

# Principles for the Development of a Professional Code of Ethics

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## 1 BACKGROUND

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The code of ethics for the National Association for Healthcare Quality consistently ranks among the most frequently accessed pages at NAHQ.org and remains a valuable source of information about the profession for many healthcare leaders across the country.

Given NAHQ's substantial growth in both members and CPHQ certificants over the last several years, as well as ongoing refinements to the strategic plan, the board of directors agreed that the current-state code of ethics, with its "standards of professional practice," was due for review. NAHQ chartered a small working group, co-lead by Jason Gillikin and Andrew Kopolow and supported by Amanda Roseboom and Karen Schrimmer.

After an initial survey, the working group determined that NAHQ's 2011 code of ethics functions mostly as a code of conduct and would benefit from a complete from-scratch revision instead of a routine language update. As part of the working group's effort, a series of focus groups with different stakeholders are planned for the second half of the year. The work will conclude before the end of 2017.

In the context of a comprehensive review of a code of ethics for a profession, most industry experts distinguish three separate but related documents:

- A **code of ethics**, which identifies the shared principles that professionals use as they consider value-laden choices
- A **code of conduct**, which outlines the behavioral standards for remaining a part of the profession or the association that serves as the professional home
- **Standards of practice**, which define the way the profession's body of knowledge is ethically translated into day-to-day activities (often informed by, or presented simultaneously with, the profession's code of ethics)

In this current initiative, the working group will review the existing code of ethics and standards of practice, with a goal of producing a thorough revision of the code of ethics for the profession, a new code of conduct for NAHQ members and refreshed standards of practice for health care quality as a discipline.

This document is intended to orient participants in this initiative about the relevant principles that both undergird and shape the creation of a modern code of ethics on behalf of our profession.

## 2 THE PURPOSE OF PROFESSIONAL CODES OF ETHICS

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*Professional codes of ethics serve as a shining beacon to illuminate the dark hazards of our everyday working lives. They offer day-to-day relevance for their stakeholders by revealing the standards and principles by which stakeholders to a problem relate to each other and to the problem itself. Codes of ethics promote stability, consistency and recourse to the shared experiences of one's peers.*

### 2.1 Define the Profession

A code of ethics helps to define a profession. By articulating the standards of “who’s in, who’s out” within the universe of potential stakeholders, the code differentiates a member of the profession from other peer professionals who are not governed by the code. In a sense, then, the profession itself is formed by its ethical standards and those bound to them. In fact, mere presence of a code of ethics asserts that the profession recognizes a greater purpose for itself—a more noble calling—transcending purely economic incentives.

### 2.2 Communicate Uniform Standards to Stakeholders

Most people, when they visit a hospital or clinic, expect to be treated with the same standard of behavior regardless of which provider they encounter. A uniform code of ethics sets the foundation for common approaches to problem solving, leading to greater harmony among stakeholders and higher trust in the process.

### 2.3 Reduce Conflicts between Personal and Professional Conduct

From time to time, the press catches wind of some medical professional who refuses to engage in some specific practice because it violates his or her moral code—for example, a pharmacist who refuses to dispense birth-control pills. The purpose of a professional code of ethics is to ensure that the *individual moral judgements* of stakeholders do not trump the *consensus values of the profession*. As such, we reduce the risk of philosophical disagreement among stakeholders and thereby concurrently reduce the risk to the safety and well-being of the most vulnerable members of our community.

## 3 DIFFERENTIATING ETHICS FROM MORALS

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### 3.1 The Purpose of Moral Philosophy

When you strip away all the highfalutin words and all the references to obscure, long-dead thinkers, modern moral philosophy is left with just one interesting purpose: *To guide people as they consider value-laden choices* (Ellin, 1995).

The words *ethics* and *morals* are often confused. In one view, “ethics is a more individual assessment of values as relatively good or bad, while morality is a more intersubjective community assessment of what is good, right or just for all” (Lovat & Walker, 2014). However, other scholars suggest that *morality* is about individual

standards of conduct while *ethics* is all about the formal study of moral systems (Bidwell, 2013). Part of the confusion stems from the inconsistent way philosophers themselves use these words. In a typical usage in the United States, a common—albeit shaky—distinction describes *morals* as an individual judgement of the relative rightness or wrongness of any particular behavior, and *ethics* as a group consensus about right conduct that governs stakeholders within that group (Ellin, 1995). The working group endorses this informal usage.

In other words: No matter how you use the words *ethics* and *morals*, someone will find ground to quibble with you, so don't stress over it. Just remember that the words aren't technically synonyms.

