The Fundamentals of Ethics

2 Ethics and the Importance of Ethical Systems
3 Why Ethical Dilemmas Occur
2

Ethics and the Importance of Ethical Systems

Key Terms

Absolute
Accommodative approach
Applied ethics
Codification
Defensive approach
Deontological ethics
Economies of scale
Ethical relativism
Individual ethics
Intractable
Justice theory
Metaethics
Normative ethics
Obstructionist approach
Occupational ethics
Organizational ethics
Proactive approach
Profit maximization
Rights theory
Situational ethics
Societal ethics
Stakeholder
Teleological ethics
Value
Virtue ethics

LEARNING OUTCOMES

After completing this chapter, you will be able to:

2.1 Define the term ethics and differentiate between the various definitions assigned to the term.

2.2 Identify and discuss the various methods available to establish ethical norms.

2.3 Elaborate on the importance of ethics on personal, business, and societal levels.

2.4 Distinguish between the factors that influence personal ethics and the factors that influence business ethics.

2.5 Explain the relationship between law and ethics.

2.6 Evaluate the range of ethical approaches in which individuals and companies can conduct themselves.

2.7 Describe the system of ethics that best serves the practice of medical billing and coding.
CASE STUDY

Sandra Hobson had been a medical biller and coder for 25 years. She started at the ground level as a billing clerk in training in a small physician office, which had two doctors. She impressed her supervisor as a diligent employee with a far-above-average work ethic. Through her career, she received consistently high reviews, received numerous merit pay increases, and was eventually promoted to the head of billing for the clinic, which had grown to eight doctors and three nurse practitioners. During this period, Sandra attended classes in medical office management at her local community college and obtained certification from a national coding organization.

Sandra was very active in her community. In her office, everyone respected her because she treated all of the employees with whom she worked with great respect. Sometimes she had to do some unpopular things as a supervisor, including terminating employees who were not performing adequately and enforcing work rules when employee behavior negatively affected productivity levels. Nevertheless, those in the practice universally saw Sandra as an outstanding biller/coder and an excellent supervisor.

The physicians in the practice elected to join their practice with a larger existing multispecialty group to improve their negotiating position with third-party payers and to achieve cost savings through economies of scale. Sandra worked hard to facilitate the transition and fought to protect the jobs of all the employees in her billing office. The administration of the existing multispecialty practice noticed Sandra’s excellent work and reputation and named her as the associate director of billing, and she and her loyal staff all moved to the merged practice office.

After three years, the director of billing retired and Sandra was promoted to director. She was excited about the opportunity and felt that she was fortunate to have reached this level at this stage of her career. That excitement lasted until her first meeting with the practice chief financial officer (CFO). The CFO told Sandra that her first assignment was to facilitate the transition of the billing service from within the practice to an outsourced billing facility based in Bangalore, India. The practice would retain a handful of employees at the local central billing office to work with patients on a face-to-face basis. However, 90% of the employees in Sandra’s department would be laid off, including all those who came with her from the previous practice. The CFO told Sandra that the realities of health care economics made the move necessary and that this was the single biggest cost savings available. Technological advances would make the outsourcing appear seamless to the patients. He assured Sandra that she would retain her position and that she would be responsible for overseeing the performance of the offshore billing company, as well as the local billing staff. He specifically instructed her not to tell anyone about this until negotiations were finalized and the plans for transition were completely in place.

Sandra returned to her office, shut the door, and stared out the window. This was not something that she expected. She did not...
know quite what to think, but the first things that came to her mind were:

- What about all of the employees who would be laid off? Some of them were single mothers—how would they support their families?
- Two of her employees had told her within the past week that they were going to close on the purchase of a new home within the next month. Now they were not going to have a job and they would have no income, but she could not tell them.
- Would the service truly be seamless to the patients, or would customer service suffer?
- The nature of her job would change substantially—long-distance supervision versus personal relationships and hands-on supervision. Is this something she really wanted to do?

Introduction

Coding and ethics are similar in that they both involve making hundreds of decisions (Figure 2.1). Coders have to choose and assign procedure codes from one of the thousands of Current Procedural Terminology (CPT) codes or Healthcare Common Procedure Coding System (HCPCS) codes. They have to choose and assign diagnosis codes from one of the thousands of International Classification of Diseases, Ninth Edition, Clinical Modification (ICD-9-CM) codes in that code set. Similarly, individuals have to make hundreds of ethical decisions every day—“How will I conduct myself in this situation?”; “What will I say to this person whom I don’t like very much?”; “When will I respond to this request for assistance?”; “How much will I pay for this particular product?”

Sometimes the individual decision-making processes of coding and ethics collide and the ethical challenges that every person faces become a critical part of the coding process. However, before a detailed analysis of the application of ethical principles in coding can occur, a

FYI

Ethics is about making decisions. The medical coder has to make hundreds of decisions each day, making ethics an unavoidable issue for coders.

FIGURE 2.1

Coding and ethics both require answers to many questions. It is not possible to be an effective coder (and appropriately answer the associated questions) without also knowing the answers to the questions associated with making ethical decisions.

CODING AND ETHICS

- Coding Decisions
  - What procedure code?
  - What diagnosis code?
  - Is this procedure part of another?
  - Is this service separately billable?
- Ethical Decisions
  - How will I behave?
  - Do I tell the truth?
  - What do I do to make everyone happy?
  - This person treated me badly—how do I respond?
  - Do I have an obligation to report this matter?
complete understanding of “ethics” must first exist. The first step in the process is clarifying varying definitions and views of the concept.

2.1 Definitions and Views of Ethics

How a person defines and interprets the word ethics is shaped by past personal experience, family and peer influence, formal and informal training in ethics, and a wide variety of variables that are significantly different from person to person. However, ethics is generally recognized either as a system of moral values or principles of conduct for individuals or groups.

The definition with which a person most closely aligns his or her understanding of the concept of “ethics” significantly affects the way in which the person conducts himself or herself and applies ethical concepts. Ethics can be viewed in three different ways:

- As a field of study.
- As a set of rules and guidelines.
- As a set of personal beliefs and associated behavioral principles.

ETHICS AS A FIELD OF STUDY

One way in which ethics is considered is as a field of study. This particular field of study attempts to examine how people try to live their lives according to a standard of “right” and “wrong.” The study of ethics is primarily a philosophical exercise that many, if not most, do not consciously consider on a regular basis. However, it is critically important to study this discipline to understand better the basis on which people make ethical choices.

The field of ethics is divided into three specific categories: metaethics, normative ethics, and applied ethics (Figure 2.2). They are briefly defined as follows:

- Metaethics—This discipline investigates where ethical principles come from and what they mean. Are they generated as part of an

FIGURE 2.2
Metaethics (the study of the origin of ethics) informs the discussion of normative ethics (determining principles of right and wrong), which facilitates the use of applied ethics (making choices in specific daily circumstances). Often, an incident of struggling with applied ethics will drive the parties involved back to the consideration of metaethical concepts.
internal personal consideration or are they cultural or religion based? Metaethics focuses on issues of universal truths, the existence of a supreme being, the role of reason in the behavioral choices that we make, and the meaning of ethical terms themselves (Fieser, 2003).

- **Normative ethics**—Normative ethics is more practical than metaethics. It attempts to take the issues identified in metaethics and establish “normative” standards that regulate right and wrong conduct. This addresses issues such as habits to which people should aspire, the obligations that individuals have toward others, and the consequences of one person’s behavior and choices on other people.

- **Applied ethics**—This discipline involves the application of ethical principles to real-world situations, often with a specific emphasis on controversial issues such as abortion, animal rights, environmental concerns, capital punishment, the justness of war, and so on. However, applied ethics is a consideration in every possible business situation, including the operation of medical practices and the day-to-day performance of medical coding duties.

At times, the lines between these fields of study are blurred. Many people believe medical coding is connected primarily to applied ethics. For example, is it right or wrong to be untruthful in submitting a claim to an insurance company if it benefits the patient (a specific application of ethical principles)? However, normative ethics must be involved because those applications cannot be discussed effectively unless the issues of truthfulness and obligations to others are fully understood. Prior to a complete discussion of normative ethics, metaethical issues such as the following must be asked and answered: “What is truth?” “On what basis is truth determined?” and “What is the logic behind the truth claim?” (Figure 2-3).

**ETHICS AS A SET OF RULES AND GUIDELINES**

Beyond it being a field of study, many people define ethics as a set of rules and guidelines by which individuals should live their lives. The difficulty with defining ethics solely as a set of rules and guidelines is that it does not adequately address the issue of the definition.
Ethics and Diagnosis Codes

A 24-year-old patient, who is receiving global obstetric care from Dr. Jones, calls the office during her 13th week, reporting symptoms of a urinary tract infection (UTI). Dr. Jones’s nurse asks her to come in later that same day for evaluation of her symptoms and any necessary treatment. Dr. Jones confirms a UTI.

Because this visit was not part of the global OB package (UTI is not part of a “routine” pregnancy), the service is separately billable. Dr. Jones’s coder bills 9921x, with a primary diagnosis of 599.0 (urinary tract infection, unspecified) and a secondary diagnosis of V22.2 (Pregnancy, incidental). The claim is filed to the payer and it is denied as part of the global package.

