



PHYLMAR ACADEMY

Examining the Code of Ethics for the EHS Professional

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Objectives for This Session

- Define ethical behavior
- Present an overview of how ethics programs in OS&H professions have evolved
- Review ethical guidance statements of the individual professions and examine examples of ethical dilemmas
- Encourage you to think through ethical dilemmas before acting
- Discuss the importance & benefits of ethical behavior in OS&H
- Review results of recent Ethics Survey
- Discuss past ethical enforcement actions and path forward

Ethics Quiz

1. You are the office manager and one upper-level manager has repeatedly used the company credit card for personal expenses. How do you handle the situation?

- a. I do nothing. The person is higher than I am in the company, so it must be okay.
- b. I confront the person and hope that this won't threaten my job.
- c. I confront the person and reveal what I know to a higher-level manager or someone in human resources.

2. You are the occupational health nurse and an employee comes to you and says, "I want to tell you something about someone, but you can't tell anybody." They then reveal that someone pushed another employee in the company kitchen. What do you do?

- a. I promised not to tell, so I don't.
- b. I find out if the employee was injured and decide based on that whether to tell.
- c. Even though it breaks my promise, I tell my boss so the incident goes on record.

Ethics Quiz

3. Although you're not an accountant, company policy now requires you to sign off on the tax filings for the department you oversee. You've never been a "numbers person" and don't fully understand the documents. What do you do?

- a. I sign it, figuring if any problems are found, I can just argue that it's not my fault because I didn't understand the document.
- b. I ask someone with more knowledge to walk me through the report before I sign.
- c. I sign it, vowing to take an accounting course whenever I find the time.

4. As an occupational medicine physician, you know it's illegal to ask whether a candidate for a position at your company is planning on starting a family, but during the course of a health history a woman reveals that she intends to do that. Can you decide whether to hire her based on the knowledge she might leave the company sooner or take maternity leave?

- a. Yes, since she revealed it, it's fair game in deciding hires.
- b. No, it would be discriminatory to avoid picking her for that reason.
- c. If another candidate seems just as good and that's the only difference, it can become a factor to break the tie.

Ethics Quiz (cont.)

5. You're a candidate for hire at a great company, but you plan to move across the country in a year. Do you reveal that during the interview?

- a. No, they have no right to know I have relocation plans.
- b. Yes, I would feel obligated to tell.
- c. If the interviewer asks my long-term intentions, I'll admit to my plan.

6. A coworker friend approaches you to reveal he has major concerns about a large project and plans to tell the vice president. You just learned the vice president has been known to fire people who have been too vocal against this project. Do you encourage your friend to be honest anyway?

- a. Yes, honesty is always the best policy.
- b. No, I reveal the dangers of the decision and encourage the friend to protect his job.
- c. I explain what I know but try to avoid encouraging my friend one way or another.

Ethics Quiz (cont.)

7. You're in charge of creating the budget report that goes to the board of directors. Just before the next meeting, the president asks you to leave something negative out and just add it next time. Do you agree to as a favor to him?

- a. Yes, one time will not hurt.
- b. Yes, but only after the president agrees to give you a bonus.
- c. No, one small thing can turn into many small things, which is a big deal.

What is good ethical behavior?

“The single largest problem in ethics is the inability to recognize ethical issues.”

Rushworth M. Kidder, Ethicist

Association Management – October 1999

Is the “Right Thing” Universal?

The Golden Rule

That nature only is good
when it shall not do unto
another whatever is not good
for it's own self.



Blessed is he who prefers his brother
before himself.

What is hateful to
you, do not do to
your fellow man.
That is the entire
Law; all the rest is
commentary.



Hurt not others with
that which pains
yourself.

This is the sum of duty:
do naught to others that
which if done to thee
would cause pain.



No one of you is a believer
until he desires for his
brother what he desires for
himself.

Do unto others as you
would have them do
unto you.

Ethical Values

- Natural law
- Relativism
- Moral Absolutism
- Objectivism

Right vs. Right

- Truth vs. Loyalty
- Individual vs. Community
- Short Term vs. Long Term
- Justice vs. Mercy

Kidder, Rushworth M. How Good People Make Tough Choices – Resolving the Dilemmas of Ethical Living. 2nd edition.