## 3.2 Ethical Frameworks

When people talk about *ethics* they generally refer to a standardized system for making value-laden choices. Those systems cut across many different domains. Many professions adhere to robust codes of ethics. So do some fraternal organizations and employers. Sometimes, an individual might be governed by more than one code simultaneously, as with a nurse (nursing ethics) who functions as a statistician (statistical consulting ethics) working within a quality-improvement team (NAHQ's code of ethics) at a hospital (institutional ethics). In many cases, these codes are complimentary, but in some cases, they may not be—adding complexity to any individual professional's consideration of a complex ethical problem.

In addition, these ethical frameworks are largely voluntary: The sponsor develops them and hopes to encourage them through education and training, but individual practitioners generally support the frameworks of their own free will.

One notable exception lies in medicine, however, where in some states, a licensed practitioner may suffer adverse licensing action arising from violations of a professional code of ethics. These violations are typically adjudged by peer groups and represent an interplay of state- or national-level professional associations and state-level licensing boards.

A robust ethical framework will remain sensitive to potential overlaps and its own enforceability.

## 3.3 Individual Moral Frameworks

Although a deep dive into professional ethics generally does not focus on the various moral paradigms that tend to govern *individual* behavior, possessing a brief background knowledge of these approaches will help contextualize the disagreements over values that ultimately get represented within a professional code of ethics.

Different authorities cite different schools of thought within moral philosophy, although seven main approaches tend to be among the most widely recognized (Timmons, 1998). Each may be roughly distilled into a different core question. And, significantly, each can arrive at different conclusions to the same problem while remaining internally self-consistent.

Exploring these approaches by means of an example will help:

SCENARIO: Bob arrives at work at 8 a.m. He sees his co-worker, Sally, arrive at 9 a.m.— but he discovers that she wrote 8 a.m. on her timesheet. After a cursory review, he concludes that she’s been faking her time card for several months, bilking her employer out of hundreds of hours of wages. Bob considers what he should do with his knowledge of Sally’s behavior.

What will Bob do? His dominant moral framework will govern his response:

FRAMEWORK	CONSIDERATION	OUTCOME
Care Ethics	<i>What resolution best preserves our relationships?</i>	Bob approaches Sally to ask why she’s been mismarking her timecards. He suspects that if she is struggling financially, he can help her out — but fundamentally he wants to help her stop her theft so he doesn’t have to report her to their boss.
Consequentialism	<i>What’s the best outcome?</i>	Theft of wages increases the work for others while simultaneously reducing their available labor budget. Sally’s theft is (on balance) detrimental to the company and to other employees, so Bob reports her conduct to their boss.
Deontology	<i>What’s my duty?</i>	Bob honors his duty of loyalty to his employer, so he doesn’t hesitate to report Sally to their boss.
Divine Command Theory	<i>What does God will?</i>	As a devout Christian, Bob knows that stealing is wrong, so he encourages Sally to report herself and make restitution to their boss, and to repent to the Lord.
Egoism	<i>What’s in it for me?</i>	Bob fundamentally doesn’t care about what Sally’s doing. He briefly considers whether to extort a payment to keep quiet or to fake his own timecards; either way, he’s not terribly invested in Sally’s theft as long as it doesn’t affect him.
Natural Law Theory	<i>What would we expect a regular person to do as he seeks his own good?</i>	By reporting Sally, Bob will uphold a universal truth that crosses cultures, that people who have been injured by theft should be made whole, and that people who violate norms of conduct should not have their transgressions ignored.
Virtue Ethics	<i>What would a good person do?</i>	Because stealing for any reason is the mark of a weak character, and because Bob cherishes the virtue of honesty, he does not hesitate to report Sally to their boss.

Our goal with a code of ethics is not to pick one of these dominant models and apply it to the profession as a whole. Rather, we must create a system of shared values that does not blatantly conflict with most people’s moral preferences while simultaneously reducing the variation that leads to disagreement. This task isn’t easy.

### 3.4 Ethics vs. Laws and Regulations

Most people do not believe that they are free to ignore laws and regulations. Accordingly, in matters where a licit-or-illicit question materializes, that question isn’t properly *ethical*. For example, if the law says X, or a regulation requires Y, then X or Y are mandatory. There’s no ethical dispute, because ethics only comes into play when more than one *legitimate* outcome could result from a person’s choice. (Assuming we don’t believe that fines or imprisonment are legitimate outcomes, of course.)

In some cases, it may prove impossible to fully satisfy competing regulatory requirements. In such cases, a professional code of ethics helps to clarify choices and to explain why one behavior was selected over another.

If *ethics* and *compliance* aren't synonyms, why are so many institutional codes of ethics advanced in the form of a corporate compliance program?

