

"Insurance Ethics":

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Insurance Ethics: The Right Training at the Right Time

The recent ethical scandals in the insurance industry have led to many books on ethics in the insurance industry as well as numerous ethics training programs. People forced to participate in these programs often resent having to spend their time on ethics issues because they believe they already know what's right and what's wrong. They think they don't need an ethics training session to tell them that cheating a customer is wrong.

There is much validity in their claim. In many situations, it is clear what's right, and if all we had to deal with were clear cases, we wouldn't have much need for ethics books or ethics training. Let's call those situations "no-brainers." For example, if an agent unnecessarily replaces a policy using the cash value to pay the commission, thus leaving the customer worse off, that seems to be clearly wrong.

But if it's clearly wrong and a no-brainer, how do we explain the agent who defrauds a client that way? How does that happen? Are there bad agents or just good agents who do bad things? Are people just bad, or is it that for some people a "no-brainer" may not be as apparent as it is to others?

When a No-Brainer Deserves a Little Thought

Several factors lead people to do what we consider bad things. I want to focus on two: ignorance and greed. People act out of ignorance in situations where they don't know what's right or wrong. Is it possible that there are situations where people disagree about what seems obviously wrong? The answer is yes.

To explain ignorance about no-brainers, we have to look to early

Strictly Speaking

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ethics training. Aristotle once said that for a person to be ethical it was important that they be taught correctly in their youth. If persons are raised by parents who condone stealing, even if they suspect in their innermost selves that there is something wrong with stealing, they will be inclined to accept stealing. Then you will hear them justify their actions by saying, "Well, that's what everyone does." After all, ethics comes from the word *ethos*, which means (among other things) *custom*. Customs are a society's accepted ways of doing things, and every family has their own customs. Since the person thinks what the family teaches is what society teaches, they are brought up to follow corrupt custom or corrupt ethical practices. In a sense, they don't know what's right in such cases.

If we apply these considerations to the insurance industry, it becomes clear that the unethical behavior that led insurance agents to trouble was probably learned in their early insurance training. Suppose a person was trained by a senior agent who, instead of making sure his clients signed applications at all the prescribed spots, windowpaned the signatures. That trainee would assume this is the way things are done and probably would continue to do them that way.

Michael Hoffman, founder of the Center for Business Ethics at Bentley College, tells of his early training in wrapping meats when he learned to

put the tails of the pork chops underneath the full chop so the package looked as if there were nothing but lean cuts. Having learned that method, he was upbraided a year later when he took a job at another store where that deceptive kind of packaging was ethically unacceptable. Hoffman may have suspected that the first way of wrapping was questionable, but how was he to be certain when his supervisors assured him that's the way things are done? (That's the custom.)

In my early years, I trained under a sales manager who took great pride in the sales he made to people who could least afford the product we were selling. Salesmanship was a game of outsmarting the client, and the more he outsmarted them, the more he boasted of his methods. Some of my fellow trainees were enraptured by the man's charisma. I was suspicious of his methods, for what he proposed countered the attitude my father taught me — not to exploit people in a vulnerable condition. Nevertheless, had I come from a different environment, it is unlikely I would have rebelled against my mentor. Recognizing such situations, some companies today go so far as to separate their new agents from senior agents so that their training is not influenced by them.

In sum, if a person's early training was corrupt, they were taught that right was wrong and wrong was right. In cases where early training was corrupt, ethical re-education is necessary to help those people to understand why what's right is right and what's wrong is wrong.

Greed or "A Situation of Temptation"

Besides people acting from ignorance, there are those motivated by greed or some other intent to do the wrong thing. These people are in "a situation of temptation." At one time

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or other, as humans, we have all done something we knew to be wrong.

Social scientists point out that most human beings are subject to the reward systems that surround them. People respond positively to rewards and negatively to punishment. If a corporation rewards those with the highest productivity, no matter how it is achieved, the people in that environment will learn to operate in ways that might compromise honesty and integrity, if those ways lead to higher productivity that is rewarded. Conversely, a company that wants to encourage ethical behavior should take note of it and reward it.

Commission structures and contests reward productivity and behavior that may or may not be desirable. Consequently, recognizing the findings of the social scientists, companies are beginning to reconsider the impact of commission structure and sales promotions on agent behavior.

The situation reminds me of how astute one of the lines in *The Lord's Prayer* is. Recognizing that most, if not all, human beings are subject to temptation, the prayer asks, "Lead us not into temptation," instead of "Help us overcome temptation." What is even more important than fighting off temptation is to avoid a situation of temptation. Abraham Lincoln spoke of throwing a man out of his office for attempting to bribe him. When asked why he threw the man out, he answered, "He was getting too close to my price." The lesson is simple. A realistic appraisal of human nature and its weakness leads us to realize we probably all have a price, so the wise thing to do is avoid situations in which we are tempted.

Building Character

Aside from avoiding temptations, which we cannot always do, overcoming temptation helps to develop

strong character when we are faced with it. Such strong character is called *virtue*. The recent emphasis on virtue is a telling phenomenon. Most of you are probably familiar with William Bennett's *Book of Virtues*, a collection of stories and essays about virtue. Those of you with young children may have seen the television adaptations from the stories (a series, by the way, sponsored by a prominent insurance company).

Virtue in this context is a habit of character to do good things. For example, honesty is a virtue: The honest person is in the habit of doing honest things. We are not born with virtues; we develop them through practice.

Conversely, we also develop vices, habits of doing bad things, through practice. People don't usually get into serious trouble all at once. It happens by little steps, as a recounting of the history of the market misconduct in the insurance industry will show. Tell one little lie to avoid an unpleasant situation, and it is easier to tell another slightly larger lie the next time. Virtue takes constant vigilance and exercise and so it is difficult to be virtuous. If it weren't difficult, people wouldn't praise it, as Aristotle reminds us.

