

Breakout Session 2B

Telling a Better Story: Making the Case for Ethical Coding

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Learning Outcomes

- At the end of this session, attendees should be able to:
 - Acquire language to accurately describe the purpose of coding
 - Quantify and communicate the risk associated with unethical coding practices
 - Formulate plans to appropriately respond to requests for unethical coding
 - Recommend specific strategies in establishing ethics policies for coding
 - Project visible passion for correct and ethical coding

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Southwest State University

- Its reputation
- Its leader
- The staff's protocol
- Changes at the University
- A new leader
- Some new experiences
- A new direction

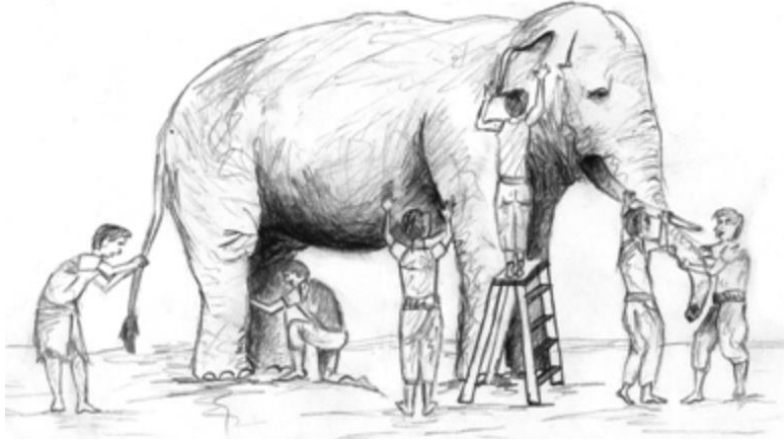
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Southwest State University

- A case study that covers a number of different issues regarding ethics in the environment of coding.
- How many in this room have personally experienced at least some element of this story?
- It helps illustrate the significantly different perspectives on coding and ethics.

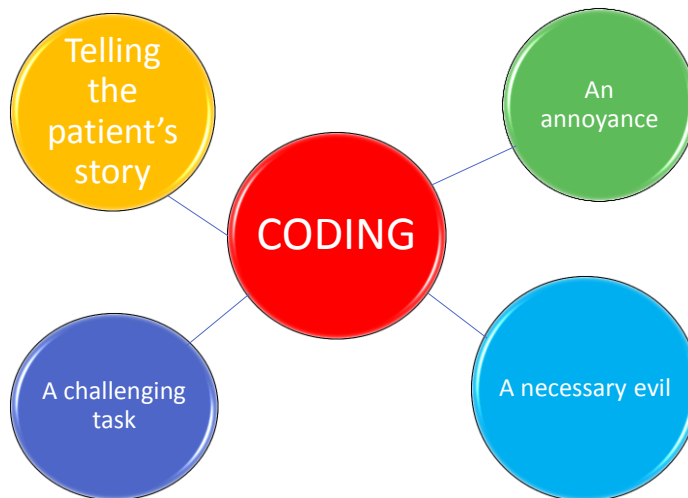
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How do people see coding?



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How do people see coding?



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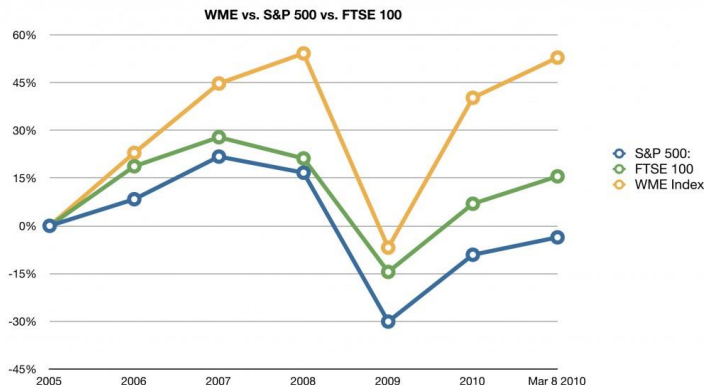
Why does it matter?

- How I see coding will influence the way that I execute that coding...
 - When coding is an annoyance, my objective is...
 - When coding is a necessary evil, my objective is...
 - When coding is a challenging task, my objective is...
- When coding is telling the patient's story, my objective is...
 - It will more likely be ethical in its approach and execution...

