Acknowledgments

This booklet of cases with facilitator notes and criterion checklists were developed at the University of Minnesota over a twenty-five year period to help dental educators provide instruction to enhance students’ ability to develop well-reasoned responses to the kinds of ethical problems that are likely to arise in the practice of dentistry. Initial work on the project was supported by a grant to the author from the American Fund for Dental Health. The cases, facilitator notes, and criterion checklists have been revised and refined based upon comments from the various faculty and students who have participated in the course since it was designed. The majority of cases were developed to reflect issues and concerns dental students encountered during their professional education; some cases described to me by practicing dentists reflect broader social issues facing the profession. All cases have been extensively tested to assure that the issues they raise are issues of concern for entering students.

Our criterion checklists emerged from discussions between myself and a philosopher colleague (Mary Ellen Waithe) who, in the early years of the program, assisted me with the evaluation of students’ arguments, presentation of constructive feedback, and the assignment of course grades. We discovered that we could achieve good interrater reliability provided we had first achieved general consensus on the issues, affected parties, consequences, and issues raised by the cases. Subsequently, facilitator notes were developed and refined based upon the comments of numerous dental faculty who led the small group discussions and relied on the facilitator notes to guide student discussions. Whereas many dental faculty participated, I am particularly indebted to Dr. James Gambucci, Dr. Paul Jardine, Dr. Thomas Larson, Dr. Les Martens, Dr. Riley Nelson, Dr. Gene Nystrom, Dr. Robert Ophaug, Dr. Heddie Sedano, and Dr. Stephen Shuman for their long-standing support of the course and their comments which refined the materials. Further, as the course was refined over the years, several philosophy graduate students (Andrew Burnett, Deepanwita Dasgupta, Josephine Johnston, Susan Parry, Andrea Nicki, Kathryn Plaisance, Jessica Slind, and Stephanie Walters) assisted with scoring essays and giving feedback to students, as well as assisting me with the design and refinement of cases to be used for a final exam. Finally, my appreciation to Dr. Marilyn Lantz of the University of Michigan, who not only adopted and adapted many of the cases and procedures to the ethics curriculum she directed, but urged the wider distribution of this book of cases through the American Society of Dental Ethics workshops presented at American Dental Education Association meetings.
Teaching and Assessment Materials for a Course Designed to Facilitate the Development of Moral Reasoning and Judgment
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1. Introducing the Dilemma Discussion Technique

Developing a Well-Reasoned Response to a Moral Problem in Professional Ethics.
Muriel J. Bebeau, PhD, University of Minnesota
This reading is designed to introduce students to the instructional strategies to be used in the course. It introduces the general topic, describes a teaching strategy that is used in the course, and helps students think about the criteria we all use to make judgments about the adequacy of a response to the moral problems presented in the cases.

Sample Analysis
This handout presents a very simple dilemma. It can be used to illustrate the analysis of an ethical problem.

The Don Glidden Case
This Sample Case and Analysis can be used as a practice activity to introduce students to the dilemma discussion technique. There are sample responses from Ellen and Todd (written before [Side 1] and after [Side 2] the discussion) that illustrate how the instructor used the scoring guide to evaluate the students’ responses and to give feedback. The directions for scoring include the instructor notes that list and discuss the various Issues, Affected Parties, Consequences, and Duties that arise in the case. The checklist shows how the instructor might reflect on what Ellen and Todd addressed in their responses and make a judgment about the quality of the argument each offered in support of their position on the Glidden Case.

2. Teaching Cases

The Mark Davison Case
The Case
The Facilitator Notes
The Criterion Checklist

The Martin Sladick Case
The Case
The Facilitator Notes
The Criterion Checklist

The Janet Landry Case
The Case
The Facilitator Notes
The Criterion Checklist
The Jerry Lange Case
The Case
The Facilitator Notes
The Criterion Checklist

The Dr. Lester Case
The Case
The Facilitator Notes
The Criterion Checklist

The Marilyn Anderson Case
The Case
The Facilitator Notes
The Criterion Checklist

The Dr. Carlson Case
The Case
The Facilitator Notes
The Criterion Checklist

The Jeremy Lee Case
The Case
The Facilitator Notes
The Criterion Checklist

3. Test Cases
A number of cases have been designed to use as a final exam. Two are included in these materials to illustrate how a case can be used to assess student learning.

The First Year Student's Dilemma
The Terry Marshall Case
The Ericson Dilemma
The Hazel Johnson Case
The Dr. Mary Harris Case
The Dental Therapist Dilemma (included)
Dental Pain at Southwest State (included)
DEVELOPING A WELL-REASONED RESPONSE TO A MORAL PROBLEM IN PROFESSIONAL ETHICS

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University of Minnesota

Introduction. Every day you make decisions about what to do. Some decisions are just matters of preference that have no moral implications, like whether you’d rather have a red than green sweater, or whether you’d prefer an apple to an orange. Even technical questions, such as whether to use gold or amalgam to restore a tooth, may be simply matters of preference. However, when the exercise of preference somehow affects the welfare of others, moral questions arise. One of the problems for persons entering a profession, is that they may not recognize when choices about technical matters have moral implications. One purpose of instruction in ethics is to alert future professionals to the technical choices that may have moral implications.

In most cases, when moral questions arise, you don't wonder what you should do. You clearly know what you ought to do—even though you may feel compelling pressures not to follow through and do it. You may question whether you can escape the consequences of not following through, but you don't question what is right. As an educated person, you rely on knowledge of existing laws or even intuition to tell you what to do, without necessarily reflecting on why a given act is right or wrong. As a law-abiding citizen, you recognize that you can be held accountable for your actions and that even ignorance of an existing rule or law does not exempt you from its consequences, should you decide to ignore or break it. For the most part, each of us functions pretty well without giving much thought to the reasons a particular act, such as stealing or cheating, is wrong. Knowing the rules and laws is essential for maintaining a law-oriented society, but reflecting on the reasons for those rules and laws may not be.

However, there are some situations and contexts in which a well-developed ability to reflect on moral issues and to undertake ethical reasoning is crucial. For professionals in health sciences, as well as in other fields, skills of moral reflection are important, perhaps even essential, because new moral problems arise as technology advances, as societal expectations change, and as the various scientific disciplines evolve. Sometimes professionals face moral problems that weren't anticipated by the profession's existing codes of conduct and aren't explicitly stated in laws and/or procedural rules. Yet case law shows that professionals can be held accountable for their decisions. Professionals are expected responsibly and knowledgeably to apply moral principles to arrive at morally defensible positions—even on novel and unprecedented issues.

If we think that the work of a particular profession (like medicine or dentistry) is important and that professionals should be held accountable for actions that affect the welfare of others, ethics courses for these professions train students to reflect on the reasons for their professional conduct. In other words, if professionals are expected to be blame-worthy for their actions, they need to understand the reasons behind their professional conduct so that they can make morally defensible decisions.
of others, we must ask what values and norms undergird the practice of the profession, and by what standards professional practice should be judged. Professions differ in the extent to which they have made explicit the norms and values that govern professional practice. Some professions, such as the practice of law, medicine, dentistry, and psychotherapy have explicit codes of conduct describing how the profession's ideals translate into specific expectations and obligations. It is important to be well versed in one's professional code of ethics, but in addition to knowing the code, professionals need practice in how to apply these expectations and values when formulating a response to the practical, ethical problems that frequently arise in professional practice. Some research indicates that skills of ethical reasoning are a necessary condition for excellence in clinical practice.

For these reasons, our professional school curriculum devotes considerable effort to developing and strengthening skills in ethical reasoning or reflection. In turn, each student's skills are judged on the basis of his or her ability to develop a well-reasoned response to the kinds of moral problems encountered in professional life.

Judging responses to moral problems. How does one decide whether a response is well-reasoned? What criteria apply? Can the adequacy of a response to a moral problem be reliably judged? These are questions of concern to students in an ethics course. Responses can be judged based on these criteria: (A) Whether the response addresses each of the issues and points of ethical conflict presented in the case or problem; (B) Whether each affected party's interests are considered; (C) Whether the consequences of acting are recognized, specifically described (not just generally mentioned), and incorporated into the decision; and (D) Whether each of the duties or obligations of the protagonist* are described and grounded in moral considerations. These are the criteria generally used to evaluate the adequacy of responses to ethical problems. Persons with training in ethical analysis can reliably rate and rank the adequacy of the arguments for a chosen response. The purpose of this paper is to help you understand the criteria for judging the adequacy of moral arguments so you can develop a strong argument in defense of your position on the problem presented to you.

Case discussion. Before saying more about the criteria, let us address the process for a case discussion.

STEP I. In a classroom setting you will be presented with a case study and you will be asked to take a tentative position (e.g., Yes, the protagonist should do something, or No, the protagonist should not do something). In each case, you will focus on the protagonist and tell why (on SIDE 1 of your response form) he or she should or shouldn't do something.

As you read the problem, you may find yourself compiling a mental list of the issues involved, like patient autonomy, collegial interactions, confidentiality, truth telling, and the like. As you describe an issue, try to address the point of conflict that each issue represents, e.g., a conflict of rights between or among affected parties, conflicting obligations of the protagonist to other parties, or conflicting values for the protagonist.

When you develop your response, focus on the reasons the protagonist should or shouldn't do something. Don't just pronounce an act as ethical or unethical; tell why you think so. In considering why an action is acceptable or unacceptable, it may be helpful to consider who is affected by the action, what the consequences of the action might be, what obligations the protagonist might have, and what professional norms and values give rise to those obligations. Note that each problem usually contains two or more issues; try to describe each of them.

* The protagonist is the person who faces a dilemma and is expected to act.
STEP II. Participate in the discussion. During the discussion, you will have an opportunity to hear what others think and learn what additional conflicts, affected parties, consequences, and obligations they have identified. You will also have an opportunity to ask questions of the facilitator. Use this opportunity to expand your understanding of the issues, gain more information, and rethink your initial response to the problem(s) presented by the case.

STEP III. When the discussion is finished, use SIDE 2 of your response form to either strengthen or reformulate your response. At this point, you may change your mind on the position you initially took, if compelling arguments have been made to convince you to do so. You may rewrite or simply refine your argument. **Note:** You need not repeat points made on SIDE 1, and you need not be concerned about errors of fact or reasoning made on SIDE 1, as long as you address the error on SIDE 2. Notice that your response will also be evaluated according to your willingness to reassess your position. Even if you don't change your mind about the correctness of your position, you ought to be able to provide clearer reasons for maintaining that position. Obviously, in some situations, there is little disagreement that one position is more defensible than another, so it would be unlikely that people would disagree on the position itself. Responses are evaluated based on the logical adequacy of the argument, not on whether you picked the "correct position." Remember, however, that one of the marks of a professional is the willingness to change one's mind in the face of compelling reasons. It is not a virtue to "stand one's ground" when the evidence suggests a change of position is warranted.

STEP IV. Turn in your paper for evaluation. Your response will be read by your facilitator and the course director. Specific comments will be made at this point to help you improve your strategy for developing a well-reasoned argument.

STEP V. At the beginning of the next class, you will review the scoring guide for the case and one or two examples evaluated by the course director. Identify any shortcomings in your essay and indicate (in writing) how your essay could be improved. Be prepared to share your insights with a peer or with the facilitator. **Note.** Your reflections on the way your essay could be improved will remain in your portfolio, and these will be helpful when you complete your self-assessment of learning at the end of the course.

**Applying the criteria.** Following are some additional suggestions to help you apply the criteria as you analyze an ethically problematic situation and formulate a reasoned response that meets these criteria.

1. **ISSUES OR POINTS OF CONFLICT.** To provide a convincing ethical analysis, you will want to move beyond naming the issue (e.g., confidentiality, truth telling, etc.) to describing the nature of the moral conflict. What constitutes an ethical conflict? A dilemma, by definition, is a situation in which rights or interests of affected parties conflict. Alternatively, a dilemma can be described as a situation in which the protagonist feels he/she has conflicting obligations. For example, there's a famous hypothetical case called "Heinz and the Drug." The scenario is this:

   Heinz's wife is dying. A cure is available from a druggist in Heinz's town, who is the one who discovered the drug, but the druggist charges much more for the drug than it costs him to make it, and much more than Heinz can afford to pay. Heinz can't raise the money and the druggist will not agree to let him pay later.

   The dilemma is whether Heinz (the protagonist) should steal the drug to save his wife's life. One issue in this case has to do with property—whether the druggist's right to his property should be respected; another has to do with life—whether Heinz is obligated to act to preserve his wife's life. When we examine the case in terms of conflicting rights, Heinz's wife's right to her life
is in conflict with the druggist's right to his property. Heinz tried to resolve the problem without compromising either the druggist's or his wife's rights and was unsuccessful. He exhausted his ability to resolve the problem and is considering which of his conflicting obligations (to save his wife's life or to respect the druggist's property) should take precedence.

Real life dilemmas often present choices between equally unfavorable or disagreeable alternatives. Consider the case of the researcher considering data enhancement of preliminary findings to assure continued funding for his research lab. He sees a conflict between his obligation to report his data honestly and his obligation to secure enough funds to keep his lab technicians employed. You might reason that honesty is a more important consideration than maintaining jobs for lab technicians, but such practical considerations can influence professional judgment.

Note: Identifying the points of ethical conflict is often one of the hardest jobs in ethical analysis, and so you may find yourself returning to this step when you consider affected parties, consequences, and obligations.

2. AFFECTED PARTIES. Skills in perspective-taking are reflected in this criterion. The parties affected by the protagonist's decision may go beyond those directly mentioned in the case. You might think of affected parties in progressively larger groupings, from the person facing the ethical problem, to the person(s) immediately affected (such as the patient, the patient's family, other patients), to the people in the relevant institution (the school, the profession) who may be affected, to the community or to society in general. Frequently, consideration of the affected parties will bring more issues to mind.

3. CONSEQUENCES. For each action considered, there are often several possible outcomes. The challenge in identifying consequences is not to identify every remote consequence, but to identify those that have a good probability of occurring, or those that would have disastrous consequences, even if the probability of occurrence is not particularly high. For example, the possibility that someone might die at the hand of an inexperienced or unqualified provider may be relatively remote, but the consequences would be so devastating that the potential benefit may not even be worth a remote risk. When considering consequences, be sure to consider, in turn, each of the affected parties and the probable consequences of the proposed action on that party. When considering consequences to the protagonist, keep in mind that consequences may be multifaceted. On the one hand, he or she might get caught in an unethical act and face a lawsuit, loss of reputation, or other serious negative consequences. On the other hand, he or she may get by with the act and accomplish a goal more easily and quickly than if he or she had acted ethically. But whether or not the act is detected, engaging in actions we believe are wrong undermines our sense of integrity. The effects of an action on a person's character may appear to be minor in the short run, but often have a cumulative and debilitating effect on one's self-confidence, self-esteem, and habits (each time we reap the benefits of questionable acts and successful avoidance of the negative consequences, we enhance the probability that the act will be repeated).

4. OBLIGATIONS. For each case, consideration must be given primarily to the obligations of the protagonist toward the various affected parties. It is sometimes tempting to dismiss the obligation of the protagonist when some other person fails to live up to his/her moral obligation. For example, if the patient doesn't brush his teeth when he comes to his appointment, the dentist may be tempted to reason, "If he doesn't care how he presents himself to me, I don't need to be conscientious about doing a good job." Or the dental student may reason, "If the supervising clinician can't hang around until I finish with my patient, why should I be held accountable for putting his signature in the patient's chart for him." One party's failure to live up to his/her moral obligation can have an impact on another party's feelings of moral obligation, but

* Again, the protagonist is the person who faces a dilemma and is expected to act.

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this kind of reasoning often amounts to nothing more than a rationalization, an excuse to do whatever one wanted to do, without real regard to the moral questions at hand.

When writing about the obligations of professionals, it is not enough to say that someone has a duty to do "x." You must say why the professional has that duty. That is, you should refer to the moral justification in terms of values, principles, virtues, or consequences. For example, if your justification draws on a moral principle, refer to the principle not just by name (autonomy, beneficence, nonmaleficence, justice, etc.), but by description. Thus, if you were considering whether an inexperienced or unqualified provider should provide care to someone in need, your reasoning might go something like this: "the first obligation of the health professional is to do no harm (nonmaleficence), so when the provider considers whether to provide care (the professional's duty of beneficence), he/she needs to consider that the potential to do harm is a more important consideration (in this case) than the duty to 'do good'."

Or, if you were considering whether a dental researcher should fabricate additional, supporting data to speed publication of an exciting preliminary result that could be very important in the treatment of periodontal disease, your reasoning might go something like this: "The researcher should not fabricate the data. Every scientist has a duty to report data truthfully because honesty is one of the most fundamental values of science."

For a more extensive discussion of ways to apply values, principles, virtues and consequences to moral problems that arise in professional practice, see ethics texts like: Rule and Veatch, Ethical Questions in Dentistry, or Beauchamp and Childress Principles of Biomedical Ethics.

**Summary.** In this paper, I suggested that professionals, including researchers, have a particular responsibility to have well-developed skills of moral reasoning. I briefly set forth the following four criteria for evaluating the adequacy of a moral argument:

(A) Whether the response addresses each of the ethical issues and points of ethical conflict presented in the case or problem
(B) Whether each affected party's interests are considered
(C) Whether the consequences of acting are recognized, specifically described (not just generally mentioned), and incorporated into the decision
(D) Whether each of the duties or obligations of the protagonist are described and whether the duties are grounded in moral considerations.

Next, I described a four-step process for discussing case studies in professional ethics in the classroom:

I. Writing a response to the case
II. Participating in discussion
III. Refining your response
IV. Turning in your response for assessment and feedback.

I concluded with an in-depth discussion of the four criteria which I offer as a guide for developing a well-reasoned response to a moral problem.
Use this checklist to evaluate your written responses to each of the cases presented and discussed.

Case #: _____ _____ _____ _____ _____

1. Describes the ethical issues
   5 = clearly articulates all pertinent conflicts (e.g., names the protagonist and how his/her duties conflict or names affected parties and tells how their interests or rights conflict)
   4 = describes most of the pertinent conflicts
   3 = describes some of the conflicts
   2 = suggests only the most obvious conflict
   1 = places duties in conflict with rights or consequences

2. Identifies affected parties
   3 = states how each party is affected
   2 = states most affected parties
   1 = suggests only the person most affected

3. Describes the consequences of acting
   4 = foresees and clearly describes several possible positive and negative outcomes and projects the probability of their occurrence
   3 = describes consequences to support a stance, but not consequences that oppose one’s stance
   2 = alludes to consequences to support a stance
   1 = sees only the obvious possible outcomes

4. Describes the relevant obligations or duties
   5 = clearly describes each of the professional’s obligations in the specific situation
   4 = describes the most important obligations
   3 = describes some of the obligations
   2 = simply alludes to obligations
   1 = confuses rights with duties

5. Shows willingness to reassess position
   3 = provides clearer reasons for maintaining Side 1 position or states reason(s) for changing position
   1 = changes or maintains position with no rationale given

6. Develops a well-reasoned essay
   5 = clearly appeals to moral ideals or principles to resolve each of the moral conflicts and considers the strongest counterarguments for each
   4 = clearly appeals to moral ideals or principles to resolve some of the moral conflicts and considers strongest counterarguments
   3 = appeals to moral ideals to resolve the most salient conflict and addresses some counterarguments
   2 = appeals to moral ideals in a very general way
   1 = appeals to ideals, but exhibits misunderstanding

TOTAL POSSIBLE: (25) _____ _____ _____ _____ _____
Case: A young teenage male is caught shoplifting at a store. When asked why he took the goods he advances the following argument in defense of his action.

**Argument #1:** The store has got all that stuff, and I ain't got nothin'. I was just makin' things even. Besides, it didn't hurt no one.

Most of us would judge the argument to be inadequate. When asked to identify the flaws in the argument, we might be tempted to offer the following:

**Argument #2:** Stealing is wrong. He should not take things that belong to others. It is against the law.

Notice that we might all agree with this position (e.g., that stealing is wrong and/or illegal), but pronouncing something as immoral or illegal does little to help us consider why the act is wrong. Indeed, there may be circumstances in which we might argue that stealing something is justified, or at least "the lesser of two evils."

**ANALYSIS:** Let's consider the argument based on an analysis of the case:

<table>
<thead>
<tr>
<th><strong>Affected Parties</strong></th>
<th><strong>Potential Consequences</strong></th>
</tr>
</thead>
</table>
| teenager             | - get caught, possibly arrested and sentenced to a juvenile detention center  
-a right to a basic standard of living  
an interest in maintaining his reputation  
|                      | - getting caught influences his reputation  
-immoral acts negatively influences self-esteem (whether or not he is caught) |
| store owner          | - reduces the profit of the store and/or increases the cost of goods  
-a right to his property  
an interest in maintaining competitive prices  
|                      | - embarrassed by son's behavior  
-loss of money to hire a lawyer |
| teen's parents       | - losses from theft are passed on to others  
-an interest in maintaining their reputation and resources  
|                      | - sets a bad example |
| other customers      | - losses from theft are passed on to others  
-a right to fair prices for goods  
|                      | - sets a bad example |
| other teens          | - sets a bad example  
-to be trustworthy and honest  
-to provide for his needs/welfare  
-to honor his parents  
-to respect the property of others  
-to follow community laws  
-to use the social services provided  
|                      | - duty to self to meet one's needs vs. duty to respect the property of others  
or: - right to meet one's welfare needs vs. rights of storekeeper and customers to fair compensation and fair prices |
If the young teenager who stole from the store is challenged to think about his actions, perhaps as a result of challenging his thinking, he could advance an argument similar to argument # 3. This argument considers some of the issues, affected parties, consequences, and duties/obligations outlined in the above analysis. Perhaps you can see ways to further improve the argument.

**Argument #3:** Even if I really need the stuff I am about to take from the store, I know that I'm expected to follow the laws of the community, and not take other people's property. I recognize that there may be some circumstances in which taking property might be justified (e.g., to save life, to preserve a life, etc.). Even so, each member of society has a responsibility to use the social services arranged by society to meet the needs of someone who is economically, physically, or socially impaired. When considering whether to take the property, I need to consider how the act will affect me, my peers, and my parents and others in the community. Besides personal embarrassment, stealing from others affects my reputation, how I feel about myself, and may teach others that disregard for the law is "no big deal." Further, stealing from the shopkeeper does hurt others. It not only hurts the shopkeeper, but the effects of lost revenue to the shopkeeper increases the cost of products to other customers.

Review the analysis and the argument and see what issues or obligations have been omitted and whether including them could further strengthen the argument.
The Don Glidden Case

Don has been a member of your group since the first year of school. Don was one of those people who remembered every detail of lectures and did very well on tests. At first, his arrogance about it was pretty annoying, but by the end of the first year it was pretty evident to everyone that his lab skills were clearly average. It gave the rest of you something to razz him about, but by the second year it was pretty evident that he couldn't take it.

Friday nights were party nights for your group. At first, you got together for a few beers to talk over dental school. By the end of the first year, you were meeting regularly at the big old house Pete and John were leasing. The site became a regular scene for Friday night and often the parties were really big, often lasting until dawn.

Don had always been a real boozer, in addition to a big talker. It was hard to remember when you first noticed how often he passed out at parties, but you remember it began to bother some of you and finally you and Pete did confront him with it. You can still remember how angry he got. For a while he quit coming to parties.

During the summer before his third year, Don and Laurie were married. It was some wedding. You were all surprised. You knew Don's parents were working class people. They used their life savings to put Don through school. Laurie's parents, on the other hand, were very well-off. You and your friends really liked Laurie and thought she'd really straighten Don out.

It seemed like the marriage worked pretty well through about winter quarter. Don and Laurie often came to the Friday night parties, which had also tamed down a bit. However, during spring quarter, Don would often show up alone, making some excuse for Laurie. By summer he was worse than ever. The old nagging concern returned to you and your friends. So far though, he seemed to be doing OK in school. He did get into some hassles with clinical faculty, but some of you could understand that.

During fall quarter, your group didn't get together much, but you and Don seemed to be scheduled together a lot during winter quarter. You didn't think too much about it the first couple of times you became aware he had flubbed on patients, but lately he seemed very irritable. You tried to talk to him to see what you could do to help. You became suspicious that he had been drinking—at 10:00 a.m.

When you confronted him about this, he mentioned how far behind he was on his clinical requirements and how worried he was that he wouldn't finish by June. Laurie was really on his back a lot and he was really in debt. Her father had arranged a job for him starting in July and he really had to finish. He promised he'd shape up if you'd keep your mouth shut.

On Thursday afternoon, you see Pete in the elevator before clinic. He mentions he saw Don drinking at lunch. You know that Don is scheduled for some complex work this afternoon. When you arrive at the clinic you note that Don has already taken the patient to the cubicle.

Should You Report Don? Why?
Should you report? NO

I do not think Don should be reported. In this situation, I believe you should approach Don and ask to speak to him privately. You should be up front with him, telling him what you have heard and asking him if it is true. You can then assess the situation and see for yourself whether he seems okay. If he is clearly belligerent and uncooperative, which people who are drunk often are, then you can threaten that you will report unless he excuses himself from patient care. You can tell the instructor he is sick, in order to give Don a chance to confront his own problems and solve them himself, on his own time. This does mean that you would have to talk with Don later in the day, and probably with Laurie, to see that he gets help.

This way, you have protected the patient from potential harm, which I think you are obligated to do, but you also have respected Don. You are not a physician. You don't know that Don is chemically dependent. Maybe he has been drinking too much of late, but he is under stress. You risk doing great harm to Don's reputation by reporting. As long as you see that he didn't harm a... you have meet your responsibility.
I changed my mind. I still think I am right about not pre-judging Don as chemically dependent based on symptoms that suggest he is at least a problem drinker. I was considering Don's right not to be prejudged, and his right to privacy. What I didn't think about was the obligation each of us has to practice unencumbered by alcohol, drugs, or even how sleep deprivation. Each of these can interfere with our responsibility to perform services to people whose interests we are to put before our own. The problem with use of drugs is that it impairs judgment. I may think I am not Impaired when I actually am. Usually if I'm tired, I know that I'm tired and if someone calls my symptoms to my attention I don't have a problem recognizing that it is true. Drinking impairs judgment. A symptom of problem drinking is denial that one is impaired or that one's drinking is out of control. If Don is having a problem with alcohol—especially if he is truly chemically dependent—itis that he is unable to help himself. Whether or not you buy the disease theory of alcoholism, I should not expect Don to be able to “solve his own problems” even if he is able to acknowledge them. I should help him, which in this case means alerting the instructor (who bears the legal consequences of Don's action) and others who could come to his aid. Since I don't know how to structure an intervention, I will need the expertise of the dental profession and the school to help Don confront his problem. Further, I shouldn't assume that the school is going to punish Don—unless he refuses to get help for his problem. If Don refuses help, then the school has the responsibility to be sure that a license to practice isn't granted to someone who is possibly impaired, but more seriously, unwilling to submit to the authority of the profession. Even if Don gets help and recovers, I recognize the profession's responsibility to monitor the practicing community means that Don will be expected to cooperate with a system of on-going monitoring. When Don decided to become a professional, he voluntarily gave up some of his autonomy to secure a license to practice. If Don has truly come to grips with his problem, he will acknowledge it and welcome the assistance provided by the profession and his peers to help him remain a safe and responsible practitioner.