New York: HarperCollins, 2009.

Business Ethics...

- comprises principles and standards that guide behavior in the world of business
- is right or wrong, acceptable or unacceptable behavior *within* the organization
- is determined by key stakeholders

Business Ethics (7th edition), O.C. Ferrell, John Fraedrich, and Linda Ferrell, 2009

Common Unethical Acts...

- lying to supervisors
- falsifying records
- alcohol and drug abuse
- conflict of interest
- stealing
- gift/entertainment receipt in violation of company policy

1997 Society for Human Resource Management/ Ethics Resource Center, Business Ethics Survey

Key Influences On Ethical Behavior...

- personal values
- supervisor influence
- senior management influence
- internal drive to succeed
- performance pressures
- lack of punishment
- friends/coworker influence
 - 1997 Society for Human Resource Management/ Ethics Resource Center, Business Ethics Survey

Classification of Ethical Issues...

- conflict of interest
- honesty and fairness
- communications
- organizational relationships

Social Responsibility...

- an organization's obligation to maximize its positive impact on stakeholders and to minimize its negative impact
- includes legal, ethical, economic, and philanthropic (discretionary) dimensions

Factors Influencing Ethical Behavior

Ethical Issue Intensity +

Individual Factors +

Corporate Culture (including significant others and opportunity)

= Ethical or Unethical Behavior

Areas of Misconduct

- Overstating positive, or understating negative results
- Refraining from reporting unethical behavior
- Failing to share publication credit
- Failing to acknowledge data limitations
- Holding back findings to avoid negative results

Factors That Increase the Likelihood of Ethical Misconduct

- Increased competitiveness in business
- Changing social values
- Cultural shifts (new role models)
- Globalization and decentralization of business
- Technological advances
- Less oversight
- On the job pressure (too many responsibilities)
- Economic implications of reporting the results
- Lack of legal standards
- Heightened business competition
- Lack of training or knowledge

Organizational Relationships and Conflicts in Ethical Decision Making

- Significant Others
- Corporation as a Moral Agent
- Variation of Employee Conduct
- Implications of Employee Conduct
- Socialization
- Role-Sets
- Differential Association
- Whistle-Blowing
- Opportunity Creates Ethical Dilemmas

Public Policy and Ethics

- Ethical decisions given competing stakeholder interest and inconclusive scientific data (e.g., establishing exposure standards)
- Issue of multiple exposure routes and multiple chemical exposure
- Non-cancer (threshold) vs. cancer (no threshold) standard setting
- Principle of Respect
- Principle of Double Effect
- Principle of Utility
- Precautionary Principle

Reason-Based Approaches to Ethical Decisions

- Consequentialism
 - Utilitarianism
 - Act
 - Rule

Reason-Based Approaches to Ethical Decisions

- Deontology
- Virtue ethics

Business Case for EHS Ethics

- Builds trust
- Develops employee, shareholder and public loyalty
- Avoid monetary fines
- Minimize government intervention

Code of Ethics

- Defined
- Implementation
- Corporate Support
- Role of an Ethics Officer
- Ethics Training
- Compliance Audit

Why Do EHS Professionals Need a Strong Code of Ethics?

- Professional recognition
- Legislative/regulatory status
- Changing scope of work/definition of practice
- Tension between rights of the employee and those of the employer
- External forces and threat of regulation

Pros and Cons of an Ethics Program

■ Pros

- Create an organizational conscience that helps members and staff responsibly address and resolve ethical challenges they encounter in the Association's service.
- Support public and employer confidence in the organization and its services, by establishing appropriate standards of professional conduct.
- Establish conduct principles or guidelines which are more readily adaptable to changing professional knowledge.
- Discourage or deter government interference in, or regulation of, the profession by providing assurance that the profession can police itself.
- Provide a professional, self-regulatory system that is more prompt, flexible, knowledgeable and effective than government regulation.
- Improve morale by strengthening the Association's relationships with members, employees, the governing body, government bodies, employers, and the public.

