Moral Obligations
(In An Immoral World)

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United Insurance Educators, Inc.
8213 – 352nd Street East
Eatonville, Washington 98328-8638
(253) 846-1155

www.uide.com or www.cheapce.com
mail@uide.com
# Moral Obligations

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mail@uiece.com
Moral Obligations

(In An Immoral World)

Our Debt

Man, in his ignorance, steeped in conceit,
Over and over his careless sins repeat.
Hoping that, somehow, time will relent
And return the treasures he recklessly spent.
By Purdy J. Conrad

Defining Morality

Morality is the conformity to rules of right conduct, states Webster's dictionary. Morality is not always the same as ethics, but they do go hand-in-hand and frequently have overlapping meanings. Ethical behavior does not always conform to the “social thinking” of the times. When an individual goes against what society terms “legal” it does not mean that he or she is either right or wrong, merely that he or she is following their own convictions. Some disagreements over ethical behavior have resulted in an individual or group of individuals being sent to prison or even killed by society. Luckily, most of us will never be in this position today. Our disagreements over morality can usually be fought out through our legal system.

When one society strongly disagrees with another society, war sometimes is the end result. It does not need to be a declared war, as Americans realized on September 11th, 2001. Terrorists took the lives of hundreds of people, along with their own. These individuals were fighting what they proclaimed to be a “holly war.” It’s very difficult to deal with such people because they really do believe in what they are doing, as evidenced by their willingness to die. Even though we certainly disagree with their lack of moral judgment, in their eyes it was the right thing to do. When terrorism is fought for beliefs, it is very difficult for the world to prevent it. It is much easier to deal with those who are fighting for territory, power or riches. At least that has something to focus on. When one culture believes their actions to be right, no matter what the consequences to others, the only way to change the situation is through education. Education is a long, sometimes seemingly impossible path to change.
Staying On the Path

In today's world of materialism, morality is a difficult thing to maintain and almost impossible to prove. Each of us wants to be considered a "moral person," as determined by our peers. Each of us tends to set our own standards of morality, and we always believe we're right. Ethics and morality are all about perceptions of right and wrong. Perceptions do not necessarily need facts to back them up. However, even though we may not be aware of it, our perceptions were pulled together over our lifetimes from our experiences, our religious beliefs, and the education we accepted as fact. That is precisely why an individual or groups of people can be persuaded to kill in the name of some moral pretense.

It is also important to realize that perceptions of what constitutes morality can vary greatly among cultures. Just because Americans believe killing another is wrong does not mean that all people believe this. Unfortunately, it may take only one man to convince another that murder is the right way to achieve a goal.

We would like to believe that only other cultures fall prey to this, but we have had some powerful reminders that Americans can also murder in the name of morality. Abortion doctors have faced this issue for years. They have been the target of murder because of their belief that a woman has the right to end their pregnancy. Timothy McVeigh murdered many while pursuing his beliefs.

When murder seems to be a solution in someone’s mind, hate is nearly always the driving force behind it. Love never kills another. Murdered women are much more likely to be murdered by a spouse or boyfriend than by a stranger. Ironically, these murderers nearly always kill the woman out of “love.” Obviously, love does not really exist, but it is the emotion that is named. These murders are the result of a need for power and control. In fact, most types of murder (other than those resulting from accidents) come from a need to control others or finances. Since it is not socially acceptable to say: “I want to control you”, the individual looks for a socially acceptable reason, one that might get sympathy. Therefore the individual voices other reasons, such as love.

Since this is a course on agent ethics, murder seems very far from the topic. Of course, we know that murder is not moral. Rationalizing it will never change this fact. Murder is the extreme end of ethical conduct. Luckily, agents will be faced with moral issues that are not nearly as significant. Or are they? If an agent routinely misguides the finances of his or her clients, the results could mean the death of the consumer’s financial independence. That certainly isn’t murder, but it could mean the devastation of their financial security.

Ethics and morality are all about perceptions of right and wrong.
Moral Obligations

What Are Moral Obligations?

Obligation: (ob-la’shen) n. 1. the binding power of a promise, contract, sense of duty. 2. debt 3. the state of being bound to do something.

Wagner’s College Desk Dictionary

Morality is the conformity to the rules of right conduct, stated Webster’s dictionary.

An obligation is the binding power of a promise. When an obligation is moral in nature, it then becomes a promise or duty to be moral in actions and thoughts. There can be many types of moral obligations. Even children have moral obligations and adults certainly have them. Our first moral obligation is to ourselves and this begins in childhood. We have a moral obligation to obtain education so that we may be able to support ourselves and those who are dependent upon us for financial support. We have a moral obligation to our parents, our spouse, and our children. We also have a moral obligation to our community. We even have a moral obligation to our pets, since they depend upon us for affection, food, and shelter. Many believe we have a moral obligation to our planet. Depending upon our beliefs, we may also have a moral obligation to our God.

All of this “moral obligation” to nearly everything around us sounds pretty ominous, but moral obligations are not really that difficult. It is merely the recognition that each of us owes something not only to ourselves (although that is our first moral obligation when we are young), but to the people and world around us.

How do moral obligations begin? As we enter the school system as children we have a moral obligation to learn. The education we receive will be the basis of independence as adults. Of course, our parents have a moral obligation to set educational standards for their children and provide an environment in which learning can take place. Children have a moral obligation to be honest in their learning. Again, parents have a moral obligation to demonstrate honesty at home, which provides an honest environment for their children. Parents have a moral obligation to expect honesty from their children. This parental expectation is the basis for children to learn honesty.

Schools have a moral obligation to provide a safe environment in which to learn. An educator once said that it could be nearly impossible for even the best student to learn if they are afraid for themselves. Schools have a moral obligation to provide their students with security, without fear for their safety from other students or teachers. Such things as student harassment must never be allowed.

As we mature, we have a moral obligation to our parents. Since they provide our housing and food when we are young, we owe them respect for what they provide. We have a moral obligation to recognize the sacrifices our parents make to provide us with our needs. In recognizing this we owe our parents the courtesy of

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following the rules they set down. Parents have the moral obligation to treat their children with respect, so that they may understand how to return it. No mother or father can expect their child to learn and use respect unless they also demonstrate it.

As we leave school and enter into our own career paths, we have a moral obligation to our employer. It is our moral obligation to be honest, giving a full day’s work for a full day’s pay. Our employer owes their employees a fair wage for the job they perform. Employers have a moral obligation to provide their workers with a safe work environment. Employers have a moral obligation to be honest with their employees. We have just seen an example of an employer who failed in all their moral obligations towards their employees. Enron demonstrated a lack of morals towards their employees, their stockholders, and their country. Those in charge went on a rampage of self-enrichment in an environment that apparently encouraged pushing the financial and moral limits. Enron is a clear example of why there must be moral obligations in the workplace.

Each of us has a moral obligation to treat others justly. This includes our coworkers, our family and friends, and even those we meet casually during the day (such as the store clerk). We certainly have a moral obligation to our clients. While moral obligations involve the big issues, like honesty, it also means the simple things, such as courtesy towards others. The "pleases" and “thank yous” of life are what makes our day either pleasant or dreadful.

Legal Issues

We know that insurance agents and financial planners have legal obligations that are mandated by law. Moral obligations, while often similar to legal obligations, are more personal in nature. Moral obligations reflect what the individual believes in personally. Moral obligations reflect the agent’s beliefs about themselves and others.

Moral obligations often closely mirror legal obligations, since laws are passed to protect the consumers. What each of us considers moral obligations will be similar, with variations based on personal beliefs. As an educator, we feel each agent has some very definite obligations to the consumer and to the industry. These obligations are both moral and legal. Our list would include:

1. Completing your own education without "help" from other people or entities. Agents have been known to have their secretaries complete their correspondence education for them. They have also been known to have someone sit in seminars in their place, or leave for most of the day after signing in. Such practices are not only unethical, but illegal as well. We know that many agents feel they already know everything worth knowing. When state guidelines require education, however, that becomes a legal obligation (and let’s be honest: even the smartest agent doesn’t know everything). It could be argued that it is also a moral obligation to follow state requirements.
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2. It is obviously a moral and legal obligation to treat our clients well. This includes many elements, including (but not limited to) being honest, correctly stating policies as they actually are, and giving each person the courtesy that we ourselves would expect. Some consumer contact issues are specifically legal obligations. How advertisements are printed, how we represent ourselves and the products, and the promises we make.

3. We have obligations to our families. The legal obligation involves such thing as child support when marriages end, planning ahead for retirement so our children are not burdened by us financially, and paying our bills on time. As is so often the case, these legal obligations could also be called our moral obligations. We also owe our families respect, courtesy, and kind treatment. It is sad that so many of us treat strangers better than we treat those we love. There is the warped idea that those who love us should tolerate treatment that strangers never would.

4. We have a legal obligation to our employers and, if applicable, our employees. Whether we are a captive agent or an independent agent, each company that we represent deserves to be represented honestly and fairly. This is a moral obligation, but it is also a legal obligation. Agents sign contracts with the insurance companies they represent. Those contracts will specifically state that agents are to fairly and accurately represent them. The same is likely true for those subagents we hire.

5. In some situations there is a legal obligation to our immediate community. It is becoming increasingly common for communities to have legal agreements that state how each neighbor must interact with their neighbors. It covers everything from noise levels, to the number of cars on the premises; to the colors they may paint their houses. These covenants are legal agreements and, as such, legal obligations.

Each of us has moral obligations to everyone we come in contact with. Certainly we must follow the legal obligations in our lives, but what forces us to follow the moral ones? Unless they are connected to our legal requirements, there is nothing that actually forces us to be moral. Peer pressure might bring some results, but moral actions are primarily up to each individual.
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Professional Ethics

Ethics, as applied to insurance, is defined as "formal or professional rules of right and wrong; a system of conduct or behavior." Ethics are standards to which an insurance agent or broker must aspire to, feeling a commitment to each client. Every type of profession generally has an informal "code of ethics" which may sometimes be more understood than written.

As someone once said,
"If you have chosen to live your life as if there is no God, you had better be praying you're right."

The literal meaning of ethics is:
eth'ics (eth'iks) n. pl. (1) the principles of honor and morality. (2) accepted rules of conduct. (3) the moral principles of an individual.

The New American Webster dictionary

It would be impossible to state a specific code of ethics as the one true code (although there are many examples of those who attempted to do this). Ethics are determined by the standards of each culture and by each individual within that culture. Even within each culture, there can be different views of what is ethical. This is especially true in countries like ours that are made up of a wide mixture of backgrounds.

Codes of ethics, while having many variances, are basically simple: behavior, thoughts, and opinions are either right or wrong according to someone's particular perception. It must be understood that ethics are purely about perceptions. If one is acting according to what he or she perceives to be ethical they are acting ethically, even if the rest of the world disagrees. Even though a person is acting ethically based on their own set of values that does not mean the rest of the world must allow their behavior. Consequently, governments mandate behavior in the form of laws. It is this conflict of belief that often pits individuals against the government.

Ethics involve the questioning of why certain things or actions should or should not be done.

For centuries, probably since man first emerged, individuals and even countries have argued over what is and is not ethical. Wars have been fought over disagreements. In our own country, the civil war was fought over a disagreement about ethical conduct. Ethics involve the questioning of why certain things or actions should or should not be done. Purists believe that what is right for one is right for all. Therefore, slavery could not be considered ethical unless every
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individual would agree to being a slave to another. Obviously, those who owned slaves would never have considered slavery for themselves. What was stated as a moral stand (our slaves need to be taken care of) was actually a financial stand. Slave owners wanted to use others for their personal good.

State Mandated Ethics

It has been said that it is impossible to mandate a code of ethics; only actions may be mandated. A person who is willing to lie to their clients in order to earn commissions would do so on a continual basis if there were no consequences. However, they may refrain from lying to avoid prosecution. Therefore, the state has successfully controlled the agent’s behavior, but not necessarily his code of ethics.

