

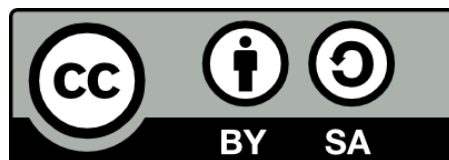
# 12 Short Cases

An open resource for the study of ethics in the professions

**L. M. Bernhardt**

2017

*12 Short Cases* was written by Laura M. Bernhardt (2017), and is available under a Creative Commons Attribution-ShareAlike 4.0 International Public License ([CC-BY-SA 4.0](https://creativecommons.org/licenses/by-sa/4.0/))



# Contents

Introduction	3
Case 1	5
Case 2	10
Case 3	15
Case 4	20
Case 5	25
Case 6	30
Case 7	35
Case 8	40
Case 9	45
Case 10	50
Case 11	55
Case 12	60

## Introduction

*12 Short Cases* is an open collection of cases, stories, and questions. The main goal of this collection is to bring together a selection of ethical challenges suitable for use in the context of a broad introduction to the study of ethics in the professions. It's generic by design, and primarily serves the purpose of affording students an opportunity to practice identifying, explaining, and building arguments about ethical problems.

### ***Why build a new collection of cases? There are already quite a lot of them available!***

There are, of course, many excellent textbooks full of ethical case studies in the professions -- indeed, one faces an embarrassment of riches on that score! The main reason this small, open collection exists is to address two issues:

1. Most of the available textbooks with cases for use in professional ethics are highly specialized -- that is, they tend to focus on issues in individual professions, rather than collecting a broad selection of cases for the study of professional ethics in general.
2. Price and availability problems create certain kinds of obstacles for putting together a broad enough selection that draws from the existing specialist collections. While it's possible to draw material from several different sources instead of making students purchase several different texts of which only selections will be used, copyright clearance presents difficulties.

Obviously one way around the expense and copyright issues in (2) is for students to make use of the rich and varied available cases provided for free on the internet by university ethics institutes/centers and professional associations. The *Resources* page in the online version of this text (<https://sites.google.com/view/12shortcases>), in fact, presents a number of such options. The cases collected here are meant to serve as an addition to that material, not a replacement for it.

### ***What do you mean when you call 12 Short Cases an "open collection"?***

The material in this text is meant to be used and shared. *12 Short Cases* is offered here under a Creative Commons License (CC BY-SA 4.0). Feel free to download, print, use, share, spindle, fold, and mutilate (under the terms of the license, of course -- give credit where it's due, and share what you do with the cases the same way they were shared with you). Users may freely read, download, and use both individual cases and the collection as a whole.



## Case 1: Back-Channel Dealings at Deason Prep

Henry Edward Deason Preparatory Academy -- locally known as Deason Prep -- is a highly selective private boarding school with a long history of turning out graduates who go on to earn Ivy League degrees and Wall Street salaries. The school was founded in the late 1800s by a deeply religious Yankee industrialist who wanted to found an academy that promoted both academic excellence and spiritual well-being; it is still run by his descendants, who occupy most of the senior positions on the board of directors as well as several upper administrative positions at the school. While Deason Prep maintains an active affiliation with its founder's preferred Protestant Christian denomination, the school serves students of any and all religious convictions. The institution is similarly open to different beliefs among faculty and staff, although all employees must sign a statement to the effect that they are committed to promoting the mission, values, and ministry of the school's affiliation, regardless of whether or not they are members of the denomination in question. While the school's policy legally leaves room for anyone to work there, regardless of their religious convictions, in actual practice most of the people who work for Deason Prep either belong to the denomination at hire or join it shortly afterward.

In 2014, Deason Prep posted a job ad for a chemistry instructor, seeking to replace a senior faculty member, Dr. Maxwell Beauregard, who had informed the school at the beginning of the year that he meant to retire. The position included both teaching duties and residential service as Master in one of the several student residential "houses" on campus. The prospect of finding a replacement for Dr. Beauregard was especially difficult for the entire school community -- he was a Deason alumnus who had spent his entire teaching career at the school. He was both one of its most successful teachers and one of its best-loved Masters. He was also on close terms with many of the school's board members and administrators; his daughter had married into the Deason family, and her husband was on the board. Dr. Beauregard thought of himself as a man of faith as well as a man of science, and placed considerable importance on the integration of the spiritual and the academic in every aspect of his work as a teacher and as a mentor. He considered it his personal mission to help his students and his fellow employees alike become and remain "whole" people.

Out of respect for his long tenure and his importance to the school, the academic dean put him in an advisory position on the search committee for his successor, which meant that while he had no vote, he was still expected to be an active part of all hiring

discussions. At first, this arrangement worked fairly well. Dr. Beauregard offered his own notes on applicant credentials and helped to develop the set of subject-area interview questions to be asked. The committee -- made up of his colleagues in the sciences and outside evaluators from the English department and the Religion department -- found his input helpful as they narrowed the large field of applicants down to a few truly excellent candidates for the position. For the most part, Dr. Beauregard confined his comments and suggestions to the realm of academics; at no point in the first round of candidate selection meetings did he so much as mention anything about any applicant's faith commitment, although candidates had been encouraged to describe their views in a letter of interest as a part of the application. After careful discussion of the results of the initial set of phone interviews, the committee finally selected three candidates to bring to Deason Prep for final consideration.

Among the candidates invited to the school for a face-to-face interview was Ioana Grigorescu, a well-regarded Deason Prep graduate with degrees from Brown and MIT. While she had the credentials and the skills to make a good career for herself as a researcher in a university chemistry department, Dr. Grigorescu felt that her true calling was primarily in the realm of teaching, not research, and wanted nothing better than to return to Deason Prep to take up that calling. Dr. Grigorescu and Dr. Beauregard had occasionally been at odds with each other when she was a student, but primarily for religious and social rather than academic reasons; Dr. Grigorescu's approach to their shared religious commitment was somewhat different from Dr. Beauregard's, and they often argued about it. She vociferously rejected what she regarded as his misguided attachment to the outward forms and social habits of the church community and frequently questioned the leadership of the denomination, while he regarded her as insufficiently committed to the faith as it ought to be understood. They were on good enough terms when she graduated -- she regarded him as a mentor, and he was happy to help her in her career -- but they did not consider themselves friends, and their religious disagreements were never resolved to Dr. Beauregard's satisfaction.

Dr. Grigorescu's visit, including meetings with the hiring committee, assorted administrators, students, and her old mentor Dr. Beauregard, seemed to go very well. Her teaching demonstration was excellent; students in the demonstration class were so excited that they asked immediately afterward when she would start. The hiring committee found themselves both stimulated and challenged by their conversations with her, and they eagerly agreed that she was the best candidate for the job. Dr. Beauregard, however, expressed some misgivings. While he had no complaints about her teaching or her scholarly expertise, he remained uneasy about their old religious disagreements. He worried that as a Master, she

would either neglect the work of acting as a spiritual mentor for her students or would corrupt that work in some way. In his own conversations with her, he tried to goad her into one of their familiar arguments, but she tactfully avoided engaging in religious disputes with him (or with anyone else) during her visit. The committee took her avoidance of religious arguments as a positive sign -- to them, her thoughtful answers to questions about her views indicated that she would easily be able to uphold the school's faith commitments. To Dr. Beauregard, however, that avoidance felt like deception, and the committee's failure to see it seemed to him to be a disaster in the making.

While the committee members respected Dr. Beauregard's opinion, they unanimously agreed to offer Dr. Grigorescu the job; from their point of view, she was the obvious choice, regardless of Dr. Beauregard's concerns. They made their recommendation to the board and told the candidate that they had recommended her and were confident that the board would agree; the committee fully expected to hear shortly thereafter that Dr. Grigorescu had received and accepted the school's formal offer. The science department began amending the fall term schedule to include her classes, and the residential house to which she was expected to be assigned began preparing the Master's rooms for her. Dr. Grigorescu herself started the process of resigning from her current position and preparing to move back to Deason. Meanwhile, Dr. Beauregard sat down and expressed his concerns about Dr. Grigorescu's religious views to his son-in-law and whoever else on the board who would listen to him. Shortly thereafter, the committee, the science department, and Dr. Grigorescu alike were shocked when the board announced that she would not be offered the position, and that the search for Dr. Beauregard's replacement would be reopened.



## *Questions*

- In this case, it appears as if Dr. Grigorescu received an informal, verbal job offer from the search committee that was then rescinded by the board. Do a little research into verbal contracts and employment law. Did Deason Prep's board do something legally questionable when they chose not to complete the hire recommended by the search committee? Explain your reasoning (with reference to the sources your research uncovers).
- Dr. Beauregard's decision to take advantage of personal connections to influence the board rather than abiding by the choice of the search committee raises a number of ethical concerns. Is it ever ethically appropriate for someone to circumvent an official hiring process in this way? If so, under what circumstances? If not, why not? Explain your reasoning.
- What effect, if any, would the following changes in circumstance make to your answers to the previous two questions?
  - Instead of being a member of the same religious group (albeit with some difference of opinion about the faith), Dr. Grigorescu is an atheist or a member of a very different religious group.
  - Instead of being concerned about Dr. Grigorescu's religious views, Dr. Beauregard disagreed with the committee about her teaching methods (he preferred entirely lecture-based instruction, while she was an expert in teaching science in a "flipped" classroom environment).



## Case 2: Who Cares Best?

Hannah Goodsley was the senior personnel manager for Beatitudine Home Health Care (BHHC), a regional private nursing care and home health services company in the suburbs of a mid-sized city. It was her job to hire, train, evaluate, and support the nursing staff; she had been a home health aide herself for many years before rising to a managerial position, and made a special effort to help her new hires feel welcome and well-treated as they advanced in the company. It was BHHC's policy to put the nursing and home care staff on "Care Teams" that shared information about their patients, consulted and collaborated on care plans, and dealt with any problems that arose. Hannah was careful to put together teams that (she hoped) were the best available mix of old hands and new faces. She did her very best to be mindful of each group's mix of skills, personalities, and other qualities, and over the years she had also come to see not just which teams worked best together, but which teams would be the best fit for certain clients. She prided herself on managing a friendly and supportive operation that provided the best possible care for BHHC's clients.

