

Part I

Why Ethics? Why Now?

The Greek Way

The study of ethics began with the Greeks, who attempted to categorize fallible human behavior against divine ideals. Our word ethics is derived from two Greek antecedents: "ethikos", or correct social behavior; and "ethos", or character. Ethics became the philosophy of the rightness of actions, as defined by their consequences.

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.

While these distinctions are quite apparent to philologists and philosophers, modern commentators tend to focus on what has become known as "situational ethics", or the rightness of specific actions in specific circumstances.

These circumstances change. For example, Victorian society, often viewed as excessively concerned with public morality and excruciatingly correct behavior, was often shockingly ruthless in its business and social practices--behavior we would find repellant.

Furthermore, the attempt to distinguish between ethics and morals often creates great confusion. Considered extramarital sex: most people, and most societies, consider it to be immoral, although there are few laws actually prohibiting the practice. But is it unethical? One response might be that it would be if one partner deceived the other, but not if he did not practice any deception.

This kind of debate can be fruitless, and confuse agents into thinking anything is acceptable as long as it is "open" and no one "gets hurt."

What Others Say

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.

Historically, ethical rules emphasize altruism, the ideal of valuing society above one's self, while seeking to protect society from those members who would be excessively self-serving.

A Legal Definition

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."

Substitute a few insurance-based words and few of us would argue that that definition should also apply to our profession.

Breaking the Law

The current focus on ethics, which is manifested in requirements for courses like this one, began about 10 years ago when our industry suffered through a series of well-publicized scandals.

Companies were failing, and denying that reality to their shareholders and policyholders. Agents were selling patently false "illustrations". Insurance policies were being disguised as "savings plans" and "investment plans", by both unscrupulous agents and hypocritical companies. Vulnerable seniors were being deceived into buying unnecessary medical plans. It was an embarrassing time to be an honest agent.

Congress and the states reacted with a series of laws and regulations intended to define expressly correct sales behavior and punish deviations from the norms. Many of these laws merely codified what careful agents had been doing in their daily practices.

But the inevitable result of the establishment of precise legal codes was to create an expectation that legal behavior must always be ethical, by definition, and that, conversely, illegal behavior must always be unethical.

While it is not the purpose of this course to encourage agents to violate the law, legality and ethics are not always in concert. Laws are a human creation, while ethics are a human attempt to emulate the divine. Laws can be as fallible as the people who write them.

Read the "Letter from a Birmingham Jail", in which Dr. Martin Luther King Jr. argues that an ethical man has an obligation to violate immoral laws, such as those promoting racial segregation. However, he must only do so in an ethical construct: the law must be adverse to moral principles; reasonable compromise must be impossible; he must be seeking a greater good for someone other than himself; and he must be prepared to abide by the consequences of his illegal actions. Only then can the violation of law be considered ethical.

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.

But were you right? Did you act ethically? Only you can tell.