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Why do ethics matter?

- Organizations that conduct themselves ethically are more successful than those that don't.



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Why do ethics matter?

- Organizations that conduct themselves ethically are more successful than those that don't.
- Ethics matter because people need to rely on the consistent responses of others in dealing with difficult situations
- Unethical behavior...
 - Introduces financial instability into society
 - Damages relationships

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Why do ethics matter?

- There is a hidden cost to unethical behavior
 - **Reduced net income**
 - Reimbursement amount – ethics risk (X) = Net income
 - Reimbursement amount – 2X = Net income
 - Reimbursement amount – 4X = Net income
 - Reimbursement amount – 0 = Net income (Reimbursement amount)
 - **Increased personnel cost**
 - **Decreased employee performance**

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Overlook Family Practice

- Obtaining a new position
- Covering another coder's absence
- Some unsettling discoveries
- An unpleasant conversation

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Strategies for avoiding ethical problems in billing and coding

- How to ensure an ethical environment
 - Create a corporate ethics policy
 - Have a well-defined compliance plan
 - Develop specific billing and coding policies and protocols
 - Practice excellence in communication with patients

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Implementing corporate ethics policies

- The purpose of ethics policies
 - To establish the meaning of ethical behavior—a values statement
 - To define that which is important to the organization
 - Individuals can make ethical decisions on their own, based on their standards. The ethics policies help make the standards of the organization clear.
 - To set the tone for the organization
 - To provide a detailed guide for acceptable behavior

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Implementing corporate ethics policies

- The keys to effective codes of ethics
 - Find a champion
 - Get “buy-in” from the board of directors, owners or other responsible parties
 - Identify the issues that matter to the company
 - Make the code widely available

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Implementing corporate ethics policies

- Practical tips for policy implementation
 - Talk about ethics and the ethics code continuously
 - Name an ethics officer
 - Celebrate and reward ethical behavior
 - Demonstrate ethical behavior consistently
 - Address it quickly when unethical behavior does occur

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Effective compliance programs

- Develop a compliance program that is appropriate for the organization, based on its size and type
 1. Conduct internal monitoring and auditing
 2. Implement compliance and practice standards
 3. Designate a compliance officer or contact
 4. Conduct appropriate training and education
 5. Respond appropriately to detected offenses
 6. Develop open lines of communication
 7. Enforce disciplinary standards through publicized guidelines

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Effective compliance programs

- Meaningful, yet reasonable
 - An internal monitoring program is needed in order to understand the quality of its compliance and the need for improvement
 - The auditing program should be large enough to produce meaningful results
 - The auditing program should not be so large that it is not practical to accomplish or so overwhelming that it is abandoned

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Effective compliance programs

- Compliance programs must be objective
 - Create a coding ethics committee
 - Establish a protocol for coders and physicians not directly involved in the creation of the record to perform the evaluation
 - Identify an impartial coder from outside the practice

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Effective compliance programs

- Integrity in the ethics/compliance officer
 - Ideally, not a senior administrator or owner
 - However, the person should have the ear of the top administration of the organization
 - The person should be accountable, but autonomous
- An effective disciplinary structure
 - A program without effective discipline is powerless
 - Senior physicians/administration must be willing to “hold the line” and enforce the discipline

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Effective compliance programs

- What do you want the compliance program to accomplish?
 - What are the values of the organization?
 - The starting point of an ethics policy can change the way in which the compliance program works

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Developing business department protocols

- Policies are good and essential
- However, protocols are necessary to address specific circumstances
- Most ethical problems appear unique
 - But if studied carefully, most ethical dilemmas happen repeatedly, with slight variations
 - Therefore, addressing them can occur in advance of the event

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Developing business department protocols

- Protocols must empower employees to resolve issues
 - It's a fundamental of customer service: resolve problems quickly
 - Patients are *not* always right
 - Employees must be trained to communicate what the organization will and will not do

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Developing business department protocols

- Staff must be trained to *hear* the customer's complaint and *then be* trained to respond to it
- Delaying responses to customer complaints by automatically escalating situations to supervisors or physicians can create serious problems
 - It may promote unethical behavior
 - It is demeaning to the employee on the "front lines"
 - It further angers the patient