One of the challenges Hannah faced in assembling and managing her teams was dealing appropriately with the gender disparity in the caring professions (as required by BHHC's employee manual and non-discrimination policy), which was reflected locally in a workforce that was predominantly female. From the 20th century forward, nurses and other healthcare workers in the United States have more often been female than male; the relatively few men in nursing [tend to cluster in the higher-paid specialties](#) (nurse anesthetists, for example) rather than in lower-paid professional and paraprofessional specialties like home health care. Hannah also had to pay careful attention to race, both with regard to her employees and with regard to how they dealt with clients (another ongoing issue in nursing and nursing education). Hannah's team-building work required striking a careful balance relative to race and gender alongside other concerns, and she found that it was wise to monitor groups carefully (occasionally moving senior personnel around) in order to make sure that everything worked as well as possible for her teams and for the people under their care.

In order to facilitate good team relations, BHHC used an online work messaging/collaboration system that allowed team members to communicate with each other and with other teams. This allowed the efficient sharing of information through both open team channels and private messages, which made it easier for teams to work around their sometimes irregular and non-overlapping work schedules for collaborative purposes. It also encouraged the teams themselves to take ownership of the information they shared and

the way they shared it. Because Hannah was a supervising member of all of the teams, she had administrative access to their main group communications, which allowed her to step in if she felt the need to intervene in order to help a team out. Most of the time, there was no need for her to do anything other than offer occasional praise, make sure teams were caught up on important announcements or changes, or answer a question; she tried to make sure that, on the open channels at least, team members felt that they were able to speak freely without fear of managerial reprisals *and* that they interacted with each other respectfully. Occasionally, she was required to settle a dispute. When she did, she sometimes also found it necessary to move a team member. Every now and then, she had to remove a non-performing employee or replace someone who retired or chose to move on to another position, but she'd been fairly lucky over the years in her hires. As a rule, BHHC's teams ran like a well-oiled machine, and Hannah put in the work needed to keep it that way.

Hannah's first hint that something might be amiss with her teams was a sudden dramatic silence in Care Team 5's regular work channel. Normally, CT5's members (while not particularly chummy) were quite diligent about holding appropriate and professional discussions about team business. For their channel to go silent was worrisome, especially because they were (as far as Hannah knew) one of her most reliable and effective teams. They were open about their few disputes, dealt fairly with each other, and only rarely required intervention from someone in management. When they started speaking again (quite sparingly), some team members seemed to be missing from the discussion. Hannah decided to wait and see what was up -- the silence had occurred over a holiday weekend, and it was possible that there had simply been a communication lapse of some kind. She assumed that if there were an immediate problem requiring her intervention or a technical issue of some kind, someone on the team would notify her (probably Catriona Demers, the senior RN, who had worked at BHHC for almost as long as Hannah).

Hannah did get an email from Catriona on the next Tuesday morning, but it was not at all what she had expected. Catriona had shared a manifesto titled "The Elephant In The Sickroom: A Discussion We Need To Have As A Company" with all of the Care Teams and all of the management staff, and had thereby dropped a rhetorical bomb in the middle of BHHC's hitherto smooth operation. In that document, Catriona laid out the case in support of her belief that the company's non-discrimination policies and conscious attempts to diversify its workforce were misguided at best and nonsensical at worst, and had the effect of weakening the company. Her argument had two main points: that trying to get more men on staff and being excessively race-conscious in hiring was ultimately leading to the employment of too many unqualified or underqualified candidates. If the company were truly meritocratic in its hiring, it would be hiring *fewer* men, for example, because (she asserted) all evidence

suggested that men were statistically less likely to have the right kinds of soft skills (interpersonal skills, nurturing skills) to succeed in care work, which was why so few of them were drawn into the nursing education pipeline in the first place. Her comments on the subject of race proceeded along similar lines, suggesting that some groups of people were, on the whole, less likely to be disciplined enough to do the hard work of home health care (among other things), which made it futile to attempt to bring their numbers into parity with groups more likely to have the qualities needed to do the job well.

Needless to say, this did *not* go over well with the rest of the BHHC staff; having read it, Hannah could well imagine what might have caused CT5's channel to go silent over the weekend, and she was not at all surprised when the flood of responses began, both in the open team channels and in her private inbox. Hannah's first phone call that morning was to Human Resources, in order to set up a meeting to discuss what to do about Catriona. While she did not believe that she ought to fire anyone for expressing an opinion (as opposed to job nonperformance, incompetence, or malfeasance), Hannah had a sinking feeling that Catriona's arguments might do more damage than mere incompetence could ever accomplish.

So much for the well-oiled machine.

## *Questions*

- This case is very loosely inspired by the recent incident in which [Google fired software engineer James Damore](#) for circulating a manifesto of a similar sort. The *Wired* article linked here suggests that Google management is in a “bind” -- they don’t necessarily want to be accused of censoring their employees, but they’re also already under pressure to improve the way they handle hiring and retaining women. Google says that they fired Damore [for violating the company's code of conduct](#). Consider their reasoning and then make your own argument that Hannah should fire Catriona.
- Keeping your argument in the previous question in mind, make a case for the opposite conclusion: Catriona should *not* be fired. Explain why, and then suggest some alternatives for dealing effectively with the situation.
- What effect, if any, would the following changes in circumstance have on the kinds of arguments made in your responses to the previous questions?
  - Catriona’s “manifesto” hadn’t been intended to go out to the whole company -- she had only meant to share it with a few individuals in a private conversation, and had clicked the wrong button.
  - Catriona was a junior manager supervising multiple Care Teams rather than a senior Care Team member, and was responsible for the initial hiring interviews for the teams she supervised.



### **Case 3: Pillory for Profit**

NBC affiliate WANT-TV (Channel 8), the local broadcast station for the small city of Pointé Désirée, has been slow to join the digital world. Station management was reluctant for a long time to devote resources to the station web site, believing that there wasn't much money in it. Under some pressure from their national network parent company, however, they eventually decided to put more money and effort to creating and supporting web content to promote the station. They decided to hire Leonard Lamont, a web strategy consultant for local media organizations, to supervise the redesign and expansion of the station's online presence. Over the course of several months, Leonard introduced a new site design, some online-only features for sharing video content unique to the station, an interactive community events page, a stronger social media strategy that connected site content more effectively to the station's Twitter and Facebook presence, a loosely moderated comments system for posted news content, and a system for making more effective use of web advertising to monetize pageviews on the main site.

For the most part, the changes he introduced were received well by everyone in the organization, although there was a little grumbling about the extra work required to make the most effective use of his social media strategy. One change, however, caused some discomfort, especially in the news division: among the new content pages added to the site was a regularly updated page posting mugshots and other information about people booked into both the city and county lockups, built on a direct official feed from the booking systems designed to make that information available to the public. Leonard argued that posting booking information was an easy way to build advertising revenue on the site, in large part because it was popular with users and required relatively little effort beyond formatting and posting the booking photos and charge lists. The information was already public and newsworthy, and the station (he said) would be doing a public service by making it readily available to their site users.

While initial usage data analysis suggested that Leonard was right about the booking information page's usefulness as an advertising revenue driver for the site, some people in the news division -- especially Donna Lockwood, the local crime reporter -- had objections to the practice. From Donna's point of view, while the booking photos and charges were public information and (at least nominally) newsworthy, they also posed a potentially unacceptable risk to the people whose images appeared on the site. She worried that users seeing the booking information would not always remember that the people being booked might never be tried or convicted of anything. It also bothered her that it might be possible



for the archived booking page info to become the most commonly returned search result for someone who was booked, but hadn't committed a crime, which might affect their working and social lives in harmful ways. Donna suggested that, at the very least, the station should institute a policy that included prominently posting a disclaimer concerning the difference between being booked and being convicted, the removal of all booking info after a certain relatively short amount of time on the site, and the immediate removal of any and all booking information related to people who were not convicted of a crime upon request. The station agreed to a compromise, prominently posting the disclaimer on the page and deleting booking info and photos after two weeks on the site.

One thing that no one at WANT-TV anticipated, however, was the way in which the new comment system and social media integration would affect how users interacted with the booking information page. At first, the site staff noticed an increase in aggressive, hostile, mean-spirited comments on the booking photo page itself; users remarked cruelly on the appearance of the people in the booking photos, joked about the charges, and sometimes said things that came so close to being actually defamatory that the site moderators found themselves struggling to maintain a safe and productive discussion space. After a while, the site administrators decided that the effort to moderate the comments wasn't worth it, and removed the comment function from the booking information page. Because new page updates were also posted on Facebook and Twitter, however, users were still able to discuss the content of the booking page, and they were able to do so on external social media sites in ways that the station's social media managers sometimes found it difficult and time-consuming to control. While large block lists and private pages or posts might be efficient and effective for individuals, the whole point of using social media for the station was to increase the number of users who would interact with content, not decrease it, which required different, more fine-grained discussion management strategies from the social media team. Nonetheless, the payoff in terms of revenue and web traffic seemed to station management to be worth the effort...at least until the arrest of Rudy Venckman.

Rudy Venckman (affectionately known to the locals as "Coach Vee") had for the last 25 years been the very popular head coach of the men's and women's volleyball teams at Pointé Désirée North High School. He had a winning record with both teams, including three state championships and several students who had gone on to play college and Olympic volleyball. Every year, the PD North sports teams held a Senior Sendoff bonfire down at the beach shortly before graduation, and the high school's athletics staff carefully supervised the festivities in order to keep the party from getting out of hand (no alcohol, no smoking, no drugs, etc.). This usually wasn't a difficult task -- the students behaved well and enjoyed the party, and the coaches seldom had to do much to maintain order, so over time

their presence grew smaller; by 2011, only three or four of the athletics staff members (including Coach Vee) attended, and sometimes only Coach Vee and his wife stayed until the end of the night to supervise cleanup.

In 2016, however, a small group of seniors decided that it was time to make the celebration a bit more raucous. They started drinking before they arrived at the bonfire, and someone brought a joint along to the party itself. Because there were so few staff to supervise the gathering, they managed (just barely) to hide their misbehavior until close to the end of the night, at which time a number of different elements all came together to spell disaster. A group of intoxicated students apparently harassed a local resident who was walking on the beach. When Coach Vee discovered them and put a stop to it, he also found out about the drinking and the weed (which he confiscated). Unfortunately, before the coach could do much more about it, local law enforcement (called by the resident on the beach) arrived to arrest everyone. Coach Vee -- who had confiscated the student's stash -- was booked for possession and for facilitating his students' underage drinking.

