motives the buyer will respond to. Unfortunately, various groups have differing opinions on what is ethical or not. If there is no basis for making any future restitution, then chances are you did what was within the confines of ethical behavior.

Ethics provides a basis for deciding what is right or wrong in a given situation. Ethical standards for a profession are based on society's standards, most industries have developed codes of behavior that are compatible with society's standards. Abiding by these standards promotes goodwill and builds long-term relationships. The trust that these practices bring to the market place reduces the risk of buying.

The sales profession is undergoing dramatic change and evolution as we speak. But in our society today, ethical standards are set by the group as a whole, not the individual. I most often think of salesman as unethical and only out to sell the product, or get their commission. These represent federal laws that restrict such things as price discrimination where unfair discounts are given to some buyers but not others. Then the sales rep lays on some fancy closing techniques that literally catch the buyer off guard to the point they sign the order over lunch. Salesperson trains to sense the best psychological moment to terminate the presentation and make the sale.

The rightness and wrongness of motives and behavior in dealing with others that encompasses moral principles is called ethics. Here people choose between two or more courses of action. Ethics is an important factor in interpersonal relationship where persuasion and leadership are involved, and it becomes still more important when one person must rely on the objectivity and integrity of another person. Simply stated, ethical conduct involves an individual following established, accepted moral principle of his or her own profession. It also a personal view of what is right or wrong.

**Violation of Unethical Selling**
A prime violation of an agent's ethical duty to a prospect is deliberately selling to fit the needs of the agent rather than the needs of the prospect. The typical result is a prospect buying insurance with the highest premium (and the greatest commission) instead of the proper coverage.

## *Understanding Ethics and Policy Replacement*

Replacement, in the life insurance context, means buying a new policy with the intent and understanding that an existing policy will be canceled, or "replaced." Replacement became a huge problem in the insurance industry in the 1970s and '80s when interest rates were high. Replacement is not necessarily bad in every situation, but a new policy issue typically carries with it a new contestability period for undisclosed conditions and new start up costs, together with the fact that the policyholder usually pays a surrender charge on the canceled policy.

The NAIC has adopted the Life Insurance and Annuities Replacement Model Regulation, and various states have passed legislation to address inappropriate life insurance policy replacement. Studies have shown that up to 93% of policies should not be replaced during policy years three through ten based on a hurdle rate of 5%. Replacing a policy should be based on whether the client will be as well off, or better, after replacing one policy with a new one.

To make the insurance industry more professional, most life insurance applications now include a question asking if this new policy is replacing an old one. If so, the agent must provide a detailed explanation. Additionally, most states now require life insurance agents to file "notifications of replacement" with their state insurance commissions and to comply with various regulations.

Normally it is that that unwarranted replacement of life insurance policies was a regulatory and consumer protection problem stemming from agents who had inadequate tools, inefficient understanding, and limited information for consumers to properly analyze life insurance cost and performance. Replacing an existing life insurance policy with a new one generally is not in the policyholder's best interest, however, replacement is not something to be avoided altogether. The agent must realize that there are circumstances where it makes sense to replace an old policy with a new one.

It is felt by many that the current NAIC Life Insurance and Annuities Replacement Model does not adequately address the financial consequences to consumers from policy replacement. This is true because the model regulation does not include a financial decision framework that measures the performance of the existing policy and whether it is valid to replace it. Universal life policies, show that 93% of in-force life insurance policies should not be replaced during policy years three through 10.

## Policy Replacement and Start-Up Costs

Usually most new policies impose start-up costs. The consequence of this is that when a consumer makes a replacement, the client might be paying those costs twice. Most new policies contain a two-year period for both suicide and contestability so a replacement policy would restart the time-period making benefits not paid for within the first two years. Under some circumstances, the surrender of a policy results in taxable income unless the transaction qualifies as a Section 1035 exchange.

Agent and company misconduct, primarily in the form of misrepresentation, has been covered in relation to what is called "replacement." Simply stated, replacement, in the life insurance context, means buying a new policy with the intent and understanding that an existing policy will be canceled, or "replaced."

Riders add significant value to a policy by enhancing an existing policy with a customized additional benefit or keeping an existing policy "as is" and buying another.

