This it too much for one chapter. Possibly cover ethics of judgment and ethics of justification in one chapter and the rest in another or make it four short chapters.

Tao Te Ching. 57:"Ther bettertknown the laws and edits, the more thieves and robbers there are."

. [Green JD, 2008. The secret joke of Kant's soul. In Moral psychology vol 3: The neuroscience of morality, W Sinnott-Armstrong (ed) 35-79. Cambridge MIT Press] Information about a favored candidate's hypocrisy activates centers in the brain that control emotional but not cognitive responses.

4. Defining Ethics

Four meanings of ethics are presented here. They are not competing schools of philosophy, such as utilitarianism, virtue ethics, or care ethics; that is all theory stuff. Neither are they three failed models for how we should treat each other and one grand solution. All four are our natural inheritance and together represent the set of ethical equipment we need for a very demanding job. Humans evolve systems for living together and this rich repertoire is needed because of the complexity of the challenge. The danger is in thinking that there is just one right way to act and that everyone sees this as clearly as we do (or they should). There is also a risk of overusing one favored approach and thus needlessly narrowing what it means to be ethical.

There is a literal sense in which we grow into our ethics and build moral communities. A child is incapable of understanding let alone finding the right way to behave in this confusing world of competing expectations. A philosopher may be incapable of putting theory into practice to build consensus around how groups or professions should act. Ethics is hard work and not so much brilliant insight or faith in dogma. It is certainly more than rules.

Certainly there are other ways to cut the pie, but the four ways of being moral discussed here are the following:

- The ethics of judgment – recognizing what one thinks is best and challenging others to behave accordingly
- The ethics of justification – grounding one's actions in general principles
- The ethics of engagement – treating others as ethical agents and searching for a mutual better future
- The ethics of leadership – building communities as group ethical agents through leadership

Traditionally, dental ethics has borrowed heavily for the field of bioethics. Most of the material in this chapter is new. It is a synthesis of classical philosophy, social theory, neurobiology, systems dynamics, and social psychology.

[If it is decided to divide the presentation of this material into smaller segments, the following text might be used: These approaches to ethics will be presented in three chapters, beginning with this one devoted to the ethics of judgment and followed by Chapter 5 on the ethics of justification. The final chapter in this set will include both the ethics of engagement and the ethics of leadership.]

The Ethics of Judgment

My fathers used to say, "Just because a person talks a lot about ethics doesn't mean it is safe to stand beside them."

A number of people feel they are being ethical when they wag their fingers at others and say "You know you really should not do that." An opinion column in the 21 August 2017 *ADA News* takes third party payers to task over a policy decision the writer finds objectionable. The title is "They should know better." This is the ethics of judgment, sometimes called "righteousness."

This is a bridge between awareness of one's personal sense of what is right and wrong and getting others to work on behalf of that vision. The basic structure is that A comes to believe that a certain type of behavior X is bad, and A tells B that C is acting unethically. Perhaps more typically, this is an internal conversation where we imagine how we would fix things if we had a mind to. The ethics of judgment becomes public in editorials where something smelly is pointed out and we are admonished to "do better." It is popular as a format for continuing education courses on ethics that are built around showing cases of other's screw-ups. It is satisfying for A and B to agree that they are better than C, who happens not to be present. It is usually assumed that A and B have done their ethical duty by pointing out where C is out of bounds and that it is C's responsibility to fix the problem. In our study of justifiable criticism, see Appendix X, many dentists said something to the effect: "I have done my duty by pointed out the gross or continuous faulty work. It is up to others to do the right thing." Often, the person expected to rectify the situation is the patient or the government.

Ethics as an Expression of Basic Instincts

Judgment ethics is the most fundamental kind. It is the basic tool kit, issued at birth, and can fairly be called "human nature." In fact, the urge to respond this way is instinctual and instantaneous [Damasio A. *The feeling of what happens: Body and emotion in the making of consciousness.* San Diego: Harcourt, 1999; Decety J, Wheatley T (eds). *The moral brain: A multidisciplinary perspective*. Cambridge, MA: MIT Press, 2015; Greene J. *Moral tribes: Emotion, reason, and the gap between us and them.* New York: Penguin Books, 2013]. Jonathan Haidt [*The righteous mind: Why good people are divided by politics and religion*. New York: Vintage Books, 2012] has studied what he calls the "righteous mind" in thousands of cases, across age groups and cultures. He argues that certain moral judgments are wired in. We are disgusted by behavior that is cruel, dirty, contrary to our religious sensibilities, or otherwise "unnatural." Most people cannot articulate a rational argument why an unmarried brother and sister of legal age should not have protected sex with each other. It is just "wrong." Religious taboos also come to mind. Children react negatively to mean behavior well before they can talk [Hamlin JK. Moral judgment and action in preverbal infants and toddlers: Evidence for an innate moral core. *Current Directions in Psychological Science*, 2013, 22, 186-193]. But mean behavior is not universally condemned. A lynch mob or a legislative caucus that supports laws it knows will cause undeserved hardship on many for the sake of a few friends pull in individuals who would never act that way individually and are often surprised at what they have done. We do not need to be taught the ethics of judgment.

But we are. This is the way we first learn our ethics, as children or as new members of a group. We are just told what to do. There is no presumption that we will understand why we are expected to behave as we are told. After all, if there are reasons for good behavior, novitiates might use reason to wiggle out from the need to conform to authority. Sometimes our early training comes with a message, "that is what good little boys or girls are supposed to do" or "members of this organization are expected to adhere to certain standards of conduct." There also are not ethical justifications: they are warnings that remaining on good terms with a powerful person or being a member in good standing or a viable candidate for honors requires conformity to norms. A popular line of scholarship posits that until about the age of eight most of us use an ethics of conformity to those who have the capacity for making our

lives tough [Colby A, Kohlberg L, Speicher B, Hewer A, Candee D, Gibbs J, Power C. *The measurement of moral judgment*. New York: Cambridge University Press, 1987; Rest J, Narvaez D, Bebeau MJ, Thoma SJ. *Postconventional moral thinking: A neo-Kohlbergian approach*. Mahwah, NUJ: Lawrence Erlbaum, 1999]. The ethics of judgment is what the alpha-group does.

The speed of ethical judgment – on the order of a couple hundred mille-seconds – and its self-protective character suggests that it is located in part in the limbic system [Light S, Zahn-Waxler c. Nature and forms of empathy in the first years of life. In Decety J (ed). *Empathy: From bench to bedside*. Cambridge, MA: MIT Press, 2012, pp. 109-130].

We never outgrow this basic layer of ethical functioning. There are two additional layers of moral development that supplement this foundation. These depend on certain neural centers in the brain coming online in the pre-teens and in early adolescence. These higher-order ethical skills will be discussed in the next two sections [chapters?]. They help us override the primitive ethics of judgment. Some people, such as sociopaths and narcissists, never or incompletely develop the overlay of ethical maturity. For all their life they burst out with blaming others for things they do not like.

When armature ethicists say that folks learn their ethics before they get to college or dental school they are referring to judgment ethics. Such statements are entirely autobiographical.

Paternalism and the Golden Rule

It might be argued that the ethics of judgment is just the Golden Rule with a new name. If so, more's the pity. There are two parts to the familiar ethical maxim: (a) parity of standards for the actor and those acted upon and (b) grounding of the standard in the actor. Do unto others as you would have them do unto you makes the ethical judge as well as the executor of the standard for what is right and wrong. The admonition is not to treat others as they wanted to be treated or even as they deserve to be treated. It is an imposition of one person's vision of the good world on all others. In the health professions, this is usually known as paternalism [Dworkin G. Paternalism. *The Monist*, 1972, 56, 65-84]. The logic put forward is that the professional (because of his or her superior knowledge of part of the healthcare transaction and his or her superior power) should determine what is best for others. This becomes an issue for patients who justifiably maintain that technical insight is not the only factor in that counts [Buchanan AE, Brock DW. *Deciding for others: The ethics of surrogate decision making*. Cambridge, UK: Cambridge University Press, 1990].