While the coach was released without being tried or convicted (unlike the misbehaving students), the appearance of his photo and charge list in the booking page gallery had some troubling effects. His booking photo was shared on social media by city residents and others, and the photo was the occasion of considerable debate in the comments about his guilt or innocence, about the school's policies, about the students. The discussion (including both productive commentary and no small amount of abuse) continued for months; even after the original image was taken down (as per station policy), screenshots of tweets and Facebook posts about Coach Vee's arrest continued to circulate, typically without including any information about the fact that the coach himself was not convicted of the crimes with which he had been charged. The coach and his family were frequently subjected to abusive calls, emails, and other forms of messaging, and newer residents of the city (people who did not know the coach well, and were unaware of the full story) complained to DP North HS administrators about his continued employment.

Eventually, the coach and the administration discussed an early retirement buyout in order to quiet the complaints. WANT-TV's web analytics, in the meantime, showed that Leonard's strategy for boosting the station's online presence and ad revenue was working. Donna, still acutely aware of the problems that posting and sharing the coach's information caused, lobbied station management for the complete removal of the booking image page from the site.

## *Questions*

- Imagine that you are Leonard Lamont. It's your job to make the most persuasive case you can that, in spite of what happened with the coach, it is still both ethical and worthwhile for the station to continue posting booking information under its existing policies. What's the best argument you can make?
- Imagine that you are Donna Lockwood. Your bosses at WANT-TV refuse to take down the booking information page, but they're willing to consider modifications to their existing policies and practices that might help to prevent a repetition of the Coach Vee problem. What policy changes would you suggest to them, and why?
- What effect, if any, would the following changes in circumstance have on the arguments made in the previous two questions?
  - The coach was actually guilty of the crimes for which he was arrested, although he wasn't convicted.
  - A local blogger started screencapping and sharing booking information on her own social media and web sites, along with snarky commentary. Because she's screencapping rather than linking to the original source material and doesn't ever remove information, she keeps booking photos and charges in circulation long past the station's (or the county's, for that matter) typical post expiration date.



## Case 4: Classification and Its Discontents

Lexie Page has loved working in university libraries ever since she got her first work-study job at the circulation desk as an undergraduate student. After she got her Masters degree in library and information science, she worked her way up through a series of successively more responsible positions at different college and university libraries until she finally got her dream job: Senior Cataloging and Technical Services Librarian at Northlake Evangelical University and Seminary. While Lexie herself grew up in an evangelical Christian family and remained a regular churchgoer, she didn't really spend much time wrestling with her faith as an adult; most of her prior library work was in non-religious private and public schools, in which it was both culturally expected and relatively easy for her to separate work concerns from spiritual concerns. While Northlake has an evangelical religious mission, it is also an academically competitive institution, and the school's culture has for a long time been built around the careful balancing of the requirements of secular higher education (especially in the empirical sciences) against the spiritual demands of the school's ethos of Bible-based faith and service.

In 2015, the school's administration underwent two significant changes: several members of the board of trustees retired and were replaced and the school hired a new president. While the previous board had been fairly hands-off with regard to the day-to-day operations of the university, the influx of new trustees brought with it a more active interest in the nuts and bolts of university administration. As a group, they felt themselves called to ensure that the university's spiritual mission was the foremost concern in every facet of institutional life. Under the board's guidance, the new president commissioned a comprehensive review of every department and program at the school, with the twofold aim of discovering operational inefficiencies and assessing how well existing programs contributed to the university's spiritual mission.

While the library came through the operational and financial components of the review process with flying colors, the president and the board expressed some concern over what might otherwise appear to be cataloging minutia: they objected strongly to the fact that books and journals on Creationism and Intelligent Design were classified (according to the system used by the [Library of Congress](#)) with the Philosophy and Religion books rather than with the Science books, and they felt that Darwin's *On the Origin of Species*, which they took to be patently false, shouldn't be in Northlake's collection at all. The president, speaking on behalf of the board, informed library staff that this constituted both a misclassification and a failure on the library's part to live up to its obligation to serve both the spiritual and

intellectual needs of the student body. He ordered Lexie -- as the head of the Cataloging and Technical Services department -- to review the library's cataloging practices and reclassify materials as needed in order to ensure that they were located where they ought to be, reflecting the spiritual priorities at Northlake.

For Lexie, this presented some difficulty. While she truly believed in Northlake's mission as both a religious institution and as an educational institution, she also believed that the Library of Congress classification system was correct -- books, journals, and other materials on Creationism and Intelligent Design were not really *scientific* in nature, and properly belonged in the company of philosophical and religious texts. This wasn't a matter of whether or not, say, Young Earth Creationism might be true -- it was a matter of method, practice, and subject. By and large, as she understood these things, most Creationist or ID texts (while they might include discussions of scientific studies) did not depend upon or employ the scientific method or empirical observation, relying instead on arguments from principle and scripture. That made them more comfortably fit among the philosophy and religion texts. By the same reasoning, she thought that Darwin's classic text, while theoretical in style, depended on evidence derived from empirical observation and therefore belonged among the scientific materials in the library's collection. Lexie was deeply troubled by the board's demand that she reclassify and/or remove any of these materials.

As a member of the American Library Association, Lexie was strongly committed to the ALA's Code of Ethics, including three principles that seemed to her to apply to the quandary she faced: protecting intellectual freedom and resistance to censorship, choosing not to "advance private interests at the expense" of patrons, colleagues, and institutions, and distinguishing one's personal convictions from one's professional duties. The removal of the Darwin text seemed to Lexie to represent an obvious form of censorship; curiously, from Lexie's point of view as a cataloger, the required reclassification of Creationist materials might also constitute a form of inadvertent censorship, insofar as she was being required to engage in what she regarded as the deliberate misclassification of library assets (which might affect how users would find -- or fail to find -- them).

Yet while Lexie felt herself professionally bound to resist both censorship and misclassification, she also had to consider the possibility that her resistance in this case might actually arise from her own failure to distinguish her personal convictions from her professional duties. She wasn't cataloging and maintaining some random assortment of materials for just anyone at all -- her job was first and foremost to serve the information needs of the Northlake Evangelical University community, including students, faculty, and staff. In the context of that community's particular faith and intellectual commitments, what Lexie regarded as a misclassification might look like quite the opposite, which would mean

that reclassifying the Creationist materials could actually *improve* access to information; her resistance to this improvement might appear to be merely personal rather than principled, placing her understanding of the distinction between science and non-science ahead of that of the community she served. Choosing to refuse to reclassify or remove materials might be a fine stand on principle for Lexie, but at the cost of subordinating the needs of her community to her own ideas about what ought to be done.

Yet it was not entirely clear to her that the community she served either a) would really be well-served by the reclassification or b) actually disagreed with her, on the whole, about how things ought to be done. Before the board and the president brought it up, Lexie had received no complaints about how the materials in question had been classified. Students, faculty, and staff seemed to have had no trouble thus far finding and checking them out. The reference and research librarians also reported no examples of confusion or complaints on the matter. While the board and the president might have their own views about what it meant for a department or program to align correctly with the university's spiritual mission, it was far from obvious that their views were universally shared across campus. Lexie might be standing on solid ground if she asserted that there was no evidence of a pressing need to reclassify or alter the collection in the way the board and president required.

What should Lexie do?

## *Questions*

- Read the [American Library Association's Code of Ethics](#). Given the code's broad emphasis on the protection of intellectual freedom, make an argument in favor of Lexie's refusal to do what the board and the president have asked her to do. What reasons can you give beyond those already mentioned in the case? What additional concerns might be relevant here?
- Now argue the other side, also using the code: Why should Lexie reclassify or remove materials as directed by the board and the president? What reasons can you give beyond those already mentioned in the case? What additional concerns might be relevant here?
- What effect, if any, would the following changes in circumstance have on the kinds of arguments made in response to the previous two questions?
  - Instead of working at a private religious institution, Lexie is a deeply religious person employed by a public land-grant university; she is suggesting the reclassification herself, and faces resistance from her fellow librarians.
  - Instead of being asked to remove Darwin from the collection, Lexie is asked to reclassify all texts promoting or favorably discussing evolution as fiction.





## Case 5: It's a Small World...

For a long time, Maryanne Lee-Osterbridge lived a fairly colorful and difficult life filled with travel, trouble, and no end of adventure (much of it, she would freely admit, following from her own questionable decisions). Eventually, she decided it was time to clean up, dry out, and settle down to find an occupation that would allow her to help others as she had been helped. The day she graduated with her Masters degree in social work also marked her ninth full year of sobriety, and she was both glad and humbled to have gotten so far. Her life was finally on a steady track. During a brief and happy stint at her first social work job -- working as a medical social worker for a hospital in the city -- Maryanne met her eventual spouse. Joe was a physician in private practice out in the suburbs to whom she was introduced by a colleague, and they shared a passion for going where the help was needed most. When Joe decided to take over the medical clinic in a small, isolated rural town in desperate need of a doctor, Maryanne was only too happy to move to a place where a social worker, too, was very much in demand.

In Granite Corners (population: 2,000), Joe and Maryanne settled into a comfortable routine. Granite Corners was the largest town in its immediate area, home of the only general medical clinic in the southern half of a county that had fallen on hard economic times. Once Joe and Maryanne moved in, they hired some nursing and administrative help, took over running the clinic, and began to develop their respective practices in a community that welcomed them with open arms. Maryanne, always mindful of the ongoing work of her own recovery, found her way to the equally welcoming AA meeting in the Baptist church basement. Life was good, work was worthwhile, and if they weren't exactly making big city money, it didn't really bother them much -- Maryanne and Joe were happy to serve where they were.

One challenge that both Maryanne and Joe faced in Granite Corners was maintaining a clean separation between their personal lives and their work. Because the town was so small (and because there really weren't many other medical service providers within easy reach), they often ended up privy to information about their patients that they could neither share nor discuss, sometimes not even with each other. They knew things about the Mayor that the Mayor's husband didn't know. They knew who had gotten vaccinated and who refused. They knew about the town's addictions, its STDs, and its various physical and psychological abuses. They knew who was going to have a baby (and whether or not the parents were pleased, surprised, or frightened by that fact). When they went to church or the

grocery store, they had to make careful decisions about how to greet their patients (who were also their neighbors) and what small talk was appropriate. It was a difficulty that they had expected when they moved there, but it was no less challenging for being expected.