Can ethics be taught? The first problem with this question has to do with "teaching" a belief. While education is the basis for most ethical thought, adoption of an ethical belief only works when the recipient accepts the concept. Ethics are based on something we believe in. There was a time when people thought the world was flat, not round. When it was discovered that our beliefs of the earth were mistaken, simply pronouncing this could never have changed all the perceptions people already had. Rather it was necessary to influence them by proving the new facts that had been discovered. Some people accepted and believed these new facts while others did not.

Presentation of ethical views may be a manipulation of facts. This is nearly always the case when the individual presenting those views has something material or personal to gain. The gain need not be financial. Gaining power is often the goal. Power is often the motive of those who are willing to do anything to achieve their goal. Of course, power often brings wealth.

There is no doubt that ethical views can be influenced by those around us. Parents influence their children's ethics every day. Not by what they say necessarily, but certainly by their actions. Some learn ethics by watching; some learn their ethics by listening. Whichever way ethics becomes part of our lives, we do learn them. It is important to realize that we learn unethical views as easily as we learn ethical ones. The child who sees his parents cheat on their taxes, take advantage of another business or client, or criticize the neighbor’s religion is learning a code of ethics. The code of ethics they are learning just aren’t what the parent may be intending to teach them.

How we reward others for their actions will also leave an imprint. A three year old is acting up at the grocery store, so the child’s mother hands him a piece of candy. She has just influenced her child. Obviously her intent was not to reinforce the negative behavior. Her intent was to distract the child. The lesson learned, however, was that bad behavior is rewarded. If this happens often enough, a pattern is formed.
When we experience something like the terrorist attack on New York, we cannot possibly understand the motivations behind such needless hate and needless death. It is nearly impossible to even consider it in an “ethical” light. Even so, our world’s history is full of such hate being connected to proclaimed morality. The pure ethicist would say that killing another is never ethical or moral and they are right. In the purest sense, ethical conduct never allows the taking of another life. Some ethicists even apply this to animal life. Because definitions are variable, however, the modern view of ethics states one only needs to perceive the act as ethical. The fact that we see their thinking as marred makes no difference. It is due to these variable definitions that even ethicists disagree on what constitutes ethical behavior.

It is generally understood that only behavior may be mandated. Simply passing laws does not mean a person will change their beliefs or their actions. The laws do mean that consequences are in place should the person go against the mandates. We often see problems arise when those from one culture enter another. For example, in many countries women have no legal rights. Some countries even allow husbands to injure or kill their wives without consequences. Those countries do not feel this is immoral. Rather, they believe Western cultures are immoral for allowing their women so much freedom. When two cultures clash, we cannot hope to change beliefs. All we can do is mandate behavior and carry through with legal ramifications when necessary.

Even stealing may have shades of right and wrong. While most of us would generally consider stealing to be wrong, who wouldn't steal in order to feed their child or themselves? If a person is hungry, is it still wrong to steal food or money to buy food? Legally, it is. Is it morally wrong? This is what causes moral debates that never end.

Legal authorities hope passing laws forbidding certain actions will change the course people or businesses follow. This has been largely successful. As it applies to insurance, the companies and their agents do tend to follow what the states and federal government have mandated. It is further hoped that the agents will begin to adopt the philosophy that they are following. Behavior is often a matter of habits. When an agent consistently follows the same course of action, even though he or she is doing so only because it is mandated, it may become a lifelong habit. Since morality is about the way one lives their life, habit is likely to be part of that behavior.

Several states require that ethics, as a subject, be included in the required continuing education. Some of the states that require this are Delaware, Georgia, and Iowa under specific circumstances, Nebraska, New Mexico, and Texas (classroom only). This list is not necessarily inclusive.
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Certified Financial Planners are also required to take an ethics course, but their required course is very specific.

Some states require ethics, as a subject, be included in continuing education.

Why would a state try to control the ethics of an agent? Some professionals feel the states would be wiser to simply exclude those agents whose conduct seems questionable. Since ethics involve perceptions, however, this can be a long and complicated legal matter. Certainly those agents who break the law may be excluded. It is those agents who never actually break the law, but seem to bend it continually that the states are most concerned about.

Principles versus Rules

There are two distinct and separate sides to ethics: principles and rules. Principles are the statements expressed in desired conduct, though not actually mandated by law. Rules are those actions and non-actions that are mandated by law. Rules often start out as principles but become rules, as more and more agents seem to violate them.

Those states that have chosen to either make ethics part of the renewal education cycle, or as part of punishment when rules have been broken, hope that exposing agents to ethical concepts will impress upon them the importance of high professional standards. Since many professional educators do not feel that ethics can be taught, there is disagreement about the concept. Even so, it seems to most of us in the educational field that it is better to expose a person to the expectations of ethical standards than ignore them entirely. At least by exposing individuals to ethical standards, there can be no excuse for not following them. The old "I didn't know" excuse can't be accepted if the agent has repeatedly had to take education that did specifically address ethical requirements as well as rules of conduct.

Meeting Educational Requirements

Most states do now require agents to obtain some amount of education. This required education is usually referred to as CE hours (for continuing education hours). We like to think that most agents understand the reasons for this, and would be continually educating themselves with or without this requirement. We realize that experience is a valuable source of education and a necessary part of our lives. However, when it comes to some professions, who would volunteer as the learning tool? Would we want a doctor learning from his mistakes at our expense? Would we want an attorney, who had never tried a criminal case, learning how from a member of our family who was accused of a crime? Would we want the appliance repairman tearing our refrigerator apart to learn how it works? Probably
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not. It shouldn’t surprise any agent to realize that their clients do not want agents learning the trade at their expense either. No matter what the profession, we all want someone who is educated helping us.

Most consumers want those they deal with to be educated on a continual basis. We expect the man who repairs our cars to be up on the latest technology. We expect the attorney who handles our estate planning to be well versed in the newest laws. We expect the surgeon who will operate on us (or a loved one) to know the most recent medical breakthroughs. Why shouldn’t our clients also expect us to know the latest in insurance design?

As every agent knows, the only way to stay on top of things is to continually learn. This is done in multiple ways. Reading company literature and industry brochures are an excellent source of new information. Insurance companies are probably a better source than any other for new trends or updated information on existing policies. However, every agent must be aware that insurance companies are selling not only to consumers, but also to the agents themselves. Companies always need new blood to market their products.

Mandated education can also be valuable. Agents often complain that courses seem repetitious. Unfortunately, that may be true. Some areas of insurance do not see great change, so courses will be similar to each other. Mandated education, in some states, may be structured by state regulating authorities, which limits the course content to subjects the states feel are relevant to the industry. This is not a perfect world and there will be times when all must conform for the benefit of some.

Agents who live in states requiring mandated education must take responsibility for their requirements in a timely manner. No agent should wait until the last hour before seeking it out. It is true that time can easily get away from us, but there is a simple solution. Agents should simply write themselves a note and insert it in their appointment calendar. Then education can be ordered in a timely manner. Of course, ordering it is simply the first step. It must also be completed and returned to the providing company.

Education providers are not responsible for an agent’s time requirements. Nor are education providers required to keep a list of previously taken CE courses. It is the agent’s responsibility to begin their education and complete it well before the actual due date. Some providers do keep records of previously taken courses and will alert the agent if they are repeating. However, this is a courtesy and not a state requirement in most cases. Agents should keep a file with a copy of each Certificate of Completion in it. The most recently taken course should be on top and the oldest on the bottom. Many agents also prefer to tab the edges by year. That way, an agent can see at a glance the year in which each course was taken. If
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an agent is audited by the state, the agent must provide proof of all courses taken. That means they must have either copies of their certificates or the originals (depending upon the state) accessible. The agent would be wise to go one step further: keep a list on the outside of the file folder. It would look like this:

<table>
<thead>
<tr>
<th>Date</th>
<th>Course Title</th>
<th>Course Number</th>
<th>Provider</th>
<th>Credits</th>
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<tbody>
<tr>
<td>3/15/11</td>
<td>Fire Insurance Made Easy</td>
<td>000001</td>
<td>Allstate</td>
<td>5</td>
</tr>
<tr>
<td>2/2/12</td>
<td>Insure That Home Today</td>
<td>000002</td>
<td>Insurance World</td>
<td>12</td>
</tr>
<tr>
<td>4/8/13</td>
<td>Insurance Principles</td>
<td>000003</td>
<td>UIE</td>
<td>6</td>
</tr>
</tbody>
</table>

Keeping a record of this type prevents repeating a course and it alerts an agent when he or she is short the required amount of credit hours. In nearly every case one hour is the same as one credit.

Agents may be audited by the state. Why would an insurance agent be audited? There are many reasons. If the company they purchased their education from felt that unethical behavior existed in completing the test, the state may be notified. Some states actually require that the education provider notify them when suspected cheating occurs. Seldom will the state tell the agent who reported the suspected illegal activity. The state will simply request all records and begin an audit.

The state might also simply audit on a hit-or-miss basis. In other words, periodically agents are pulled from their records at random and then audited.

Most audits occur because consumers have been complaining about an agent’s activities. In this case, an audit of the agent’s education is simply a part of the overall investigation.

When an agent appears to have completed their education in an unethical or illegal manner, their state will not be sympathetic to their reasons. No matter how compelling the reason may seem the state will expect agents to act ethically. Would consumers want it any other way?

States do change educational requirements periodically. Not all states will notify agents individually. Luckily insurance companies do a fairly good job of printing changes in their newsletters. Of course, this means an agent must read them!

Insurance agents are not the only professionals who must complete mandated education. Medical professions generally are required to complete education, as are accountants, real estate agents, and attorneys. No matter what the profession happens to be, education is an important part of keeping current.
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Preventing Public Harm

When it comes to a public occupation, such as insurance and financial planning, the state is the authority on ethical conduct. Anything that would harm the public is automatically considered to be unethical. This would include such things as revocable living trusts that were sold inappropriately, replacement business (especially in some parts of the insurance industry), and over selling, often called excessive selling.

When the individual state insurance departments determine that an action is harmful to the public, they typically hold public meetings and eventually pass legislation. In nearly every circumstance, the legislation is aimed at protecting the consumer.

Certified Financial Planners Board of Standards states the following list to be areas of ethical issue:

1. Integrity
2. Objectivity
3. Competence
4. Fairness
5. Confidentiality
6. Professionalism
7. Diligence

Integrity

Since our clients must trust that we will perform appropriately and with skill, personal integrity is necessary. Webster’s dictionary defines integrity as “1. fidelity to moral principles; honest. 2. soundness; completeness.” Soundness and completeness, while usually considered a physical term rather than a moral term also applies since financial planners must achieve a complete financial picture and construct a complete financial plan for their clients. While anyone can make an innocent error or have a difference of opinion regarding a financial matter, integrity is never greedy or dishonest. A person with integrity applies not only the letter of the law, but also the intended spirit of the law.

What is the spirit of the law? This means following the regulation as it was intended. We have all heard of the so-called “loopholes” in a law. We understand the meaning all too well. An individual or company has discovered a way to circumvent the intended benefit of the law.
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Objectivity
To be objective, one must be impartial and that can be a difficult thing, especially when we are selling on a commission. Even so, intellectual honesty does pay off as one client tells another of what the agent presented to them.

Competence
Ethics can involve something as simple as competency (although proving it is anything but simple). There are several types of incompetence: the inability to adequately perform one’s job, lack of necessary education, or a mental deficiency that does not allow proper job performance. There may be additional types of incompetence, or multiple shades of those stated. Perhaps the most pervasive type of incompetence in the insurance industry is lack of education (not necessarily formal education).

A common problem relating to competence is seen in nearly every profession: those who insinuate or actually state that they have more education or experience than actually exists. To mislead a new or existing client in such a way is certainly unethical and may lead to severe financial errors. Competence includes the wisdom to recognize one’s limitations and inform the client that the subject is an area that he or she is not sufficiently schooled in. Doing so will not hurt the client/agent relationship. In fact, it is likely to seal it since the client will know the agent is trustworthy.