## Unethical Policy Replacement Issues

Replacement became a huge problem in the insurance industry in the 1970's and 1980's when interest rates were high. Agent and company misconduct, primarily in the form of misrepresentation, has been covered in relation to what is called "replacement. Abuses of life insurance replacement are usually referred to as "twisting" or "churning," depending on the factual setting. "Replacement" means any transaction in which a new life insurance policy or annuity contract is to be purchased and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing life insurance policy or annuity contract has been or is to be:

- Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or otherwise terminated;
- Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
- Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
- Reissued with any reduction in cash value;
- Used in a financed purchase;

There are also potential tax problems and replacements often occur in the context of Internal Revenue Code 1035 like-kind exchanges. It has been estimated that as much as 40% of the life insurance currently in force in the United States is a result of replacement.

## Advantages For Policy Replacement
- A client may have purchased a permanent insurance policy that he did not understand and discovers later that he or she has a variable life policy requiring investment decisions on his part and having no guaranteed cash value when what he really wanted was a whole life or universal life policy with guaranteed cash values.
- A client may be in the first three years of a permanent insurance policy for which he paid commissions but at some point decides that he would be better off starting over with a new low-load, no-commission policy.
- A new life insurance policy may have more desirable features or benefits at a lower cost.
- If a client has purchased a policy in the 1970's or with guaranteed returns of only 2% to 3%, replacing them actually would make sense.
- One may have concerns with the solvency of the insurance company that issued the original policy or with the service of the agent that sold the policy
- Some clients discover that they purchased a permanent life insurance policy from a company that is not financially sound so desire to make a better investment.
- The client may have been sold the wrong policy in the first place because he or she needs term instead of permanent insurance.

## Disadvantages Of Policy Replacement
The reasons why replacement of an existing insurance policy is disadvantageous for the policy owner:
- Cash value built up in the original policy may be applied to the new life insurance policy's first year expenses, including commissions;
- Life insurance policies often include early surrender charges, which can reduce the amount of cash value available toward the new policy and the replacement policy will have its own new surrender charge schedule;
- One may pay higher premiums if one's health has declined since the purchase of the current policy;
- The new policy typically will have a two-year new contestability period;
- There may be unfavorable tax consequences caused by surrendering an existing policy.

## Policy Replacement and Performance

An "in-force ledger" is how the client's existing policy is expected to perform. To compare an existing permanent insurance policy and a new policy with a client, the agent can use an "in-force ledger" to compare the two policies year-for-year in this way.

What should be compared here is calendar years, not years of the policy. If the client has owned a policy for five years, the agent should not compare the fifth-year values of the old policy with the fifth-year values of the new policy. If the agent does, he or she is comparing differences in guaranteed and illustrated cash values and death benefits for current and future calendar years. Unfortunately, this is a sales technique that has often been used to persuade life insurance owners to switch policies. The insured's old policy may have important tax savings provisions that have been grandfathered in from any tax changes in subsequent years. These changes could be worth thousands of dollars to the policy owner.

## The 'Vanishing' Premium

With some assumed high interest rates, the set of projections show that the premiums would "vanish" in as little as four or five years. Normally premiums vanish because the dividends or interest are enough to keep the policy in force by paying the premiums from the cash buildup. This is especially true for universal life insurance, because unlike whole life insurance (which has a fixed premium), a person could pay less than the recommended premium -- sometimes even skipping a year. But what really happened was disastrous: As actual interest rates dropped, premiums did not vanish, but continued upward for another decade or longer.

Even worse, some policyholders found that their vanishing premiums suddenly "reappeared," and, in some cases, they were unable to pay them. Many agents aggressively marketed this vanishing premium (or "premium offset") method of paying for insurance. There is nothing wrong with the vanishing premium concept, provided that a reasonable interest rate of 6% to 8% is used in the illustration as the assumed dividend rate. Under this analysis, the premium might vanish after 15 years or so.

## *Policy Illustrations from an Ethical Aspect*

Ethics is an attitude that needs to touch every aspect of the customer relationship. It entails having great reverence for the customer's needs, being

open to suggestions and insights that might enhance his / her comfort levels, building in riders and flexibility options that address these needs, providing assistance and clarity in documentation and upgrades, and settling claims on time. Ethics means being fully accountable, not just to the company and to its customers, but to the industry served. The inspiration for ethics comes from the highest source - from a need to impact the industry.