Like all small towns, the social lifeblood of Granite Corners was gossip. In keeping with their professional obligations, Maryanne and Joe did their best to make sure that none of that gossip came from them (a difficult task in the face of considerable pressure from their neighbors to wheedle juicy information out of them at any and all opportunities). Joe dealt with the pressure by gently reminding people that he couldn't talk about his patients, and that they certainly wouldn't want him to talk about *them*; Maryanne dealt with it in part by relying on the support of her AA meeting, a room full of people who refused to gossip about anything (at least in the context of the meeting), which was a great relief to Maryanne. Interestingly, none of the people in the AA meeting were Maryanne's clients -- for the most part, the meeting was frequented by older residents who had never found any reason to seek assistance from a social worker. She knew this probably couldn't last -- she had recommended 12-step programs (in principle -- she revealed nothing about herself) to a few of her younger patients, and expected to see one or two of them in the AA meeting eventually. Maryanne took full advantage of the support she was able to find in the Baptist basement meeting, and participated as openly as she could, knowing that someday she would probably have to find another meeting.

Faith Hillyard first came to see Maryanne through a referral from family court. Faith's mental health and addiction issues (according to the court) needed to be dealt with more effectively in order for her to retain custody of her children; her current custody arrangement was being contested by her ex-husband, who claimed that Faith was backsliding on her existing treatment plan in ways that were potentially harmful to the children. In her sessions with Maryanne, Faith revealed that while she was trying her hardest to keep up with treatment and take care of herself and her children, she had started feeling jittery and overwhelmed. Her only consolation was the man she'd recently started dating. Faith always felt happy and relaxed in his company, and he was helpful in a dozen small ways around the house and with the boys. Maryanne was concerned when she learned in these sessions that Faith's new boyfriend was still a drinker (and an occasional user of recreational weed), although Faith assured her that he was supportive of her sobriety and never drank or smoked around the children. Maryanne gently suggested that Faith might want to think a bit more about her own recovery for a while, and perhaps also to think about the potential risks posed to that recovery by the new boyfriend's behavior. She also suggested that Faith make an appointment with Joe for a physical and request a referral to the psychologist three towns

away in West Pine; Maryanne suspected that there was something in Faith's self-described symptoms that needed a closer look.

One night when Maryanne went to the Baptist basement AA meeting, she noticed a new face in the group: Jake, who was joining the meeting for the first time. Jake wasn't from Granite Corners, as far as anyone could tell -- none of the other group members had met him before. Jake had recently come to believe that he needed to get back to a meeting; he had been sober for a few months some years before, but hadn't been able to stick to the program, and lately he felt that he was sliding further along toward rock-bottom. As Jake told the parts of his story that he felt moved to share, Maryanne grew increasingly uneasy. Some of what he confessed about his own behavior involved deliberately undermining someone else's recovery without their knowledge. Worse, his description of the person he was undermining began to sound horribly familiar. While she did not (and indeed *could not*) say anything about it at the meeting, by the end of the night she became convinced that Jake was Faith's new boyfriend.

This put Maryanne in an extremely difficult spot. She could not speak to Jake about Faith, and she could not speak to Faith about Jake. She was doubly bound by the confidentiality requirements of her job and by the trust of the AA meeting. Yet she knew she had to do *something* to help her client, and she also felt (as a member of the meeting) that it was important to help Jake hold himself accountable for his choices.

What should Maryanne do?

## *Questions*

- Check out the [Code of Ethics of the National Association of Social Workers](#), paying particular attention to sections 1.06 (Conflicts of Interest) and 1.07 (Privacy and Confidentiality). What, according to the Code, can Maryanne ethically do to help her client?
- Keeping the NASW Code of Ethics in mind, go learn a bit about [Alcoholics Anonymous](#). What, if anything, would it be appropriate for Maryanne to do in support of Jake's recovery as a part of that fellowship, given who she is professionally and what she may know about him and about Faith?
- What effect, if any, would the following changes in circumstance have on the kinds of arguments made in response to the previous question?
  - Jake and Faith were both Maryanne's clients.
  - Faith (rather than Jake) joined the Baptist basement meeting, and revealed information about herself there that contradicted what she had told Maryanne in the context of their therapeutic relationship.



## Case 6: Conflict and Professional Courtesy

Kevin Halberd had a long and respectable career with the FBI. By the time he retired in 2013, he had risen through the ranks to a senior administrative position in his local FBI branch office. Along the way, Kevin built a strong network of personal and professional relationships with his peers, superiors, subordinates, and fellow law enforcement personnel in other services; his ability to make connections was one of his most impressive talents, and it had made him especially effective as an interagency liaison officer for much of the early part of his career. He was known as an honest dealer -- he did his best to see to it that interagency and interdepartmental friction was smoothed over by ensuring that all parties communicated effectively and kept their shared priorities in mind. Kevin was also an expert at negotiating the complicated and often frustrating twists and turns of the federal bureaucracy, and he prided himself on knowing exactly who to call to disentangle the toughest bureaucratic knots. If Kevin ever needed a favor, he didn't have to look far to find someone who would help.

When Kevin retired, he decided to supplement his pension by doing security consulting work for area businesses. While it wouldn't have been appropriate for him to lean too heavily on his old FBI contacts (indeed, it might under some circumstances have been illegal for him to do so), Kevin was still able to make at least some use of his network of friends and contacts at a variety of law enforcement agencies and in other federal offices to ensure that his clients received the best possible advice and assistance in accord with state, city, and federal law. He became known as a sort of "fixer," a man who could be trusted to solve problems in ways that left all parties reasonably well satisfied. Kevin did his best to be scrupulously ethical himself and to stay within the bounds of the law as he understood it, although he didn't always check to be sure that his various contacts did the same; he reasoned that their behavior when they were out of his sight was out of his control, and he made sure that he never openly asked for anything inappropriate or directly facilitated illegal behavior.

After a few years, Kevin's excellent reputation brought him to the attention of Phyllis Regan-Gould, the CEO of ABC Superior Shipping, an industrial shipping company headquartered in a nearby city that was about to enter into a merger that would substantially increase its reach and its value. Mrs. Regan-Gould came to Kevin with a complicated problem: she suspected (although she didn't really have any actionable proof) that someone in the finance department was engaged in something that could potentially turn out to be criminal, and she didn't want to risk the bad publicity ahead of the merger that would

accompany an public investigation by law enforcement. In order to solve the problem and avoid the publicity, she proposed hiring Kevin under the pretext of having him consult on the company's annual security audit. Her hope was that Kevin, with his connections and his understanding of how investigations were done, could both help to uncover what was going wrong in the finance department and keep law enforcement at bay until the problem could be resolved with the least possible amount of public fuss (preferably by removing any bad actors as quietly as possible). This would be the biggest (certainly the most profitable) job Kevin had taken on since his retirement, and he looked forward to the challenge.

Once he arrived at ABC Superior, Kevin began by checking over the security audit of the finance department, which mostly involved waiting for the auditors to complete tasks and reports and then subcontracting a review of some of their work to another recently retired friend of his who happened to be a forensic accountant. He also had his friend study the finance department's work more generally. In addition to the accounting review, Kevin undertook his own background check of the finance department personnel, with the thought that perhaps there was something in someone's background or recent behavior that might guide his investigation in the right direction. As a part of the background check, Kevin reached out to his law enforcement contacts, thinking that it might be likely that one or more of them could give him a fresh angle on the problem or some additional information he might not otherwise be able to find easily by himself.

One of Kevin's most reliable FBI contacts (and one of his favorite former co-workers), Cassie Hapgood, surprised him when she reached out and requested a private meeting; she was, curiously, not one of the people he'd called as a part of his background checks, and he went to the meeting uneasy about his ignorance of how she'd come to know about his current project. Cassie was also uneasy -- unknown to Kevin, ABC Superior's finance department was actually one of several subjects of an ongoing undercover investigation (part of which was under Cassie's supervision) into a larger international money-laundering scheme. While the evidence gathered thus far indicated that people working at ABC Superior were more likely than not to have been victims duped by the real criminals, the eventual success of the investigation depended on keeping the connection between ABC Superior personnel and the launderers alive long enough to implicate the real masterminds of the scheme, who were suspected to have law enforcement ties or inside help of some kind in one of the major investigative services. Kevin's inquiries had the accidental consequence of potentially drawing the wrong kind of attention at exactly the wrong time to Cassie's ongoing operation. Cassie, carefully avoiding being too specific about what she was up to and why she needed him to change his plans, tried to warn Kevin off as a professional



courtesy extended to an old friend, suggesting that it would be best if he delayed his part of the security audit until she was allowed to let him know what was going on.

This put Kevin in an extraordinarily awkward position. He was contractually obligated to deliver just the result he'd promised to ABC Superior -- the names of any employees engaged in inappropriate (or potentially illegal) behavior and the evidence of their wrongdoing, to be used as leverage to force employment separations with an accompanying nondisclosure agreement that would allow the company to rid itself of its problems as quietly as possible. Ideally this would be done before the upcoming merger. Yet he also understood that what Cassie was doing was important, even if he didn't know exactly what she was up to or what her schedule was. In his usual way, Kevin sought a solution that would allow him to satisfy both parties: he worked his contacts until he found someone who was willing and able to give him enough information to understand Cassie's operation, and then he took that information to Mrs. Regan-Gould in order to get her permission to share his findings with law enforcement, as a part of a plan to expedite the undercover investigation and move it along to suit ABC Superior's schedule.

## *Questions*

- Take a look at the most recent version (2015) of the [FBI Integrity Program Policy Directive and Policy Guide](#) (skip to section 6, which discusses post-government service employment, with particular attention to the material starting around 6-8). How does Kevin’s behavior stack up relative to the FBI’s actual rules? Has he effectively “switched sides?” Which other rules (if any) might he have violated by working his contacts in order to help ABC Superior? Why do you think so?
- Was Cassie’s warning to Kevin also problematic relative to the FBI’s integrity policies? Why/why not?
- What effect, if any, would the following changes in circumstance have on the kinds of arguments made in response to the previous questions?
  - Kevin sought and was given written permission by the FBI to discuss Cassie’s investigation with Mrs. Regan-Gould.
  - Kevin ignored Cassie’s request to delay his part of the security audit, and went ahead with his own work on his original schedule.