Pros and Cons of an Ethics Program

Cons

- Possible legal challenges to Association actions related to ethics matters.
- The cost in time and money to maintain appropriate due process and, if a complaint is lodged, to investigate appropriately; follow-up can be enormous.
- Loss of member support or confidence with respect to perceived inconsistent applications of a Code or to particular case resolutions.
- Loss of public or employer confidence with respect to perceived inconsistent applications of a Code, especially if organizations cannot fully investigate each complaint in a fair and consistent manner.

IH Code of Ethics - Recent Chronology

- Code of Ethics for Professional Practice developed by the AAIH Ethics Committee in 1968
 - Officers and councilors accepted the code
- Renewed interest in ethics by AAIH and ABIH in 1974
- AIHA Law Committee completed a code of ethics in 1977
- AAIH revised code of ethics based upon membership input and approved by formal vote
- AIHA and ACGIH adopted the AAIH code of ethics in 1981

IH Code of Ethics – Recent Chronology

- The four IH organizations (i.e., AIH, ABIH, AIHA & ACGIH) chartered the Code of Ethics Task Force in 1991
- Outcome of Task Force was:
 - Revised Code of Ethics with Interpretive Guidelines in 1995
 - Development of Joint Industrial Hygiene Ethics and Education Committee
 - ABIH has authority to censure or revoke certifications (CIHs and CAIHs)
 - Education is key component for promoting code of ethics

IH Code of Ethics – Recent Chronology

- Develop a new, enforceable Code of Ethics for all who are certified by ABIH – **effective May 25, 2007.**
 - Develop a set of principles that complements the enforceable Code of Ethics for ACGIH®, AIH, and AIHA.
 - Code binds all ABIH certificants to specific, minimum rules of behavior.
 - A set of guidelines have been implemented to assist all association members in understanding their ethical responsibilities. The primary goal of these principles of responsible conduct will be to educate members, the profession, and the public concerning acceptable behavior norms in harmony with ABIH requirements, rather than to create a disciplinary system.

Why Code of Ethics Was Revised

- Vague and undefined terminology in the current Code of Ethics,
- Overly broad definitions and terms in current Code of Ethics,
- Inconsistency with requirements of case review in current Code of Ethics, and
- Current Code of Ethics is subject to different interpretations by each IH organization.

ABIH Code of Ethics

- ABIH Code of Ethics



Got Ethics?
The Trials and Tribulations

Misconduct and Enforcement

Type of Ethical Misconduct Observed – 1994*

- Deliberate overstatement of positive and understatement of negative results 36%
- Refraining from reporting an incident 30%
- Failure to share credit on a publication 26%
- Deliberate failure to acknowledge data limitations 26%
- Holding back findings to avoid negative results 26%
- Plagiarism 23%
- Borrowing from another's proposal 21%
- Deliberate failure to control data quality 21%
- Failure to protect confidential data 20%
- Release of results of study before peer review 19%

*Ethical Issues for Industrial Hygienists: Survey Results and Suggestions, Goldberg, L.A., Greenburg, M.R., AIHA Journal, (54) March 1993, 127-134

Type of Ethical Misconduct Observed – Great Britain 2002*

• Plagiarism	51%
• Failure to protect confidential data	37%
• Failure to share credit on a report/publication	27%
• Fabrication of data	25%
• Criticize the ability or integrity of another hygienist for own gain	23%
• Holding back or disguising data	19%
• Survey design to favor a specific outcome	11%
• Destruction of data that contradicts desired outcome	7%
• Deliberately not reporting an incident	7%

*Observations of Ethical Misconduct Among Industrial Hygienists in England, Burgess, G.L., Mullen, D., AIHA Journal (63) March/April 2002, 151-154

Enforcement Issues

- Negligence and malpractice are often lumped together with ethics
- Joint task group formed in late 1994
- Charged with reviewing the options and issues relative to enforcement
- Did the following:
 - Surveyed 12 similar professional associations on ethics enforcement
 - Reviewed pros/cons of 6 enforcement options
 - Legal review of enforcement without regulation issues

Ethics Enforcement – 1994 Joint Task Group

- Six options reviewed:
 1. No enforcement
 2. Education
 3. Mediation
 4. Arbitration
 5. Title protection
 6. Enforcement “as is”