Computerized policy illustrations have been developed to demonstrate policy growth and changes over the policy life. These illustrations they should not be considered predictions of a policy's potential or future performance. The assumptions on which the illustration is based may or may not be valid at any point in the future. A great deal of litigation in the 1980's resulted when consumer groups charged that the insurance industry was misleading clients in not distinguishing between guaranteed values and benefits and those that are not guaranteed.

Today, insurance companies stress the assumptions inherent in policy illustrations and suggest strongly that illustrations show a variety of policy pricing schemes, with differential company and product performance examples. In addition, the American Society has developed a "Professional Practice Guideline" (PPG) and an "Illustration Questionnaire (IQ) to assist the agent's demonstration of insurance products. These tools do not predict performance, and should be used responsibly, with clarification of guaranteed versus non-guaranteed performance features.

Insurance companies do not assume responsibility for policy performance so the risk of policy shortchanging is borne by the holder of the policy. The agent has an ethical obligation to clarify these points, as well as assess risk to the buyer. Reviewing the details of a policy's purchase and the projections based on these factors will go far in elucidating significant points and assumption. In using policy illustrations, the agent should not only understand, but also communicate to the client the following things:

- A comprehensive assessment of the policy illustration's assumptions vs. their direct influence on policy performance
- Guaranteed vs. non-guaranteed values
- Realistic assumptions realistic vs. unrealistic for specific prices and projections

Clearly understanding the paperwork often necessitates that the client receive a short education in insurance terminology. This is by no means an exhaustive list, so be sure to explain important terms and concepts with which your client may not be familiar. Life insurance policy illustrations are typically not guaranteed and are often exaggerate the financial success of an investment.

## A Set of Projections

A life insurance policy illustration is a set of projections which shows how a client's policy will perform over his life time. This set of projections is prepared by the actuarial department of the insurance company. This also includes financial projections for each year. If it is a term policy, the projections extend to when the policy ends. If it is permanent life insurance, the projections show data that stretches well beyond the client's 100th birthday. For term insurance, a policy illustration will normally show at least three things:

- Current and maximum premiums for each year;
- Total premiums paid up to that year;
- Each year's death benefits.

The typical term insurance illustration runs two or three pages and contains 100 or so numbers and the typical permanent life insurance illustration can run ten pages with 1,000 numbers. Permanent life insurance illustrations may be unreliable because they have to project years into the future to make long-term estimates of:

- expenses;
- investment success;
- mortality charges.

Agents are required to give the client all the pages of the life insurance illustration along with the one with the Interest Adjusted Net Cost (IANC) indexes. The scores for each policy take into account the premiums paid and the time value of money giving an individual the cost per $1,000 for both guaranteed and projected death benefits for term and permanent policies and for the policy's cash value for permanent policies.

Insurance companies and some states require that agents give their clients all pages of the illustration. State laws also require that all illustrations include the Interest Adjusted Net Costs indexes for death benefits.

## Ethical Responsibility and Sales Illustrations

When looking at the sales illustrations for various policies, the consumer should look at the items that are going to be common across all companies and compare those figures for similar policies. Illustrations are projections into the future and usually include both guaranteed and non-guaranteed elements.

Permanent policies should have both a good cash value build up and good cash surrender value, should the consumer need to terminate the policy. The cash surrender value he would receive is the cash value amount minus administrative fees. Although a consumer may be shown an illustration of cash accumulation value, this is not necessarily the amount he would receive upon surrender of the policy. If he is looking at two policies, both with the same death benefit, interest rate, and premium, the one with the higher cash surrender value is probably the better buy.

Some policy illustrations used during a sales presentation can be misleading. The advent of computer software led some companies to aggressively distribute insurance illustration software, assuming interest rates of up to 13% or 14% throughout the policy's life. Other companies figured out a way to override the maximum assumed interest rate and plug in their own numbers of as much as 19%. If the software would not allow this override, the agent would pay to have a simple spreadsheet program of his own developed for use in marketing permanent life insurance policies.

Some insurers appear to give far higher cash values than the consumer would get from similar policies, even though the premiums are similar. Those companies may be using assumptions (in future interest rates) that are unrealistic. Most states have adopted regulations developed by the National Association of Insurance Commissioners that should help show the consumer more realistic values when shopping for any type of life policy. Each agency should comply with this standard.