One further point I needed to consider. The longer a person abuses a drug, the more serious the physical and psychological harm to himself and his family. Laurie and her father are likely to suffer considerable consequences if Don's problem is allowed to continue.
Should you report? YES

The first thing to consider, and perhaps the easiest, is the people involved. Don and his patients are certainly big players, but also you are involved, Pete is involved, the instructors are involved and school is certainly involved. Others may be affected, such as the profession and its reputation. The issues are Don's right to complete school, the patients' rights to competent care, and the school's right to sober students. These issues may have many different consequences, such as the patients may receive substandard care, Don may provide adequate care, the school may be held liable, Don may be expelled, and Don may never practice dentistry again. The last thing that must be considered is the duties of the people involved. Don has a duty to do no harm, Pete has a duty to the profession and its patients (by confronting Don and informing his instructors), and the school has a duty to provide quality students. It seems clear to me that the risks to the patients, the school, and the profession are too great not to do something to prevent Don from seeing his patients on this particular day.
The Don Glidden Case
Side 2

Should you report? YES

In this case, there are many affected parties. They include Don and his patients, his wife, his family, his fellow students, his instructors, the school and always the profession as a whole. The interactions of these parties result in several important issues. Certainly a major issue is Don's potential chemical dependency. Other big issues include the patients' rights to competent care, Don's ability or inability to help himself, and Don's right to respect/dignity/autonomy. These affected parties and the resulting issues may result in several different consequences. There may certainly be harm to the patients, the school's reputation, and the instructors and/or school may be held liable for Don's actions. The consequences also may include harm to Don's marriage and family, and also harm to Don's health and well being. Before any conclusions are drawn, the duties of the affected parties must also be addressed. You have a duty to report Don to the instructors because of the duty to self-regulate/self-govern. Also, Don has the duty to place the patients' rights before his own and protect the patients from harm. The faculty and students also have a duty to try and help Don with his problem. One final duty Don has is to practice unimpaired/unencumbered. It certainly is clear to me that Don, the profession, and in fact all involved would benefit from getting Don some help. It would save the patients from potential harm and protect the school and the professors from liability. Obviously, let's get Don some help.

Todd: you mention items on the list, yet the ideas need to be more fully developed if you hope to convince the reader of the strength of your argument.
Evaluating Ellen's and Todd's Responses

When Ellen and Todd developed their Side 1 response to the Don Glidden case, they attended to some of the issues, affected parties, consequences, and duties raised by the case. After the discussion, they reassessed her initial position and incorporated additional issues, affected parties, consequences and duties raised during the discussion. The instructor who reviewed their essay used the following scoring guide to evaluate their responses and comment on the quality of the essay.

The Don Glidden Case
Scoring Guide

Directions for Scoring:

Read Side 1 and label each Issue (I1, I2, etc.), Consequence (C1, C2, etc.) and Duty (D1, D2, etc.) directly on the student's essay. Underline each affected party addressed. Then place an X on the Checklist by each item included on Side 1.

Read Side 2. Label each Issue (I1, I2, etc.), Consequence (C1, C2, etc.) and Duty (D1, D2, etc.) that was not included on Side 1 on the essay. Underline each additional affected party. Then place a check (√) on the Checklist by each item included on Side 2.

Compare the number of Xs and √s. Decide whether the student reassessed the Side 1 response and substantially strengthened the argument on Side 2. Assign 1-3 points, depending on the extent to which the student strengthened the argument.

Finally, make a judgment for each of the six criteria on the checklist. Ask yourself whether Ellen and Todd wrote a persuasive essay. Consider what feedback you would give Ellen and Todd.

ISSUES*

Notice that a few words were chosen to name the general conflict. Simply naming the conflict does not give a sense of the conflict of rights or duties.

Patient Welfare. There is a clear conflict between the rights of the patient to competent care, i.e., to care that is not compromised by drugs that impair judgment, and Don's right to be a self-directing autonomous person. This conflict could also be described as a conflict of duties on the part of the protagonist in this case—namely, you. You have a duty (as a member of the student body and an aspiring dental professional) to protect patients from potential harm—especially if you are aware of that potential, and a duty to help your friend who is about to harm himself by engaging in care while possibly impaired.

Note: Some may argue that not everyone is equally impaired by alcohol. In fact, there is some research indicating that some people (up to 30%) do not suffer motor impairment when under the influence. Some may also argue that someone who is physically addicted may not be able to perform without the drug. Thus, if you really needed the services of an addict, some level of blood alcohol may be necessary to enable the addict to function. This is an interesting argument, but no one would argue that there is a need to subject this dental school patient to Don's care. There are no compelling reasons to subject this patient at risk. Even if Don is one of the 30% who do not suffer impaired motor skills, a large body of respected research has long indicated that the drug impairs judgment. So for most persons (up to 70%), the effect is a "double barreled" effect. Not only does alcohol impair motor skills, but impairs the ability to judge that those skills are impaired. Not being able to perform adequately, and not being able to recognize that the performance is below standards, Don would naturally become defensive and argumentative about his work. He would naturally tend to shift the blame to something or someone else: his wife, money, the stress of school, finding a job, etc. The impaired judgment, the impaired clinical performance, the lack of insight into the "real problem," coupled with the fear of disclosure and the promises to "shape up" indicate that Don has a
Sample Case and Analysis

problem over which he lacks control.

Potential Chemical Dependency. Here your duty to participate in self-regulation and monitoring of the student body is in conflict with your duty to practice within your limits (which in this case would be not to engage in a medical diagnosis), but to act on a reasonable suspicion. Clearly, you are not a physician, or a drug counselor, and may not be able to diagnose whether Don is actually chemically dependent, yet there is considerable evidence that Don is a problem drinker and possibly chemically dependent. Given the heightened societal awareness of the symptoms of chemical abuse, symptoms of chemical dependency, and the conditions for treatment, there may be a tendency, based on reported symptoms, to rush to judgment that Don is, in fact, addicted to alcohol and must be treated as an alcoholic. Whether Don is truly chemically dependent or a problem drinker in the earlier stages of chemical dependency requires a medical diagnosis.

Notice: This conflict could be described as a conflict between the rights or interests of society (or individual patients) to competent, unimpaired practitioners vs. the rights or interests of individual dentists (or student dentists) to autonomy (i.e., conduct themselves as they choose).

By recognizing the responsibility to act on a suspicion while withholding judgment about the medical diagnosis, we honor Don’s right to autonomy and to respect and dignity. When Don decided to become a dental student, he agreed to give up some of his autonomy and to submit himself to the authority of the school. Thus, he does not have the right to "do as he pleases" with respect to alcohol consumption. While we might argue that individuals have the right to drink themselves to oblivion if they choose to, we do have laws against suicide, and we do prosecute people who endanger the lives of others through their irresponsible behavior. Don's right to human dignity includes the right to be treated with care and concern. He has the right to be treated with thoughtful consideration, especially with respect to things which affect his autonomy. This means that where actions would affect his academic standing, his career, his relationships with patients, his marriage, etc., they must be undertaken with care and concern for their potential to restrict his autonomy in those areas of his life.

Note: Don has the right to privacy, which is closely related to his right to care and concern. But like his autonomy rights, the right to privacy is one that a person sometimes voluntarily abrogates by entering certain relationships. For example, actions done in public, or which have effects on other people, are usually not protected by the right to privacy. Even though Don's drinking on the job is not protected by his right to privacy, it does not mean that we have a right to publicize our knowledge of his drinking to all and sundry. While we have a duty to disclose the information to those who have a right to know, it is not easy to decide who has a right to know and what they have a right to know. We would clearly argue that the supervisor, who is legally liable for the work Don does, has a right to know, but it is not clear that the patient has a right to know, unless the supervisor and Don's friends fail to meet their obligations to "prevent harm from occurring." If Don's friend and the supervisor were unable to prevent Don from proceeding, then it would be obligatory to warn the patients about Don's problem. Even so, it is not clear how much of Don's difficulty needs to be disclosed to the patient. The school also has a right to its reputation, which is clearly undermined if patients come to believe that students drink during their lunch hour. The school has the obligation to protect the patient from harm and promote their welfare. The school can meet this obligation by assigning Don's patient to another student, while still respecting Don's right to privacy.

Inability Of Don To Help Himself. Your duty to respect Don as an autonomous, self-directing person is in conflict with your duty as a friend to help Don by acting on a reasonable suspicion. While we do not know for certain that Don is impaired by his use of alcohol, we have reason to believe that he may be impaired. While all mentally competent persons have the right to respectful treatment of themselves as the best judge of their own interests, there appears to be some evidence that Don is not acting in his own best interest. For example, it is not logical that someone would place their future at risk by drinking on the job. Further, most research supports the notion that Don, if addicted, is not able to recognize the seriousness of his own problem, and therefore is not able to act on the advice given. We help Don by involving others, recognizing that his ability to function as an autonomous person is, at least temporarily, impaired.
Sample Case and Analysis

AFFECTED PARTIES

Don. Don has a right to autonomy and to respect and dignity. His right is, however, a limited right. When Don decided he wanted to become a dentist, he voluntarily agreed to submit himself to the authority of the school and the dental profession.

Patients. Patients have a right to expect that care provided by a student dentist will meet the standards set by the profession. Whereas they may be willing to give their time in order to secure care at a somewhat reduced cost, they have a right to expect that the care will help them, and not put them at risk.

Instructor. The instructor who supervises Don has an interest in knowing whether a student's ability to work on patients is impaired. Students actually practice under the license of the supervising dentist.

Don's Wife. Although Laurie's interests are not central to this dilemma, her rights to her autonomy are violated if she is not aware of Don's drinking problem. Someone who paternalistically protects her from information that would enable her to decide what to do with respect to Don's drinking, limits her ability to make decisions about herself and her family.

The School. The school has an obligation to see that Don is referred for diagnosis and possible treatment, and then to determine whether Don should be allowed to continue his studies. Given the probability of relapse, the school also has the responsibility to monitor the student to be sure that he maintains his sobriety. Given that the school's responsibility to the public and to the profession takes precedence over their obligation to the student to graduate and to obtain a license, the school must take care to assure that Don is not a liability to the profession and the public.

The Profession. The profession is concerned that the school not graduate people who are a detriment to the profession. The profession has the obligation to regulate and monitor itself, and therefore may be called upon to continue monitoring Don even after graduation. The profession delegates responsibility for monitoring professionals who are impaired by addictions and mental illnesses to the Board of Dentistry.

CONSEQUENCES

Don's Condition Could Get More Serious. One of the main reasons to intervene at an early stage of dependency is to forestall the more serious psychological and health consequences that could occur. Further, it often takes a group of people, who are in contact with an individual, a considerable amount of time to recognize the problem. If intervention is not attempted while Don is still in school, it may take years before others, his dental staff or patients, become aware of his problem.

Don Harms Patient. The potential for harm is a major consequence of failure to intervene. Naturally, no one knows for certain that the patient will be harmed, but professionals are expected to be able to project the potential for harm and not to subject patients to risks that can be avoided.

Don's Family And Marriage. Don's family and wife may not be skillful in helping Don confront his problem, and in fact may be enabling him to continue his self-destructive behavior.

Liability To The Instructor And The School. As a student, Don practices under the license of the instructor, who will be held accountable for any mistakes Don makes.

Harm To The School's Reputation. The amount of damage that could accrue to the school's reputation with patients is hard to estimate, but could have far-reaching consequences for the school's ability to maintain a viable patient population for the education of future dentists.
Sample Case and Analysis

DUTIES

To Participate In The Regulation And Monitoring Of The Profession. It should be obvious that Don's friends have a duty to intervene. Actually, they needed to intervene before the problem became as serious as it did in this case.

To Protect Patients Who May Be In Danger. Don's obligation is to do no harm, but Don's friends' duty is to prevent or remove harm, when there is good reason to believe that harm might occur.

To Inform The Instructor. Though one might argue that Don could be approached and drawn out of clinic and given the opportunity to inform the instructor himself about the problem, the instructor does have the right to be told. The instructor is, after all, responsible for Don's certification as a professional, and it would be deceptive of Don or his friends to withhold information from him.

Patient Rights Take Precedence. When autonomy rights of Don and his patient conflict, patient rights take precedence. Don's right to practice dentistry is, after all, a licensed privilege that is not on the same moral plane as the patient's right not to have their autonomy compromised by Don's impairment.

To Help Don. In addition to the obligation to intervene, which is part of the obligation of any member of the profession, one might argue that friendships obligate us to special efforts to help Don come to grips with his problem. After all, as a friend you are in the best position to provide Don with information about the behaviors you have observed which are detrimental to the pursuit of Don's goals and his happiness. Since most of us lack understanding of how to intervene with the serious problems involved in chemical abuse, we may need to get help ourselves, from experts in chemical dependency, or from support groups for friends and families of addicts like Al-Anon.

Note: As you reflect on this case, you may be tempted to focus on Don's duty to self-regulate, to practice within his limits, to not practice when he is impaired, and to not place you (his friend) in this uncomfortable dilemma. However, YOU are the protagonist in this professional problem, and it is your duties and responsibilities that should be the focus of your response.

Note: You may notice that it would be possible to consider additional issues—for example, you could focus on the conflict between the rights of society to have trustworthy practitioners vs. the rights of the individual practitioners to conduct themselves as they choose and to conduct their lives based on their own values. How should such conflicting rights or interests be prioritized and what moral ideals would you draw upon to decide?
THE DON GLIDDEN CASE

Directions:
Step 1: Use the checklist* (column 1) to record ideas described in the essay: X=Side 1 ✓=Side 2
Step 2: Place a mark by the statement in column 2 that best reflects your judgment of the quality of the essay.

<table>
<thead>
<tr>
<th>Position: Yes/No</th>
<th>Ellen</th>
<th>Todd</th>
</tr>
</thead>
<tbody>
<tr>
<td>No/Yes</td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>ISSUES (0-5 pts)</th>
</tr>
</thead>
<tbody>
<tr>
<td>clearly articulates all pertinent conflicts (5)</td>
</tr>
<tr>
<td>describes most of the pertinent conflicts (4)</td>
</tr>
<tr>
<td>describes some of the conflicts (3)</td>
</tr>
<tr>
<td>suggests only the most obvious conflict (2)</td>
</tr>
<tr>
<td>places duties in conflict with rights or consequences (1)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AFFECTED PARTIES (0-3 pts)</th>
</tr>
</thead>
<tbody>
<tr>
<td>states how each party is affected (3)</td>
</tr>
<tr>
<td>states most affected parties (2)</td>
</tr>
<tr>
<td>suggests only the person most affected (1)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CONSEQUENCES (0-4 pts)</th>
</tr>
</thead>
<tbody>
<tr>
<td>foresees and clearly describes several possible positive and negative outcomes and projects the possibility of their occurrence (4)</td>
</tr>
<tr>
<td>describes consequences to support a stance, but not consequences that oppose one's stance (3)</td>
</tr>
<tr>
<td>alludes to consequences to support a stance (2)</td>
</tr>
<tr>
<td>sees only the obvious possible outcomes (1)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AFFECTED PARTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Don X X</td>
</tr>
<tr>
<td>2) Patients X X</td>
</tr>
<tr>
<td>3) Instructor ✓</td>
</tr>
<tr>
<td>4) Don's wife X</td>
</tr>
<tr>
<td>5) School ✓ X</td>
</tr>
<tr>
<td>6) Profession ✓</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CONSEQUENCES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Don's condition gets more serious ✓</td>
</tr>
<tr>
<td>2) Don harms patient X X</td>
</tr>
<tr>
<td>3) Don's family and marriage ✓</td>
</tr>
<tr>
<td>4) Liability to instructor ✓</td>
</tr>
<tr>
<td>5) Harm to school's reputation X</td>
</tr>
<tr>
<td>Other</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>DUTIES (0-5 pts)</th>
</tr>
</thead>
<tbody>
<tr>
<td>clearly describes each of the professional's obligation in the specific situation (5)</td>
</tr>
<tr>
<td>describes the most important obligations (4)</td>
</tr>
<tr>
<td>describes some of the obligations (3)</td>
</tr>
<tr>
<td>simply alludes to obligations (2)</td>
</tr>
<tr>
<td>confuses rights and duties (1)</td>
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</tbody>
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<table>
<thead>
<tr>
<th>DUTIES</th>
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</thead>
<tbody>
<tr>
<td>1) To provide care unencumbered ✓ ✓</td>
</tr>
<tr>
<td>2) To self-regulate ✓ ✓</td>
</tr>
<tr>
<td>3) To protect patients who may be in danger X X</td>
</tr>
<tr>
<td>4) To inform instructor ✓</td>
</tr>
<tr>
<td>5) Patient rights take precedence ✓ ✓</td>
</tr>
<tr>
<td>6) To help Don ✓ ✓</td>
</tr>
<tr>
<td>Other</td>
</tr>
</tbody>
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<thead>
<tr>
<th>REASSESS (0-3 pts)</th>
</tr>
</thead>
<tbody>
<tr>
<td>provides clearer reasons for marinating Side 1 position or states reasons for changing position (3)</td>
</tr>
<tr>
<td>shows some willingness to reassess (2)</td>
</tr>
<tr>
<td>changes or maintains position with no rationale (1)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>WELL-REASONED ESSAY (0-5 pts)</th>
</tr>
</thead>
<tbody>
<tr>
<td>clearly appeals to moral ideals or principles to resolve each conflict &amp; considers strongest counterarguments for each (5)</td>
</tr>
<tr>
<td>clearly appeals to moral ideals or principles to resolve some of the moral conflicts &amp; considers strongest counterarguments (4)</td>
</tr>
<tr>
<td>appeals to moral ideals to resolve the most salient conflict &amp; addresses some counterarguments (3)</td>
</tr>
<tr>
<td>appeals to moral ideals in a very general way (2)</td>
</tr>
<tr>
<td>appeals to ideals, but exhibits misunderstandings (1)</td>
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</tbody>
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TOTAL (25)

*items on the checklist are simply key words to remind the assessor of general concepts described in the facilitator's manual.

Rev 12/07
The Mark Davison Case

Mark, a spring quarter second year dental student, has gotten excellent grades in lecture courses, but has not done well at all in preclinical labs. In fact, he's on the verge of failing the preclinical operative course. Since Mark is accustomed to doing well in school, the difficulty he is having in mastering the psychomotor skills is a great source of frustration for him. The difficulties have made him very tense and nervous, and the thought of working on his first patient in clinic, especially when he realizes he will be graded on the procedure, is more than he can take.

Mark's roommate, a fourth year dental student, has been doing volunteer work at the Salvation Army Mission for some time. He suggests that Mark volunteer to work there to get over his fear. He points out that even if he has to take the course over, the experience will do him good. He mentions that many of those people have no access to care and whatever he does for them is better than nothing.

Should Mark Volunteer To Go To The Mission?  Yes____  No____  Why?

What Reasons Would You Give To Support Your Position?
Mark does go to the mission and works with one of the dentists. This dentist is a regular faculty member at the school and regularly supervises third year students in the dental school clinics. He gave Mark an opportunity to cut a simple preparation. Everything worked out fine.

A week later, Mark is called before the school's disciplinary board for unethical practice. He is informed that he should not be volunteering to do clinical work when he has not passed his preclinical courses. Mark argues that there is no school rule prohibiting this, and students do it all the time. If it's unethical, the school should make a rule.

Does Mark Have A Legitimate Argument? Yes____ No____ Why?

What Reasons Would You Give To Support Your Position?
Facilitator Notes
The Mark Davison Case

The notes described below cover issues raised by the Davison case and its extension, wherein students are asked to consider Mark's obligations when the school and supervisor appear to have been lax in establishing school rules and in monitoring students' activities.

ISSUES

There are numerous issues in this dilemma; some can be expressed as conflicting rights, some as conflicting obligations. The major issue is the conflict between Mark's right to learn and the rights of the patients to competent care (not just "any care"). Mark's right to learn is also in conflict with the supervisor's right to competent help and to know the truth about Mark's competence. Mark's right to learn also conflicts with the school's right to have competent students representing them and their right to have students live up to the regulations the school has established for governing admission to practice in the clinic.

Conflict Of Obligations. Professionals have an obligation to serve society, that is to do a measure of work that is above and beyond what they are actually getting paid for. In this case, one might argue that Mark has an obligation for service to the less fortunate, and for that reason he ought to do whatever he can do as a volunteer at the mission.

Mark also has a duty to improve himself--to use his ingenuity to help himself develop the skills needed to pass the courses and be admitted to practice. Going to volunteer, while it may develop other abilities needed for success in practice, is probably not the best use of Mark's time. His opportunity to learn is limited to a time frame. If Mark does not develop his skills well enough to meet the minimum requirements, he will not be permitted to continue. Although he has an obligation to serve society, his duties to develop his competence so he can be of service seem to take precedence. By failing to use his time effectively while he has the chance, he also interferes with the rights of others who might have benefited from the opportunity.

Patient's Right To Competent Care. Obviously, the patient's right to competent care takes precedence over the student's right to learn. The question in this case is whether the patient's right to competent care is being given priority when Mark decides to "volunteer at the mission." What is unclear in this case is exactly what Mark might do if he were to go to the mission. Clearly, there is the implication that he would be doing clinical dentistry. Certainly it might be acceptable for Mark to assist or observe, but observing would not provide Mark with the kind of direct practice he needs to overcome his deficiencies. Besides the patient's right to competent care, the patient has the right to be informed of Mark's inexperience and nearly substandard preclinical performance. Similarly, anyone who supervises Mark has this right.

Student's Right To Learn. Mark has been admitted to the School of Dentistry, and therefore has a right to learn. In the process of learning, students will "practice" on patients. The questions that arise have to do with appropriate safeguards to ensure that patient's rights to competent care are not compromised.

Supervisor's Right To Competent Help. The mission clinic is staffed by dentists who volunteer their time to meet the needs of the disadvantaged. Students should be guided to imagine the
kinds of patients and the kinds of dental needs this patient population is likely to present. Patients are not likely to present with the simple needs (e.g., a prophy, a one-surface filling, etc.) that Mark might be prepared to perform. Instead, they are likely to present with complex needs, perhaps with other medical problems or substance abuse problems that complicate the treatment. Likewise, the patients are likely to have social problems that interfere with their ability to utilize dental services effectively. The clinic supervisor needs competent help. Truth-telling becomes an issue for Mark. Will he disclose his problems with clinical competence? Would anyone want him working on them if they knew he was having trouble mastering clinical skills? Do they have a right to know about his problems with competence?

School's Right To Its Reputation. Students who volunteer for approved opportunities like the mission represent the School of Dentistry. Students need to think of their obligation to the school and to the profession. The school has a right to be accurately represented by students in good standing. The school is easily harmed by students who do not conduct themselves with the utmost professionalism. Although the school and the supervisor have duties to regulate students and to establish policies to ensure that only "certified students" engage in patient care, the fact that the school or the supervisor has failed to check carefully does not exempt students from their duties to use the ethical principles as guides to action.

Profession's Right To Its Reputation. The profession has a right to be represented only by bona fide members of the profession, and to supervise and propose standards for competent quality care.

AFFECTED PARTIES

Mark could be adversely affected, as he is not yet eligible for clinical practice, and to volunteer at this point could compromise his opportunities to improve the specific skills in which he lacks competence.

Patients could be adversely affected by having an untrained person attempting to provide care. The degree of harm depends on what Mark is asked to and/or decides to do.

The Supervisor is ultimately responsible for the quality of care that is delivered by the volunteers who are not yet dentists.

The Mission has a reputation in the community which can be undermined by the presence of questionable quality care being provided.

The School is adversely affected by students who fail to abide by the school's rules as well as by students who violate the principles upon which the rules are based.

The Profession is affected by instances of unprofessional or incompetent care. The actions of even one member can impact the profession as a whole. Examples of malpractice or incompetence often receive media attention. Journalists are skillful at using such events to influence public trust in the profession at large.

Society often mistrusts the profession, failing to believe that professionals are committed to placing the interests of the patient above self-interest.
CONSEQUENCES

There is a tendency for students to think of the positive consequences that might accrue to Mark by volunteering, without thinking of the possible negative consequences that could occur. Each of the potential positive consequences needs to be examined in terms of the underlying assumptions.

1) Chief among these projections are the potential for Mark to overcome his fear, if he were to work on patients under circumstances where he was not being evaluated.

Analysis: This is an example of faulty reasoning. Mark is nervous; therefore the presence of the evaluator is the cause. If you eliminate the evaluator, Mark will be able to perform competently.

The idea here seems to be that the presence of an evaluator makes us nervous. We sometimes believe that if we can practice without being judged or evaluated we can improve our performance. It is important to examine the assumption that evaluation is what makes us nervous. Actually, it is probably the lack of competence to perform adequately that contributes to our nervousness and lack of confidence, rather than the presence of the evaluator per se. With competence comes the sense of confidence, and the best way to develop our confidence is to have our performance evaluated over and over, making corrections until we can reliably perform the skill. Confidence is the result. The problem with simply practicing, without being evaluated, is that we may practice mistakes, which may become ingrained and harder to remedy. In judging operative procedures, there are two kinds of abilities: 1) the ability to perform something to the criteria, and 2) the ability to determine whether a particular performance meets the criteria. These are different abilities, both of which must be developed to ensure competent performance.

2) A second positive projection is that Mark will be helping the less fortunate, something most beginning professionals feel a clear obligation to do. Some students express the idea that the patients that come to the mission have no access to care, and anything that Mark does would be better than nothing.

