

ETHICS, MORALS AND THE PROFESSIONAL

by

Kelley S. Mackenroth
Janke & Associates, APLC

I. Introduction

What are ethics? What is morality? How can one behave in a moral manner? Just what are ethics and morality, and what is the difference between the two? How do our values impact our ethical decisions and moral standards? Do moral decisions always align with ethical decisions?

There is a basic, albeit subtle, difference between ethics and morals. Morals define personal character, while ethics stress a social system in which those morals are applied. In other words, ethics point to standards or codes of behavior expected by a group to which the individual belongs (i.e., professional ethics). While a person's moral code is usually unchanging, the ethics (s)he practices can be other-dependent.

II. Definitions

A. Ethics

1. Ethics are typically defined as the rules or standards governing the conduct of a person or the members of a profession. The basic concepts and fundamental principles of right human conduct. It includes study of universal values such as the essential equality of all men and women, human or natural rights, obedience to the law of land, concern for health and safety and, increasingly, also for the natural environment.

2. Ethical Standards are principles that when followed, promote values such as trust, good behavior, fairness, and/or kindness. Ethical standards are not always easily enforceable, as they are frequently vaguely defined and somewhat open to interpretation (i.e., treat the client with respect and kindness). Others can be more specific (i.e., do not share confidential information).

3. Ethical values are a set of established principles governing virtuous behavior. To help assure that a profession maintains a good reputation, many professions concerned about public relations will develop and promote a set of suitable ethical values for those within the profession to adhere to when doing business/practicing their profession.

4. Ethical issues are problems or situations that require a person or organization to choose between alternatives that must be evaluated as right (ethical) or wrong (unethical).

B. Morality is defined as conformance to a recognized code, doctrine, or system of rules of what is right or wrong and to behave accordingly. No system of morality is accepted as universal. What is moral and what is not moral differs sharply from place to place, group to group, and time to time.

C. A Professional is defined as a person that is professional; especially one that engages in a pursuit or activity professionally.

D. A Profession is defined as a calling requiring specialized knowledge and often long and intensive academic preparation.

E. Professionalism is defined as the conduct, aims, or qualities that characterize or mark a profession or a professional person.

III. Ethics v. Morals

A. Ethics sometimes override personal morals. For example, consider a criminal defense lawyer. Though the lawyer's personal moral code likely finds murder immoral and reprehensible, ethics demand the accused client be defended as vigorously as possible, even when the lawyer knows the party is guilty and that a freed defendant would potentially lead to more crime. Legal ethics must override personal morals for the greater good of upholding a justice system in which the accused are given a fair trial and the prosecution must prove guilt beyond a reasonable doubt.

IV. Business Ethics v. Professional Ethics

A. Business ethics change over time and are defined by whether a certain practice is regarded with approval or disapproval by others in the profession. Examples include top leasing; lawyer advertising.

B. Professional ethics are unchanging rules that go to the core of insuring that a certain profession maintains the trust of the public. Having and enforcing professional ethics enable a trade group to be elevated to the level of a profession.

1. Attorneys are guided by the Code of Ethics for the state(s) within which they practice; such code(s) of ethics are based off of the the ABA Model Rules of Professional Conduct.

2. Landmen are guided by the AAPL Code of Ethics and the Standard of Practice.

3. Repercussions for not following ethical codes - do they have the same effect as repercussions for being immoral? Unprofessional? Is it unethical to not return a client's phone call within twenty-four hours? Is it immoral? Is it unprofessional?

V. Deposition video - unethical? immoral? unprofessional?