The courts have determined that agents are considered to be “contract specialists.” Therefore, merely possessing a valid insurance license qualifies the individual as a contract specialist. While that sounds like a good thing, it can lead to lawsuits against agents who presented and sold insurance contracts inappropriately. When these agents ended up in court, the “I didn’t realize” defense was not acceptable. Most agents report, however, that they have never read the very policies they are selling. They commonly read only the brochures and rely upon them to determine which products they sell to the public. This can be a very costly mistake for the agents. It is ironic that insurance agents routinely tell their clients to read the very documents that they themselves have not read.

The inability to perform one’s job is not unusual. Who has not had a clerk who could not properly count change or spoke on the telephone with someone who did not seem to know their own job? Most of us complain about it, but it is not something that will permanently affect us. When it comes to the insurance industry, incompetence affects both the agent and the consumer. Like accountants, insurance agents can be found negligent and financially liable for that negligence in very broad areas, including health insurance, life insurance, long-term care protection, and retirement planning issues. In fact, in the book written by Cheryl Toman-Cubbage, titled Professional Liability for Financial Planners, she writes, “Negligence is the broadest area of exposure for an insurance agent. It involves errors and omissions made by him or her. The most typical are failure to place
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necessary insurance, failure to obtain proper coverage, failure to properly advise of the company's rejection or lack of coverage, failure to cancel a policy at the insurer's request, and failure to fully disclose the nature of the risk."¹

Negligence is the broadest area of exposure for an insurance agent.

Even good agents can be found legally liable, but with proper communication the potential harm can be minimized. Many areas can cause legal problems. Advice or instructions that prove to go against what the family felt appropriate can cause legal action. In addition, property/casualty agents might be expected to suggest flood insurance in certain areas of the country. Certainly, a property/casualty agent would be expected to suggest umbrella liability insurance to those clients who have financial assets at risk. Failure to inform them of this possibility can lead to lawsuits. For the life and health agent who practices financial planning (with or without the proper credentials), courts have ruled that they have a responsibility to suggest a long-term care insurance policy, especially if their client has large financial assets at risk. Suggestions for these additional coverages, while producing a commission for the agent, should really be done for a much greater reason: self-preservation. By suggesting coverage that protects the assets of the client, the agent is also protecting their own hard earned assets. Of course, there must be proof that such suggestions were made. The agent would be wise to have a disclaimer signed when the policyholder refuses to accept suggested insurance policies. Many lawsuits are not brought by the insured that knew what the agent had suggested, but rather by their families, who had no knowledge of past conversations.

For example:
Ralph King was seventy years old when his agent, Jose Moralez suggested that he purchase a nursing home policy. The cost was more than Ralph was willing to pay, so he declined the coverage. Luckily, Jose had Ralph sign a form stating that such coverage had been offered.

When Ralph suffered a stroke, his family found it necessary to institutionalize him in a local nursing home. Ralph’s son blamed Jose Moralez because his father had no coverage for this very expensive care. He hired an attorney to force Jose to pay for the care out of his own pocket. However, Mr. Moralez was able to produce the signed disclosure form, which freed him from any financial liability.

There are many situations that pose a liability for the agent when their clients are underinsured or not insured at all for risk exposures. Agents often feel that they cannot win: if they try to sell too many products, they are accused of greed; if they fail to sell enough they are accused of incompetence. The educated agent will offer

¹ Professional Liability Pitfalls for Financial Planners by Cheryl Toman-Cubbage
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all the necessary products and leave the final decision up to the client. Whatever decision is made, however, it should be noted and signed and filed away indefinitely in the client’s file. Documents should be kept several years past the client’s death or policy cancellation.

Fairness

When we were children, our parents told us to “play fair.” Even children grasped the concept that fairness required honesty and consideration of others. In today’s world, it seems adults often do not understand this very simple concept. In the insurance industry, fairness requires disclosure of conflicts of interest, intellectual honesty and certainly impartiality. It also means setting aside personal prejudices when working with others to achieve a proper balance in a financial plan for a client.

Confidentiality

We all know that it is wrong to state or sell the personal information of another. For the insurance agent, confidentiality generally does not involve selling information. It is more likely to be a matter of keeping information private. People seem to have trouble keeping their mouths shut. Personal trust can never develop if the client does not trust the person they are working with. This is especially true when it involves their finances. Except as required by state or federal authorities, client information should never be released or stated to anyone.

Professionalism

We hear the word so often that it has lost its meaning. Specifically, professionalism means one who reflects credit upon their given profession. This covers a broad range from courtesy to knowledge of the services offered. Even though the definition is broad, we know a professional when we see him. He is well educated in his field, his demeanor lends respect, and he is respectful of others. Of course, appearances can be deceiving. Some of the best con men looked extremely professional in their demeanor. Appearance is no guarantee of trustworthiness, but performance of one’s job certainly is.

Diligence

Diligence is the rendering of services in a reasonably prompt and thorough manner. Due diligence is the complete investigation of any products sold. Both are necessary.
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**CFP Case Law**

**Falsely Stating Education**

When an agent does not follow the ethical standards as required by the CFP Board, complaints result. When a consumer has filed a complaint, the CFP board investigates those complaints. One of the more common complaints is the statement of false education made by agents. An example of this is case [02382]. The complaint came in alleging unsuitability of products sold, churning, unauthorized trading, and failure to keep the claimant informed of the status of their investments and financial plan. The client additionally asserted that the agent failed to disclose how he would be paid and was driven by the commissions he would make rather than the client’s best interests.

When the CFP Board Staff responded to the complaint, they discovered that the individual was using CFP marks but did not actually have them. Even though the agent was able to prove that he had spent considerable time with the client fully covering the products represented and even the commissions involved. However, he had also falsely represented himself as a Certified Financial Planner. The Board of Professional Review found that the agent did not violate the Code of Ethics or the Disciplinary Rules and Procedures, but he did state false education.

**Churning Policies**

When policies are replaced needlessly, it is called churning. In case [02905] the CFP Board received two separate complaints against an agent for this practice. One client alleged that the agent had pressured them into switching their annuity plans to new plans, which they felt he had misrepresented and were ultimately unsuitable. In addition the client claimed the agent had misrepresented applicable fees and charges involved in the replacement.

A second client complained the agent implemented unauthorized and unsuitable transactions in order to gain a commission and further stated that his signature on various forms were either forged or obtained through misrepresentation.

Upon investigation, the CFP board found the agent was also using CFP marks even though his license had been relinquished. The agent admitted to continued use of the CFP marks even after the designation had been relinquished. He also admitted to altering client documents after the client had signed them. Although the agent appealed (and lost the appeal) he was found to have failed to comply with post certification requirements and failed to defend adequately against the allegations made. His CFP marks were permanently revoked.

In another case of churning policies [03067], an agent was alleged to have failed to provide reasonable and prudent judgment in providing professional services to a client. The agent sold a client an annuity policy for which the policyholder exceeded the maximum age of issuance. The agent failed to act in the best interests of her client by encouraging him to drop his existing policy in favor of hers. He incurred surrender fees as a result and was not actually eligible to purchase the
policy that was put in its place. It was further discovered that the agent had failed to complete her post-certification requirements for her CFP designation (payment of certification fees, signing ethic updates and completion of CE requirements).

The agent had her CFP marks suspended for one year and one day.

**Inappropriate Sale – Lack of Due Diligence**

The CFP Board received a complaint against an agent alleging he had advised the complainant to invest approximately one-third of her available investment monies into a variable life insurance policy and another one-third into a housing tax-credit investment. The consumer asserted that she was unsuitable for both investments considering her limited income, net worth, and personal situation. The Board of Professional Review found that the agent had failed to make a reasonable investigation regarding the suitability requirements of the housing tax-credit investment. They also found that the agent had recommended the purchase of a new life insurance policy although his initial research indicated the complainant had no insurance shortfall. The consumer stated the agent had pressured her to invest immediately without allowing her time to consider the products.

The CFP Board of Professional Review suspended his CFP marks for six months.

**Conflict of Interest**

A grievance was filed with the CFP Board against an agent for allegedly selling an inappropriate investment, which the client felt created a conflict of interest. In addition the client stated the agent had borrowed money from her and acted unprofessionally. Upon investigation, the Board of Professional Review found that the agent failed to disclose conflicts of interest in writing, used his CFP certification marks while he was unauthorized to do so, and failed to comply with their post-certification requirements.

The CFP Board of Professional Review suspended his CFP marks for one year.

**Express and Ostensible Authority**

*Where Your Allegiance Is Legally Based*

Agents, as we know, are liable to the clients they serve. Agents can also be liable to the insurance companies they represent. Agents may be considered to be representatives of the insurance company, and therefore liable to the insurance company. These agents are usually called "Captive Agents." Brokers are considered to be representatives of the insured. The broker’s primary allegiance is to the individual clients, whereas the agent's primary allegiance is intended to be to the companies they represent. Legally, knowledge of the broker is not considered to necessarily be knowledge of the insurance company, whereas the agent and the insurance company are deemed to have the same knowledge. That means that it is assumed that the insurance agent has shared all knowledge (such as for
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underwriting) with the company. The broker, who may not have had any contact with the insured, is not deemed to necessarily have the same facts as the agent would (having had personal contact). This legal distinction is critical if someone decides to sue both the agent and the broker, along with the insurance company. In most cases, if the broker is sued, the insurance company can escape liability. If the agent is sued, the insurance company is often considered to be liable along with him or her. This is true even if the agent has been found to have overstepped their express authority. The term, "express authority" refers to the powers given to the agent in the agency agreement or contract. In many states, the agent also has implied powers. This might cover anything that the consumer could reasonably have expected the agent to be able to do. These implied powers are often referred to by the courts as "ostensible authority".

For example:
Sheila Fields wanted to purchase a life insurance policy. Her health was not exceptional, so she urged the agent to write her up immediately. Her agent, Brenda Bar, was fairly new and obviously inexperienced. The company that Brenda chose did not allow any premium to be accepted until underwriting had been completed. Even so, Brenda did accept the premium, and issued Sheila Fields a receipt. Before underwriting had been completed, Mrs. Fields suffered a heart attack and died. Her family found the receipt and argued in court that it implied acceptance. The court agreed and held the insurance company liable for the death proceeds even though their procedures had not allowed Brenda Bar to accept the premium payment. Sheila Field's family won because it was reasonable for the consumer to believe that the agent had the authority to accept the premium payment. This premium acceptance could be considered a "binder" of the contract.

Even though it seemed obvious that Brenda Bar was not an experienced agent, any agent or broker is expected to act with reasonable care and diligence. Therefore, it is in the insurance industry's best interest to expect their agents to be trained. That is precisely why many of the country's largest insurance companies have favored state mandated education. It is also why expanded education, especially in the long-term care insurance field, has been backed and promoted by the insurance companies writing the products.

Morality, as we saw from the CFP files, may also involve conflicts of interest. Some actions could border on fraud or perhaps even actually be fraud. For example, if an agent were to draft some type of legal paper or contract giving him or herself or any member of their family an interest in a client's estate or assets, that would most certainly involve a conflict of interest. In many cases, it would also be illegal.
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Ethics and Risk Control

One of the most compelling reasons to be ethical is to control the amount of risk we face professionally. Businesses need ethical agents to avoid financial loss due to lawsuits. Insurers need their agents to be responsible to avoid accepting applicants that are actually uninsurable or marginally insurable. Knowing this, companies often try to do their part to ensure that agents are aware of their responsibilities. For example, the New England Life Insurance Company requires their agents to view a half hour video. This video contains various situations of potential professional liability and gives possible solutions. Although this is merely exposure to ethics and cannot necessarily change or motivate perceptions, it does tell the agent what is expected of them professionally. If a lawsuit then follows, the video also demonstrates legally that the company is attempting to promote ethical business practices.