Analysis: Most people will see the fallacy in this argument, as they recognize that if Mark does the wrong thing, he could actually be doing harm, but many will suggest that there are things he could be doing, like assisting, or taking information that might be useful. They point out that in the course of providing the kind of help they are qualified to provide, they might overcome some of their anxiety in providing patient care. It is surely true that limiting what Mark does at the mission could enable him to provide some service, but Mark also needs to balance his obligation to develop his competence to provide "service to the less fortunate" with his obligation to develop his clinical competence. Before Mark can apply the principle of beneficence (to do good), he must first apply the principle of nonmaleficence (to do no harm). His helping at this stage of his education may not be particularly useful, and he does have another responsibility: to make efficient and effective use of his time to master the necessary clinical skills. One might argue that in this situation, where he lacks skills, his duty to develop his competence should take precedence over his duty to help the less fortunate.

In addition to possible misuse of his time, volunteering at the mission could have detrimental effects to Mark's confidence. People that come to the mission for dental care tend to be people that are "down on their luck." They are likely to have health and emotional problems stemming
from their financial circumstances that interfere with their ability to interact effectively with the health care provider or even to cooperate with treatment. Often it takes a great deal of interpersonal and problem solving ability, in addition to clinical competence, to effectively meet the needs of this population. A provider often needs to mask their own feelings of disgust or revulsion to be effective. This is not easy for the novice to do.

Negative Consequences

1) Perhaps the most significant negative consequence is the potential harm to patients.

Sometimes students will argue that such potential is also present in the clinical setting in the school, so it matters little whether Mark encounters his first patient at the mission or in the clinic at the school. It may be necessary to point out that, while that is theoretically true, the school is set up specifically to provide students with their first patient experience. The faculty goes to considerable length to screen patients and to supervise the first clinical experience. The mission is set up to provide care to the disadvantaged, and that is their first priority. Education of students is not the first priority, though student volunteers are requested, and supervised to some extent. The kind of supervision is not analogous to the supervision in the school clinics, and the controls exercised over selection of patients and procedures for the student to "practice" on are not in place.

2) Another potential negative consequence is to the dentist supervisor at the mission.

Students often do not realize that as students they are practicing under the license of the supervising dentist. If the student makes a mistake resulting in a malpractice action, it is the supervisor who would be liable. Often students will project that it is the supervisor’s responsibility to investigate whether student volunteers are competent and that Mark wouldn't "be allowed" to do anything he wasn't competent to do. It is helpful to remind students that the mission isn't set up like an educational institution, and the supervisor's primary responsibility is to see that the needs are taken care of. The supervisor may "expect" that dental students will monitor themselves, and not present themselves for assignment when they have not met the standards set by the school. The question is: Should the supervisor be able to expect that of students? When does the student become a "self-regulating" professional?

3) Other potential negative consequences are to the school, if unqualified students are volunteering for work they are not qualified to do, as well as the consequences to the profession of dentistry at large, if less than good quality work is performed at the mission. It is also tempting for students to think that "the highest quality" is reserved for those who pay the most.

DUTIES

Do No Harm. Chief among the professional's duties to the patient are the responsibility to "do no harm." One of the major concerns in this case is the potential for harm to come to patients who are "practiced upon" in this circumstance--presumably to help Mark overcome his "fear of working on patients." Remember, his duty to “do no harm” takes precedence over his duty to "do and promote good." (See Beauchamp, Principles of Ethics, p. 217.*)
Place Patients' Rights Above Self. When the patients' rights to competent care are in tension with the student's right to learn and to overcome his anxiety, as it is in this case, the patient's right needs to be given priority. This may not be true in all cases, but it is true in this case, as 1) Mark has not yet demonstrated minimal competence to do dental work on patients, and 2) there is a better setting for Mark to gain his first experience. Mark also must realize that patients have a right to know whether Mark is competent. It is unlikely that any patient would want to submit to treatment performed by a "borderline" student.

Practice Only When reliably Competent. Every professional is obligated both to acquire and maintain the expertise needed to undertake his or her professional tasks, and every professional is obligated to undertake only those tasks that are within his or her competence. Students must recognize that competence in dentistry has two parts: knowledge and skill. Mark appears to have mastered the knowledge, but lacks the technical skill. But determining what counts as sufficient or minimally adequate competence is a complex question. In this case, however, Mark should be guided by the standards set by the dental school. These standards are in place to ensure that one is not only competent, but reliably competent, as one must be consistent in the application of these skills in order to be a trustworthy dentist. Thus, until Mark passes his preclinical lab, he isn’t trustworthy in a clinical setting.

To Improve His Psychomotor Skills. Dentists have a responsibility to move beyond minimal competency and to give priority to those areas where he is weak. Whereas Mark could argue that as a future member of the profession, or even as an ordinary citizen, he has a responsibility to provide service to society (and going to the Mission is a way of meeting this responsibility), Mark’s duty to work on his psychomotor skills (at this point) take priority at this point in his education.

Learn In A Supervised Setting. Mark is described as a good student who is having difficulty in performing operative skills. As yet, he has not demonstrated (to the satisfaction of the faculty) that he can consistently perform the required techniques in a laboratory setting. Mark needs added practice, and should seek help from the instructor, or a tutor recommended by the instructor. He would be putting himself in a position of added stress to attempt such tasks in a person's mouth at this time. When he is ready for clinical practice, he should confine himself to the more closely supervised setting provided by the school.

Follow The Rules Of The School. Mark has an obligation to know the rules of the school, and to follow them. The fact that "others" have done this before does not exempt Mark from his responsibility to abide by the policies established, and to seek the advice of "creditable" authorities should he have questions about the appropriateness of his action. Nor does the fact that there isn't a specific rule prohibiting second year students from working at the mission exempt Mark from a responsibility for his actions. Mark should expect to be held accountable for his actions, even if he "didn't know" what the "rule" was. As the saying goes, "ignorance of the law is no excuse." Finally, the school should be able to expect that Mark and other students will apply general ethical principles that guide professional conduct to the new situations they encounter.

THE MARK DAVISON CASE

Directions:

Step 1: Use the checklist* (column 1) to record ideas described in the essay: X=Side 1 \(\checkmark\)=Side 2

Step 2: Place a mark by the statement in column 2 that best reflects your judgment of the quality of the essay.

Position: Yes/No

ISSUES (0-5 pts)
- clearly articulates all pertinent conflicts (5)
- describes most of the pertinent conflicts (4)
- describes some of the conflicts (3)
- suggests only the most obvious conflict (2)
- places duties in conflict with rights or consequences (1)

AFFECTED PARTIES (0-3 pts)
- states how each party is affected (3)
- states most affected parties (2)
- suggests only the person most affected (1)

CONSEQUENCES (0-4 pts)
- foresees and clearly describes several possible positive and negative outcomes and projects the possibility of their occurrence (4)
- describes consequences to support a stance, but not consequences that oppose one's stance (3)
- alludes to consequences to support a stance (2)
- sees only the obvious possible outcomes (1)

DUTIES (0-5 pts)
- clearly describes each of the professional's obligation in the specific situation (5)
- describes the most important obligations (4)
- describes some of the obligations (3)
- simply alludes to obligations (2)
- confuses rights and duties (1)

REASSESS (0-3 pts)
- provides clearer reasons for marinating Side 1 position or states reasons for changing position (3)
- shows some willingness to reassess (2)
- changes or maintains position with no rationale (1)

WELL-REASONED ESSAY (0-5 pts)
- clearly appeals to moral ideals or principles to resolve each conflict & considers strongest counterarguments for each (5)
- clearly appeals to moral ideals or principles to resolve some of the moral conflicts & considers strongest counterarguments (4)
- appeals to moral ideals to resolve the most salient conflict & addresses some counterarguments (3)
- appeals to moral ideals in a very general way (2)
- appeals to ideals, but exhibits misunderstandings (1)

TOTAL (25)

*Items on the checklist are simply key words to remind the assessor of general concepts described in the facilitator’s manual.

Rev 1/08
The Martin Sladick Case

Martin Sladick graduated from dental school five years ago. He is an excellent dentist, but business has been poor due to the economy in the area. Several businesses have closed and many of his patients are out of work. Martin has always had an interest in orthodontics, and since he has a lot of free time, he has been reading a lot about various orthodontic treatments. His dental training, like most dental programs, included 50 hours of lecture and 20 hours of lab designed to teach dentists how to tell when dentition is erupting normally. This would enable a dentist to give reasonable advice as to when a patient should be referred for treatment, but not how to do treatment. He realizes that formal training in orthodontics involves a two year graduate program.

Several of the children in his practice need orthodontic treatment, and he is thinking of suggesting to their parents that he could do some of the easier treatments at a reduced rate. It would be a way of increasing his business, and it would be a service to families who might not otherwise be able to afford the care.

Should Martin Expand His Practice To Include Orthodontics? Yes____  No____

Why?

What Reasons Would You Give To Support Your Position?
**Issues**

**Patient's Right To Competent Care.** A central issue in this case is the patient's right to competent care, which takes precedence over either Martin's right to learn and his legal right to expand his practice into a specialty area. The patient's right to competent care could also be described as the patient's right to their autonomy, which encompasses the right to be adequately informed and the right to be self-determining. Alternatively, this issue can be described as a conflict between Martin's duty to provide competent care and his duty to provide for himself and his family.

**Martin's Legal Right To Practice Ortho.** Some general dentists do provide orthodontic treatment, and there is no legal prohibition against doing so. Martin's legal right to practice is in conflict with the rights of orthodontists to practice in a specialty area. A review of the ADA Code of Ethics indicates the conditions for announcement as a specialist. Also, a specialist who "limits" his practice to a specialty must have successfully completed an accredited specialty program. And, to be eligible for an advanced program, a person first has to successfully complete an undergraduate dental program. In other words, specialists have the same basic training as generalists. What they do to respect the generalist is to limit their practice, so as not to encroach on the generalists area.

**Community's Right To Care.** The community has a right to competent needed care, and this need is in tension with Dr. Sladick's needs to make enough money to provide for his family. Dr. Sladick has been serving the community's need. Obviously, if the economy of the community is severely depressed, Dr. Sladick may have a hard time meeting his, his family's, and his staff's economic needs. In tough economic times, people often let their dental health needs slide, as they perceive dental care as elective rather than essential. Martin may have to redouble his efforts to educate the community to prevent harmful neglect. While Dr. Sladick has an obligation to help the community gain access to needed care, the services he is considering offering are seldom essential, often cosmetic, and elective.

**Martin's Right To Learn And To Expand His Practice.** After considering what is required for announcement as a specialist, one might wonder why there isn't a "law" prohibiting generalists from practicing "ortho." On the other hand, if we limited the general dentist with respect to all specialties, there would be little for the general dentist to do. No endo, no perio, no pedo, no surgery, etc. A license to practice enables a dentist to practice in all specialty areas. The absence of limits to the license enables each professional to continue to develop his/her skills throughout his/her professional life. This is what makes a profession interesting. What then governs the dentist's decisions as to what he/she should or should not do? Should Martin do "whatever he feels competent to do?"

So we see that a "license to practice" gives Martin a lot of autonomy—to learn and to practice as he chooses. There appears to be no "check" on Martin's autonomy, except his own "ethics" or the potential for malpractice. One of the joys and challenges of professional life is the ever changing body of knowledge and the opportunity to continue to grow and change and learn. Professions are distinguished from occupations in that they have access to the principles upon which the profession is based, and have the tools (provided they learned their basic science skills well) to keep abreast of the changing body of scientific knowledge.

The right to learn and to expand one’s practice brings with it some responsibilities to the self and those who are affected by one’s decision (e.g., family who rely on Martin’s income). Whereas responsibilities to put the oral health interests of patients take precedence over self interest,
Martin needs to consider whether expanding his practice (considering the start-up costs and time required to sufficiently develop his competence) meets his responsibilities to self and family.

**Martin's Competence To Inform And To Provide Adequate Treatment.** The case also illustrates the tension between Martin's right to his autonomy (to learn and to practice) and the patient's autonomy rights (to be fully informed of the alternatives, the risks and benefits of treatment, and the right to decide on who will provide care). Martin may feel competent, but how does he know that his perceptions are accurate? We all know people who think they know how to do something, but are misinformed. Martin's lack of experience makes it virtually impossible for him to provide truly informed consent. He really doesn't know where his deficiencies in diagnosis and technical skills lie, as he has had no supervised clinical experience, and no feedback on his diagnostic abilities in this area. Since the patient cannot judge the risk he or she is undertaking by agreeing to let a general dentist perform specialty work, and the dentist himself may not be aware of what risks or compromises to treatment the patient is undertaking, it is not clear that consent to treatment, even if it were obtained, would be valid consent. Martin's right to practice is a licensed privilege which is not on the same moral plane as the patient's right to competent care.

**Consequences**

**Potential Harm Vs. Benefit To Patients.** If Martin moves the patient's teeth too quickly, he may cause irreversible harm. But even if Martin's treatment is reversible, harm may come in the form of: 1) extended care which involves more appointments, 2) a longer time with bands, which affects oral health, and 3) potentially causes psychological harm.

**Harm Vs. Benefit To Martin.** In addition to the possible suit for malpractice, expanding into an area where he lacks competence could undermine his reputation with his patients and with the dental community.

**Costs To Patients/Martin.** Financial consequences to patients and to Martin need consideration. Parents of patients may incur additional costs if their child needs to be retreated. Also, there are start-up costs if Martin expands into orthodontics. Is it really possible for Martin to meet his economic need by expanding, considering the risks?

**Relationship Between DDS And Specialists.** When generalists expand too far into specialty areas, they infringe on the domain of the specialists. Specialists have limited their practice, so as not to infringe on the domain of generalists. There is an inherent suspicion between the two that is exacerbated by a kind of dependency relationship. The specialist is dependent upon generalists for referrals, and thus tends not to give honest feedback to the referring dentist.

**Harm To The Profession.** People often attribute self-interest motives to professionals and to the profession at large when dentists fail to meet their obligations to patients.

**Duties**

**Do No Harm.** Before considering whether he can help a patient, Martin must be sure to "do no harm." Harm can come in many forms, as was discussed under consequences.

**Place Patient's Rights First.** It appears, in this case, that Martin's motivation to expand his practice is a pure self-interest reason, rather than a reason motivated by his commitment to meet the oral health needs of the community. Orthodontics is usually elective, and not likely to be a
service in high demand in times of economic depression. It is not clear that expanding into an area of elective services meets any identified need of the community. It is not as though there was no oral surgeon for miles around, and Martin was expanding into that area to meet the needs of people who couldn't afford root canal therapy and had affordable access to specialty care. In fact, one might question whether expansion into orthodontics meets Martin's legitimate self-interest concerns. Start-up costs and risks of malpractice would compromise his economic stability.

**To Know One's Limits.** Martin has a responsibility to practice within the bounds of his competence and figure out some ways to assess himself to ensure that he is practicing within the standards of the profession. While it is true that if Martin chooses to practice orthodontics he will be held to the standards of the orthodontist and can be sued for malpractice, it is not clear that subjecting a person to potential harm in this case meets the duties of the health provider to do or promote good. Martin can prevent harm by seeking supervision or by referring. Frankena's description of the principle of beneficence states: 1) one ought not to inflict harm (nonmaleficence), 2) one ought to prevent evil or harm, 3) one ought to remove evil or harm, and 4) one ought to do or promote good. (See Beauchamp, Principles of Ethics, p. 217.)

**To Refer.** Martin not only has a duty to know his limits, but to refer cases that are outside his area of expertise.

**To Inform.** If Martin fully informs patients of his competence as well as his experience, it is unlikely that many patients would permit him to perform services. Nonetheless, this is the requirement for valid consent. How then can Martin exercise his autonomous rights to learn and to practice? To do so, Martin must find a way to provide sufficient safeguards to ensure not only that patients are protected from harm, but that the care provided will be a benefit and not an undue burden.

**To Provide Competent Orthodontic Care (If and Only If Martin Engages In Orthodontics).** Martin's obligation to the principle of beneficence means that he must find a way to protect the patient's rights to competent care whenever he expands his practice to a new technique of therapy. One’s “obligation” to the principle of beneficence is, however, conditional. Martin need not engage in orthodontic care, ESPECIALLY when in cases where such care is elective, which it often is (i.e. he is not truly obligated). Cases where orthodontic care is truly necessary are likely to be complicated. Should Martin choose to provide orthodontic services, he is obligated (truly obligated) to provide competent orthodontic care. Martin’s obligation is conditional on his choice to practice orthodontics. In order to ensure he provides competent care, he may be able to arrange to work under the supervision of an orthodontist. First, he may have to demonstrate that orthodontic services are a real need in this community.

**To Provide for Self and Family.** Martin provides for his family through the monies he earns by practicing. He has a duty to support his family, but also to make wise business decisions. Expanding into an area of practice for which there is not a clear need—especially if the economy of the region is depressed—may be a bad business decision, which undermines his financial stability.
THE MARTIN SLADICK CASE

Directions:

Step 1: Use the checklist* (column 1) to record ideas described in the essay:  \(X=\text{Side 1} \quad \checkmark=\text{Side 2}\)
Step 2: Place a mark by the statement in column 2 that best reflects your judgment of the quality of the essay.

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TOTAL (25)   

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Rev 1/08
Janet has been getting straight As during her first year of dental school—except in Gross Anatomy. The instructor was difficult and unclear. When asked what material students were expected to learn, he'd say: "Learn everything. I wouldn't be teaching anything unimportant."

The midquarter exam was unbelievably difficult. Janet and nearly half of the class was failing. Even though Janet really knew the material for the midquarter, she felt that the exam questions had covered minute details that were largely irrelevant. After receiving her grade, she made an appointment with her instructor and asked him about the relevance of some of the exam questions to the material they were supposed to know. He said, "Look, I don't have all day to explain the relevance of this. It's hard enough for an instructor to cover all the material when you freshmen are keeping up a constant din of chatter in the back of the lecture hall. Your job is to listen and to learn all of it, not to ask impertinent questions about the relevance of the test questions. If they weren't relevant, they wouldn't be on the test." When she realized that she might not pass the course, Janet doubled her study time, hired a third year student as a tutor, and joined a study group.

Several of the students in the study group had also gone to speak to the instructor and had been given similar responses to their questions. They all had the feeling that the instructor was more interested in his basic research than in teaching first year dental students. He had even told one student that students were admitted to the program with such inadequate backgrounds in basic science, that it was no wonder they had trouble understanding the relevance of the details. Perhaps some of these students should fail because they didn't belong in the profession at all, he'd said.

Some of the students were really getting worried as the final exam date approached. If they didn't pass Gross Anatomy, they would be flunked out of school altogether, or would lose a whole year. They wouldn't be able to continue with their courses until they'd passed Gross Anatomy, and it was offered only once a year. It didn't matter how high their GPA was otherwise. Janet couldn't afford to flunk and repeat her first year. She had been a hygienist for Dr. Martin for six years, when Dr. Martin had finally convinced her that she should apply to dental school. Janet would make a fine dentist, he'd said. She didn't want to return to her old hygienist job. She probably couldn't get a second student loan to pay to repeat the first year of school. She knew that she could become a really good dentist—wasn't she running straight As in all her other courses? She couldn't take the slightest risk that she'd fail Gross Anatomy. She had to pass the final.

Janet continued to meet with the study group of about 20 students, most of whom were in the same predicament as Janet. They all knew the material covered in the lectures and texts, but the instructor's exam questions ignored those basics and focused instead on obscure minutiae. It was as though he was deliberately trying to cut down the size of the freshman class.
Between the study group, the extra tutoring from the third year student (who had also had this professor for Gross Anatomy), and her own extra studying, Janet felt that she was doing everything possible to assure that she'd pass Gross Anatomy. But, would it be enough? The pressure was mounting. Then came a real chance. One of the guys in the study group had a girlfriend who was an undergraduate work study student. She was assigned to work in the Anatomy Department for a week because one of the secretaries was out ill. The senior secretary asked her to copy and collate the final exams for the Anatomy course! After doing this, she had to stamp numbers on each copy of the exam to make sure that there were no extras floating around. As it turns out, the copy machine had messed up the last page of one of the sets, so she had an extra copy of the exam. No one would miss it. Realizing that her boyfriend would be taking this exam, she put it in her purse to give him. Now, he was going to share it with the study group!

They would all work on the exam together and figure out the right answers. All they had to do was to remember the answers and fill them in at the time of the exam. Janet realized that if she could remember eighty percent of the answers she'd definitely pass the course! What an opportunity! Now she wouldn't have to worry about flunking out. After all, she had told Dr. Martin, her husband, and parents that she was getting straight As. What a relief to know she'd be able to stay in school. She was sure she'd make a good dentist.

Should Janet Look At The Advance Copy Of The Exam? Yes. No____ Why?

What Reasons Would You Give To Support Your Position?
Janet decided to quit the study group and not to have anything to do with the advance copy of the exam. Although the risk of detection was very small, being caught would probably mean expulsion. She hoped she could pass on her own.

She failed the test by a few points. A number of others also failed. Now she'd almost certainly have to leave school.

Should She Report That An Advance Copy Of The Exam Had Been Available?  
Yes____ No____ Why?

What Reasons Would You Give To Support Your Position?
Facilitator Notes
The Janet Landry Case

This dilemma and its extension explore the obligations of students to themselves, to the school, and to the larger profession. After discussing the dilemma, be sure that students discuss the extension, as it is designed to focus their attention on the issues involved in self-governance of the student body and of the profession.

While most will take the position that Janet should not cheat, many students are not able to develop a comprehensive and well-reasoned argument for not cheating. Some students will be drawn in by Janet's characterization of the professor as unreasonable and uncaring. This characterization of the professor was deliberate. It gives you an opportunity to explore some of the classical rationalizations and justifications that deceive us and seduce us into thinking that our less than "moral" actions are somehow justified. Rationalizations run the gamut: "nobody cares," "everybody does it," "we won't get caught," "we deserve more," "a good student like Janet doesn't deserve to flunk out of school," "this content isn't essential to being a good dentist," "nobody remembers this stuff after the course is over, anyway," etc.

One point of this dilemma is to help students see how rationalizations and justifications can fool our consciences and cloud our thinking. Recognizing that we have all cheated at some time in our life, the dilemma is intended, in part, to provoke students to think about their long-range goals with respect to their own and others perception of integrity.

There is also a tendency to excuse Janet because the professor is not meeting his responsibility. Blame-shifting is a way to avoid confronting what we ought morally to do. Some students will develop a long thesis on what the obligations of the school and faculty ought to be. The point of this dilemma is to get them to focus on Janet's responsibility and consequences to her, irrespective of the behavior of the professor or the school. It is true that we live in a less than just society, and we do need to adapt to our society. But focusing on what others ought to do, does not justify our actions. We need to develop an ethically responsible action plan to deal with such dilemmas.

ISSUES

School’s right to Expect the Student Body to Self-Govern. Janet has the right to be an autonomous self-directing person. But when Janet entered professional school, she abrogated some of her right to be a self-directing person. By accepting a position in the school as a student, Janet acknowledged that it was in her best interest to subject herself to the judgment of her instructors, the rules of the institution, and the norms of the profession. Janet can reverse that decision by leaving school, but so long as she is a student, she is expected to be a self-regulating member who participates in the monitoring of the student body. Presumably, Janet entered professional school 1) to see whether she had the capability to become a professional, and 2) to see whether she wanted to submit to the ethical and technical requirements of the profession.
Because students are in the process of becoming professionals and don't necessarily know what is expected of them by the school and by society at large, the school informs them of the ethical expectations of the profession. In fact, the University Of Minnesota School Of Dentistry requires students to express the expectations in writing, in part to assure that the expectations are understood. Thus, having accepted a position as student, the school has a right to expect that students will abide not only by the specifically-stated rules, but by the general societal and professional expectations, and the biomedical principles upon which they are based. These are expressed in the ADA Code of Ethics, which students are expected to use as guides as they prepare for licensure.

Profession’s Right to Expect the School to Self-Govern. The profession determines the general requirements of curriculum and entrusts the faculty of the school with the selection and development of educational programs for students. The profession has a right to expect that the school will graduate only those students who meet professionally-set standards for academic and technical expertise, and students who have demonstrated, through their actions while in professional school, that they will uphold the ethical standards of the profession. Assuming the school honored its own selection criteria, the faculty has a right expect that students are prepared for the rigors of school and are of good moral character. Faculties operate on that assumption until a student proves otherwise. The powers given to the profession by the state to set the standards for education and to decide who has met those standards require members of the profession to police the profession and each other. Consequently, the profession can reasonably require that dental schools uphold professional standards by requiring their students, faculty and administration to prevent and report violations of professional ethics.

The Profession also expects the School to puts in place a system for monitoring the curriculum and expects the faculty to perform this role. The role of the administration is to facilitate the work of the faculty; to see that processes and procedures for governance of the educational program are in place—not to tell instructors what to do and how to do it, and not to make decisions about the curriculum itself. Thus, if a student has a problem with a course, the appropriate course of action is to appeal first to the instructor. If the student doesn’t feel satisfied at this point, the next level of appeal is to the group that is directly responsible for the content and processes—the division or department. It is the persons with disciplinary expertise that can best address the student’s concern.

Fairness To Other Students. Cheating by some students interferes with the rights of the class to be fairly evaluated. Stealing examinations also interferes with the rights of future students to be fairly evaluated.

Fairness To The Professor. The professor has a right to know that a test is circulating among the student body, and that there is a leak in the security system in the department. Developing good tests—tests that reliably discriminate students who know the content from those who do not—is not easy. It takes a great deal of the professor's time. Professors try to maintain the security of test items, so they can use them again and again. Well-developed items that can be used over and over enable a teacher to evaluate the effectiveness of teaching and the effectiveness of changes made to improve instruction.

Fairness To Patients. When Janet fails to learn the material, she fails to meet an obligation she took on when she became a professional school student. Janet is obliged to learn the material to
the best of her ability, and the level of expertise she acquires must surpass the minimum standards of the profession.

