Integrating Ethics into Compliance Programs

7th Conference for Effective Compliance Systems in Higher Education
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Session Objectives

- Review the current compliance environment and the increasing focus on ethics
- Offer some “diagnostics” suggesting why ethical conduct has become separated from professional behavior and the implications
- Explain and demonstrate a practical framework for dealing with organizational ethics issues
Part One: The Ethics Climate
“Fault Lines” in Traditional Institutions

- Wall Street
- Banking
- Research
- Healthcare
- Sports
- Politics
- Industry
Far Too Many Alumni Heading to...
Jerome Kerviel

- Société Générale
- First Assignment: Compliance Dept.
- Promoted to Junior Trader
- Fictitious Trades
- $7.1B
- Age: 32
- Masters in Finance
Bernard Madoff

- Bernard L. Madoff Investment Securities LLC
- Securities fraud, investment advisor fraud, mail fraud, money laundering, etc.
- Age: 70
- Hofstra University
Notable Quotes

- “We have been on a 30-year “kegger” and the beer has dried up.”
  - Anonymous

- “Even after the recovery, forgoing that third car or fifth TV or imperial master bedroom will come naturally.”
  - Kurt Andersen
Cramer versus Stewart
Cramer versus Kramer
Colbert Is Mad as Hell
Stocks Options: Trader or Traitor?
President Obama

“My administration is the only thing between you and the pitchforks.”

Bank CEOs Meeting at White House on March 27, 2009
Mob Scene from Frankenstein
G-20 Protests in London
Coach Calipari signs an eight-year, $31.65M deal which can escalate to $35 M with bonuses and incentives with UK

As the salaries for coaches rise, questions follow
Senator Wants APA Records of Drug-Industry Interactions
The End of Excess
Why this crisis is good for America

BY KURT ANDERSEN
Compliance Trends

- Compliance programs must also attend to ethical challenges arising in the business environment
- Ethical issues go beyond a legal/regulatory expression, standard, remedy, or solution
- Government and professional association guidance recommend model compliance AND ethics programs
A Compliance and Ethics Model
Part Two: Diagnostics
Reading the “Signs of the Times”
Minerva’s Owl takes flight only in the gathering dusk (Hegel). Minerva is the goddess of wisdom…and of culture. The dusk is beginning to gather…and the competitive marketplace is beginning to rule. Let us hope that the Owl of Wisdom can now take flight”

Not Your Typical Results-Oriented Manager
Erosion of Trust

- “Credit” derived from the Latin *credere*, “to trust, believe, confide, entrust”
- Extension of credit is not only predicated on credit worthiness but also on trust
- Trust is a value and it is relational
- Global market crisis has led to the collapse of trust among: lenders, borrowers, investors, governments, citizens, nations, etc.
- Researchers and questionable relationships with industry
Loss of Integrity

- Adherence to moral and ethical principles
- Soundness of moral character
- Honesty
- The state of being whole, entire, undiminished
- Freedom from corrupting influence or motive
On Integrity

- The moral grandeur of independent integrity is the sublimest thing in nature.
  - Buckminster Fuller

- A man, after he has brushed off the dust and chips of his life, will have left only the hard, clean question: Was it good or was it evil? Have I done well - or ill?
  - John Steinbeck
An Ethics “Disconnect” in the Professions

- Predominance of the utilitarian ethic
- Moral OR Immoral OR Amoral
- The Great Humanities Debate
- Ethics Education Across the Curriculum
Da Vinci on Living with Ambiguity, Paradox, and Uncertainty
No Ethics Shortcuts
I'm in a place where I don't know where I am!”
Part Three: An Ethical Framework
Law and Ethics

- Ethical questions arise when the exercise of preference somehow affects the welfare of others.
- Law is normative and a codification of societal ethics.
- Classic tension: does law drive ethics? OR are ethical concerns the source of law?
- Law and ethics are best approached as intersecting domains, especially when we deal with novel issues and lack ready guidance.
Increasingly, faculty, physicians, researchers, policymakers, and the public face numerous ethical quandaries which the law is often ill-equipped to address.

These emerging legal/ethical problems are not dealt with in existing codes of conduct and are not explicitly stated in laws or rules (cf. ethics laws).

We need a framework within which to consider emerging issues (e.g., research conflicts of interest).
Law and Ethics (3)

- Far too often ethics is narrowly viewed as moral guidance directed to what is right and wrong.
- Actually, the usual domain of ethics deals with really tough, competing choices involving right versus right.
- Each side (preference) is rooted in basic, core values: choosing between two goods.
“I Think” Therefore “I Am” A Compliance Officer
The Field of Ethics

- **Meta-ethics**: Investigates where our ethical principles come from, and what they mean.
  - Are they merely social inventions, expressions of our individual emotions, or stem from universal truths
- **Normative Ethics**: Takes on a more practical task, which is to arrive at moral standards that regulate right and wrong conduct
The Field of Ethics (2)

- **Applied Ethics:** Involves examining specific issues, most often controversial, such as abortion, stem cell research, researcher-industry relations, and environmental concerns
  - By using the conceptual tools of meta-ethics and normative ethics, discussions in applied ethics try to resolve these controversial issues
  - Compliance programs cannot avoid ethics issues
Application: Ethical Decision-making and IRBs
Health Industry Practices and Relationships

- “All Gifts Large and Small” (AJB 3:3)
- “Health Industry Practices That Create Conflicts of Interest” (JAMA 295:4)
- “Standards for Commercial Support” (ACCME, 2004)
Ethical Norms

- Honesty and Integrity
  - Strive for honesty in all scientific communications, especially in the reporting of data, results, methods and procedures, relationships, and publication status
  - Do not fabricate, falsify, or misrepresent data
  - Do not deceive colleagues, granting agencies, IRBs, or the public
Ethical Norms (2)

- **Objectivity**
  - Strive to avoid bias in experimental design, data analysis, data interpretation, peer review, personnel decisions, grant writing, expert testimony, and other aspects of research where objectivity is expected or required
  - Avoid or minimize bias or self-deception
  - Disclose all personal or financial interests that may affect research (even potential)
Ethical Norms (3)

- Respect for Intellectual Property
  - Honor patents, copyrights, and other forms of intellectual property
  - Do not use unpublished data, methods, or results without permission
  - Give proper acknowledgement or credit for all contributions to research
  - Never plagiarize
 Responsible Publication
- Carefully and critically examine your own work and the work of your peers
- Publish in order to advance research and scholarship, not to advance your own career
- Share data, results, ideas, tools, and resources and be open to criticism
- Avoid wasteful and duplicative publication
Ethical Decision-making: Further Applications

- Please refer to handouts