

Moral Reasoning

Part 2

Professional Ethics

- Professional's work involves decision-making
- One's own decisions, decisions of others
- Relational component to professional work
- Must understand reasons and decisions of others
- Must make own decisions in context of others' decisions

Using Moral Theories

- Not what is decided, but HOW it is decided
- Theories identify values and interpret values
- A person's moral theory explains why they hold the values they do

Moral Framework

- Provide a Moral Explanation by:
 - Appeal to a Rule (rightness, wrongness)
 - Using a Theory (perspective)
 - Applying a Value
 - ...in order to make a Decision

- Analysis ... decision is already made
- Decision-making ... decision still to come
- Analysis ⇒
- Decision⇒Rule⇒Theory⇒Value ⇒ Decision-making

Professional Values and Virtues

Common Professional Values

- Integrity
- Honesty
- Promise keeping
- Loyalty
- Competence
- Respect for persons
- Justice
- Compassion
- Confidentiality

Comparison

- Medicine and law: services relate primarily to persons
- Engineering and other science based professions: services relate primarily to things
- OHS professional: services relate to both; more complex
- Medicine and law: solo practice or partnership
- Engineering: employee in organization
- OHS professional: Consultant, employee, official
- Wider issues of responsibility
- Relations, context, conflicts, values not always the same

Integrity

- Most common value in professional codes
- Keystone value
- “Consistent commitment to moral commitments”
- “Structural integrity” = our moral character is the same, whole, integrated
- Can’t commit to conflicting standards and have integrity

Integrity and Honesty

- Related values
- Honest people “have integrity”
- To be true to a system of values, one must be honest
- Integrity requires being committed to honesty
- Honesty is a way of valuing integrity

Problem

Brilliant, first class OHS professional ... but he suggested a scheme many years ago ... we would advise clients only solution to a certain regulation was purchase of a very expensive storage tank for which we and our third partner (unknown to client) would have sole vending rights ...

Integrity and Honesty

Rules:

- admit errors
- refrain from false/misleading pretences ... competency
- advise clients truthfully
- don't fool with the numbers
- don't steal others' work -- plagiarism

Problem

A few years ago, heard that “Tony”, a former student was claiming that he was a professor in OHS at our university in his consulting adverts.

Investigated: His flyer said “engaged with instruction at Ryerson in OHS for 4 years” . . . Verbally interpreted as “teaching”.

Problem

“We like to order more copies of your training manual”

Never heard of the company; not a client.

“How did you get original training manuals?”

“Oh, Mr X used them when he did training for us last year.”

Integrity and Promise Keeping

- Lack of integrity/honesty = “say X, mean Y”
- Integrity: follow through on promises
- Be careful about promises as may jeopardize integrity
- OHS consultant: promise more than one can deliver?

Problem

- Bait and Switch: Albert Einstein does the pitch but Gomer Pyle shows up to do the OHS work
....
- Consultant promises to:
 - Get you to world class safety in 3 months
 - Get your “accidents to zero”
 - Ensure compliance
- Or head office wants you, the employee, to agree to the above.

Integrity and Loyalty/Dependability

- “Avoid actions that degrade integrity of profession” = loyalty to profession
- Be loyal to profession’s goals
- If committed to profession, be committed to profession’s goals
- Dependability is a display of loyalty
- Loyalty to employer’s goals

Disloyalty to Profession's Goals

OHS professional:

- Advocates high risk behaviour?
- Chooses incompatible values to promote?
- Displays risky behaviour in personal life?

Problem

Member of a professional OHS group, certified by that group, set up his own designation and offered short courses for \$ for people to obtain the designation. In his advertising, he said the new designation was “just as good” as the original, only half as expensive and 1/10 the time.

Conflicts Involving Integrity

- Commitment to our commitments
- What if 2 or more commitments in conflict?
- Creatively find alternatives where not at odds
- Often values not in true conflict, but interpretation of values
- May be a greater commitment to some values than others; compromise necessary in world of scarce resources

Problem

- “Protect life, environment, and property.”
- “Do not compromise.”
- Possible?
- Are the values of equal priority when commitments come into conflict?