## 4 COMPONENTS OF A PROFESSIONAL CODE OF ETHICS

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A well-designed code of ethics for a profession should achieve several core goals (MacDonald, 2010) and demonstrate several best-practice attributes:

- Identify the purpose of the code—is it intended to regulate, inspire, educate or some mix thereof?
- Define stakeholders and the nature of the relationships among them
- Assert protocols for dispute identification and resolution
- Clarify whether the objective of the code (and thus, the profession) is to offer *guidance* or *procedures* to the people bound to it
- Determine whether relevant guidance or procedure follows in some specific hierarchy—e.g., whether the order of principles in the code indicates some inherent rank
- Articulate the hard lines in the sand, past which a practitioner may not cross ...
- ... but recognize the value of professional discretion
- Harmonize with the mission, vision and values of the code's sponsor
- Target the right audience: the people bound to the code, not the general public
- Commit minimal violence to individual moral perspectives
- Address real-life ethical dilemmas currently affecting stakeholders
- Avoid relying on vapid slogans as a substitute for well-considered principles

In addition, a well-designed code consists of two parts: One or more statements of aspiration, outlining the relevant high-level goals the code is intended to advance, and one or more statements of principles that people are expected to honor. These principles serve as the bumper guards in professional decision-making. They don't necessarily overrule an individual's moral framework, but they do constrain it in several important ways for the sake of delivering a consistent experience for all stakeholders. Importantly, they also identify what's ideal while suggesting the range of deviation from ideal that's nevertheless still considered ethically appropriate.

The code should remain open to:

- Enforcement provisions (not always relevant)
- Revision timelines (when should the code be re-examined?)

**A code of *ethics* is not the same thing as a code of *conduct***, so rules delineating specific, forbidden activities are generally inappropriate. For example, a provision that forbids people from misusing the sponsor's trademark belongs in a conduct statement, not an ethics statement. In addition, a code of ethics should not engage in self-dealing by suggesting that stakeholders are ethically obligated to consume the sponsor's products and services.

Other considerations:

- Should the code contain obligatory statements (rules) or generalized principles or both?
- How much of the code should educate stakeholders about the *why* of a governing principle?
- Is the sponsor's overriding concern to set professional-practice boundaries or to promote recognized best practices?
- To whom is the code addressed, and how does the code speak to different stakeholder groups?

## 5 EXAMPLE CODES OF ETHICS

There's no such thing as a standard template for codes of ethics. Each document is a product of the professionals and the culture that generates it. Some codes, however, are worth study for some specific reason:

Sponsor	Observations
<a href="#">NAHQ</a>	<p>Presently mixes ethics and conduct norms with a diffuse list of professional-practice standards loosely aligned with the CPHQ content outline.</p>
<a href="#">American Statistical Association</a>	<p>Identifies the purpose of the guidelines, then offers a series of eight brief, high-level assertions tied to different stakeholder groups (e.g., "integrity of data and methods," "responsibilities to research subjects") with an expandable list of one-sentence behavioral norms for each of these high-level categories. The entire framework is less than 3,000 words and is available as a website and as a PDF. Last curated in April 2016. Example section:</p> <p><b>Responsibilities to Science/Public/Funder/Client</b>  <i>The ethical statistician supports valid inferences, transparency, and good science in general, keeping the interests of the public, funder, client, or customer in mind (as well as professional colleagues, patients, the public, and the scientific community).</i></p> <p>The ethical statistician:</p> <ol style="list-style-type: none"> <li>1. To the extent possible, presents a client or employer with choices among valid alternative statistical approaches that may vary in scope, cost, or precision.</li> <li>2. Strives to explain any expected adverse consequences of failure to follow through on an agreed-upon sampling or analytic plan.</li> <li>3. Applies statistical sampling and analysis procedures scientifically, without predetermining the outcome.</li> <li>4. Strives to make new statistical knowledge widely available to provide benefits to society at large and beyond his/ her own scope of applications.<sup>11</sup></li> <li>5. Understands and conforms to confidentiality requirements of data collection, release, and dissemination and any restrictions on its use established by the data provider (to the extent legally required), and protects use and disclosure of data accordingly. Guards privileged information of the employer, client, or funder.</li> </ol>
<a href="#">National Association of Social Workers</a>	<p>Considered by ethicists to be a gold-standard code. Consists of a preamble, a purpose statement, a series of "ethical principles" pairing a NASW value against a principle (with a paragraph of explanation). Then breaks into a series of 51 ethical statements (a one-sentence assertion with a brief paragraph of explanation) organized into six broad categories tying to different constituent groups served by social workers. The code includes NASW's practice guidelines (e.g., how to ethically handle client transfers) within it. Last curated in 2008. Online and PDF. Spanish-language version also offered. Example:</p> <p><b>3. SOCIAL WORKERS' ETHICAL RESPONSIBILITIES IN PRACTICE SETTINGS</b>  <b>3.01 Supervision and Consultation</b>            (a) Social workers who provide supervision or consultation should have the necessary knowledge and skill to supervise or consult appropriately and should do so only within their areas of knowledge and competence.            (b) Social workers who provide supervision or consultation are responsible for setting clear, appropriate, and culturally sensitive boundaries.            (c) Social workers should not engage in any dual or multiple relationships with supervisees in which there is a risk of exploitation of or potential harm to the supervisee.</p>