**Fairness To Self.** Janet cheats herself when she fails to get reliable information about the state of her knowledge of the course material. Janet is also setting patterns for the way she will conduct her personal and professional life. By cheating, she establishes habits which erode her self-esteem and undermine her self-confidence. Dentists often speak about the “ability to sleep at night.” What they are saying, perhaps, is that if one violates the core self—a self for whom issues of fairness, respect for persons, honesty and trustworthiness are core—one’s conscience will give them trouble. Some might label this as an issue of **Morality and Conscience.**

**AFFFECTED PARTIES**

**Professor** is affected if Janet fails to report the test that is circulating.

**Classmates**

Janet

**Girlfriend/student worker** who took the test

**Study Group**

**School**

**Future Patients**

**Family And Support Group**

**Profession**

**CONSEQUENCES**

**Janet Passes/Or Is Expelled For Cheating.** Either of these consequences could result from Janet's decision. Most students believe that students who cheat should be expelled. When they learn that someone was caught cheating and not expelled, they lose faith in the institution. They believe there should be swift consequences to any act of cheating. Indeed, they are right. We show disrespect for autonomy when we fail to hold a person responsible for an action. But in determining what is fair punishment, we need also to consider the circumstance, including the presence of internal or external pressures that interfere with a person's ability to exercise his/her autonomy. It is helpful to consider Ozar's article* (p. 279, column 1, paragraph 2), the appropriate response to acts of immaturity. Students need to be able to distinguish nonresponsible from irresponsible actions.

**Note.** **Nonresponsible Actions** (ethically speaking) are actions either done by a person who is of sound mind, but who either lacks sufficient information to judge a situation soundly or who is actually coerced by someone else into acting in a way that he judges he ought not act. An act is **coerced** only when all of the choices from which a person has to choose are choices created by another party, and are not what the individual would choose. The mugger who demands "your money or your life" coerces because he/she has created the full set of options from which you can choose. On the other hand, when natural circumstances (for example, being terminally ill) limit your choices, the decision you reach is **not coerced.** To be coercive, a choice must be one that represents the will of some other person.
Otherwise, if you are of sound mind and are adequately informed (or could be), you are acting autonomously. A toddler who causes his infant sister's death by feeding her something she cannot chew, is nonresponsible for that death. We don't blame him, even though the infant was killed. Irresponsible actions, on the other hand, are those actions done by someone who is of sound mind, who has (or ought to have) the information needed for him to decide how to act, but who, either through laziness, indifference or self-interest, acts in a way that he/she knows he/she shouldn't act. Janet is certainly pressured (by peers, financial, personal and academic concerns), but the pressures she faces are not tantamount to coercion.

To improve/harm her Self-Confidence. When Janet cheats, she gives up an opportunity to get an accurate assessment of her competence with the material. Janet is worried about failing. An inaccurate assessment does nothing to develop her confidence in herself; in fact, it tends to destroy it.

Undermining Self-Esteem. Irma Bombeck once wrote, "Guilt is the gift that keeps on giving." When we fail to live up to our ideals, we undermine our self-perception and self-esteem. Compromising our values to achieve short-term goals can have far-reaching consequences for self-perception. Not only do we blunt our conscience to future actions, but the resulting negative self-image can devastate our interpersonal effectiveness. Professionals need self-esteem to function effectively. Janet needs to decide how she wants to be viewed by herself and by others.

Competence To Treat Future Patients. Failure to grasp the material interferes with Janet's competence. The long-range consequence of failure to meet the profession's standards is compromised competence, which ultimately will affect those Janet will serve.

To reputations (of School/Profession). Janet’s personal reputation is certainly damaged if she cheats, but the identification of cheaters in a professional school has broad consequences for the school and the profession. The profession (through its accrediting bodies) gives the school the responsibility to select students for professional education that are trustworthy. Consider the public response to reports of senior students at two US dental schools that were caught cheating. (See the 2006 reports of Cheating scams at UMDNJ and UNLV).

DUTIES

To Learn The Material. Janet has a responsibility to learn the content of courses. Janet is not at a point where she can judge the usefulness of what she is expected to learn.

To Be Honest and Trustworthy. Janet must decide the level of integrity at which she will conduct her personal and professional life. Janet has a duty to represent herself accurately, and to keep her short-term actions consistent with her long-term goal. To be viewed as trustworthy requires consistency across a wide variety of situations and circumstances.

To Be Self-Monitoring. As a member of the student body and as a future member of the profession, Janet has a responsibility to monitor her behavior, and to honor the commitment she has made to the profession. She has a responsibility to use the justice system that has been
developed to deal with problems in the system, and not to take matters into her own hands, by cheating, stealing or conspiring with others to deceive the professor.

To Report Instances Of Violation. Based on the rights of the faculty and school, not to be lied to or to have their property confiscated, and Janet's obligation as a future member of the profession, Janet has a duty to the professor and the department to report the breach of security in the test. Given the obligation to monitor her future profession, she can't consider an anonymous report as fulfilling her obligation to the student body, faculty or the profession. The profession has a right to know if there are members that cannot be trusted, as the profession has a right to know if a person is under strong internal or external pressures that interfere with their ability to exercise their autonomy. Obsessions, phobias, compulsions, addictions, financial, family and peer pressures are but a few of the pressures that may lead an observer to conclude that a person is not acting autonomously and is less than fully responsible for their actions. (Ironically, when we punish a criminal for his crime, we treat him respectfully by holding him accountable for his action.)

To Confront Peers. While she has an obligation to the profession to report violations, she also has a duty to her errant peers to speak to them directly about her observation of misconduct and to urge them to change their ways and to cooperate with her in informing the department of the breach of security. No one wants to be characterized as a "tattletale," or "whistleblower." But ... Janet's obligation to her profession and their ability to fairly discriminate among students should take precedence over her duty to protect the secrets of her peer(s). One might also argue that she has a duty to help her peer see the error of their ways and at least give them an opportunity to change before raising the issue with a higher authority. If her peer does not heed the warning, she ought to bring two or three others to help the peer see the error. Only after she has exhausted these avenues of influence should she bring the matter to the attention of an authority. Of course, if that peer is suffering from an obsession, phobia, compulsion, addiction or other pressure that interferes with clear thinking and responsible action, the observer ought to seek help from the school and its counseling services as soon as the problem becomes apparent.
**THE JANET LANDRY CASE**

Directions:

Step 1: Use the checklist* (column 1) to record ideas described in the essay:  \( X = \text{Side 1} \quad \checkmark = \text{Side 2} \)

Step 2: Place a mark by the statement in column 2 that best reflects your judgment of the quality of the essay.

*items on the checklist are simply key words to remind the assessor of general concepts described in the facilitator’s manual.

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### ISSUES

1. School’s right to expect student self-governance
2. Profession’s right to expect school self-governance
3. Fairness to other students
4. Fairness to professor
5. Fairness to patients
6. Fairness to self

Other

### AFFECTED PARTIES

1. Professor
2. Classmates
3. Janet
4. Girlfriend/student worker who took test
5. Study group
6. School
7. Future patients
8. Family and support group
9. Profession

Other

### CONSEQUENCES

1. Janet – pass/expelled
2. Self-confidence
3. Self-esteem - guilt
4. Competence to future patients
5. To reputation

Other

### DUTIES

1. To learn material
2. To be honest and trustworthy
3. To be self-monitoring
4. To report instances of violation
5. To confront your peers

Other

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**Expert Judgment**

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### ISSUES (0-5 pts)

- clearly articulates all pertinent conflicts (5)
- describes most of the pertinent conflicts (4)
- describes some of the conflicts (3)
- suggests only the most obvious conflict (2)
- places duties in conflict with rights or consequences (1)

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### AFFECTED PARTIES (0-3 pts)

- states how each party is affected (3)
- states most affected parties (2)
- suggests only the person most affected (1)

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### CONSEQUENCES (0-4 pts)

- foresees and clearly describes several possible positive and negative outcomes and projects the possibility of their occurrence (4)
- describes consequences to support a stance, but not consequences that oppose one’s stance (3)
- alludes to consequences to support a stance (2)
- sees only the obvious possible outcomes (1)

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### DUTIES (0-5 pts)

- clearly describes each of the professional’s obligation in the specific situation (5)
- describes the most important obligations (4)
- describes some of the obligations (3)
- simply alludes to obligations (2)
- confuses rights and duties (1)

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### REASSESS (0-3 pts)

- provides clearer reasons for marinating Side 1 position or states reasons for changing position (3)
- shows some willingness to reassess (2)
- changes or maintains position with no rationale (1)

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### WELL-REASONED ESSAY (0-5 pts)

- clearly appeals to moral ideals or principles to resolve each conflict & considers strongest counterarguments for each (5)
- clearly appeals to moral ideals or principles to resolve some of the moral conflicts & considers strongest counterarguments (4)
- appeals to moral ideals to resolve the most salient conflict & addresses some counterarguments (3)
- appeals to moral ideals in a very general way (2)
- appeals to ideals, but exhibits misunderstandings (1)

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**TOTAL (25)**

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*Rev 1/08*
Jerry Lange and Brian Larkin attended dental school together. Although they didn't socialize a lot outside of school, they sat next to each other in lab and became good friends. Jerry was more athletic and enjoyed golf and tennis; Brian was more artistic and hung around with artists and musicians. Both developed exceptionally good technical skills and other students often came to them for advice. In fact, during their junior year, they were both asked by the lab instructor to help out struggling second year students. They also ended up in the same group during their clinical years, and found they had good patient management skills and often consulted with each other about cases. Although their social circles remained different, when Jerry and Loni were married at the end of their fourth year, Jerry asked Brian to be a member of the wedding party. Brian consented. When Jerry suggested Brian bring a guest, since the woman he would be standing up with was married, Brian asked if it would be all right if he brought a male friend. Jerry said that would be fine, and thought nothing more about the request. During the wedding reception, Jerry's mother pulled Jerry aside and pointedly asked if Brian was gay. Jerry said he didn't know, but thought it was really nobody's business if he was. Jerry was actually rather stunned by his mother's question, and realized that whatever his mother had picked up on was probably true, and that he had simply ignored many of the indications. He also began to realize that by agreeing to let Brian bring a male friend he may have put Brian at risk, as both his family and Loni's family were intolerant of a gay lifestyle, and that the church they belonged to was not accepting of gays.

The wedding and subsequent trip was a wonderful event for Jerry and Loni, and they really relaxed and enjoyed some time off before they moved to Chicago, where Jerry had been accepted into a General Practice Residency. Following the residency, Jerry and Loni moved back to Minnesota and Jerry went into practice with his uncle in a midsized town in southwestern Minnesota. Jerry heard from Brian occasionally, usually around Christmastime, and knew that Brian was working in a large group practice in Minneapolis. Jerry got along well with his uncle, and the practice flourished. Jerry was happy and his uncle was so pleased that he set up a plan, whereby Jerry would have a controlling interest in the practice by the time his uncle retired, but his uncle would receive a percentage of profit after retirement.

About seven years after he started practice, Jerry got a call from Brian asking if he could come to visit for a weekend. Jerry was happy to see him and they spent all day Saturday together at Jerry's office discussing cases. Jerry began to realize how much he missed his old friend. The weekend was great, and they agreed to get together again soon. In fact, they even talked about the possibility of working together, since Jerry's uncle was starting to cut back, and the practice was growing. Over the next few weeks, they discussed the possibilities. Brian said he needed a year or so to work his way out of his current obligations and make plans to move.

Almost two more years passed before Brian called to say he was now ready to make the move. They agreed to meet for a weekend to finalize the arrangements. This time, Jerry was surprised to see that Brian seemed thinner, and had less energy.
Nonetheless, they again had an enjoyable time discussing the practice possibilities. Jerry did wonder about Brian's personal life, which Brian never really discussed. In fact, he seemed to avoid discussion of his personal life.

Jerry decided he needed to directly raise the issue, as Brian's lifestyle would be an issue if he moved to this small community. There was no identifiable gay community and there were no gay couples openly living together in Jerry's community. Additionally, homophobic attitudes seemed pretty pervasive in the community. Jerry couldn't help but remember the challenges he had received from patients about the use of universal precautions, and questions about why such precautions were necessary in this community. As one patient put it, "This is a decent community with God-fearing citizens. This isn't the depraved city, thank heavens. If some fag decided to set up shop in this town, we'd run him out on a rail!"

When Jerry approached the subject with Brian, Brian confessed that he had recently discovered that he was HIV positive. His companion, who he thought was faithful, turned out not to be, and now had full-blown AIDS. The two had separated and Brian wanted to change his lifestyle and devote his energy to dentistry. He had always valued his friendship with Jerry and wanted an opportunity to enjoy what part of his life he had left. He said that he would do nothing to embarrass Jerry or his family, and that he had no intention of disclosing his status to patients or anyone else. He promised that when it became necessary, he would resign from the practice and move back to live with his parents. He said his parents were aware of his condition and would care for him when that became necessary. He pointed out that he did not yet have the disease and should be able to work effectively for some time. "Who knows," remarked Brian, "a cure may be found before I convert to AIDS."

Jerry thought about the years he had spent building his practice and his comfortable lifestyle. He also thought about how much he misses the intellectual stimulation and the friendship his friend provided. He realized how tired he was of the intolerance in his community. He really valued his friend and their working relationship.

Should Dr. Jerry Lange Hire Dr. Brian Larkin? Yes___ No___ Why?

What Reasons Would You Give To Support Your Position?
ISSUES

**The Jerry Lange Case**

Dr. Lange's right to run his practice as he sees fit is in tension with his uncle's right, since his uncle is part owner of the practice. This issue could also be described as a conflict between Dr. Lange's duty to his friend (to honor his commitment) vs. his duty to his uncle to keep contractual agreements (or at least to involve him in a hiring decision that had potential negative consequences for his income). One should not assume that Dr. Lange's uncle would oppose hiring. In fact, if he is a conscientious, civic-minded health professional, he may, as does Jerry, wish to confront the kind of discrimination and ignorance that sends negative messages to youth, minorities, and those with life-threatening diseases.

Some may assume that Dr. Lange has a duty to hire Dr. Larkin, or he could face legal consequences for discrimination. Although one can always be sued, there is protection against frivolous lawsuits. This misunderstanding seems to arise from a notion that if Brian has a "right to practice" this creates a duty in Jerry to hire him. It doesn't. Not only are very small businesses exempt from affirmative action standards, but a health professional's 'right to practice' is not really a right at all, but rather a licensed privilege which he or she maintains as long as he/she follows the rules set forth in the Dental Practice Act of the state in which he/she is licensed. Because a professional's "right to practice" is not on the same moral plane as the patient's right to competent care, a dentist's license is conditional.

Dr. Larkin's right to practice is in tension with the patients' right to choose their health care provider and to be informed about characteristics (HIV status, not sexual orientation) of the provider that may be important to them — even if these characteristics present a low-probability risk to the patient. Some students are aware that dentists in Minnesota must report their HIV status to the Board of Health. Whether Dr. Larkin is required to inform patients of his HIV status is an ethical rather than a legal issue, because the law does not demand that the professional inform patients of their status. Many people argue that the principle of veracity would dictate honesty with patients, even if Brian is not legally required to disclose and the risk of contracting the virus is extremely low. Some may decide that a major problem with Brian Larkin is his intention to maintain a life of deception. Doing so is neither in Larkin's personal interest (for reasons discussed later) nor in the public health interest of the larger community.

Certainly, Brian's right to respect and dignity is affected by an intolerant community. Sometimes people like Brian choose to lead a life of deception, without realizing the consequences to one's self-esteem and mental health. Perhaps Jerry ought to help Brian learn to accept himself for who and what he is, and to either create the environment where Brian can be valued and respected, or to help him to find such a setting.

Obligation to respect patient choice vs. obligation to address prejudice that interferes with public health outcomes. This issue really distinguished the better reasoned responses. Students may comment about the prejudice in the community, but assume that the dentist has (as with the religious-based views in the Marilyn Anderson case) no obligation to do anything about it. Others may recognize that confronting intolerance (and ignorance about the transmission of blood-borne viruses) is an obligation of the dental profession, particularly because intolerant views interfere with people's willingness to disclose health problems for fear of discrimination. In this case, educating people about the potential for transmission, as well as the importance of early detection, prevents the spread of disease. In contrast to the Marilyn Anderson case, where we argued that confronting religious-based prejudice against certain groups was supererogatory, rather than obligatory, at least for the dentist, the prejudice directly affects something the dentist is obligated to do — to prevent the spread of disease and promote early intervention to enhance life expectancy. Clearly, the dentist has to use universal precautions as most students will recognize, but
some may think there is a responsibility to educate the public about the minuscule probability of contracting the disease through dental treatment.

**Self-governance of the profession:** Dr. Larkin's right to keep his health problems secret is in tension with the profession's right to its reputation. Many recognize that the public has no need to know some things about a professional—like sexual preference—and professionals have no responsibility to disclose such information. And, the health professions have worked out monitoring systems to enable professionals who are impaired by chemical addictions, psychological illnesses, or blood-borne contagious diseases to continue to work after their problem is discovered. (Incidentally, one cannot learn about a professional's health status by contacting the Board of Health, as a few of you hypothesized.) However, self-regulation and monitoring does not mean the professional can keep his/her disease status secret. Some may assume that Brian's right to practice means that he could decide whether to disclose his status and that he could maintain his secret, if he chose to do so. Others clearly recognize that not only was there a low probability that the secret could be kept, but that any deception, WHEN (not IF) it was discovered would seriously undermine trust in the profession and be likely to reinforce intolerant views in the community. Further, that self-governance of the profession meant that Jerry Lange had a responsibility to act on his knowledge of Brian Larkin's health status—either by informing Brian that he can't ethically maintain secrecy and seeing that he reports, or by reporting Brian himself. (Brian has a legal obligation to report his status.)

**CONSEQUENCES**

**Dr. Lange's practice might diminish.** Given the views of the community, this consequence seems highly likely, but especially so if attempts are made to conceal Larkin's health status. As most of you recognized, loss of income has far reaching consequences to many parties, including families and staff.

**Dr. Larkin may experience discrimination and disrespect.** Consequences range from psychological damage like simply "feeling bad" to more serious problems resulting from denial and deception to potentially being the subject of harassment.

**Dr. Lange either benefits from a stimulating work environment, or loses a friend and stimulating colleague.** Either because of the refusal to hire or because of future health problems, Dr. Lange stands to lose a friend.

**Dr. Lange's family faces internal strife, and possible osterization and discrimination.** Dr. Lange may have a rift within his family, if he decides to confront homophobic views and fears. Likewise, his family could experience harassment from the community.

**Intolerant views go unchallenged; trust in the profession is lost if secrecy is maintained.** If Jerry bows to public pressure, intolerant views in the community go unchallenged and there is no opportunity to confront them and to educate the community. If he hires Brian without disclosure of Brian's health status, trust in the profession is seriously damaged when people find out.

**Attitudes of the patients and community change.** One of the more powerful ways to overcome discriminatory beliefs is to encounter and get to know someone who is different from you. Hiring Brian, under the right set of circumstances, could do much to overcome discrimination and ignorance. If the three dentists worked together with family and staff, they could develop a plan to educate the public about the transmission of disease and find ways to introduce Dr. Larkin to the community and the practice.
DUTIES

To respect patients' right of choice of provider. Students recognize the responsibility to protect patients from potential harm by using universal precautions to prevent transmission of disease. Even though the probability of transmission is very very slight (assuming universal precautions are maintained), patient fear and anxiety may not have a rational basis. Harm can come in other forms—thus, the duty to respect a patient's right of choice.

To fulfill obligations to his family and to his uncle. Professionals have many obligations, and obligations to patients often take precedence over obligations to self. In this case, Lange's commitment to his family, to provide for their welfare, and to his uncle need to be honored. As pointed out earlier, it may be possible to honor them without giving in to them.

To educate patients and employees about the probability of contracting the virus. Jerry has a responsibility to practice universal precautions and to educate patients about the probability of contracting disease, as well as about attitudes that interfere with disclosure. Because of the homophobic attitudes, he particularly needs to confront the kind of bigotry that interferes with acceptance of differences and respect for person. Frankena's description of the principle of beneficence states: 1) one ought not to inflict harm (nonmaleficence), 2) one ought to prevent evil or harm, 3) one ought to remove evil or harm, and 4) one ought to do or promote good. (See Beauchamp, Principles of Ethics, p. 217.)

To disclose HIV status. Even though Brian is not legally required to disclose his status, Jerry has a responsibility to deal honestly with patients and employees.

To confront prejudice in patients and employees. It isn't enough to avoid promoting prejudice; it is necessary to confront it, particularly in employees, but also in patients.

To inform Brian that he must report; that he can't ethically maintain secrecy. Jerry's obligation to the self-governance of the profession indicates that he must help his colleague to confront his personal and professional problems, if he is to lead an "emotionally" healthy life.

To help his friend. Jerry has a responsibility to help his friend, honoring his commitment to his friend to the extent possible, though he can't do so by compromising his responsibilities to his family, his uncle, his patients and his profession.
The Jerry Lange Case

Directions:

Step 1: Use the checklist* (column 1) to record ideas described in the essay: 
[X] = Side 1    [\ ] = Side 2

Step 2: Place a mark by the statement in column 2 that best reflects your judgment of the quality of the essay.

*Items on the checklist are simply key words to remind the assessor of general concepts described in the facilitator's manual.

### Issues (0-5 pts)
- Clearly articulates all pertinent conflicts (5)
- Describes most of the pertinent conflicts (4)
- Describes some of the conflicts (3)
- Suggests only the most obvious conflict (2)
- Places duties in conflict with rights or consequences (1)

### Affected Parties (0-3 pts)
- States how each party is affected (3)
- States most affected parties (2)
- Suggests only the person most affected (1)

### Consequences (0-4 pts)
- Foresees and clearly describes several possible positive and negative outcomes and projects the possibility of their occurrence (4)
- Describes consequences to support a stance, but not consequences that oppose one's stance (3)
- Alludes to consequences to support a stance (2)
- Sees only the obvious possible outcomes (1)

### Duties (0-5 pts)
- Clearly describes each of the professional's obligation in the specific situation (5)
- Describes the most important obligations (4)
- Describes some of the obligations (3)
- Simply alludes to obligations (2)
- Confuses rights and duties (1)

### Reassess (0-3 pts)
- Provides clearer reasons for maintaining Side 1 position or states reasons for changing position (3)
- Shows some willingness to reassess (2)
- Changes or maintains position with no rationale (1)

### Well-Reasoned Essay (0-5 pts)
- Clearly appeals to moral ideals or principles to resolve each conflict & considers strongest counterarguments for each (5)
- Clearly appeals to moral ideals or principles to resolve some of the moral conflicts & considers strongest counterarguments (4)
- Appeals to moral ideals to resolve the most salient conflict & addresses some counterarguments (3)
- Appeals to moral ideals in a very general way (2)
- Appeals to ideals, but exhibits misunderstandings (1)

Total (25)
The Dr. Lester Case

Dr. Jim Lester has a practice that suits him fine. He works five days a week for forty hours and has time for his family and his current passion, creating a bird sanctuary outside town. His hobby is environmental protection and he belongs to the local Sierra Club. Further, his wife is also a member and this is something they do together.

Dr. Lester's community has been hit hard by the economy. Two years ago, two auto plants laid off large numbers of workers. Efforts have been made to attract new business, and many workers have stayed in the community hoping some new opportunities will develop. Many are still drawing unemployment, but medical and dental benefits expired some time ago. Several dentists have started a move in the local professional group to contribute time, nights and weekends at a downtown clinic, to provide emergency and preventive care. They ask Dr. Lester to join. He refuses. He points out that he's already contributing to the community through the Sierra Club, that he feels personally fulfilled through his current practice, and that his personal goal has never been to become that professionally involved. He does a good job with suburban kids and that's his specialty. He has always felt that he's the kind of person who does better with a wider range of commitments.

"But Jim," his friend Dr. Al Felding argues, "your lack of professional involvement means the rest of us have to contribute more, and lack of cooperation for this project makes us look bad at the state meetings. You're the third suburban dentist to turn me down this week."

"Look Al," Jim counters, "you chose to do this. I'm not proselytizing you to become a member of the Sierra Club. To each his own. You're fulfilling your mission in life, I'm just choosing a different track for my extracurricular activities. Come off it, will ya?"

Should Dr. Lester Volunteer To Help? Yes ___  No ___  Why?

What Reasons Would You Give To Support Your Position?

Developed by Muriel J. Bebeau, Ph.D., University of Minnesota
Facilitator Notes
The Dr. Lester Case

The purpose of this case is to stretch the students' understanding to the role of the professional in contemporary society. There is much talk about the "individualistic" perspective expressed by many Americans, especially in business. Many businesses today are seeing the results of focusing on short-term goals, rather than long-range goals that take into consideration the welfare of others. Courses in business ethics, which are springing up around the country, must appeal to altruism and self-interest to undergird a more community-minded obligation to serve others. Professions, however, can appeal to their underlying ethic, and the contractual relationship they have with society to argue for an obligation to serve.

In the Health Ecology lecture course, we discussed the obligation to serve society, which flows from the implicit promise the profession makes, to place the interests of the patient over self-interest and the rights of society over the rights of the profession. In exchange for this "promise," society grants the profession and the professional privileges. Often the obligation to "serve" is viewed in a narrow sense: "I'll serve those who can afford to pay." This does not mean that the professional needs to become a Mother Teresa, but it does mean that the dentist, because of his superior knowledge and training (training that has often been underwritten by public funds), ought to give some measure of assistance to promote the public good.

Beauchamp's article, p. 217, has a discussion as to whether some forms of beneficence are morally required. It would be good to review this with students, as you discuss whether Dr. Lester ought to volunteer some time "at the downtown clinic." Though some students may conclude that it isn't obligatory, you may have some fun exploring the self-interest reasons for doing so. It is also helpful to consider the long-range consequences to Dr. Lester, if he does not use his "abilities" to help out the community in economic hard times. The mining communities in Northern Minnesota are an example. You might also help students consider their larger role in a community. As a highly educated person, they will be able to influence others, not only in matters of oral health, but in other societal questions as well.

The dilemma suggests that Dr. Lester is already doing "community work." In this case he is being asked by his peers to do different community work. One point students often overlook is that few people are qualified to provide the kind of community service Dr. Lester is capable of performing, while many community members may have the capability to assist with the bird sanctuary and other environmental concerns. Cooperating with peers spreads the obligation and strengthens the profession's public image. Advertising of this sort is hard to buy. One further conflict is the obligation to family vs. the obligation to others. Some students have pointed out that one need not ignore the family in order to meet the "temporary" needs of the community. Dr. Lester might involve his wife in the one evening a week he volunteers. She may be able to assist him or simply to visit with the people who come for care. Showing support for others in times of need would enrich both the giver and receiver. From time to time, students have argued that Dr. Lester may not have the right personality to "work at the downtown clinic." One might then explore an obligation to find ways to support his peers through other means—contributing supplies, money, education, or other services that relate to the obligation of the profession to consider the oral health needs of the community.

