

## HOW TO MAKE MORAL CHOICES

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### ABSTRACT

Moral choice is committing to act for what one believes is right and good. It is less about what we know than about defining who we are. Three cases typical of those used in the principles or dilemmas approach to teaching ethics are presented. But they are analyzed using an alternative approach based on seven moral choice heuristics—approaches proven to increase the likelihood of locating the best course of action. The approaches suggested for analyzing moral choice situations include: (a) identify the outcomes of available alternative courses of action; (b) rule out strategies that involve deception, coercion, renegeing on promises, collusion, and contempt for others; (c) be authentic (do not deceive yourself); (d) relate to others on a human basis; (e) downplay rational justifications; (f) match the solution to the problem, not the other way around; (g) execute on the best solution, do not hold out for the perfect one; and (h) take action to improve the choice after it has been made.

This essay is the second of two papers that provide the backbone for the CODE Project of the College—an online, multiformat, interactive “textbook” of ethics for the profession.

Ponzi scheme operator Bernie Madoff did not avoid prison time by claiming that he realized he was engaging in risky investments. The several dentists who routinely overdosed patients with anesthetics, causing deaths in some cases, did not dodge penalties by appealing to a private cost-benefit analysis. In morality, as in law, we look to the actual behavior to determine how we should judge others because we have no direct feed on their intentions. In special circumstances, a reasoned ethical analysis is a valuable first step in making the right choice. Sometimes it is an after-the-fact rationalization. But usually there is no relationship between moral behavior and ethical reasoning. Many of the paragons of the profession express surprise when examples of their virtue are singled out for attention. They have no well-developed theoretical systems of ethics; they just make it a habit of doing the right thing.

### 1 MORAL CHOICE

A moral life requires consistent actions intended to bring about what is good and right; ethical reasoning about theories of the good and the right may or may not be part of that habit.

Morality is about the choices we make in life—or, more often, about the default positions we assume. It is about offering all reasonable treatment options to patients, taking steps to ensure one’s competency, and hiring the right office

staff and training them well. No one can guarantee that everything he or she does will make a net positive contribution to the world. But each of us can decide how to live at each opportunity in a way that we feel will bring about that end. We can guarantee 100% that we choose to live a life we intend to be positive.

Choices are actions. They are commitments of resources, under conditions of risk, with a view toward maximizing positive outcomes. Standing up in the House of Delegates to speak to an issue on access is a choice (it might bring ridicule from some colleagues or even block a promising political career). Telling a patient that for personal and professional reasons you will not perform the treatment in the order they want (cosmetic before health needs) may result in the loss of a patient. Writing triplicate prescriptions for a patient who is your current amorous interest puts you all the way into the game.

Notice in each of the examples above the question was not whether a principle such as social justice, respect for anatomy, or dual relationships is right or wrong. No one will quibble over rightness of the principle—but they might ignore it. The issue is what an individual dentist in a particular situation will do. We can have debates among people, many of whom are not dentists and will never find themselves in such situations, and these discussions can last for years, as they often do in academic journals, about the theoretical ethical foundation for these decisions. Morality is about the decisions we actually make.

## 2 GETTING DOWN TO BRASS TACKS

In a long-ago era when cloth was sold by the yard at retail for folks to sew their own clothes or draperies, merchants had long tables where the selected merchandise was measured off according to the amount to be purchased. Rather than determine length with a ruler, the cutting board was marked off in lengths by brass tacks. After all the comments about quality, applications, prices, and alternatives had taken place, actual commitment to purchase was signaled by “getting down to brass tacks.”

Three cases will be used to make the discussion of moral decision making more concrete. Each case is intentionally “underdetermined.” Each is a brief outline, so it will be easy to add plausible details that will tip the action chosen in one direction or another. Those who use the case method for teaching in business schools and for teaching communication skills and ethics to dentists and dental students have observed that most differences of opinion are not about principles; they are about alternative assumptions regarding the details on the ground. It really is not possible to force everyone to have the same view of the world. Most of the time there is substantial overlap. But often, different actions can both be right depending on how the case is interpreted.

### 2.1 WAIVER OF COPAYMENT

Most insurance contracts specify which treatments are covered and require both that the dentist charge the full and

regular fee for that procedure and that the patient add some fractional amount of that fee or a fixed amount as a copayment. Waiving the copayment is equivalent to charging the insured patient less for the same procedure than uninsured patients would pay.

It is sometimes argued that it is appropriate to selectively waive copayments, especially in cases of economic hardship. After all, waiving copayment may just be the difference between a patient receiving needed care and going without, or being directed to another dentist who can be counted on to waive copayments. This is a case where principles of veracity (honoring a contract) and beneficence and justice seem to collide. It is also a situation moral philosophers call “double effect”: the dentist who waives copayments helps the patient at the same time he or she helps the bottom line. Usually, only one of these motives will be given as the public justification. Such cases are known in the literature as “Robin Hood” cases. The dentist has an opportunity to do real social good—with somebody else’s money.