ETHICS ENFORCEMENT –

1994 Joint Task Group Recommendations

- Regardless of choice, education and communication needed
- A continuum of options should be considered
- The 4 associations should consider establishing one ethics committee

Ethical Allegations – The AIHA Experience

- AIHA involved in three ethical concerns
 - One case became legal battle at a significant cost to AIHA
 - Enforcement actions are now avoided and deferred to ABIH

Ethical Allegations – The ABIH Process

- Evaluates ethics issues for potential censure or revocation of board-certification (CIHs or CAIHs)
- Censure or Revocation of Certification
 - Misrepresentation with intent to deceive
 - Fraud in the examination or recertification process
 - Unethical practice
 - Activities which discredit the profession
 - Conviction of a felony

The Ethical Burden of EHS Professionals

- Not being able to provide (implement) the best level of care for workers, due to things like:
 - Cost and time constraints (organizational and personal)
 - Management prerogatives/priorities
- What do you do regarding this burden?
 - Inform management of what the ethical action is
 - Embrace the adoption of safety management system standards that have a commitment to continual improvement



Got Ethics?
The Trials and Tribulations

Ethical Scenarios to Consider

Scenario 1

You are bound by a contract to protect the confidentiality of the project for which you are hired. Because of the complexity of the IH issues, you wish to obtain input from a professional peer regarding the technical aspects of the project.

Do You:

- A. Ignore your desire to obtain input from a professional peer because it would violate the code of ethics regarding confidentiality;
- B. Discuss the project without disclosing confidential details such as the name of the company, individual names, proprietary or other;
or
- C. Discuss in full disclosure with a professional peer who is unrelated to the project and lives thousands of miles away.

Scenario 2

You witness what you feel is a clear violation of the ethical code by one of your professional peers.

Do You:

- A. Contact ABIH, Nursing/Medical Boards and report the incident;
- B. Submit a written allegation of a breach of ethical duty or professional responsibility to the chair of the JIHEEC, Nursing or Medical Boards; or
- C. Explain to the peer that they are violating the code and give them an opportunity to correct the situation before taking further action. If it remains unresolved then you could submit a written allegation of a breach of ethical duty or professional responsibility.

Scenario 3

As an IH at a chemical manufacturing plant, you are faced with having to perform air sampling for an intermediate chemical for which there is no standard sampling method.

Do You:

- A. Search for a sampling method that is statistically significant, peer-reviewed and recognized by the profession;
- B. Use a non peer-reviewed sampling method that was developed by the plant lab assistant; or
- C. Use a standard sampling method developed for another intermediate chemical produced at your plant.

Scenario 4

You are invited by a vendor who provides a majority of your clinical supplies, monitoring equipment and PPE to play golf and have dinner at an exclusive country club.

Do You:

- A. Accept the offer and ask if he wouldn't mind throwing in a sleeve of balls and a hat
- B. Investigate your company's policy on accepting vendor gifts and determine the best course of action with your supervisor
- C. Decide to accept the offer, but only if you can pay for your own green fees and dinner

Scenario 5

A chemical company manufactures product X. During the first year of production several women on the monomer line reported miscarriages. To ensure miscarriages were not above expected incidence or related to the monomer, the company contracted with a local university's Occupational Health Department to conduct a study and to determine exposure levels. The results of the study suggest more than twice the risk of miscarriages among the women on the monomer line as compared to women in the general population. These results were based upon a standard reproductive effects questionnaire provided by the American Obstetric Association containing questions about past pregnancy history and past work exposures. The results were also based upon breathing zone samples conducted for only two hours during one workday for each of the five female workers sampled out of the total of 100 women working on the monomer line. No data is available to document the extent of variation in monomer vapor concentrations during the day. One professor involved in the study is prepared to announce that the monomer causes reproductive effects. He says this announcement may help prevent continued exposures to this monomer.

Scenario 6

Jack, an industrial hygienist working for Chemo Pharmaceutical Manufacturing, is tasked with selecting an industrial hygiene lab to conduct analysis of air and surface samples related to a new chemotherapy drug. Jack has narrowed the lab selection to two vendors—IH Analysis Lab and NJ Pharma Labs.

