

Ethics & Medicaid

Making Tough Decisions In Complex Situations

Why ethics are important



Mylan Inc. CEO Heather Bresch holds up a 2-pack of EpiPen as she testifies during a hearing before the House Oversight and Government Reform Committee September 21, 2016 on Capitol Hill in Washington, DC. Alex Wong—Getty Images

By DANIEL KOZARICH September 21, 2016

As the CEO of the drug maker that sells the EpiPen allergy-reaction injector defended the company's six-fold price increases before Congress last week, it's appalling to see that Heather Bresch took no fault. The company's price hikes on a life-saving drug is clearly unethical if we take a closer look.

EpiPen has gone from \$100 for a two-pack in 2009 to \$608 today. Usually, companies would be applauded for the ability to create revenue through such pricing power. But when it comes to life-saving drugs, consumers interpret these significant increases as the producer profiteering off a person's life or death need.

BUSINESS DAY

Merck to Pay \$950 Million Over Vioxx

By DUFF WILSON NOV. 22, 2011

Merck has agreed to pay \$950 million and has pleaded guilty to a criminal charge over the marketing and sales of the painkiller [Vioxx](#), the company and the Justice Department said Tuesday.

The negotiated settlement, which includes resolution of civil cases, was the latest of a series of fraud cases brought by federal and state prosecutors against major pharmaceutical companies.

By the time Vioxx, which was approved by the Food and Drug Administration in 1999, was pulled off the market in 2004 because evidence showed that it posed a substantial heart risk, about 25 million Americans had taken the drug.

'Pharma bro' Martin Shkreli sentenced to 7 years in prison — says, 'This is my fault'

- Convicted fraudster Martin Shkreli is sentenced for securities fraud related to two hedge funds he ran and to his former drug company Retrophin.
- The notorious "pharma bro" gained infamy for raising the price of the drug Daraprim by more than 5,000 percent while running the company then known as Turing Pharmaceuticals.



An investigation, requested by Cardinal Innovations Healthcare, assessed activities leading up to the termination of, and severance payment made, to the previous Cardinal Innovations Healthcare CEO, David T. Foster III

POLITICS & GOVERNMENT

Cardinal Innovations sues former CEO to recover \$1.7 million in severance

Approaches to Ethical Decision Making

Theory: Consequentialist Ethics

Basis of Theory:	Outcomes
Focus in on:	Consequences
Description:	The consequences of actions or policies must uphold the well-being of all persons directly or indirectly affected
What does that sound like?	The ends justify the means
Pros:	Directs attention to consequences; Considers interests of all persons equally
Cons:	Bad acts may be permissible; Interests of the majority can override the minority; Can't always predict outcomes

Source: Northwest Association for Biomedical Research

Theory: Rights-Based Ethics

Basis of Theory:	Moral Rules and Duties
Focused on:	Actions
Description:	Actions are either right or wrong. We are all obliged to fulfill our duties and to act to fulfill these duties
What does that sound like?	The ends do not justify the means
Pros:	Offers consistent rules to follow; Recognizes role-related duties in society
Cons:	Sometimes obligations are conflicting

Source: Northwest Association for Biomedical Research

Theory: Virtue-Based Ethics

Theory is based on:	Virtues
Focus is on:	Agent/Actor
Description:	Attitudes and character traits enable us to act in ways that develop our human potential
What does that sound like?	It takes a virtuous person to act in a virtuous manner
Pros:	Encourages cultivation of high human standards
Cons:	There is a lack of consensus regarding what virtues are essential

Source: Northwest Association for Biomedical Research

Theory: Principle-Based Ethics

Theory is based on:	Principles
Focus is on:	Context
Description:	Four principles form a set of pillars for moral life: autonomy, justice, beneficence (do good), non-maleficence (do no harm)
What does that sound like?	Proceed in the path that follows the principles
Pros:	Requires balancing the principles; Draws on common and familiar themes
Cons:	Principles can be conflicting

Source: Northwest Association for Biomedical Research

Theory: Care-Based Ethics

Theory is based on:	Care
Focus is on:	Relationships
Description:	Relies on relationships and the underlying power structure within a situation
What does that sound like?	What is not being said? How can we value relationships?
Pros:	Provides counterpoint to principle-based approaches; looks at broader context
Cons:	Power structures are not always evident; lacks easily applied rules

Source: Northwest Association for Biomedical Research

Applying Ethical Principles to Decision Making

Ethical Principles

Autonomy

- An individual's ability to make choices for him or herself, regardless of the consequences