It is easy to manufacture examples where the Golden Rule is ridiculous. Imagine you are sharing a hotel room with a sweaty sumo wrestler who is ardent to express his or her homosexual love of mankind in positive ethical fashion. Self-made individuals tend to over-generalize the extent to which what made them successful will be just what everyone else needs.

Virtually all religious traditions have either a positive or negative version of the rule. The so-called Silver Rule states: do not do unto others what you would not have them do to you. All of these, except for the Islamic version, were articulated during the Axial Period, roughly 300 BCE. It is sometimes mistakenly held that Immanuel Kant the famous rational philosopher of the late eighteenth century, brought the Golden Rule up to date. His "categorical imperative" states that we should be bound by those maxims that we would want everyone to honor [Kant I. *Groundwork of the metaphysic of morals*. HJ Paton, trans. New York: Harper Torchbooks, 1785/1948]. So it would be ethically shady to bend the truth unless it would also be fine with you if everyone else did so. Kantian ethics (also known as deontological

ethics for the Latin term for "duty") are not particularly fashionable these days among philosophers. There are practical inconsistencies – such as whether one should lie to protect an innocent potential victim from a terrorist – and the rich and powerful will have a set of ethical maxims that differ from the rest of us.

Charity

Dentists are generous. The ADA estimates the value of donated dental services at approximately 5% of the billed services [Forsberg J, Klyop JS, Landman P. Advancing dentists charitable dental initiatives – An American Dental Association perspective. Journal of the American College of Dentists, 2004, 71 (1), 6-79]. ome dentists give much more: about half give nothing [Kramer M. Dentists demonstrating professionalism: Dentists in private practice settings provide free or reduced-fee care. Journal of the American College of Dentists, 2012, 79 (4), 72-77]. There may be a slight tendency among the non-givers to temper the situation, but write-offs and taking Medicare patients do not count, and the IRS is very clear that one cannot deduct for the imagined difference between what one could really charge and what is charged. True professional altruism takes the form of volunteering for a MOM event, accepting a number of poverty patients as part a program such as Donated Dental Services, mission trips in the developing world, and days out of the office to serve on committees in organized dentistry.

Charity is the positive side of the ethics of judgment. Some would go so far as to place charity among the highest of virtues: everyone should always be altruistic. That, of course, is nonsense, or as Herbert Spenser said a hundred years ago, it is suicide [Spencer H. *The principles of ethics*. Indianapolis, IN: Liberty Fund, 1887/1978]. If charity were a universal ethical imperative, we would be forced to admit that all of us are unethical on a wholesale basis. At best it is something special and not part of our daily routine. What needs to be explained is why charity is valuable when practiced selectively.

In the first place, not all acts of giving deserve to be labeled charity. Citizens in a state may prioritize scarce public funds so that mental health and substance abuse treatment rank higher than oral health. Organized dentistry might campaign for resources going in the latter direction on the grounds of promoting the charitable benefit of dentistry. Sometimes this shades off into corporate paternalism. We should help others; the matter that needs to be worked out is how we decide to help some and not all and why we do not give 100% [Singer P. *Ethics in the real world: 82 brief essays on things that* matter. Princeton, NJ: Princeton University Press, 2016].

Giving to others is not an universal good. There are individuals who claim a tax deduction for charitable contributions to organizations and causes that I take strong exception to. Terrorists sometimes make the ultimate sacrifice for a cause they believe in. Individuals drop their memberships in organizations because they cannot support some of initiatives or policy positions their dues money is going for. The point here is that charity also serves the needs of the giver. When an action can be explained by reference to more than one benefit, the analysis becomes complicated. For sure, however, it is suspicious to claim only the publically laudable part of the motive.

Charity is selective in another sense. Every generous person is not liberal to all comers and all causes: they pick and choose. Every generous person does not show unlimited beneficence. There are rare examples, often in history, of those who have given away everything. Altruism, by definition, means giving to others at one's own expense. It is a transfer of resources without expectation of compensation. If everybody did it all the time the world would be no better than it would be if everyone always pursued their own self-interest, it would just be turned on its head. See [Chambers DW. *Building*

the moral community: Radical naturalism and emergence. Lanham, MD: Lexington Books, 2016] for a mathematically proof of this point. Charity is selective. Sometimes the selectivity is just a form of self-interest dressed up in fashionable apparel.

There is smart charity and a not-so-smart kind. The questionable variety is just using power and propaganda to advance a favored cause while denying the intelligence, capability, and moral agency of others and claiming an honor for doing so. Good charity strengthens one's community [Chambers DW. In defense of pure systemic altruism. Manuscript in preparation].

Judgment Alone Is Not Enough

Judgment ethics is insufficient. Mother Nature realized that and gave us empathy, rationality, and the capacity to create moral communities by mutual consent. Of course it feels good to tee-off on a soft target, and if we can do so in the presence of an admiring crowd of those how share our values, so much the better. It is not necessary, however, to vilify others to make a point.. Usually, a positive message, accompanied with a promise to become personally engaged works best. If nothing personal and positive comes to mind, that might signal either that the issues had not been well worked out or that it is not worth more than a little strutting and a discreet exit from the stage.

Here are some of the benefits of the ethics of judgment:

- Serves as an alarm for oneself and one's group warning that something may be amiss
- Makes one feel good, especially if eloquent emotion is unleashed
- Marks one as a member of a group, perhaps a high status member
- Signals to others that they should work up some defenses

Here are some of the down-side features of ethics of judgment:

- Unlikely to produce the desired effect in others (except one's friends)
- Blocks one from seeing one's own role in the ethical situation
- Divides groups, pushes people away
- May really be about getting our own way rather than about ethics.

Garrett Hardin wrote perhaps the most frequently cited essay in social theory, "The Tragedy of the Common" 50 years ago. In his related book *The limits of altruism: An ecologist's view of survival* [Bloomington: Indiana University Press, 1977], he cautions against thinking the job of ethics is finished once the problem has been pointed out to others: "Don't count on others to solve your problem if doing so means acting against their own best interests." Positive personal action typically works better. If others make ethical missteps or take unknowing or ill-advised action we should work with them not against them.

The Ethics of Justification

Although the ethics of judgment, understood as calling on others to do the right thing, is the private default potion, the public default is to enlist principles to support the positons we favor. Virtually every organization has a code. Virtually every individual, when questioned why he or she favors this or that, has a list of generalizable reasons from which to select a defense. Ethics CE programs almost always

cover a set of principles, often as the organizing structure. The Ethical Moment column that has appeared for many years in JADA invariably references exactly five principles regardless of the issue.

We consider ourselves to be rational, so we need reasons for doing what we do. We consider ourselves social creatures, so we need a common way of talking about ethical choices. We are not capricious; we value being able to justify the way we act, especially when others are watching what we do. The ethics of judgment is about the way we interpret rules for treating others. Those we treat do not have to agree with the principles we use to ground our action. Others values do not override our principles; in interactions they are the beneficiaries of our ethical actions. The ethics of justification is about our doing the right thing relative to our norms. The late bioethicist Berny Gert put it rather starkly when he said "anything that is justifiable is ethical" [Gert B. *Morality: Its nature and justification*. New York: Oxford University Press, 1998].