Dr. Jones’s coder contacts the payer and is advised that the claim was denied because it had a diagnosis of “pregnancy” attached to it. The payer representative says that if V22.2 was not attached to the claim, it would have been paid. The coder advises her manager of this information and the manager tells the coder to resubmit the claim without the pregnancy diagnosis. The coder is not comfortable with this advice because she believes it is not ethical. The manager says that the practice is entitled to this money because it was not directly related to the pregnancy—even the payer representative said so.

This case presents two points of view regarding the ethical principles. The coder says that all relevant diagnosis codes should be used to report the services—a principle with which most coders would agree. The manager desires to receive payment associated with a benefit to which the patient is entitled to keep her job and all of their workers employed—she wants them to be able to support their families. Both are sincere in their belief concerning their position and both feel that they are adhering to high standards. The fact that there is disagreement indicates that looking at ethics only as a set of rules does not solve anything when there is disagreement between the parties.

Thinking It Through 2.1

1. Describe how the way you define ethics affects your behavior.
2. Which type of ethics (metaethics, normative ethics, or applied ethics) is the most important? Why?
3. What is your opinion of the case study in which the secondary diagnosis (Pregnancy, incidental) is not reported? What would you do in this situation and why?

What if the risk of being caught breaking the rules is less than the perceived benefit of violating those rules? Violation of ethical principles will likely result.
rules. Rules are effective when the fear of the consequences of breaking the rules is greater than the benefit of breaking the rules. When the cost versus benefit analysis indicates that the risk of being caught breaking the rules is less than the perceived benefit of violating the rules, many people will take the risk and violate ethical principles. The value of those ethical principles is diminished greatly as a result.

**ETHICS AS A SET OF PERSONAL BELIEFS AND ASSOCIATED BEHAVIORAL PRINCIPLES**

A third important definition for ethics is associated with deeply held personal beliefs that result in behavior consistent with those beliefs. Some applications or interpretations of this definition include:

- Ethics is beliefs used to analyze and interpret situations to make decisions regarding behavior.
- Ethics is predetermined planning regarding potential actions in foreseeable situations.
- “Ethics is about how we meet the challenge of doing the right thing when that will cost more than we want to pay” (Maxwell, 2003).

**DEFINING ETHICS**

Each of these definitions references the application of ethical principles to subsequent behavior. The importance of ethics in this approach is not the rules (ethical system) so much as the behaviors that belief in and adherence to the rules produces. This is truly the center of applied ethics, which is based in real-world situations and real-world conflict. In a very practical sense, persons’ ethics are defined by their behavior (actions), rather than their stated beliefs (words). However, the actions are unlikely to be consistent with the words if the person does not have a strong and clear understanding of the source of the ethical beliefs and have a serious commitment to following commonly accepted ethical rules and guidelines.

**2.2 Methods of Determining Ethical Norms**

Before we approach a detailed discussion of applied ethics in the field of medical coding later in this text, it is necessary to understand the available methods by which ethical norms (or generally recognized standards) are established. Different approaches in developing ethical norms will result in different outcomes in behavior. This will provide insight as to how two people concerned about ethics can arrive at two different interpretations concerning the same ethical dilemma. As reflected in Figure 2.4, we accomplish this by studying the area of normative ethics. There are four general categories of normative ethics, as illustrated.

**VIRTUE ETHICS**

Virtue ethics is based on the idea that a person’s life should be committed to the achievement of an ideal or ideals—virtues. The philosopher
Aristotle originally introduced the concept of virtue ethics. He believed that the individual life and society, as a whole, were able to achieve optimal functionality when conducted in the pursuit of a key characteristic or behavior that was virtuous.

Virtue ethics is valuable in that the system promotes the aspiration to a higher standard—a continuous effort to improve the performance of the individual and, thereby, society as a whole. The primary difficulty with virtue ethics is that achieving the ideal level of a particular virtue may be hard to identify. For example, one commonly desired virtue is courage. An individual can have too little courage, which most people would agree is not good. On the other hand, a person can have too much courage—to the degree that he or she makes foolish decisions. Therefore, an ideal level of courage exists—but what is it? Who defines it? The problem of achieving the ideal level is the same for any of the virtues (Figure 2.5).

In addition, emphasis on virtues can change over time. In Aristotle’s time, wisdom, justice, and courage were the most highly valued universal virtues. In today’s diverse range of societies and cultures, many of which live in close proximity to one another, there is often little agreement about what virtues should be valued, let alone how
Deontological ethics, which has its root in the Greek word *deon*, or “duty,” is known as a nonconsequentialist ethical system (Figure 2.6). It focuses on the action itself, regardless of the result that it produces (Mallor, Barnes, Bowers, & Langvardt, 2010). Taken to the extreme, a person whose belief system is based in deontology would say, “I will/will not do X because doing otherwise would be wrong—I do not care what the consequences are to me or to anyone else.” This area of ethics believes that certain universal principles apply to all ethical judgments, regardless of the specific details (Ghillyer, 2010). Actions are taken because of an obligation to a moral idea or principle, regardless of outcome. Deontological ethics differs from virtue ethics in that virtue ethics focuses on the specific virtues demonstrated by the person, while deontological ethics focuses on the principle.

**Rights Theory.** Although there are several forms of “rights theory,” they each share the belief that certain human rights are fundamental and should be respected by all other humans. For example, the Declaration of Independence declares that all people have the right to “life, liberty, and the pursuit of happiness.” A key element of many of the laws in the United States is the presumption that the individual has not only rights but also the expectation that they will not be imposed on or restricted by other individuals, entities, or the government. On the other hand, rights theory also assumes that for people to live together peacefully, they must be willing to give up some rights to receive certain protections in return (Brown & Sukys, 2009). For example, if an individual’s pursuit of happiness causes harm to others (freedom from harm is another presumed right), then the individual’s pursuit of happiness must be restrained in some fashion.

**Modern Rights Theory.** Strict deontological theory has a problem in that its duties are absolute. Persons can never lie and never cheat—although circumstances may exist in which some see lying and
cheating as appropriate to saving their life or the lives of others. This has resulted in a mixed deontological theory, known as modern rights theory, that ranks moral rights and rules. Operating under this theory, a person should adhere to a moral rule unless a greater right takes priority over it (Mallor et al., 2010).

**Strengths and Weaknesses of Rights Theory.** Rights theory works well when a society agrees to the definition of the rights. The theory facilitates democratic societies because the definition of the rights can be integrated into the laws of the society and, thereby, become universally understood.

Rights theory has several weaknesses, however, including disagreement about the rights, their relative values, and the costs associated with allowing the exercise of rights. The right to free speech, regardless of how distasteful or repulsive we find the speech, is a fundamental right in our culture. However, exercising this right has caused damage to relationships between different groups within the society, and society has incurred immense expense associated with the court system in debating and litigating these rights.

**Justice Theory.** While rights theory has a long history, spanning hundreds of years, justice theory is a relatively new entrant in the field of ethics. Justice theory’s most articulate advocate is John Rawls, who wrote *A Theory of Justice* in 1971. Justice theory is very similar to rights theory in its first and most important principle—the Greatest Equal Liberty Principle. This principle states that each person has an equal right to basic rights and liberties (Mallor et al., 2010). According to Rawls, the ideal situation is created (and true rights and justice will occur) when people freely and impartially consider the situation under the veil of ignorance.¹

To a large degree, this philosophy is a means by which Rawls expressed his political beliefs. His position was that the world is the most just when the prospects of the least fortunate are as great as they can be. It is strong in that its basic premise of protecting the least advantaged in society is agreeable to virtually everyone and it is consistent with the teachings of most religious philosophies that encourage the assistance of those in need (Mallor et al., 2010). Justice theory and rights theory are similar in that they both seek to promote the rights of others and to protect those rights.

However, justice theory varies from rights theory because justice theory usually attempts to define the outcome. Rawls sought equality of result, instead of equality of opportunity. As an example in the field of business, if a company was considering two sites for a new plant, the company would weigh the benefits and the costs associated with building the plant in each of the locations and then select the location most beneficial for the company. Under justice theory, the company would select the location that was most in need, with the purpose of raising the economic status of the people in the area.

¹The veil of ignorance means that the person puts aside everything that is specific to him or her (e.g., race, sex, intelligence, nationality, family background, and special talents). The theory is that if everyone did this, there would be unanimous agreement concerning rights and ethics (Hill & McShane, 2008).
In the field of medicine, there is considerable discussion concerning the rights of Americans to receive access to health care. This would be a very important principle to those that espouse justice theory—all people, to the greatest degree possible, should have access to the same level and quality of care, regardless of their socioeconomic status or any other differentiating factor.

**TELEOLOGICAL ETHICS**

Teleological ethics is different from deontological ethics in its focus (Figure 2.7). Deontological ethics has as its primary focus the decision or the action, while teleological ethics focuses almost exclusively on the results or the outcome of a decision or action. Justice theory straddles the line between these two schools of thought, with a focus on both elements of a circumstance—the process and the outcome.

Another term for teleological ethics is “consequentialist” ethics. The most important consideration for this field of ethics is, “What is the outcome or consequence?” For a person who follows teleological/consequentialist ethics, an action is morally right (or ethical) if the consequences of the action are more favorable than unfavorable. This immediately brings a relevant question to the forefront—favorable or unfavorable to whom?