The accompanying checklist will remind you of the major issues, affected parties, consequences and duties. Following is a description of some of the nuances for each.
ISSUES
Dr. Lester’s right to use free time in ways that serve his other interests. Many dentists pursue other interests in their free time. Some are involved in scouting; some serve on school boards or hospital ethics committees, assist with habitat for humanity projects, join Rotary Clubs, or simply pursue personal or recreational interests—painting, music, reading, etc.

Community’s right to basic health care seems to be in tension with Dr. Lester’s right to use his free time for pursuit of personal interests. It appears that there is a real need in this community for oral health care for people who are out of work and have no health care benefits. The care they need is not elective care, but essential care either to prevent dental disease, or to address disease that is present. Dr. Lester is serving patients in his practice—providing preventive care, restorative care—and as do most dentists, he likely provides elective care. Elective care is care that enhances appearance, but may not be essential to maintaining oral health. Dentists who seek care at dental offices usually are able to pay for that care (by using their dental prepayment plan, their personal resources, or some combination). If patients have prepayment plans (usually referred to as dental insurance—though it isn’t insurance in the usual sense of the term), such plans often cover the cost of preventive maintenance (check-ups and cleanings) that enable a patient to identify problems before they become big expensive problems. The question in this case is whether Dr. Lester can help provide care for those disadvantaged members of the community. Dr. Lester’s practice is in a suburban area—possibly removed from the area where the laid-off workers live.

Dr. Lester’s right to his health and well-being seems in tension with the rights to health and well-being of other practitioners in the area who have responded to the community’s need for basic oral health care services. Dr. Al Felding points out that Dr. Lester’s failure to help puts added burden on those that volunteer. We may argue that Dr. Felding’s strategy for enlisting cooperation may not be so effective (appealing to appearances and blaming), but Dr. Felding does make a good point. If everyone helped, the burden would be shared. Dr. Lester, as does every professional, needs to consider his personal well-being. We all know people who become workaholics and neglect themselves and their families. Dr. Lester is working a five day 40 hour week (probably on the high side for most practitioners who work 4 day weeks). He does have a responsibility to himself and his family to not overwork. The question is whether he could reduce time at his private practice, in order to help with the present community needs.

Society’s right to expect help from profession because they’ve given dentists’ special privileges and because the profession has a monopoly on practice. Society also supports the education of dentists through taxes that support the establishment of Universities. Additionally, many private individuals have contributed to scholarship funds and even direct funding of the school, in order to allow individuals from a broad spectrum of the economic strata to become dentists. The incredible expense of the one-on-one training required to educate a dentist is born by many. Whereas many of the needs of the disadvantaged can be addressed by almost any capable person, only dentists have the specialized knowledge to address the oral health needs of the community. Society has a right to expect that the profession collectively will work to address oral health needs of society—and especially to help in times of need.


Affected Parties

Dr. Lester
Dr. Lester’s patients
Dr. Lester’s family
Community
Other dentists in the community
Profession

Consequences

Improve/harm Dr. Lester’s image. Failing to help at a time when the community is suffering is likely to be noticed. Helping, however, is likely to be noticed both by patients and by those who need care. Helping is likely to have a positive effect on Dr. Lester’s image in the community and may even motivate some of his patients to help those in need. One’s reputation is very important.

Improve/harm the image of the profession. When dentists cooperate with one another to address oral health needs of the community—especially when they aren’t simply engaged in activities to promote self-interest—the public’s view of the profession is enhanced. Public trust is critical to maintaining professional autonomy. Public trust is easily undermined when the public perceives that dentists make a lot of money and give little back to their communities.

Consequences to dentists who volunteer. When Dr. Lester helps, the responsibility is shared and the burden of extra work is distributed.

Enhance/neglect of family life. Volunteering has the potential for taking Dr. Lester away from his family. If he has children, it puts extra burden on the children’s mother. On the other hand, helping children to recognize the responsibilities we all have as members of community to help those who are less fortunate may be an important lesson for his family. Dr. Lester may be able to engage his family in providing the care that is needed, and maybe consider what each could contribute to the less fortunate. Children can share toys, outgrown clothing, etc. as the family considers how to help address needs within their community.

Potential economic consequences. Dr. Lester needs to be mindful of the interdependence of business and industry within the community. Dr. Lester may be practicing in the suburbs that are not yet affected by the downturn in the local economy, but when local businesses fail, Dr. Lester is likely to experience a ripple effect or downturn in his business. Whereas people in the community are likely to have the same dental needs, when money is short, dental care is often the first to go—especially the more expensive restorative care.

Potential compromise to Dr. Lester’s patients. Clearly, Dr. Lester has obligations to his patients to attend to their oral health needs. Whereas he cannot neglect them, especially for essential care, he may be able to enlist the cooperation of patients to postpone elective procedures to enable him to help patients in need.

Duties

To serve patients of record. Dr. Lester’s duty to serve patients of record is a primary obligation. This is especially true for circumstances involving a duty to “removal of harm” and “prevention
of harm.” With respect to elective procedures (falling in the category of “doing and promoting good”), he may have more leeway. Prioritizing patients based on need is referred to as triage and is commonly done in emergency rooms. Dr. Lester needs to be careful not to “use” his obligation to current patients as an excuse to avoid helping those with serious needs.

To provide for the disadvantaged. Dentists (singly and as a profession) have a responsibility to provide some measure of service to society. Each dentist needs to consider how s/he will engage in service to the less fortunate. There are many ways to accomplish this, but the point is that society has a right to expect professionals to do their “fair share.”

To promote the oral health of the community. When people in a community lack access to care and lack understanding of the cause and prevention of dental disease, the community’s overall health is compromised. Dentists have an individual and collective responsibility to promote the oral health of the community—not just by making services available to those who can pay—but by assuring that medical assistance patients can receive care and by assuring that oral health promotion programs are effective.

To maintain health and wellness of self. Dr. Lester has a duty to himself to be sure that he is not so overworked that when he does provide care that patients (whether his regular patients or those he volunteers to help) are not at risk. No one is suggesting that Dr. Lester work 50 or 60 hour weeks—which many health care professionals do, but we are suggesting that he consider the needs of the disadvantaged when he considers how to organize his work.

To provide for family. Dr. Lester has a responsibility to his family to assist with the support of their needs. However, most dentists’ incomes are well above the median income in the community. It seems unlikely that by working a bit less and contributing time to the oral health of the community, that he will seriously compromise the basic needs of his family. Of course, if Dr. Lester has some special circumstance (e.g. supporting a disabled spouse, parent or child), his peer dentists would likely take that into account as they consider what each member of the local dental society could reasonably expect.

To serve the larger community. Dentists are highly educated members of society. Many are, or could be, leaders in their community. Whereas Dr. Lester’s overall responsibility to promote the oral health of the community, he should also consider other areas of leadership that may help to improve the overall economics of the community. Dr. Jeremy Lowney*, the dentist who established the Haitian Health Foundation says of his responsibility to the larger community: “To whom much is given; much is expected.” Dr. Jack Ecternacht*, the Minnesota dentist who lead the fight to fluoridate the water in Brainerd said: “I believe that if I make my living in the community, I have a responsibility to help the community in any way I can.”

To cooperate with peers to provide access to care and to promote the oral health of the community. Given that the profession has a collective responsibility to promote the oral health of society, Dr. Lester should support his peer dentists who have taken on a project that serves the needs of the community.

**THE DR. LESTER CASE**

**Directions:**

- Use the checklist* (column 1) to record ideas described in the essay: \( X = \text{Side 1}\) \( \sqrt{ } = \text{Side 2}\)
- Place a mark by the statement in column 2 that best reflects your judgment of the quality of the essay.

*Items on the checklist are simply key words to remind the assessor of general concepts described in the facilitator’s manual.

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### ISSUES

<table>
<thead>
<tr>
<th>Position: Yes/No</th>
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<tr>
<td>1) Dr. Lester’s right to use free time</td>
<td>(\square) clearly articulates all pertinent conflicts</td>
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<tr>
<td>2) Community’s right to basic health</td>
<td>(\square) describes most of the pertinent conflicts</td>
</tr>
<tr>
<td>3) Dr. Lester’s right to his health and well-being vs. the rights to health and well-being of other practitioners</td>
<td>(\square) describes some of the conflicts</td>
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<td>4) Society’s right to expect help from profession</td>
<td>(\square) suggests only the most obvious conflict</td>
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<td></td>
<td>(\square) places duties in conflict with rights or consequences</td>
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### AFFECTED PARTIES

<table>
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<tr>
<td>1) Dr. Lester</td>
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<td>2) Dr. Lester’s patients</td>
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<td>3) Dr. Lester’s family</td>
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<tr>
<td>4) Community</td>
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<tr>
<td>5) Other dentists in community</td>
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<td>6) Profession</td>
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<td>Other</td>
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### CONSEQUENCES

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<td>2) Improve/harm the image of the profession</td>
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<td>3) Consequences to dentists who volunteer</td>
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<td>4) Enhance/neglect of family life</td>
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<td>5) Potential economic consequences</td>
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<td>6) Potential compromise to Dr. Lester’s patients</td>
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<td>Other</td>
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### DUTIES

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<td>3) To promote the oral health of the community</td>
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<td>5) To provide for family</td>
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<td>6) To serve the larger community</td>
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<td>7) To cooperate with peers</td>
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<td>Other</td>
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### REASSESS

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<td>(\square) changes or maintains position with no rationale</td>
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### WELL-REASONED ESSAY

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<td>(\square) clearly appeals to moral ideals or principles to resolve some of the moral conflicts &amp; considers strongest counterarguments</td>
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<td>(\square) appeals to moral ideals to resolve the most salient conflict &amp; addresses some counterarguments</td>
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<tr>
<td>(\square) appeals to moral ideals in a very general way</td>
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<tr>
<td>(\square) appeals to ideals, but exhibits misunderstandings</td>
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**TOTAL (25) \(\square\)**
Dr. Larsen was the owner of a dental practice in a town of about 10,000 in northern Oklahoma. He wanted to hire another dentist to help him, but good dentists with some experience were hard to find. After an extensive search, the only person he found who had excellent references and plenty of experience was Dr. Marilyn Anderson, a black woman whose husband was a faculty member at a college in a nearby city. While Dr. Larsen himself didn't have anything against women or blacks, he was afraid to hire Dr. Anderson because many of his patients were members of a fundamental religious order that had strong views about blacks and the roles of women. His patients might switch dentists if Dr. Anderson was working in the office.

Dr. Larsen had to make a decision. He had put off Dr. Anderson once, on the pretense that he had someone else to consider. He had asked her to call him Tuesday morning.

The phone was ringing Tuesday morning when he arrived at the office. The receptionist said it was Dr. Anderson.

Should Dr. Larsen Hire Dr. Anderson? Yes ___ No ___ Why?

What Reasons Would You Give To Support Your Position?
Facilitator Notes
The Marilyn Anderson Case

This is a complex case, suited for discussion at the end of the course. The case often arouses strong emotions about the role of women and minorities, and the responsibilities of the individual and the larger society to end discriminatory practices. The case is complicated by introducing and juxtaposing the rights of clinicians (minority or not) to exercise their right to practice against the rights of patients to act on their biases and/or religious values.

ISSUES

Dr. Larsen's Right To Practice. Clearly, Dr. Larsen has a right to practice dentistry as he chooses (within the limits of the Dental Practice Act and the Code of Professional Ethics). Dr. Larsen also has the right to choose who he brings in to his practice as an associate. The question that arises in many students' minds is whether Dr. Larsen has a duty to hire Dr. Anderson because she is the most qualified. Many students are aware of affirmative action and believe that once Dr. Larsen placed the advertisement he takes on an obligation to hire the best qualified applicant.

Dr. Anderson's Right To Practice. Clearly, Dr. Anderson has a right to practice dentistry and to apply for positions wherever she chooses. She has a right to expect that she will be treated fairly and respectfully, though she may recognize that biases are likely to interfere with achievement of her goals.

One source of confusion for students has to do with Dr. Anderson's right to practice, and Dr. Larsen's duties. Some assume that if Dr. Anderson has a right to practice, that Dr. Larsen has a duty to hire her. He does not. For help in understanding the distinction between Dr. Larsen's obligations to Dr. Anderson and his obligation to patients, see page 217 of the Beauchamp article* where he comments:

"...we are often morally obligated to benefit someone because of a role we have voluntarily assumed. Beneficent acts are built into our very understanding of the relationship between patients and health care professionals. Through the Hippocratic Oath, the physician pledges to 'come for the benefit of the sick' and to 'apply dietic measures for the benefit of the sick according to (his or her) ability and judgment.' The physician on duty in an emergency room is obligated to attend to an injured, delirious, uncooperative patient, sometimes at considerable risk to himself and to the patient."

Obligation To Influence Prejudice. The tension arises in this case over conflicting obligations. On the one hand, Dr. Larsen has obligations as a member of society: to not reinforce prejudice, and perhaps, at least to some degree, to right the prior wrongs that have been done by discriminatory practices. These obligations are in tension with other obligations: (1) to meet his financial needs so he can stay in practice and make a living which enables him to serve his patient and meet obligations to himself and his family, and (2) to respect patient choice about who they select as a provider. He cannot coerce patients to remain in his practice, and he cannot coerce patients to accept Dr. Anderson as their dentist. He must respect their right to choose their provider. Although he does not have a responsibility to respect the opinions his patients hold, he does have a responsibility to respect their right to hold then. His duties as a dentist do not include an obligation to change their religious views. He does have an obligation, as their health care provider, to try to change views about health care habits and beliefs that interfere with the patients oral and general health, and even to go so far as to refuse to provide requested services that would be harmful to the patient. However, in his role as a dentist, he does not have an obligation to challenge their religious views (unless they interfere with their health).

As a member of society, he may decide to work to overcome prejudice, but he is not required to sacrifice his practice or alienate his patients in order to do so. Should Dr. Larsen decide to assist Dr. Anderson and the community, he certainly is free to do so, and it would be virtuous if he did so.

Refer students to the Beauchamp article, p. 217: "Because beneficence potentially demands extreme generosity in the moral life, some philosophers have argued that it is commonly virtuous, but not a duty, to act beneficently. From this perspective the positive benefiting of others by providing health and welfare services, for example, is based on personal or social ideals beyond the call of duty, and thus are supererogatory rather than obligatory."

AFFECTED PARTIES

Dr. Anderson

Dr. Larsen

Patients

Families Of Both Practitioners may be dependent on income generated by the practitioner in their family.

Community. The community's access to care is potentially affected, depending on the number of practitioners in the community.
CONSEQUENCES

Although it is very difficult to predict what will happen if Dr. Larsen hires Dr. Anderson, there are at least three possible outcomes. Dr. Larsen needs to weigh each possible outcome in order to decide what he will do. Also, if he decides to hire her, he may want to take some steps to insure a positive, rather than negative outcome. For example, he might consider opening a satellite office and hire Dr. Anderson to staff the office, perhaps appealing to a different patient population, thereby reducing his reliance on patients who hold discriminatory views. Or, if he decides to hire her, he may wish to engage in some proactive discussion with his patients to prepare them for a change. Whatever his strategies, these consequences are possible:

Practice Could Diminish

Patients Could Change Their Minds

Practice Could Expand

DUTIES

To Provide Competent Care. Dr. Larsen has an obligation to his patients to provide competent care. His reasons for hiring an associate seem to be related to his desire to expand his practice, rather than to serve unmet needs of his patient pool.

To Analyze And Assess His Practice. Dr. Larsen has a responsibility to determine the financial health of his practice and determine whether his practice could withstand the loss of some patients who may decide to leave. It may be that his desire for an associate (to relieve some of the workload) would be eliminated if he chose Dr. Anderson. In that case he would not be able to provide enough work for her. On the other hand, Dr. Larsen's analysis of the needs of the community may indicate that he could withstand the loss of some patients. There is no mention of a shortage of dentists in the area. If there were, Dr. Larsen might have a greater responsibility to his current patient population. On the other hand, if there are plenty of providers, the chances of seriously undermining his patient base and, consequently, the health of his practice would be important considerations.

To Meet His Financial Need. Great as it may be to take up an important cause, Dr. Larsen does have an obligation to keep his practice solvent, so he can meet the needs of his patients and his family.

To Analyze And Assess The Needs Of The Community. Dr. Larsen does have a responsibility to determine the needs of the community to assure there is adequate access to care. If there is a shortage of dentists, he may have duties to work with his professional association to try to improve the situation.
To Respect Patient Choice. Since patients have alternative places to get health care, Dr. Larsen will have to respect patient choice. If there were no competition, Dr. Larsen might be able to effectively take a stand on this matter. For example, the University Dental Clinics does not permit patients to discriminate against students based on gender, race, or otherness. As a public institution, the University is committed to affirmative action, and is expected to support nondiscriminatory practice. A large institution can usually withstand the loss of patients who wish to exercise discriminatory choices. The University can and has told a patient that their choice (if it is based on discrimination) will not be honored.\footnote{One can imagine, however, a set of circumstances in which a patient needed specialty care that was available only at the University. In such a situation, the provider may have to weigh the potential harm to the patient of refusing care against the duty not to support discrimination. Clearly, the harm would have to be more serious than hurting the patient's feelings, or inconveniencing the patient by requiring him or her to seek care elsewhere. It is possible to imagine circumstances in which the duty to relieve pain and suffering would take precedence over the duty to respect the rights of minorities not to be discriminated against.} Dr. Larsen may not have this luxury.

To Hire The Most Qualified. Many students will argue that there is a duty to hire the most qualified. The question is whether this obligation applies to Dr. Larsen. Students are often familiar with the requirements of affirmative action, and the obligation not to discriminate. What they are less familiar with is the conditions under which these duties apply. It might be useful to help them see the basic unfairness that would result by applying affirmative action requirements and quotas to very small companies or independent contractors that are applied to large companies and public institutions. The latter are in a position to withstand the consequences of the biases of a population. It is also important to help students recognize that the obligation to hire the most qualified is sometimes overridden by the obligation to meet quotas for minorities.

To Inform Dr. Anderson Of The Situation. Some argue that Dr. Anderson has a right to be informed of the situation, and if she were, she probably would not want to work there anyway. Perhaps this is true, and it would certainly be important that Dr. Anderson inform her of the circumstances if he decides to hire her. It is not clear that he has a duty to inform her of his reasons if he decides not to hire her. Truly, it may be helpful to Dr. Anderson to know the reasons, but Dr. Larsen may not wish to take a risk of annoying her with his reasons for refusing. Although she would probably not have grounds for bringing charges against Dr. Larsen, the threat of charges can also be harmful.
THE MARILYN ANDERSON CASE

Directions: 

Step 1: Use the checklist* (column 1) to record ideas described in the essay: 
X=Side 1 \  \ =Side 2 
Step 2: Place a mark by the statement in column 2 that best reflects your judgment of the quality of the essay.

*items on the checklist are simply key words to remind the assessor of general concepts described in the facilitator’s manual.

Rev 1/08
The Dr. Carlson Case

Dr. Carlson has been a licensed practitioner for 18 years. Over the years, several complaints about his professional behavior have been made to the State Board of Dentistry. Recently, the Board was presented with serious allegations, and the Board, represented by the State's Attorney General's Office, conducted an extensive investigation. Dr. Carlson was charged with 40 violations of the Dental Practice Act in these categories: improper sexual contact with patients, charging for services not rendered, performing unnecessary services, billing welfare for services not completed, and recommending unnecessary treatment. With respect to the charges of sexual misconduct, five female patients filed affidavits with the Board stating that Dr. Carlson palpitated their breasts and/or groin area under the guise of performing a thorough physical examination to determine whether the infection from an abscessed tooth had spread to other glands.

To date, no criminal charges have been filed. The Board's attorney points out that in each of the sexual misconduct charges, no witnesses were present to substantiate the women's stories. The County Attorney may not feel there is sufficient evidence to meet the standard for a criminal conviction, i.e., "guilt beyond a reasonable doubt." The standard for judgment to suspend or revoke a license, which the Board has the power to do, is a weaker standard, i.e., "a preponderance of evidence." In a formal hearing before an administrative judge or even in an appellate court, the courts would use the legal standard "a preponderance of evidence." The attorney also reminds the Board that in cases where there is concern that a practitioner may cause serious harm, the Board can temporarily suspend a license based on the standard "probable cause," which is a lesser standard than "preponderance of evidence." Obviously, the Board's decision would be easier, and less subject to question, if Dr. Carlson had been convicted of a felony.

The Board's Complaint Review Committee schedules an informal hearing with Dr. Carlson, who is represented by an attorney. In its ruling, the Committee concluded that 35 of the 40 complaints and all the charges of sexual misconduct were substantiated. Dr. Carlson refuses to accept either the Committee's findings or the Committee's proposed discipline. Six months later, a formal hearing was held before an administrative law judge in which Dr. Carlson was again represented by an attorney. In its findings of fact, the judge concluded that 31 of the 40 complaints, including four of the five charges of sexual misconduct (one of the women was unwilling to testify), were substantiated, and the Board was justified in disciplining Dr. Carlson. The case is referred back to the Board for disciplinary action at the next scheduled Board meeting.

Three days before the Board convenes to make a determination of discipline, a human interest story appears in the local newspaper. It shows Dr. Carlson and his five children (ages 11 to 18) interacting with patients at a local nursing home. The story praises Dr. Carlson for providing free dental care to some of the patients and show his children playing games with residents and providing assistance to the staff. The story also informs the reader that Darlene Carlson, the children's mother, has
been a resident of the home for the past six years. She is severely brain damaged and disabled following an accident.

The news story prompts discussion about Dr. Carlson among practicing dentists. Some remember that before his wife's accident the family was very active in their church and community, often working to help out the disadvantaged. Some also remember that Dr. Carlson was effective in lobbying the legislature for increased dental services for the disadvantaged. Others are aware of Dr. Carlson's checkered past and wonder about his motivation and the timing of the story. Dr. Carlson had been expelled from the state's dental school in his junior year for theft of school property and forgery of faculty signatures on patient records. Criminal charges were not filed for technical reasons. Dr. Carlson claims to have received extensive counseling from his priest, who later assured a dental school in a neighboring state that he had reformed. He was admitted to this school, graduated, and returned to his home state to practice.

You are a member of the Board. The Board is permitted by law to censure or reprimand the practitioner, but due to the nature and number of allegations against Dr. Carlson, its members are split on whether to temporarily suspend or to permanently revoke Dr. Carlson's license. State law requires that whenever the Board suspends a license it specify the conditions under which it will be reinstated. You are in a position to break the tie.

Should The Board Permanently Revoke Dr. Carlson's License? Yes____ No____

Why?

What Reasons Would You Give To Support Your Position?
The Dr. Carlson Case

ISSUES

This case is complicated because of the many parties affected by the Board's decision. There appear to be as many as six major conflicts that need to be sorted through to arrive at a defensible decision. The first three issues involve conflicts between the autonomy of the practitioner and the rights of the community. The first two issues might be labeled fairness to the community.

Fairness To The Community. One issue of fairness could be described as a conflict between Dr. Carlson's right to practice (within the limits of the Dental Practice Act and the Code of Ethics) vs. the community's right to be protected from physical or psychological harm. Alternatively, the conflict could be described as a conflict between Carlson's duty to practice within the limits set by the Dental Practice Act vs. a duty to fulfill his own needs and desires. Actually, the "right to practice" is probably not a "right" in the strict sense, but rather a "permission" granted by the state to professionals who have met the educational and licensing requirements. In fact, the public's right to be protected from physical or psychological harm by incompetent or unscrupulous dentists is what prompts the state to limit the practice of dentistry to those who are qualified and who have demonstrated that they are trustworthy. Few would argue that the right to practice takes precedence over the community's right to be protected from harm. In fact, Dr. Carlson gives up some of his personal autonomy for the privilege of a license to practice.

Fairness To The Community. The second fairness issue could also describe a conflict between Dr. Carlson's right to be reimbursed for services rendered vs. the community's right not to be cheated. Alternatively, one could describe the issue as a conflict between the duty to provide for himself and his family vs. a duty to honestly represent the services rendered. Whereas the state does not regulate the fees a dentist can charge (market forces are expected to do that), the state does take action when dentists misrepresent the fee for a particular service. Sometimes dentists engage in "creative billing" in order to circumvent insurance or Medicaid limits. This, of course, is not only unethical but illegal. The Board, the state, the government, and the insurance industry take action against fraud, which is a criminal offense. One wonders whether Dr. Carlson charged for his "extensive physical exam"?

Fairness To Women was a third autonomy issue which may be described as: a conflict between the rights of women not to be violated/abused vs. Dr. Carlson's right to practice as he chooses. Some may describe this as a conflict between his duty to be truthful about the need for physical examinations vs. a duty to serve his personal desires and sexual needs. Similarly,
Fairness To Other Patients could become an issue if the Board revokes Dr. Carlson's license. Consider the rights of Dr. Carlson's other patients (including the disadvantaged or nursing home residents that he sometimes helped) to continued care vs. the rights of those that were harmed to be vindicated. This issue could also be framed as a conflict between Carlson's duty to his other patients and a duty to somehow provide restitution for the physical and/or psychological harm he had caused some women.

Fairness To The Profession. From the perspective of the Board Member, there is a conflict between the duty of the Board Member to help Dr. Carlson address his problem vs. a duty to promote the image of the profession. This issue also could be described as a conflict between the rights of the profession to be viewed as responsible for self-regulation vs. the rights of Dr. Carlson to continue to practice. Some may mention that the right to continue practice included the right to fair process and fair treatment by the Board.

Fairness To Dr. Carlson. The case also presents a conflict between the rights of the public to be informed or warned about a professional who wasn't trustworthy vs. the rights of Dr. Carlson to respect and/or privacy. One person said, "The public needs to be able to make a rational decision about their health care. The public should know the risks involved in being treated by Dr. Carlson." Typically, the Board publishes the names of practitioners who have been disciplined by the Board. However, during the investigative process, all complaints against a dentist are kept confidential. The public cannot learn whether complaints have been filed or whether a dentist is "under investigation" from the Board. Naturally, the public may learn about the allegations from other sources, such as the victims or the defendant's attorney. Only adjudicated cases are part of the public record.

**AFFECTED PARTIES**

**Dr. Carlson** has an interest in maintaining his license to practice, and a right to counsel. He also has a right to continue to practice until the case has been adjudicated, unless the Board has reason to believe he is a serious danger to others, in which the Board can suspend his license pending the hearing.