Beneficence

- Doing good

Non-Maleficence

- Not doing bad

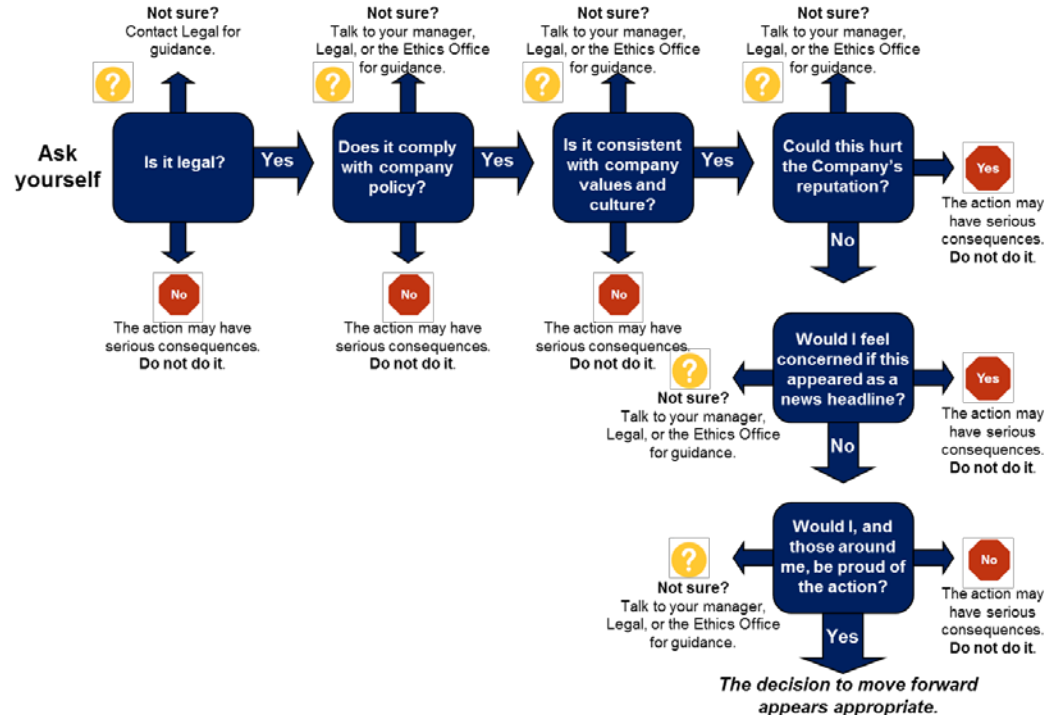
Justice

- Fairness, entitlement, and equality amongst all

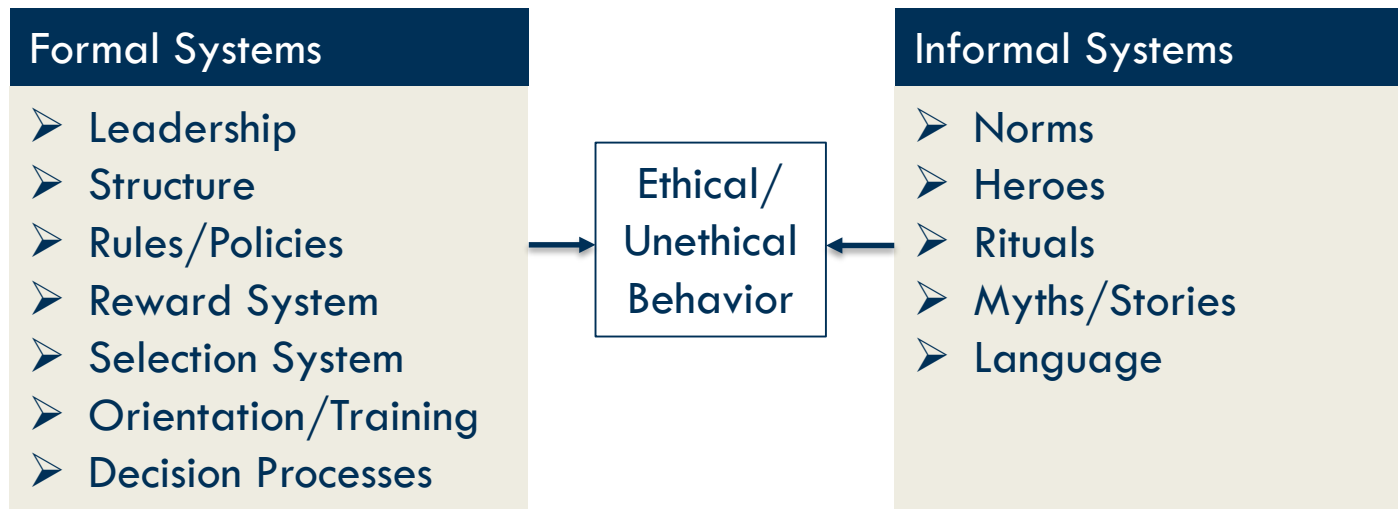
Operationalizing Ethics

When faced with an ethical dilemma, you have a responsibility to take the right action that complies with the law and organization values.

At times you might be uncertain of the most appropriate action. In those cases, as you are deciding what action to take, answer the questions in this model to help you determine the most appropriate way to proceed.



Aligning the Informal with the Formal



98% of organizations address ethics via formal systems of policies and codes, but code alone is not the answer. Daily actions must also be centered around core values. Utilized together, ethical behavior becomes the organizational norm.

Panel Scenarios

Discussion Scenario 1

- John is an Medicaid beneficiary who presents to the emergency room almost daily due to anxiety from what he believes to be undiagnosed medical issues. Every time he is discharged with no medical issues identified, and he refuses any further psychiatric care. Medicaid continues to pay for his daily emergency room visits.

Discussion Scenario 2

- A Medicaid payer has identified a predictive model to determine, based on data, which individuals may be at the highest risk for crisis events. These individuals naturally also have overall higher costs of care.

Discussion Scenario 3

- Sam is an Medicaid beneficiary with alcoholism who is in need of a liver transplant. He has been drinking heavily for over 30 years, does not work, and has an extensive criminal history. Without the transplant, he will likely die in a period of months.

Discussion Scenario 4

- Kelly is a 13 year old Medicaid beneficiary who has been diagnosed with cancer, which her doctors believe to be treatable with chemotherapy. Due to her parents' religious beliefs, they will not allow her to obtain treatment. Kelly is currently in the hospital and her doctors believe she will pass away within six months if she does not receive chemotherapy.

Discussion Scenario 5

- A new medicine has been developed for the treatment of HIV, and has been proven effective in Europe. The medicine has not yet been approved by the FDA, and the approval process could take years. Due to the way the drug is manufactured, its actual cost is 75% less than current HIV drugs, and testing indicates it to be twice as effective.

Questions?