**Utilitarianism.** Utilitarianism is the most well-known and accepted teleological theory. There are three subdivisions of utilitarianism—each of which answers the identity of the recipient of the beneficial outcome.

**Ethical Egoism.** Ethical egoists are the ultimate in selfishness. They have no concern but achieving outcomes that benefit them. That which benefits them is what is “moral,” although most observers would consider their behavior “immoral.” Table 2.1 illustrates the differences between the beneficiaries in each type of utilitarianism.

**Ethical Altruism.** The difference between ethical egoism and ethical altruism is the recipient of the benefit. Altruism is the concern
about the welfare of others. In this context, that which benefits others is the ultimate determination of “morality” for the ethical altruist. The most famous ethical altruist of all time would be Robin Hood. In his eyes, his actions were moral because they benefited the poor. Those from whom he stole would likely disagree with that assessment.

*Traditional Utilitarianism.* Persons who subscribe to traditional utilitarianism focus on the benefit to society, as a whole. This may cause them, on occasion, to take action that is not in their personal self-interest.

Utilitarianism is perhaps the clearest ethical theory to understand in principle. It is more challenging to put into practice because the member of a minority harmed because the “greater good” called for it would not likely be in favor of utilitarianism. In addition, sometimes it is difficult to identify what is “best” and it becomes extraordinarily difficult when attempting to do it for a group as large and diverse as an entire society.

Utilitarianism also has a weakness in that it does not consider either justice or law—only the greater good, as defined by the majority at that time. Deontological theories protect the rights of the individual, sometimes at the cost of the majority. Utilitarianism tends to favor the majority, sometimes at the cost of the individual or minority group. The fact that utilitarianism is not constrained by the law causes it to lose the benefits that the law offers. For example, the treatment of patients with HIV (or any other contagious disease) can be very expensive for society. Utilitarianism could theoretically state that it is in the interest of the greater good to quarantine everyone with the disease and withhold treatment. This would prevent the further spread of the disease and save massive amounts of money spent on treatment. This would achieve the goal of utilitarianism, but would be too unacceptable for most people to consider seriously as an alternative.

*Profit Maximization.* Profit maximization is another form of teleological ethics—the focus is on the results. However, the difference between profit maximization and traditional utilitarianism is the scope of the decision and the factors that are considered when making the decision. In utilitarianism, the goal of maximization relates to the satisfaction or dissatisfaction of the members of society. In the case of profit maximization, the goal must be obtained within the constraints of the law and the only concern is the individual company—not the entirety of society.

Profit maximization focuses on results, but given that it must work within the constraints of the law (based largely on rights and justice.

### Table 2.1 Beneficiaries in Types of Utilitarianism

<table>
<thead>
<tr>
<th>Ethical Theory</th>
<th>Ethical egoism</th>
<th>Ethical altruism</th>
<th>Traditional utilitarianism</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Beneficiary</strong></td>
<td>The individual</td>
<td>People other than the individual</td>
<td>Society as a whole</td>
</tr>
</tbody>
</table>

*Profit maximization*

An ethical theory that focuses on results within the constraints of the law.
theory), it has significant features of both. In addition, the marketplace can control the behavior of some companies because they do not wish to experience a public relations disaster if unethical behavior is discovered and publicized. Companies have experienced boycotts, significant declines in sales, and increased costs associated with borrowing because of their behavior (Mallor et al., 2010).

Unfortunately, the singular focus on profits can cause individuals to forego their ethical standards to meet profit goals. Therefore, profit maximization is likely the traditional ethical framework that can most easily result in ethical failure.

ETHICAL RELATIVISM

In recent years, a new ethical theory has gained momentum—ethical relativism. Under this theory, that which is “ethical” varies from circumstance to circumstance and person to person. It is commonly accepted in the United States because of the variety of cultures (and the associated ethical systems) introduced by immigrants coming to America (Brown & Sukys, 2009). When faced with widely differing cultures, values, and ethics, there is great hesitation to declare that one philosophy is superior to another, at the risk of offending members of a differing cultural community. Ethical relativism partially resolves that issue by stating that no one culture or ethical system is better than another—each person determines what is right and wrong for him or her, based on the person, his or her experiences, the circumstances, and any other factors relevant to the situation.

Ethical relativism is completely incompatible with rights theory because there is no fixed standard of right and wrong. Taken to the extreme, no one can ever do, say, or think anything wrong because of the highly personal, individualized nature of the ethical process. Ethical relativism is commonly called situational ethics. In this theory, judgment can be rendered about a behavior only if the judge knows all of the relevant details associated with the situation. The most effective way to evaluate the behavior is to put oneself “in the shoes” of the other person and ask, “How would I behave if I were placed in that same circumstance?” This may help people view others with tolerance and patience, which is a desirable trait. However, the lack of a fixed standard, or even a definition of an acceptable outcome, makes ethical relativism a troubling concept in defining ethical behavior.

Thinking It Through 2.2

1. Is virtue ethics a viable ethical system for use by coders? Why or why not?
2. Is rights theory a valid tool for use in the practice of medical billing and coding? Why or why not?
3. Do all Americans have a right to health care? What does that mean? Who should decide?
4. How effective is the application of justice theory to the field of medical billing and coding?
5. In the task of medical billing and coding, is utilitarianism a practical ethical theory? Why or why not? If so, to what degree?
2.3 The Importance of Ethics for Individuals, Business, and Society

Ethics is a popular topic in American culture today, both in the general culture and, specifically, in the world of business. The primary reason for the intense focus on the topic of ethics is a remarkable series of major and public ethical failures documented in the media. Many of these companies and people (such as Enron, WorldCom, Nike, and Bernie Madoff) are household names—for all of the wrong reasons.

Unfortunately, the problem with unethical behavior exists not only in large and well-known corporations, but also has become a component of nearly every sector of society. Scandals involving politicians, pastors and priests, and illegal drug use in professional sports are in the newspapers nearly every day. This has created an enormous level of cynicism among the public. Pollster George Barna measured this doubt regarding human behavior when he asked the question, “Do you have ‘complete confidence’ that leaders from various professions would ‘consistently make job-related decisions that are morally appropriate’?” The results are illustrated in Table 2.2.

Ethics is a serious issue when 86% of the American public is unwilling to place their complete trust in their most trusted leaders. Most other categories of leaders received significantly less support.

**WHY ETHICS MATTER**

Ethical standards are important for individuals and societies to function in a stable manner. Unless people have a set of ethical standards to which they adhere, their behavior and responses to others will be random and unpredictable. Some of the economic turmoil in recent years was the result of instability in the marketplace, driven by the fact that people did not trust major companies to do the right thing, did not trust government officials to do the right thing, and many did not trust their employer to do the right thing. Conducting oneself in an unethical manner damages the relationships between individuals and hampers the functioning of society as a whole.

<table>
<thead>
<tr>
<th>Table 2.2 Trust of the American Public in Leaders and Prominent Figures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complete</td>
</tr>
<tr>
<td>Executives of large corporations</td>
</tr>
<tr>
<td>Owners of small businesses</td>
</tr>
<tr>
<td>Elected government officials</td>
</tr>
<tr>
<td>Ministers, priests, and other clergy</td>
</tr>
<tr>
<td>Teachers</td>
</tr>
<tr>
<td>News reporters and journalists</td>
</tr>
<tr>
<td>Producers, directors, and writers of TV and films</td>
</tr>
</tbody>
</table>

*Source: Barna, 2002.*
Ironically, research has shown that companies that behave in an ethical fashion on a consistent basis have better financial performance than companies that behave unethically (Figure 2.8).

Additional benefits to ethical behavior contribute to financial performance, but are not directly financial. According to Jim Blanchard, CEO of Synovus Financial Corporation, he created the company based on the same ethical principles that he held personally. To institutionalize the principles, he went so far as to create a People Development Component, a department specifically focused on appropriately treating the workforce. Blanchard stated that the measurable benefits include “lower turnover, fewer EEOC claims, and the disappearance of any kind of harassment issues. The benefits that can’t be specifically measured are that you keep your best folks, your young emerging leaders want to stay, and people grow and flourish in an environment where they are not suppressed. So you’re getting optimum and maximum growth at the highest level” (Maxwell, 2003).

It is unreasonable to expect that societal ethics will be any better than the ethics of the individuals who comprise that society. The ethics of the coding practices of a health system or provider office will be no better than the ethics of the providers and the individual employees at that facility. Therefore, it is vital to understand from a practical vantage point how ethics formation occurs.

**HOW ETHICS ARE FORMED**

Individuals do not develop personal ethical standards as they would develop knowledge of English, mathematics, science, or social studies. The study of metaethics and normative ethics are academic exercises, which can influence the development of personal ethics, but studying these disciplines will not make a person “ethical.”

**Development of Personal Ethical Standards.** Personal ethical standards are developed, in part, by exposure to the environment and an individual’s personal experiences. The path to the adoption of ethical standards is uniquely individual, although many will agree on the standards eventually adopted.

For most people, the leading factor in shaping personal ethical standards is the people who are in primary contact with the individual.

---

**FIGURE 2.8**

This chart compares the financial performance of the Standard and Poor’s 500, the FTSE 100 (an international index, based in the United Kingdom), and the World’s Most Ethical (WME) companies, as determined by *Ethisphere* magazine.
This includes parent, siblings, and extended family. The reason for the significant influence of these people is the large quantity of time spent in the family context. Other people who influence ethical standards are friends, peers/classmates, and neighbors (Figure 2.9). Their influence increases significantly over time through the teenage years.