**Dr. Carlson's Current Patients** have an interest is continuity of care. They may not want to switch to a different dentist in the event that Dr. Carlson stops practicing.

**Future Patients** have an interest in being protected from sexual assault.

**Women Who Were Abused** by Dr. Carlson have an interest in seeing Dr. Carlson censored for his misconduct.
Dr. Carlson's Family has an interest in his continuing to make a living. Certainly there are other kinds of work Dr. Carlson could do, but it may come at the expense of family income.

Dr. Carlson's Employees have an interest in their continued employment.

Nursing Home Residents have an interest in the care they were receiving, which they might not otherwise receive.

The Board of Dentistry has an interest in maintaining the public's trust. When acts of a professional clearly violate community norms, the Board's action either enhances or undermines public trust.

The Community has an interest in having trustworthy competent and compassionate care givers.

The Priest that counseled Dr. Carlson has an interest in maintaining his image.

The Profession has an interest in its reputation.

CONSEQUENCES

There are a wide range of potential consequences to Dr. Carlson of revoking his license, and to other parties if his license is reinstated.

Dr. Carlson's Loss Of Reputation.

Dr. Carlson And His Family Will Suffer Humiliation.

Dr. Carlson's Family May Suffer The Loss Of Income and the need to find other employment. Also, there is the potential burden to taxpayers, if Dr. Carlson could no longer provide for his wife's nursing home care.

Dr. Carlson's Victims May Feel Their Experiences Are Not Validated if "nothing happens."

Dr. Carlson's Problems May Continue, causing more harm to patients and an added burden to the profession, as it deals with the cost of pursuing more litigation.

The Community May Lose Trust In The Board Of Dentistry.

The Community May Lose Trust In The Profession, as they see the profession as protecting its own rather than protecting the interests of society.
There is Potential Harm To Future Patients if Dr. Carlson is allowed to continue practice, or consequences to other practitioners if they are expected to monitor Dr. Carlson during rehabilitation.

Current Patients Will Lose Their Dentist.

DUTIES

One tendency of students in this case is to focus almost exclusively on Dr. Carlson's duties, rather than on the duties of the decision maker in the case, i.e., the Board Member. Some may focus on the duty of the Board to provide a fair process and a fair hearing (recognizing Carlson's right to due process). Notice, however, that the "trial" and appeal process had come to an end, and the Board is now faced with making a decision about what to do. The following discussion of duties is grouped into two categories:

Duties Of Board Members. The overriding responsibility of the Board is to protect society from incompetent or dishonest practitioners. In this case, the Board specifically, must:

Protect The Public From Future Harm Or Potential Harm either by 1) revoking Dr. Carlson's license, or 2) by setting conditions for reinstatement that protect the public. Some students may think that the primary role of the Board is to punish professionals who violate the Dental Practice Act. While the action the Board takes in order to protect the public from dishonest or incompetent professionals might be viewed by the licensee as punitive, the reason the Board is given power is not to punish, but rather to protect the public. One person said, "The Board must protect the public in situations where the dentist is unwilling (or unable) to do so himself." The challenge for any Board member in making a decision to suspend or revoke revolves around two questions: whether it is likely that the licensee can be rehabilitated through some kind of required remediation, and/or whether the public can be protected from future harm by putting conditions on the license. For example: In the Dr. Carlson Case, it might be possible to allow Dr. Carlson to continue to practice, if he were to submit to frequent financial audits (which he would pay for) and if he were to agree to never treat female patients unless a dental assistant (who is aware of Dr. Carlson's past sexual offenses) is present during treatment. Note, however, that such conditions place a burden on others—the assistant, the Board, etc.

Monitor The Conduct Of Members Who Have Violated The Conditions Of Practice. A decision to suspend requires that Dr. Carlson be told what he needs to do to have a suspension lifted. If the Board decides to limit the conditions under which Dr. Carlson can practice (e.g., with an assistant present), the Board will need to periodically
check up on Dr. Carlson. Monitoring becomes especially important with problems of impulse control and addictions. A violation of probationary conditions would, of course, result in suspension or revocation.

To Assess The Probability Of Rehabilitation. This is the chief job facing the Board. The Board must consider all the facts in coming to a decision. Whereas the Board or the courts usually do not consider past offenses when deciding the guilt or innocence of the accused at time of sentencing, past acts, as well as the disposition of the person convicted, may be taken into account in arriving at a "sentence." As with the Court system, the Board usually has some guideline to follow in determining its sanction. Not only should the Board consider his failure to take responsibility for his actions, but his past behaviors also may be considered when coming to a judgment about whether to revoke or suspend the license. The Board has the power to require continuing education, assess fines, suspend and revoke a license.

When considering the possibility of suspension, one might notice that none of the allegations against Dr. Carlson involve his competence as a dentist. On the other hand, a crucial consideration for some may be the fact that Dr. Carlson "never admitted wrongdoing or accepted responsibility for his actions or showed remorse." Given that the willingness to admit mistakes and errors is an important responsibility of a professional, it is not clear that a plan to rehabilitate Dr. Carlson would be met with his acceptance and cooperation. Also, the women who had been harmed are unlikely to feel vindicated without an admission of wrongdoing. In coming to a judgment, should Dr. Carlson's community service have a bearing on the decision? Or, should the Board be offended by what they suspected was an effort to influence the Board with the human interest story. Several students commented that the fact that he volunteered is not a reason to allow him to continue to practice. As one person put it, "It [serving society] was expected of him—not some great exception." In coming to a decision as to whether to revoke the license, one should recognize the conflict between the Board Member's responsibility to protect the public and to help Dr. Carlson.

Duties Of Dr. Carlson.

Do No Harm. Dr. Carlson violated the first responsibility of a professional. He also violated the basic duties of every citizen, whether or not they are a professional.

To Be Honest And Trustworthy. This is a minimal expectation of a professional.

To Self-Govern And Live By The Obligations Of Dentists To The Public. Every licensee is expected to practice within the standards of practice and to abide by the Dental Practice Act and the Code of Ethics.
To Accept Responsibility For His Actions. Since the profession is essentially self-governing, it is especially important that each practitioner reflect on his or her actions and admit when they are in error. Certainly this does not mean that someone accused of wrongdoing is not entitled to a defense, but it does not mean that one denies wrongdoing in the face of evidence to the contrary. The Board of Dentistry is supported by the licensing fees assessed to dentists. When a dentist uses every legal means to fight a case through the courts and appeals processes, huge legal fees can be incurred, which in turn get passed on to the practicing community.

To Put The Interests Of Patients First. Dr. Carlson violated the first and second responsibility of a professional—to refrain from harm, and to put the interests of patients first. Whether his actions were the result of an illness or motivated by prurient interests, he must be held accountable for his acts.
**THE DR. CARLSON CASE**

**Directions:**

Step 1: Use the checklist* (column 1) to record ideas described in the essay:

- X = Side 1
- V = Side 2

Step 2: Place a mark by the statement in column 2 that best reflects your judgment of the quality of the essay.

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### Position: Yes/No

#### ISSUES

1. **Fairness to community** - Dr. Carlson’s right to practice vs. the community’s right to be protected from harm.
2. **Fairness to community** - Dr. Carlson’s right to be reimbursed for services rendered vs. the community’s right not to be cheated.
3. **Fairness to women** - Rights of women not to be violated/abused vs. Dr. Carlson’s right to practice.
4. **Fairness to patients** - Rights of Dr. Carlson’s other patients to continued care vs. the rights of those that were harmed to be vindicated.
5. **Fairness to profession** - Duty to help Dr. Carlson address his problems vs. duty to promote the image of the profession.
6. **Fairness to Dr. Carlson** - Dr. Carlson’s right to respect/privacy vs. the public’s right to be warned.

**Other**

#### AFFECTED PARTIES

1. Dr. Carlson
2. Dr. Carlson’s current patients
3. Future patients
4. Women who were abused by Dr. Carlson
5. Dr. Carlson’s family
6. Dr. Carlson’s employees
7. Nursing home residents
8. Board of Dentistry
9. Community
10. Priest
11. Profession

**Other**

#### CONSEQUENCES

1. Dr. Carlson’s loss of reputation
2. Dr. Carlson and his family will suffer humiliation
3. Dr. Carlson’s family may suffer the loss of income/Carlson may need other employment
4. Dr. Carlson’s victims may feel their experiences are not validated if “nothing happens”
5. Dr. Carlson’s problem may continue, causing increase in cost to patients, Board, and society
6. Community may lose trust in Board of Dentistry
7. Community may lose trust in profession
8. Potential harm to future patients
9. Current patients lose their dentist

**Other**

#### DUTIES (of Board members)

1. Protect the public from future harm or potential harm (by revoking license) OR Protect the public from future harm (by setting conditions for reinstatement)
2. Self-govern-monitor conduct of members who have violated the conditions of practice
3. To assess the probability of rehabilitation
4. Assess whether Dr. Carlson accepts responsibility for his action

**Other**

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*items on the checklist are simply key words to remind the assessor of general concepts described in the facilitator’s manual.

**Your name__________________________**

**Your facilitator______________________**

---

**Expert Judgment**

**ISSUES** (0-5 pts)

- clearly articulates all pertinent conflicts (5)
- describes most of the pertinent conflicts (4)
- describes some of the conflicts (3)
- suggests only the most obvious conflict (2)
- places duties in conflict with rights or consequences (1)

**AFFECTED PARTIES** (0-3 pts)

- states how each party is affected (3)
- states most affected parties (2)
- suggests only the person most affected (1)

**CONSEQUENCES** (0-4 pts)

- foresees and clearly describes several possible positive and negative outcomes and projects the possibility of their occurrence (4)
- describes consequences to support a stance, but not consequences that oppose one’s stance (3)
- alludes to consequences to support a stance (2)
- sees only the obvious possible outcomes (1)

**DUTIES** (0-5 pts)

- clearly describes each of the professional’s obligation in the specific situation (5)
- describes the most important obligations (4)
- describes some of the obligations (3)
- simply alludes to obligations (2)
- confuses rights and duties (1)

**REASSESS** (0-3 pts)

- provides clearer reasons for marinating Side 1 position or states reasons for changing position (3)
- shows some willingness to reassess (2)
- changes or maintains position with no rationale (1)

**WELL-REASONED ESSAY** (0-5 pts)

- clearly appeals to moral ideals or principles to resolve each conflict and considers strongest counterarguments for each (5)
- clearly appeals to moral ideals or principles to resolve some of the moral conflicts & considers strongest counterarguments (4)
- appeals to moral ideals to resolve the most salient conflict & addresses some counterarguments (3)
- appeals to moral ideals in a very general way (2)
- appeals to ideals, but exhibits misunderstandings (1)

**TOTAL (25)**
The Jeremy Lee Case

Jeremy Lee is a 33 year-old black male. He suffers from a heart valve disease and had an aortic valve inserted seven years ago. Since surgery, he has intermittently been on antibiotic therapy for infections. Also, he has been on an anticoagulant, Coumadin, to prevent clotting of the blood. This medication is necessary, as from time-to-time particles of infected or even normal tissue break off and impact in parts of the small vessels supplying the brain. As a result, Jeremy has had several strokes. However, to date, the strokes have not caused any substantial deficit in his neurological abilities. In part, his difficulties are related to his failure to consistently take his medications. He has been on welfare often, and is currently unemployed.

Jeremy has five or six badly broken and neglected teeth left in the maxilla, and about twelve teeth in the mandible. At least seven of the teeth in the mandible are in very good condition in that they have no caries and are very firm. The gingiva is inflamed and there is some pocketing, but there is no gross pocketing. There is some tartar, but a good prophylaxis could improve the tissue. Jeremy has been given oral hygiene instruction, but according to the record has show no interest in improving his hygiene.

Because of his medical problems, Jeremy has to be hospitalized to have his teeth pulled. His physician has to stop the Coumadin, switch to Heparin (which can only be given intravenously), and perform surgery under general anesthetic. Following surgery, intravenous antibiotics have to be continued for 48 hours and the Coumadin resumed and monitored, until appropriate levels are reached. The procedure requires five days of hospitalization, services of oral surgeons (who not only extract the teeth but contour the ridges and prepare the tissues for a denture), an anesthesiologist for one and one-half hours, recovery time, etc., at a cost of approximately $4,800.

Restoration of the teeth is out of the question, as it would be very costly and is not covered by Medicaid.

You have to decide whether to remove all the teeth in the mandible or to leave the seven sound teeth. Normally, this would be preferable, as wearing a lower denture is difficult. In a person as young as Jeremy, after long years of wearing a denture, resorption would occur making it increasingly more difficult to achieve a good fit. However, if Jeremy doesn't change his oral hygiene habits, a partial denture could even accelerate the demise of the remaining teeth. Also, any infection could further complicate his health problems, and the teeth might need to be extracted at a later date, requiring hospitalization and further expense quite possibly to society.

On the other hand, the experience of wearing an upper denture might influence him to change his ways in order to avoid having a lower denture as well.

Should You Remove All The Teeth? Yes____  No____  Why?

What Reasons Would You Give To Support Your Position?

Developed by Muriel J. Bebeau, Ph.D., University of Minnesota
This is a very complex case, suited for discussion at the end of the course. In some ways, the case is too difficult for first year students, as it requires factual knowledge that is beyond their level of expertise. However, the facilitator can provide information on the risks to Jeremy of a "second surgery" and the possible systemic infections that could occur from gingival or periodontal infections that might be associated with failure to maintain oral hygiene, and the probability of their occurrence. Sometimes, a case that presents a challenge beyond the students' current level of expertise helps them see the ongoing need for ethics discussions.

**ISSUES**

**Patient Autonomy.** In most every case to date, we have argued that the patient's right to be informed of alternatives, to choose the preferred treatment, or to refuse treatment take precedence. In this particular case, we are provided with no information about the patient's involvement in the treatment decision. Should we presume that the referring dentist has consent for the proposed treatment? The oral surgeon has a referral for extraction of all the teeth, and must decide whether to follow the directive of the referring dentist, or to overrule that decision and make his own judgment as to the best interest of the patient. While we might argue that he should at least consult with the referring dentist, it is interesting to explore whether or not to pull all the teeth, given the circumstances in this case.

One factor to consider is the limitations placed on Jeremy's autonomy by his lack of financial resources. As a medical assistance recipient, Jeremy is provided with relief from pain, swelling and infection, but restorative services are limited. For example, he is entitled to new dentures every five years. Or, if the dentist decides to leave the seven sound teeth, Jeremy would be eligible for a partial; but, more functional and esthetic restorations, e.g., crowns and bridges, are not covered.

**Noncompliance.** While we might argue that many people would be likely to change their health care habits after experiencing an upper denture, Jeremy has a history of noncompliance, at least as it relates to his general health. Failure to take his medications has life threatening consequences. He has experienced these consequences without improving his compliance. Although there may be important questions as to whether Jeremy understands the consequences of his actions, and is making an informed decision when he fails to comply, the surgeon cannot ignore his past noncompliant behavior, as it is the single best predictor of his future actions. It is important for students to consider the range of possible reasons for lack of compliance. (1) A patient simply lacks understanding of the consequences, in which case he could be educated. 2) A patient lacks understanding of the consequences and has cognitive deficiencies or beliefs that make education difficult, in which case he may need a
guardian or supervision if the provider cannot achieve comprehension. (3) A patient may be consciously or unconsciously engaging in self-destructive behaviors because of depression, mental illness, or chemical dependency. In such a case, mental health interventions are needed.

Research indicates that people usually don't make major changes in health habits and behaviors. The dentist needs to consider prior behavior in his assessment of this case, especially in view of the patient's serious medical problems.

Conflict Of Duties: To Benefit Vs. To Remove Harm. One thing that makes this dilemma so difficult is that dentistry has become much more focused on preservation of tooth structure and on restoration of function rather than extraction of teeth. The incredible decreases in dental disease we have witnessed in the last 20 to 30 years is responsible for this change of focus. The principle of beneficence, the active promotion of goodness, kindness, and charity, seems to be the preeminent value of the profession. The idea that removing seven sound teeth might be in the patient's best interest, given his health habits and the significant health risks associated with a second surgery, seems to fly in the face of the profession's emphasis on restoration of function, and the idea that removing healthy teeth is, in and of itself, harmful.

In this case, it seems the surgeon would actually be "doing harm" in order "to prevent harm" that may come about if the teeth and surrounding tissue were left to fall victim to disease that is likely to result from the patient's continued habits.

A second conflict of duties arises between the surgeon's obligation to serve as an advocate of Jeremy's interests, and his obligation to the rest of society, e.g., not to spend a disproportionate amount of public money on this patient. Many situations involving public funds are predetermined. This is one situation where the dentist may be able to argue that the patient's seven sound teeth have resisted decay and disease in the face of Jeremy's health habits, and therefore are less likely to become diseased in the future.

Rights Of Jeremy vs. Other MA Patients. Given that society sets aside some funding for care to the poor and disadvantaged, questions arise about the distribution of those scarce resources. For example, is it fair to use a disproportionate amount of public money on one person, if so doing diminishes the resources available to others? This might be a time to refer to the Oregon plan, and the Case of Coby Howard, which was presented in the introductory course on dental care delivery.

Rights Of Jeremy vs. The Rights Of Society. Some students will take the view that health care is a privilege rather than a basic right. They may feel that Jeremy should not be given any care that he cannot pay for. Such ideas are rooted in concepts of individualism and the puritan ethic, values that underlie much of American history and culture. Many of us have been socialized to believe that anyone could take care of him or herself, if only he or she would put forth the effort to do so (as we do). Or, a corollary idea, that God rewards hard work and punishes slothfulness.
Other students may take the view that there should be no discrimination on the basis of ability to pay, that the same packages of benefits should be available to all, irrespective of ability to pay. (Note: This case can arouse deeply held convictions. It is important to help students identify the beliefs that are at the root of these conflicting ideas, rather to argue which is the "right" view.) It is also important to help students see that society does provide "basic care" for those who are poor and disadvantaged, but the benefits provided do not represent "ideal oral health care."

**AFFECTED PARTIES**

Jeremy

You, (The Surgeon)

Jeremy’s Family

Other MA Patients

Society

**CONSEQUENCES**

**Threat To Jeremy's Life.** The dentist must consider two kinds of threats: the danger of repeated surgery and the possibility of bacteremia if Jeremy does not maintain the health of his gingival tissue. However, the possible problems could result from sore spots on ill fitting dentures, as well as from inflamed gingival tissue. If Jeremy retains the seven sound teeth, antibiotic prophylaxis would be required each time he has his teeth cleaned.

**Enhance/Compromise Quality Of Life.** Quality of life is affected, as the quality of function of dentition, e.g., the ability to eat and chew are either enhanced, by retaining the lower teeth, or compromised, by removing all teeth. This case illustrates a trade of risks and benefits.

**Potential Lawsuit If Valid Consent Is Not Obtained.** Professionals have an obligation to involve the patient in the decision making. At the same time, the professional has the ability to sway the decision by the manner in which the risks and benefits are presented. It would be important for the surgeon to review the consent process to determine whether valid consent was obtained.

**Change Of Habits/Change Of Circumstances.** In considering the case, one always has to entertain the possibility that the patient will have a change of heart about his health care habits, or that a change of circumstances in a persons life (a new job, a new relationship, etc.,) will motivate a change in habits, or a return to earlier healthy habits.
Increased Cost To The State If Additional Services Are Required. Additional costs are potentially incurred if Jeremy requires a second surgery. Additional costs are also incurred if he requires teeth cleaning in addition to periodic repair or replacement of a partial or full denture.

DUTIES

This case raises interesting questions about the responsibilities of both the surgeon and the referring dentist. Obviously, the referring dentist has the primary burden:

• To Inform Jeremy Of The Options, Risks, Benefits And Consequence.

• To Recommend Therapy That Considers The Patient's Best Interest.

• To Ensure That Jeremy Is Aware Of The Risks And Benefits Of His Behavior.

The surgeon has several duties:

To "Remove Evil Or Harm". The diseased teeth are the source of life threatening infections, which the surgeon has been asked to remove. He of course has the duty not to inflict harm in the process. Some might argue that to override the referring dentist is to inflict harm.

To Do No Harm/To Preserve Health. In this case, removal of sound teeth may serve a larger goal, to preserve the patient's health.

To Promote The Patient's Health.

To Ensure That Consent Is Informed. The oral surgeon has an obligation to verify that the initial treating dentist involved the patient in the decision making process, and

To Advocate For The Patient With The Referring Dentist if, in his judgment, the course of treatment recommended is not in the patients interest.

To Mind The Public Purse. Should the surgeon consider the rights of other Medical Assistance patients that might be affected by the amount of resources that would be consumed by a "second surgery?" Clearly, the surgeon should put the patient's interests over the interests of the surgeon (to generate more business), but health care providers are often in a position to judge how resources could best be allocated. The health care provider must consider the interests of others, especially in cases like this. Preauthorization would not be required in this or a subsequent case that might arise because of life threatening infections. As the oral surgeon who told me this dilemma stated, "Don't I have a responsibility to 'mind the public purse'?"
### THE JEREMY LEE CASE

**Directions:**
- Your name ________________________
- Your facilitator ____________________

Step 1: Use the checklist* (column 1) to record ideas described in the essay: 
  - X = Side 1
  - √ = Side 2

Step 2: Place a mark by the statement in column 2 that best reflects your judgment of the quality of the essay.

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<td>describes some of the obligations (3)</td>
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<td>simply alludes to obligations (2)</td>
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<td></td>
<td>confuses rights and duties (1)</td>
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<table>
<thead>
<tr>
<th>REASSESS</th>
<th>0-3 pts</th>
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<td>provides clearer reasons for marinating Side 1 position or states reasons for changing position (3)</td>
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<tr>
<td></td>
<td>shows some willingness to reassess (2)</td>
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<td></td>
<td>changes or maintains position with no rationale (1)</td>
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<th>WELL-REASONED ESSAY</th>
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<td>clearly appeals to moral ideals or principles to resolve each conflict &amp; considers strongest counterarguments for each (5)</td>
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<td>clearly appeals to moral ideals or principles to resolve some of the moral conflicts &amp; considers strongest counterarguments (4)</td>
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<td></td>
<td>appeals to moral ideals to resolve the most salient conflict &amp; addresses some counterarguments (3)</td>
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<td></td>
<td>appeals to moral ideals in a very general way (2)</td>
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<td></td>
<td>appeals to ideals, but exhibits misunderstandings (1)</td>
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**TOTAL (25) **

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*items on the checklist are simply key words to remind the assessor of general concepts described in the facilitator’s manual.

Rev 1/08
Directions:

Read the attached case. Then, use the first of the accompanying pages to develop an outline, do your thinking about the case, and plan your response. Use the second and third pages to present your argument. Limit your response to the two sides of the response sheets. Please write legibly and within the margins. We will use the same criteria for judging your response, with the exception of “reassess your position.” Instead, we will assign extra points for issues, affected parties and consequences. There are twenty-five points possible. Concentrate on writing a well-integrated essay. Turn in all pages. Good Luck.

The following checklist will be used by the Course Director to evaluate your responses to this dilemma.

1. Describes the ethical issues
   5 = describes all pertinent issues
   1 = suggests only the most obvious issue

2. Identifies affected parties
   4 = describes those directly affected
   1 = suggests only the person most affected

3. Describes the consequences of acting
   5 = foresees several possible outcomes
   1 = sees only the obvious outcome

4. Describes the relevant obligations
   5 = sees obligations as derived from application or moral principles to specific situations in light of consequences of alternative courses of action
   1 = simply alludes to the most obvious obligation without rationale

5. Develops a coherent well-integrated argument
   6 = an exceptionally well-developed essay
   5 = discusses issues, rather than just mentioning them
   1 = fails to integrate ideas into a coherent essay

TOTAL POSSIBLE

(25) ___
American Indians and Alaska Natives, as citizens of the United States (US), are eligible for all programs available to the general population. Moreover, federally-recognized tribal governments enjoy sovereign status—meaning they could, if they chose to, create their own systems of education, health care, and so on. Federal laws and treaties between the US and tribes, however, impose a duty on the US to provide health care to the American Indian people. The obligation for providing health care to American Indian and Alaska Native people has been vested in the US Department of Health and Human Services (DHHS), which in turn delegates primary responsibility to meet tribal health care needs to the Indian Health Service (IHS). Whereas mechanisms are in place to serve tribal needs, the programs have been chronically underfunded, and the IHS has great difficulty filling spots for dentists.

At present, Alaska communities have an enormous oral health problem. The rate of dental decay among Native children is twice the national rate. Two years ago, the State of Alaska’s Attorney General’s office authorized Native health clinics to employ Dental Health Aid Therapists (DHAT) to serve in areas too small and isolated to attract or support a dentist. The DHAT, trained in a two-year program at the University of Otago in New Zealand, is exempt from Alaska dental licensing regulations and authorized to provide primary services, including fillings, extractions and childhood pulpotomies, which are similar to root canals. In support of the program, the Dentist and Director of the Dental Aid Program for the Alaska Native Tribal Health Consortium (ANTHC) says DHAT, up to this point, have been employed in nearly four dozen countries, including many industrialized, English-speaking nations. They fulfill a real need for areas too remote to attract a dentist. For small communities, such dental therapists are culturally-sensitive, affordable, and comfortable living in those communities. They are effective in prevention, in changing attitudes, in providing dental care, and in responding to health problems much earlier.

Since no programs to train dental therapists have been mounted in the US, Alaskan villages have been sending indigenous students to the University of Otago in New Zealand for training. There was some hope that the situation would change, based upon strong advocacy from the American Public Health Association (APHA), which supports the program. However, in June of 2006, the University of Washington turned away from an historic opportunity to partner with the Alaska Native Tribal Health Consortium (ANTHC) to train Alaska Natives to become dental therapists. Apparently, according to Peter Milgrom, DDS, long-term faculty member at the University of Washington, opposition from dental associations, including the American Dental Association (ADA), influenced the University administration to pull back from a venture to develop an educational program to train DHATs.