Agents are encouraged by virtually all insurers to purchase Errors & Omissions insurance. Some companies will not contract with an agent who does not own such a policy. In a career such as insurance, having E&O protection is a must. Errors and Omissions coverage protects the agent from errors they have made in a presentation or upkeep of a policy and from omissions of statements that should have been made or omissions of policies that should have been placed. Most errors and omissions are made due to sloppy business practices. E&O policies reimburse the injured party for direct financial loss and may, in some cases, also cover defense and court costs. Exactly what is covered will depend upon the policy language of the E&O policy. Many E&O policies are purchased through group plans offered by insurance companies (typically life insurance companies).

E&O policies are liability insurance, which means insurance agents have joined other professionals in their exposure to financial risk directly related to the job they perform. For example, doctors have carried liability insurance for years as protection against lawsuits for mistakes they have allegedly made. Although doctors were the first to recognize the need such coverage, they were followed by attorneys, then accountants, and now finally insurance agents and financial planners. Even though costs have continually gone up for the coverage, primarily due to lawsuits filed, the mounting fear of agents is that eventually no coverage will be available at any price. Even though expensive, professionals realize that the price of E&O insurance is simply part of the cost of doing business.

Agent Liability

Company Insolvencies

In the past, agents merely had to worry that they practiced good sense personally. Now they must also consider the solvency of the companies they represent. This was demonstrated in 1987 in the Higginbotham case in Texas. It began when an insurance company bounced a $429,000 claim check for a fire loss. The jury awarded the policyholder $752,000 from the agent because they agreed with the theory that the agent had not fulfilled his obligation to "obtain the best possible
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insurance for the best possible price so that the client was adequately insured at all
times.” One very important point: the award was against the agent, not the
insurance company. Even though the appeals court reversed the decision, this
Texas award still established the principle that an agent has a duty to inform their
clients of a carrier's financial strength (or the lack of it). Having established this
principle, every agent would be foolish to represent any company that could cause a
client to collect a verdict due to a company failure. It should be noted that as long
as an agent correctly disclosed a company's financial strength (or lack thereof) and
can prove disclosure, he or she would probably be clear of liability.

Third Party Liability

In the past, there was little or no liability as it pertained to third parties. That has
gradually changed as court cases have produced new decisions. Usually this would
apply to situations where use by third parties was foreseeable. The agent would not
generally be liable to the third party, only for results that affected their client or the
client's beneficiaries.

Hidden Costs of Litigation

There are always hidden costs when litigation happens. Sometimes hidden costs
can have a larger and more long-range effect on the agent and his business than
does the settlement itself. An E&O policy will not cover loss of field time, for
example. If the agent is not free to pursue new or additional business (commissions) his income may suffer. Loss of reputation is also certainly a
consideration. If the suing client has contact with other clients of the agent, there
would almost certainly also be a loss of other business, as the perceived injured
client spreads the news of their unhappiness. It might even result in additional
lawsuits if the unhappy client influences others to follow his or her lead. In fact, if
the client receives a large settlement, others may easily follow with lawsuits in
hopes of also receiving a settlement.

Documenting Procedures for Self Protection

The defensive attitude adopted by doctors, attorneys, accountants, and even
architects, must be adopted by insurance agents as well. Obviously all current laws
and company policies need to be followed, but the agent also needs to begin to
document their interactions with clients or potential clients much more fully. Most
importantly, agents must begin to stay within their areas of expertise. This is not as
easy as it might seem. Many insurance companies have recently begun to require
their agents to move into new areas of insurance. For example, many traditionally
property/casualty companies have started to move into the life insurance field.
Some life insurance companies have started requiring their agents to begin selling
securities. Such moves place their agents into potential liability claims. The good
news is that the insurers may be forced to share the blame if lawsuits happen. This
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would especially be true if agents are smart enough to keep all documentation regarding this forced spread of expertise.

When an agent sells a product, if he or she is not fully educated in the product, misrepresentation can easily occur. There is a term often used for verbally expanding what a policy can accomplish for the consumer; it is called "puffing." When an agent claims a policy or security will do more than it actually will, this is generally not grounds for a lawsuit, primarily because it cannot be proven one way or the other what was actually stated. However, in circumstances where an agent assumes additional duties, has a special relationship of trust with the buyer, or holds himself or herself as having more expertise than actually exists, then a special "duty" is present. When an agent gives assurance of proper coverage and that turns out to be wrong, the agent is legally liable for negligent misrepresentation. The insured is not legally required to independently verify the accuracy of the claims or representations made by the agent; he or she can accept them at face value. Therefore, the weight of accuracy bears directly on the agent. Even if the agent told the facts as he or she understood them at the time of presentation, if the agent is wrong, they are legally liable. That is why it is so distressing to consumer advocates when insurance companies pressure agents into fields they are not qualified to deal in.

Imposed by Law: the Covenant or Promise of Good Faith

Every insurance contract contains an unwritten, invisible or implied term referred to as the covenant or promise of good faith and fair dealing. This promise exists because it is imposed by law. Each insurance company is required by law to always act fairly when handling matters involving the consumer. Even if such a clause is not put directly into the policy, it still exists according to law. Judges know this and will act as though such a clause were part of the policy. Legally it is understood that insurance companies must act in good faith and fairly towards consumers. Insurance companies are required to meet the reasonable expectations of the policyholder. Of course, this does not mean that every risk must be covered by the policy. It does mean that the policy is expected to perform as indicated.

A covenant or promise of good faith and fair dealing is imposed by law.

When a case does go to the jury, the jury is always asked to decide whether or not the insurance carrier performed as would be reasonably expected. This would also apply to the agent who represented the insurance product. A company's or agent's business practices or common course of conduct is routinely admissible to show motive, opportunity, intent, plan, knowledge, or the absence of a mistake, or an accident in the manner in which it dealt with the insured party. Intent is not an issue. In other words, even though an agent may have had no intent to misrepresent a policy, if they did in fact do so, they are still liable financially. The policyholder
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only has to show that misrepresentation happened. The reason it happened is not relevant to the courts.

Time limits on filing claims against agents and insuring companies will vary from state to state. These time limits are called *statutes of limitations*. In most states, there is a two-year limit, but it is important to know the laws of your own state. Some states have only one year to file a claim against an insurer or agent.

There are policies that actually state the statute of limitation in the policy, regardless of what the state might impose. This policy limitation is called a *contractual obligation*. This contractual obligation may override any state time limit. As always, it is necessary to seek legal council to determine what applies to each individual circumstance.

Professionally Moral

Since all of us have moral obligations, it would seem that ethics are the same for everyone. Specialists in any industry have knowledge that other individuals do not. Therefore, laypeople must rely on these professionals to be honest. Confidence of ethical standards must exist for laypeople to trust the professionals. It was the potential abuse of specialized knowledge that provided a set of rules commonly referred to as *ethical behavior*. Sometimes, ethics are written standards; they may even be in the form of legislation or laws. The premise, upon which practical ethics must be based, according to Stephan R. Leimer of the American College where he is a professor of taxation and estate planning, is that power must be exercised in the interest of the clients who seek the professionals out and may not be exercised solely in the best interests of the professionals themselves.

Professional ethics are a means of creating standards within any given profession to upgrade it and give it honor. It is a means of measuring performance and, in some cases, acknowledging outstanding individuals. Ethics often are a means of providing priorities and building traditions based upon integrity.

Every industry claims to have professional ethics, but the public believes some industries have little or no ethics. Unfortunately for the honest agent, insurance is an area that is often accused of having no professional standards. These accusations have led to changes in the law and even changes in the commission structures of some types of policies (such as Medicare supplemental policies). Only by demonstration will the public begin to perceive the insurance industry as ethical.
Honesty – A Moral and Legal Obligation

Not only is honesty a moral obligation, but in the insurance industry it is also a legal obligation. Simple honesty should not be complicated. It means representing each client without regard to personal financial gains, keeping the client's welfare in mind. It is the act of full disclosure on all products represented and personal integrity in the process.

Few of us actually spend any time thinking about honesty. Each of us certainly expects those we deal with to be honest. Some years ago, dishonesty in the insurance profession didn't seem to have many consequences, but that is no longer true. Attorneys constantly need new industries to conquer, and the insurance field has been hit with more lawsuits than ever before.

In the late 1970's, insurance regulatory changes and high interest rates brought about products that seemed ideal for those interested in financial planning. These included such things as universal life products, along with some other types of products. Permanent life insurance, rather than term products, became part of investment portfolios.

Computer software also became the insurance agent's best friend. Such software allowed an agent to print assumptions based on interest rates that were unrealistic. These printouts looked very professional to the consumer and influenced sales of products that made promises, which would prove impossible to achieve. Some of the exaggerated printouts came directly from companies, but many more came from the agents themselves. Percentage rates as high as 19% were commonly demonstrated. These high interest rate illustrations gave the impression that the life insurance premiums could "vanish" entirely in as little as four or five years. While many policies do allow the policy to pay premiums after a length of time, these interest illustrations were not realistic.

Normally, premiums vanish because the dividends in whole life policies, or the interest rates in universal life policies, are high enough to allow the premium payment from these earnings. The premiums are paid from the cash buildups. Universal life policies were especially sold on the basis of vanishing premiums because the policy contract allowed the owners to pay more than required, less than required, or no payment at all.

When the interest rates of the 1970's and the 1980's began to fall, the results had the opportunity to be disastrous from the policyholder. Those who purchased policies on the basis of disappearing premiums actually found they had to pay premiums years longer than promised or lose the coverage entirely, as it devoured itself. A properly illustrated policy can eventually pay for itself without collapsing as it uses cash values to keep the policy going. This usually requires a minimum, at current interest rates, of 15 to 20 years of premium payments. If these policies had
been sold honestly, insurance agents might have avoided the current reputation that exists.

**Policy Replacement**

Replaced policies are often referred to as "churned policies." Agents who churn policies convince policyholders that a new policy is more advantageous than the one currently in force. This may well be true, since newer policies often give benefits that older policies did not. Unfortunately, too many agents churned policies that should have been left in place. This was often especially true when it came to life insurance policies that needed duration to provide full benefits. These older policies contained large cash values, which were used to buy replacement policies. The newer policies typically had a much higher death benefit, although they may not have cost more in monthly premiums since the cash value in the old policy offset the cost. Many policyholders reported that they were told, on the basis of illustrations using higher interest rates than were actually realistic, that they would only have to continue paying premiums for a short time. In fact, they used up their cash value in the old policies, yet still had to continue paying premiums for much longer. If these clients actually desired higher death benefits, the change in policies may have been warranted, but often this was not the desire of the policyholders. What they really wanted was a paid up policy.

What was the result of these policy replacements? Many consumers contacted their attorneys and lawsuits followed. There was even talk of a class action lawsuit which would have involved thousands of policyholders who considered themselves financially injured. Such a class action lawsuit would potentially include:

- Those who purchased a policy and then let it lapse because of cost.
- Those who cashed in one permanent life insurance policy, using the cash value to purchase another, unless there was a valid reason for doing so.
- Those who received an insurance illustration using unrealistic interest rates, which assumed premium, would vanish. Today, an unrealistic illustration almost certainly would come from the agent rather than the company. Today's companies are careful not to get caught up in such legal danger.
- Those who bought permanent insurance policies between 1979 and the mid 1990's. These consumers may automatically qualify for some amount of restitution, even if they were not visibly victimized. That is because class action lawsuits generally do not argue their case on the basis of individual claims or circumstances, but rather as a group. As a result, those who fit the general profile may automatically be included whether or not any unlawful or immoral practices were present.
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Individuals may be both part of the class action lawsuit and file for individual recourse as well. Although the courts do not always allow both legal actions, it is not uncommon for both to exist. In most cases, the individual will need to choose between a group legal action and an individual legal action. Generally, only those who can show individual fraud or egregious behavior by the agent will do well individually.

A class action lawsuit does not necessarily hurt those who caused the problem initially, which would primarily be the selling agents in this case. The insurance industry is an ever-changing field. The turnover rate of agents is exceptionally high. It is likely that the majority of agents who used the outlandish interest rates and replaced policies that should not have been replaced are no longer even in the insurance business. Not only do many agents voluntarily walk away from the insurance industry, but when companies feel uneasy about an agent's selling practices, they also terminate them.

