The Ethics Teaching Case

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Discussions centered around the description of problematic incidents are an important teaching tool in professional ethics. They engage learners and provide a break from didactic approaches that can seem "preachy" when talking about what people should and should not do. In dentistry, these are customarily called dilemmas to emphasize the point that more than one point of view will be justifiable and that a single, completely satisfactory path forward is not expected.

This paper will discuss how teaching cases function as a method for promoting reflective ethical practice and contrast the cases used in four professions: dentistry, journalism, business, and nursing. Perhaps the types of issues taken up in teaching cases can reveal something of interest about how the professions regard the tough choices its members have to make.

Using Teaching Cases to Build Reflective Practice

Teaching cases, whether in ethics, diagnosis, treatment planning, or other aspects of dentistry, are opportunities to reflect on situations where someone in authority is signaling that a natural response might not be best and multiple justifiable alternative could be in play. Reflecting on several such cases is offered as training for the general skill of making better ethical decisions.

How cases teaching is structured

Short descriptions, usually written and ranging from 25 words to three pages, describe the details of an actual or hypothetical situation. Participants are invited to assume the role of a clearly identified individual in the case ("Dr. Soandso just examined Mr. Challenge . . .") or to discuss generally a topic from a particular description ("Your benefits carrier just announced a change in documentation requirements for all dentists in the state . . .). Learners are invited to discuss the case in small groups, with varying degree of teacher guidance and participation. Cases are chosen so that each of the most plausible actions involve both happy outcomes and disappointing consequences, for both the actor and those he or she interacts with. The goal is to find the course of action or policy that minimizes the moral regret, the ethical dis-ease in a situation that has been crafted to be problematic. Much of the work in analyzing the case is imagining particulars that fill out the brief description, uncovering implications, and linking preferred alternatives to justifications. Usually, there is no attempt to reach a consensus on a course of action or a single justification that all participants will be expected to accept. Varying degrees of participation among participants is accepted.

Cases can also be used to teach by example or as illustrations the points a presenter is trying to make in a predominantly lecture format. Particulars of situations that went conspicuously wrong are commented on and learners are invited to feel good about not behaved so badly themselves. Usually these are in the public domain, such as Dr. David Acer, who intentionally infected patients with the HIV virus, or Dr. Douglas Harrington, whose practice drew national media coverage for its awful infection control practices, or records of disciplinary action taken by state boards. All of these are public records and can be found on the internet. James Rule and Mickey Bebeau's wonderful collection of biographies and analyses of great dentists is perhaps the only collection of exemplary cases [Rule JT, Bebeau MJ (2005). *Dentists Who Care: Inspiring Stories of Professional Commitment*. Chicago, IL: Quintessence].

Cases can be studied by individuals alone, but that is rare. The function of a case is not to learn that someone had a problem or that an expert commented on it in a certain fashion. Cases are usually discussed in small groups in order to maximize the likelihood that differences of interpretation and different value profiles will emerge.

How cases teach reflection-in-practice

Donald Schön's research on how professionals learn to solve problems is relevant here [Schön DA (1987). *Educating the Reflective Practitioner*. San Francisco, CA: Jossey-Bass]. When faced with the need to take an action where the previously learned and habitual responses look as though they will not be satisfactory, the professional begins to reframe the problem using intellectual and actual tools particular to one's profession. The patient complains of pain in a tooth that shows no obvious signs of trauma. Problem solving is needed and will include considering several alternatives such as referred pain. Physical tests will be performed. Based on the results, new hypotheses will emerge. The process of reframing continues until it is unlikely that any further adjustments in framing are likely to be better . . . then action is taken. When processes such as this are repeated in a particular domain, the professional learns reflective skills. Case work in ethics is based on this model and is intended to teach reflection-in-practice.

In the academic setting, most cases are "given." Learners do not sense or discover that an ethical problem exists as part of their natural lives. They are told explicitly that some hypothetical person has a problem or that some actual person had a problem and it is strongly implied that reframing is expected or at least that the next few minutes will be devoted to those who wish to engage in this process. The artificiality of case learning is magnified by confining case work to prior announced times, locations, and attendance, and by instructors establishing context, even to the extent of giving a brief introduction to the topic heading, say nonmaleficence, before inviting discussion.

The size of the group working on a case is critical. When multiple participants share their perspectives, it is more likely that alternative interpretations of the situation, insight into how actions will affect others, and ways of justifying a chosen action will emerge. That is useful input for constructive reframing. The optimal size for case discussion is about four to six. A highly skilled facilitator may be able to add one or two more to the group.