“Whistleblowing”

- Disclosure of wrong-doing
- Conflict: protection of life versus loyalty
- Honesty versus loyalty
- Honesty versus promise keeping

Problem

- ❑ Your report shows areas of high risk, non-compliance, errors etc.
- ❑ Your superior or client rewrites the report, eliminating your data and conclusions, or buries the report.
- ❑ Duty to warn in conflict with

“Whistleblowing”

- Explore all options to avoid conflict
- Creativity and clarification often reduce conflict
- Compromise between values often possible
- Distinguish between internal versus public whistleblowing
- Some cases of public whistleblowing excessive and involve motives of spite, revenge, self-justification
- Best companies have addressed whistleblowing and protect it... provide internal mechanisms
- Hard cases requiring self-sacrifice actually rare, involve high risk

Competency – Duty to Maintain

- Part of the meaning of “professional” is to possess special, uncommon knowledge and skills.
- Don’t have to be best in profession, just above threshold.
- Redundant to put in Codes of Ethics?, as incompetent person should not have been granted status, or should have been weeded out?
- Far more important is a duty to keep up, to maintain competence.
- As technology and knowledge improve, the bar of professional practice is raised.
- “Standing still” results in eventual incompetence.

Problem

A few years ago, a well known member of the profession stated publicly that a failure to adopt behavior-based safety was professional malpractice (hence, unethical).

Agree?

Insofar as BBS is “behavioral psychology”, we would be missing out on cognitive psychology, developmental psychology, evolutionary psychology, etc. etc.

Solution

- Professional groups should be leery of declaring that certain theories and techniques are “true” or established.
- Better approach is the PDC approach where competing and novel ideas are not barred. Gradual, contingent acceptance is the pathway.

Areas of Competence

Extremely important in a profession:

- where people come from a wide variety of disciplines
- there are many areas of specialization, and
- there are other professions adjacent

Problem

- You are asked to provide expert evidence in an area that you are not truly an expert.
- Head office wants all locations to institute a certain safety technique about which you know little.
- You observe a colleague offering services in areas you know he or she has little competence

Respect for Persons

- All persons are due basic respect and a dignity which is to be respected
- Kant: “treat every person as an end, and not as a means solely”
- Other people are not merely a method for our own goals; others have their own goals
- Others may be used with informed consent ... contracts are moral

Respect for Persons

- Distributive justice - distributive criterion for basic respect and dignity is personhood
- Respect on a continuum - desert beyond the basic minimum
- Respect for certain aspects of others: integrity, wisdom, honesty, skill, experience
- Basis of respect for professional peers
- Professional - show basic respect for every person, even if not felt
- Not hypocrisy
- Many professional codes refer to a right to “respectful care” on part of client/patient
- Confidentiality, privacy, autonomy, choice, informed consent, self-development, empowerment

Problem

OHS professional transferred to company's gold mine in South Africa. A large portion of miners were HIV positive, and life expectancy averaged 2 years. Company's unstated position that spending on safety uneconomical due to short life span of workers? Solution?

Justice

- Justice as “fairness”
- Involves “balancing”, “weighing” and conforming to a standard
- Moral psychology: people have a “sense of justice”
- Four forms of justice:
 - ❑ Commutative,
 - ❑ distributive,
 - ❑ retributive
 - ❑ procedural

Commutative Justice

- Unfair to leave a harm uncorrected.
- X does harm to Y. Take from X to compensate Y so as to address the imbalance. Basis of law of torts.
- Fairness lies in putting people back in the position they would have been in had the harm not been done

Distributive Justice

- Fairness in distributions
- Distribute X according to pre-agreed criterion Y (need, ability to pay, merit, status, personhood)
- We distribute DVD players on the basis of ability to pay, university degrees on the basis of merit, and human rights on the basis of personhood

Retributive Justice

- Balance severity of punishment with severity of harm for which punishment imposed
- Severe punishment for severe wrongs, light for slight
- Workplace discipline should be fair in such a balanced fashion.