Many companies have already settled to avoid a class action. Those who were injured by stockholder owned companies come out well. On the other hand, when companies are mutual companies, they are actually owned by the policy-owners themselves. In that case, they are, so to speak, suing themselves. As a result, the lawsuit, while benefiting individuals, also harms individuals. Some mutual companies that have settled include Prudential, Sun Life of Canada, John Hancock and Metropolitan Life.

Some insurers have absorbed huge losses. They must pay some individuals large amounts to compensate for the financial harm that was done to them. What the policy-owners may not realize is that the multiple payouts to the consumers will also affect the policy-owners that remain with the companies. These losses will affect the amount of dividends or interest paid in the future to current policyholders.

When publicity makes insurance companies and their agents appear unethical, it is bound to affect the industry as a whole. Even those companies who employed good ethical people and made a point of overseeing the actions of their agents will be hurt. Many companies, who seemed to have an overall good reputation, have settled lawsuits quickly simply to avoid adverse publicity. Class action lawsuits always hurt the perception people have of the industry and this does show itself in the marketplace. Prior to the 1970's, the life insurance industry held a good reputation. Those who were in the industry prior to that time enjoyed a respect for their career that is no longer present today.

The extreme results of restitution, as well as the penalties that resulted, have been staggering. Prudential, as of 1999, had paid out, or agreed to pay out, $410 million to policyholders and more than $60 million in fines and other costs. John Hancock paid out settlements to policyholders of $350 million. Their settlement included 3.7 million affected policies. Equitable of Iowa agreed to pay $22 million in
settlements. Metropolitan Life, which was the first company that agreed to settle, paid around $70 million in restitution and fines. Sun Life of Canada agreed to pay $65 million to their Canadian policyholders, which amounts to approximately 400,000 policy-owners. Their affected policies were sold between 1980 and 1995.

These are not the only companies involved, but they are some of the best known names in the industry.

The industry analysts believe that insurance industry lawsuits will continue for some years to come because more and more injustices (or even simply perceived injustices) will come to light. Most consumers believe insurance companies are rich beyond imagination and there are enough bad practices that opportunity exists for attorneys to make a good living doing nothing more than suing insurance agents and their companies. It must be noted that the individuals who bought policies or had old policies replaced have not received big fat checks in the mail. Typically, they have a variety of options including (though not necessarily limited to): extra dividend or interest payments, a low-interest rate loan to pay off debt incurred by borrowing from the policies, the waiver of premiums on all future policies, and additional cash value put into their current policies.

There is not a great amount of good that comes from class action lawsuits. Even so, one "good" that does result is a tightening of control by companies over their agents. It forces insurance companies to monitor to a greater degree the actions that happen in the selling field. In the past, most companies seemed only to consider the amount of business sold, with little regard for the process that happened prior to the sale. They now realize that supervision must be there if they are to avoid future problems.

Little good comes from class action lawsuits. The lawyers get rich. The victim receives very little payment. Professionals pay the price because those who caused the problem have typically moved on.

While there are measures that can be taken by insurers to monitor their agents, they are right when they argue that there is only so much they can do. One thing most companies do now require is a copy of the illustrations used attached to each policy application. Of course, agents can still give one copy to the applicant and a different copy to the company. This, of course, is the point that many insurers are trying to make. In the end, they must depend upon the ethics of the individuals they contract with because there is no way to supervise the face-to-face activities of their agents.
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Corporate Ethics

Moral obligations do not just apply to individuals. Corporations have moral, as well as legal, obligations. Corporations are entities rather than people, but people run them. When corporations are accused of misconduct or unethical behavior, it is really a reflection of those in charge of the company. Since the employees are most likely following corporate policy, it is further likely that it is those individuals at the top that make these errors in ethical judgment.

When Enron went bankrupt it was discovered that those running the company were acting almost solely in their own best interest with little regard for others and how their actions would impact everything from stockholders to retirees. Not until the media became involved were many of the actions even acknowledged by the company. For example, in one transaction Andrew Fastow, Enron’s chief financial officer, took in $4.5 million profit in just two months from an initial $25,000 partnership investment. Many of the partnership transactions were designed to hide huge Enron losses from the investing public while overstating profits to investors. They have primarily blamed “accounting errors” for the misbalanced payouts.

It will probably be years before everything about Enron is known, but so far those investigating the company are saying it was a jumble of errors that allowed stockholders and employees to lose nearly everything while some within the company became rich. In a report released by William Powers, Jr., Dean of the University of Texas Law School (as part of a special investigating committee) he stated: “The tragic consequences of mishandling the partnerships were the result of failures at many levels and by many people: a flawed idea, self-enrichment by employees, inadequately designed controls, poor implementation, inattentive oversight, simple (and not so simple) accounting mistakes, and overreaching in a culture that appears to have encouraged pushing the limits.”

There seems to be plenty of blame but not very much apology on the part of Enron. Founder Kenneth Lay was at the top of the empire, but he seemed to have little time to actually do his job. He did not oversee members of the company’s management as required by his position, and he allowed the company’s chief financial officer to profit from the partnerships without regard for his stockholders or employees.

Jeffrey Skilling failed to monitor dealings between Enron and the partnerships. Skilling had been president and chief executive for six months prior to his resignation in August of 2001. He has been accused of approving a partnership transaction in March of 2001 that was designed to conceal large operating losses from the board. Jeffrey Skilling denies that charge.

The board of directors waived Enron’s conflict-of-interest rules to allow Andrew Fastow, Enron’s chief financial officer, to run the partnerships. The board did set up procedures to monitor his compensation, but then failed to follow the very procedures they put in place.
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Enron’s outside auditor, Arthur Anderson, LLP, appears not to have followed normal auditing procedures. He certainly failed in his professional responsibilities. Anderson was paid $5.7 million to specifically review and approve the setup of the partnerships that led to Enron’s financial downfall.

Enron’s outside law firm, Vinson & Elkins, is accused of failing to bring a stronger, more objective review of the required disclosures given to investors about the partnership transactions and the role Fastow played in them.

As we said, it will probably be several years before everything is fully disclosed to the public, but what is clear is that Enron’s top people clearly had personal gain in mind. Even though a great deal of information may have been withheld from the board, it seems that no one cared enough about the company to investigate when it seemed obvious that proper moral and legal procedures were not being followed. Enron seems to have used partnerships as depositories for assets it wanted to get off its books. While that is not necessarily improper, it should have raised questions.

Americans seem to raise ethical questions only when it has hurt a substantial number of pocketbooks. If we, as a society, made it an issue on a daily basis, there might be less large failures like Enron. Luckily, most businesses do have enough checks and balances that when a company fails it is due to other causes rather than corporate greed. However, corporate greed has been responsible for many planet and community failures – polluted water supplies, ground erosion, wildlife failures, worker safety concerns, and political corruption.

Conducting Business – A Moral Concern

Moral obligations exist for every business, including insurance. If a code of ethics is not applied consistently with the company's employees and agents, then that business cannot expect their employees and agents to apply ethics to their business contacts either. Any industry that affects the public suffers when scandals occur. Public confidence is eroded and business is affected. Therefore, it is actually in each insurance agent's best interests to promote moral or ethical activities within the industry.

The study of ethics reveals an important fact: those companies and individuals who make a specific decision to be ethical consider such behavior a necessary part doing business and living their lives. They don't choose a moral path to impress their rival companies or their friends; they don't choose it for financial gain; they don't choose ethics for career advancement. Those companies and individuals who choose moral paths choose them because they believe it is the best way to run a business and their personal lives.

Such specific choices in life may also define other life goals. While financial security would probably still be a life goal for an ethical person, how they obtained...
it might be very different from a person who had no ethical agenda. A specific ethical goal is, simply stated, a recipe for living. Ethics set specific pathways that are acceptable and also those that are not. It is important to make note that ethics determine not only what path may be taken but also those that may not be as well.

As the Enron failure has shown us, lack of moral judgment can affect large amounts of people. Not only those closely associated with Enron felt the effects. All who had their retirement savings in the company were adversely affected. Employees who became jobless were affected. Employees who had all their savings in company stock were affected, and public confidence was affected. Other companies who are very ethical in conducting business felt the effect as the public investor lost confidence not only in companies but also in the reports they generate to their stockholders. Will we ever fully believe a profit and loss statement again?

There are valid reasons for a business to purposely follow moral paths. Besides the legal consequences of doing otherwise, ethical companies often do better financially. Their employees are more likely to reflect the moral climate, which is likely to attract consumers. In addition, an employer who expects ethical conduct on the job is not likely to tolerate an unethical employee.

**Enron Says It Relied On Appropriate Accounting**

“This isn’t my fault. I relied on someone else and they let me down.” Blame shifting is nearly an American sport. Just as the board of directors at Enron shifted the blame to others, both individuals and companies tend to pass the proverbial buck. Probably everyone has, at some time, tried to justify actions or words to shift blame. Companies might say that they didn't know a chemical was polluting when, in fact, they did know it. People might say they didn't know an action was wrong even though they did. Some people become very good at rationalizing what they do and say. Whether it is a politician wanting to get reelected or just a friend who doesn’t want someone to be angry, rationalization has actually become accepted in our society. We don’t even try to call such acts lying. We seem to have accepted the shifting of blame to such a degree, it isn’t even considered relevant.

Economics is often the reason given for actions or words that seem unethical. Environmental issues especially seem to see this. If an industry could suffer from environmental reform, it usually involves a loss of money to some group or industry. Probably any one of us would resist an action or change that would take away from us financially. However, ethics would dictate that we follow the path that created the most good for the most people.

It would be hard to imagine anyone openly stating that they intended to be immoral or unethical. In the case of Enron, they may as well have declared it, since what the participants did seem so obviously self-serving. Generally people say what others expect to hear, however. Regardless of the topic, it is the natural course of man to want to appear in the right light. Therefore, it is common for people to
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rationalize their actions. Rationalization is not the same as ethics. Ethics are about perceptions, so if a person truly believes they are doing right, they are being personally ethical. However, if a person is merely rationalizing their actions for the approval of others or to avoid prosecution, no ethics are involved. Rationalization is about social acceptance; ethics are about a true belief in particular actions or thoughts.

A Personal Choice

Moral obligations come down to making personal choices. Whether we tell the truth, pay our fair share of taxes, cheat on our spouse, or do what’s best for our clients are all personal choices. Whether or not we feel a moral obligation is the result of what we have been exposed to and what we have accepted as fact. The results of those choices will determine much of our future. They will also determine how our children, family, and others remember us.

Most people probably do not realize how much of their life is the result of personal choice. Like the Enron executives, we shift blame to others but are quick to accept any available success. A person who has considered what is ethical and right for them will be prepared when a questionable situation arises. Of course, anyone can be taken by surprise occasionally, but without any conscience decision to be moral and fulfill those obligations of life, it is doubtful that our path will be a consistently moral one.

All of us make daily decisions that impact our ethical path. We tell the grocery clerk she gave us too much change, we explain a moral detail to our child, we make the time to call a friend, and we pause to appreciate those we love. Every day we do make choices that define our lives. We just may not label it as such.

Although every person needs to have a sound moral base from which they operate, this is perhaps especially necessary in some industries, such as insurance and financial planning. Of course, we would like to have all industries to be ethical. Wouldn’t it be nice to know that the car repairman would always be ethical? Certainly we need ethical attorneys. To really stretch the imagination, just think if our politicians could be counted on to be ethical!

It is a sad fact that we have actually come to regard some industries as perpetually unethical. Many industries have fought hard to change these perceptions by the public; others do not seem to care as long as they can continue their lives and actions selfishly. President Clinton’s administration, for example, spent as much energy combating public perception as it did running the country. Enron’s actions may change the laws that apply to 401(k) plans and may permanently affect how the public invests.

Is it really important to be ethical? There can be financial reasons for doing so. Lawsuits happen regularly, even to good people. When an ethical code of conduct
cannot be legally demonstrated, each of us is much more likely to suffer financially. We suffer, of course, if we are sued personally, but we also suffer when others in our profession are sued. Insurance has a cloudy reputation already, and additional lawsuits simply add to the storm of controversy. If a particular lawsuit is in the news, our clients and especially potential clients will be less likely to buy from us.