### Deceptive Sales Practices

Even if the deception is unintentional, the agent has done the client a great disservice. A presentation is deceptive if:

- it gives a prospect or client the wrong impression about any aspect of an insurance policy or plan;
- it does not provide complete disclosure to a prospect or client;
- it includes misleading or inconclusive product comparisons.

## *Ethical Responsibility to Government Regulation*

It is your ethical responsibility to learn about government regulations, why those regulations exist, and how they apply to you in your profession. Each profession will be regulated in a different manner. Just reading them to pass your finals is not going to cut it.

When you take responsibility for being ethical, you will take it seriously to comprehend these regulations--regulations that will save you a lot of complicated tangles in your career. You are responsible to society in general to maximize the flow of information in order to minimize secrets. You can believe that honest you are telling your client everything in regards to the product they are interested in.

However, if when the product or service is delivered, there is some area of misunderstanding the client will no doubt feel that you were dishonest with him or her. Your responsibility to society is to gain as much information as possible about the product or the service you are providing so that you can generate a full flow of information. You cannot talk about what you don't know about.

# Chapter Seven
## The Code of Ethics For The Insurance Agent

According to Wallace, "A credo generally describes the highest values to which the company aspires to operate. It contains the `thou shalt's. A code of ethics specifies the ethical rules of operation. It's the `thou shalt not's." In the latter 1980s, The Conference Board, a leading business membership organization, found that 76% of corporations surveyed had codes of ethics.

Some business ethicists disagree that codes have any value. Usually they explain that too much focus is put on the codes themselves, and that codes themselves are not influential in managing ethics in the workplace. Many ethicists note that it's the developing and continuing dialogue around the code's values that is most important.

Occasionally, employees react to codes with suspicion, believing the values are "motherhood and apple pie" and codes are for window dressing. But, when managing a complex issue, especially in a crisis, having a code is critical. More important, it's having developed a code. It is also important to realize there's no substitute for sound crisis management. For example, have a list of people with fundamental knowledge, such as who transports your products where and when."

### *General Codes of Ethics*
Codes of Ethics are concerned with a range of issues, including honesty. A Code of Ethics enables us to set out the ideals and responsibilities of the profession; Exert a de facto regulatory effect, protecting both clients and professionals; improve the profile of the profession; motivate and inspire practitioners, by attempting to define their raison d'être; provide guidance on acceptable conduct; raise awareness and consciousness of issues; and improve quality and consistency.

Finding the relevant ethics codes, legal standards, policies, procedures, and research doesn't tell us the most ethical approach to a specific situation any more than reading prior research studies tells us how to design the best research for that topic. In both cases, finding the information does not mark the end of the process, but rather the beginning of informed thinking about the specific instance at hand."

Awareness of the ethics codes is crucial to competence in the area of ethics, but the formal standards are not a substitute for an active, deliberative, and creative approach to fulfilling our ethical responsibilities. They prompt, guide, and inform our ethical consideration; they do not preclude or serve as a substitute for it. There is no way that the codes and principles can be effectively followed or applied in a rote, thoughtless manner. Each new client, whatever his or her similarities to previous clients, is a unique individual.

Each situation also is unique and is likely to change significantly over time. The explicit codes and principles may designate many possible approaches as clearly unethical. They may identify with greater or lesser degrees of clarity the types of ethical concerns that are likely to be especially significant, but they cannot tell us how these concerns will manifest themselves in a particular clinical situation. They may set forth essential tasks that we must fulfill, but they cannot tell us how we can accomplish these tasks with a unique client facing unique problems. There is no legitimate way to avoid these struggles."

The United States Air Force Academy honor code states: We will not lie, steal, or cheat, nor tolerate among us anyone who does--is simply not accepted by society as an appropriate standard

## Professional Code of Ethics

An insurance agent's loyalty to a code of ethics will enhance the public's trust and confidence. In addition, many corporations have implemented codes of ethics, which are formally articulated statements of corporate values, sponsored training and educational programs in ethics, and installed internal judiciary bodies that hear cases of improprieties.

## Principles of Professional Practice in the Conduct of Our Work

- • We shall exercise due care in gathering and processing data to assure accuracy.
- • We shall exercise due care in the development of the analysis of data.
- • We shall employ only research tools and methods of analysis which, in our professional
- judgment, are well suited to the research problem at hand.
- We shall not knowingly make interpretations of research results, nor shall we tacitly permit interpretations, which are inconsistent with the data available.
- We shall describe findings and methods accurately and in appropriate detail in all reports.