The influence of these people in shaping ethical standards can be either positive or negative. The standards of an individual will tend to moderate toward the general standards of the group. If a group of teenagers is involved in illicit drugs, alcohol, and other illegal activities, the dynamics of the group and peer pressure will likely influence the individuals within the group to adopt these activities as a legitimate pattern of behavior and their standards will change accordingly. The opposite can also occur—groups of students who are involved in community service, team sports, or other positive activities will likely adopt the ethics of that group.

Exposure to a suboptimal environment for ethical development in their family life does not mean individuals are destined to adopt those same standards. Many have taken this exposure to unethical behavior as a practical lesson in what not to do and have developed strong ethical standards in direct response to the negative behaviors they witnessed. Others who have experienced negative environments have had their ethical standards changed by the involvement of personal role models or mentors, who altered the course of the individual’s life by allowing him or her to witness their ethical standards and the resulting behaviors.

Other factors that contribute to the development of ethical standards include the persons’ cultural and ethnic background, their exposure to religious beliefs and systems, their educational experiences, and their exposure to various media outlets. Each of these can have a significant impact on how a person views the world and contributes toward the individual’s determination of what is and is not acceptable behavior.
Part One  |  The Fundamentals of Ethics

The Roots of Personal Ethics. The exposure to all of these factors can produce different results in different individuals. For example, exposure to religious teachings can lead people to believe that behaving ethically is a means by which to demonstrate or live out their religious devotion. Religion may motivate others through fear of divine punishment now or in the afterlife, or anticipation of some present or future reward for living a virtuous life (Ghillyer, 2010). On the other hand, some people exposed to religious teaching may reject it altogether, basing their ethical behavior on human experience rather than a religion’s definition of right and wrong.

Regardless of how individuals got to their destinations, when they get there, they have developed values and a value system. A value is a principle that a person considers important. A value system is a set of principles that the person has adopted as the framework for his or her behavior—the person’s ethics. Not all values are equal. Sometimes there will be a conflict between two important values, but a choice must be made between the two. Examples include:

- Lying is wrong—but what if you were lying to protect the life of a loved one?
- Stealing is wrong—but what if you were stealing food to feed a starving child?
- Killing is wrong—but what if you had to kill someone in self-defense? (Ghillyer, 2010)

The value (worth) of a value is measured in two separate ways:

1. **Intrinsic value**: It is a good thing in itself and, whether or not it produces something good, it is pursued.
2. **Instrumental value**: It is something that is valuable because it can help reach another value. Money, in itself, is not valuable; however, money can be a tool to obtain something of value, such as financial security, shelter, food, and so forth.

Practical Personal Ethics. As indicated earlier, ethics is a challenging field of study because so many different definitions of ethics exist. To clarify the definition that we will use throughout the remainder of this book, the term ethics is categorized into one of the following four groups (Figure 2.10):

**Simple Truth.** This category includes those items that the majority of people would view as very straightforward in terms of right and wrong or good and bad. Many people would not consider this type of principle as an ethical issue until they see someone commit egregiously unethical behavior. In this case, “doing the right thing” seems clear. Placed in the form of a question, ethics asks, *What is the right thing to do?*

**Individual Behavior.** This category recognizes that a person’s daily behavior is influenced by the values that he or she has developed over the years. This is a more personal form of ethics than simple truths, which are universally recognized. In this case, ethics asks, *How will I conduct myself in this specific situation?*

**Personal Integrity.** Personal integrity sees ethics and values from an external point of view, rather than an internal perspective. The
focus in this case is, What does my behavior say to other people? Someone is a person of integrity when he conducts himself in a manner consistent with his stated moral values and standards. Specifically, integrity is emphasized when the behavior matches the standards, even when there is significant financial or personal cost associated with maintaining that consistency. This form of ethics asks, Who is watching me and what impact will my choices have on others?

Community (or Societal) Behavior. Any collection of people in a given location will bring their set of values to the group. There is a tendency for people with common values to congregate together because of their shared values. However, as our communities and society become more diverse, it is increasingly likely that people with different values are going to be working together. In some fashion, agreement on basic ethical principles must be reached for the society to function effectively. In this case, ethics asks, Where can we find common ground regarding our values and ethical principles?

BUSINESS ETHICS

In his book There’s No Such Thing as Business Ethics, author John Maxwell’s thesis is that there should not be any distinction between the ethics that a person holds in his or her personal life and the ethics he or she displays in the conduct of business. However, the seeming frequency of ethical shortfalls in the business realm causes people to be skeptical concerning the general state of ethics in the business community. Although the failures of a few have tainted the reputation of the business community as a whole, the failures have not been without some benefit because they have brought the issue to light and reinforced the commitment of many to conduct their business in an ethical manner. Organizations that focus on ethics and compliance now commonly exist and one study showed that 68% of American companies have undertaken a formal ethics program (Ethics and Compliance Officer Association, 2006).

FIGURE 2.10
The four factors that contribute to the development of ethical standards.
The Difference Between Personal and Business Ethics. When considering ethics in the business environment, we must account for all of the elements described concerning personal ethics to this point. However, there is a significant difference between personal and business ethics because there are usually multiple additional stakeholders in the process. Traditional personal ethics are generally limited to interactions between two parties or, in some cases, a relatively limited number of people (Figure 2.11). Even when personal ethical dilemmas occur within the context of larger groups, the number of different interests within the situation is usually limited. Business ethics involve a dramatically larger group of parties with widely different interests.

A stakeholder in the context of business is any individual, institution, or community that has a share or interest in a business operation. The stakeholders in any generic business can be identified as indicated in Figure 2.12. When a business behaves in an unethical manner, it has the potential to affect negatively one or more of the other stakeholders. In extreme cases, it may affect all of them in different ways (Table 2.3).
In addition, not all stakeholders are equal. The interests of one stakeholder may not be comparable in importance or value to the stakeholder in question or the stakeholders as a group. Therefore, the concerns of all stakeholders may not receive equal consideration. This, by itself, could be an ethical concern (Figure 2.13).

**The Conflict Between Personal and Business Ethics.** Each business has a set of ethical principles by which it operates. In some cases these are formal and written, whereas in other cases they are informal and unwritten. The importance of ethics becomes very clear when an ethical conflict occurs between two stakeholders and one stakeholder has more power in the relationship, compared to the other stakeholder.

The power that is inherent on the part of the employer influences the nature and resolution of ethical issues. If the ethical standards of the employer are higher or more stringent than that of the employee, the employee who does not adhere to the employer’s standards will be identified, disciplined, and possibly terminated. If the ethical standards of the employee are higher or more stringent than that of the employer, the employee has few options—most of which are not desirable in the eyes of the employee. This may tempt the employee to violate his or her ethical standards.

**Table 2.3 Stakeholders and Their Potential Interest in the Organization**

<table>
<thead>
<tr>
<th>Stakeholders</th>
<th>Interest in the Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shareholders or owners</td>
<td>• Investment decisions made on false or misleading information</td>
</tr>
<tr>
<td></td>
<td>• Loss of value in the institution</td>
</tr>
<tr>
<td>Employees or managers</td>
<td>• Loss of employment</td>
</tr>
<tr>
<td></td>
<td>• Insufficient funds to pay severance package or meet pension obligations</td>
</tr>
<tr>
<td>Customers</td>
<td>• Poor service quality</td>
</tr>
<tr>
<td>Suppliers or vendors</td>
<td>• Delayed payment for goods and services provided</td>
</tr>
<tr>
<td></td>
<td>• Unpaid invoices if and when company goes bankrupt</td>
</tr>
<tr>
<td>Creditors</td>
<td>• Loss of principal and interest payments</td>
</tr>
<tr>
<td>Government</td>
<td>• Loss of tax revenue</td>
</tr>
<tr>
<td></td>
<td>• Failure to comply with relevant legislation</td>
</tr>
<tr>
<td>Communities</td>
<td>• Unemployment of local residents</td>
</tr>
<tr>
<td></td>
<td>• Economic decline</td>
</tr>
</tbody>
</table>

*Source: Ghillyer, 2010.*

**FIGURE 2.13**
The process that must take place when competing, but incompatible, stakeholder objectives exist. The two steps denoted in orange are the areas where ethics play an extremely important role and ethical dilemmas have their most likely home.

*Source: Hill and McShane, 2008.*
Factors That Influence Business Ethics

In the context of business, including medical billing and coding, a number of factors influence business ethics (Figure 2.14). As described earlier, business ethics are more complicated than personal ethics because there are generally more stakeholders with varying interests involved in the process, and the actions of one stakeholder dramatically affect more people than a one-to-one personal interaction. Decisions in the business environment, by the nature of the transaction, influence a larger number of people. Consequently, it is necessary to understand the specific types of ethical factors that contribute to the ethical environment in which a person is functioning.

Occupational ethics
Standards that govern the manner in which members of a profession, trade, or craft conduct themselves while working within the context of their industry.

OCCUPATIONAL ETHICS

Occupational ethics are standards that govern how members of a profession, trade, or craft should conduct themselves when performing...
work-related activities (Frankel, 1989). These standards are unique to a particular industry and are not necessarily universally applicable in all circumstances. Some examples of industries with unique ethical standards include medicine, law, accounting, journalism, and direct marketing.