Sponsor	Observations
	(d) Social workers who provide supervision should evaluate supervisees' performance in a manner that is fair and respectful.
<a href="#">National Society for Professional Engineers</a>	<p>Relatively short and concise and strongly rules based, arranged with a brief preamble followed by three sections ("fundamental canons," "rules of practice," "professional obligations") consisting of a series of behavioral norms. Last revised in 2007. Print and PDF. Of note, the code contains a statement about a U.S. district court holding that a specific provision of the NSPE code of ethics violated the Sherman Anti-Trust Act. The NSPE board elected to offer a statement explaining the court case and the association's commitment to competitive bidding. Example passage:</p> <p><b>I. Fundamental Canons</b>  Engineers, in the fulfillment of their professional duties, shall:</p> <ol style="list-style-type: none"> <li>1. Hold paramount the safety, health, and welfare of the public.</li> <li>2. Perform services only in areas of their competence.</li> <li>3. Issue public statements only in an objective and truthful manner.</li> <li>4. Act for each employer or client as faithful agents or trustees.</li> <li>5. Avoid deceptive acts.</li> <li>6. Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.</li> </ol>
<a href="#">American Bar Association</a>	<p>The ABA publishes "model rules of professional conduct" because each state bar association publishes its own code. The ABA model code—last revised in 2016—features a Russian translation. It's organized into a section of prefatory material (preface, a pair of introductory essays and a preamble/scope section) followed by a series of 58 numbered rules arranged in eight themed sections (client/lawyer relationship, counselor, advocate, non-client transactions, law firms, public service, legal service information, professional integrity). Example:</p> <p><b>Counselor</b>  <i>Rule 2.1 Advisor</i>  In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation.</p>
<a href="#">American Medical Association</a>	<p>The AMA code of ethics is arranged into 11 chapters. The volume, which is orderable as a printed book, features an introduction and even its own concordance. The chapters are arranged as a series of opinions collected in thematically, ranging from decision-making to end-of-life care to research to self-regulation. This code is known for its density: The entire collection exceeds 50,000 words, and it's augmented frequently. Each opinion (an example appears below) represents the consensus of the AMA's Council on Ethical and Judicial Affairs.</p> <p><b>1.1.6 Quality</b></p> <p>As professionals dedicated to promoting the well-being of patients, physicians individually and collectively share the obligation to ensure that the care patients receive is safe, effective, patient centered, timely, efficient, and equitable.</p> <p>While responsibility for quality of care does not rest solely with physicians, their role is essential. Individually and collectively, physicians should actively engage in efforts to improve the quality of health care by:</p> <p>(a) Keeping current with best care practices and maintaining professional competence.</p>