Principlism and Codes

Academic philosophers have lively discussions about norms (sentences that contain words like "should" and "ought"). They are trying to figure out how to express them in clear terms, how they relate to the objective world (if at all), and whether there can be any reason for saying that some are better than others [Wallace JD. *Ethical norms, particular cases*. Ithica, NY: Cornell University Press, 1996; Wedgwood R. *The nature of normativity.* Oxford, UK: Clarendon Press, 2007]. Generally, they do not pay much attention to particular principles, assuming that this is the business of individual commercial or professional groups. Philosophers have delegated questions about how and whether norms get translated into behavior to the psychologists. The hot topic in the field these days is whether moral behavior can be reduced to statements about the brain. Currently neurobiologists and systems theorists seem to be making significant gains in the territory formerly thought to be exclusive domain of philosophers [Churchland PS. *Braintrust: What neuroscience tells us about morality*. Princeton, NJ: Princeton University Press, 2011; Kelso JAS. *Dynamic patterns: The self-organization of brain and behavior*. Cambridge, MA: MIT Press, 1995; Thagard P. *The cognitive science of science: Explanation, discovery, and conceptual change.* Cambridge, MA: MIT Press, 2012]. Principlism is not widely discussion in academic philosophy circles. It is seen as the applied territory of individual commercial business and professions.

Principlism, or the development of rules and codes for businesses and professions came into fashion in the 1950s with the rise of the subdiscipline of bioethics and the professionalization of America [Toulmin S. *The place of reason in* ethics. Chicago, University of Chicago Press, 1950]. The Nuremberg Trials shocked the world with revelations of rather inhuman things done by Nazi doctors in the name of science [Arendt H. *Eichmann in Jerusalem: A report on the banality of evil*. New York: Penguin, 1963]. But there were dark secrets closer to home. The U.S. Army had for years conducted experiments on prisoners in Tuskegee, Alabama, randomizing mostly African Americans with syphilis to either receive or not receive penicillin. The experiments continued after it was obvious that subjects were needlessly dying because they were denied medication. In response to this and related abuses the U.S. Department of Health and Human Services, through the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, formed a working group of ethicists that met in Belmont, Maryland. In 1978 guidelines for the ethical conduct of research involving human subjects were issued. Known today as the Belmont Report, this was the foundation for the creation of federal regulations governing all research involving humans. The report and its resulting regulations are based on three principles: (a) respect for persons, from which the practices of informed consent are derived; (b) beneficence, which supports the notion of not involving individuals in greater risk than necessary or

warranted by expected gains; and (c) justice, or the rule that one group should not suffer excessive cost for the benefit of others.

The incubator of the bioethics movement was Georgetown University in Washington, DC, and the Kennedy Center for the Study of Bioethics. The *locum classicum* of this field is Tom Beauchamp and James Childress's *Principles of Biomedical Ethics*, now in its seventh edition [Beauchamp TL, Childress JF. *Principles of biomedical ethics*. New York: Oxford University Press, 2009]. With some renaming and splitting the effect on individuals into a positive side and a negative side, bioethics had its four classic principles of bioethics are respect for autonomy, nonmaleficence, beneficence, and justice. Bioethicists as a general group have flourished because those associated with hospitals can bill for their services and those who train other bioethicists in university programs draw a salary. Ethicists working in specific professions that are not hospital based often work in isolation and borrow their content from others fields. (See Chapter xx on Ethics Education in Dentistry and Appendix xx). The health professions borrowed liberally from the Georgetown work. Medicine has nine principles and a code that exceeds xxx words. Dental hygiene has six core values, occupational therapy six, and so forth. The principles are not the same in various professions.

In 2016 the American Dental Association celebrated the one hundredth anniversary of its code. Although the various versions in the early years were called "codes of ethics," they were properly examples of professional etiquette, focused on the relation of one dentists to others. For example, for many years the code admonished dentists to consult with colleagues to ensure that fees were fixed. Today, of course, that is illegal. In 19xx the ADA appointed a committee to updated the code of professional conduct. Consultants were brought in from Georgetown. It was decided that a superstructure of ethical principles would be erected to surround the code of conduct without changing the code itself. But almost half of the items in the code could not be fitted to the conventional bioethics principles. A new principle, veracity, was added to accommodate this shortcoming.

History matters with respect to detail. The Belmont principle of "respect for individuals" was changed at Georgetown to " respect for autonomy" and then by the ADA to "patient autonomy." Georgetown may have been right to emphasize that all people have a right to self-governance (that is the literal translation of the original Greek from which our term auto (self) nomy (rule) is based) as a corrective to implied paternalism. But the ADA limitation of self-determination restricted to patients is an unnecessary restriction. All people in need of oral health care are not patients [Chambers, D. W. Every pinohc should count. *Journal of the American College of Dentists,* 2015, 82 (2), 2-3]. A patient is one who has agreed to the conditions offered by the provider. Thus only those who agree to the dentist's terms are covered by the principle. Although the code states that dentists should not deny services to individuals based exclusively on certain personal characteristics such as race, it states (oddly enough under the principle of justice) that dentists "in service the public may exercise reasonable discretion in selecting patients for their practices." Further, the phrasing of the ADA code excludes autonomy for dentists. It will be argued in the next section [chapter?] that ethics loses much of its power when all parties to a relationship do not have the same status as moral agents, especially equal autonomy.

As the official name indicates, the current code is a tripartite blend of Principles of Ethics (which occupy a small part of the document and are aspirational in nature), a Code of Professional Conduct, of which there are 44 items, all of them enforceable through sanctions on members, and advisory opinions that are intended to clarify the elements of the Code of Professional Conduct.

The ADA code is "owned" by the House of Delegates. It cannot be amended except by vote of that entire body. It is administered by the Council of Jurisprudence, Ethics, and Bylaws which is responsible to circulate the code, may suggest changes, and can discipline members who are in violation of the code. Similar structures, both in terms of various content in the code and in terms of promulgating and enforcing it, exist in virtually every state, for ethnic and specialty groups, for commercial enterprises in dentistry such as the Association of Dental Support Organizations, and repeated again for all professions. It is possible that one dentist can violate a code of an organization he or she belongs to which attempting to honor the code in another or be excused by one organization from doing what another deems mandatory. The statement on autonomy in the California Dental Association Code of Ethics is different, for example, from that found in the ADA document.

The distinction between aspirational and enforceable codes is useful. Aspirational codes tell others what the organization stands for and imply that members of the group might reasonably be expected to be guided by the principles of the code. They are identity-guiding documents. Enforceable codes prescribe or prohibit certain kinds of behavior on penalty of being sanctioned or removed from the organization. They assume a reporting and enforcement mechanism, and usually a due process disciplinary procedure. They imply to the public that all members of the group always adhere to the standards of the group and that those who do not will be remediated or removed. There is a slight tension between licensure as an authorization to engage in a commercial practice and enforceable codes. It is illegal to exclude an individual for violating an organization's codes if that act also deprives him or her of the opportunity to practice. Enforceable codes are limited to organizations with voluntary membership and only extend to membership in the organization. No organization can use its code to impose its vision of professional practice on members of the profession as a whole or control the public understanding of what is appropriate ethical behavior in the profession.

Commercial organizations have codes and sets of principles as well, and for the same reasons professional groups do: focus the behavior of members and suggest an image to the public. There can be conflicts between commercial and professional codes. A personal example occurred in the case of a fellow of the American College of Dentists who retained an advertising agency to promote a commercial innovation of his devising and in the process connected the enterprise with his induction into the college. He did not respond to my inquires, but the marketing firm certainly did. They informed me in rather forceful terms that no standards in their industry had been breached. [Do I mention that the college, when informed of this, did nothing?] State dental association codes often have principles that preclude use of non-earned digress (such as fellowships in "institutes") in announcements of CE programs, but they seldom enforce them.

Codes do not automatically lead to detection or enforcement of violations. Enron developed a 46-page code that was sweeping in scope and detailed in prescribing execution. It can be viewed on the web. Wells Fargo also developed a model code. The evidence so far concerns only commercial organizations and the impact of their codes, and it is mixed. But the general conclusion is that organizations with code of ethics are prosecuted for crimes against the community at about the same rate as others organizations to do not have codes [Bried AP, Dukerich JM, Brown PR, Brett JF. What's wrong with the Treadway Commission Report? Experimental analysis of the effects of personal values and codes of conduct on fraudulent financial reporting. *Journal of Business Ethics*, 1996, 15, 183-198; Kaptein M, Schwartz MS. The effectiveness of business codes: A critical examination of existing studies and the development of an integrated research model. *Journal of Business Ethics*, 2008, 77, 111-127].