Within the coding industry, several organizations, including the American Academy of Professional Coders (AAPC) and the American Health Information Management Association (AHIMA) publish a code of ethics for members of their organization. (These are explored in detail in Chapter 10.) In general, the purpose of these codes of ethics is to encourage billing and coding professionals to engage in behavior that is of a higher standard than that which is required by the law.

**ORGANIZATIONAL ETHICS**

Whereas occupational ethics provides guidance for behavior among those within a given industry, organizational ethics provides ethical guidance for a company, its managers, and its employees. It provides instruction as to how company representatives should conduct themselves—it is more specific than occupational ethics. Either organizational ethics may establish a standard that is higher than traditional occupational ethics or it may provide more detailed instruction regarding appropriate behavior.

Ethics are important throughout an entire organization. However, the ethics of the top managers of an organization are crucial to the ethical direction of the corporation. If the ethics of the owners or top managers are questionable or inconsistent, it becomes difficult for the employees to whom they report to behave ethically. If employees fail to follow an instruction or refuse to engage in behaviors they personally find to be unethical, they may face the threat of discipline or termination. If unethical behavior is a hallmark of an organization, there is a substantial probability that the unethical behavior will spread to others who would have otherwise behaved in an ethical fashion.

Most ethical failures within organizations result when one of two things occur:

1. Individuals put their self-interest above that of the organization’s published ethical guidelines.
2. The organization has created an environment in which ethical behavior is not highly valued and employees act accordingly.

**SOCIETAL ETHICS**

Societal ethics are standards that govern how members of a society should deal with one another in matters such as fairness, justice, poverty, and the rights of the individual (Jones & George, 2009). Societal ethics come from the laws of a country, as well as customs, practices, and unwritten values and norms.

The ethics of a society can vary significantly among societies. Some societies believe very strongly in the importance of the welfare of each of their citizens. Therefore, they have relatively high tax rates that fund government programs to ensure that all citizens receive certain services, such as health care and significant retirement benefits. In other societies,
Ensuring Active, Engaged Compliance

A physician, whose coding practices were historically suspect, attended a presentation at a conference by a health care attorney. The attorney recommended that all attendees develop and implement a billing and coding compliance program to demonstrate the practice’s good faith effort to Medicare, Medicaid, and other third-party payers to conduct themselves in compliance with all legal and ethical standards.

The physician told his office manager to write up a compliance plan, using some of the materials provided at the conference as a template. The physician asked the office manager to present a draft of the compliance program to him within a week. The physician looked at the draft, signed off as the compliance officer, and handed it back to the office manager.

1. Do you believe that this physician practice will engage in ethical behavior related to its coding? What is the basis for your belief?
2. What factors will influence this practice’s (organization) success or failure in relationship to ethical behavior in coding?

bribery is standard practice in “getting things done.” This has created some problems for certain worldwide organizations that have to balance these competing societal ethical systems. How can a company work within a society where bribery is not seen as unethical when it is based in the United States, where bribery is not only unethical—it is illegal?

As the world becomes “smaller” and more integrated, certain societal differences become even more pronounced. In Western society, women’s rights are very important and the ethical principle of treating all people fairly, both men and women, exists explicitly in many of our laws. However, in some other societies, women are viewed differently and there is no ethical motivation to ensure that they are treated in the same fashion as men. When people from different societies with widely varying ethical standards encounter one another, the opportunity exists for conflict and ethical dilemmas. Each society believes wholeheartedly that its approach is the “right” and “ethical” approach and, therefore, it has no obligation to change its position. Ultimately, the law of a given country has to establish the standard when the conflict is intractable. Yet, the law cannot necessarily change people’s core ethical beliefs, which were formed, in part, by the culture in which they were raised.

Conflicting Cultures in the Billing Office

Stephanie went to work in the billing office of a physician who had emigrated from another country—one in which women’s rights are not valued in the same way they are in the United States and where bribery is a common practice. The physician was very clear with Stephanie that it was her responsibility to obtain as much revenue as possible and that “playing with the rules” was not only acceptable, but also encouraged.

Stephanie was highly uncomfortable with this situation—it went so far that she became aware that the physician was submitting charges for services that he never provided. She attempted to speak to the physician about her concerns, but he exploded into a rage, stating, “How dare you question me! Don’t ever talk to me about this again or you will be fired!”

1. How should Stephanie respond in this situation?
2. If the physician was asked about his behavior, he would indicate that he did absolutely nothing wrong—his behavior is consistent with his societal ethical norms. Explain how you would tell him that his standards are wrong.
Individual ethics are developed within the context of societal ethics. Each individual brings societal and individual ethics to the employer organization. As the employee becomes familiar with the organization and its ethical principles (and becomes familiar with occupational ethics if new to the industry; Figure 2.15), the individual will find either that his or her ethics are consistent with the employer and industry, or that his or her ethics are inconsistent with the work environment. The person will need to decide how to respond to the circumstance—leave the organization, modify his or her ethics, or seek to influence the ethics of the organization?

**INDIVIDUAL ETHICS**

*Individual ethics* are created within the context of the societal ethics in which the person was raised. That ethical framework is placed into the workplace world of occupational and organizational ethics.

Individual ethics are personal standards and values that determine how people view their responsibilities to other people and groups and how they should act when their own self-interests are at stake (Jones & George, 2009). The fact that a person is exposed to a particular society’s standards does not mean that he or she automatically agrees with and/or conducts his or her life by those standards. In fact, some people completely reject the ethical standards to which they were exposed—they choose a different path. Either way, the standards to which they were exposed influenced how they arrived at the standards they ultimately follow.

The environment to which they were exposed, which includes family, peers, and those in the surrounding community, does not necessarily produce ethics that society, in general, would find acceptable. If a person were born into a family that was engaged in organized crime,

---

**FIGURE 2.15**

Individual ethics contribute to societal ethics, while organizational ethics contribute to occupational ethics.

---

**Thinking It Through 2.4**

1. Which of the ethical factors that contribute to the ethical environment in business is the most significant? On what basis do you form your opinion?
2. What is the primary issue currently affecting the health care industry that is influenced by societal ethics? On what do you base your opinion?
3. Have you ever had a circumstance in which your personal (individual) ethics conflicted with the ethics of your employer or other organization of which you were a part? If so, briefly describe the situation.
the individual’s concept of acceptable and ethical behavior could be substantially different from that of the average person. On the other hand, that person may find the behaviors to which he or she was exposed so unacceptable that the individual would reject the family’s lifestyle and adhere to a different ethical standard.

2.5 The Relationship Between Law and Ethics

A common misconception exists that the law and ethics are essentially the same. In a perfect world, ethics and law would always coincide. Unfortunately, we do not live in a perfect world. Law and ethics have a multilayered relationship and there are certain things that the law can do that ethics cannot do, and vice versa. The law, by definition, is the codification of rules of conduct, established by the government to maintain harmony, stability, and justice in the society (Brown & Sukys, 2009). It defines the legal rights and duties of the people under its governance and provides a way to enforce those rights through the courts and legislative system. In addition, the law provides a standard by which those in a society can agree to conduct themselves (see Table 2.4).

ETHICS AS A FOUNDATION FOR THE LEGAL SYSTEM

Laws not founded on a set of ethical principles will rarely succeed in reaching their objectives (Brown & Sukys, 2009). The reason why ethics is required as a foundation is that the law, in itself, is insufficient to cause people to do the “right” thing (Figure 2.16). The law does not provide an incentive for people to do the right thing—it simply provides a disincentive to not do the wrong thing. Unfortunately, for many people that disincentive is not sufficient to keep them from doing the wrong thing. In some cases, the risk of being caught doing the wrong thing is perceived as sufficiently low to justify the risk in engaging in the illegal activity. This is even more severe than the situation described

<table>
<thead>
<tr>
<th>Table 2.4 Comparison of the Role of Ethics and the Role of Law</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ethics</strong></td>
</tr>
<tr>
<td>Develops and supplies standards for behavior, but can’t enforce compliance.</td>
</tr>
<tr>
<td>Ethical standards change informally, generally over long periods of time.</td>
</tr>
<tr>
<td>Significant disagreements can exist regarding the source/type of ethical standards in use.</td>
</tr>
<tr>
<td>Facilitates the functioning of a society by serving as a framework for laws.</td>
</tr>
<tr>
<td>Indirectly promotes societal welfare by encouraging people to conduct themselves in certain ways.</td>
</tr>
<tr>
<td>Encourages individuals to resolve conflicts in a mutually satisfactory manner.</td>
</tr>
</tbody>
</table>
on page 34–35, where ethics are viewed only as a set of rules. In this situation, law without ethics is nothing more than potential punishment without a personal commitment to following any rules.

Ethics and law have a dependent relationship. The law requires ethics as a foundation to be effective. Ethics requires the law to serve as deterrent and enforcement tool. Neither is as effective independently as when they work together.

**Compliance Programs—Law and Ethics**

Compliance programs are the American health care system’s primary tool to strive toward compliance with the law. The challenge of compliance programs is that coding guidelines are not as firm as most laws. The law has the court system to settle different interpretations of the law; it is difficult to find an impartial avenue by which to resolve conflict in interpretation of coding guidelines. Therefore, health care providers are obligated to comply with ill-defined guidelines that have wide variations in interpretation, even among people who sincerely want to do the right thing. It is difficult to ensure that the practice adheres to the rules when the rules cannot be definitively identified.

