Ethics Fundamentals

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Abstract

Ethics is about studying the right and the good; morality is about acting as one should. Although there are differences among what is legal, charitable, professional, ethical, and moral, these desirable characteristics tend to cluster and are treasured in dentistry. The traditional approach to professionalism in dentistry is based on a theory of biomedical ethics advanced 30 years ago. Known as the principles approach, general ideals such as respect for autonomy, nonmaleficence, beneficence, justice, and veracity, are offered as guides. Growth in professionalism consists in learning to interpret the application of these principles as one's peers do. Moral behavior is conceived as a continuous cycle of sensitivity to situations requiring moral response, moral reasoning, the moral courage to take action when necessary, and integration of habits of moral behavior into one's character. This essay is the first of two papers that provide the backbone for the IDEA Project of the College—an online, multiformat, interactive "textbook" of ethics for the profession.

Ethics is about what is right and good. Only we humans are concerned to live in a world where care is taken to bring about the flourishing of both ourselves and others, including those we have not met personally. It is what makes us special. That is why it is human nature to strive to live moral lives.

Aside from acting morally because it is "the right thing to do," everyone benefits from living in an ethical world. When patients believe that dentists have the patients' best interests in mind they extend trust to the professional as a whole. This increases the likelihood that patients will seek care, makes it possible to provide treatment without having to justify every activity, and allows dentists to organize professionally to promote high standards.

It is also known from research in corporate America that companies that have a reputation for high standards enjoy greater customer satisfaction, fewer law suits from employees or customers, more customer and staff loyalty, higher profits, and even have employees who are physically healthier. Ethics promotes personal, community, and practice flourishing.

1. Varieties of the Right and the Good

There is actually a family of behaviors that address the right and good in related ways. Ethics is one approach, but so is behavior that is legal, charitable, professional, and moral. All are desirable and generally cluster together, but there are differences of emphasis.

1.1 Legal

Others decide for you what is legal and impose penalties when the rules are broken. Dentists do not decide what is legal and they accumulate no points for following the law (points are only subtracted for breaking it).

Here are some examples of breaking the law. "Upcoding": submitting an insurance claim for more highly reimbursed procedures than the ones actually performed; negligent practice that results in injury to a patient; or failure to report suspected child abuse. The "standard of care"—the minimal level of treatment given patients by dentists in a community—is actually a legal construct. It is defined by the jury in malpractice cases.

Civil disobedience, disregarding the law in order to make a point, is a risky position for professionals. The high road is to participate in politics, either in Political Action Committees or by becoming a political candidate.

1.2 Charity

Volunteer and charity work are essentially the flip side of legalism. Dentists decide what they want to give and there are only points added for participation. No one blames others for not going beyond expectations.

Charity includes mission trips and volunteering at local health fairs. It is unreimbursed and underreimbursed care (pro bono work), and even general

good citizenship. America is among the most generous nations in the world. The American Dental Association estimates the value of dental care for which dentists are not fully compensated at about 5% of all dental care. That is an amount roughly equal to the total federal and state dental contributions for Medicaid, prisons, uniformed services, Indian Health, and others.

As a general rule, professionals are both legal and charity minded. But there are a few dangers in this direction. So-called "Robin Hood" practices involve illegal redistributions of the wealth. A dentist may post-date an insurance claim to make it easier for the patient to get reimbursement for an otherwise uncovered procedure. This is illegal, but very charitable. (It also contributes to the dentist's financial and reputational bottom line, makes the dentist an arbiter of worthy causes, and is all accomplished with someone else's money.)

1.3 Professionalism

Groups from the United States Senate to the local plumbers' union make rules governing the behavior of their members. These rules guide how members are expected to behave toward each other and toward others. Such "codes of conduct" are often written down, but there are always numerous informal rules that can only be learned on the job. Informal rules have the advantage of making it easy to spot someone who does not belong. Professional codes are usually aspirational, meaning that they define a generalized ideal rather than hard-and-fast criterion that cause someone to be sanctioned.

For example, the *ADA Code of Professional Conduct* (not the *ADA Principles of Ethics*) states that patients who have been referred to a specialist should be returned to the referring general dentist upon completion of specialty care. The code also states that a dentist who observes gross or continued faulty care on the part of a colleague is expected to report that fact. Professional codes also contain statements about how professionals should treat patients. For example, a compromising condition in the patient's mouth should be explained to the patient, even when the dentist was responsible for causing the damaging situation.