The Exceptional Man

While most people identify with the “common man” some feel they are the “exceptional man.” Some individuals feel they have a right to take more. Moral obligations dictate that each of us must do our part not only for ourselves, but also for those around us: our family, our friends, our coworkers, our employer, our community, and our planet. Is there ever such a thing as the exceptional man? The person who has a right to more than the general population receives? It is certainly true that some people acquire more than others. The acquisition of material goods has nothing to do with moral obligations, however. It is perfectly acceptable to acquire goods. In fact, some people are just better financial planners than others. There will always be those who, through their own efforts and intelligence, come out with more than their neighbors do. That is perfectly acceptable from both a moral and legal sense. Each of us has different levels of ability. Some are painters, some are builders, some are communicators, and so forth. When we use our talents effectively it is not unusual to gain financially.

Although most of us would say we want equality for everyone that is not always true. Most of us really do like having an “edge.” Our justice system is an excellent example of the difficulty in delivering equal justice. Even though it was set up with that in mind, the delivery depends upon the expertise of the people involved. If the attorney representing one side is considerably better than the attorney representing the other side, justice may not be delivered equally. Additionally, if we have the better attorney, we are happy with the unequal justice. The fault does not necessarily lie in the system itself, but rather in those delivering the justice. The most well meaning, ethical person may not be able to deliver equal justice to all. There are simply too many players (people) involved.

“My Dog Ate My Homework.”

In the seventies and eighties it became fashionable to “understand” every reason for failure. Poverty, bad parenting, or simple bad luck was blamed for every human shortcoming. Obviously, some Americans do have fewer choices than others, but we have taken understanding to ridiculous extremes. We not only allow excuses, we seem to want to accept them. “My dog ate my homework” seems to have developed into America’s national anthem. Everything is someone else’s fault.
When our society began allowing the transference of responsibility some professions seemed to especially thrive on the theory that no one needed to account for their actions. Banks loaned irrationally and often even illegally and the taxpayers bailed them out. Industries ruined our lakes and the government cleaned it up. Our politicians threw our tax dollars around for their personal gain or ambition and still the tax dollars kept coming in. In many cases the desire was to help those who needed it socially and physically. We wanted to help with money as well as understanding. Unfortunately, somewhere along the way our society began to believe that no one was responsible for anything. We allowed individuals to shift the blame at every opportunity. Whether the blame was placed on our childhoods, our friends, or our parents, every bad thing we did could be shifted to the shoulders of someone else. The old adage: “The buck stops here” seems to have been transformed to: “The buck belongs to that other guy.”

Accepting personal responsibility for our choices and our acts is part of being ethical. Each person has free choice. They can go left or right. They can continue on or stop and sit down. Every thought and every move is a personal choice. Yes, there will be mitigating factors involved, but there is still free choice. The only thing in our lives that does not involve choice is where we are born and who our parents and family are. Past that, once we are adults, it is all up to us.

We do realize that many people do not have the advantages we would wish for everyone. It is true that some people seem to have life stacked against them. Some people are born poor and experience fewer educational choices. Perhaps they even have parents or other adults that discourage education. Some people have parents who gave little or no love to them as children. Some children lose their parents entirely, living in foster homes that may not give love. Some people experience terrible physical or mental handicaps. Accidents and illness may take those we love from us. All of these things can happen but that still does not remove free choice from our lives. Each of us still bears responsibility for our acts.

Most of us do not have great hurtles to leap. We must merely accept personal responsibility.

There are hundreds of examples of people who have made the right moves despite poverty, lack of education, lack of families who love them and despite physical, mental and emotional problems. Most of us do not have any great hurtles to leap; we must merely take responsibility for our own lives and our own decisions.
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Taking the Moral Path

Those who are able to rise above difficult situations and triumph personally are admirable. Most of us are not in situations that require noble acts or strength. We must merely earn a living, pay our bills, raise our children, and continue our daily routines. Taking the moral path should not be difficult. We merely fight the little personal battles: telling the truth even though we might not get the sale as a result, being kind to the woman who annoys us, or calling a friend we’d rather avoid.

Morality is a personal choice and the reasons for choosing morality are just as personal. For some, they are simply happier when morality is part of their lives. They experience a deeper sense of worth by giving than they do by receiving. In fact, it is common for those who give to say they receive more in their gifts to others than they do when they themselves are the recipients. Perhaps there is an inner peace for them, some type of satisfaction that feeds them mentally and emotionally.

Others state a sense of duty as the reason, a feeling of responsibility to some entity, whether it happens to be their country, their wife or husband, their children, or even themselves. These people are motivated by some internal need to produce something positive. At the end of the day, they want to see accomplishment. Those with this sense of duty often experience a driving desire to meet specific goals. Their personal code of conduct includes following specific rules for their own lives.

Religion plays a part in the lives of many ethical people. They have a strong belief in their own personal God. Part of this belief involves doing what is right, not only for themselves, but also for others. Mainstream religions are based on ethical or moral attitudes. The Ten Commandments, or similar teachings, are generally the basis of what is considered right and wrong. For those with a strong religious belief, nothing less than personal responsibility would be acceptable. Religious beliefs have been the foundation of ethical behavior for centuries. It has often been the strongest motivational force for social change. These changes, pushed by religious beliefs, have affected the lives of millions, improving the quality of life even for those who do not believe in God themselves. In virtually every written source on religion, strength of character is emphasized.

Love can also be a strong motivating force. Although we usually think of love in connection with people, it can also be love of country or even love for the profession in which one works. When it involves people, the motivating factor can be very strong. Parents want their children to grow up happy and successful. Children want their parents to be proud of them. Husbands and wives want to demonstrate their love for each other.

These are not the only reasons that a person chooses to be moral, but they are perhaps the most common. It should be noted that the term “moral” may be replaced by words such as ethical, character, or principled. Politicians love such
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words when they make speeches, but the actual situation only exists when actions demonstrate a true belief in performance. Any person who is dedicated to their moral obligations brings with them a strength that is enviable.

Understanding Our Moral Origins

Most of us probably get the majority of our beliefs from our parents - good or bad. If our parents believed that the government was corrupt, we are likely to believe the same thing. If our parents hated a specific group, we are likely to follow in their footsteps - even without good cause. If our parents demonstrated strong moral values we are also likely to have strong characters.

Moral behavior often has a religious origin. It is not surprising that religion plays a major role in ethical behavior. While it is not necessary to be religious in order to be moral, it is probably impossible to be religious without also being ethical. The Bible is probably the best-known (and most followed) code of personal moral conduct. This does not mean that everyone has agreed with what the Bible states. Karl Marx, the father of communism, called religion the "opiate of the masses." Even Sigmund Freud, the father of psychology, regarded organized religion as institutional "wish-fulfillment." Despite these beliefs, religion has motivated more positive thought and action than any other organized groups in the world. The Bible has survived despite multiple attempts to wipe out the thoughts within their pages.

Following the terrorism attack on the World Trade Buildings religion has gained a stronger following. Many people have expressed a need to feel secure so they have turned to religion. What they fail to realize is that they must believe in what they are doing before they will feel secure. If they are merely turning to religion waiting for a sense of stability to invade them, they will be disappointed. Each individual must build their own inner stability from a strong sense of morality, personal convictions, and above all a sincere belief in what they do.

Individual Moral Development

Personal development is a life long voyage. We carry all of our experiences with us. No person is either totally good or bad. Each person is made up of multiple factors adopted over their lifetime. Each person has shades of so-called "good" and "bad." We continue to adopt views and actions based on what we are exposed to, based on what we feel to be "truth."

Probably no one would want to be defined by a single act. Everyone is more complicated than the single lie they told or even the good deed they performed. Each person has likely participated in some act that was not ethical, just as each person has likely participated in some act that was. One single act does not define the total character. Rather, it is the combination of our acts that define us. That does not allow rationalizing away the lie we told or the theft we committed. Nor
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does it allow us to hold up a single good act as proof of our morality. We are responsible for our every act and the combination of all our actions – good and bad.

Even though we are a combination of our actions, it is true that one single act can have an impact on our lives and the lives of others. A kind word or action from another at a low point in our lives can have far reaching results. For example, a young girl and her mother were involved in an accident in a strange town. The mother was seriously injured while her daughter was unharmed. A woman who witnessed the accident took her own children home and returned to the hospital to sit and wait with the young girl. The woman stayed with her until family members arrived several hours later. Although the young girl didn't even get the name of the woman, she felt a love and warmth for her years later. That single act from a stranger had a life long effect on the young girl and probably shaped how she would react to others.

When United Airlines Flight 93 left Newark, N.J. on September 11th, 2001, it is doubtful that anyone on board planned to be heroic that day. Even so, a single act of many saved and shaped the lives of possibly thousands of strangers. When Jeremy Glick, Tom Burnett Jr., Mark Bingham, CeeCee Lyles, and many others refused to let the airliner be used as a weapon of terrorism, they demonstrated their willingness to put others before themselves in the most dramatic of ways. It is doubtful that any of the people involved in this heroic act gave much thought to the “morality” involved. They simply came together for the good of many.

Integrating Morality into Our Lives

Developing a Work Ethic

Most parents want their children to have what we term a “work ethic.” What this usually means is getting a job and being willing to put forth the energy and loyalty that will keep the job. Although the word “ethic” is part of the term, the actual meaning seems to have been lost. Work ethic is more than just showing up for work every day and putting forth the required effort to please the boss. The original meaning included *honesty* as well.

Each of us faces important moral issues daily. Most are relatively small (*should I tell my boss what I really think of her dress*?), but some will be large and significant. Unfortunately, we don’t always recognize the significance of our ethical decisions. This is especially true in the insurance industry. Insurance agents deal with the public’s trust and certainly their futures. Every insurance contract and annuity has the option of changing the future for those involved. A policy that is poorly fitted to the client can cause severe financial difficulty in the future.

The insurance field does have differences of opinion, but if integrity and professionalism are involved, even when there is disagreement, the agent will be working for the good of the client and not their own pocketbook. When there are
federal laws or state regulations in place, differences of opinion will be decided by points of law. Some situations will be left up to individual opinion. Where there are no clear state or federal regulations, consumers depend upon their agents to be knowledgeable and professional. They depend upon their agents to act with integrity for their client’s best interests.

**Acting in the Best Interest of the Majority**

Before our modern civilization emerged it was necessary for the tribe's survival to consider the group over individuals. In that context, what was best for the group was also best for the individual. The worst thing that could happen was to be alone. It took a group to hunt for food, to keep warm, to find and maintain shelter.

In some ways, it is still in man's best interest to consider the group first. That is why we instituted laws: to enable the group to survive, including the weaker members. If we must survive only as individuals, survival would go only to the strongest, which could eliminate many members and perhaps eventually the tribe itself. We just don't think of it in "tribe" terms anymore. We call it consumer law, we call it family law, we call it whatever seems to fit, but it still comes down to considering the group over the individual. Consumers, as a group, are considered over the individual who sells insurance to them. The family, as a group, is considered over the desires of a single member. This becomes especially evident in divorce proceedings when the courts try to protect the children or the weaker adult. Our code today is designed to protect members of the group who may not be able to protect themselves individually.

Why do we care if the group survives in today's society? Because each of us represents a part of that group. It could be ourselves that would not survive if the group as a whole were not considered.

**Expanding Our Moral View**

When we consider a person who seems willing to listen to alternative viewpoints, we might use the term "open-minded." This means that the person is willing to consider the views of others. Those who have this trait often are constantly in transition in their own personal beliefs because they are constantly learning something new. They tend to consider the interests, desires and needs of others as well as their own.