Jack's evaluation reveals that IH Analysis has new liquid chromatography tandem mass spectrometry equipment, which is necessary to conduct the specialized analysis and can exceed the minimum detection limit required. Jack's niece is a lab tech at IH Analysis, a small firm, that rewards its employees quarterly bonuses based on profit and growth. IH

Analysis is competitive in price and turnaround time.

NJ Pharma Labs, a vendor that Chemo has used for three years has older equipment that can be used for the analysis, can meet the detection limits, and is price and turnaround time competitive.

Jack awards the contract to IH Analysis because of the newer equipment. IH Analysis Lab's business volume will increase 25% with the Chemo business. Jack has not disclosed this his niece works for the lab.

Scenario 7

Martha, a full-time IH for Metals Mfg. (MM) has published several papers and become an expert in palladium toxicology, exposure assessment, and control. She has been contacted by Electronic Parts Company, (EPC) who manufactures parts in a business sector unrelated to MM. EPC is looking for technical assistance in controlling employee exposures to palladium and offered to hire Martha as an independent consultant. Martha's compensation from EPC would be four times her current hour rate at MM. MM does not have a moonlighting policy or outside employment.

Martha estimates the work for EPC would be completed in 40 hours. She will need to conduct a three-day onsite assessment at EPC and will take vacation time from MM to perform the work. She will do the remainder of the work over two weekends.

She made some incidental calls and sent emails to EPC during business hours while at MM.

At the conclusion of the project, Martha gets a frantic call from EPC requesting she make a presentation the following morning to the EPC President who is flying in from New York. Martha already has a meeting at MM at that same time EPC wants to schedule the presentation.

Scenario 8

Tony, an industrial hygienist, works for a multinational company that has outsourced most of their hazardous tasks, including electroplating and degreasing, to a small company in a developing country that has no industrial hygiene capability. At the suggestion of the multinational company, the supplier has agreed to implement basic EHS measures – but in reality the supplier does not have the resources or the will to control exposures. The result is the exposure of supplier’s workers to hazardous work environments. After a site visit to the supplier to discuss some future work on behalf of Tony’s operations manager, Tony informally reports this hazardous situation to his corporation for action, but the company tells him “We can only warn the supplier. They are not our employees so there is nothing we can do.”

Issue 1

A CIH was contracted to perform IH monitoring at an aircraft-related facility. Besides the process of interest to be monitored, employees informed the CIH of fugitive odors emanating from a nearby building (also under the client's control). It becomes apparent that there is tension/mistrust between management and the union workforce. Employees request that CIH make note of the fugitive odors in report. The CIH agrees. Client's corporate CIH insists on removal of that mention in the report and, in fact, wants to wordsmith the entire report. The language is finally removed, because consulting CIHs management does not want to upset a potential major client. The final report is not "the whole truth and nothing but the truth."

Issue 2

Company has a technically unqualified person (ineligible to take CIH or CSP due to lack of degree/professional experience) who is passing themselves off as an industrial hygienist/risk assessor/ H&S professional, in a state with title protection. There is concrete evidence that in one case someone was seriously and irreparably injured based on this person's guidance. Attempts to stop further H&S practice are stonewalled by management who state it is entirely a management decision on personnel issues.

Case Study 1

Hexamethyl Death (HMD) Standard Setting

Background

- HMD is a complex mixture that is a byproduct generated by internal combustion engines.
- The draft Health Effects Assessment document (HEAD), developed by the Regulatory Agency (RA), stated HMD is a known human carcinogen and important non-carcinogenic effects are associated with exposure to HMD.
- This finding has been challenged by a number of stakeholders who felt the underlying science did not support the certainty of findings in the HMD. The final HEAD did not identify HMD as a known human carcinogen.
- Many international regulatory and scientific bodies have identified HMD as a known human carcinogen based on epidemiological studies.
- Standard for environmental exposure is one tenth of the OEL.
- Issue of multiple exposure pathways and multiple chemical components in HMD.

Summary

- A formal ethics program is an important and necessary element of our profession
- Education should continue as the primary means to promote ethical behavior
- The enforcement process should be standardized and better administrated
- Maintain an awareness for ethical standards of performance and practice them
- Continue to expand your competence base
- Think through the outcome before acting
 - Would you want your mother to see a news story about your actions?