Thus, there are also situations of temptation where people succumb to the temptation and do wrong, knowing what is right. Here, ethics training would involve objective appraisals of situations to see if they encourage unethical behavior, with the goal of building strong character.

Grappling with the Gray Areas

But beyond the "no-brainer" situations there are also situations where it is less clear what is right and wrong. These situations create for us what we can call ethical quandaries or dilemmas, the so-called "gray areas." Ethics training also might be particularly valuable in these areas. A quandary or

dilemma is a situation where we are not sure what to do, because there are good reasons for the action and good reasons against it. Such situations include those where there is a conflict of interests or obligations.

Take the case of Charlie, a client in his 80s who recently lost his wife. Charlie seems to be suffering some sort of dementia. In the past, Charlie had been a meticulous dresser and neat to a fault. Since he was an accountant, his neatness spilled over into financial matters, and he kept meticulous records of his worth. On a particular day he came into his agent's office, looking disheveled and distracted, and demanded that his children be terminated as beneficiaries of his estate. He demanded that his entire estate, except enough money to live on, be bequeathed to the local SPCA, who has a "wonderful woman" in charge. It just so happens that the wonderful woman's son is some sort of financial planner, who claims he has invested this client's money and tripled its worth.

What would *you* do in this case? What would your obligations or responsibilities be? Your professional code of ethics demands that you look out for your client's best interest. Is that the same as what Charlie wants? What is a client's interest, if not what he wants? What are client's needs, and how are those determined? Given your obligation to confidentiality, can you investigate the situation? Should you talk to the children, knowing that the children are decent human beings? Should you talk to his doctor to ascertain his mental condition?

Decision Procedures for Dilemmas

Such conflict situations require sophisticated and thorough analysis. The world we live in today has become so complex, with so many relationships,

that it is not as simple to decide who owes what to whom. Ethical theories can suggest some decision procedures. What follows is an attempt to amalgamate the best features of most of them. In deciding how to resolve an ethical dilemma or a quandary, it is important to do the following:

1. *Ascertain as many facts as possible.* For example, the central fact of your client's competency will make all the difference in how to read the phrase, "the client's best interest." Usually that means the client's wishes, unless the client is incompetent.

2. *Determine who has a stake in the activity and all those who are affected by it.* Determining stakeholders and how they are affected is usually not simple. (Most times when we judge the worth of an activity we limit our considerations to how it will hurt or help us. Since ethics has to do with being fair to others, it is important to get beyond self-centered considerations.)

3. *Examine existing options and/or determine new options.* Rushworth Kidder, a noted ethics consultant, points out that two options for action are not enough in problematic situations. If you haven't come up with a third option, you haven't thought about the issue hard enough.

There is a reason for looking for the third option. A dilemma is a situation where only two courses of action appear to be possible, and there are reasons for and against each course of action. Since there are reasons not to follow either course, you are said to be "caught on the horns" of a dilemma. You are gored by one horn of the dilemma if you go one way and by the other horn if you go the opposite way — that is, you are damned if you do and damned if you don't. The trick is to find your way through the horns. But that means finding a third option and resolving the dilemma.

4. *Evaluate the options.* This is the

heart of the ethical enterprise, for the primary task for ethics is the analysis and evaluation of human actions, past or future. But how does one evaluate actions? First, judge whether the action is good (i.e., beneficial). Second, determine whether the action is fair (i.e., just). Third, ask whether one has a responsibility to perform the action because of a previous commitment or promise that one made. Finally, determine whether the options are legal.

Applying these questions to any proposed action will help us evaluate that course of action. If an action is beneficial, fair, and consistent with our commitments, we have every reason to perform it. If it is harmful and unfair and requires us to break our word, we have every reason to avoid it. Dilemmas and quandaries occur when the reasons are mixed; for example, when an action that is beneficial is unfair.

Applying that to Charlie's case, we can ask the following questions. If we simply help Charlie sign over his wealth to the SPCA, who will be hurt and who will be helped? Is it fair to the children to be cut off? What are the responsibilities to the client, to do what he asks, or what is in his best interest?

In anyone's assessment, there are several beliefs about people's rights to do what they want with their own property, beliefs about whether children are entitled to a certain percentage of their parent's estate, beliefs about confidentiality and under what conditions it can be violated. All will feed into the determination of what to do. But what are the options? Help Charlie? Stall Charlie and ascertain as many facts as possible? Refuse to help Charlie?

This case points out how gray the gray can get. In a brief piece like this, we cannot handle all the distinctions that must be made to begin to resolve

sticky dilemmas. But ethics training can provide principles that can be used as perspectives for thinking through what ought to be done.

The purpose of morality, as a social convention, is to rationally adjudicate conflicts between people. That amounts to saying its main purpose is to discover and establish principles of fairness. The tool we employ is our reason. To the extent we understand the options in resolving ethical disputes and how similar principles underlie a whole host of activities, we become more sophisticated using our reason, enabling us to transcend the operating principle of "might makes right." Ethics training can only enhance that ability.

To those who object, "Who are you to say what counts as corrupt?" There is no simple answer. Such a challenge rests on skepticism, which holds that knowledge in ethical matters is impossible, there are only conflicting opinions. Simply put, if the skeptics are correct, there aren't any no-brainers. Our answer to that is that there does seem to be substantial agreement that there are "no-brainers." A fuller answer requires a separate treatment. The connections between law and ethics are too complicated to be spelled out in this column. But in most cases, if an action is illegal, that is a good reason not to do it. J
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