Above half a dozen individuals discussing a hypothetical case, the definition of the task shifts from individuals trying out various constructions on the problem in the context of their friends to an artificial and academic task. When the group is too large for equal, open exchange of ideas, some simply become spectators. They reflect on what others are saying; not on how they would frame the matter. When the facilitator can no longer maintain active participation and begins inserting content, the process becomes academic and only a few students participate in the "guess what word the instructor wants us to say" game. [Doyle M, Straus D (1976). *How to Make Meetings Work*. New York, NY: Jove Books, Chapter 6: "How to be a good facilitator"].

There are two goals in a clinical case consultation involving a dental student, a faculty member, and one or more specialists: (a) what should be done for the patient's good and (b) what can be learned by the student about how to reflect on such situations. In ethics cases, only the latter is at stake. The cases are hypothetical, or if real concern past events. They are also simulations or incomplete descriptions of situations. Anyone who has observed case discussions will quickly be struck by how easily participants

can come to different interpretations based on plausible fabrication of missing details. Such suppositions occur in real life, but actual context is more concrete, and the assumptions can more easily be verified.

It would not be exactly right to say that cases are useful for teaching ethical principles. Overtreatment is wrong, so is fraud, and no ethics course should place that on the table for debate. Beneficence is always good, and no dental school ethics course has ever tried to prove or disprove that point. What cases are useful for is helping students recognize which are examples of principles held by the profession and which are not and how to navigate the nuances of interpretation in particular instances. The "Ethical Moment" column in the *Journal of the American Dental Association*, that has been published almost monthly since 2004, has never changes the five guiding ethical touchstones or considered that there may be others. It is always about whether specific behavior fits each principle.

This is known in classical moral philosophy as the ethical syllogism [MacIntyre A (1988), *Whose Justice? Which Rationality?* Notre Dame, IN: University of Notre Dame Press]. Ethical principles are givens, or at least not to be questioned in the current context. These are the major premise of the syllogism. The minor premise introduces the particulars and the circumstances. The conclusion connects the particular action with the moral character of the principle. Lying to a patient is unethical (major premise); failing to tell a patient in situations such as this about all the effective treatments available is a form of lying (minor premise). Therefore, failure to inform the patient is unethical (conclusion). The ADA Code contains three levels. The five principles in the Code of Ethics are the major premises. The 28 Standards of Professional Conduct and the 27 Advisory Opinions are examples of minor premises. Teaching ethics by means of cases is excellent practice for students in learning to transition between general ethical norms and particular classes of application. It should be constantly held in mind, however, that norms are not created or challenged in this exercise; only their application is, and that is an open-ended and continual process. It is also the case that minor premises can never be an exhaustive list. A dentist can conform with every Standard of Professional Conduct in the ADA Code and still be unethical. Although billing differentials are mentioned in relationship to coverage plans, there is no prohibition in the ADA Code against overbilling generally. Nor is collusion among dentists or corporations to corner a geographic market to drive up prices mentioned.

For some, there is an alternative secondary goal in using the case method with discussion in addition to building the capacity to think about complex hypothetical ethical situations that have been pointed out. Group discussion affords an opportunity for students to learn and use language that justifies their ethical intentions. Overtreatment is wrong. There is no particular reason to know which ethical principle is relevant in this case to refrain from engaging in overtreatment. It is handy, however, to have some facility with ethics language to discuss this and to be able in public settings to connect good and bad types of behavior with commonly used names.

Is "naming that principle" enough?

When the justifying business overshadows doing the right thing the case method begins to wonder from its original goal. Too often, case discussions become an opportunity for faculty members or outside "experts" to demonstrate their insight. It is also not uncommon for a few students who are skilled verbally and politically to practice their polemic skills. When there are two or more such students in a group, others drop out, but the conversation goes on until each has sufficiently demonstrated his or her fluency in talking about the hypothetical. Then it is agreed that "there are legitimate professional differences."

Sometimes cases are exercises in identifying particular circumstances that excuse professionals from their obligation to follow the spirit of general norms. When one hears students and faculty talk about ethical issues in the locker room or around the edges of committee meetings, the conversations are usually of a different nature. Discussion of actual ethical incidents tents to be brief, indirect, and tentative. Sometimes a principle is mentioned, but that most often is a single-word sentence.