Principles are customarily associated with organizations rather than individuals. It is natural for a dental hygienist to speak of trust or respect for all human beings as these are elements in their code. But we would not be overly impressed if a dental hygienist said "My personal code of ethics emphasizes the principle of reciprocity." It happens that reciprocity is arguably the most widely recognized moral principles in the world [Donaldson T, Dunfee TW. *Ties that bind: A social contracts approach to business ethics*. Boston, MA: Harvard Business School Press, 1999] but one that would not fit comfortably in a relationship such as dentistry that is built on a very steep power gradient. This may be part of the reason principles are popular among the professions but not so much so in ethics generally.

Organizations choose their principles carefully to reflect values that characterize the group. They tend to reflect behavior of the most powerful group members. They reflect the habits that have allowed the elite to thrive. They describe the habits that the organization's leaders would not choose to see changed. They are naturally conservative.

Some Concerns about Principles

Principles and codes are good, if not misused. They are an easy introduction to thinking about what is right and good. They are somewhat common language within the groups that use them and attractive things to say to others. Generally, however, they cannot do the heavy lifting required of professional ethics. If they remain general suggestions and slogans, they have a limited but useful role to play. If they are offered as common guides for how we should all behave all the time or standards which we can use to judge others, they will be empty calories.

Consider these six problems: (a) There are too many principles, (b) they are often misapplied, (c) they are inconsistent, (d) they leave questions undeterred, (e) they do not reliably guide action, (f) they justify too much.

Incommensurability

There is no agreement on what the principles are. Each group needs its own set. Philosophers have been at this for about 3000 years, and in each generation we discover the flaws in the previous candidates. Various groups working in the same field or similar ones craft different sets of principles, and they change them from time to time, usually in committees or by vote. The fact that we have not found the touchstones suggests that this may be not exactly the right project.

Interpretation

Principles are generalizations. They require interpretation. Individuals who strongly and honestly embrace a given principle may nevertheless embrace contradictory behaviors.

A typical principle in professional codes is "beneficence." This means acts of charity, mercy, and doing good for others in the supererogatory sense of going beyond what is expected. The word implies moral obligation for doing the right thing. The problem is that it characterizes the motive but does not define what is the "right thing." Professionals can legitimately claim to be acting beneficently while engaged in contradictory behavior, perhaps even the kind of acts that the patient is not especially interested in. This is most obvious when an action is chosen and then the principle of beneficence is attached to it as a justification.

Primum non nocere is Latin for first do no harm. It is often identified with the principle of nonmaleficence and with the Hippocratic Oath. Both are unfortunate partial truths. One way to avoid harm is to refuse to be involved in treatment. That would hardly be a good premise for health care professionals. The quick retort, and there is some validity to it, is that by failing to become involved, we are only *letting* harm happen. Ethicists still debate the difference between causing harm and allowing it and there is ample evidence in the current pop ethics literature to the effect that it is wrong, for example, for a physician to kill one near death patient to harvest the organs that will save five near death patients [Thomson, J. J. 1976. Killing, letting die, and the trolley problem. *The Monist*, 59, 204-217]. But as soon as the trade-off is framed as one between harms and benefits, the distinction between beneficence and non-maleficence becomes shaky. The Belmont report was anchored in the requirement that anticipated benefits should exceed anticipated harms, and that by as large a margin as possible. If that standard is applied, healthcare professionals need to ground their treatments on what care is best for the patient (say fluoride) and not on whether the preferred treatment will provide a specific benefit.

The Latin probably dating from the early middle ages, so it would not have appeared in the Hippocratic corpus, which was Greek, fourth century BCE. The actual wording in the oath can be translated "Use your talents for the benefit of mankind and not for evil." What the School at Cos was concerned about was poisons and giving medications that would cause abortions. The Hippocratic Oath is also very clear that doctors should not cut tissue – hardly a welcome aspiration for dentists.

Philosophers have long known that the use of principles in ethics is a matter of syllogistic reasoning [MacIntyre A. *Whose justice" Which rationality?* Notre Dame, IN: University of Notre Dame Press, 1988]. The principle is the major premise. For example, "It is unethical to waive copayment" (5.B.1 in the ADA code). There is a minor premise, such as "Dr. X did not bill the patient for anything although the particular insurance plan states that it will only cover 80% of the UCR." We apply a little logic here: A is unethical, Dr. X did A, therefore "Dr. X is unethical."

It does not require a college course in logic to know how to retain both the major and minor premises and at the same time avoid the conclusion. The usual process is to introduce additional minor premises. "The insurance company has often overlooked these cases in the past." "The insurance company has been gauging me, so here is an easy way to even the score." "The patient has been paying top dollar in the past and has just fallen on hard time so it is either this or leave the patient with an unmanageable condition." Or "the dentist's primary obligation is service to the patient and the public-at-large" (from Section 3 of the ADA code. The addition of any or several of these premises justifies a conclusion that the dentist is ethical at the same time it does not alter or invalidate the principle.

Principles operate at the abstract level and there are multiple ladders for climbing down to reality. All ladders do not end in the same place despite beginning with a single principle.

Inconsistencies

There is a classic case, discussed in virtually every dental school ethics course, involving an ethical dilemma. The patient needs to bring his or her periodontal health under control before the restorative work can begin. The patient refuses any care other than cosmetic restorative treatment. The principles of beneficence and patient autonomy are in conflict. The usual advice is that the dentist needs to "charm" the patient into doing what the dentists knows is right (the ethics of judgment). But this

overlooks the fact that this is not an ethical solution, it is a psychological escape that cancels the dilemma.

Ethics education is often described as dilemma training. Teaching cases such as this are well suited to practicing abstract reasoning skills. A lemma is a partial proof. In math or engineering or computer science, a commonly encountered problem has a conventional solution called a lemma. In the working out of a large problem, lemmas are inserted by name where needed and it is assumed that the proof goes through without having the be specific about the details. A dilemma is a problem that involves multiple lemmas. But sometimes the lemmas point in contradictory directions, as in the case of benevolence and patient autonomy mentioned above. The Introduction to the ADA code is explicit about this: "Principles can overlap each other as well as compete with each other." Beauchamp and Childress [Beauchamp TL, Childress JF. *Principles of biomedical ethics*. New York: Oxford University Press, 2009] admit this as well and they urge that conflicting principles be addressed in a "balanced" fashion. That is magic thinking since balance is undefined and is certainly not offered as a "superprinciple." Anyone can claim that the solution they prefer at the moment is "balanced." Dilemmas play a significant role in ethics education precisely because they offer individual practitioners an escape from having to conform to a principle that is inconvenient – they find another principle that nullifies it.

Fortunately, ethical dilemmas are extremely rare in actual dental practice. Most ethical challenges have a clear right and wrong. Overtreatment, overbilling, cherry picking treatment, incomplete diagnosis, failure of informed consent, patient abandonment, sexual improprieties are not dilemmas. This issue is not which principles apply or finding rational justification; it is having the courage to do what is clearly right.

Indeterminacy

The fourteenth century philosopher Jean Buridan is remembered today for his ass. He imagined the animal exactly equidistant between two piles of hay and starving to death because it could not decide which way to go. This is unlikely to happen in the healthcare environment, except in academic discussion in schools or political debates over policy. When it is a danger that is because of the number of options and deciders.