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Developing business department protocols

- Specific procedures and protocols must be created
 - Certain specialties have consistent issues
 - Plastic surgery/dermatology—medically necessary or cosmetic?
 - OB/GYN—infertility diagnosis or treatment?
 - Internal medicine—annual physical exam or problem visit?
 - Each of these specialties should review the problems that occur and outline the steps to be followed in each case

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Developing business department protocols

- Procedures and protocols must be established in the absence of conflict or a current problem
 - Intense emotion will often change the nature of discussion
 - Responding to a specific problem often brings in personal issues, personalities, and other factors that don't belong in a reasoned discussion

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Communicating with patients to avoid ethical problems

- In order to overcome a conflict, it is essential that the other party understand your position
 - This is a challenge because the tendency is for them to focus on their own position
 - To solve this problem, you should communicate your position in advance—before the conflict
 - When the position is communicated before conflict arises, it is easier to “stand your ground” on that position
 - Your position is strengthened when the patient understands the provider's intentions

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Communicating with patients to avoid ethical problems

- Properly establish expectations
 - If an ethical dilemma is likely to develop, patients should be aware as to what the provider is going to do
 - When the actions that occur are consistent with what they were told would happen, it diminishes the patient's ability to be angry about what the provider does
 - Communication has a positive effect on ethics

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Communicating with patients to avoid ethical problems

- "Overcommunication"
 - Communicate on multiple occasions
 - Communicate in a variety of different formats
 - Written materials (e.g. brochures, etc.)
 - On the web site
 - Personal interaction
 - "On hold" messages

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Options for dealing with employer-caused ethical dilemmas

- Ideally, the employer will always protect the employee from ethical dilemmas.
- However, sometimes, the employer *causes* the ethical dilemma
 - The organization is not committed to ethical conduct
 - The organization has ethics policies, but the leadership does not enforce or abide by these policies
 - The organization faces extreme pressure, which “forces” it to abandon its principles

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Options for dealing with employer-caused ethical dilemmas

- There are three options available to employees when their employer causes an ethical dilemma
 - Look the other way
 - Refuse to participate
 - Find an acceptable alternative solution

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Options for dealing with employer-caused ethical dilemmas

- Look the other way
 - Not dealing with a dilemma is the easiest way to “solve” the problem
 - The risk of negative fallout is relatively small
- There are significant downsides to looking the other way
 - Discomfort with compromising your standards
 - Creating a slippery slope
 - Losing credibility and respect

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Options for dealing with employer-caused ethical dilemmas

- Refuse to participate
 - This is the most “dangerous” of the options
 - There are serious questions that have to be answered
- Find an acceptable alternative
 - This is a third option that many people don’t explore
 - It may require creative problem solving
 - There is fear that the proposed alternative(s) will be rejected

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Resisting requests to perform unethical acts

- We want to trust and respect those for whom we work
- It is disappointing when they ask us to do things that are unethical
- But, nonetheless, it happens

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Resisting requests to perform unethical acts

- To effectively resist the request to perform unethical acts, we have to fully understand how ethical dilemmas come about
 - The situation is unique or not previously anticipated
 - Leadership fails to maintain the standards of conduct that are recognized as acceptable
 - Employees at lower levels within the organization don't maintain the standards of conduct
 - Legitimate disagreement occurs about what the "ethical" course of action is

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Resisting requests to perform unethical acts

- A strategy to resolve issues must be developed
 - Resolving issues on a case-by-case basis is...
 - Unproductive
 - Likely to produce uneven results
 - Likely to produce unethical behavior
 - There are a variety of angles and options that may be reviewed that can help define a more cogent way of resolving ethical dilemmas that occur

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Resisting requests to perform unethical acts

- Recognize unethical requests and unethical bosses
 - Investigate this during the hiring process
 - When something doesn't "feel" right, explore the details of the situation
 - Research shows that being unemployed is better emotionally than being employed and being unhappy
- Buy time
 - This is not an avoidance tactic—it is an opportunity to gather information and think through alternatives

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Resisting requests to perform unethical acts

- Find a mentor and a peer support group
 - A mentor is a person that provides guidance and advice for handling difficult situations
 - It may be a formal or informal relationship
 - In larger organizations, the mentor should be identified within the organization
 - In smaller organizations, it may be necessary to go outside the organization to find that advisor
 - Do not be hesitant to discuss issues with peers to obtain perspective and input

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Resisting requests to perform unethical acts

- Find win-win solutions
 - Some assume that there is only one solution to a problem
 - Often there are several alternatives
 - You may have to make the case for one of the alternatives
 - What does the employer really want?
 - Can we accomplish it ethically?