A nursing study on teaching with the case method illustrates this point [Hofling CK, Brotzman E, Dalrymple S, Graves N, Pierce CM (1966). An experimental study in nurse-physician relationships. *Journal of Nervous and Mental Disease*, 143, 171-180]. A case was discussed in class where student nurses were asked what they would do: The doctor ordered a 20 mg dose of a drug for a patient in a psychiatric ward. As described in the case, when the nurse went to the dispensary, she read the directions that 5 mg was the recommended dose, but 10 was the maximum that should be administered. Eighty percent of the nursing students said, after discussion, that they would refuse to administer the ordered dose. At the same time, in the hospital where these students did their rotations, the exact experiment was being conducted (with a placebo drug). Five percent actually refused the order.

Joshua Greene reviews the evidence that moral decisions are usually made within milliseconds of recognizing a problematic situation. It is unusual to engage in conscious reflection, and that most often happens when it is really apparent that the old ways may come up short or when we are forced into an artificial role-playing format. [Green J (2013). *Moral Tribes: Emotion, Reason, and the Gap Between Us and Them*. New York, NY: Penguin Books; see also Haidt J (2012). *The Righteous Mind: Why Good People Are Divided by Politics and Religion*. New York, NY: Vintage Books]. In some cases, we engage in an extended rational reflection on cases that are complex or interesting, including some that we have never actually encountered or which make no practical difference to anyone we know. Preparing an ethics lecture would be such a situation. Reflection is a separate activity from behaving in natural settings.

Ethics teaching with cases assumes these two conditions of reflection and choice of action are built into the task, but such structure is normally lacking in ordinary life. There is the potential in ethics teaching that reflective practice will help form our more autonomous moral habits. But the amount of ethical reflection required to shape reliable, serviceable moral habits is probably more than a few cases. There is no evidence that working through ethics cases makes a profession more ethical, other than by other measures of simulated (classroom) outcomes [Bebeau MJ (2006). Designing an outcome-based ethics curriculum for professional education: strategies and evidence of effectiveness. *Journal of Moral Education*, 35, 313-326].

Are All Professionals Ethical in the Same Way?

As part of the American College of Dentists Gies Ethics project, surveys were sent to deans of 62 dental schools in 2015 asking them to identify the individual responsible for teaching ethics in their schools. Ten were not able to identify such a person. Fifty-seven individuals who identified as being responsible for the ethics program in dental schools completed a survey, and phone interviews were also conducted with 14 of these. The overall results are reported separately. The basic findings relative to use of case teaching are as follows: Courses in ethics have an average number of 22.8 hours, 39% of which are conducted in small group format. Thus most of ethics instruction is in the one-to-many format. The small group format may mean that a one-to-many interaction is repeated in blocks. There may also be a variety of small-group activities such as skits or group projects. Respondents reported discussing an average of 24.6 cases, one-quarter of the cases involved activities in the dental school in one-quarter of

the instances and that 75% of cases covered activities in practice after graduation. Cases could have been discussed in small groups or used in a lecture format to illustrate the presenter's points.

Sources of Professional Ethics Cases

Many faculty members who teach ethics have developed their own set of cases. The most widely used collections of ethics cases are those contained in *Dental Ethics at Chairside* by David Ozar and David Sokol (with a third edition just released and available online through the American College of Dentists), *Ethical Questions in Dentistry* by Jim Rule and Robert Veatch, and the material available from the American College of Dentists at dentalethics.org. There are books on dental law and ethics by Lambden; Graskemper; Weinstein; Frey and Nichols; and Brennan, Oliver, Harvey, and Jones. There are also four texts containing cases for dental hygienists.

The standard format for such texts is to cover principles and theories of bioethics and follow with cases and expert analysis of the cases. The exception is the cases developed for use by the American College of Dentists. These are available in both text and video format and feature normative feedback from both practicing dentists and from patients rather than expert analysis. A set of cases was developed by Dr. Tom Hasegawa in the 1970s that appeared in the *Texas Dental Journal*. These cases focused on which treatment might be most appropriate clinically and featured the innovation of publishing the case in one issue of the journal, followed by selected reader responses in subsequent issues. These are available at the American College of Dentists' web site. Since 2004, the American Dental Association Counsel of Ethics, Bylaws and Judicial Affairs has published a regular "Ethical Moment" column in the *Journal of the American Dental Association* using a format of a fictitious case that is analyzed in terms of the ADA Code. Other dental journals, most notably the *Journal of the American College of Dentists* and the Academy of General Dentistry *Impact*, publish cases on an occasional basis.