Kenneth Arrow receive the Nobel Prize in 1984 for his work on what is known as the social welfare problem [Arrow, K. J. 1951. *Social choice and individual values*. New York: John Wiley & Sons]. Given several possible applications of resources and several people who have ideas about the best allocation, should not there by a rational solution? Yes, there is if there are fewer than three alternatives and fewer than four decision makers. Otherwise, the problem is insoluble. Arrow's demonstrated that this is more than being just difficult, it is indeterminate – period. Everyone who have participated in policy debates knows the grip of Arrow's conclusion and how such matters are typically managed with a little politics and otherwise relaxing the requirement to be completely rational.

It happens that there are two easy ways out of the embarrassment of the indeterminate social welfare problem. The first is to relax the requirement that decision makers remain consistent in their preferences. This will all work out just fine if we allow folks to prefer one course of action under some circumstances and the same person can want something else on other occasions. The other solution is to allow a dictator to decide for others. This is a throwback to the ethics of judgment.

It is always possible, in principle, to make an ethical problem insoluble if one brings in enough experts or creates a forum the purpose of which is to debate this issue, in principle.

Incontinence

There is a gap between figuring out what is most ethical to do in a situation and actually doing it. Philosophers call this incontinence. Dental school and continuing education and professional endorsements of codes have elevated reflection on principles and largely ignored the matter of seeing ethical problems in the first place or taking action to meet the needs of the situation. The literature is dominated by case reports that name the principles that are in play in the situation. The cases come to us plucked out of the blooming, buzzing confusion of practice, usually crafted to make them more complicated than they really are so that one principle can be played off against another. After the analysis, nothing.

James Rest was a physiologist interest in ethics who accumulated a large body of research on how people, especially professionals address ethical issues. He developed a four-component model that is respected in many disciplines [Rest J, Narvaez D, Bebeau MJ, Thoma SJ. *Postconventional moral thinking: A neo-Kohlbergian approach*. Mahwah, NUJ: Lawrence Erlbaum, 1999; Rest JR, Narvaez D (eds). *Moral development in the professions: Psychology and applied ethics*. Hillsdale, NY: Lawrence Erlbaum, 1994]. Managing an ethical situation begin by identifying that there is a problem. Ethical sensitivity differs from one individual to another and across contexts. As the British ethicist Simon Blackburn noted, "the big problem is not that people are unethical, they are morally blind" [Blackburn S. *Being good: A short introduction to ethics*. Oxford, UK: Oxford University Press, 2001]. A good way to have an easy conscience about ethics is to avoid seeing the problems or only be on the lookout for those that embarrass others. The second component is moral reflection. This is the rational work of naming the principles, identifying whose interests are at stake, and identifying and weighing "balancing" the possible outcomes of each. This section [chapter?] has been all about moral reflection. There have been a few hints about why this is inherently a sloppy business.

The third component is moral character or integrity. Some people care about ethics and others have accepted that this is not a big part of their lives. Some dental students can walk, with a clean conscious, out of the seminar on ethics and collaborate with a clinical faculty member on an expedient treatment plan that puts the patient at risk. Other students would say, that is not the kind of person I am. Some faculty members do not know the school has an ethics seminar; some practicing dentists have not read the ADA code. Integrity is about who one is. Moral courage, the fourth component is improperly names. The idea is that awareness, analysis, and character have to be turned into action. Otherwise they are academic. For the most part this is not about "courage" but about interpersonal skills, political connections, and going to the right place at the right time. This is the essence of ethical leadership that will figure prominently throughout the rest of this book.

The American College of Dentists has a short, self-scoring test online that anyone can take to determine which of the four components in Rest's model are personal strengths and which areas might be in need of further attention [actually, the test has been taken down and needs to be reinstalled]. Research using this instrument [Chambers DW. Developing a self-scoring comprehensive instrument to measure Rest's four-component model of moral behavior: The moral skills inventory. *Journal of Dental Education,* 2011, 75 (1), 23-35] revealed an unusual finding. A group of students reported their relative strengths on Rest's components and also nominated classmates who were recognized as being moral leaders. Three of the components were significantly predictive of recognized ethical impact in their community.

The only one that was not was moral reflection – the very skill that depends on facility with principles and which is the backbone of current thinking and teaching in dental ethics.

Post hoc

All justifications do not appear before an ethical decision is taken, nor do they necessarily figure in determining the decision. Often the theoretical explanation, the appeal to principle, comes after the fact. Sometimes two or three versions of the justification are tested before the one that best suites the expectations of one's friends is found; sometimes a few justifications are needed, different ones from different sets of friends.

Justifications are rare unless they are requested by others. A justification is just that: a rational framework placed around an action. Its function is to preserve the actor's place among rational members of a group.

William Jennings Bryan was successful in the Scoops Trial. He argued that evolution should not be taught in the schools and he won. Bryan is also credited with saying "It is a pretty poor mind that can't gin up some reason for doing whatever you want."

Slow Ethics

The ethics of justification or ethics grounded in principle represents an evolutionary advance over the ethics of judgment. Children cannot do it. They lack the mental apparatus to make abstract judgments, especially conditional and counterfactual comparisons [Bogdon RJ. *Our own minds: Sociocultural grounds for self-consciousness*. Cambridge, MA: MIT, 2010]. This comes online in the early preteens when regions in the prefrontal cortex are myelinated [LeDoux J. *The emotional brain: The mysterious underpinnings of emotional life*. New York: Simon & Schuster, 1996; Schwartz JM, Begley S. *The mind & the brain: Neuroplasticity and the power of mental force.* New York: Harper Perennial, 2002]. Myelin is the "white matter" that sheathes long-haul neurons and greatly accelerate their transmission speed. This makes it possible to bring information from diverse brain regions into a particular processing center for comparisons. That is the function of the ventrolateral regions of the prefrontal cortex [Damasio AR. *Descartes' error: Emotion, reason, and the human brain*. New York: Putnam, 1994]. This is actual an interactive process, with the region sometimes recognizing that information is missing or that "something is not quite right." Processing time is on the order of seconds instead of milliseconds as in the like-it-or-not snap decisions of the judgment system. Because memory is involved here, moral decisions can be reviewed and spun out over minutes, days, and longer. The justification almost always comes after the decision, and awareness of the decisions is certainly a few hundred milliseconds after the decision is imitated [Libet, B. *Mind time - The temporal factor in consciousness*. Cambridge: Harvard University Press, 2004]. Awareness that things are not quite right with the ethics of judgment triggers reflection. When it is recognized that a justification is needed for the action taken, further reflection is needed. But justification always comes after the decision to act has taken place, although sometimes by a fraction of a second. Typically, the rational ethics of justification is triggered when it is recognized that the ethics of judgment is not quite working right Greene J. *Moral tribes: Emotion, reason, and the gap between us and them.* New York: Penguin Books, 2013].

Rest calls this second level of ethical work the conventional stage [Rest J, Narvaez D, Bebeau MJ, Thoma SJ. *Postconventional moral thinking: A neo-Kohlbergian approach*. Mahwah, NUJ: Lawrence Erlbaum, 1999]. We are motivated to ground our ethics in the conventions of the important groups around us.

We care about the norms of those we identify with. The important thing is not so much to follow the principles of the groups as not to be seen as violating them. This is the business of justifying our actions.

There is a "close enough argument" argument. There is substantial wisdom in taking a practical view of the problems identified here with the ethics of justification. There may be Nobel Prize-winning proofs that normative ethics is inconsistent or incomplete; it may be the case that organizations place more emphasis on norms as general goals and publicity planks than on enforcement; it may even be the case that the link is weak between knowing what is right and following through in action. But are not we better off with these approximations than we would be without them? Even if we sometimes get carried away and claim certainty for an approach that is far from certain, is not this close enough to be of value? Of course it is. No one is campaigning to ditch normativity. There are, however, two points worth making. First, we should not claim more for principles than they deserve. A good approach only draws suspicion when it is peddled as a perfect one. Second, there may be other approaches that are also close enough to warrant use in selective circumstances. The ethics book is not closed: shame on anyone who tries to insist that it is.