In attempting to comply with guidelines that are not universally understood or applied, is there any hope for success for a compliance program when strong ethical principles do not preexist within the corporation? The answer to this question is, “Probably not.” Just as the law is less effective when there are no underlying ethical principles, compliance programs are less effective when underlying ethical principles are absent.

Does that mean that compliance programs are not worthwhile? Absolutely not. They are valuable on three levels:

1. **Compliance programs clearly communicate the expectations of the corporation to its employees.** Employees who are committed to behaving ethically are supported in their efforts. Employees who are not committed to behaving ethically are not rewarded for their behavior. In fact, they may be disciplined or terminated. In summary, one purpose of a compliance program is to create an environment where behaving in compliance with the law is the expectation.

2. **Compliance programs serve the same purpose as the law—they prescribe a method by which adherence to the program is monitored and measured.** If there are variances from the standards of the program, there is a prescribed course of action to respond to that variance.

3. **If there is determined to be a variance from legal standards by a government agency or other third-party payer, the existence of a compliance program may be helpful in mitigating potential liability.** If there is an indication that the provider made a good faith effort to comply with the legal requirements associated with coding, but there was an inadvertent or unintentional violation of the law, the penalty imposed on the provider may be significantly reduced. If there was no effort to comply with the law or monitor the practice’s compliance, the governing agency may impose more severe penalties because it is indicative of either a proactive intent to commit fraud or an indifference to doing the right thing.
ETHICS AS A CONTRIBUTOR TO THE LAW

Which is the higher standard—ethics or the law? Most generally recognize that ethical standards exceed legal standards. The fact that something is “legal” does not necessarily make it “ethical.” On some occasions, the fact that something is ethical does not necessarily make it legal. However, the latter circumstance is far rarer than the former and is usually the result of a unique, complex situation.

Traditionally, laws are created as the result of an ethical breach identified by society. To formally indicate society’s dissatisfaction with the unethical behavior, a law is created that specifically defines the behavior that is inappropriate and prescribes a penalty associated with the failure to comply with the law. In this way, ethics contributes to the formation of law.

Others disagree with this assessment, relying on the famous idiom, “Locks don’t keep crooks honest; they just keep honest people honest.” Another way to look at the relationship between law and ethics is that law is the boundary over which people should not cross; ethics is what encourages people to stay away from the boundary in the first place. People who ask only “Is it legal?” are really asking, “How close to the line can I get?” People who ask “Is it ethical” are really asking, “How can I get further away from the line?” (Figure 2.17).

In summary, ethical principles are superior to the law. The law tells people what they cannot do or what they must do. Ethics encourages people by informing them as to what they should do. Nonetheless, the law is necessary because not everyone adheres to strong ethical principles.

**FIGURE 2.17**

People’s natural inclination is to see how close they can get to the law (as if it were a cliff) without going over the line (the red arrows). Strict adherence to ethical principles and standards serves as a magnet, pulling people away from the line toward a standard higher than the law (the yellow arrows).

**Thinking It Through 2.5**

1. Examine Table 2.4. Where are ethics and the law most similar? Where are they most dissimilar?
2. Explain the statement “Ethics and law have a dependent relationship.”
3. From a brief Internet search or review of recent news reports, identify a recently passed new law. What was the ethical issue that prompted the creation of that law?
2.6 The Range of Ethical Approaches to Individual and Corporate Behavior

Although many different sources for and theories about ethical behavior exist, individuals’ and businesses’ ethics are only as effective as the commitment they make to adhere to those ethics. The commitment to ethics can range from little to none, to a very intensive commitment to the highest ethical standard—with levels of ethical commitment existing between these two extremes (Figure 2.18).

OBSTRUCTIONIST APPROACH

The obstructionist approach to ethics describes the individuals or businesses that are aware of right and wrong and the basic principles of ethics, but choose not to follow them. They intentionally behave in a manner inconsistent with society’s ethical standards and go so far as to intentionally commit illegal acts. The reason for adopting this approach is the belief that the individual or company will somehow benefit more by behaving unethically than ethically. On some occasions, a person does not intentionally start out with an obstructionist ethics framework in mind—a small infraction or a single poor choice that is in violation of his or her ethical standards is not addressed appropriately. The effort to hide the original small issue creates the need for further violation of ethical standards, which creates the need for further coverup, and so on. However, each additional choice to continue the coverup takes the person further from his or her ethical standards and the person in effect becomes obstructionist in behavior.

In the world of medical billing and coding, an extreme example of obstructionist ethics would be a person who establishes a durable medical equipment company, with the intent to defraud Medicare, Medicaid, and third-party payers by submitting claims for items and services never provided. Another example would involve a medical practice that discovers that one of its coders has been habitually over-billing the level of E/M services, resulting in tens of thousands of dollars of overpayments. While the practice did not initially intend to do this, it did not adequately monitor its employee. When it received notice of a routine chart audit, along with a list of charts to be reviewed, instead of admitting to the billing abuse it went into those charts and modified them to support the billing of the level of service that was

![Figure 2.18](image)
submitted. The decision to cover up the improper billing was obstructionist behavior on the part of the medical practice.

1. Identify three examples of obstructionist ethics in business in the last 20 years. Do you believe that they originally intended to conduct themselves in this fashion? Why or why not? If they did not, at what point did they become obstructionist in their behavior?

2. In the case of the medical practice in the previous example, what should it have done when it became aware of the improper billing?

3. Does your answer to question 2 change if the practice has virtually no money in the bank and it has maximized all possible sources of credit?

**DEFENSIVE APPROACH**

Individuals and businesses that conduct themselves using the **defensive approach** to ethics are ethical to the degree that they are required to do so by law, but they take no steps beyond the minimum standards of the law to be ethical. The defensive approach is more ethical than the obstructionist approach in that the ethics required by the law are considered.

Unfortunately, a large number of businesses in the United States operate in this fashion. They do what is legal—but no more than that. The operation that uses the defensive approach does things that many people would view as “not right,” but they would not incur any legal penalty for behaving in this manner. A frequently cited example is the payment of very high salaries to CEOs, with large bonuses, at the same time that the company performance is declining and employees are laid off. High CEO salaries are not illegal, regardless of the company’s performance, although in recent years lawmakers have made efforts to address this issue through revisions in the law and governmental regulations.

An example of defensive ethics in medical billing and coding would be a medical practice that implements a compliance program that defines the behavior that is and is not acceptable regarding the billing of services to patients and insurers. Although this practice has a compliance program, it does not engage in the activity required to monitor the quality of the billing and makes no specific effort to inform new employees of the compliance program. The program exists and it is available to any agency or insurer that wanted to see it. However, in reality, it does not affect the day-to-day billing and coding that occurs in this office.

1. It has been said that it is better not to have a compliance plan than to have a compliance plan and not follow it. What is your opinion of this sentiment? What are the risks and benefits of each option?

2. Would you reassign the categories if the compliance plan was established with no intent to ever follow it (as opposed to simply not following through on good intentions)? Why or why not?

**ACCOMMODATIVE APPROACH**

Individuals or businesses that use the **accommodative approach** to ethics are those that behave legally and ethically and do their best to balance the interests of different stakeholders, even in difficult situations.
if faced with a choice that may harm the bottom line, they will act
ethically—to the short-term financial harm of the company.

For both individuals and businesses, ethics can be categorized in
one of five ways:
1. Always ethical
2. Mostly ethical
3. Somewhat ethical
4. Seldom ethical
5. Never ethical

Those that are accommodative in their approach to ethics would
fit in category 1 or category 2, although they are always striving for
category 1. In the case of business, a company that takes an accommo-
dative approach is aggressive in dealing with employees who display
ethical lapses, even if the action of the employee is not necessarily il-
legal. Although most people would claim to be in one of the first two
categories, those in this category make a specific and concerted effort
to be their best ethically.

In the world of medical billing and coding, an accommodative pro-
vider would be one that establishes a compliance program and follows
through on all aspects of that plan. Regular monitoring, as prescribed
by the plan, is carried out and adjustments and corrections are made
as necessary.

1. Which is more likely to occur—a provider/employer with a higher
ethical standard than the employee or an employee with a higher eth-
ic standard than the employer? What is the basis for your answer?

PROACTIVE APPROACH

Individuals and businesses that engage in a proactive approach to
their ethical behavior specifically go out of their way to conduct them-
selves in an ethical fashion. For companies, instead of being satisfied
with conducting themselves ethically, they intentionally work to make
doing the “right” thing part of the corporate culture. They become
known throughout the marketplace as a company that is always ethi-
cal and treats all stakeholders fairly.

An example of a proactive company in a billing and coding con-
text would be one that routinely and regularly monitors its accounts
receivable for credit balances. If a patient makes a prepayment for a
given service and more is received from the insurance company than
was originally expected (e.g., the patient met the deductible with ex-
enses at another provider), this type of provider would send the re-
fund check to the patient in a brief, defined period. It would not wait
for the patient to request the refund—it would take the lead in the
circumstance and issue the refund without prompting.