Apparently, dental associations are not neutral about the proposal to train dental therapists, and last year, the ADA and the Alaska Dental Association filed a suit in the Superior Court for the State of Alaska against the ANTHC seeking to stop the unlicensed practice of dentistry and dental surgery by nondentists. The complaint asks the court to declare the ANTHC and its’ DHATs in violation of state licensing laws. If the lawsuit succeeds, it will set an important precedent for educational programs at your University and for oral health care in your state. You heard former ADA president, Robert Brandjord, speak about the issue. He said, in effect, “We can’t drill and fill our way out of an epidemic.” He said the ADA regrets having to take this action (filing suit), and is committed to promoting access to care. He also said that having DHAT do “irreversible procedures” endangers the health of the community. “We need dental aides to work in communities to promote oral health, but we need to protect the public.” He added, “We believe the Native Americans are being placed at risk—unfairly and unnecessarily—by nondentists performing irreversible dental surgery.” He also argued that many Native Americans have complex medical problems that present challenges for even the best-trained dentist. In particular, he mentioned that many Alaska Natives suffer

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1 This case was adapted from a case designed by Dr. Marilyn Lantz, University of Michigan. Two additional sources were used to augment the case: (1) a guest column in the Seattle Post-Intelligencer on Thursday June 29, 2006 by Peter Milgrom, a Professor of Dental Public Health Sciences at the University of Washington since 1974 and Director of the Northwest/Alaska Center to Reduce Oral Health Disparities; (2) ADA/ADS Media Briefing in Anchorage Alaska on January 31, 2006 by Dr. Robert M. Brandjord, ADA President.

2 The New Zealand program has been training DHAT for many years and they point out that there is no evidence that DHAT who practice in remote communities have caused harm.
from chronic systemic diseases, such as diabetes, which further complicate oral health. Dr. Brandjord also said that media coverage on the issue has been frustrating for the ADA because it focuses almost exclusively on the ADA’s opposition to the therapists program, while ignoring alternative proposals for delivering care to Alaska Natives. Such proposals include: (1) placing a dental health aide in every village to provide educational and preventive services, (2) creating local training programs for dental auxiliaries, so Alaska Natives and others interested in dental careers need not leave the state for training, (3) securing full funding to enable the IHS to fill its vacant dental positions, (4) establishing an educational pipeline for young Alaska Natives to attend dental schools, (5) volunteer dentists in villages for short periods of time, and so on. He said the ADA would like to work with tribal corporations to address the oral health problems.

You and your classmates have been active in your local dental society since graduation from dental school. You are very aware of the chronic shortage of dentists, especially on reservations, in small communities, and in other remote areas of your state. You also know that the US Public Health Service, the military, health departments, community clinics, and most other safety net programs struggle to recruit dentists. The lawsuit was a major topic of conversation at the state dental society meeting last week. Several of your colleagues thought the lawsuit should be dropped. They fear that the suit makes the ADA look bad. Others felt that the ADA should continue with the lawsuit for the good of the profession and the public. Your colleagues want you to write a letter to your state dental society taking a position on this issue. They remember that in dental school you were able to develop well-reasoned arguments that appealed to moral criteria. They have asked for your written response.

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3 Auxiliaries include dental assistants, dental hygienists, and dental health aides.
What position would you take? Should the ADA drop the lawsuit? _____ Yes _____ No
Why or why not? What reasons would you give to support your position?

(You may continue writing on reverse side)
MEMORANDUM

DATE: May 2, 2007

TO: First Year Dental Students

FROM: Dr. Muriel J. Bebeau, Professor
Division of Health Ecology

RE: First Year Professional Problem Solving Feedback

Thank you for your patience in waiting for feedback on your "exam" in Professional Problem Solving. Overall, I'm impressed by the quality of thinking reflected in your responses. As expected, there were differences among you in the issues addressed and in the way the issues were framed. Your responses were read carefully, and we tried to credit you with expressions of an issue, even if you might have described it somewhat differently than others did or than my assistants or I might have. Let me begin by telling you how the criteria were developed and how each essay was judged. Then, I will provide some general feedback on the case. At the end are two sample responses that addressed many of the items on the checklist, even though the authors took different positions on the issue. Review this memo and the examples carefully before you engage in self-assessment.

Case and Criteria Development

The case used for this assessment was selected specifically for this exam. As you know it was based on a real case, and the course facilitators and I selected it to give you an opportunity to reflect on the real challenges professionals face in dealing with monitoring of the quality of health care, as well as challenges in disease prevention and health promotion. I also discussed the case with Dr. Born who also reviewed the case and assured me the issues in the case had been discussed in classes earlier this year.

After designing the case, my assistant (who is a graduate student in philosophy) and I developed a preliminary checklist to be sure the case included several issues, affected parties, etc. However, we did not decide on the final checklist until we read the responses you had written. In other words, we used your responses to help us design the checklist. Actually, the perspectives you thought needed to be taken into account were very similar to those we raised and those raised by faculty dentists who served as facilitators. We noticed that 36 percent of you thought the ADA should drop the lawsuit; 64 percent thought not. As with previous cases, the concern is not with the position you take, but with the quality of the argument.

Scoring your response. With a modified checklist in hand, my assistant (who scored all your responses during the course) read your response and used a colored pen to identify issues, consequences and duties. Periodically, earlier essays were reread to assure consistency. After my assistant read all the essays, I read a selected sample to be sure I agreed with the scoring of the papers. In cases where either of us had some questions, we met to discuss the papers and to identify some common strengths and weaknesses to share with you. Consider these as you use the checklist to self-assess your own response.

General Feedback on the Responses

Duties: In this case, you as a member of the dental profession were asked to reflect on access to care for Alaskan communities described in the case and to consider your position in light of the larger issues faced by the communities within your own state. Your duties could be expressed in several possible ways. Most everyone received at least partial credit for D-1. Whereas many of you expressed the duty to do no harm, only about a third of the class expressed the more nuanced dimensions expressed in D-2. About half the class identified D-3, D-5 and D-6. About a third of the class expressed the ideas in D-7, which involves shifting the emphasis to disease prevention through primary prevention. D-8 and D-9 were included on the list (though articulated by only 20 percent of the class), because like D-6 and D-7 they were captured by responses that not only defended their position, but suggested strategies for problem resolution. One idea that we did not include in our list of duties, was a “duty to protect the profession, or the interests of the profession.” We reasoned that maintaining control over dental care, or protecting the profession’s financial interests, isn’t an ethical duty.
D-1 To (as ADA member and dentist) do no harm (or protect from potential harm). Responding to the general responsibility of a profession—to set standards for accreditation of professionals (including auxiliaries), the profession sets educational and licensing standards to assure that professionals who serve are competent. This duty entails the prevention of or removing the potential for iatrogenic disease.

D-2 To advocate for programs that prevent harm through health education and primary prevention. The duty to prevent patients from being harmed by dental disease is a duty that Wm. Frankena argues is a more important duty than the duty to remove harm. The ADA is arguing that the primary role of Dental Health Aids (rather than DHATs) should be to engage in health education and disease prevention, rather than in irreversible procedures designed to remove disease.

D-3 To remove harm/provide competent care. What DHATs have been trained to do is to intervene when disease is present. Assuming they recognized the limits of their expertise, and know when to refer to a qualified dentist, it is likely that DHATs could provide an important service to the community.

D-4 To respect the autonomy of sovereign communities. The ANTHC does have a right to work out solutions to their own health problems.

D-5 To regulate the profession/assure DHATs are providing competent care. Following are a list of duties that address problem solving responsibilities of the profession. These were included because 20 percent of the class discussed these as duties related to problem resolution.

D-6 To work collaboratively with ANTHC to improve access to care by qualified/culturally sensitive/affordable dentists. Often, only partial credit was given for this item because, while the duty to improve access to care may have been mentioned, the response didn’t elaborate on how to achieve improved access. This is a significant problem, as simply providing more dentists is unlikely to be helpful. There is a need to work with relevant parties in a way that the population who needs care will be willing to seek that care. What the DHATs are providing to the population is cultural sensitivity and affordability.

D-7 To work collaboratively with ANTHC to train community members (DHATs or DHA). who can shift the emphasis from treating disease to promoting oral health through health education and primary prevention.

D-8 To examine the evidence that DHATs are causing harm by incompetent care.

D-9 To evaluate the likelihood that a strategy to recruit more dentists will be successful.

Issues: This case presents a number of conflicts. These could be framed either as a conflict between various duties of the profession (e.g., to set standards for professional competence vs. to respect the autonomy of sovereign nations), or the duties of the State (to regulate care vs. to prevent disease and/or to provide access to care), or as a conflict between rights of various affected parties (Alaska Natives right to access to care vs. the ADA’s right to set standards for those who provide care). Listed below are six ways the conflicts between competing rights or interests were often expressed. The most frequently expressed (by 75% of the class) were I-1 and I-2. Issues I-4 and I-5 were described by at least half the class. Some of the more compelling arguments also raised I-6. Some misunderstandings were reflected in the discussion of issues. With respect to I-4, it is important to remember that the “right to set standards” for education is actually a privilege that society grants. Society can remove the privilege. With respect to I-3, some seemed to assume that DHATs have not been licensed. Whereas they were not graduates of an ADA accredited institution, and some will quibble about the stringency of the licensing exam, ANTHC was granted the right to regulate DHATs by the State of Alaska. With respect to I-5, some seemed to think that if a sovereign nation accepts money from the U.S., they lose their sovereign status. This is not true. The provision of health benefits to American Indians and Alaska Natives is the result of treaties the U.S. made with particular Native communities—usually land was exchanged for goods and services.

I-1 Rights of Alaska Communities to access to care—The remoteness of many communities makes it unprofitable for highly educated dentists to live and work in these communities.

I-2 Rights of Alaska Natives to competent care—A worry is that DHATs lack sufficient education to address complex problems presented by the population.

I-3 Legal right of DHATs to provide certain services—The Alaska courts granted the ANTHC the right to set standards of practice for DHATs.

I-4 ADA’s right to set standards for education, thus regulating the profession—The ADA could establish educational programs for education of DHATs so they would not have to travel to New Zealand to receive training.

I-5 American Indian and Alaska Native communities right to autonomy

I-6 State of Alaska’s right to regulate who provides dental care. Licensing is a state function.

Affected parties: The list of affected parties included four. As with prior cases, you needed to say how the party was affected to be credited with an affected party. Sixty-two percent of the class described all four affected parties; 100 percent of the class described how three of the parties were affected.
Consequences: The most frequently cited consequences (75% of the class or more) were C-3, followed by C-1 and C-2. At least half the class also cited C-5, with C-4 and C-6 cited less frequently. Occasionally, only partial credit was given for C-1 or C-2, because while the potential for DHATs to help or harm a patient was mentioned, the response didn’t explain how the DHATs would help or harm a patient. Also, we decided not to credit “slippery slope arguments” like the potential for DHATs to become widespread, thus undermining the rural community’s ability to attract dentists or the ability for dentists anywhere in the U.S. to have a successful practice. Most students who wrote compelling arguments pointed out reasons why remote communities are unlikely to be able to recruit highly trained dentists, even if more dentists were trained. Paraprofessionals, like nurse practitioners, are strategies for addressing needs in remote communities.

C-1 Possible benefit from early intervention, as DHATs catch a problem before it becomes a big expensive problem/possible harm from not having DHAT to educate and promote oral health.

C-2 Possible irreversible harm having DHATs perform services (iatrogenic disease).

C-3 Harm to the reputation of the ADA/Profession. A lawsuit reinforces a negative image of the profession as being self-serving (concerned about making money, rather than helping people).

C-4 + Lawsuit raises awareness of the need for access to care, thus more dentists are recruited to serve Alaska Natives.

C-5 - Harm to DHATs if lack of training puts them at risk for possible malpractice, if the success of the lawsuit puts them out of work (thus prohibited from earning a living).

C-6 - Harm to ANTHC

Assigning Points on the Checklist

Credit for issues, consequences, or duties. Before engaging in self-assessment, notice how points were assigned. You will see an X, if the grader thought you clearly described an issue, consequence, or duty. As in scoring your earlier essays, credit was given if the duty or consequence clearly could be implied from what was said, but credit was not given for a general vague statement. You notice that a / (indicating half-credit) was given if you seemed to allude to a point on the checklist. We thought this would help you see that, while we didn’t think the comment fully articulated the issue, consequence, or duty reflected on the criterion sheet, we did recognize the comment. Naturally, it is possible that we overlooked things that you may think meet criteria. (See comments below for addressing that problem.)

Well-integrated essay. Even if you may not have identified some of the more challenging issues, consequences, affected parties, or duties, we noticed many high quality essays. Most were well-organized and clear, avoided lists, and successfully discussed how parties were affected, rather than just saying that they were affected, period. Each of you is to be congratulated for the progress you made during the course. Sixty-three percent of the essays were judged a 4 or better; 28 percent a 5 or better and 4 percent were judged a 6. Specific comments regarding the points assigned in this category were usually written on the exam itself.

– 6 points were given for an exceptionally well-developed essay.
– 5 points were given, if the discussion clearly and appropriately identified issues, articulated rights or duties in conflict, provided a detailed and in-depth discussion and/or offered insights that addressed conflict resolution.
– 4 points were given, if the essay was generally well-written, but lacking in detail, and/or if many of the points were implied, rather than explicitly stated.
– 3 points were given, if the essay listed issues, affected parties, consequences, and duties in a sequential fashion, or if the points being made were lacking in detail.
– 2 points were assigned, if the response seemed to indicate the case had been misread or misunderstood.

Self-Assessment. After reviewing the above directions, refer to the checklist to evaluate your essay.

If you find an error in scoring. As you read your essay, you may find you disagree with the assigned grade, or think something that meets criteria was overlooked. Remember that this kind of exam requires judgment. Although care is taken to achieve reliable and consistent judgment and to specify the basis for judgment, this kind of test is not like true/false or multiple choice exams, where there is little room for interpretation. Please carefully read over the comments made on your essay. In many cases, the grader took the time to point out where something you’ve written does not quite get at a particular issue, duty, or consequence on the checklist, even if it might at first glance seem that it ought to be worthy of credit. (Remember that the points on the checklist are the ones most relevant to this case.)
Even though each essay was read carefully and many essays were read more than once, it is possible that something that should have been credited was overlooked. It is also possible that something was credited that should not have been credited. Rescoring an individual essay means taking a fresh look at the essay and making a new judgment. Fairness requires consideration of both kinds of errors. If you decide that an error was made in scoring your response, you may ask for a rescoring. Please provide a written explanation of what you think was missed. We will rescore a paper as follows. We will make a new copy of your response (erasing the prior markings) and score it from scratch, considering your explanation. If we agree that we made a major error (more than 1 point) in the first evaluation, your score will be changed accordingly. Whether or not you want to have your paper rescored, I would be happy to discuss your response with you.

**Distribution of Scores.** Below is a frequency distribution of the total scores on the final exam, so you can see how you compared with others. The mean score on the final was 17.5 with a Standard Deviation of 2.7. Scores ranged from 11 to 22.5. The final is one-fourth of your grade. If you attended all class sessions and completed the written assignments, you will pass the course, even if you received a low score on the final.

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What position would you take? Should the ADA drop the lawsuit? Yes, No
Why or why not? What reasons would you give to support your position?

I do not think the ADA should drop the lawsuit, but I am unsure as to whether the lawsuit is directed at the right group—the ANTHC. I don't think that any state should allow nondentists to perform dental surgery, but the sovereignty of every native village must be respected. Each native village has the right to supplement health care in the way they deem necessary and they also have a duty to provide care for their community. However, the U.S. and state governments have a duty to protect these communities from substandard and possibly harmful care. This duty is in conflict with the duty to first do no harm, which must receive priority. The state must be fully confident they will be able to provide better, more comprehensive care to these people before they take away the only care (DHATs) that they have. The most important people to consider must be the Alaskan native patients above all others. They have a right to receive fully comprehensive, uncompromised, quality dental care from properly trained individuals. This right could definitely conflict with dentists' rights to be the sole administrators of dental care here in the U.S. If there are no dentists available to administer care, these patients will suffer. The ADA has the responsibility to protect the rights of dentists, and the courts have the responsibility to protect the public. The court must come down on the side of the patients, which means that they must find a way to ensure that the DHHS and the IHS be given adequate funding to provide dentists for these communities in need. DHATs will be greatly affected by a decision in the ADA's favor. Their "right" to administer care would be taken away. However, to my understanding, if they are performing dental surgeries without the appropriate medical training, they are jeopardizing patient health and, therefore, the patients' right to competent care trumps their right. These DHATs have a duty to provide quality care and without proper training are incapable of performing these duties. Other dental auxiliaries with the proper training should take their place and refer more complex procedures to dentists. It seems to me that the underlying problem is the lack of funding in our health care system for dentists and other similar health care professionals in these remote areas. The health care system in the U.S. has many, many problems, but it is our responsibility as dentists to push for changes that will result ultimately in improved quality of care for all people who seek it. The dental profession must stand firm and not accept or tolerate unlicensed individuals administering dental care. Our duty is to our patients. I realize that the appearance and perceived intentions to the American public is vital for the resolution of this problem. It must remain clear that we are not greedy and scared that our potential earning pool will diminish, but that we are truly concerned about the quality of health care that our citizens receive. It cannot be overstated that we must not take away care without having a plan to get dentists to serve these remote areas. If the ADA loses its lawsuit, the consequences could potentially be catastrophic. Allowing schools to train DHATs here in the U.S. would compromise health care to an unmanageable number of people. We must also be concerned with respecting the sovereignty of Alaskan natives, which is why the IHS must be provided with funds to support dentists in needed areas, so that these native villages are not forced to take it upon themselves to provide all they can—undertrained DHATs—for their people. Although DHATs appear to be more culturally sensitive, it is not enough. Funding must also be provided for local natives to be trained and educated as dental auxiliaries and hopefully dentists. It is crucial to attract media attention to the positive reasons the ADA has for bringing forth this lawsuit. Attention must be given to the lack of funding for the IHS and, of course, the substandard care patients get from nondentists. The Alaskan supreme court must set the precedent that states will not tolerate unlicensed dental care, because patients' health care must not be compromised. We must find a way to get dentists into these communities.
What position would you take? Should the ADA drop the lawsuit? _X_ Yes ___ No
Why or why not? What reasons would you give to support your position?

I believe that the ADA should drop its lawsuit against the ANTHC that is seeking to stop the unlicensed practice of dentistry. First of all, I don’t believe that the case has a lot of merit because, as a sovereign nation, the Alaskan people and the ANTHC/IHS have the right to choose their own system of health care. Should they choose to, they could create a system all their own, without assistance from the U.S. government. This does conflict somewhat with the rights of the dental profession to license the country’s dental practitioners and the right of licensed dentists to not have a bunch of unlicensed practitioners, who could possibly do harm to patients and the profession’s reputation. However, if the Alaskan people did decide to exercise their right as a sovereign nation to set their own system of health care, I don’t see it affecting licensed dentists or the profession in the rest of the country all that much.

Also, the ANTHC/IHS has the duty to provide adequate access to dental care to the Alaskan people, who have the right to have adequate access as well. The DHATs help provide this by working in places most licensed dentists will not. Of course, the ANTHC/IHS also have the duty to provide competent care and the Alaskan people have the right to competent care. Also, the ADA has the duty to make sure there is adequate access, but at the same time to make sure that the care is competent. If the lawsuit is not dropped and is successful, I believe that the access to care for the native Alaskans would be severely compromised. The DHATs provide a good way of providing care across the state, and while the ADA can offer all sorts of alternatives, there’s nothing to ensure that they will work as effectively, which could create serious access issues as a consequence. Again, there is always the issue of the care being competent as well, and the DHATs have the duty to provide competent care. There is always the possibility that if the suit is dropped, the DHATs will help the access issue, but could end up doing bad work or not being able to deal with complications, thus hurting patients as a consequence. However, it appears that this would not be the case, as DHATs have been used successfully in Alaska and other places for some time.

Finally, there are several other issues. The ADA has the duty to protect what they believe are the interests of the profession and the right to file suit and attempt to stop any unlicensed practice. The DHATs also have the right to practice, and if the suit is successful, they would not be able to. Also, the ADA has the right to maintain its reputation, as does the profession in general and the licensed dentists themselves. Continuing with the lawsuit could create a lot of ill-will and could not only hurt the ADA’s reputation, but that of the profession and the practitioners as well. Dropping the suit could create a lot of good-will and would help everyone involved maintain their reputations as a consequence. It might even make the ANTHC more willing to cooperate and come to a possible compromise.

In the end, I think the main issue is access to care vs. competent care. The DHATs help the access problem, but are they well enough trained? I believe that they are and that if the ADA continues with their lawsuit, they will greatly hurt the access of native Alaskans to care. By dropping the suit, the ADA may be able to work with the ANTHC to address their concerns over the DHATs’ competency, without having to hurt their reputation or anyone elses.
Directions:

Read the attached case. Then, use the first of the accompanying pages to develop an outline, do your thinking about the case, and plan your response. Use the second and third pages to present your argument. Limit your response to the two sides of the response sheets. **Please write legibly and within the margins.** We will use the same criteria for judging your response, with the exception of “reassess your position.” Instead, we will assign extra points for issues, affected parties and consequences. There are twenty-five points possible. Concentrate on writing a well-integrated essay. Turn in all pages. Good Luck.

The following checklist will be used by the Course Director to evaluate your responses to this dilemma.

1. Describes the ethical issues
   - 5 = describes all pertinent issues
   - 1 = suggests only the most obvious issue

2. Identifies affected parties
   - 4 = describes those directly affected
   - 1 = suggests only the person most affected

3. Describes the consequences of acting
   - 5 = foresees several possible outcomes
   - 1 = sees only the obvious outcome

4. Describes the relevant obligations
   - 5 = sees obligations as derived from application or moral principles to specific situations in light of consequences of alternative courses of action
   - 1 = simply alludes to the most obvious obligation without rationale

5. Develops a coherent well-integrated argument
   - 6 = an exceptionally well-developed essay
   - 5 = discusses issues, rather than just mentioning them
   - 1 = fails to integrate ideas into a coherent essay

TOTAL POSSIBLE
Dental Pain at Southwest State

Ryan Edwards was a 22-year-old student at Southwest State University School of Dentistry. During his first year, he ranked 10th out of 85 students and had made the Dean’s list both semesters. As a freshman, Ryan started a blog (a web log, kind of like an online diary) in which he commented about his dental school experiences. Several of his entries commented upon his partying and made some remarks about his professors and his fellow classmates. In one entry he said: “I’m buzzin’ a bit from the booze” and went on to comment about one of his professors—calling him a “XXXX master of a teacher” because he didn’t like his teaching style. “I don’t even gratify him by calling him a professor,” said the student. “He is one who teaches as though we are infants and children.” In another entry, the dental student commented upon his classmates, “I don’t know how I am gonna manage [being with] the same 80 people for the next three years, especially when 20 of them have the intellectual maturity of a 3-year-old, or are just a plain pain in the ass.”

One of the student’s classmates reported the blog and what appeared to be “excessive partying” to the Associate Dean for Academic Affairs, who gave the student a letter indicating that the student “may have a problem with binge drinking” and calling the student’s writings “crude, demeaning and unprofessional.” The Dean gave the student an opportunity to sign an “admission of guilt” and to waive a hearing of the Student Faculty Review Committee. His punishment would have included academic probation for the rest of his time at Southwest State, a public apology to the class, and counseling for “both alcohol abuse and the underlying biases of your remarks on your blog site.”

The student deleted his blog, but did not consent to the punishment. Instead he and his parents hired a lawyer to help defend him in front of the Student-Faculty Review Committee, which included five faculty and the presidents of the Dental School’s four classes. You are president of your class and, as such, will attend the hearing and vote on whether to suspend the student from the School of Dentistry.

**Charges:** The student was charged with misconduct in violation of the Dental School’s Code of Ethics and Professional Conduct. Section IV, Subsection E of the Code in the School’s handbook states: “Each member of the Southwest State community is obligated to conduct interactions with each other, with patients and with others in a manner that promotes understanding and trust. Actions, which in any way discriminate against or favor any group or are harassing in nature, are condemned. Respect for the diverse members of the Southwest State student body, administrators, faculty, staff and patient base is expected.”

**Sanctions:** At Southwest State, suspension for misconduct is usually in effect for a year. At the end of that time, the students will be allowed to resume matriculation, but will be required to repeat the second year of the predoctoral program in its entirety. To be reinstated, the student must meet certain conditions. In Ryan’s case, the Dean proposed that (1) the student must get counseling for behavioral issues, (2) complete an assessment for chemical dependency and follow-up recommendations for treatment if indicated, (3) make a public apology that explicitly states that he is truly sorry for the crude, demeaning, and unprofessional remarks posed on the blog site, (4) admit that his remarks violated the School of Dentistry’s Code of Ethics and Professional Conduct, and (5) return a competitively awarded $5000 academic scholarship.

At the hearing, a biomedical professor testified that the student’s blog entries were no more egregious than words said to his face by students. He said he thought the blog was “crude,” but asked, “Why should I care?” Also, a professor of political science said the student was charged with violating a conduct code that is “so vague that it could be stretched to cover any kind of uncivil behavior.” He added that “students in high pressure professional schools often ‘blow off steam’ by posting about their experiences.”

In the weeks before the hearing, you have heard some undergraduate students commenting about what is going on in the dental school: “It’s a free country. People can post just about anything on their journals and put them on the web. The framers of the constitution were quite clear on this. Besides, many people are proud of the way they live and want to share it. Some ways of life involve more than going to church. Sometimes they involve drinking. Sometimes they involve hating professors. Why would you want to punish somebody for saying the obvious about their professors? Some ‘old school’ educators fear the internet and wish to eliminate it or bend it to their will. Southwest students should vote with their wallets and choose a school that will respect their constitutional rights!”

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1 This dilemma is based on a real case. Facts have been modified slightly, and names have been changed.
2 The expletive used here has not been repeated. If you wish to know, I will tell you in private.
Dental Pain at Southwest State
Response Sheet
Name______________________________

Should you vote to suspend the student? ___Yes  ___No  Why or why not?
What reasons would you give to support your position?

(You may continue writing on reverse side)
Suppose the committee voted to suspend the student by a narrow margin. They engaged in a discussion about the sanctions. Some thought the sanctions were too harsh. Others thought they were appropriate.

