



HFMA/NEHIA

2025 Compliance & Internal Audit Conference

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Mystic Marriott Hotel, Groton, CT



Navigating Ethical Landmines in Compliance and Internal Audit

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- Agenda
1. Recognize ethical dilemmas observed by Compliance and Internal Audit professionals.
 2. Describe an ethical decision-making model to be applied to compliance and internal audit scenarios.
 3. Review multiple actual ethics-related scenarios and how the ethical framework can be applied.
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Defining The Ethical Dilemma



Intersection of Compliance & Internal Audit

- Patient care & revenue
- Loyalty to leadership & organization/public
- Confidentiality & obligation to report



Gray Areas

- Is it really Fair Market Value?
- Technically it's not a violation, right?



Regulatory scrutiny

- The US DOJ's Evaluation of Corporate Compliance Programs
- State compliance requirements

The Dilemma From Different Lenses



Internal Audit

- Retrospective
- Evidence-based
- Assurance function



Compliance

- Proactive
- Advising
- Setting standards



Internal Audit & Compliance

- Both feel pressure to soften findings or delay reporting
- Yet both are faced with expectations of ethical decision-making

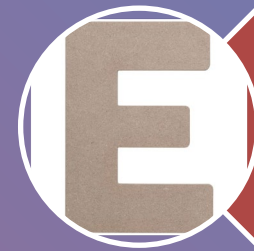




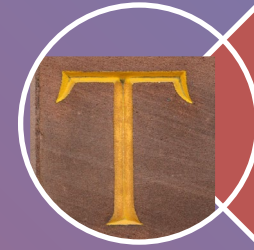
The E.T.H.I.C.S. Framework



E.T.H.I.C.S.



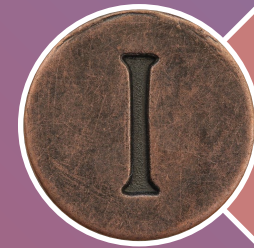
Establish the Issue



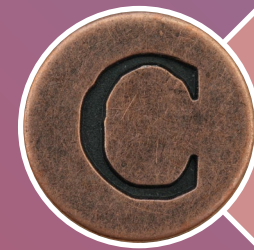
Think about Risks



Heed rules



Investigate



Communicate

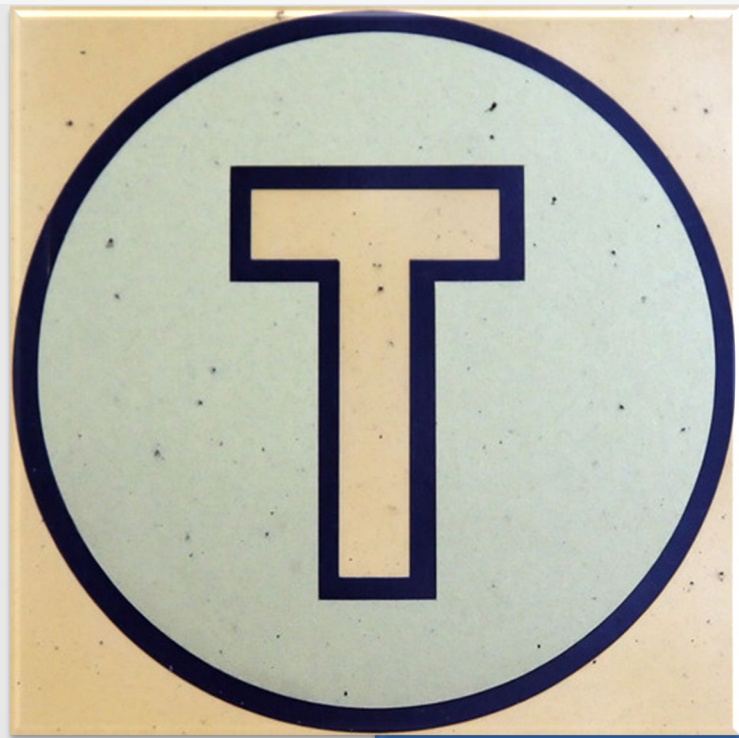


Summarize

E.T.H.I.C.S. Framework

Establish there's an
issue

- Determine if there is an issue
- Identify conflicting obligations, unusual pressures or rationalizations
- Spot red flags or conflicts
- Examples
 - Does “everyone” at other institutions really do it?
 - “Maybe you should revise that report.”