1. Why might a provider not be timely in issuing refund checks on
overpaid accounts? Describe how the timing of refunds affects
each of the stakeholders in the practice.
2. List the benefits and drawbacks of being proactive in issuing re-
funds quickly—in terms of economics and any other consideration
that may come into play.
Throughout the chapter, we have discussed a number of belief systems and ethical theories. The broad array and widely differing scope of systems and theories appear to make defining an appropriate general ethical theory for life difficult, and defining one specific ethical theory for medical billing and coding nearly impossible. Although there are benefits to each of these systems/theories for the biller and coder, each also has drawbacks or elements that are troubling to one or more of the stakeholders in the process. So, what system is best for practical application for billers and coders within the medical industry?

THE GOLDEN RULE

The best ethical system for application in the world of medical billing and coding is commonly known as the Golden Rule. This rule is by no means unique to Christianity. In fact, nearly every culture and religion around the world has a comparable principle within its teachings, as shown in Table 2.5.

THE VALUE OF THE GOLDEN RULE

The primary value of the Golden Rule is that any person can comprehend it, whether an elementary school child or the chief executive of the largest corporation. To determine whether an action is appropriate or to decide what course of action to take, all one must do is mentally place oneself in the other person’s position—“If I were that person, how would I want me to behave in this case?” The answer to that question is likely the appropriate ethical response.

Another value of the Golden Rule is the fact that it is a principle accepted by most people. On what basis would a reasonable person indicate that he or she deserves to be treated better than someone else? If it is wealth or social status, a person could claim that he deserves to be treated better than someone in a lower social class who makes less money. However, that same person would also have to agree to be treated poorly by someone in a higher social class who makes more money. If the criterion for better treatment is talent, then the talented person could claim better treatment than less talented people—until someone else with more talent appears.
Those who are truly committed to the Golden Rule will always be able to find common ground with reasonable people (Maxwell, 2003). If an individual believes the Golden Rule, then he or she will take the time to learn more about the other person and understand the person’s beliefs, particularly if there is a conflict that seems impossible to resolve. Resolution can generally occur when an individual truly understands the other person’s position and is committed to responding, even if disagreement exists, in the same fashion in which he or she would like to be responded.

Finally, the Golden Rule is the ultimate win–win philosophy. Examine the position of two different people:

**Person one:** If I treat you as well as I desire to be treated, you win.

**Person two:** If you treat me as I desire to be treated, I win.

### CHALLENGES TO THE GOLDEN RULE

There are two primary challenges to successfully living out the Golden Rule, particularly within the world of business.

**Others Do Not Respond in Kind.** If a person is committed to treating others as they want to be treated, he or she is viewed as an ethical person. The challenge for this ethical person is dealing with people who do not respond in the same fashion. The other persons do
not consider the interests of others—they are interested in obtaining only what they want, regardless of the effect on others. The frustration for recipients of this type of behavior is that they cannot control the actions of others. If a person chooses to behave this way, there is no quick fix. An important concept to note is that the Golden Rule is not a conditional guideline—the instruction to treat others as you want to be treated is not waived if the other person fails to do the same.

**It Is Easier to Ignore When a Corporation Is Involved.** Corporations are often perceived as impersonal, faceless entities. As a result, an ethical individual may find it easier to conduct herself differently toward a corporation than toward a person with whom she has a personal relationship. Somehow, it is more acceptable to behave unethically toward a corporation than it is an individual. A key to successfully living the Golden Rule is to ensure consistency in application of the principle, regardless of the possible definitions of “them” in the phrase, “Do also to them.”

**APPLICATION TO THE WORLD OF MEDICAL BILLING AND CODING**

The world of billing and coding presents challenges to individuals who wish to conduct themselves ethically. Keeping in mind the key principle of the Golden Rule, consider the following scenario: A patient asks a billing office representative to change the diagnosis on a claim because the insurance company denied the claim with the original (correct) diagnosis.

Consider the four points of view in this scenario, as depicted in Figure 2.19 and Table 2.6:

- The patient.
- The clinic employee.
- The clinic.
- The insurance company.

In billing and coding, occasionally parties to a transaction will ask another entity to act inconsistently with the Golden Rule. In these cases, the patient is asking the other parties to engage in behavior that they would not want to experience if the roles were reversed. When
Table 2.6 Potential Interests of Parties in the Medical Coding Process

<table>
<thead>
<tr>
<th>Entity</th>
<th>Patient</th>
<th>Clinic Employee</th>
<th>Clinic</th>
<th>Insurance Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patient</td>
<td>Would like the patient to pay for the noncovered service</td>
<td>Would like to receive payment for services, while maintaining patient relationship</td>
<td>Desires that patients pay providers according to terms of insurance contract</td>
<td></td>
</tr>
<tr>
<td>Clinic employee</td>
<td>Wants employee to change diagnosis</td>
<td>Wants employee to obtain payment from patient</td>
<td>Wants clinic employee to be truthful in submitting claims</td>
<td></td>
</tr>
<tr>
<td>Clinic</td>
<td>Wants clinic to make employee change diagnosis</td>
<td>Wants to be supported in doing the “right” thing</td>
<td>Wants clinic to be truthful in submitting claims</td>
<td></td>
</tr>
<tr>
<td>Insurance company</td>
<td>Wants insurance company to pay for noncovered services</td>
<td>Has no specific request of insurer, given that payer has already made a determination</td>
<td>Has no specific request of insurer, given that payer has already made a determination</td>
<td></td>
</tr>
</tbody>
</table>

Red—Requests that are not ethical/inconsistent with the Golden Rule.

This occurs, it is impossible for the Golden Rule to realize its full benefit and the win-win opportunity that is otherwise possible. Nevertheless, the other entities should not change their position because one of the entities did not follow the Golden Rule.

**Thinking It Through 2.7**

1. Would compliance programs be necessary if everyone followed the Golden Rule all the time? Why or why not?
2. List other entities that may be involved in the decision matrix in the health care arena.

**CHAPTER REVIEW**

**Chapter Summary**

<table>
<thead>
<tr>
<th>Learning Outcomes</th>
<th>Key Concepts/Examples</th>
</tr>
</thead>
</table>
| 2.1 Define the term ethics and differentiate between the various definitions assigned to the term. Pages 33–36 | • Ethics and ethical have a broad range of possible definitions. The definition that a person chooses to use and the way in which he or she views ethics will shape how ethics affect his or her life.  
• There are three ways to see ethics:  
  1. A field of study.  
  3. A set of personal beliefs and associated behavioral principles.  
• There are three categories of ethics:  
  1. Metaethics  
  2. Normative ethics  
  3. Applied ethics | (continued)
<table>
<thead>
<tr>
<th>Learning Outcomes</th>
<th>Key Concepts/Examples</th>
</tr>
</thead>
</table>
| **2.2 Identify and discuss the various methods available to establish ethical norms. Pages 36–42** | • Ethical standards are established in one of four ways:  
  1. Virtue ethics  
  2. Deontological ethics  
    • Rights theory  
    • Justice theory  
  3. Teleological ethics  
    • Justice theory  
    • Utilitarianism  
    • Maximizing profit  
  4. Ethical relativism has become more accepted in recent times. |
| **2.3 Elaborate on the importance of ethics on personal, business, and societal levels. Pages 43–49** | • The issue of ethics has become quite prominent in recent years, primarily because of the widespread awareness of massive ethical failures, both personal and in the business world.  
  • Ethics are important because:  
    1. Ethical behavior allows society to function predictably and effectively.  
    2. There are financial and nonfinancial benefits to behaving ethically.  
  • Ethics are formed in individuals through their exposure to the behavior of those around them.  
  • The root of personal ethics is values. There are two types of values:  
    1. Intrinsic value—The value is good in itself, whether or not it produces a particular result.  
    2. Instrumental value—The value is good because it helps reach another value.  
  • Ethics are categorized into one of four groups:  
    1. Simple truth—Uniformly accepted standards of right and wrong.  
    2. Individual behavior—An individual’s interpretation and application of simple truth.  
    3. Personal integrity—The effect of a person’s behavior choices on others.  
    4. Community or societal behavior—Identifying common ground regarding appropriate behavior.  
  • The primary difference between personal ethics and business ethics is that there is a significantly larger group of stakeholders affected by ethical decisions in business.  
  • A complicating factor in business decisions is that not all stakeholder interests are equal. A challenge is measuring that inequality and handling it appropriately.  
  • There can often be conflict between personal and business ethics. Because of the variance in relative power in the business environment, this can create its own set of ethical dilemmas. |
| **2.4 Distinguish between the factors that influence personal ethics and the factors that influence business ethics. Pages 50–53** | • Four factors can influence business ethics:  
    1. Occupational ethics  
    2. Organizational ethics  
    3. Societal ethics  
    4. Individual ethics |
| **2.5 Explain the relationship between law and ethics. Pages 54–56** | • Law is the codification of rules of conduct, established by the government to maintain order in society.  
  • Ethics is the foundation of the law.  
  • Ethics and law are similar in many ways, but there are some things that ethics can do that the law cannot and vice versa.  
  • Ethics is a higher standard than the law and, in most cases, is the first step in the creation of laws and rules. |
| **2.6 Evaluate the range of ethical approaches in which individuals and companies can conduct themselves. Pages 57–59** | • There are four ethical approaches that individuals and companies can use to conduct themselves:  
    1. Obstructionist approach  
    2. Defensive approach  
    3. Accommodative approach  
    4. Proactive approach |
Learning Outcomes | Key Concepts/Examples
---|---
2.7 Describe the system of ethics that best serves the practice of medical billing and coding. Pages 60–63
- The Golden Rule is the best ethical system for application to the field of medical billing and coding. The principle appears in some form in nearly every society, cultural, and religious system.
- The Golden Rule is valuable because:
  1. Anyone can comprehend it.
  2. It is a principle accepted by most people.
  3. It is possible to find common ground with reasonable people.
- There are challenges to applying the Golden Rule:
  1. Others may not respond in kind.
  2. Some have difficulty applying it to entities within the corporate world.