Our own interests are tied to the interests of others. Our forefathers learned this and followed it in order to survive. In fact, many species of animals band together for the best interests of themselves and their group. Animals that learn to hunt together, protect their young together, and work as a group survive easier as a species than those that do not.
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Doing that which benefits the group often benefits the individuals as well. Plato argued that immorality was ultimately self-defeating. Of course, the con artist probably wouldn't believe Plato's view. We have also seen some very successful dishonest people in our communities. Whether or not the ethical person is more satisfied with their life than is the dishonest person is hard to say. The Bible says we will reap what we sow. When we see the wealthy continue to live unethically, we may question that statement. We may believe that wealth does provide happiness. In some ways, that may even be true. Certainly it is easier to deal with problems if we have the money required to do so. Even so, it probably is true that those that are happy with themselves are also happier with their lives. We cannot "see" loneliness, despair, or depression in most cases. It still exists, but we don't recognize it unless we are very close to the person. We may not realize that the person we perceive to “have it all” has nothing emotionally.

Acknowledging the Needs of Others

“People skills” are in demand in nearly every occupation. The individual who is able to communicate with others effectively succeed where others struggle. What we often fail to notice is a simple procedure these successful people follow: they seem to know the right questions to ask. This is true both professionally and socially. This ability is often called “insight.” Such people seem to instinctively know how to get others talking and feeling comfortable with themselves.

While asking the right questions is important, it would do little good if a second quality did not follow: the ability to listen. There is no skill more important in today’s world than the ability to listen to others. Listening does not simply mean keeping quiet while another talks; it means absorbing what the other person says. Many professionals like to state back what was said in their own words. This allows them to retain important information. The ability to retain is especially important to the salesperson that must focus on the desires and needs of their clients. In the book Creating Excellence by Craig Hickman and Michael Silva, they state, “executives lacking insight see either the forest or the trees, but never both.”

Listening Our Way to Success

For the salesperson, listening is the only route to success. Without it, the salesperson might hang on for a period of time, but he or she will never really experience the thrill of success. Not all great listeners are sales people, of course. Oprah Winfrey is one of the greatest listeners of all time and this skill has made her rich as well as famous. She took the art of listening (and sensitive response which only happens because she listens) and built a television show around it. Although she is gifted in many ways, it is her ability to listen and understand that has made her best known among the talk shows.
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Salespeople are often taught a specific format which they are supposed to follow during their presentation. The salesperson concentrates so hard on following a particular format that they simply shut out everything else. The salesperson is so afraid that they will make a major error in the words they themselves say that they forget to listen to the words of their potential client. Certainly it is important to follow a format for the presentation. It is important legally to do so, in fact, since that sets a pattern, which can be relied upon if a lawsuit is filed. However, the presentation must leave room for the client’s needs as well. Only by listening to these needs, will the presentation ultimately be successful.

A salesman once said in exasperation “I hate it when I have spent time explaining what I’m offering and the client says ‘It sounds great, but I have to think about it.’ What is there to think about? It’s a great product!”

Many professionals would have had a chuckle at his expense. This salesman had spent so much time listening to himself (his presentation) that he failed to listen to the potential client. Since his presentation had satisfied his needs, he saw no reason to satisfy the needs of the client. What are the client’s needs? No one can answer this question except the client. Only by listening will the agent know. Each client’s needs are individual and only by listening when they speak can you discover them. These needs are labeled many things. Needs are often called objections by sales promoters. How often have you heard the statement that an objection is merely “a way of telling you the consumer needs more information?” While this may be true, the truest statement is simpler than that. An objection is the client speaking. Are you listening? Are you asking the right questions? Unless you listen, it is impossible to ask the right questions.

Fulfilling Our Obligation to the Client

It does not matter what one is selling as long as the salesperson believes in the product. Of course, merely believing in the product will not necessarily insure a sale. It is true that, for some, sales are a natural thing. For these individuals no struggle is apparent from the first day in the selling field. For most, however, building a career in sales means doing many necessary things, including obtaining product education, establishing a client base, and learning how to serve existing clients.

A career in sales is not an easy path. There is no guarantee of a paycheck. A successful sales career must be considered for the long term. Otherwise, it is not a profession, but simply an occupation for today. Long term planning has to do with many aspects, including planning for oneself in retirement. It is amazing the number of people who sell retirement planning packages and yet have put nothing in place for themselves.

Sales seminars often tell us to “picture in our minds what we want for our futures.” This can be a valuable tool, but it should never allow us to lose sight of
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what we must do for ourselves. Simply wanting, wishing, and hoping (which this picture technique can turn into) will never take the place of strategic planning. If sales were easy, everyone would be doing it. Therefore, it stands to reason that building a successful sales career is difficult, demanding, and sometimes downright frustrating! Any type of excellence, whether it is in sports, business, or personal relationships requires effort. That is why it is so important that ethics be a part of the plans. Without a direct decision to be moral, it would be very easy to get caught up in all the other aspects.

Making Our Own Moral Choices

Even when we have definite opinions, few of us spend any time pondering moral matters. Rather we rely on the teachings of our parents, our communities, and our churches. This is neither good nor bad as long as it is also accompanied by logical personal thought. If personal thought is not also put into our choices, the prejudices of our parents and grandparents can be passed through generations. Group thinking does not necessarily equate into correct thinking either. Religious leaders or organizations should not be blindly followed anymore than an individual should be blindly followed. During the civil rights movement, many churches were on the side of separation. Of course, we must remember that communities and churches are led by people. It was not necessarily the religious teachings themselves that believed in separation of the races, but rather the human beings running those churches. Some religious organizations have actually persuaded their followers to kill themselves in the name of religion. Individuals must always use logic and personal belief in the choices made.

Disagreements do not cause problems. In fact, they often lead to better education for everyone as various views is brought into focus.

Variability of moral judgments will always exist. Religious leaders may disagree about religious matters. Lawyers disagree about legal matters. Doctors disagree about medical matters. Disagreements do not cause problems. In fact, they often lead to better education for everyone as various views are brought into focus. As long as logical fact-finding is the goal, disagreements can be enlightening.

Particularly in America, individuals must be willing to tolerate varied moral views. We are, after all, a melting pot of people and therefore ideas. We must, as the saying goes, agree to disagree. Unfortunately, some people seem unwilling to tolerate others. There are those who seem to insist on being in control of everyone around them. Issues become so explosive that violence is the result, although violence is never a real solution. The Southern Poverty Law Center in
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Montgomery, Alabama has been especially successful in proving this point. Lead by a Southern lawyer, they have successfully sued people who committed violent or destructive crimes against people and property. These have primarily been racial hate crimes. The Southern Poverty Law Center uses the laws and courts to win change. Winning in a court does not necessarily change personal views, but if acting on personal views has the possibility of losing great sums financially, modification of actions is likely. Because of the large sums they are being awarded, it is possible that others who allow hate to rule their reason will think twice before they become violent or destructive. At least that is the hope. The Southern Poverty Law Center works primarily on donations, since they often do not take a fee for obtaining justice.

Progressively Moral

Morality is an ongoing process. We know that morality can be influenced, but not necessarily taught. What we often fail to realize is the extent to which others may be influenced by our own personal actions and attitudes.

Much of what one obtains in morality is taken from their religion. Does a person have to be religious to be ethical? Of course not. Ethics is not tied to religion. However, religion is tied to ethics. Mainstream religions advocate moral behavior. Religions keep their moral teachings fairly pure if they follow the Bible. In other words, those that believe in following the Bible will be similar from church to church because the Bible is similar from printing to printing. Of course, different interpretations might exist, but the basic teachings will be the same. In addition, there are only a few points of the Bible that might not suit everyone. For example, all people generally believe that it is wrong to kill. The purist will be against all killing, even when sanctioned by law (such as the death penalty). People who are against killing may not be against abortion. This is where different interpretations of the facts exist. One may believe a fetus is a person from the moment of conception while another feels the actual birth is the start of life. Each side of the issue tries to persuade the other.

The Bible is often used by those who wish to perpetuate a philosophy of hate against a particular group. Of course, we know the Bible does not promote hate, but those who do can use sections for their own benefit. Even when America was trying to end segregation, the Bible was used to support segregation. As with all things, facts can be selectively used to verify a desired position.

It is a moral obligation to continually seek education. Philosophers often point out that the truly moral person studies all the facts. One cannot be moral and only listen to one viewpoint. In fact, the true philosopher actively seeks conflicting viewpoints in order to broaden their studies of moral issues. Since moral standards must be based on logic and reasoning, obtaining all the facts is essential. A great leader once remarked about a change of belief stating: “I have learned something new.” It is the willingness to “learn something new” that is the basis for moral
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thinking. Some may worry that changing their mind will be perceived as a sign of weakness. Pride can get in the way of logical thinking and ethical conduct. In reality business leaders who are able to accept new ideas and trends are often the most successful. Salespeople who adapt to new products are routinely the leaders in their fields. The ability to change course and flow with new facts and technologies is an important quality. Even views of morality need to be able to change and adapt as new information emerges.

Differences in moral judgments are often nothing more than different amounts or combinations of knowledge. We try to make the best decisions possible with the information we have available. More to the point, we make our moral judgments based on the information we have accepted as truth. As more information becomes available, views of moral judgment may change. Morals must be able to change and form as knowledge is added or accepted as truth.

It is possible to display facts so that conclusions emerge in a particular way. How an issue is stated can affect how one believes. We consider this persuasion when one person customizes information with the goal of swaying views. For example, what one person considers religion another may consider superstition. One person heard the facts from a different standpoint than the other.

When an industry, state, or organization requires schooling of their participants, the goal is typically to broaden the person’s point of view or attained knowledge. Additional education may form new opinions or bring about increased industry knowledge. State insurance departments may mandate education on the subject of ethics. While it is probably true that ethics cannot be mandated, they may be taught. That is, a person’s view may be broadened or changed due to additional facts. When a person’s view is expanded, their activities will usually reflect this.

Can You Teach An Old Dog New Tricks?

Habit: “an act or practice so frequently repeated as to become almost automatic; a tendency or disposition to act consistently or to repeat.”

Funk & Wagnall’s Standard Desk Dictionary

While teaching an old dog new tricks has little to do with intelligence, it has a lot to do with the ability to change. Are morals merely habits that we continue to follow without thinking? In many ways, they are. As children, for example, our parents taught us certain paths they wished us to follow. Once we had followed those paths often enough, they became the accepted way to go. Even if we do not fully understand why we believe certain things or don’t believe others, what we have done and believed for years becomes part of who we are; they become part of our thinking process. Such habits become part of our personality.

Our daily lives are made up of following developed habits. Most activity is performed without thought to the complexities of moral rights and wrongs. Our
morality becomes habit. A person gets accustomed to thinking and behaving a certain way and they continue to do so out of repetition that began as beliefs.

Unfortunately, when the habits become ingrained in our personalities, it also becomes harder to introduce new ideas that may change our way of thinking. We have all known the old man or woman who refused to accept new thinking or new ways of doing things. Their refusal to update their thinking had little to do with intelligence. Rather it was based on their refusal to accept change. Repetition brings comfort.

Of course, there are times when a person steps out of their habitual way of living. Even so, a single act seldom defines who we are, although a single act can affect others around us. The man who rushes into a burning house and rescues another certainly affects the person in peril as well as their family members. That one act affects many people. However, that one act does not define the hero. It may have been a single act that is essentially out of character for the individual. Most of us are glad that a single act does not define us. Probably everyone has committed an act or said some words that they deeply regretted later. We would hate to believe that one senseless act defined us for our lifetime. On the other hand, the hero would like others to believe that he is courageous all the time. Even when we do not admit it, how others view us does affect our actions or even our own opinions of ourselves.

There will always be those that we admire for their ability to put others first. That admiration does not always mean, however, that we desire to follow in their footsteps. Few people would want to do what Mother Teresa did. Although we admire her, we do not necessarily want to face the same hardships that she willingly took on. Mother Teresa is a prime example of pure morality.

Examples of Mother Teresa are rare. It is far more common to know people who expect to receive more than the next guy. People, even good people, tend to want as much in life as they can get. While we may admire those who work hard to achieve what they want, that doesn’t mean that many of us would not take more than our fair share if the opportunity presented itself. Even if the opportunity is there, it is our moral obligation to take only what is rightfully ours.