Procedural Justice

- Fairness in decision-making about others' interests
- Unbiased decision-maker
- Hear both sides
- Mutual disclosure, notice
- Treat both sides equally
- Balance between the parties

Justice

- Treat like cases alike
- Justice \neq equality, Justice = equity
- Equal and unequal treatment could both be “fair”
- “Rewarding” and “punishing” can both be “fair”
- Not always concerned with legal version(s) of justice

Justice in the Workplace

- Fair compensation for services
- Equal treatment in process
- Unfair competitive practices
- Appropriate (fair) discipline
- Hearing both sides in a dispute
- No bias re grounds of discrimination

Professional Codes & Justice

- Accountability -- punish professionals who violate standards
- Duty to report colleagues' wrong-doing for retributive justice to be carried out
- Fairness: warning, reprimand, suspension, expulsion from group
- Fairness in distribution of professional services -
- no discrimination
- More than one form of justice can be in play at same time

Compassion

- A professional is compassionate
- No “relational sensitivity” = no professional life
- Compassion is a feeling
- No obligation to feel compassion, but an obligation to act compassionately
- Some believe professional is “dispassionate”
- Concern for others
- Strongly relational: employer-employee, colleague-colleague, professional-client

Compassion

- Imagine (if you can't ask) what it would be like in the other's shoes
- Not “knowing better”, but “knowing as”

Two rules:

- Alleviate suffering
- Act in other person's actual (to them) best interest

Confidentiality

Confidentiality regarding:

- Whose interests
- Which interests

Confidential information of:

- Worker
- Employer
- Colleague
- Competitor

Legal rules exist in many jurisdictions for both.

- Medical information
- CBI – confidential business information

Problem

“You’ve won the contract but how about including these features of your competitor’s work – from his proposal -- into your services. We insist...”
Should you? Aiding in a breach of confidentiality by the client?

You signed a confidentiality agreement when consulting for a world class company - X. During the contract you learn many highly effective techniques. Later you are asked to give a talk at a PD conference on “X’s world class safety techniques”.

Problem

- If clear contractual language, not an ethical issue but a legal one.
- Yet, contractual non-confidentiality clauses do not typically capture experience.
- Not simple, outside of legal issue, as failure to share knowledge a breach of a professional standard. Lives may be saved with broader use of technique.

Problem

- You signed a confidentiality agreement, and began contract. Discovered:
 - An issue of high risk, the company ignoring; or
 - An issue of high risk, the company actively covering up, lying; or
 - An issue of high risk, the company knows it's in clear legal non-compliance.

Conflicts

Human life versus property

- e.g. Right to know versus trade secrets

Human life versus environment

- e.g. Take time to ensure PPE of response crew versus speed in preventing chemical reaching natural environment

Conflict of Interest

- Usually refers to conflict between professional duties and personal interests
- Can also refer to conflict between professional duties/values and other values

Objective Decision-making

- Often expressed in Codes of Ethics
- Opposite of subjectivity
- Does the decision and the reasoning behind it hold up to scrutiny by the “reasonable peer”?
- No bias, truthfulness, no conflict of interest

Cost Benefit Analysis (CBA)

- Commonly used to guide action
- Related to risk benefit analysis
 - ❑ What are alternatives?
 - ❑ Identify costs and benefits of each
 - ❑ Quantify
 - ❑ Calculate net gain of each
 - ❑ Choose one with greatest net gain

Criticism of CBA

- Not all costs/benefits identified
- Correct weight not given
- Action may be greatest net gain but morally impermissible from another moral perspective
- Appears “scientific” or “value free”; but not
- Merely a utilitarian technique

Environmental Protection

- Protect human interest in the environment, versus
- Protect the environment “for its own sake”
- Environmental ethics is problematic:
 - “rights” for non-moral creatures?
 - universalizability of principles?

Protection of Property

- Often denigrated as a value
- Compares poorly with “human life”
- Yet, pre-condition to many aspects of human flourishing
- Implicit in organizational values of commercial enterprises
- An issue in many dilemmas and cannot be ignored

Relations with Colleagues

- Distinguish between duties to profession as an institution and duties to professional colleagues
- Don't bring profession into disrepute
- Treat colleagues in a professional manner

Relations with Colleagues

- Co-operative
- Respect
- Egalitarian
- Supportive and helpful
- Openness
- No blatant crude competition
- Intra-professional recognition based on merit
- Maintenance of discipline