The Ethics of Engagement

The Greek philosopher Aristippus had an interesting take on the relationship between norms and ethics. Basically he said there was none. "When all the laws are finally just and fully enforced, the true philosopher is the one whose behavior has not changed." Confucius had pretty much the same point in mind when he said "First puts words into practice; then say what has been done accordingly.".

<u>Moral Behavior</u>

Consider this case. Mr. Buckum drove trucks on an on-again-off-again basis that kept his family just above the poverty line. He resented those who "lorded it over him and his family." His daughter, Anne, was 11 and had been told she needed braces. Mrs. Buckum was optimistic. She had been bullied in school because of her crooked teeth, but her family had been too poor to afford treatment. On the first visit to Dr. Straight's office, Anne was told that she had a classic Class II malocclusion. There were no obvious skeletal and dental complications and no contributing health issues. As the mother and daughter were leaving the office, the patient care coordinator asked when Anne and her mother would like to schedule the CBCT scan at an independent imaging lab. A fee of $500 was mentioned. Mrs. Buckum demurred, saying she didn't think she would be able to afford the additional cost. The nature of the scan was explained and it was mentioned that all of Dr. Straight's patient as a matter of policy should receive this service.

After an explosive conversation with her husband, Mrs. Buckum phoned the office very apologetically saying that they could not afford the cost and orthodontist would either have to proceed with treatment without the scan or the Anne might go elsewhere or go without braces. She hoped the office would understand their situation and change their mind. The office manager phoned back very apologetically to explain that Dr. Straight had established this policy for all patients in order to provide the highest level of care and to protect against unforeseen complications. It would be impossible to treat Anne without the CBCT. She hoped the family would understand their situation and change their mind.

It is not obvious that there is a normative principle of ethics that universally dictates the correct ethical solution here. Those who see the problem from the patient's perspective have several principles they could mention to justify their chosen course of action. The same is true for the office. Is it possible in

this case to act morally without first establishing the preeminence of one set of principles and then forcing both parties to accept that guidance? Is agreement on principle a precondition for acting morally? Of course if it is, we are in for interminable battles over whose principles are the right ones. We also create a world of ethical winners and losers, or ethical and unethical people. This kind of ethics stinks of parochialism.

Look again at the case and note the following:

- There are two parties who have to make a moral choice (Buckum and Straight)
- Both parties are focused on the kind of future they prefer (the amount of money that will change hands and the probability of altering treatment protocol)
- The futures that will come to pass depend on the mutual actions of both parties, neither one alone can decide the outcome
- There are four different ways the case could go (no CBCT and no care, care without CBCT, CBCT without care, and care with CBCT)
- There is no guarantee that there will be a win-win solution, so one party or both may have to accommodate
- Even when none of the possible futures is ideal, some are better than others.

Morality can be defined as choosing the mutually best available alternative futures in collaboration with uncoerced other moral agents.

It would automatically be unethical to force others to act against their self-interest if or to the extent that that was unnecessary. It would automatically be unethical to fail to recognize others as having a free choice in their future. It would automatically be unethical to make ethical decisions that were not grounded in an honest understanding of one's own motives and values and the best understanding possible of other's motives and values.

It may be noted that the language has shifted slightly in this section [chapter?]. The ethics of engagement is associated with the term morality rather than ethics. That is intended to signal a change in perspective from the theoretical to the actual. The dictionary definition of ethics is the study of right and wrong, good and bad. Morality is not a study, it is a set of habits, the actual pattern of behavior one engages in. The movement up from the ethics of judgment to the ethics of justification to morality is a change in paradigm from self-centered blaming of others to rational justification of one's behavior based on principles to mutual interaction with others to produce a better future world, given the situations that actually exist at any moment. The model is presented in full details in Chambers, *Building the Moral Community* [Chambers DW. *Building the moral community: Radical naturalism and emergence*. Lanham, MD: Lexington Books, 2016].

<u>Moral Choice</u>

The ethics of judgment is easy: just sound off about what one doesn't like. It is also pretty easy to do ethics as justification: find a principle among the huge number that are available to warrant what one wants to do. Moral choice is harder. First, it requires complete honesty. Second, it requires a working awareness of what others are prepared to do. Third, there are a few cases where the calculations needed to find the best mutual path forward are difficulty, although in most cases it is clear what should be done. There are books that explain how to find the best mutual pair of paths for oneself and other and convenient rules of thumb [Chambers DW. *Building the moral community: Radical naturalism and*

emergence. Lanham, MD: Lexington Books, 2016; Rapoport A, Guyer J, Gordon DD. *The 2x2 game.* Ann Arbor: University of Michigan Press, 1976]. But common sense handles most of the cases.

Win-win cases are those where the best choice for one agent coincides with the best choice for the other. Much of life is win-win, and as a result we underestimate how moral we are most of the time. It would be immoral in these situations to attempt to extract a penalty on others. Revenge and teaching others a lesson fall into this category. Some are willing to make personal sacrifices if they can hurt others. It is unethical to seek any other mutual solution when a win-win alternative is on the table.

Another commonly encountered engagement goes by the name of next-best. One agent can get his or her first choice while the other settles for second best. It is easy enough to imagine that Dr. Straight generally prefers to have CBCT scans as a matter of policy and that Mr. Buckum is adamantly opposed to anything that appears to be an unnecessary expense forced on the poor by the elite. The rule for next-best engagements is that the one with most to lose should yield. Mr. Buckum is very unlikely to pay for the scan because his pride is right up there with his daughter's appearance, so Dr. Straight should choose between not having the 3D images but having a patient and having neither the images or the patient.

The next-best example often encounters two objections. First, some champions for the logic of the one is the power position calls the shots hold that the patient is ignorant of what is in his or her best interest or that doctors have the privilege of positon and ethical responsibility to insist on the highest standards. That collapses to the ethics of judgment and substituting one's own preferences for those of others or to saying that the dentists is willing to pay the cost of maintaining standards. Both are acceptable as personal expressions of a dentist's values; but they are incompatible with judging the other as needing to change to justify the dentist's standards. One gets his or her way, but it does not quite sound ethical.

The second objection commonly heard is that this has nothing to do with ethics. This case appears to be about little more than how people should treat each other. But that is exactly what ethics is. Morality matters even when big principles do not come into the conversation. Our days are filled with an endless stream of opportunities to treat others well or poorly and we respond so much by habit, and usually for the good, that we dramatically underappreciate the role morality plays in daily life. The methods of ethics of engagement can be applied to any situation where there are two or more agents, each of which has two or more alternatives. This would include all ethical dilemmas, except those where one agent blocks the other's full participation.

A third type of moral engagement is called balanced compromise. These are cases where if either agents get everything he or she wants, the other must settle for third best. Typically, in such cases the problem looks the same from the perspective of both parties so the best way forward would be for both to accept second best. Such cases seldom occur in reality because perfectly balanced situations are inherently unstable and some folks try to game the situation by insisting that whatever the compromise on the table they characterize it as their giving up too much. If there is no win-win or next-best, go for the compromise.

There are degraded versions of these three prototype models where circumstances simply preclude anyone doing well. Disaster recovery, crime, war, domestic abuse, cheating, and the like are engagements where the circumstances on the ground have removed all the winners. But there is still always a best alternative provided the problems are justly shared. In all there are 78 possible ways two parties can arrange their order of preference across two mutually interacting alternatives [Chambers

DW. *Building the moral community: Radical naturalism and emergence*. Lanham, MD: Lexington Books, 2016; Rapoport A, Guyer J, Gordon DD. *The 2x2 game.* Ann Arbor: University of Michigan Press, 1976]. More than half of them can be solved using the first three rules above, and another 15% are near approximations. There are some stinkers, such as the famous Prisoners' Dilemma [Poundstone W. *Prisoner's dilemma*. New York: Anchor Books, 1992], but in most of these irregular confrontations, the mutually best outcome – the situation that is best for both parties -- is to lie with the intention of restructuring the engagement.