### 2.2 HOSTILE WORKPLACE ENVIRONMENT

What is a dentist to do when the hygienist demands that a patient, perhaps even a personal friend of the dentist, be discharged from the practice for allegedly

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making inappropriate personal remarks, including some that are sexually suggestive? There are issues here of “he said/she said,” conflicting loyalties, bent reputations and lost referrals, and potential exposure to lawsuits. There are also matters of staff morale, a chance of losing a good employee, and basic fairness involved.

Everybody knows that sexual harassment is wrong. But pronouncing the principle does very little to solve the problem. There is still the tricky business of defining just what constitutes “inappropriate behavior.” Different people legitimately draw the line in different places. It is also problematic to decide who is responsible: perhaps this is something the hygienist should learn to manage. And what authority and what practical options does the dentist have?

### 2.3 PATERNALISM

Imagine a situation where radiographs reveal a suggestive case of recurrent caries on the margin of a medium-sized amalgam on #3. The dentist explains that the situation is fortunate because the original preparation was conservative and the filling can be removed and replaced with a nice, natural-looking composite that very afternoon. Appropriate instructions are given to the chairside assistant to begin that procedure.

Some patients and most dentists and attorneys would regard this as a failure of informed consent. The patient was

not told about all feasible options, especially the alternative of replacement with amalgam. Ethicists call such behavior “paternalism.” The dentist substitutes his or her values for those of the patient. Some bioethicists make wide room for paternalism, noting that the professional knows better than do patients what is in their true best interests. After all, the patient came to the dentist to get something done; anyone can see that the situation needs correcting. Additionally, the dentist may believe firmly that dental amalgam poses a health risk to patients in its own right. It is also a matter of professional judgment just how “suggestive” a radiolucency must be to activate a handpiece.

In these cases of contractual agreements, workplace environment, and patient participation in their treatment decisions, it is possible to choose more than one course of action and to add circumstances not already in the case to strength the chosen behavior. In that sense, the “right thing to do” cannot be read off a list of ethical principles. As it happens, all three cases involve illegal actions. Waving copayments is a breach of contract. Employers are liable for hostile workplace environments (defined as interference with a person’s ability to perform the duties for which they were hired) whether the harassment comes from the boss, another employee, or a visitor to the place of work. Failure to obtain informed consent is an easy win for attorneys in malpractice cases if any harm to the patient can be connected with the action. All cases are common and minor infractions, usually overlooked

unless notorious or repetitive and unless there are other, larger related problems.

All are moral choices.

### 3 HELP FOR MAKING MORAL CHOICES

There are eight heuristics for making sound moral choices. A heuristic is a general approach or strategy that has a high success rate. There are no methods that always produce an answer that is immune from regret and criticism. If such a cocksure system for ethics had been discovered, those who know about it have been unethical in hiding it from the rest of us. The criterion used here is that we can do no better than live a life using the best methods for picking the actions we wish to pursue to make the world better, all things considered.

#### 3.1 FOCUS ON ACTIONS

The first task in moral choice is to determine what actions are possible. One action for a dentist who suspects incipient marginal failure would be to make a note in the chart to watch the radiolucency. If it is indeed uncertain and the patient is an adult and a regular attender, the most probably outcome from that action is no harm or cost to the patient and a peer-appropriate behavior on the dentist’s part. Another course of action is to disclose the findings and offer the patient a choice of monitoring, replacement with composite, or replacement with amalgam. Most dentists would feel comfortable with this action because the patient will likely ask

for professional guidance in reaching a decision. Proceeding with the composite without involving the patient saves time and earns money, but has attendant risk if something goes wrong or the patient talks to others who question the wisdom of posterior composites. The dentist who pursues a policy of replacing sound restorations to free the patient of “toxic” amalgam will have some explaining to do if confronted by colleagues who understand the ADA’s position on the matter.

Moral choice is about committing to the right course of action, given realistic expectations about the outcomes of those actions. The tried and true method of placing alternative action headings on a piece of paper and listing the pros and cons under each is still an excellent place to start. Seeking guidance, discussion with advisors, and reflection are valuable for filling out complete and accurate lists of actions and outcomes. Although everyone has a favorite story about the rare cases where moral sense and professional experience produced a surprise, they are an important part of the process.