## *Code of Professional Ethics*

A Member Shall:

- Be fair and impartial toward each participant in all aspects of reported proceedings, and
- always offer to provide comparable services to all parties in a proceeding.
- Preserve the confidentiality and ensure the security of information, oral or written.
- Ethics in Insurance
- Be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest.
- Guard against not only the fact but the appearance of impropriety.
- Be truthful and accurate when making public statements or when advertising.
- Determine fees independently, except when established by statute or court order, entering into no unlawful agreements with other reporters on the fees to any user.
- Refrain from giving, directly or indirectly, any gift, incentive, reward or anything of value to attorneys, clients, witnesses, insurance companies or any other persons or entities associated with the litigation, or to the representatives or agents of any of the foregoing, except for
  - items that do not exceed $100 in the aggregate per recipient each year, or,
  - pro bono services as defined by the NCRA Guidelines for Professional Practice or by applicable state and local laws, rules and regulations.

Consider the following guidelines when developing codes of ethics:

- Review any values need to adhere to relevant laws and regulations; this ensures your organization is not (or is not near) breaking any of them. Increase priority on values that will help your organization operate to avoid breaking these laws and to follow necessary regulations.
- Review which values produce the top three or four traits of a highly ethical and successful product or service in your area, e.g., for accountants: objectivity, confidentiality, accuracy, etc. Identify which values produce behaviors that exhibit these traits.
- Identify values needed to address current issues in your workplace. Appoint one or two key people to interview key staff to collect descriptions of major issues in the workplace.

Collect descriptions of behaviors that produce the issues. Consider which of these issues is ethical in nature, e.g., issues in regard to respect, fairness and honesty. Identify the behaviors needed to resolve these issues. Identify which values would generate those preferred behaviors. There may be values included here that some people would not deem as moral or ethical values, e.g., team-building and promptness, but for managers, these practical values may add more relevance and utility to a code of ethics.

- Identify any values needed, based on findings during strategic planning. Review information from your SWOT analysis (identifying the organization's strengths, weaknesses, opportunities and threats). What behaviors are needed to build on strengths, shore up weaknesses, take advantage of opportunities and guard against threats?
- Consider any top ethical values that might be prized by stakeholders. Consider expectations of employees, clients/customers, suppliers, funders, members of the local community, etc.

# Code of Ethics
## Independent Insurance Agents & Brokers of America, Inc.

I believe in the value and importance of the insurance business and its future, and that the Independent Insurance Agent plays a critical role in serving consumers throughout the insurance process.

I support the Independent Agency System, which has developed insurance to be a fundamental component in the economic fabric of our nation, and I pledge to support right principles and oppose bad practices in the insurance business.

I respect the importance of the relationship between Independent Insurance Agents and the public, insurance companies, and other Independent Insurance Agents, and believe that the rights of the client are paramount.

**To the Public**
I believe that serving the public as an Independent Insurance Agent is an honorable occupation, affording me a special opportunity to serve society and offer valuable insurance products and services to the public.

I believe that as an Independent Insurance Agent, I am serving the interests of my clients by responding to their expressed insurance needs.

I will strive to further the public's understanding of insurance, endeavor to promote safety and loss control in my community, and strive to participate in civic and philanthropic activities that contribute to my community.

**To the Insurance Companies I Represent**
I will respect the authority vested in me by the insurance companies I represent, and work to maintain open lines of communication with them.

**To Other Independent Insurance Agents**
I will strive to maintain positive relations with other insurance agencies in my community, competing with them on an honorable and fair basis.

I will follow all insurance laws relative to the conduct of my business.

I will work with other Independent Insurance Agents for the betterment of the insurance business, and endeavor to elevate the standards of my occupation by following this Code of Ethics and encouraging other Independent Insurance Agents to do likewise.

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# National Association of Health Underwriter's Code of Ethics

- To hold the selling, service and administration of health insurance and related products and services as a professional and public trust and do all in my power to maintain its prestige.
- To keep paramount the needs of those whom I serve.
- To respect my clients' trust in me, and to never do anything which would betray their trust or confidence.
- To give all service possible when service is needed.
- To present policies factually and accurately, providing all information necessary for the issuance of sound insurance coverage to the public I serve.
- To use no advertising which I know may be false or misleading.
- To consider the sale, service and administration of health insurance and related products and services as a career, to know and abide by the laws of any jurisdiction Federal and State in which I practice and seek constantly to increase my knowledge and improve my ability to meet the needs of my clients.
- To be fair and just to my competitors, and to engage in no practices which may reflect unfavorably on myself or my industry.