Codes of professional conduct were historically known as Codes of Professional Etiquette because they govern the relationships among practitioners. They are developed by professionals and are for their use. Patients and public entities are not invited to participate in the creation or updating of professional codes, nor are they expected to comment on them.

1.4 Ethics

In its pure form, ethics is the study of right and wrong, good and bad. This is an academic pursuit, largely confined to departments of philosophy in universities. Bioethics or the ethics of dentistry would be properly termed "applied ethics." It is about reflecting on principles and learning to give good reasons for behavior. On this view, moral philosophers and bioethicists work to define what is ethical and practitioners seek to clarity how these principles apply in various situations.

1.5 Moral Behavior

Moral behavior is patterns of action that are consistent with the best theories of ethics. It is about individuals and particulars. We might ask ourselves: If we were on trial, accused of being ethical, would there be enough evidence to get a conviction? Ethics defines the theoretical context; moral behavior is the evidence. When con artists, cops, and politicians go bad, they are counting on everybody else following the rules. Morality is about action, not knowledge of the rules. Professors of ethics can cheat on their husbands. Dentists who are being sued for violating standards of professional conduct probably know the state practice act better than the most morally upright dentist.

In the end, the moral dentist is the one whose actions bring about healthy patients, harmonious practices, positive communities, and a stronger profession. They are the ones who would be most missed, not because of what they always said, but because of what they always did.

Moral practitioners behave legally, charitably toward all, professionally, and act from a firm theoretical grounding in an ethical framework. But it is their life pattern of moral behaviors that sets them apart as being the ones we all want more of.

2. Ethical Analysis

Obviously the task of building a moral community in dentistry is not simple or easy—otherwise it would have been done by now. Sometimes there is disagreement over whether a particular action leads to a necessary good; sometimes there is disagreement over what to do when something rotten is found. Ethics is an art, and a group performing art at that.

The field that covers dental ethics is called bioethics or professional ethics. As a discipline it is barely 30 years old. The goal of bioethics is to offer guidance to healthcare practitioners and policy makers about how to act. The center of the approach is something called the practical ethics syllogism. With roots all the way back to Aristotle, the practical ethics syllogism works something like this:

> *Principle:* All ethical healthcare professionals strive to benefit their patients.

Analysis: In the current situation, action A would provide a net benefit to the patient.

Moral behavior: If Doctor D is an ethical healthcare professional, he or she will do A in this situation.

Notice in this form of ethical reasoning, there is a major premise or principle that encompasses practitioners, patients, and situations generally. But that is insufficient to guide action in all cases. Particular situations are ambiguous and difficult to interpret, there are complicating and even conflicting factors; there may be exceptions. Consequently, there is a second step where the principle is analyzed and interpreted in the specific context. So ethical training must be more than learning how to spell nonmaleficence; it must also include building skill in interpreting complex situations in the light of general principles.

2.1 Ethical Principles

The major premises in ethical analysis have been developed by philosophers. In bioethics, there are four generally accepted principles (autonomy, nonmaleficence, beneficence, and justice); there is one additional one (veracity) that dentistry has embraced.

2.1.1 Autonomy means self-determination. Literally, the Greek origin of the word is "to give oneself the law." Legally, patients have complete say about what can be done to their bodies. They must give permission, called informed consent, for any act of the dentist or office staff. Sometimes this principle is referred to as respect, and that is a useful perspective because it reminds us that we decide on behalf of others at our own peril and in doing so we diminish others.

Not everyone is entitled to full autonomy. Children, the mentally incompetent, and others for whom the court has identified another as the decision maker (e.g., convicted felons) are examples. These cases can be tricky, varying from state to state in the legal sense. It is almost never the case, certainly, that patient's lack of autonomy transfers any authority to the practitioner.

Neither should the principle of patient autonomy be misunderstood as meaning that dentists are ethically bound to do whatever patients request. Especially, when dentists can see that a patient is requesting something that, in the dentist's opinion would harm them, the dentist acts morally by denying the request. (That does not extend, however, to the dentist being allowed to decide what should be done instead.) The principle of autonomy applies to respect for the dentist, and every member of the dental team, just as it does to patients and to patients' families.

2.1.2 Nonmaleficence means avoiding actions that cause unnecessary harm. It is a double negative principle, and thus not always the same as beneficence. The only way to guarantee no harm is to perform no care: there is always risk in any treatment. Practically, the principle of nonmaleficence is about negligence; it means abstaining from exposing patients to unreasonable and unforseen risks. Framed in positive terms, nonmaleficence involves becoming highly competent, knowing the science behind what is being done, being in tune with the standards used by one's colleagues, and engaging the patient in understanding and choosing the level of risk they are comfortable with.