### 3.2 Do NOT CHEAT

It is wrong to follow a course of action based on deception, coercion, or renegeing on one’s commitments—period. It is also plain wrong to hold others in contempt by denying their legitimate interests in shared activities and to collude with some to defraud others. If any of the potential actions on the list have these characteristics, they should be ruled out of court peremptorily because they are

immoral. If dentists charge patients something other than what is agreed in the insurance contract, they are probably engaged in deception. Coercion could be involved if dentists artificially limit patients’ treatment choices. Hiring an employee with the promise of a healthy work environment but failing to follow through on this obligation seems like renegeing. Patients and dentists who agree to share the spoils of defrauding the insurance company are engaged in collusion. Contempt could be demonstrated in any of the examples. It just means that one does not care what others feel about potential actions. Contempt means acting as both judge and jury—usually without gathering all the evidence. Cross contempt, deception, coercion, renegeing, and collusion off your list of possible moral actions.

### 3.3 BE AUTHENTIC

It is human nature to idealize ourselves. When we do this in moral choice situations we end by imagining a solution for a problem that is not really the same as the one we are facing. The imperative for disclosure to others in making moral choices is limited (as long as deception is avoided), but there is a rigid requirement for full self-disclosure.

An authentic moral choice means that we are not hiding inconvenient truths from ourselves. Dentists who play Robin Hood help patients and help

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themselves economically. Dentists who plump for amalgam-free mouths may have perfectly justifiable health concerns and perfectly justifiable needs for increased business. Dentists avoid hassle if staff manage their own interpersonal relations. A good list of moral choice alternatives lays out all of the consequences of each alternative, including those that are fresh and bright and those that may have a faint odor. Consider the case of making a contribution to a charitable cause and finding that your name has been left off the published list of donors. If the reaction is to make a call to point out the oversight, the original philanthropic motivation may not have been weighty enough to have carried the decision. We are looking for the right thing to do, all things considered.

#### **3.4 RELATE AS A PERSON, NOT A POSITION**

Dentists enjoy relationships with their colleagues, spouses, friends, professional advisors, patients, and baggers at the supermarket. Each of the relationships is different. Yet there is some part of the relationship that is common and essential in all of these cases. Moral choice has to do with the essential part of our relationship with others.

Imagine that a dentist is meeting with the insurance carrier's attorney to discuss a frivolous malpractice suit. This is certainly an asymmetrical rela-

tionship. The attorney knows more about the law, is on his or her turf, and is less nervous. These are circumstantial factors; they would switch entirely if the attorney were in the dental chair with an inflamed pulp. Circumstantial relationships figure in moral choice, but essentially as background. They are the context for decision making. There is nothing inherently moral or immoral in dentists charging a fair fee for their services, choosing to emphasize one aspect or another of their practices (such as posterior composites), choosing or not choosing to accept insurance, or hiring a male hygienist. Dishonesty in a poker game does not come from being dealt a good hand or playing it well. It comes from cheating: trying to play the game by a private set of rules that are not disclosed to others.

The dentist and the attorney in this case both have inherent dignity regardless of how talented they may be or whether the situation places either at a temporary advantage. There is something essential about the way we treat others that has nothing to do with circumstances. We expect a certain level of honesty and respect, an assumption that we are intelligent, that we are not manipulative, that we are competent, that we have feelings, that we care about the relationship, etc. We expect to be treated like a human being instead of an object or a means to others fulfilling their ends. There is always an "essential" part of every relationship that would not be altered if the positions were reversed. That is the moral core; everything else is circumstantial. We should play the hand

we have been dealt or which we have earned through hard work for all it is worth; but we should not behave in any way we would find offensive if the roles were reversed.

### 3.5 Downplay Justifications

Doing the right thing and giving an acceptable story about it are different matters. The latter cannot substitute for the former; when that is done, it is called hypocrisy or rationalization.

Sometimes the moral choice is distorted so as to make justification easier. Dentists who help patients get care through an unacknowledged subsidy from the insurance carrier emphasize the good being done for the patient. Practitioners who seek to avoid confrontation over workplace standards emphasize professionalism and harmony. That is fine—but only as long as the moral choice is made based on all motives and the dentist is willing to acknowledge all motives when asked.

Being able to offer a publicly acceptable justification for one's action is not necessarily a mark of having made the right moral choice. Politicians accused of corruption or companies charged with gouging the public typically say the charges are “politically motivated” or are “anticompetitive.” Whether that is true or not, the more important question is whether the politicians are corrupt or the companies are gouging. The stage of American politics is now so large that

individuals of integrity are no longer noticed: it has become the theater of competing half-truths.

The standard approach to teaching ethics in dental schools, and all of the health sciences for that matter, is based on the use of principles such as respect for autonomy, nonmaleficence, beneficence, justice, and sometimes veracity. Cases are discussed so as to bring out these principles. As useful as this method is for revealing how the profession tends to think about common problems, it should not be mistaken for moral choice. Most ethical issues involve actions that could be justified by several principles and contrary actions that could also be justified by various principles. That is why they are called ethical dilemmas. There are two or more correct ways of looking at the matter. Naming one or more principles involved in these cases is not the same as making a choice. Picking a course of action for whatever grounds, including self-interested ones, and attaching the name of a principle to it is a poor excuse for moral choice.