End-of-Chapter Questions

**Multiple Choice**

Circle the letter that best completes the statement or answers the question.

1. **LO 2.1** All of the following can affect a person’s definition of ethics *except*
   a. Personal experience
   b. Family and peer influence
   c. Formal or informal training in ethics
   d. The scope of a person’s vocabulary

2. **LO 2.1** Which of the following is the correct ordering of types of ethics, from most theoretical to most practical?
   a. Metaethics, normative ethics, applied ethics
   b. Normative ethics, metaethics, applied ethics
   c. Applied ethics, metaethics, normative ethics
   d. Normative ethics, applied ethics, metaethics

3. **LO 2.1** Which of the following is most important regarding a person’s ethics?
   a. Beliefs
   b. Words
   c. Actions
   d. Relationships

4. **LO 2.2** Virtue ethics focuses on _______, while deontological ethics focuses on _________
   a. The person, principles
   b. The person, outcomes
   c. Principles, outcomes
   d. Outcomes, the person

5. **LO 2.2** Each of the following are forms of utilitarianism *except*
   a. Traditional utilitarianism
   b. Ethical altruism
   c. Ethical achievement
   d. Ethical egoism

6. **LO 2.2** Another term for ethical relativism is
   a. Situational ethics
   b. Relative utilitarianism
c. Ethical altruism
d. Judgmental ethics

7. **LO 2.3** Why has ethics been brought to the forefront of discussion in the world of business?
   a. The universal belief that ethical behavior is more profitable
   b. Massive ethical failures on the part of major corporations
   c. Encouragement by prominent authors to be more ethical
   d. Fear that ethical failures will result in the destruction of corporations

8. **LO 2.3** Personal ethical standards are developed by
   a. Academic study
   b. Exposure to the surrounding environment
   c. Corporate training
   d. Working with others to arrive at consensus

9. **LO 2.3** Which of the following factors is not a contributing factor to the development of ethics?
   a. Cultural and ethnic background
   b. Religious beliefs and systems
   c. Exposure to various forms of media
   d. Attendance at a private school

10. **LO 2.3** What is the biggest difference between personal and business ethics?
    a. Business ethics standards are lower.
    b. There is no difference.
    c. Business ethics generally have more stakeholders.
    d. Personal ethics generally have more emotional issues attached.

11. **LO 2.4** Which of the following is not specifically a factor that contributes to business ethics?
    a. Organizational ethics
    b. Occupational ethics
    c. Individual ethics
    d. Situational ethics

12. **LO 2.4** Where do societal ethics originate?
    a. The laws of the country in which the society exists
    b. Personal/individual standards
    c. Practices within a society
    d. Unwritten rules and traditions

13. **LO 2.5** Which of the following is not a characteristic of ethics?
    a. Significant disagreement can exist regarding its source and use.
    b. It has an enforcement component.
    c. It develops and supplies standards for behavior.
    d. It serves as a framework for laws.

14. **LO 2.6** The minimum acceptable approach to ethics is
    a. Obstructionist
    b. Defensive
    c. Accommodative
    d. Proactive

15. **LO 2.7** The best ethical system for use in the billing and coding world is
    a. Rights theory
    b. The Golden Rule
c. Justice theory
d. Consequentialist ethics

Short Answer
Use your critical thinking skills to answer the following questions.

1. **LO 2.1** Summarize the relationship between metaethics, normative ethics, and applied ethics.
2. **LO 2.1** Look at the definitions of ethics on page 33. Which definition do you more closely identify with? Why?
3. **LO 2.2** Compare and contrast virtue ethics, deontological ethics, and teleological ethics.
4. **LO 2.2** Discuss the primary weakness of virtue ethics.
5. **LO 2.2** What is the most significant weakness of strict rights theory? How has this been overcome in modern rights theory?
6. **LO 2.2** Discuss the primary weakness of utilitarianism.
7. **LO 2.2** Why is ethical relativism an appealing concept in the United States?
8. **LO 2.3** Discuss why there is so much distrust within American society today.
9. **LO 2.3** The research shows that companies that are ethical are more profitable than the average company. Why do you believe so many businesses are willing to behave unethically?
10. **LO 2.3** Discuss why all values are not equal.
11. **LO 2.3** Describe the conflict that exists when the ethical standards of an employee are different than those of the employer.
12. **LO 2.4** Do an Internet search and locate the ethical guidelines for a specific professional group not mentioned in the chapter. Provide an example of a behavior that the group discourages that is not illegal.
13. **LO 2.4** Discuss why the ethics of the top managers of an organization have such a significant impact.
14. **LO 2.4** Explain the relationships between individual–societal ethics and organizational–occupational ethics.
15. **LO 2.5** Discuss the ability of the law to serve as an incentive for ethical behavior.
16. **LO 2.5** Which has the higher standard—ethics or law? Explain your position.
17. **LO 2.6** Is a defensive approach to ethics adequate? Why or why not?
18. **LO 2.7** Discuss the key features of the Golden Rule that make it an attractive ethical system.
19. **LO 2.7** Discuss the two primary challenges in applying the Golden Rule.

Applying Your Knowledge

Case Study 1
At the beginning of this chapter, the story of Sandra Hobson was presented. Sandra was faced with an extremely difficult set of choices, each with different ethical implications.
To complete your analysis of this case, answer the following questions:

1. **Apply each of the ethical theories presented in the chapter to this situation. What would Sandra do if she followed a strict interpretation of each theory? What would be the possible outcome for her professionally and what would be the outcome of the employees in her department?**

2. **Describe how the Golden Rule could be applied to this case. What are the challenges with applying it and how could they be overcome?**

3. **Put yourself in Sandra’s shoes. What would you do in this case? Why? What is the most difficult element of the decision for you?**

**Case Study 2**

Two years ago Kathy, a 57-year-old female, was laid off from the employer for whom she had worked since graduating from high school. She was disappointed because she believed that, in exchange for her many years of loyal service, her employer would be loyal toward her, even when the company experienced economic problems. She was especially troubled when she heard that the CEO of the corporation had received a sizable bonus from the company board because of the cost savings he had achieved through the company-wide layoffs.

Kathy was despondent because she didn’t know how she could find another job that would have the same salary and benefits that she had previously—especially given her age. Although age discrimination is not legal, she knew that finding a new job wasn’t going to be easy. She decided that she had to obtain a new skill set to start a new career. Her family physician, who she respected greatly, recommended that she become a medical biller and coder. After investigating her options, Kathy enrolled and graduated from an accredited medical office program at the local community college.

After graduation, Kathy quickly obtained a position in the office of a reconstructive surgeon, working in the billing office. She was responsible for coding for services, entering the charges, submitting them to third-party payers, and following up with the payers on denied claims.

Early in her tenure, Kathy discovered that there was often confusion among the payers concerning what should and should not be paid. Some services, which were required to restore a patient’s physical functioning, were denied as “cosmetic” procedures. Other services, which were purely cosmetic procedures, were reimbursed by the payer, even though the practice had made special effort to ensure that the payer understood it was an elective procedure.

Kathy brought this matter to the attention of the office manager. She was told that she was obligated to fight the incorrect denials for the noncosmetic procedures, as the patients were entitled to benefits for those services. In the cases in which cosmetic procedures were improperly paid, Kathy was told to “just accept the payments,” because it was the payer’s fault if they couldn’t figure out how to process claims and it helped offset the hassle associated with the improperly denied claims. In fact, Kathy had a conversation with a representative of one of the payers, who said, “If the claim was paid based on the information submitted, then you can assume the payment was correct.”

Kathy did not feel right about the situation. However, she had mixed feelings because she needed this job and did not know how she would find another one if she “made too many waves” about this issue.

1. **Several times in this scenario, law and ethics intersect. List those circumstances and provide a brief description of the issues.**

2. **How might Kathy’s personal history have an effect on her opinions and possible actions?**

3. **Assess the circumstances in the reconstructive surgeon’s office. Are illegal activities occurring? Are unethical activities occurring? If so, what are they?**

4. **If you were Kathy, what would you do in this situation?**
Many businesses reflect their ethical standards in their mission and/or vision statement. Most companies, including hospitals and health care systems, publish these statements on their websites for the benefit of their employees and their patients.

Identify a health care organization in your geographic area, with which you are familiar, that has its mission and/or vision statement on its website. Examine this statement and answer the following questions:

1. Is there anything in the statement that makes reference to ethics or ethical standards? If so, summarize the elements that refer to ethics.

2. Review the information provided in this chapter and compare it to the selected statement. Based on the information provided in this chapter, what normative ethical standards are most significant to this organization? What elements in the statement cause you to believe this?

3. Based on your personal experience or through reputation, is the ethical component of the mission statement consistent with reality? Explain why or why not.