2.1.3 Beneficence means providing a benefit or helping others. This is a positive obligation: others must be net better off for their contact with dentists than they would be otherwise. Excellent reconstructive work would probably

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not qualify as beneficence if the patient were overcharged relative to receiving the same quality of care for a lower fee or with greater convenience. There is an implied contract between society and professionals: the profession is granted a limited degree of autonomy and self-governance in exchange for benefiting the public. (It is actually assumed that professional self-governance will automatically magnify the level of benefit.)

Beneficence can be confused with paternalism. Both principles intend to provide benefit for patients. In beneficence, the patient participates in and ultimately determines what benefits they most value. In paternalism, the practitioner makes that decision on behalf of the patient. Naturally, the maximal net good by means of the principle of beneficence and by the principle of paternalism are usually the same action. But that is not always the case. And when there is a conflict between these two principles, the practitioner must choose.

2.1.4 Justice means that the benefits and the burdens in society are fairly distributed. Ideally, it is unjust to charge one patient more for a procedure than is charged to a different patient for the same procedure or to make it more difficult for one class of patients to be treated than another. (Practically, this is done all the time throughout American society.) There are so many ways for classifying or categorizing each case, that every effort to be fair leaves some room for individuals who as dissatisfied with the outcome to voice a complaint. That is why the justice system has so many lawyers. It remains, however, an aspirational principle to treat everyone as fairly as possible and especially not to treat groupings of individuals solely for the sake of increasing one's own benefit.

2.1.5 Veracity means not misleading or allowing another to be misinformed or misled. This is just a little larger and more flexible than telling the truth. If a dentist lists credentials that create an impression in the patients' mind that specialty training has been completed or that a procedure has a high success rate despite only saying "clinically proven," the patient is justified in making a choice they would not otherwise make if they had the full story. That is a violation of the principle of veracity. A good test of the principle is to ask: Does the practitioner stand to gain personally by withholding any information that could reasonably be made available?

The first four of these principles are enshrined in the bioethics cannon and were first introduced by Tom Beauchamp and James Childress in their 1977 book *Principles of Biomedical Ethics*. This is sometimes called the "Georgetown Manta" for the fact that Beauchamp and Childress worked at the Kenney Institute for Ethics at the University of Georgetown. Other principles such as fidelity and privacy have been identified. Dentists should be aware that this is primarily a healthcare ethics perspective. Moral philosophers in universities generally do not work with this framework.

2.2 Analysis of Principles

The excitement in ethics does not come in debates over principles. There is near universal agreement that justifiable criticism of gross or continuous faulty work by colleagues is "right" and that false and misleading advertising is "wrong." Issues arise in the application of the principles. There are some practitioners who claim never to have seen cases of colleagues' work that was so faulty as to require criticism. There really are shades of interpretation in what is misleading in advertising. The principles are abstract; their application is concrete,

but open to interpretation.

And to make matters worse, there can be conflicts among the principles themselves. Patient autonomy fights with nonmaleficence. Beneficence in being able to help one patient fights with justice in not being able to help all patients. Where two (or more) principles can be read as framing a particular situation but favor contradictory actions, we call this a moral dilemma. The term comes from the Greek word *lemma* meaning a stock, halfway proof of part of a theorem that can be used in many settings as a shortcut in parts of various proofs. Hence two stock part proofs or a di-lemma.

Ethics education is generally understood as training in how to apply principles. (Many philosophers would take exception to this definition as incomplete.) All such education takes place in actual communities where cases are discussed and analyzed from a common perspective, thus teaching how to interpret ethical situations and properly apply the principles. That is what happens in our early family training and in kindergarten where author Robert Fulghum said he learned everything important in life. It takes place in a midrash, a kibbutz, seminary, the military academies, law school, and dentistry. Even where there is overlap in principles, the traditions of interpretation are unique to the community where interpretation is learned.

A novitiate earns recognition as a member of the community by mastering the art of correct interpretation of ethical principles within the group. An important part of becoming a dentist is learning how to see things as dentists do. The meaning of gross and continuous faulty care has to be learned. There are shades of fault, there are ranges of circumstances in which care is given, there are nuances of professional relationships, there are procedural options. No dental student could be expected to master the interpretation of ethics while still a student. Certainly no non-dentist could understand it. Obviously, a few practitioners do not get it either.