Beginning with the assumption that the experts who write the books on professional ethics have an educated opinion about the nature of the problems professionals face, it would make sense to study case material to characterize the challenges professionals face. It may be the case that dentists are engaged in a different set of ethical challenges than are other professionals, or at least that the problems that confront them are managed in a different context. This hypothesis was suggested by the chance review of ethics case text in several cognate disciplines.

This hypothesis was tested by analyzing the nature of ethics cases in nursing, business, and journalism, as well as in dentistry. The following sources were compared:

- Rule JT, Veatch RM (2004) *Ethical Questions in Dentistry* (2nd ed). Chicago, IL: Quintessence. [88 cases]
- Ozar DT, Sokol DJ (1994) *Dental Ethics at Chairside: Professional Principles and Practical Applications* (2nd ed). Washington, DC. Georgetown University Press. [15 cases]
- Patterson P, Wilkens L (2014). *Media Ethics: Issues and Issues* (8th ed). New York, NY: McGraw Hill. [61 cases]
- Lewis PV (2014). *Ethics in the World of Business*. Dubuque, IA: Kendall Hunt [47 cases]
- Fry ST, Veatch RM, Taylor C. (2011). *Cases Studies in Nursing Ethics*. (4th ed). Sudbury, MA: Jones & Bartlett Learning [148 cases]

All 358 cases were read and notes were taken. In the various texts studied, cases were grouped into sections based on topic. For example, dental cases were organized by type of challenge (such

compromised patients and dentistry as a business, including honesty and third-party financing). The issues addressed in media included conflicting alliances and mass media in a democratic society. This was similar to the type of organization in business case texts, which looked at corporate social responsibility and leadership, for example. Nursing was organized around the seven principles in their code, but other topics included abortion, control of human behavior, death and dying, and the ethics of human research. No attempt was made in this study to classify the cases by topic since the domains covered across these professions differed so greatly.

Instead, four code categories were developed that reflected the context of the cases and the role the professional was supposed to take. The four coding categories are shown below:

- **Type**: 1 = legitimate conflict (more than one position could be ethically defended), 2 = clearly negative example intended as a warning, 3 = clearly positive example intended as an encouragement
- **Source**: 1 = hypothetical, but with considerable level of imagined detail, 2 = real, description of a situation that has actually taken place
- **Role**: 1 = case reader is expected to take the part of one person described in the case and to choose an action, 2 = discussion, how does one feel about these issues in general
- **Authority**: 1 = reader assumes they have freedom of action and that others will be the beneficiary, or victim, of their actions, 2 = interactions with others of equal power and ethical status, 3 = participate as part of a group process.

Results

Cases were coded three times over a two-month period. The Cronbach alphas for the four scales were Type = 0.967, Source = 0.927, Role = 0.957, and Authority = 0.935. Where differences occurred, the code most frequently given was used in subsequent analysis.

Contingency tables were prepared for each of the scales, crossing profession with scale categories. This reveals that there were few cases coded as positive or negative examples, so these two categories were combined. Similarly, there were relatively few examples of peer and group authority, so these two categories were combined. Finally, the pattern of the two dental case sets was similar, so these were combined into a single professional category.

The table below shows that there were large differences across professions in the context of ethical issues featured in texts on this subject.

	Type=Unclear	Source=hypoth	Role=act	Authority= self
Dentistry	0.833 (0.400) [b]	0.889 (0.312) [a]	0.794 (0.406) [a]	0.529 (0.502) [a]
Journalism	0.885 (0.321) [b]	0.475 (0.504) [b]	0.393 (0.493) [c]	0.328 (0.473) [c]
Business	0.383 (0.491) [c]	0.127 (0.337) [c]	0.617 (0.491) [b]	0.255 (0.441) [c]
Nursing	0.987 (0.116) [a]	0.919 (0.274) [a]	0.351 (0.479) [d]	0.399 (0.491) [b]

The proportion of cases having the characteristic identified in the column heading is shown here, with standard deviations in parentheses. The cases considered by the professions differed significantly on all four characteristics, one-way ANOVA tests all exceeding p-values less than .001. The superscripted letters beside the scores reflect post hoc tests using the Scheffé and Duncan multiple-range tests at p = 0.05. Professions with the same superscripted letters belong to the same groups. For example, most

dental cases (53%) described situations where the dentist was free to act on his or her own. That was so in 40% of the nursing cases, a statistically significantly small proposition. A third group included journalism and business cases where individuals were expected to act as part of an organization or where the organization was judged to be the moral agent. Because both groups share a common superscript they cannot be distinguished from each other in this respect.