**Philosophic Morality**

Formal education is not necessary to fulfill our moral obligations. It probably is necessary to be humanely educated, however. Morality must be able to understand what another is feeling. Morality must also be able to feel what that person is feeling. A person who understood the degradation of slavery could never own a slave, for example.

Many philosophers and ethical writers believe morality is the evolution of continued discovery. As we discover new things about our society and the world around us, we must draw continually new conclusions regarding ethics. Fifty years
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ago, environmental issues were not considered. As our society grew and progressed, these topics became an ethical issue. Therefore, our society’s morality is, in many ways, linked to education.

Can a person be objectively moral? In some ways, we must be. Otherwise we would not be able to deal on a global basis with countries that do not share our views. In other ways, we can never be. Otherwise we would be willing to tolerate another Adolf Hitler. Seem confusing? Morality often is. Perhaps the greatest skill humans have is the ability to tolerate those actions that are not violent or destructive towards others while opposing those actions that are. Unfortunately, we often do tolerate situations that are unfair or unjust in the name of commerce.

It has been said that morals are the result of thoughtful and well-educated people. In many ways this is probably true. One must be thoughtful or all the education possible in ethics will not make any difference. On the other hand, no matter how thoughtful a person may be, without education they may be unable to fully understand an ethical issue. Education is to ethics what research is to science. Each is a necessary part of advancing theories and ultimately society.

Education does not always bring agreement. This is true in science and in ethics as well. Education often has to do with the way in which facts are presented. There was an exercise that was performed for the benefit of new insurance agents. Two policies were compared in two different lights. Using one comparison Plan A seemed the best choice; under the other comparison, Plan B was the obvious choice. Neither policy changed during the two comparisons, but how the facts were related did change. When agents saw the two presentations, they often felt confused and sometimes even annoyed. How were they to know which to present to consumers if both were simultaneously displayed as the best?

The point of the demonstration is true in many situations. No one item is right for all people. Facts may change with the point of view presented. Each person and situation vary, and with those variations comes different applications of the same facts. We believe it is wrong to steal, yet we would each steal if necessary to feed our hungry child. We believe it is wrong to lie, but many people lied to protect Jews during the Holocaust. We believe it is wrong to kill yet we expect our policemen and military personnel to kill if necessary in order to protect America’s citizens. It all depends on how the facts are presented and what side of the line we are on.
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Policy Presentations

Morality can be difficult to identify. As we stated, professionals do not always agree on ethical issues, so how can we expect laypeople to understand them? Sometimes, it is merely a matter of opinion. Replacement business is one area where a variety of opinions may exist. Consequently, education of the products is very important. An educated agent is less likely to make an honest replacement error. Sometimes the simplest method of determining policy replacement may be asked in this form: “If it were my personal policy and I would not receive any commission at all, would I still replace it?”

Most presentations involve a few "set" items, which includes premium rates, benefits, agent services and company stability. Of these, premium rates should be the least important. However, our clients often do not allow that to be so. As a result, rates often take up the majority of the presentation. Yet errors and omissions claims have never occurred due to premium quotes. Probably 98 percent of the E&O claims filed relate to the benefits of the program and how those benefits were discussed. Obviously, more time needs to be devoted to this aspect of insurance presentations. Then, as an agent, you must hope that the client not only understood the benefits, but remembers them as well. That is why documentation is so very important. As each segment of the contract is presented and discussed upon delivery, it would be a wise idea to have the client initial it.

All presentations should follow a “set” format, which includes premium rates, benefits, agent services, and company stability.

Insurance Applications

Even the most dedicated agent may be the subject of a lawsuit. This is especially true since many lawsuits are not brought against the agent by the policyholder, but by the beneficiaries or the policyholder’s family. There are steps that an agent can follow to minimize misunderstandings:

1. Honesty: Full disclosure is always necessary in any type of policy being recommended to a client. Where different interpretations are possible between a brochure and the actual policy, the policy is always the final authority. A brochure is simply a selling tool; never the final answer. The statement the agent received over the telephone from the agency or home office also takes second place to the actual contract. The policy is the final word every time. An agent who has not read the contracts he or she is selling is an agent who is waiting for a lawsuit to happen!

2. Policy replacement: An agent should always be slow to replace an existing contract of any type. This is not to say that an existing policy should never be
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replaced. However, to do so without fully examining what is currently in place would be foolish. The agent should first be fully informed of any new or preexisting health conditions, takeover provisions and limitations that may exist in the new plan. Health problems of any dependents that may apply should also be carefully reviewed.

3. Existing Policies: It is important to know of existing coverage. Sometimes owners/employers may not be enrolled in and paying premiums for Workers Compensation Coverage. While this does not typically apply to senior clients, more and more older age people are continuing to work later and later in their lives. It is important to know whether they are or are not covered, if still working.

4. Providing A Complete Health History: Applications ask health questions to determine underwriting. Whether you are dealing with a health program, a disability program or a life program, be sure that health questions are clearly understood and correctly answered. A term that has come into wide usage lately is "clean sheeting." It means that an agent knowingly fails to correctly list existing or past health conditions on the application. The agent is attempting to present a "clean" application to the insurance company so that the company will accept it and issue the policy (and, of course, pay the commission). This is obviously illegal and will not be tolerated by any insurance company.

5. Undisclosed or Incorrect Health History: Sometimes an agent simply is not aware of existing health conditions. If the applicant does not fully understand a health question, it may be incorrectly answered through no intentional fault of either the agent or the applicant. This will not alter the insurance company's view of it, however. A policy may be rescinded (taken back) by the insurance company for incorrect or undisclosed information. This may occur, for example, on a question asking if the applicant has high blood pressure. Since the applicant is taking a medication that keeps his or her blood pressure under control, they may answer that question "no" when, in fact, it should have been answered "yes." Since these types of misunderstandings can easily happen, an alert agent will want to closely monitor the questions and the answers given to them.

6. Establishing Dependents Eligibility: Eligibility of applicants is always a concern when replacing an existing coverage. Do not overlook the eligibility of any dependents as well. An employee's spouse or disabled child may be especially vulnerable.

7. Preventing An Uninsured Time Period: Anytime a policy is being replaced with another, continuity must be considered a high priority. The old plan should never be dropped until the new plan is firmly in place. The new policy
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should actually be in and reviewed for accuracy before the old policy is dropped or canceled.

It can be very difficult for the consumer to sort through all of the various ratings given by the various organizations for insurance companies. The big question is "Do you, as an agent, understand them?" It is not unusual for even an experienced agent to feel foggy about much of the financial terminology.

Representing the Companies with Honesty

A moral obligation of any insurance agent is honesty. Agents have an obligation to describe accurately to the client the financial strength (or weakness) of the insurance company being proposed or replaced. They also have a legal obligation to do so. A lawsuit could be brought against an agent who causes a client to suffer financially as a result of the agent's failure to fulfill these due diligence responsibilities.

An agent who plans to make a career of insurance wants to represent quality products with financially strong companies. This is necessary simply to stay in business. Often, it is the agent's lack of understanding of, or attention to, some of the technical terminology used in documents pertaining to the financial strength of insurance companies that causes headaches later on. The agent either does not understand what he or she reads, or simply does not take the time to read the financial data available on the companies represented.

There are so many things that play a part in an insurance company's financial strength that an agent may wonder how he or she is supposed to recognize possible problems. Such things as underwriting standards, how the company sets up reserves, risk spreads, management personnel and reinsurance practices are a few of the things that will affect an insurance company's financial strength. An agent cannot know all that is involved in a company in many cases. However, an agent can look past the surface of the brochures put out by the company. It is important for the agent to remember that any given company is selling itself, not only to the policyholder, but to the agent as well.
The First Step is Awareness

Comparing Company Practices
It would be difficult for an agent to know everything going on with all companies they might represent. As we saw with Enron, the information put out by a company can be deceiving. Luckily, we have not seen such deception (at least so far) with insurance companies. Although they certainly try to represent themselves in the best light possible, their reports have so far been accurate. An agent can take a common sense approach when selecting companies to represent. Simple awareness of how the company is processing business, especially claims, is probably one of the best common sense approaches. There is often a combination of factors to be considered under a “common sense” approach. For example, if an agent notices that claims are routinely processed more than 30 days after submission may want to look closer at the company. This would especially be true if other companies are processing claims within 30 days. It is always a matter of comparing the performance of one company to another that will alert an agent to questionable practices. Anytime a company seems to be “holding onto their money” in some way, the agent should consider that a red flag.

Comparing Losses and Gains
Certainly agents must consider a company’s financial strength. Watch out also for losses within a company that exceed the gains. While this may occasionally happen, it is most definitely a warning signal. Losses eat up capital and surplus funds. In fact, if money is going out faster than it is coming in (no matter what the nature of the business), a red flag should go up. Individuals cannot withstand spending more than they earn and neither can a business. Only our government seems to be able to tolerate that situation and still survive.

Public Trust
Sometimes, a lack of public trust can cause problems. If the consumers perceive a problem within a company, they will begin to withdraw funds or quit paying premiums. A company that is trying to "hang on" may be pushed over the edge when such a condition occurs. Agents often have a legal obligation to the company they signed a contract with, but they do still also have a moral obligation to their clients.

Know the Products
A company’s products indicate the mentality of the insurance company. Like other types of goods, insurance policies need to pay for themselves while still providing a consumer service. If a product seems to give too much more (commissions plus high interest rates, for instance) than other similar products, then the agent must be aware that it could be a gimmick. Product design may also reflect the company's outlook and philosophy. If gimmicks rather than sound design seem to hold the product together that could well be the philosophy of the company, too. Is the product set up to "catch and hold" a policyholder rather than benefit them? Could you find yourself in an embarrassing situation down the road when your client requires use of the benefits in the contract?
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Who Owns the Company?

Every company is owned by somebody. If the company is not a mutual company, then it is often a good idea to know who owns the insurance company. Many times, people do not tend to think of an insurance company in terms of ownership, but this can be very important. The company owner or owners will reflect their own morality (or lack thereof) throughout the company itself. While it may not be possible to know what the values and ethics are of any given person, the agent can look to their past history for an idea. Did they come from the insurance field? What financial education do the owners have? Does the company seem to be interested in their field force or simply in the amount of business turned in?

The object of using these common sense approaches is not necessarily to find the best companies, but rather to weed out the worst of them. An alert insurance agent must keep their eyes and ears open. Listen to other agents, especially if the agents have been or are experiencing problems with the company. Follow the service given to the clients from the home office. Do claims always seem to be paid slowly? When a claim error is made and brought to the company's attention, is it corrected quickly? When you call the home office for information or help is it supplied promptly? Does the home office listen to you, as an agent, when you voice a concern? Does the service start out good, but then steadily decline? The answers to these questions will let you know if the company should be avoided. While problems may be something as simple as a poorly managed claim department within the company, it may also be something as major as an entire company that is poorly ran.

Acknowledging Our Moral Obligations: A Closing Thought

Moral obligations exist for every individual – not just for insurance agents. Every person owes something to someone else. This is not only morality, but simple survival as well. Agents do not have an easy job. They are at once required to recommend a product for every perceived risk and at the same time admonished not to "oversell." They are required to be contract specialists. Their clients often expect service that the agent receives no compensation for. The plumber would never consider doing free work for their insurance agent, yet will expect their agent to give them free services (plumbers- please don’t call or write, it was just an example). The insurers may place business requirements on agents that they are not equipped to handle. For example, it is common for property/casualty companies to require their agents to write life business. Life agents may be required to sell securities. Agents are usually required to meet minimum production standards. Few consumers or regulating agencies have any sympathy for the stress the agent must deal with on a daily basis. In addition, there is seldom any state or federal agency that sets standards for the protection of the field agent. Companies can run over their agents freely.
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Luckily, insurance is also a fascinating industry. Agents are often on the cutting edge of new information, new resources, and new financial strategies. Agents also meet some of the best people in the world - their clients.