Getting good at the morality of mutual engagements requires a heavy dose of honesty. Agents need to make lists of the benefits (to them) if the outcome of mutual action comes to pass. For example, Dr. Straight's office could list for having paying patients with CBCT scans as including greater financial return, a more complete diagnostic database, standardization of treatment protocols, and possibly a relationship with an imaging company or owning such equipment. A list of disadvantages might include losing or alienating patients. The Buckum family could make similar lists. Note that the items on the lists are future states and not ethical principles. A list of undesirable outcomes for each pair of actions is also needed. No great mathematical logic is required to convert the lists into the right moral choice, the four alternatives are simply ranked 1 to 4 and the choices mentioned above are exercised.

There is one little subtlety that should not be overlooked. The approach to morality based on the engagement of two agents, each with two choices. It is not a calculous based on the rank preferences for two agents. Dr. Straight's choice is not determined by comparing his and Mr. Buckum's priorities; it is based on Dr. Straight's own preferences and Dr. Straight's assumptions about what Mr. Buckum values. Morality requires honesty and empathy [Decety J (ed). *Empathy: From bench to bedside*. Cambridge, MA: MIT Press, 2012]. Morality also leaves each agent with an ethical responsibility since they alone are making the choice.

Principles do come in however, and absolutely nothing is scarified in the traditional normative approach. But principles are all converted to personal values rather than cognitive abstractions. Dr. Straight would not say that nonmaleficence is a principle in some general way. Instead, he might say "I would feel badly if something unanticipated and negative happened because I failed to have a complete diagnostic database." Notice that this is much more powerful than simply referencing a norm. Some orthodontics in this situation would be devastated by that sort of eventuality; some would be upset but work that reaction into a broader set of concerns. Few dentists would say they think a lot of other things are much more important, but sometimes their behavior undermines this. The ethical of engagement approach is stronger than the ethics of justification because it weighs each ethical principle by the power it has over the practitioner. Different individuals wear their principles differently.

The ethics of engagement makes allowance for the situation on the ground. There are circumstances where it is not possible to optimize. Sometimes lying is the best way forward. The way to treat an honorable colleagues is not the same as the ethical way to treat a reprobate. Besides making the best of situations and realizing that circumstances change, the ethics of engagement also allow for improving one's moral lie. We can, and in many cases should in the ethical sense, negotiate with others for the purpose of reframing the engagement in the mutually most advantageous fashion. There is no rule that says ethical problems have to be solved as one finds them. A further advantage in negotiating is that we can improve our understanding of the true values of involved others. We may even come to understand our own assumptions and values better in the process.

Following is a brief example of an ethical situation worked out in detail using the system of the ethics of engagement. A patient of record but with irregular home care and attendance habits phones with a complaint of a throbbing tooth, #14, that has persisted for several days. The patient is worked in during the slot reserved for these emergencies just before noon on the day of the call. The general practitioner confirms that there is pain on percussion and in response to both hot and cold. There is a large three-surface amalgam restoration on the tooth, but no sign of an open margin. The general dentist has largely discontinued doing molar endodontics but is prepared to do an initial access to relieve the pain. The patient could not be happier. But on an impulse, a call is placed to the endodontist who is in the same building and who sees many referrals from this office. The specialist has a cancelation and could see the patient later in the day. After a short conference the patient chooses to return in three hours to the endodontist.

The dentist could intuitively and quickly see that there is a fourfold matrix of outcomes, depending on the choices of the patient to follow through on care and the dentist's management of the case. If the dentist recommends referral to the specialist for both access and treatment it is expected that the patient will follow through and will receive appropriate care but a billable procedure will be lost. If a referral is recommended but not followed through on the patient will likely very quickly reverse course and may reappear at an inconvenient time. But this is still within appropriate standards for patient management. A third possibility is to perform the work in the general dentist's office. Very likely the patient would agree, but there is a possibility that patient with a poor pattern of care seeking would not follow up in a timely fashion if relieved of immediate pain. If the dentist does the work while the patient would have preferred to see a specialist, the patient will likely say nothing but may resent the appearance of the dentist trying to retain all billable treatments. Of course, if the case goes poorly, even for unforeseen reasons, the patient will be upset. Assume that the dentist ranks the four outcomes as shown below, where the dentist's priorities are the first numbers in each cell and 4 is the most desired outcome and 1 is the least. The dentist's list could be made much longer, but there is no need for that as additional items would have very little chance of changing the rankings.

		Specialist	
		Yes	No
Generalist	Yes	[3 3]	[1 2]
	No	[4 4]	[2 1]

The dentist will also make some assumptions about how the patient will see the case. One appointment with the specialist seems like the obvious most preferred future. Declining treatment while in the chair (for some imagined reason) would be a very poor outcomes and should be labeled 1 for last choice. Declining the appointment by the specialist would also be awful, but a bit less publically so. The second-best solution would be the two appointment path but part of the work being done by a known professional but perhaps with a bit less general credibility in the field. The ranks for the patient are shown on the right in each cell in table above.

Tables like the one above can be submitted to formal analysis and will always identify the best mutual outcome. It is clear, however, that this is a win-win situation and an afternoon one-visit appointment with the specialist is the most ethical course of action. All of this will most likely be obvious to both the dentist and the patient at a glance. This is an ethical situation that resolves itself quickly and naturally. Dentists probably engage in hundreds of such cases in a day at the office. It is win-win, and most of dental practice is. No recourse to rational cogitation on principles is necessary. Because most of dentistry is like this, we undervalue the strong ethical pattern of dentistry. Sometimes ethical dilemmas are manufactured for the sake of analysis or exaggerate them to support an ethics of judgment.

Moral Outcomes

Academic ethicists will point out that the difference between the ethics of justification and the ethics of engagement is the difference between content theories of ethics and process theories. The normative approaches focus on where we should be going. They are usually silent of how one goes about getting there or even whether there is any energy behind movement in the right direction. They are a set of various finish lines one might select to aim for. Process theories emphasize the actions that are most appropriate. These tend to be "best" alternative approaches rather requirements for perfection. The logic is that those communities that generally and consistently act to promote mutual benefits will gradually thrive, usually more than those communities that debate what would be ideal to achieve without engaging in the behavior that brings it about. This is known as meliorism – the faith that working together ethically will bring about a better world.

Morality or the ethics of engagement will have the following effects:

- There will always be an identifiable best (but not necessarily perfect) outcome in ethical situations that both agents can agree to
- There is no need for enforcement costs in morality
- Communities that practice the ethics of engagement will thrive to a greater extent than those that use other approaches

Whereas Kenneth Arrow received a Nobel Prize for proving that the ethics of justification structured as a principles approach to the social welfare problem will always be indeterminate, John Nash receive a Nobel Prize for proving that the two-agent, two alternative framing of the ethics of engagement just described will always produce a solution [Nash JF. Non-cooperative games. *Annals of Mathematics,* 1951, 54, 286-295]. (Sometimes there are three solutions, two good ones and a weak contender, and sometimes there is only a rule for randomly varying approaches in a predetermined ratio, but those are the exceptions.) The Nash criterion for an optimal solution is a pair of actions that neither agent would want to have otherwise. This does not mean that participants in ethical engagements get everything they want, just that they see that thy are not entitle to expect anything better.