## Case 7: Stolen Salvation

Jonah Rossi loved being a veterinarian. After he finished veterinary school, he returned to his hometown to join his uncle's small animal clinic; on the side, he also volunteered to do veterinary work for the local animal shelter, performing basic care and the occasional surgery. The combination of obligations was sometimes a bit difficult for him. It was hard to see, for example, a former patient from the clinic dropped off at the shelter. The local shelter had limited space, and because it also served as the intake and holding facility for animal control, sometimes nominally adoptable animals that couldn't be placed with rescues or foster homes were euthanized because all available space was taken. It hurt to see an old dog or cat he'd cared for at the clinic euthanized at the shelter because no one was interested in taking an elderly pet home and there was no room to be found in a rescue or foster environment. He knew he couldn't save them all, and he couldn't take them home with him, but that knowledge did little to ease his conscience. So he did his best to treat every pet well, and made it his business to try to do whatever he could to keep his furry patients in their homes and well cared-for.

The Johanssens were one family that he'd worked quite hard with in order to help them to keep their dog, Hank. Hank was an older pointer, long retired from hunting due to (manageable) arthritis. He had a big, sloppy grin on his face pretty much all of the time, at least as long as his pain was well-managed on medication; as he got older, Hank got a little cranky when he was feeling his worst. He was also losing his hearing, which made it easy to startle him into being a bit snappish, especially if he'd been sleeping. The combination was a bit delicate to deal with, and while the Johanssens did their best to take good care of Hank, it wasn't easy for them. The pain medication that worked best was rather expensive, and they had two younger children in the house who, while generally well-behaved, didn't always understand why their old canine friend seemed so touchy. They were also eagerly awaiting the arrival of a new dog -- Mr. Johanssen was an avid hunter, and he had searched for a long time to find the right combination of breeder and trainer that would help him to get out in the field again with a good dog by his side. Still, the family seemed willing to do what they had to do to keep Hank happy in his old age, and Jonah did what he could to ease their burden with some slightly cheaper generic or sample medications.

When the new pointer finally arrived, things seemed to go well. Hank didn't mind Annie, the new dog; he was a bit livelier with a canine buddy around, and Annie was an easy-going and highly social adolescent who made a good hunting partner for dad and a good playmate for the kids. The family settled into a comfortable routine with the two dogs,

and Jonah was happy to see Hank doing so well. His deafness was slowly getting worse, and his eyesight was fading, but that sloppy grin seemed to be permanent, and as long as his medications kept his arthritis from bothering him, Hank was able to enjoy a dignified retirement.

One Thursday, several months after Annie joined the family, the Johanssens brought both dogs in with bite injuries. Apparently, Annie (quite accidentally, as far as anyone could tell) had jumped or fallen on Hank while he was sleeping. He had been hurt and surprised, and had snapped at her. With his poor eyesight and hearing, he had misjudged where she was, and a snap had become a bite that drew blood. Annie, understandably, fought back. When Mr. Johanssen tried to separate them, he was almost badly hurt himself by Hank, who lashed out at what he couldn't quite see. As it was the incident had shaken them all badly, and while the dogs were friends again, the family was deeply worried. Jonah and the veterinary assistants worked quickly to clean and repair the wounds on both dogs, and Jonah recommended that the family leave the dogs at the clinic overnight for observation, just in case there were signs of infection or internal injuries.

When Mr. Johanssen came back the next day, there was only one dog crate in the back of the truck, and he was only carrying one leash. He sat down with Jonah and explained that he and his wife had made a hard decision: they could no longer keep Hank. With the children and Annie in the house, they just couldn't be sure that he wouldn't go off again if someone startled him, and the thought of him harming the children next time was horrifying. They loved Hank, and they hated to give him up, but it just wasn't safe to have him in the house, and they didn't think it would be right to banish him to an outside dog run; Mr. Johanssen was a firm believer in being responsible as well as kind with his dogs, and he didn't believe that dogs did well when they were isolated. Because Hank was older and had gotten into a fight with another dog, the Johanssens knew that it was unlikely that he would find another home through the shelter or a rescue. They had decided that it was time to put him down. Mr. Johanssen told Jonah that he would take Annie home, and leave Hank to be euthanized at the clinic. He couldn't face being there while it was done; none of the family could. They trusted that Jonah would see it done quickly and painlessly, and asked that Hank's ashes be returned to them after it was done.

Jonah was flabbergasted. From his point of view, while Hank was arthritic and a bit cranky, he was still young enough to have a lot of good years left, if only he could be handled appropriately in the right environment with the right medication. Mr. Johanssen was correct to say, though, that Hank really wasn't likely to find a new home from the shelter; he'd just be euthanized anyway, and after a stressful time away from his family in a strange place. It would be kinder to put him down now, at the vet's office, and spare him the stress

and fear. Nonetheless, Jonah thought he could still find a foster placement or someone who might be able to help Hank out. He tried to convince Mr. Johanssen to wait, but the man's mind was made up. He had found the most humane solution (albeit a painful one), and he was committed to it. Jonah agreed to put Hank to sleep (and also waived the fees for wound care and overnight boarding) and sent Annie home.

As soon as Mr. Johanssen and Annie were gone, Jonah hit the phones, calling every pointer rescue organization, no-kill shelter, foster care provider, and friend with room for a dog that he could think of. Eventually, a friend of his from vet school said that she'd take Hank. She had the time and the room for an elderly dog, and she had been looking for an older companion; she had periodically fostered older dogs in the past, and knew how to manage a cranky elder. Without telling the Johanssens, Jonah handed Hank over to his friend. He gave the family the ashes of a shelter dog who had been put down that same day, and told them that he hadn't charged them for the euthanasia, either.

## *Questions*

- Take some time to study the [Principles of Veterinary Medical Ethics of the American Veterinary Medical Association \(AVMA\)](#). Using the principles, make an argument that *justifies* Jonah's decision to place Hank in a new home rather than putting him down (without the consent of Hank's family).
- Using the same code, now argue the other side: why might it have been *wrong* for Jonah to place Hank rather than euthanizing him according to his family's wishes?
- What effect, if any, would the following changes in circumstance have on the kinds of arguments made in response to the previous questions?
  - Instead of getting into a fight with Annie, Hank bit one of the children, who accidentally tripped over him while he was napping near the fireplace.
  - Hank had no medical issues, and was a very energetic and friendly middle-aged dog; the Johanssens just wanted a small-breed puppy with a mellower temperament instead.





## Case 8: When Jerry Met Allie<sup>1</sup>

The marketing team at Super Nifty Independent Films was given what they thought might be their most exciting assignment ever: to come up with innovative, under-the-radar viral marketing ideas for *When Jerry Met Allie*, a dark comedy. The plot, a creepy sort of mashup of a 1940 Jimmy Stewart film called *The Shop Around The Corner* (the source material for the 1998 Tom Hanks/Meg Ryan movie *You've Got Mail*) and *Electric Dreams* (1984), features a complicated relationship between a human being and a pair of artificial intelligences who meet and primarily interact through an online dating app. *When Jerry Met Allie* was an experimental piece starring unknown actors, and the film was designed to be viewed in conjunction with an interactive online experience; the plan was to release it simultaneously through online streaming outlets and select theater screens, with viewers in both home and public venues actually encouraged to use a special app on their phones to interact with the film as it plays.

The marketing team had already developed the standard promotional package (press releases, cast photos, teaser trailers, etc.) to be used closer to the film's official release date. Their remaining task was to create viral buzz before those promotional materials came into use, so that customers would already be primed to see the film before its conventional advertising arrived. While they had already started seeding a subtle social media campaign involving participation in some very strange conversations with artificial profiles on Twitter, Facebook, Instagram, and other platforms representing the main characters, the team decided that it might be more interesting to anticipate the participation experience of the film itself. In order to do so, they created chatbot profiles on several different dating apps and sites. Their idea was to have the characters interact with users on those apps/sites in ways consistent with character behavior in the film, and eventually to reveal to users what was going on. Users who stuck with the interaction long enough would win exclusive prizes (invitations to the premier party, free tickets, advance access to the interactive experience and to some special features not available to other users) after the bot sent them to the film's dedicated site and revealed the deception.

In order to make the dating app element of the promotion work as effectively as possible, the marketing team and the bots' designers integrated actual lines and behaviors from the film in order to create the smoothest possible connection between the promotion and the film's interactive experience. They took some of their inspiration from the old-school Mother of All Chatbots, the [DOCTOR ELIZA](#) script, which was built to ask the

---

<sup>1</sup> Fictional (and much exaggerated) case, inspired by [an actual media campaign for a film](#)

kinds of questions a Rogerian psychotherapist would use to draw out user participation in the conversation. Unlike the original DOCTOR script, though, the three different *When Jerry Met Allie* chatbot scripts were designed to play out a carefully structured in-character flirtation (mirroring the sometimes rather twisted online seductions in the film) that would eventually lead to an agreement to exchange contact information and arrange an in-person date. The social media team also used character postings to have the characters express vague excitement about these ongoing flirtations (although most of their social media interactions were with each other, staging an ongoing online argument across multiple platforms). This part of the campaign would only run for four weeks prior to the film's release, after which the dating app bots would be deactivated and the social media accounts would all redirect to the film's dedicated interactive site. Contact information gained from users interacting with the chatbots would be used to connect contest winners with their prizes and then would be deleted. Some of the content gleaned from the dating app conversations was shared with the main interactive site, to be used anonymously to create additional features and conversations for the interactive experience.

At first, the coordinated social media and dating app campaign seemed to be going well. Users were sharing, discussing, and interacting with content that the character profiles posted on social media sites; some of them seemed to become very quickly aware that they weren't interacting with an actual person and had some fun playing with the characters and observing their strange social behaviors. Dating app users in the early stages of the flirting script responded positively, and several made it to the end of the scripted flirtation and to the award site; their annoyance with being effectively manipulated by a chatbot was usually soothed by receiving free stuff. Interestingly, most of the dating app users (a relatively small group in any case) kept the secret of the character accounts, mostly because they didn't want to admit that they'd been manipulated (and because some of them found it hilarious). At the end of week one of the campaign, the marketing team regarded their campaign as a qualified success.