Would you modify any of the sanctions? ___Yes  ____No  If not, why not?  If so, which sanction(s) and why?
**Issues 5 pts.**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Position</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) <strong>Fairness to professor</strong>—Ryan’s right to free speech vs. the professor’s right to his</td>
<td>1</td>
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<td>reputation/ to be respected</td>
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<tr>
<td>2) <strong>Fairness to classmates</strong>—Ryan’s right to express his views vs. the rights of other students</td>
<td>2</td>
<td></td>
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<tr>
<td>3) <strong>Fairness to profession</strong>—Ryan’s right to autonomy vs. the profession’s right to decide</td>
<td>3</td>
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<tr>
<td>who is deserving of practice privileges</td>
<td>4</td>
<td></td>
<td></td>
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<tr>
<td>4) <strong>Fairness to future patients</strong>—Future patients’ right to care from a professional who is free from chemical influence vs. Ryan’s right to autonomy/privacy</td>
<td>4</td>
<td></td>
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<tr>
<td>5) <strong>Obligations as a professional</strong>—Ryan’s obligations as a professional restrict some of his rights to autonomy and free speech</td>
<td>5</td>
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<tr>
<td>6) <strong>Fairness of sanctions</strong>—The sanctions imposed should be proportional to the offenses</td>
<td>6</td>
<td></td>
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<tr>
<td>7) <strong>Fairness to other academically deserving students</strong></td>
<td>7</td>
<td></td>
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</tbody>
</table>

**Affected Parties 4 pts.**

1) Ryan 1  
2) Professor 2  
3) Classmates 3  
4) School 4  
5) Profession 5  
6) You/Class President/Review Committee 6  
7) Parents 7  
8) Future Patients 8

**Consequences 5 pts.**

1) Harm to Ryan (reputation, financial) 1  
2) Ryan’s disrespectful behavior does/does not continue in the future 2  
3) Ryan does/does not get an evaluation for chemical dependency and the help he might need 3  
4) Problem behavior is seen as acceptable by other students 4  
5) Harm to school’s reputation (½ pt.), if they fail to regulate students (½ pt.) 5  
6) Public loses trust/respect for profession (½ pt.), if sanctions aren’t imposed (½ pt.) 6  
7) Potential harm to patients, if Ryan’s behavior continues 7  
8) Ryan’s actions create a hostile/emotional environment 8

**Duties 5 pts.**

**President/Review Committee (1 pt. each)**

1) Regulate/monitor the student body 1  
2) Interpret code and determine if it’s been violated 2  
3) Uphold/promote code of ethics; apply reasonable sanctions 3  
4) Protect future patients and society from harm 4  
5) Protect the reputation of the school/profession 5  
6) Assess the likelihood of Ryan’s reform 6  
7) Ensure that the school only graduates dentists who are competent and respectful 7  
8) See that Ryan receives the help he might need 8

**Ryan (½ pt. each)**

9) To self-regulate 9  
10) To abide by the Code of Ethics, to be respectful of others 10  
11) To consider the implications of one’s actions 11  
12) To accept responsibility for one’s actions 12

**Develops a Coherent Well-Integrated Argument 6 pts.**

6 = an exceptionally well-developed essay  
5 = discusses issues, rather than just mentioning them  
1 = fails to integrate ideas into a coherent essay

**Total (25)**
MEMORANDUM

DATE: May 2, 2006

TO: First Year Dental Students

FROM: Dr. Muriel J. Bebeau, Professor
Division of Health Ecology

RE: First Year Professional Problem Solving Feedback

Thank you for your patience in waiting for feedback on your “exam” in Professional Problem Solving. Overall, I’m impressed by the quality of thinking reflected in your responses. As expected, there were differences among you in the issues addressed and in the way the issues were framed. Your responses were read carefully, and we tried to credit you with expressions of an issue, even if you might have described it somewhat differently than others did or than my assistant or I might have. Let me begin by telling you how the criteria were developed and how each essay was judged. Then, I will provide some general feedback on the case. At the end is a sample response that addressed many of the items on the checklist. Review this memo and the example carefully before you engage in self-assessment.

Case and Criteria Development

The case used for this assessment was selected specifically for this exam. As you know it was based on a real case, and I selected it to give you an opportunity to reflect on the real challenges professionals face in dealing with monitoring of the profession. I also selected the case because a number of Minnesota practicing dentists have reflected on the case. In fact, Dr. Bill Stein—who often writes on ethical issues facing the profession—published an article in Northwest Dentistry in which he addresses the issues in the case (see attached). What is interesting about the case is that not everyone (including some of the professors cited in the case) has thought carefully about what it means to be a professional who abides by a code of ethics.

I also discussed the proposed case with faculty dentists and facilitators before deciding to use it as the test case. My assistant (who is finishing a Ph.D. in philosophy) and I developed a preliminary checklist to be sure the case included several issues, affected parties, etc. We did not decide on the final checklist until we read a sample of responses that you had written. In other words, we used your responses to help us design the checklist. As we read your responses, we noticed that the perspectives you thought needed to be taken into account were very similar to those we raised and those raised by faculty dentists who served as facilitators. We noticed that 70 percent of you voted to suspend Ryan. Several facts of the case were cited by those who voted to suspend Ryan: (1) initially, the academic dean offered Ryan the opportunity to stay in school while receiving counseling. Ryan decided not to accept these conditions and appeal to the Faculty/Student Review Committee, (2) the fact that suspension was for a year gave the student an opportunity to continue his education once he addressed issues of conduct that were alienating him from classmates and faculty, and (3) if Ryan was indeed chemically dependent, that could interfere with his ability to accept the sanctions of the school. With respect to the second question, 78 percent of you argued for some modification to the sanction, while 22 percent argued that the sanctions were fair. Those who thought that it was fair to require Ryan to return the academic scholarship argued that being a good student included being a responsible student. Some argued that requiring an apology might not have the intended result. For an apology to be sincere, it needed to be an outcome of counseling that helps the student reflect on the ways he has offended others.

As with previous cases, the concern is not with the position you take, but with the quality of the argument. And, of course, the more issues you attend to, the less vulnerable you are to counter argument. I included an example of a well-developed response from one of your classmates who argued for the “Yes” position, but I have an equally well-developed response from one of your classmates who argued the “No” position. If you would like to review a well-developed response that took the “No” position, let me know and I will seek that student’s permission for distributing it.

Scoring your response. With a modified checklist in hand, my assistant (who scored all your responses during the course) read your response and used a colored pen to identify issues, consequences, duties, and affected parties. To assure consistency in applying the criteria from the first to the last exam scored, periodically, earlier
essays were reread. After my assistant read all the essays, I read a selected sample to be sure I agreed with the scoring of the papers. In cases where either of us had some questions, we met to discuss the papers and to identify some common strengths and weaknesses to share with you. Consider these as you use the checklist to self-assess your own response. I think you will notice, when you review your essay and the scoring, that we tried to credit relevant ideas that were expressed well, even if they weren’t clearly represented on the checklist. You will notice partial credit was given when you pointed out only one half of one of the conflicts in a situation, and partial credit was given for a rather vague discussion of a consequence or duty.

General Feedback on the Responses

Duties: You needed to focus on the protagonist's decision and duties. In this case, you as the class president (i.e., a member of the Faculty/Student Review Committee) are the protagonist. Duties seemed to be much more difficult for students in this case than in others, especially since many only talked about Ryan’s duties. Because of this, we added a few of Ryan’s duties that we thought to be relevant, even though he’s not the decision-maker in this case (these were worth ½ point each). Also, leniency was the rule when assigning credit for the duties of the review committee, as students did not always state such duties in a way that is reflected on the checklist, but in many cases were deserving of credit (or at least half credit) nevertheless (this was especially true for D1 and D2). In many cases, students talked about D1, D3, and D7 in terms of the duties of the school or of the dean, rather than the review committee. In such cases, credit was given for the appropriate duty, but this was then considered when assigning the score for a “well-integrated essay.”

Duties could be expressed in several possible ways:

D-1 To regulate/monitor the student body. Responding to the general responsibility of a profession—to regulate and monitor itself (in this case to monitor students who aspire to become professionals), your role is to make a judgment about the behavior displayed.

D-2 To interpret the code and determine whether it had been violated. As a member of the committee, many of you recognized that you needed to compare the statement of the code with the alleged behavior and determine whether the code had been violated. Some of you observed—contrary to the argument made by the “political science professor” who testified on Ryan’s behalf—that the code’s statement certainly addressed respect for persons and that the actions fell within that statement.

D-3 To uphold/promote code of ethics; apply reasonable sanctions. In addition to interpreting the code, the committee has a duty to enforce the code and apply sanctions when it is violated. Notice the comments on I-6 regarding the reasonable sanctions.

D-4 To protect future patients and society from harm. It was impressive to see the number of you who keyed in on this responsibility. Those that addressed this duty recognized that Ryan’s actions, either the disrespectful treatment of others or the possible problem with substance abuse, presented a risk to future patients that the review committee had a responsibility to address.

D-5 Protect the reputation of the school/profession. Some of you explicitly discussed this responsibility.

D-6 Assess the likelihood of Ryan’s reform. Only a few of you expressed this, but it is an important judgment that the committee must make. Some mentioned that the review committee had to take into account Ryan’s initial response to the academic dean, which suggested that he didn’t seem to see a problem with his behavior.

D-7 Ensure that the school only graduates dentists who are competent and respectful. Some of you recognized that the school/profession’s responsibility to the larger society trumps any responsibility they may have to an individual who wishes to become a dentist.

D-8 See that Ryan receives the help he might need. We included this because some students highlighted this important responsibility of classmates and faculty. This way of framing the responsibility takes into account those who argued that actions could be taken in a more private way. Clearly, it is possible for some classmates, together with Ryan’s parents, to confront the situation and see that Ryan gets help.

Because some students focused so heavily on Ryan’s duties, rather than the duties of the protagonist, we decided to offer partial credit for each expression of Ryan’s duties.

D-9 To self-regulate. Many of you commented that as an aspiring professional, Ryan had a responsibility to regulate himself.

D-10 To abide by the code of ethics, to be respectful of others. A number of students commented on Ryan's responsibility to abide by the school’s code of ethics—which specifically describes a duty to be respectful of others. Respect for persons is an important concept in professionalism, as dentists often encounter individuals who are less knowledgeable, less educated, or who hold beliefs with which the dentist doesn’t agree.
D-11 **To consider the implications of one's actions.** Some pointed out that it is important to be able to let off steam when feeling frustrated—writing or talking to friends may be a helpful way to do this—but responses that were credited for this duty acknowledged Ryan’s responsibility to consider how actions affect others.

D-12 **To accept responsibility for one's actions.** It was impressive to see the number of you who keyed in on this responsibility. As Dr. Stein remarked, “The student didn’t consent to the punishment, and with the help of his parents ‘lawyered up’ to face the Student Faculty Review Committee.” What Dr. Stein is implying is something students who mentioned this responsibility recognized. If you make a mistake, you should own up to the mistake and accept the consequences. It isn’t a virtue to stand your ground in the face of evidence that you should change your mind.

**Issues: Should you vote to suspend the student?** This case presents a number of conflicts. These can be framed either as a conflict between Ryan’s various duties (e.g., to his professors and to his classmates/patients), or as a conflict between Ryan and another’s rights. Listed below are seven reasonable ways the conflicts between competing rights or interest could be expressed. Notice that the first two address Ryan’s right to free speech. Most of you realized that the right of free speech is a limited right for those who wish to become professionals. A score of "5" on Issues was not common, but there were a number of students who did receive full credit.

I-1 **Fairness to professor**—Ryan’s right to free speech vs. the professor’s right to his reputation/to be respected.

I-2 **Fairness to classmates**—Ryan’s right to express his views vs. the rights of other students

Note: I-1 and I-2 were often put in different ways than on the checklist. Some noted their right to be free from harassment, while others focused on their right to respect, and still others put it in another way. Full credit was given for those statements that noted a conflict of rights and half credit was given when the professor’s or classmates’ rights were discussed alone.

I-3 **Fairness to profession**—Ryan’s right to autonomy vs. the profession’s right to decide who is deserving of practice privileges. This issue addresses Ryan’s right to autonomy and privacy, juxtaposed with the profession’s right to decide who should be granted professional privileges. Certainly Ryan has a right to drink if he wishes to, yet just as with the right to speech, it is a limited right. A professional is expected to demonstrate that he/she is trustworthy and not impaired. If the profession suspects that the individual is abusing drugs or alcohol, they have a right (and duty) to intervene.

Note: Some students talked about a conflict between Ryan’s right to free speech/to express his opinion freely, and the profession’s right to its reputation. While this doesn’t really get at the issue represented in I3, credit was given when the discussion of this conflict was exceptional.

I-4 **Fairness to future patients**—Future patients’ right to care from a professional who is free from chemical influence vs. Ryan’s right to autonomy/privacy.

Note: In most cases, students who received credit for I4 put the issue in a way that was similar to how it is stated on the checklist. In a couple of cases, however, students discussed how Ryan’s right to speak freely about others might come into conflict with the patients’ right to their privacy, which is something the review committee ought to consider.

I-5 **Obligations as a professional**—Ryan certainly has a right to free speech (as any citizen of the United States is guaranteed), but he also agreed to take on certain obligations when he entered dental school, including following their code of ethics and showing respect for others. When these come into conflict, it seems that his professional obligations override his other rights, especially when making a claim to these rights results in a violation of the code of ethics, as seems to have happened in this case.

I-6 **Fairness of sanctions**—The sanctions imposed should be proportional to the offenses.

Note: Most of you made comments about the sanctions being imposed and wondered whether some of the sanctions were appropriate, given the violations. You offered arguments for modifying some of them. Interestingly, there was little consistency in your objections to particular sanctions, but a general feeling that sanctions should be reasonable. Some students raised the point that the sanctions were intended, not as punishment, but as a way of holding Ryan responsible for his actions. Others commented that sanctions like requiring an apology should not be expressly required, but would be an indicator of the student’s rehabilitation.

I-7 **Fairness to other academically deserving students.** Some pointed out that Ryan received an academic scholarship based upon academic achievement, which he appeared to be upholding, yet thought that it was unlikely that the foundation/family that awarded the scholarship would consider behavior as disconnected from academic performance. They thought that whatever group awarded the scholarship would expect that the recipient would hold him/herself to both standards.

Note: I-7 was discussed by very few students, yet it represented an interesting dimension, so we included it as an issue.
**Affected parties:** The list of affected parties included 8 individuals and groups. In many cases, students just talked about the rights or duties of a particular party (e.g., the professor’s right to be respected), but did not discuss how that person or group would be affected if Ryan were to be suspended. Similarly, and more commonly, students wrote about how a particular party was affected by Ryan’s blog, rather than considering how they might be affected if Ryan is or is not suspended. While credit was typically only given for discussions about how a party would be affected by this decision, exceptions were made for outstanding discussions about other ways in which a party was affected. Most students received a score of 3 or 4 for this category.

**Consequences:** The most frequently cited consequences of the committee’s action are listed below:

- **C-1 Harm to Ryan (reputation, financial).** Most of you got credit for this. While some expressed it in terms of Ryan’s reputation, some also addressed the financial setback that the sanctions would present.
- **C-2 Ryan’s disrespectful behavior does/not continue in the future.** Some students pointed out that unless Ryan’s disrespectful behavior is sanctioned, he could come to think he could also speak disrespectfully of patients. Also, a few of you were concerned about Ryan’s ability to engage in respectful relationships with colleagues in the future, if he isn’t given an opportunity to reflect on his behavior.
- **C-3 Ryan does/not get an evaluation for chemical dependency and the help he might need.** This consequence was discussed in various ways, but the concern was that unless an evaluation takes place, Ryan does not have an opportunity to address a potentially serious problem.
- **C-4 Problem behavior is seen as acceptable by other students.** Given the widespread perception—especially among some undergraduates—that academic performance is all that matters, some students worried that if the committee does not sanction Ryan’s conduct, the authority of the profession and the institution to curb uncivil and irresponsible behavior will be undermined.
- **C-5 Harm to school’s reputation (½ pt.), if they fail to regulate students (½ pt.).** Most students discussed harm to the school’s reputation that was caused by Ryan’s blog. For such statements, credit was given for the first half of this consequence. Full credit was only given for discussions about the harm to the school’s reputation that would result from not suspending Ryan; in such a case, the public would likely regard the school as ineffective in regulating its own students. Alternatively, a few of you discussed the possibility that the school would be seen as violating Ryan’s right to free speech, if they were to sanction him; such discussions were deserving of credit for the first half of this consequence, but not the second, as this result seemed much less likely.
- **C-6 Public loses trust/respect for profession (½ pt.), if sanctions aren’t imposed (½ pt.).** Some students described ways in which public trust is undermined when the profession doesn’t take seriously unprofessional conduct—including allegations of chemical dependency. Members of the public tend to believe that professionals are all “in cahoots with each other” and will protect each other, rather than concern themselves with protection of the public from irresponsible and incompetent professionals.
- **C-7 Potential harm to patients, if Ryan’s behavior continues.** Most of you discussed this in terms of the possible long-term negative effects on the patients, if Ryan’s behavior continues, either with respect to his possible drinking problems or his inability to respect patient privacy.
- **C-8 Ryan’s actions create a hostile/emotional environment.** One rather insightful consequence stated by several students revolves around the climate created by a lack of civility. One could argue that professors should be immune to derogatory comments by students, but as some point out, such comments present an emotional burden for the person to whom they are directed, and contribute to a hostile environment.

**Assigning Points on the Checklist**

**Credit for issues, consequences, and duties.** Before engaging in self-assessment, notice how points were assigned. In some cases, a statement was made that sort of implied something on the checklist, but that didn’t quite get at the underlying point. Also, some students only pointed out one half of one of the conflicts covered in issues 1-5. We wanted to be able to credit such statements, but also wanted to distinguish them from those that really got at the issue, consequence, or duty. Thus, we decided to add ½ credit scores for the final exam (represented by a slash, /, rather than a full X), to be given in such cases.

**Well-integrated essay.** When assigning scores for “well-integrated essay,” several factors were considered: the quality of organization, the presence of an introduction and/or conclusion, whether there was consideration of both sides of the issue and an argument for the position taken, the level of detail in the statements of issues, of consequences, and duties, and whether there was a discussion about how such factors support a particular position (rather than just mentioning duty after duty, for example). Very few students earned a “6” for this category, but those that did wrote exemplary essays that were impressive in every respect. In some cases,
grades of 3½, 4½, or 5½ were given for essays that fell in between (e.g., some essays were better than a "4," but did not meet the standards for a "5;" instead of just assigning a "4" in such a case, a "4½" was given).

- 6 points were given for an exceptionally well-developed essay.
- 5 points were given, if the discussion was detailed and in-depth in most places and/or several additional good points were brought up and discussed (these essays consistently and thoroughly discussed, rather than mentioned, though most essays did so in general).
- 4 points were given, if the essay was generally well-written, but lacking in detail, and/or if many of the points made were not made explicitly, but were implied.
- 3 points were given, if several of the points being made were vague, for example, if it was generally said that certain parties were "negatively affected," instead of specifically how they were affected and if, for example, Ryan's duties were not made specific (e.g., Ryan has a duty to respect others and abide by the code of ethics) to the situation.

Self-Assessment. After reviewing the above directions, refer to the checklist to evaluate your essay.

If you find an error in scoring. As you read your essay, you may find you disagree with the assigned grade, or think something that meets criteria was overlooked. Remember that this kind of exam requires judgment. Although care is taken to achieve reliable and consistent judgment and to specify the basis for judgment, this kind of test is not like true/false or multiple choice exams, where there is little room for interpretation. Please carefully read over the comments made on your essay. In many cases, the grader took the time to point out where something you've written does not quite get at a particular issue, duty, or consequence on the checklist, even if it might at first glance seem that it ought to be worthy of credit. (Remember that the points on the checklist are the ones most relevant to this case.)

Even though each essay was read carefully and many essays were read more than once, it is possible that something that should have been credited was overlooked. It is also possible that something was credited that should not have been credited. Rescoring an individual essay means taking a fresh look at the essay and making a new judgment. Fairness requires consideration of both kinds of errors. If you decide that an error was made in scoring your response, you may ask for a rescoring. Please provide a written explanation of what you think was missed. We will rescore a paper as follows. We will make a new copy of your response (erasing the prior markings) and score it from scratch, considering your explanation. If we agree that we made a major error (more than 1 point) in the first evaluation, your score will be changed accordingly. Whether or not you want to have your paper rescored, I would be happy to discuss your response with you.

Distribution of Scores. Below is a frequency distribution of the total scores on the final exam, so you can see how you compared with others. The mean score on the final was 18.2 with a Standard Deviation of 3.0.
Dental Pain at Southwest State
Response Sheet

Name____________________ Sample Response_____________________

Should you vote to suspend the student? _X__Yes ___No Why or why not?
What reasons would you give to support your position?

As a member of the Student-Faculty Review Committee, I must enforce the rules set forth by the committee. As a student at Southwest State University, Ryan must abide by the School of Dentistry’s code of ethics. Because he did not, and for many other reasons which I will elaborate on, I vote to suspend Ryan. As a member of the committee, I must see that the school is fulfilling its obligations. The school has a responsibility to graduate competent, ethical, and moral dentists. The committee should ensure that the School is given every opportunity to fulfill this commitment. By allowing students who are unethical and not following the code to continue unpunished would hinder the school from fulfilling this obligation. The committee also has a duty to assess the likelihood that Ryan would conform, if given the opportunity to make amends. Ryan initially was given the opportunity to accept a much lighter sentence. Ryan chose not to accept this punishment and chose instead to hire a lawyer. Ryan is not taking responsibility for his actions and it is the committee’s responsibility to assess the likelihood of reform. The committee has the responsibility to see that the school is graduating or educating students who will do no harm to patients. For the safety of Ryan’s patients, the school must suspend Ryan. The committee has a responsibility to monitor the conduct of its students. The members of the school are supposed to promote understanding and trust. Ryan was not behaving in a manner that promoted either of these. The committee is obligated to see that the members are behaving with appropriate conduct and abiding by the code. The committee is obligated to protect the faculty from hostile working environments. Faculty should not have to withstand verbally abusive language from their students, even if it was via the internet. Likewise, the committee has the duty to protect other students from verbally abusive language. The committee should promote an environment conducive to learning and free from verbal abuse and inappropriate behavior. The committee also has a duty to see that Ryan faces his biases and issues. They need to promote Ryan getting help. Because Ryan was not open to accepting the first recommendation, the committee, to fulfill all of it’s obligations, must suspend Ryan.

Many people will be affected by the suspension. First of all, Ryan. Ryan will suffer the humiliation of being suspended. He will suffer financially by having to return a $5,000 scholarship. If he accepts the suspension terms, he will have to repeat his second year of school. He will lose face, money, and time. His parents will also be negatively affected. They too will suffer humiliation. They have hired a lawyer to defend their son, so they will also be negatively impacted financially. Many more people, however, would be negatively affected, if the committee decided not to suspend Ryan. The profession’s reputation would be at stake. The profession would suffer if the community became aware that unethical students were not reprimanded, because it would then think that dentists in the profession, who engage in unethical behavior, would also not be punished. The community would lose faith in the dental profession and begin not to trust the profession. The school’s reputation would also be negatively affected. Students, especially other dental students, would lose faith in the school’s ability to enforce the rules. Faculty would be affected because they would feel like the committee has no regard for their reputation or emotional condition. If the committee allowed a student to verbally abuse professors without punishment, faculty would be less likely to trust the committee to make appropriate decisions in the future. The students, as well as the faculty, would lose faith in the committee’s abilities to enforce the code, if Ryan was not suspended. It might promote more unethical behavior by students. The undergraduate students who are making comments about free speech may think they can say whatever they want, regardless of who it negatively affects, if the committee does not suspend Ryan. The classmate who reported Ryan’s blog and excessive drinking deserves to be supported. This classmate is fulfilling his duty and will lose faith in the committee, if the committee doesn’t follow suit and uphold its obligations.

There are many issues in contention with one another in this situation. Ryan’s right to free speech, his right to consume alcohol, and his right to education are all valid rights, however, when these rights are in tension with patient safety, fulfilling duties and other’s rights, one must evaluate the situation. Ryan’s right to free speech is in contention with the student’s right not to be verbally abused. Ryan’s right to
free speech is also in contention with the faculty's right not to be verbally abused. When free speech causes harm to another individual, the safety of the individual wins out. One cannot harm another verbally, emotionally, or any other way in the name of "free speech." Ryan's right to free speech is also in contention with the school's right, as well as the profession's right to their reputation. This gets back to the harm issue. You cannot verbally harm someone or something in the name of free speech. The school has a responsibility to enforce the code of ethics. This is in tension with Ryan's right to free speech. The responsibility of the committee to see that Ryan is abiding by the code takes precedence over Ryan's right to free speech. The committee also has a responsibility to see that an environment conducive to learning is maintained. When Ryan's right to free speech hinders the committee's duty, Ryan's free speech rights take a back seat. Ryan also has the right to drink alcohol, but this is in tension with patient's safety and also the patient's perception of the profession. When Ryan starts to behave in a way that worries his classmate enough to report him, the committee must consider if Ryan is behaving in a way to promote patient safety. Patient safety and the image a patient gets from the behavior of a professional should take precedence over that individual's right to drink. Ryan also has to be aware of the image he is creating for the school and the profession. Ryan should conduct himself in a manner that appropriately reflects the profession. Ryan's right to drink does not supersede the profession's/school's right to be represented appropriately. Ryan's drinking also reflects on the other dental students. The rights of the students, to have other students behaving appropriately and representing the profession well, takes precedence over Ryan's right to drink. Ryan also has the right to an education, but when Ryan's behavior started to create an environment that was not conducive to learning, the school's right to an atmosphere of positive learning, as well as the students right to an environment which promotes learning, takes precedence.

My vote is to suspend Ryan.

Extension:

Suppose the committee voted to suspend the student by a narrow margin. They engaged in a discussion about the sanctions. Some thought the sanctions were too harsh. Others thought they were appropriate.

Would you modify any of the sanctions? ___Yes ___No If not, why not? If so, which sanction(s) and why?

I would not make Ryan return the $5,000 academic scholarship. Ryan earned that scholarship and it was through no inappropriate measures that the scholarship was earned. If the goal is to get Ryan to face his previous behavior, then that should be the focus. Taking away something that he earned for something totally unrelated as to why he is before the committee seems a little absurd. He will suffer enough emotionally through the humiliation of the other four recommendations that I believe his actions, if they are going to change, will be affected. If Ryan is truly sorry and is ready to admit his faults and attempt to change, money should not be the hindering factor. Ryan may not be able to afford to repay the scholarship and if that is what keeps him from accepting the Dean's recommendations, then I think what the school set out to do--behaviorally modify Ryan--will be overshadowed by an issue that is unrelated--finances. The committee should set recommendations in place that address the pertinent issues, not abstract ones, that serve no purpose other than sheer punishment, which I hope isn't the goal. Behavior modification should be.