E.T.H.I.C.S. Framework

Think about risks

- Are there any risks associated with the activity?
 - Regulatory
 - Financial
 - Legal
 - Reputational
- How would this look to a regulatory body – DOJ, HHS, OCR or IG?

E.T.H.I.C.S. Framework

Heed the rules



- Identify the applicable rule, law or policy that may be at issue.



E.T.H.I.C.S. Framework

Investigate

- Gather information.
- Who do you need to interview?
- What do you need to review?



E.T.H.I.C.S. Framework

Communicate

- Identify, then follow the correct escalation pathway – Supervisor → Compliance Committee → Executive leader
- Avoid side conversations or undocumented verbal agreements.

E.T.H.I.C.S. Framework



Summarize

- Document analysis, advice received and actions taken.
- If leadership fails to act or risk is high → escalate again.

Physician Arrangements



Halifax Health (The Facts)

Halifax Hospital hired oncologists through its affiliated entity Halifax Staffing.

The bonus portion was equal to 15% of the operating margin for the Medical Oncology program as defined by the financial statements produced by the Finance Department on a quarterly basis.

Compensation was a salary and bonus based upon an incentive compensation pool.

Thus, the more referrals from the hospital, the greater the revenue for the oncologists.



Halifax under our ETHICS framework



Establish the issue

Internal data showed FMV concerns with referral-linked compensation

Think about the risks

Potentially, financial, regulatory or reputational risks

Heed the rules

Likely implication of a False Claims Act or Stark violation

Investigate

Review internal data further, who is involved? What has happened thus far?

Communicate findings

To whom should this be escalated to? Is your supervisor aware, to whom does the supervisor report?