It also does not mean that two agents cannot go over to the side and cut a private deal that damages the community as a whole. A dentist and an unqualified employee may agree to improper delegation. That is why two-by-two ethical engagements are nested. A bad actor in the eyes of the profession may have reached an agreement with the public (often through misleading the public) that colleagues consider objectionable. Whether anything comes of this will depend on how the ethical part of the profession, as one agent with the options of engagement or looking the other way, chooses to engage with the deviate dentist (correcting bad practice or hiding it). Multiple levels of nesting are typical in a profession such as dentistry, but the "rules of engagement" are the same all the way up, and each

interaction and all potential but ignored interactions are moral encounters. In every situation, across levels and regardless of whether framed as conscious ethical issues, the ethics of engagement permeated the profession. There is always at least one right things to do in every case and several poor choices. And the right thing does not depend on the interpretation or personal preferences of individuals or groups and can be unambiguously identified.

That is a very powerful claim, certainly much stronger than the claims made on behalf of principlism or complaining about the ethics of others with an expectation of something good coming from that.

Because the ethics of engagement comes to rest when neither agent has any reason to want to make changes, it is self-enforcing. There is no need for regulations, inspections, external review, or sanctions when parties to the arrangement have no incentive to change the pattern of interaction. Even when this does not carry completely into practice – as when circumstances change or one or both parties come to believe they have been misled, all approximations can be regarded as saving cost and increasing trust. A predictable consequence of winning a confrontation in a fashion the other party feels badly about is that he or she will be always on the lookout for ways to even the score. That will be true regardless of how justified the winner's actions are in his or her mind. Sometimes the cost of maintaining a victory can be large and long-lasting, eating up all the prize. The existence of rules and the need for enforcers is prima facie evidence that the community harbors unethical practices.

The ethics of engagement does not dictate specific behavior. Two individuals facing identical circumstances may nevertheless settle on different behavior, but both are ethical. One may be seeking to provide high-end care to patients who can afford and appreciate it; the other is providing the best care possible for those who otherwise would do without. One argues for an investment in a program that might strength the profession and a colleague resists on grounds of fiscal conservativism. There are many ways of being moral. This is not ethical relativism; each must be as ethical as possible given the circumstances they find themselves in. Naturally that will be strange to those who expect to impose a universal standard (their own) on everybody.

It may appear to some that the ethics of justification provides more secure anchors for desirable behavior. It is rife with relativism that is only mollified by taking this personal perspective or that. By contrast, the ethics of engagement offers a number of firm rules for calling out ethical absolutes, admittedly absolutes about how to act ethically and not absolutes bout descriptions of what it means to be moral.

The expression "put patients' interests first" is puffery, meaning it sounds nice but is not intended to be taken literally~~nonsense~~. It is a cliché that puts the lie to paternalism. If the injunction means "always," professionals routinely violate this rule. If the injunction means "sometimes," it is weasel word, open to qualification on unrevealed grounds.~~we mean put the patients' interests first only when that is the right thing to do," we have opened the door far to wide to be of p ractical value.~~ In medicine, this is often interpreted to mean the patient should be favored over outside parties, such as insurance carriers. Patients have a considerable interest in reducing the cost of dental care. This is the primary reason for not seeking care – by more than twice the intensity of the second most commonly cited reason (no need) [ref]. If putting the patients' interests first were universally implemented, dentists would reduce their fees dramatically. So putting patients' interests first is a qualified motto, roughly equivalent to sometimes do so if other motives are not compromised.

This may appear to be a slap at the profession for being hypocritical. Not so: this is the reality of the ethics of engagement. Putting the patients' interests first is too simple a rule. It leaves out the dentist and the entire oral health profession and context. There are legitimate interests of multiple parties that must be harmonized to enhance oral health. If patients are denied agency and forced to accept what is best for others, the system will crumble. The same is true for dentists. There legitimate interests matter equally. And for forth for benefits carriers, politicians and public policy groups, and others with a stake in oral health care. The principles to be optimized cannot be tailored to a single party. Moral solutions require the application of methods that honor the needs of all parties. Neither the ethics of judgment nor the ethics of justification can accomplish this. Only the ethics of engagement provides a mechanism for working this out. And it does so in every case.

It would automatically be unethical to

- Leave others with only the worst of all alternatives; second worst is always possible
- force others to act against their self-interest if or to the extent that that was unnecessary
- fail to recognize others as having a free choice in their future.
- make ethical decisions that were not grounded in an honest understanding of one's own motives and values and the best understanding possible of other's motives and values.
- attempt to extract a penalty from others in a win-win situation
- settle for any resolution that one party would have a strong interest in resisting or changing

<u>The Biological Basis for Morality</u>

The ethics of engagement is built on two features that distinguish *Homo sapiens*. We are the preeminent social animal. Morality should tilt human interactions in the social direction. The days of the hermits of the desert earning their way into heaven by turning their backs on their fellows have long past. It can be demonstrated that communities that use the ethics of engagement enjoy a higher level of general personal thriving than that who avoid interactions or base their interactions on principles [Chambers DW. *Building the moral community: Radical naturalism and emergence*. Lanham, MD: Lexington Books, 2016]. It is also the case that this approach performs better in the long run than self-interest, cheating, reneging, coercion, or contempt [Chambers DW. *Building the moral community: Radical naturalism and emergence*. Lanham, MD: Lexington Books, 2016]. Morality is self-correcting and self-optimizing.

Morality is dynamic. On reflection, it is obvious that norms change. Slavery was once accepted on principle; the role of women is changing. The good doctor who oversaw palliative care in the hopeless face of most diseases would now be regarded was engaging in malpractice. An ethical code that is fixed or one that requires constant outlays of attention to maintain sounds as though part of humanity has moved beyond those who achieved power and put in place norms to protect their position.

Just as the ethics of judgment and the ethics of justification develop at different times and are controlled by different centers in the brain, the ethics of engagement continues this pattern. The last region of the brain to myelinated is the right temporoparietal junction [Bzdok D, Schilbach L, Vogeley K, Schneider K, Laird AR, Langner R, Eickhoff SB. Parsing the neural correlates of moral cognition: ALE meta-analysis on morality, theory of mind, and empathy. *Brain Structure and Function,* 2012, 217, 783-796; Decety J, Lamm C. The role of the right temporoparietal junction in social interaction: How low level computational processes contribute to meta-cognition. *The Neuroscientist,* 2007, 3, 580-593; Koster-

Hale J, Saxe R, Dungan J, Young LL. Decoding moral judgments from neural representations of intentions. *Proceedings of the National Academy of Sciences, USA,* 2013, 110, 5648-5653]. Located in the very center of the cortex, it is uniquely connected with hot lines to virtually all of the brain. The prefrontal cortex given humans the capacity to project how others feel. The temporoparietal junction gives then the capacity to project how others, acting as uncoerced agents, might affect them. This new capability is necessary for morality as it completes the two-way calculus of the ethics of engagement. This brain region becomes fully active at about age 16, the age of legal adulthood and moral responsibility in most cultures. In a few individuals, more often males than females, the development is interrupted and we witness schizophrenia, sociopathic behavior, and other social-ethical dysfunctions.

The Ethics of Leadership

The fourth level of ethics involves building capacity in a community for continuous moral progress. From the time of Plato's speculations in *The Republic* that we would be better off if a few people make the ethical decisions and used a gang of enforcers and that the ethical tone of a community could be gauged by counting the number of individuals conformed, Western society has been focused on training individuals to be ethical. Normally, this is to be accomplished by the combination of exhortation, training in ethical theory, and isolating as many bad actors as we have been willing to trouble ourselves to correct.

There is no overwhelming evidence that human nature has been improved on this plan or even that the average of humans is more ethical than was previously the case. Most improvements, such as the less frequent use of torture, increased personal freedom, diminution of slavers (but slowly for women), and concern over the least fortunate among us have been the work of groups and organizations. Better associations among humans, better relationships, has helped.

The fourth level of ethics is the ethical community. And such communities are built by leaders who go beyond their own behavior to grow capacity in the community for increasingly high standards of morality.

This is ethical leadership or moral community building, and is largely the subject of the remainder of this book.