Cases felt to be representative of the issues facing dentists were challenges (rather than examples of desirable or undesirable behavior) that were hypothetical and required the dentist to engage in behavior that he or she had full authority to initiate. The summaries of the two cases below illustrate this type of case. Thirty-seven percent of the case fit this pattern exactly.

- *Should Dr. X adjust the case presentation to Ms. Y to make it more likely that she will select the treatment the dentist feels is best for her?*
- *Should Dr. X treat patients differently if they seem to disregard their own oral health and show indications that they may not follow through on care or payment?*

Journalism cases were also challenges needing to be worked through, but they were more apt to be realistic examples rather than hypothetical, constructed cases, and they more often invited general discussion rather than independent action. Those in the media can readily become part of the public debate about how Americans choose to live. Thirty-three percent of the cases exactly matched this model format.

- *Is it right for for-profit organizations to sponsor charity events in order to get free press coverage?*
- *What does the reader think of an organization that seeks to suppress publically available information that is not favorable to it or its sponsors?*

The business cases were particular and exemplary of what might be considered good or bad practice. Future business people were invited to consider the issues from the perspective of an active participant, but they were made aware that they could seldom act independently. Only 17% of the cases fit this typical pattern, however, and there was considerable variation in the types of cases offered.

- *A named firm engaged in selling a defective product to consumers and readers were asked to reflect on how they might have acted differently had they been part of that firm.*
- *How would the reader fit into a company that enjoys a reputation for having a culture that grows people?*

The nursing cases had yet a fourth distinct fingerprint. The cases were clearly selected to represent hypothetical issues that combined both positive and negative aspects with unclear paths. But unlike the cases faced by dentists, nurses seldom found themselves in positions where they could act on their own authority and were usually invited to reflect on the issues generally. This was a dominant template, with 42% of cases fitting this model.

- *What does the reader think when observing patients being treated in a fashion they are uncertain is right?*
- *The hospital is considering making staffing changes that might affect the quality of care to patients in order to save money. What do you think of that?*

Reflections

Ethics might not mean the same thing across the professions, or at least those asked to think about what it means to be an ethical professional are being asked to approach ethical reflection using different lenses. The differences flow from the relative power and independence of the actors in various professions. Business cases have a long tradition of being concrete and of teaching students to work through a complex set of facts that cannot be changed and lead to good or bad outcomes, usually involving multiple decision makers and a large number of impacted individuals. Often business teaching cases contain many pages of detail about a specific firm where we know what eventually happened, and groups of students work on the cases for a term and present their critique as a group report. Journalism is similar, although many of the outcomes involve open questions about political or philosophical standards over which the public and the industry continue to wrestle. Journalism students are invited to think about how their work affects the values of society rather than the conditions of one person at a time.

The health professions were distinct in this dataset in that readers were urged to consider situations that they had the power to make "right" or "wrong," or at least to argue for their point. Dentists and nurses function in relatively closed systems and information about what they do is protected by confidentiality standards, the inability to the public to understand what is being done, and other barriers to scrutiny. The difference between dentists and nurses was largely a matter of power within the organization. Nurses were confronted in these cases with a background issue of "distancing" or managing moral distress where, as a condition for their continued employment, they were required to engage in behavior they considered questionable. They often can have well developed ethical views but not be free to act on them. The same would be true for staff and associate or employee dentists.

The health professions cases were also the ones dominated by hypotheticals. The cases were rich in detail but still open to personal interpretation. Because the dental cases were overwhelming hypothetical, readers had the opportunity to insert personal interpretations that supported self-justified action. Only dentistry describes its ethics teaching cases as "dilemmas." A lemma is a previously worked out small proof that can be applied in various situations. "People must have freedom of action to be responsible," "people should not be allowed to make choices that are not in their interests," and "people should be responsible for their own health" are lemmas. Often ethical arguments are shortened by invoking a lemma that justifies the chosen position of the speaker. When there is more than one lemma in a situation, it is a dilemma and there is a prima facie justification for any action taken [Beauchamp TL, Childress JF (2009). *Principles of Biomedical Ethics* (6th ed). New York, NY: Oxford University Press; Gert B (1998). *Morality: Its Nature and Justification*. New York, NY: Oxford University Press]. By announcing in advance that ethics cases in dentistry are dilemmas, it is being suggested that dentists can be ethical despite following diverse actions. Certainly, the fact that dentists practice in contexts where neither peer nor superior nor the public in general look over their shoulders is consistent with the type of cases used in ethics education.

In these respects, dentistry may play the ethics game by slightly different rules than do other professions.