It is possible to distinguish between moral choice and ethical justification using a simple rule: in moral choice, only one course of action can be taken at a time, but it is possible to give multiple ethical justifications. There is a large difference between commenting on various ethical dimensions of a dilemma and committing to act morally. The former often ends with several alternatives, each of which could be right, with declining to take a position, or by arguing for the rightness of a principle in the abstract.

Protection against these “empty ethical calories” can be found in role-playing or writing out a script detailing exactly the words one would use in taking an action (not a description of the action).

### 3.6 Work with the Issue

It is not necessary to accept moral challenges as they first appear or as others define them. Taking a position on auxiliaries that extend the dentists' practice reach is worth reflecting on deeply enough so that all facets come into view. So is office policy on insurance, staff relations, and procedure and material offered to patients. It is often the case that a good answer pops into mind once the question is asked the right way.

Some of the most useful aids to moral decision making are asking colleagues and experts (probably in that order) and gathering information about the facts of the matter. Knowing what to do about posterior composites has a lot to do with understanding the science about the properties of materials. Applicable law and customs of the community are important contexts for framing decisions about waiving copayments and hostile work environments. Frequently, the most help in clarifying moral decisions comes from conversations with those people who are affected

by the decision. That would certainly be the case with regard to a claimed hostile workplace environment.

Here are some useful questions:

- Do I really know all the consequences that will follow from my choice?
- Is there any other way of looking at this issue—how would the patient describe it, or my colleagues, or a good friend?
- How have others, especially those I admire, addressed this sort of problem?
- (To those involved) How will this affect you, what do you need?

There is a very simple stopping rule for working the issue. Keep adjusting until it is unlikely that any further adjustments will change the decision you intend to make. That is different from the academic rule of stopping analysis when a principle is connected with an action one favors.

### 3.7 BEST, NOT PERFECT

The big difference between theoretical ethical issues and practical moral choice is that the first project is never finished and the latter always is. It is possible to read a book about philosophy or participate in a discussion of dilemmas without reaching agreement in principle or committing to a course of action. As enjoyable as this is for some, it is perpetual frustration for anyone who needs to react to daily moral challenges. Morality has sometimes gotten a bad name because it was incorrectly assumed that the goal is reaching consensus on what is right or good.

By contrast, once a choice has been recognized, some action must follow and there is always a best alternative. The patient whose radiograph hints at recurrent caries has a choice: do nothing, composite, amalgam, or possibly even a crown or an implant. Only one of these options is possible at the moment and it is unavoidable that one will be selected. It is hoped that the best option is chosen, even if it is not possible to say in some objective sense what the “right” choice should be. If the six heuristics mentioned above are followed, there is a very strong possibility that the best moral choice will emerge, even when the action truncates the inquiry and continues as before (do nothing).

In 1972 Kenneth Arrow received the Nobel Prize in economics. The award was made for proving that it is never possible to guarantee a solution to problems such as finding complete agreement on ethical principles. Twenty-two years later, in 1994, John Nash received the Nobel Prize in economics. He proved that it is always possible to find a best solution to moral choice problems when framed in practical terms.

### 3.8 AUGMENT THE DECISION

Moral regret is the term used to describe the bad feelings we have when making a choice that cannot be known to be perfect. Composites look better than amalgams, but they do not last as long. Some patients will be attracted to a dentist who honors contracts, others will seek those who are more expedient. Every commitment of resources under conditions of uncertainty has opportunity costs equal to the value of the best alternative that was foregone. Regret can be minimized by choosing the best course of action, but it cannot be eliminated that way.

Augmentation refers to action taken after the choice has been made

to improve the favorability of outcomes. We often take an unnecessarily narrow view of morality by assuming that it is a one-shot activity. Much can be done to make the choice right after the decision is taken. For example, a good explanation—one that lays out the reasoning behind the best alternatives and demonstrates awareness of and sensitivity to others’ concerns—can enhance the moral choice. There is abundant evidence in psychological research that the very nature of decisions is likely to change following a commitment. New information should continue to be sought. Sometimes patients or others will reveal new information after they know where the dentist stands. Sometimes supplemental safety precautions can be added. In the example of claimed hostile workplace environment, dentists, regardless of what is done about the charge, might want to call a general office staff meeting.

## 4 THE MORAL LIFE

We choose the life we want to live, almost never as a single theoretical analysis, always as the accumulation of a succession of moral choices. We become the consequences of the decisions we make, including deciding how we want to respond to the range of circumstances life throws at us.

In this sense, it is misleading to talk about moral choice as though it only happened on rare occasions or in special contexts such as classrooms or as a consequence of abstract reflection. It is more accurate to speak in terms of the pattern of moral choice making. For this reason alone it is worthwhile to acquire and refine the habits of moral choice presented above.