Week two, however, wasn't quite so pleasant for the bots in the dating apps (or, more importantly, for the social media campaign managers responsible for handling them). The dating app profiles started getting more hits, several of which were seriously inappropriate. The most troubling interactions involved sharing revealing photos (everything from unsolicited dick pics to requests for nude images or attempts to engage the bots in a sexting conversation). In addition to the inappropriate nudity, some users revealed very detailed, very personal information about themselves, which was then shared with the main interactive site. When some users in the second week reached the end of the scripted flirtation, they were furious at the deception, and reported the bot profiles for violation of

the dating apps' terms of service. Others took to social media to complain, revealing the deception and starting a couple of trending hashtags to share their protest.

Worse still were users who sought legal advice over the next two weeks, through the film's release -- their claim was that the information gathered from the dating app conversations was being taken for use in another context without the permission of the original participants in those conversations, a substantial violation of their privacy. They also claimed that the dating app chats amounted to a kind of fraud. The campaign got quite a lot of negative news coverage on the tech and entertainment media sites, which had the longer-term effect of undermining the film's interactive component; customers were wary of privacy risks that seemed to them to be a part of the interaction, and stayed away from the film itself.

In the wake of the controversy caused by their campaign, the marketing team sat down and tried to understand exactly what went wrong and to consider what they could do to salvage the situation.

## *Questions*

- Look at the Terms of Service (TOS) for a few of your favorite social media or dating sites/apps. How do they protect user privacy? Do any of them have rules that would have prevented the use of chatbots for the purpose described above? Would the media campaign described in this case have violated the TOS for any of the sites you checked in any other ways?
- Take a look at the [American Marketing Association's Statement of Ethics](#). Now imagine that you were in the initial meetings at which the marketing team for Super Nifty Independent Films pitched this particular media campaign. Make the strongest arguments you can both for and against the campaign, *without* using any specific knowledge of how it actually turned out (so: think in terms of arguments about privacy, about the ethics of manipulating people, about consent for the use of information, etc., according to the AMA Statement).
- What effect, if any, would the following changes in circumstance have on the kinds of arguments made in response to the previous question?
  - Instead of being a marketing campaign for a film, the chatbots and fake social media profiles were a part of a large, ongoing research project by the social media companies themselves, aimed at refining their understanding of user behavior.
  - Instead of being a marketing campaign for a single film, the chatbots and fake social media profiles were used by a marketing information company to gather information about users to sell to advertisers.



## Case 9: Customer Service?

There were some big changes on the horizon at Sulphur Pond Hometown Pharmacy. Recently, state law had changed to allow the over-the-counter (OTC) -- or, perhaps more accurately, behind-the-counter -- sale of hormonal contraception with no prescription or a pharmacist's prescription, including most of the usual birth control methods (with the obvious exception of implants and IUDs). The new regulations made these sales voluntary for small privately owned pharmacies, but the owners of SPHP chose to join the ranks of participating businesses; SPHP was the only pharmacy available for miles around, and the store's owners wanted to be sure they were addressing the needs of their wider community. The change in procedure required a considerable investment in training and the addition of new personnel in order to comply with the requirement that customers purchasing The Pill and other available contraceptive medications go through a simple screening and consultation meeting with a pharmacist before purchase. It also required some changes to the store -- they had to create a better space for private consultations. As the store completed the renovation and retraining process, they hired Violet Park, a recent pharmacy school graduate, to supplement their staff.

While the changes at SPHP were applauded by the pharmacy's customers, not all of the employees were happy about it, as Violet discovered in her training sessions with her new supervisor, Graceanne Tompkinson. Graceanne had worked for SPHP for most of her life -- she had started as a clerk when she was in high school and worked her way up, and the owners had helped her to pay for pharmacy school. As far as the owners were concerned, she was like a member of the family. The one thing on which they profoundly disagreed, however, was the matter of whether or not the store should sell contraception in any form. Graceanne firmly believed that most medical contraception was essentially abortifacient in effect and that all forms of contraception were contrary to God's will, which was why her faith commanded her not to sell them or use them. She and the owners had come to an acceptable accommodation in the past; if a patient came in with a prescription for birth control of any kind, Graceanne would have another pharmacist on duty fill it. She loved her job, and while she still felt uncomfortable about even permitting someone else to fill the prescription, she decided that this was the best available sop to her conscience.

This arrangement worked as well as could be expected right up until the SPHP owners decided to participate in the new state program for contraceptive sales. Graceanne

tried to talk them out of it, but they refused. Because the new rules required *all* of the licensed pharmacy staff to be trained to participate in screening and consultation in order for the store to be in compliance with regulations, they gave Graceanne a choice: she could either participate, take a purely administrative position elsewhere in the business, or leave. They were willing to help her to retire early rather than have her quit outright or be fired, but they weren't going to budge on store policy. SPHP was going to serve its community, and if Graceanne wasn't willing to do that, then she could no longer work as a pharmacist for SPHP. Graceanne decided that she would stay, train, and sell what she was told to sell. She genuinely loved her job and the customers she served, and she wasn't ready to retire.

For the most part, at least as far as Violet could tell, Graceanne did her job just as she should. She dutifully walked Violet through all of the required training, and while she was not shy about letting her new coworker know how she felt about it, she also made it clear that she wouldn't hold disagreement with her position on contraception against anyone. She stocked what she was supposed to stock, sold what she was supposed to sell, and did her best to treat her customers with compassion and respect. For the first month or so, Violet could see no reason for concern. When it was necessary to perform a screening and consultation with a customer, they both did what was required, and so far as Violet knew, no customer found any reason to complain about the service.

In her second month with SPHP, however, Violet started to notice something strange. While Graceanne did the screenings and consultations that the law required for contraceptive sales, at least half of the time her meetings with customers did not result in an actual purchase. Of course, it was possible that at least a few of the people Graceanne screened were not good candidates for the form of contraception they wanted to buy, or that there were medical reasons to suggest that they go to their physician for further testing and advice. It was also possible that they just changed their minds after the consultation (perhaps meaning to come back later). Violet had dealt with one or two cases like that herself. Just the same, it seemed a bit odd; Violet's own consultations most often led to a purchase, and even the women who were referred to a physician for further testing typically came back to make a purchase later. Graceanne's response to Violet's roundabout attempt to ask her about it was simply to smile and say "we talked about it together, and we did what was best for the customer," shrugging off the imbalance between her consultation and purchase rates as a coincidence.

One afternoon when Graceanne was supervising the most recent stock delivery, Bella -- a customer who had previously consulted with Graceanne and who hadn't ended up making a birth control purchase -- came into the store and asked for another consultation. Violet led her to one of the consultation rooms and started to go through the standard

pre-screening questions. About halfway through the screening, Bella asked Violet why they were doing the health questionnaire again. Bella had come into this second consultation prepared to support her case for birth control, she said -- she had gone home and spoken to her doctor, to her husband, and to her pastor, just as Graceanne had told her she should, and she was ready to prove that she needed birth control and that it was appropriate for her to have it. Violet was shocked. She asked Bella to describe her previous consultation, and was disturbed to discover that, as Bella understood it, Graceanne had told her that the pre-screening questionnaire indicated that she was in a moderate-risk group for certain complications, and had then proceeded to order Bella to consult with the various other people and authorities in her life to let them help her to assess the risk properly. She told Bella that the law required her to make sure that Bella understood and accepted all of the relevant risks and likely consequences before she could purchase the drugs. She said that Bella could come back with evidence that she had thought things through properly and then make the purchase, provided Graceanne approved the evidence. Graceanne claimed that she had an ethical and legal obligation as a pharmacist to request and assess that evidence prior to sale, and to prevent customers from taking unnecessary risks.

This was *not* the correct consultation procedure required by law, and Violet was horrified. Not wanting to undermine her supervisor, she finished the questionnaire (which she was required to do at every consult, even for a return visit) and then gave Bella's "evidence" a cursory look and her (absolutely unnecessary) approval. After she finished the sale to Bella, she asked Graceanne if they could speak privately about Bella's case. Graceanne assured her that Bella had simply mistaken her meaning -- she *had* spoken about having an ethical and legal obligation to make sure that Bella understood her medications and their risks, but Graceanne hadn't ordered her to do anything. She claimed that she was pleased that Bella had returned to make her purchase, and that it had all turned out well.

Violet wasn't entirely convinced, but she wasn't quite sure what to do. She didn't want to talk to the owners about her worries with nothing but Bella's example as evidence that Graceanne might be doing something wrong. Concerned, she started keeping notes on Graceanne's customers and flagging them in the record-keeping system in order to see exactly who made purchases and who didn't, and considered setting up some way to get a recording of one of Graceanne's consultations in order to be sure.



## *Questions*

- Study the [Code of Ethics of the American Pharmacists Association](#). Now create a dialogue between Violet and Graceanne in which Graceanne claims that the code requires her to dissuade customers from purchasing hormonal birth control and Violet argues against this position.
- Keeping the Code in mind, study the [HIPAA Privacy Rule](#), which applies to pharmacists as well as other healthcare professionals who manage confidential patient information. Make an argument either for or against Violet's information-gathering strategies as she attempts to figure out what to do about Graceanne's behavior. What is she obligated to do if she thinks Graceanne is violating the Code and/or the law? What is it *appropriate* for her to do, given patient privacy rules?
- What effect, if any, would the following changes in circumstance have on the kinds of arguments made in response to the previous questions?
  - Graceanne didn't try to talk anyone out of anything -- she just rigged the health screening and exaggerated the side effects so that customers believed that they weren't safe candidates for hormonal birth control, so that the customers simply chosen not to take the risk.
  - Violet tracked down Graceanne's customers and interviewed them -- under the pretext of a customer satisfaction survey -- in order to gather evidence about Graceanne's consult behavior.