- To treat prospects, clients and companies fairly by submitting applications which reveal all available information pertinent to underwriting a policy.
- To extend honest and professional conduct to my clients, associates, fellow agents and brokers, and the company or companies whose products I represent.

While top management can lay down a code of ethics and request adherence, its implementation depends on the individual. As Albert Einstein said, "Ethics is an exclusive human concern without any superhuman authority to back it." To this I add: Ethics is that discipline, that momentum that challenges us to rise above ourselves and raise the bar each time we interact. It is the means by which we measure ourselves, the strength by which we progress, and the light by which we shall be remembered. It is the way ahead - for each of us and for our industry.

# Chapter Eight
## Ethics and Insurance Fraud

Having even the slightest acquaintance with the news in the past year, one cannot escape the feeling that the largest fraud problem plaguing the insurance industry is the fraud committed by industry participants.

## *Defining Insurance Fraud*

Insurance fraud is any act committed with the intent to fraudulently obtain payment from an insurer. The dictionary defines fraud as the intentional perversion of truth to induce another to part with something of value or to surrender a legal right. Insurance fraud can be "hard" or "soft." Hard fraud occurs when someone deliberately fabricates claims or fakes an accident. Insurance fraud has existed ever since the beginning of insurance as a commercial enterprise. Fraudulent claims account for a significant portion of all claims received by insurers, and cost billions of dollars annually. Types of insurance fraud are very diverse, and occur in all areas of insurance. Insurance crimes also range in severity, from slightly exaggerating claims to deliberately causing accidents or damage.

## Fraudulent Activities

Fraudulent activities also affect the lives of innocent people, both directly through accidental or purposeful injury or damage, and indirectly as these crimes cause insurance premiums to be higher. Insurance fraud poses a very significant problem, and governments and other organizations are making efforts to deter such activities.

Insurance fraud involves deceptive claims, perpetrated against an insurer. While that intuitive response is correct as far as it goes, it is incomplete. Insurance fraud includes, but is not limited to, claims fraud, and it can hurt a wide range of victims including policyholders, prospective customers, employees, and the insurance company.

No one knows how much insurance fraud costs. According to Conning & Co.'s Insurance Fraud: The Quiet Catastrophe, it is estimated that insurers lose approximately $120 billion annually in fraudulent claims alone, as follows: $95 billion in fraudulent health care claims, $20 billion in such property and casualty insurance claims, and $5 billion in life and disability claims.

## Commingling Funds

Agents and brokers by law are regarded as acting in a fiduciary capacity in their handling of premium funds. They must use utmost care in what they do with these funds. The agent or broker may not commingle funds or mix premiums collected on behalf of insureds with any other funds held for business or personal use. They must have the express consent of each insurer they represent to establish a Premium Fund Trust Account (PFCA) for funds held by them due the company. However, they do not have to maintain a separate PFTA for each company as long as the funds held for each company can be reasonably determined from the agency records.

## Unauthorized Insurers

Representing or aiding unauthorized insurer prohibited. No person in a state can directly or indirectly act as agent for, or otherwise represent or aid on behalf of another, any insurer not then authorized to transact such business in a particular in the solicitation, negotiation, procurement or effectuation of insurance or annuity contracts, or renewal thereof, or forwarding of applications for insurance or annuities, or the dissemination of information as to coverage or rates, or inspection of risks, or fixing of rates, or investigation or adjustment of claims or losses, or collection or forwarding of premiums, or in any other manner represent or assist such an insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in any particular state.

Solicitation, effectuation or delivery of any insurance contract, by mail or otherwise, within a particular state by an unauthorized insurer, or the performance within that state of any other service or transaction connected with such insurance by or on behalf of such insurer shall be deemed to constitute an appointment by such insurer of the Commissioner and his/her successors in office as its attorney, upon whom may be served all lawful process issued within a state in any action or proceeding against such insurer arising out of any such contract or transaction, and shall be deemed to signify the insurer's agreement that any such service of process shall have the same legal effect and validity as personal service of process upon it in a particular state.