Sponsor	Observations
	<p>(b) Holding themselves accountable to patients, families, and fellow health care professionals for communicating effectively and coordinating care appropriately.</p> <p>(c) Monitoring the quality of care they deliver as individual practitioners—e.g., through personal case review and critical self-reflection, peer review, and use of other quality improvement tools.</p> <p>(d) Demonstrating commitment to develop, implement, and disseminate appropriate, well-defined quality and performance improvement measures in their daily practice.</p> <p>(e) Participating in educational, certification, and quality improvement activities that are well designed and consistent with the core values of the medical profession.</p>
<p><a href="#">American Academy of Pain Medicine</a></p>	<p>Available as a 32-page PDF booklet, the AAPM's <i>Ethics Charter</i> begins with a preamble and statements about professional accountabilities to patients and to society. The remainder addresses seven specific issues: Clinical concerns, pain medicine at the end of life, third parties and the patient-physician relationship, research concerns, empathy, disparities, and legal testimony. The document includes a pair of appendices referencing the AMA's principles (which are incorporated; AAPM's document is, in a sense, an augmentation to AMA) and an addendum about conflicts of interest. Of note, each of the seven main sections is written as a self-contained essay, with an adoption date and a list of participants; it's structured to both educate and inspire, as well as regulate.</p> <p>Example:</p> <p><b>EMPATHY IN THE PRACTICE OF PAIN MEDICINE</b>  <i>Adopted December 2007.</i>  <i>John Banja, PhD; Gil Fanciullo, MD MS; Daniel Hamaty, MD; Lynn Jansen, PhD RN; Bob Orr, MD</i></p> <p><i>Empathy</i> is the engagement of one person in the emotional or intellectual experiences of another. Unlike sympathy, which involves identifying with the experiences of another, empathy requires reflective and imaginative effort on the part of the empathizer. Importantly, however, this effort is not one-sided. The empathic encounter is dynamic and interpersonal. This means that while the empathizer must "cultivate the capacity for imagining the perspectives to which she lacks immediate access", the person for whom empathy is shown must also cultivate the capacity for honesty in self-expression.</p> <p>Empathic engagement plays an important role in the healing relationship. Clinicians who empathize with their patients are able to discern aspects of their patients' experiences that might otherwise go unrecognized. The insight gained from empathic engagement better enables clinicians to diagnose and achieve therapeutic ends. This apparent link between empathy and optimal therapeutic outcome has encouraged the view that empathy is not just a form of emotional or intellectual engagement, but a form of moral engagement as well.</p> <p>Despite its importance, the empathetic encounter between clinician and patient is often difficult to realize. In the context of pain management, pain specialists face special challenges in cultivating empathetic engagement with their patients. The kind of effort required to sustain an empathic encounter with a patient is often at odds with background psychosocial and physiological responses to pain. Patients experiencing chronic pain, for example, often develop coping mechanisms (physiologic and emotional)</p>



Sponsor	Observations
	<p>that hinder honest self-expression or accurate interpretation of their pain. Similarly, difficulties in managing chronic pain can lead pain specialists to experience feelings of anger or professional inadequacy. Displacement of these feelings onto the patient hinders the development of empathy. Finally, even when pain specialists successfully initiate empathic engagement with their patients, these background psychosocial and physiological responses to pain can distort the empathetic encounter. They can cause the pain specialist to inaccurately perceive the patient’s pain or distress. This “empathetic inaccuracy” can result in the undertreatment or overtreatment of pain.</p> <p>The American Academy of Pain Medicine (AAPM) recognizes the therapeutic role that empathy plays in the effective treatment of pain. However, AAPM also recognizes that empathic engagement in the context of pain management can be uniquely challenging. To facilitate the development of empathic accuracy in the context of pain management, AAPM encourages pain specialists to do the following:</p> <ol style="list-style-type: none"> <li>1. Acquire an understanding of the specific ways in which the patient’s personal experience of pain can undermine the development of a therapeutic empathic relationship.</li> <li>2. Acquire an understanding of the specific ways in which their own self-protective responses to the patient may undermine the development of an empathic relationship.</li> <li>3. Define specific steps to identify and correct empathic inaccuracies that may hinder the appropriate treatment of pain.</li> <li>4. Realize that, although the experience of pain is personal, the development of a therapeutic empathic response to pain depends on interpersonal involvement between the clinical team and the patient. Reliance on the interdisciplinary model can provide a good structure to cultivate empathic engagement as well as to identify and respond to the kinds of problems raised above.</li> </ol>
<p><a href="#">American Health Information Management Association</a></p>	<p>AHIMA’s code begins with a general preamble and a purpose statement. The main content is presented as a series of 11 behavioral norms followed with a series of observable behaviors (much like ASA’s code). After the 11 norms, AHIMA offers a brief essay about how the code should be read and applied, with an emphasis on legal liability and high standards of professionalism. Last revised in 2011. Online and PDF. Example:</p> <p><b>XI. Respect the inherent dignity and worth of every person.</b>  A health information management professional shall:</p> <ol style="list-style-type: none"> <li>11.1. Treat each person in a respectful fashion, being mindful of individual differences and cultural and ethnic diversity.</li> <li>11.2. Promote the value of self-determination for each individual.</li> <li>11.3. Value all kinds and classes of people equitably, deal effectively with all races, cultures, disabilities, ages and genders.</li> <li>11.4. Ensure all voices are listened to and respected.</li> </ol>

These eight codes demonstrate the diversity of approach for modern codes of professional ethics. They remain useful analogues to study, knowing that there isn’t a universal framework for professional codes of ethics.

The current enthusiasm for health care quality as an organized and distinct profession opens the door to a robust ethical framework that clearly sets the parameters for how our discipline and its essential competencies relate to a complex and fast-moving world.

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