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Resisting requests to perform unethical acts

- Work within the organization to stop unethical actions
 - Take advantage of ethics or compliance programs
 - Discuss the issue with the ethics or compliance officer
 - Before you report a problem, ensure that you have all of the facts that you need
- Recognize that this *does not always work*
 - Sometimes an organization will continue down the unethical path, even when its actions are challenged

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Resisting requests to perform unethical acts

- Be prepared to lose your job
 - This is a final tactic because...
 - You lose the ability to influence the organization any further
 - You may have obligations (personal and/or family) that will be very difficult to meet without employment

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The value of adhering to ethical principles

- Adhering to ethical principles is beneficial
 - Legal risks of unethical behavior are avoided
 - Ethical businesses perform better financially
 - It produces positive public relations
- But there are more questions that need to be answered
 - What are your values?
 - How meaningful are they to you?
 - Are you willing to adhere to them, even when it is difficult?

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The value of adhering to ethical principles

- Very few people would say...
 - I wish I had been less honest
 - I should have taken more ethical shortcuts
 - The extra money I received by cheating was definitely worth it
 - The relationship I lost during a business conflict over ethics didn't mean that much

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The value of adhering to ethical principles

- Life is too short to live with regret and fear
- It should never be "okay" to violate your ethical principles
- When you do, you lose the opportunity to see their ultimate value
 - We too often seek to avoid pain; being unethical fools us into believing that we are avoiding it
 - Character and integrity is not developed when unethical behavior takes us on a shortcut around the difficulties that produce character and integrity

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So what do I do???

- Employers sometimes put their employees in ethical dilemmas instead of protecting the employees from them or modeling ethical behavior
- Employees have three options in responding to employer-generated ethical dilemmas
 - Look the other way
 - Refuse to deceive (and possibly lose the job)
 - Find an acceptable alternative

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So what do I do???

- It is disappointing when we are asked to do unethical things by our employer
- Ethical dilemmas can still occur for several reasons
- There are some key steps that are available to resist acting unethically
- Ethics/compliance programs must have key features
 - Meaningful, but reasonable
 - Objective
 - The ethics officer must have autonomy and integrity
 - There needs to be an effective disciplinary structure

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So what do I do???

- Ultimately, we must ask...
 - What are my values?
 - How meaningful are they to me?
 - Am I willing to adhere to them, even when it is painful or inconvenient to do so?
- Experiencing an ethical dilemma is not necessarily a bad thing
 - It may be the best way to develop character and integrity that will serve us in the future
 - The key is how we respond to it

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Some truths (& opinions) about ethics

1. You can't teach ethics
 - It's not like history or grammar
 - It's about commitment to values
2. Ethics is not necessarily a two way street
 - The best framework for ethical decision making in medical billing and coding
 - The Golden Rule
 - There is no "out" on the Golden Rule

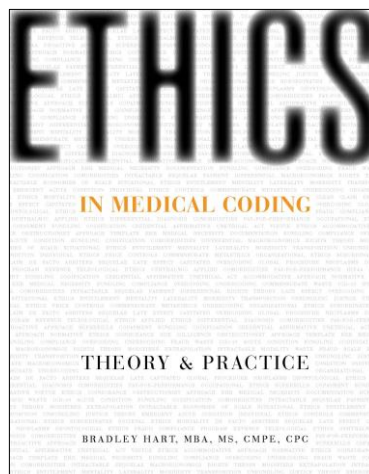
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Some truths (& opinions) about ethics

3. Ethics can begin to fail through the *erosion of agency*
 - We might do things at work that we would never consider in our personal life
 - It's easier to be unethical when you don't have a relationship with the other party
4. Sometimes employers create ethical problems without even meaning to...
 - Focusing on short term "success"
 - Not thinking through the consequences

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For more information on this topic...



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Questions?

Thank you for attending.

**If I can be of help,
please contact me.**

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