By law, only state-authorized or licensed insurers may issue policies in that state. Consequently, the insurance agent must make sure that the insurer he or she is representing is licensed to do business in that particular state. State guaranty funds operate in much the same way as the FDIC does for banks and other institutions. The funds provide a means for paying at least part of an insured's losses if the property-casualty insurer becomes insolvent and is unable to meet

its obligations to its policyholders. The amount of reimbursement is subject to both a deductible and a limit of liability, depending on the state. A state's guaranty fund only covers the liabilities of authorized insurers. Anyone purchasing policies from unauthorized or unlicensed companies is at risk if those insurers cannot meet their claims.

## Misrepresentation and/or False Advertising

Agents have an ethical duty to present their policies in a truthful and open manner. Misrepresentation is any written or oral statement that does not accurately describe a policy's features, benefits or coverage. States have enacted laws that penalize agents who engage in this practice. Misrepresentation or false advertising includes: issuing, circulating or making false estimates, illustrations or statements about the provisions of a policy, its benefits or advantages or about the general condition of any insurer. It is also unlawful to make any misleading representation or comparison of companies or policies to insured persons to induce them to forfeit, change or surrender that insurance.

## Twisting

Twisting is the act of distorting something so it seems to mean something it was not intended to mean. It means for the agent to use extreme or unethical pressure or influence in an effort to compel someone to act in a certain way Virtually every jurisdiction prohibits the act of twisting and harshly penalizes any offender.  Twisting is the unethical act of persuading a policy owner to drop a policy solely for selling another policy, without regard to possible disadvantages to the policy owner.

By definition, twisting involves some kind of misrepresentation by the agent to convince the policy owner to switch insurance companies and/or policies. Although twisting applies largely to life insurance policies, most states have regulations in place that require agents and brokers to provide policy owners with enough information to make an informed decision concerning the replacement of any existing policy.

## *Two Categories of Fraud*

Fraud cases fall broadly into two categories: internal and external fraud. Internal frauds are those perpetrated against a company or its policyholders by agents, managers, executives, or other employees. External fraud schemes, on the other hand, are directed against a company by individuals or entities as diverse as medical providers, policyholders, beneficiaries, vendors, and career criminals.

*Internal fraud* often involves theft of proprietary information or other company property, improper relationships with vendors or consultants involving conflicts of interest, diversion of policyholder or company funds by employees, use of confidential information for investment purposes, or intentional misrepresentation by agents to prospective customers about the characteristics or future performance of company products.

*External fraud* can involve such schemes as fraudulent automobile, life, health or disability claims, the use of tax-advantaged insurance products for concealing the origins of illicit funds, or the negotiation of counterfeit checks.

Companies need to define insurance fraud as broadly as possible to encompass not only fraudulent claims and false statements on insurance applications, but also to include any theft or misappropriation of company or policyholder assets. The company should make it clear in word and deed that it regards any fraudulent activity as illegal and prohibited, and takes its legal and ethical responsibility for fighting fraud seriously. The responsibility for fighting fraud should clearly rest with company management as well as the employee rank and file. We suggest that the following responsibilities be established.

Consequently, in the area of fraud deterrence and detection, management should (a) identify the areas of exposure to fraud and the related fraud indicators and, (b) develop and maintain control policies and procedures specifically designed to combat fraud. The COSO principles specify that the internal control structure should include elements of the following:

- A clear statement on the organization's philosophy on ethics and integrity, including the potential penalties for violating the philosophy.
- Detailed procedures for (a) the authorization and approval of key transactions, (b) the ongoing reconciliation of key transactions and databases, (c) the separation of key functions, and (d) the assignment of responsibility for the continual monitoring of key activities, including the use of sophisticated electronic monitoring tools.
- The training of employees to understand their role and responsibilities and to recognize the indicators of potential fraud.

## *The Consumer and Defrauding Insurance Company*
Nearly one of four Americans say it's ok to defraud insurers, says a survey by the consulting firm Accenture Ltd. Some 8% say it's "quite acceptable" to bilk insurers, while 16 percent say it's "somewhat acceptable." About one in 10

people agree it's ok to submit claims for items that aren't lost or damaged, or for personal injuries that didn't occur. Two of five people are "not very likely" or "not likely at all" to report someone who ripped of an insurer. Nearly one of 10 Americans would commit insurance fraud if they knew they could get away with it. Nearly three of 10 Americans (29%) wouldn't report insurance scams committed by someone they know.