## Case 10: Fake It, Make It

Jim Novak's junior year in college was off to a terrific start. His grades were perfect so far, he'd gotten most of his required courses out of the way, and he had the summer and two terms left to do an internship, complete his major, and do some research to complete his final project for the college honors program. He'd even gotten a fellowship to do his research, along with an ideal internship posting in a research lab connected to a nearby medical school. His internship supervisor, Dr. Kim (who had brought several interns on board to help out with a large grant project) promised Jim that he could use some of his work on the grant research to complete his honors project. Jim thought it was a perfect opportunity to work alongside professors and graduate students before he headed off to a graduate program himself, and he was excited to get the chance to play in the big leagues, scientifically speaking. There was even a possibility (according to Dr. Kim) that if Jim's work was good enough, he might get to see his name in print among the authors on a publication coming out of the lab.

When Jim arrived to start work in Dr. Kim's lab, he was introduced to the group of postdoctoral researchers and graduate students who were responsible for the bulk of the day-to-day work on the projects that contributed to the larger work for which Dr. Kim had gotten funding. The overall goal of the part of the grant project to which Jim was assigned was to determine whether an off-label use of a particular drug might actually turn out to have certain benefits as a therapeutic intervention for a pediatric autoimmune condition; this was one of three related off-label uses of this drug that the lab was studying. The team Jim worked with consisted of two graduate students (Ramesh and Peter) under the leadership of a postdoc researcher, Dr. Ahmadi. Dr. Ahmadi took the teaching part of her job very seriously -- she wanted the graduate students working with her to acquire a solid acquaintance with the relevant literature and to have opportunities to explore new possibilities in their own work. She saw herself as a mentor as well as a work supervisor, which meant that in addition to the time-consuming and sometimes slow and tedious day-to-day work of running experiments, maintaining materials and equipment, and analyzing data, she also encouraged her supervisees to have regular read-and-discuss meetings with her. Her hope was that as a team, they might come up with some more effective ways of doing the work that Dr. Kim had assigned. She cheerfully included Jim as if he were one of the graduate students (although she was careful to guide and oversee his work appropriately).

Jim was lucky enough to come aboard the project at a time when a number of factors came together in what looked like a breakthrough. Ramesh and Peter had gotten one of their experiments to work out in a way that suggested some new avenues forward. Jim, Dr. Ahmadi, and the graduate students worked tirelessly on developing a set of follow-up tests to confirm their initial results; while Jim's approach (under Dr. Ahmadi's watchful instructional eye) didn't end up working, and Ramesh's angle had only mixed results, Peter appeared to find exactly the results they needed. Peter was the most senior graduate student in the lab and one of Dr. Kim's advisees; the test he developed was a tangent in a line of investigation that he had been working on for his own thesis research. Dr. Ahmadi and Dr. Kim were both pleased -- Peter was a star player in the lab, and they relied on him to do good work with relatively little supervision. They were only too happy to trust him to do the bulk of the initial writeup and analysis that would go into publication on the test and its implications.

Left mostly to his own devices (give or take his weekly discussions with Dr. Ahmadi and regular meetings with Dr. Kim for his thesis research), Peter continued to work on the testing protocol he had developed. Dr. Ahmadi thought that it might actually do both Peter and Jim some good to assign Jim to help him; she thought that Peter would benefit from having to work on supervising someone else, and she wanted Jim to see the kind of work Peter was doing. This turned out to be a fine arrangement, especially in the first flush of excitement about Peter's discovery. Jim kept careful notes, watching how Peter did his work and asking questions about everything they did. He didn't always follow what Peter was doing, and also didn't quite understand some of Peter's explanations about procedure or data analysis. While Peter was patient about questions up to a point, he occasionally waved Jim off or pointed him to an article to read or another task to perform instead of answering. When Jim asked Dr. Ahmadi questions about these things, she often gently referred him back to Peter; it was her hope that being required to come up with clearer responses to basic questions might improve Peter's work. If some of Jim's questions about what Peter was doing seemed a bit odd to her, she attributed the strangeness to Jim's confusion; she assumed that he didn't have the language and knowledge yet to grasp everything that Peter was saying. It all seemed to work out in the end, anyway -- when the paper about Peter's test was submitted for publication, Jim was thrilled to be listed (*very* far down in an author list that started with Dr. Kim and seemed to include half the lab and the kitchen sink) as a co-author.

Once Jim got back to his own college, he decided to use a small-scale replication study of Peter's test as a part of his own honors research. He and his research advisor, Dr. Bruchman, carefully read the preprint version of the paper (with Dr. Kim's permission) for

help designing their experiment. Jim spent the fall term and most of his winter break trying to get the experiment to work, but kept running into difficulties. He simply couldn't get the same results (or anything like them) that Peter had gotten so reliably and easily. He and his advisor tried to control for sources of error on their own part, checking equipment, timing, materials, cell lines, environmental conditions, and anything else they could think of. Confused, Jim and his advisor tried contacting Peter, but Peter never returned their calls or answered their emails. When Jim tried to reach Dr. Ahmadi, he discovered that she was out of the country, and didn't seem to be answering her email regularly. When they reached Dr. Kim, he suggested that they keep trying -- his lab had succeeded in using the test in further experiments that consistently seemed to get very promising results, and he suspected that the problem might be in the write-up (something they somehow hadn't caught that the journal reviewers would almost certainly notice). Jim resigned himself to having to change some things in his project. Dr. Kim was kind enough to help him to figure out how to replicate one of the later experiments that had used Peter's test successfully in combination with another test from a different lab team.

Shortly after Jim presented his work to the honors committee and succeeded in defending his project, he found himself (perhaps accidentally) cc'd on an email from Ramesh to the entire lab. In that email, Ramesh called out the lab as a whole and Peter individually, providing evidence that Peter had in fact fabricated data from his test and had sabotaged Ramesh's work on an alternative approach. He also claimed that Peter's entire thesis project was built on fabricated data, and that later successful uses of Peter's test were either further instances of fabrication or were successful for reasons than the ones suggested by the features of the test itself. He blamed Dr. Kim for covering up Peter's bad behavior in order to keep the grant money, and Dr. Ahmadi for being so poor a supervisor that she never caught the faked data herself. Ramesh also said that he would be contacting the journal to which the initial paper had been submitted in order to retract the paper (which had by that time only just been published).

Jim's honors project (and some of the work submitted as a part of his graduate school applications) depended on Peter's test and Dr. Kim's successful later use of it, and the publication featured heavily in his application materials. He had to figure out what to do (if anything), so, in a panic, Jim called Dr. Bruchmann.

## *Questions*

- Do some research on research ethics and misconduct. How are students and professional researchers held accountable? What are the acceptable responses? What happens to later projects that depend on retracted or discredited studies?
- Given what you've learned from your work on the previous question, imagine that you are Dr. Bruchmann, Jim's advisor. What advice would you give him? What should Jim (who, remember, is still an undergraduate student) do in response to Ramesh's claims? Why?
- What effect, if any, would the following change in circumstance have on the kinds of arguments made in response to the previous question:
  - Jim and his advisor were able to get Peter's original results with a few small changes to the procedure described in the preprint article.
  - Jim himself was inadvertently responsible for the bad data, having misunderstood some of Peter's instructions, and neither Peter nor Dr. Ahmadi caught his errors.



## Case 11: Who Audits the Auditors?<sup>2</sup>

The Rocket Free Repository (RFreeRep), a digital repository platform and service provider for libraries and archives, was invented by two friends, Janice Wingerton and Marigold (“Mari”) Foote; Janice built the original system, and Mari (who was a CPA) looked after the finances for the organization they created to market, support, and maintain the platform. They built the operation together, slowly assembling a mid-sized client base of public and private academic institutions who wanted a reasonably-priced institutional repository solution for sharing their collections that could be customized to suit their needs. One of its most popular uses was for the free sharing of data and preprint journal articles among scholars; the platform was also used for hosting open access journals and open educational resources. It was designed to be easy to integrate with other content management and cataloging systems, which made it flexible as well as cheap. In an academic publishing marketplace in which libraries and scholars often found it difficult to keep up with the costs associated with using services provided by for-profit publishers, RFreeRep was a breath of well-designed and affordable fresh air. In order to keep their product as affordable as possible for smaller institutions, they developed a sliding pay scale that made it possible for them to use some of the income from more prosperous users to subsidize low-cost or free use for needier organizations.

As RFreeRep’s reach grew, it took on additional employees to handle the day-to-day work. Mari acted mostly as the finance manager, leaving most of the actual accounting work to someone else, while Janice served as the director of the organization as a whole. When Mari had to take an extended leave of absence to deal with a serious health problem, she felt confident that Janice and the rest of the team had everything well in hand. She received regular reports about operations from Janice, including the unpleasant (but not unexpected) news that recent economic pressures on the kinds of institutions they usually served meant that they were subsidizing more and taking in less than was ideal. She agreed with Janice, however, that there was no need as yet to increase prices; the main market advantage RFreeRep had was its low cost to often cash-strapped institutions and its consistent support for open access and free resources, and Janice and Mari wanted to put off losing that

---

<sup>2</sup> This case is fictional. Readers familiar with [the recent purchase of Bepress by scholarly publishing giant Elsevier](#) might notice a resemblance in circumstance, but, to be clear: all of the bad behavior described here is entirely made up, and any resemblance to actual persons or behaviors is completely unintentional.



advantage for as long as they could. When Mari's accounting assistant presented the regularly scheduled audit report for her signature, she signed off on his work with complete confidence after only a cursory examination of its contents, certain that Janice had everything under control.

During the weeks when Mari was recovering, she kept up as well as she could with the academic publishing news. One development that she found particularly interesting (and perhaps a little unnerving): Septimus International Publishing, one of the largest journal publishers and scholarly index/database vendors, had begun to acquire open access platforms like RFreeRep. Septimus International had a mixed reputation in scholarly circles. While it was a dominant publisher of major journals in several fields and offered solid, useful data management products, university librarians and individual scholars on tight budgets were often frustrated by how expensive it was to use the company's services. The dominance of companies like Septimus in the scholarly publishing marketplace was one of the driving forces behind the creation of open source and low-cost platforms and tools for open access publication -- libraries could afford to use the lower-cost or free systems more easily, and individual scholars had easier access to material shared through them. Yet even with open access publishing options, scholars and libraries alike couldn't be entirely free of Septimus and the other large for-profit publishers -- after all, the tenure and promotion committees at the major research institutions required well-cited publications in upper-tier journals, and in some fields publishing only in open access journals with relatively low citation numbers simply didn't count for tenure decisions. Platforms like RFreeRep occupied an important place in the scholarly publishing ecosystem because their flexibility and interoperability with other systems made it easy for users to do the work of building better open access resources that could stand up next to Septimus International's product.