The standard in teaching ethics in dental schools is the case method or ethical dilemmas. Students rub their tentative interpretations up against those of their colleagues and some experienced veterans. The overwhelming majority of ethics publications on ethics in the dental literature are cases, with analyses.

This approach to ethics training goes back to Aristotle in the fourth century BC. Now called "virtue ethics," the model is designed to qualify one for membership in the community of one's peers. Virtue ethics is now the standard taught in America's business schools. Aristotle expressly limited ethical reasoning to free-born males of mature age and excluded slaves and women as being incapable of ethical reasoning. Physicians and lawyers, as well as other professions exclude the lay public, politicians, or insurance companies from learning or contributing to the conversation about professional ethics to this day. All professions struggle with the proper boundaries between professionalism and ethics.

3. Becoming a Moral Person

So far, we have a workable grip on ethics, especially on ethical reasoning and talking about ethics. But we need to push on to the moral behavior of practitioners. What does it mean for dentist to exhibit a consistent pattern of actions that promote the right and the good in practice?

An abbreviated answer is that professionals who become aware of possible doubts about whether what they are doing is ethical can engage in reflection grounded in ethical principles and the interpretative habits of their community of peers. Sometimes this approach will also be used to assess specific moral acts of one's colleagues.

A fuller answer is provided by the moral psychologist James Rest. Rest proposed a Four Component Model of moral development. This goes beyond reasoning on specific isolated ethical challenges. His model has been tested in many disciplines, including dentistry, and there are short, paper-and-pencil tests for measuring one's profile on the four components of the model. Although there are four parts to the model, it has been demonstrated that one can begin building moral strength at any point, and double back part way through the path as needed. Research shows that the components are trainable and that moral growth is possible well into the thirties and longer.

3.1 Moral Sensitivity

The Cambridge moral philosopher Simon Blackburn notes that very few people are actually bad by nature, but many are ethically blind. The first component in moral development is to cultivate the habit of seeing the moral dimension in situations around us. Few dentists, for example, agree that where they choose to locate their practice is an ethical decision. This decision does, however, have profound and persistent influence on who they treat and what kind of care is provided. Many professionals assume that the cost of new regulations and patient safety procedures should automatically be passed through 100% to patients without stopping to ask whether this is an issue involving justice or whether regulators are making laws

because they think consumers are taking advantage of providers. Is informed consent a legal matter or an ethical one? Are there ethical overtones to insurance, Medicaid, and emergency call?

Rest's point on moral sensitivity is simply that all opportunity for ethical growth is blocked in areas where the opportunity is not first recognized.

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3.2 Moral Reasoning

The second component is the familiar skill of sorting through what is at stake in an ethical problem, locating the relevant principles, finding whose interests are at stake, tracing out consequences, narrowing down the alternatives, and deciding which is the preferred course of action. This is the abstract part of ethics and stops just short of actually doing anything. Sometimes we react quickly, framing the problem as another example of situations we have seen before. Occasionally we wrestle with novel and complex matters that challenge us to recognize something new. But in all, we are trying to solve an intellectual problem.

This is the part of the Rest model that has been most fully developed. He built his approach on earlier work that showed that as we grow in age, we naturally change the overall approach we take to solving the intellectual aspects of complex ethical problems. Young children tend to equate the right and the good with what those in authority approve or punish. Older children and teens more typically opt for an analysis in terms of the standards of those in their community. In maturity, and only for some, does ethical reasoning take on the character of systematic working with principles. Rest refers to these three levels of moral reasoning as preconventional, conventional, and postconventional. These are categories of approaches to reasoning, not rightness or goodness. A dentist could be perfectly ethical following the trend of professional colleagues or end in a really indefensible position by concocting an elaborate theory from new cloth.

3.3 Moral Courage

Just as there are individuals who are hypertensive to ethical abuse in the world but cannot figure it out, there are those who have worked through sound understanding of right and wrong and remain paralyzed when required to take action. Moral courage refers to the interpersonal communication skills and political and personal connections as well as the willingness to take personal risks to engage in moral behavior. This, of course has be understood as direct moral action in support of strong moral reasoning. It does not count to engage in character assassination or bellyaching.

3.4 Moral Integrity

Some people are known as being especially upstanding. They were troubled by an issue, they worked it through, and then took action. Those who do this predictably, who make a general habit of it, who can be counted on to work for a world that is right and good exhibit moral integrity.