More than one of three Americans say it's ok to exaggerate insurance claims to make up for the deductible (40% in 1997). One of four Americans says it's ok to pad a claim to make up for premiums they've already paid. One of three Americans says it's ok for employees to stay off work and receive workers compensation benefits because they feel pain, even though their doctor says it's ok to return to work.

## *The Loss Due To Insurance Fraud*

It is virtually impossible to determine an exact value for the amount of money stolen through insurance fraud. Insurance fraud is designed to be undetectable, unlike visible crimes such as robbery or murder. As such, the number of cases of insurance fraud that are detected is much lower than the number of acts that are actually committed. The best that can be done is to provide an estimate for the losses that insurers suffer due to insurance fraud. The Coalition Against Insurance Fraud estimates that in 2006 a total of about $80 billion was lost in the United States due to insurance fraud.

The Coalition Against Insurance Fraud's Progress Report, 2001-2006 found that the major measurements of success, namely referrals received, cases opened and presented for prosecution, convictions and restitution ordered, increased from 2004 to 2005, but results appear to have leveled off in recent years. For instance, although referrals grew 20% during the 2004-2005 period, half of all referrals were logged in three states—New York, California and Florida.

The next measure, cases opened, grew 6.5%, but the average number of cases opened per bureau has been flat since 2001. Prosecutions and criminal convictions both were up at the same rate, but the average number of prosecutions has been flat and convictions were down at 18 bureaus. However, court-ordered restitution increased at most fraud bureaus and totaled $298 million in 2005. The CAIF notes that if all of this money is repaid, the total collected would be twice the operating costs of the 31 bureaus that provided restitution data.

A lack of ethics can have serious consequences. Litigation and costs of settlement, business losses, a reduction in ratings, and increased scrutiny are not half as damaging as the loss to image and reputation. It's a fact that good ethics makes good business sense. Of course, the mandate for good ethics always stems from the top.

According to estimates by the Insurance Information Institute, insurance fraud accounts for 10%, or about $30 billion, of losses in the property and casualty insurance industries in the United States. The National Health Care Anti-Fraud Association estimates that 3% of the health care industry's expenditures in the United States are due to fraudulent activities, amounting to a cost of about $51 billion. Other estimates attribute as much as 10% of the total healthcare spending in the United States to fraud—about $115 billion annually.

## *Antifraud Efforts*

Fraud in insurance has undoubtedly existed since the industry's beginnings in the seventeenth century, but it received little attention until the 1980s. Now, because law enforcement agencies have put top priority to provide the training needed to investigate and prosecute cases of insurance fraud. The need to comply with the time requirements for paying claims imposed by fair claim practice regulations in many states have made it difficult to adequately investigate suspicious claims.

By the mid-1980s the rising price of insurance together with the growth in fraud committed by organized criminals, prompted many insurers to reexamine the fraud issue. Insurers and law makers began to see the benefit of strengthening antifraud laws and more stringent enforcement as a means of controlling escalating costs and they found ready allies among those who had been adversely affected by fraud.

In their fight against fraud, insurers have also been hampered by public attitudes. Ongoing studies by the Insurance Research Council show that significant numbers of Americans think it is all right to inflate their insurance claims to make up for all the insurance premiums they have paid in previous years when they have had no claims, or to pad a claim to make up for the deductible they would have to pay. In addition, insurance fraud must compete with violent and large-scale white collar crime for prosecutors' attention and resources. Prosecutors commonly use a dollar threshold before they will allot resources to trying fraud cases without investigating the merits of a case.

Antifraud activity on the part of state fraud bureaus increased in the 1990s. Federal Bureau of Investigation Criminal Investigation Division is committed to developing partnerships with the insurance industry to ferret out insurance fraud. The FBI is interested in investigating health care fraud, unlicensed insurance companies and claims fraud by organized rings. Heightened antifraud activity along with growth in funding for fraud-fighting personnel resulted in increased prosecutions. Successful prosecution not only blocks future fraudulent activities by individuals who are repeat offenders, but news of prosecutions also acts as a deterrent to others who may be contemplating committing fraudulent acts.

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