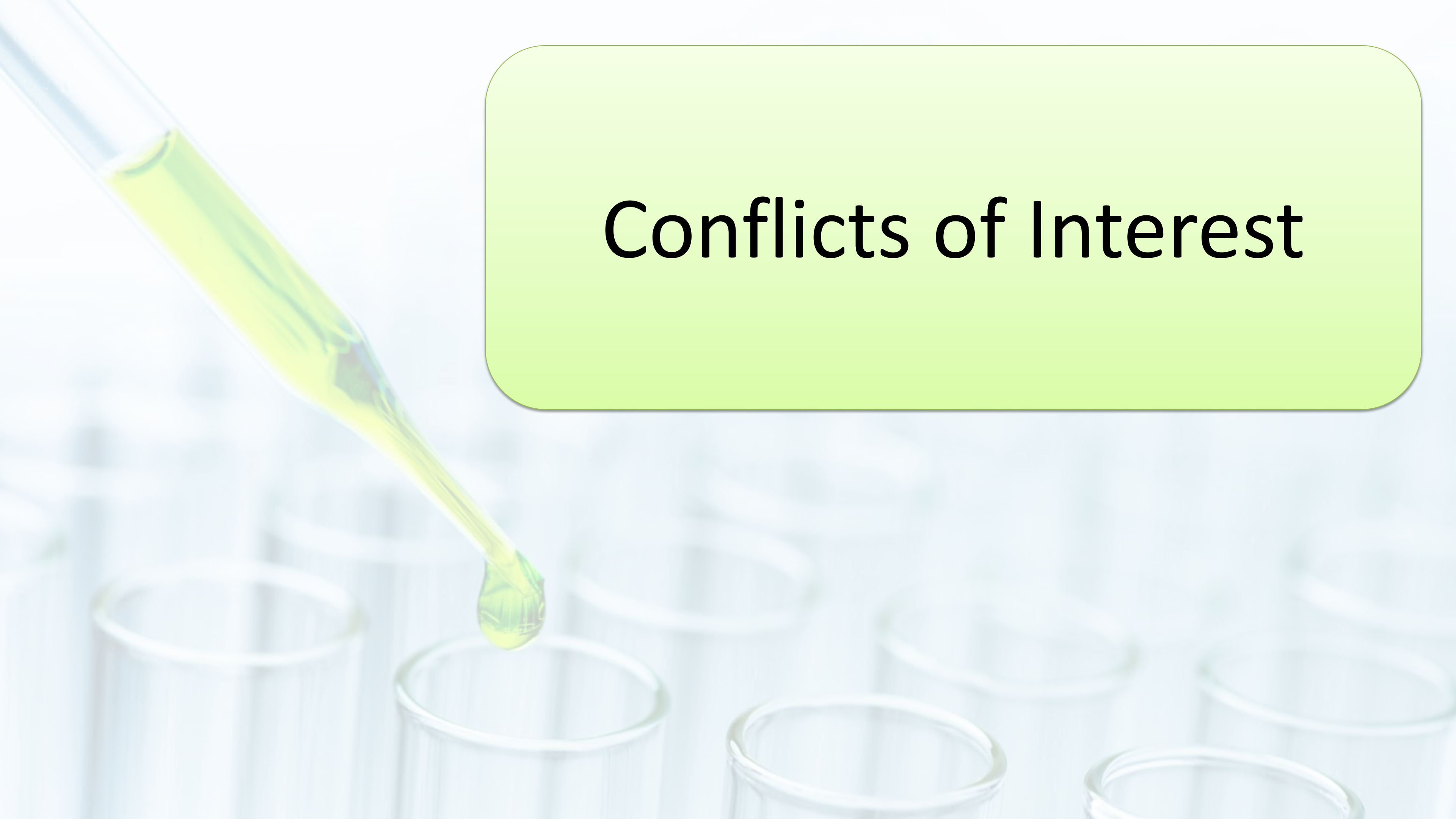
Summarize and respond

Document in writing your findings, document dissent, consider legal counsel if ignored.

Halifax Health Outcome

-
- Relator brought a qui tam action.
 - The government intervened.
 - The US government sought summary judgment before the court/
 - Summary judgment partially granted as to whether the oncologists made referrals in violation of Stark law.
 - Ultimately, Halifax settled with the DOJ for \$85M.
 - In the DOJ release, in addition to the six medical oncologists, Halifax settled a seemingly similar arrangement with three neurosurgeons.





Conflicts of Interest

Memorial Sloan Kettering's Conflict of Interest Problem

Dr. José
Baselga
“Cancer’s
Fiercest
Opponent”

A visionary who had a goal to make cancer better for all.

Failed to disclose millions of dollars in payments from drug and health care companies and omitted financial ties from dozens of research articles.

Applying ETHICS in Conflicts of Interest

Establish the issue

Undisclosed financial relationships with industry

Think about the risks

Potential reputational risks and financial risk related to future research dollars

Heed the rules

The Sunshine Act aims to increase transparency around financial relationships between industry and health care providers.

Investigate

Were financial arrangements disclosed?

Communicate findings

To whom should this be escalated to? Is the supervisor aware and to whom does the supervisor report?

Summarize and respond

Document in writing your findings, document dissent, consider legal counsel if ignored.

Memorial Sloan Kettering's Outcome

Dr. José Baselga
“resigned.”

Dr. Baselga
agreed to edit
articles to
reflect the
financial
conflicts.

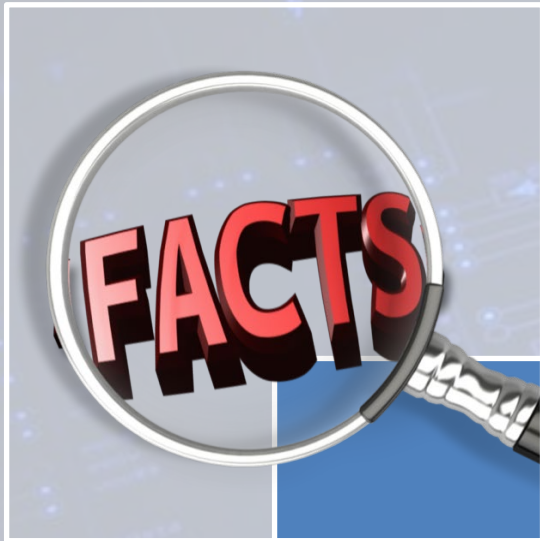
Sloan saw a
decline in
operating profit.

Dr. Baselga took
on a new role at
Astrazenaca
before he
passed away.



Internal Audit and Compliance Assessments

USA, Craig & Koza v Georgia Tech Research Corporation & Georgia Institute of Technology



Facts

- Relators managed cyber security personnel at Georgia Tech.
- Georgia Tech had a contract with the Department of Defense which required certain security assessments.
- To comply, Georgia Tech established the Government Risk and Compliance team.
- An untrained team of assessors performed the assessment.
- The upshot was there were attestations of compliance submitted which were untrue.

Georgia Tech – Applying ETHICS

Establish the issue

Failure to meet the requirements of a government (Department of Defense) contract.

Think about the risks

Loss of contract, potential fines, exclusion.