Shortly after Mari returned to work, Janice informed her that Septimus had made an offer to buy RFreeRep, and Janice thought that selling might be a good idea. She told Mari that their finances had taken an even worse turn since the last audit; they had lost a few of their wealthier customers, and the new institutions coming on board were at the low end of their price range. Because the deal Septimus was offering left Mari and Janice in charge of the platform business as Septimus employees, there wouldn't be too much of a change in how day-to-day operations worked. They'd have the opportunity to combine RFreeRep's flexibility with the large-scale indexing and sharing systems in place at Septimus, which could make it possible to get even more use out of RFreeRep's publication tools. This in turn could be valuable for the purpose of getting better recognition for open access publications in the citation rankings, putting Septimus International's bundling and marketing clout behind the open access products alongside paid journal subscriptions.

While Mari agreed with Janice's argument and thought that it would probably be for the best for them to sell while there was still some value to be had in the company, she was troubled when they started to put together the actual deal. Among other concerning things (like the curiously high salary and hiring bonus the company was offering both Janice and Mari), she noticed that RFreeRep's valuation seemed unusually low, even given the losses she already knew about for the most recent quarter. In order to satisfy her own curiosity, Mari decided to come in on a weekend and go over the books and the most recent audit to see if she could figure out where the drop in value came from. She didn't want to distrust Janice -- they'd been friends and business partners for years, and she'd never had any reason to be suspicious before -- but something about the deal on offer made her nervous.

What Mari found, once she got a close look at the invoicing statements and the audit, was a set of what looked like either some *very* big mistakes (underreporting or misreporting income from the higher-paying institutions and over-reporting expenditures on subsidized users) or something alarmingly close to accounting fraud. She couldn't quite believe it -- especially when she noticed that the bonuses coming to her and to Janice were approximately the same amount in total as the difference between the cooked or mistaken numbers and what should have been there. None of these discrepancies were revealed by the audit, which suggested to Mari that either her assistant (who had supervised the audit) had made some rather serious and obvious mistakes or that he had somehow been convinced either to do or to hide some very, very dodgy accounting. Worst of all, her signature was on that audit, as if she had seen and approved it all.

It was time to pick up the phone and have a long, serious talk with Janice -- and possibly also with her attorney and the authorities.

## *Questions*

- Do some research -- find some ethical codes related to accountants, especially those who perform audits (you might start with the [AICPA Code of Professional Conduct](#)). According to what you find, what did Mari do wrong (hint: look for words and phrases like “independence” and “due diligence”)? Should she have insisted on hiring an outside auditor in her absence?
- Mari’s ethical and legal bind is both professional and personal in nature -- Janice isn’t just her business partner, she’s a close friend. Calling in the authorities to report the fraud (and scuttling the purchase of the company along the way) could damage both the business and their relationship. Yet being complicit in accounting fraud could ruin them both. What should Mari do? Is there any way to do justice both to the demands of friendship and the law?
- What effect, if any, would the following changes in circumstance have on the kinds of arguments made in response to the previous question?
  - The errors Mari discovered were in the information Septimus shared, not in her own company’s books (Septimus International was either the perpetrator or the victim of accounting fraud).
  - Mari’s health condition was so serious that even after her insurance paid out, she was still facing bankruptcy, and letting the sale go through would not harm Septimus International or RFreeRep and its users. The bonus would cover Mari’s medical costs completely, which was one reason why Janice set the original fraud in motion.



## Case 12: What's Mine is (Not) Mine

Dr. Sharona A. Locke, a respected senior scholar with an endowed chair in medieval studies, has taught at East River University for 28 years. She is the author of several well-regarded books in her field, many of which are in regular use as college textbooks. Her first book, a study of marginalia in illuminated manuscripts, is the one that has always remained nearest and dearest to her heart -- it was her dissertation project, and the process of writing it shaped the way in which her scholarship grew over the rest of her career. Like most academic texts aimed primarily at students and scholars rather than non-scholarly general audiences, however, it was not a big seller. The small but respectable boutique press that first put it into print sold enough copies to justify a second paperback edition in the 1990s, but by 2001, the book was out of print.

This posed something of a problem for Dr. Locke. In addition to being her personal favorite of all of the books she'd written, this particular book was also a mainstay of her teaching; while later studies had superseded or improved upon some of the points she made in the original project, the book was still an excellent introduction to the subject, and she wanted to continue to assign it. While used copies of the text could still be found (and of course she could put a copy on reserve in the library), over time it grew increasingly difficult for students in her upper-level medieval history courses to get convenient access to it; the book was apparently well-liked enough by many of its purchasers that they tended to keep it rather than sell it back once they finished the class, which kept the number of available used copies relatively low. Sometimes Dr. Locke had to exercise her right as a faculty member to recall the text from another user just to get it reserved for her class, which wasn't terribly convenient either for her or for the other user. The library's copy was eventually removed from circulation after an unfortunate incident in which a student damaged it. While other libraries had the book, it wasn't always easy to ensure that a loaned copy could be made available long enough to be of easy use relative to the reading schedule for the class. Because there was no rights reversion clause in Dr. Locke's original contract, she couldn't reclaim the right to print the text herself or find another publisher for it (a process that would have been further complicated by the presence of some third-party material, used by permission, in the original text).

Dr. Locke initially tried to get around access problems by getting permission from the publisher to share a scanned copy of some parts of the text with her students through the school's learning management system. This worked well for several years -- the library helped Dr. Locke stay on the right side of copyright law with her publisher, and students no

longer had to line up to make personal copies of a reserved book, hope to get the text via interlibrary loan, or scour the bookstores for an available used copy. As long as the publisher gave permission, there were no problems -- Dr. Locke could teach her own text just as she wished, and students had ready access to the information they needed in order to complete their work in Dr. Locke's classes. The publisher was happy to continue this arrangement indefinitely, but otherwise showed no interest in bringing the book back into print, ending the publication contract, or making arrangements to return printing rights to the author.

Unfortunately for Dr. Locke, in 2015 a large academic publishing conglomerate bought the small press that had the rights to her book. Like the small publisher, the large publisher showed no interest in bringing the book back into print or ending the publication contract, although they did at one point suggest that they were interested in negotiating for the right to create a digital edition, to be included in a package of digital editions of classic texts in medieval studies. Because of some difficulties caused by faulty record-keeping and other administrative errors, however, the large publisher found themselves unable to get copyright clearance for the third-party content in Dr. Locke's book, for which reason they found it necessary to put off their plans for a digital edition. When the library once again submitted Dr. Locke's request for copyright clearance to share the usual portions of her book with students using the school's learning management system, the publisher (exercising an abundance of caution) said "no."

Believing that it was ultimately better to ask for forgiveness than permission to use a book that she viewed as her own intellectual property -- and convinced that it was highly unlikely that anyone would ever notice or bother about an obscure text in medieval history -- Dr. Locke decided to share scans of her personal copy of the original text with her students through Google Drive. In order to comply with her understanding of recent law, she did what she could to prevent students from actually copying or sharing the content, disabling certain features in the sharing settings in the learning management system and only sharing the book with the individual users enrolled in her class. Where necessary, she made sure to indicate the copyright owners of third-party material in the book, thinking that in this case she might be covered by fair use as long as she gave credit where it was due. She managed to get through the 2015-2016 school year using this strategy, and decided to continue sharing her book that way, assuming that (given past experience) there was unlikely to be a problem with it. Faculty had, after all, been illicitly sharing copies of books and articles for as long as Dr. Locke had been in the business, and she couldn't think of anyone who had ever really gotten in trouble for doing it. In any case, it wasn't like she was really stealing anything from anyone -- she was sharing her own, out-of-print book, and the publisher wasn't losing anything in the process because there was no money to be made or lost on it.

At the end of the fall term of 2016, Dr. Locke was therefore rather surprised to be summoned to a meeting with the chair of her department, Dr. Gower, to discuss a copyright complaint. According to Dr. Gower, a student had gone to one of the learning accommodations staff to get some help with setting up Dr. Locke's text to use in a screen reader. That staff member, concerned about the way in which the scanned text was being shared, decided that she needed to be sure of copyright clearance before using the screen reader; while it is perfectly legal for visually impaired readers to use screen reader technologies with legally obtained text, illicitly obtained text might be problematic. When the publisher received her inquiry, they informed her that the material in question was not being used with their permission, and suggested that she find another way to accommodate the student using a borrowed or purchased copy of the original book.

Dr. Gower informed Dr. Locke that the university wanted her to stop sharing her scanned copy of the text immediately. Dr. Locke refused.

## *Questions*

- Do a little research and [explore the law](#) on the subject of copyright for education. Is Dr. Locke's sharing of her own text an instance of [fair use](#)? Can you find any examples in the [Fair Use Index](#) that come close to matching Dr. Locke's case? If you can, how did the courts rule, and on what basis?
- Write a dialogue between Dr. Locke and Dr. Gower in which you work out the main arguments for and against the removal of the scanned text from Dr. Locke's course. Which of them do you think is right, ethically speaking? Why? What obligations do educators have when it comes to handling copyright issues with materials used for teaching purposes?
- What effect, if any, would the following changes in circumstance have on the kinds of arguments made in the dialogue you wrote?
  - Dr. Locke's original publisher went out of business shortly after her book went out of print, making it impossible for her to ask permission.
  - Dr. Locke shared an early draft of her original dissertation rather than a scan of the published text.
  - Dr. Locke re-printed her dissertation manuscript draft as a Creative Commons-licensed book, shared for free through a print-on-demand publisher, without receiving the rights to the actual book back from either her original publisher or the publishing conglomerate that now owned the book.





## **About the Author**

L. M. Bernhardt is currently the administrative Coordinator for the Dean's Fellows and Honors Programs at Buena Vista University in Storm Lake, IA, where for 15 years she also served as Assistant (and then tenured Associate) Professor of Philosophy. In addition to an extensive education in philosophy (BA, Knox College; MA and PhD, University of Illinois at Urbana-Champaign), she is also trained as a librarian (MLIS, San Jose State University).