Heed the rules

False Claims Act requires the submission of truthful documents.

Investigate

Is there evidence that the submission was false?

Communicate findings

To whom should this be escalated? Is the supervisor aware and to whom does the supervisor report?

Summarize and respond

Document in writing your findings, document dissent, consider legal counsel if ignored.

Georgia Tech – OUTCOME

Relators reported the matter to their supervisors one of whom experienced retaliation.

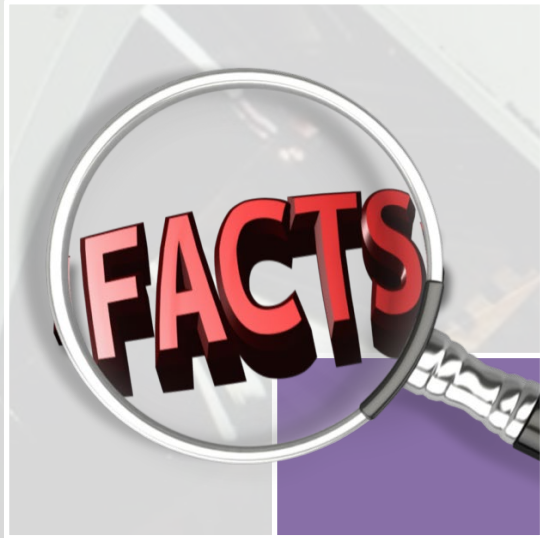
They later brought the qui tam action and the government intervened.

Georgia Tech agreed to pay \$875,000 to resolve allegations that it violated FCA and federal common law by failing to cybersecurity requirements for government contract.

The background of the slide is a faded, artistic photograph. On the left, a portion of a film camera is visible, showing its lens and various mechanical components. On the right, a clapperboard is positioned diagonally. The clapperboard has a black and white striped top section and a black bottom section with white text and lines. The text on the clapperboard includes 'PRODUCTION', 'DIRECTOR', and 'TAKE', each followed by a horizontal line for handwritten information.

Privacy Dilemmas: Filming in the ED

Filming in the ED



Facts

- You learn that the hospital will be filming its next reality streaming series in the ED.
- Filming will happen in the ED, but footage of any patients will be deleted, blurred or otherwise not shown.

Filming and ETHICS

Establish the issue

Potential privacy concern with filming in the ED.

Think about the risks

Regulatory, reputational, financial.

Heed the rules

HIPAA

Investigate

Consider the patients potentially impacted and whether filming was already approved.

Communicate findings

To whom should this be escalated to? Is your supervisor aware and to whom does the supervisor report?

Summarize and respond

Document in writing your findings, document dissent, consider legal counsel if ignored.

Outcome

Two patients
impacted by the
filming

No patient
consent obtained.

HHS clarified that
using techniques
like blurring or
voice alteration to
mask identities is
not sufficient when
a patient has not
given consent.

\$2.2 million
settlement with
the Department of
Health and Human
Services.

Cross Case Lessons



Silos create ethical blind spots

- Compliance sees policy risk
- IA sees control failure
- Legal sees regulatory interpretation
- → All three must talk early and often.



Culture over controls

- Nearly every major enforcement case features:
 - Pressure to produce revenue
 - CEO/board resistance to change
 - Rationalizations (“later,” “not a big deal,” “everyone else...”)



Documentation is your ethical shield

- Clear escalation notes
- Dissenting opinions
- Requests for independent valuation
- Evidence that you tried to stop the harm



Empowerment matters

- Staff must be able to say:
 - “This feels wrong.”
 - “We cannot do this ethically.”
 - “This needs to go to the board.”

What Would You Do?



Senior VP pressures you to tone down an audit finding before the board meeting.

- Establish an Issue
 - Think about Risks
 - Heed rules
 - Investigate
 - Communicate
 - Summarize



A physician demands a contract renewal that exceeds FMV and threatens to leave.

- Establish an Issue
- Think about Risks
- Heed rules
- Investigate
- Communicate
- Summarize



Operation delays releasing medical records to avoid upsetting a provider.

- Establish an Issue
- Think about Risks
- Heed rules
- Investigate
- Communicate
- Summarize

Final Takeaways



Ethical dilemmas are usually slow erosions of judgment.



Delay is a decision and the biggest risk factors are acquiescence and silence.



Internal Audit are guardains of integrity.



Always ask, - would I be comfortable explaining this to the DOJ, HHS, or a reporter?



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