APPLIED ETHICS · STUDY GUIDE

Exam 5 Study Guide

This guide covers ethics where you work. Chapter 9 turns respect for autonomy into practice: consent, capacity, surrogates, confidentiality and decisions at the end of life. Chapter 10 asks what a professional role requires, how conflicts of interest bend judgment, when to speak up, and why organizations fail. Read the "what to know" paragraphs, copy the tables out by hand, then try each worked case with the steps covered. Finish each chapter with its self-test.

WHAT THIS GUIDE COVERS

- Chapter 9 · Schloendorff to Montgomery, disclosure standards, research consent, the five elements, exceptions, capacity and the four abilities, minors, the surrogate ladder, advance directives and POLST, Tarasoff, HIPAA, GINA, and end-of-life cases, futility, palliative care and MAID.
- Chapter 10 · the professional bargain, role morality, fiduciary duty, codes and licensure, conflicts of interest and the evidence on gifts, Challenger and De George's conditions, whistleblower law, moral distress, Friedman versus Freeman, and VW, Wells Fargo, Theranos and Boeing.

CHAPTER 9

Consent, Confidentiality and the End of Life

Read it in full: **Chapter 9 in the textbook**. Practice it in the lab: **Assemble a Valid Consent** and **The Capacity and Surrogate Ladder**.

What to know

A signature is not consent; it is evidence a conversation may have happened. Consent moved from battery to disclosure. **Schloendorff** (1914): Cardozo's line about a right to decide what is done with one's body is dictum; she lost to charitable immunity. **Salgo** (1957) coined informed consent. **Natanson v. Kline** (1960) set the **professional practice standard**. **Canterbury v. Spence** (1972; paralysis risk about 1%) set the **reasonable person standard**: a risk is material if a reasonable

person in the patient's position would attach significance to it. Scott v. Bradford (1979) is a **subjective standard**. Reibl v. Hughes (1980) is a causation test, not a disclosure standard.

The UK moved from Bolam (1957) and Sidaway (1985) to **Montgomery** (March 2015): Nadine Montgomery was not told of a 9 to 10% shoulder dystocia risk. The Court adopted materiality from the patient's standpoint and required disclosure of reasonable alternatives. The law is the floor: a 6 a.m. disclosure on a trolley can pass the law and fail the ethics.

Research consent came through atrocity. The Nuremberg Code includes the right to **withdraw at any time without penalty**. Helsinki (1964; Tokyo 1975 added independent review; revised to 2024). Beecher (1966): Willowbrook, Jewish Chronic Disease Hospital. Tuskegee's settlement (Fred Gray, 1974, about $10 million) and Clinton's apology (16 May 1997). The National Research Act (1974), Belmont (1979) and the **Common Rule** (45 CFR 46; 1991; revised 2018). The IRB is Belmont with a filing cabinet. Guatemala (1946 to 1948) was uncovered in 2010; HeLa (1951) settled in 2013 and 2023.

Five elements of valid consent: **capacity**, **disclosure** (including alternatives and doing nothing), **understanding**, **voluntariness**, **authorization**. Understanding is the one skipped; use **teach-back**, which tests the explanation, not the patient. About a third of US adults have basic or below-basic health literacy (2003); aim for sixth to eighth grade. Give both frames (90% survival and 10% mortality). Prisoners, children, pregnant people and adults with impaired decision-making get added protections; Largent and Miller argue underpaying subjects is the commoner wrong.

Three narrow exceptions: **emergency** (no capacity, no surrogate, delay threatens life or limb; not past the emergency or against a known refusal), **waiver** (offered and documented), and **therapeutic privilege** (a specific expectation of serious harm, not distress; Montgomery called it limited). Culture: ask early how the patient wants information handled; delegation is a valid waiver. Use trained interpreters (Flores, 2003); Title VI makes language access a legal duty.

Capacity is a clinical judgment, decision-specific and time-specific; **competence** is a legal status. Appelbaum and Grisso's **four abilities**: understanding, appreciation, reasoning, expressing a choice. Appreciation is where psychosis and anosognosia bite. Drane's **sliding scale** (1985) raises the bar with risk; apply it to risky yeses too. The Mental Capacity Act 2005 (England and Wales,

in force 2007): presume capacity; help before judging; an **unwise decision is not incapacity**; best interests; least restrictive. The common error: assessing capacity only when the patient refuses.

Minors: parents **consent**; children **assent** from about age 7. State exceptions for contraception, STI care, prenatal care, substance use and mental health. Emancipated minors; the mature minor doctrine; **Gillick** (1985). Courts let mature minors accept treatment more readily than refuse it. Surrogate ladder: **expressed wishes**, then **substituted judgment**, then **best interests**. Shalowitz, Garrett-Mayer and Wendler (2006): surrogates right about 68% of the time. Statutory hierarchy: a DPOA agent outranks spouse, adult child, parent, sibling. The Patient Self-Determination Act took effect December 1991.

A **living will** states wishes; a **durable power of attorney** names a person and adapts better. Fagerlin and Schneider (2004) argued living wills fail; conversations do the work. **POLST** (Oregon, 1991) is a signed medical order for the seriously ill, actionable by EMS; it is not an advance directive. CRPD Article 12 and General Comment No. 1 (2014) call for supported decision-making; total abolition of substitute decisions is disputed.

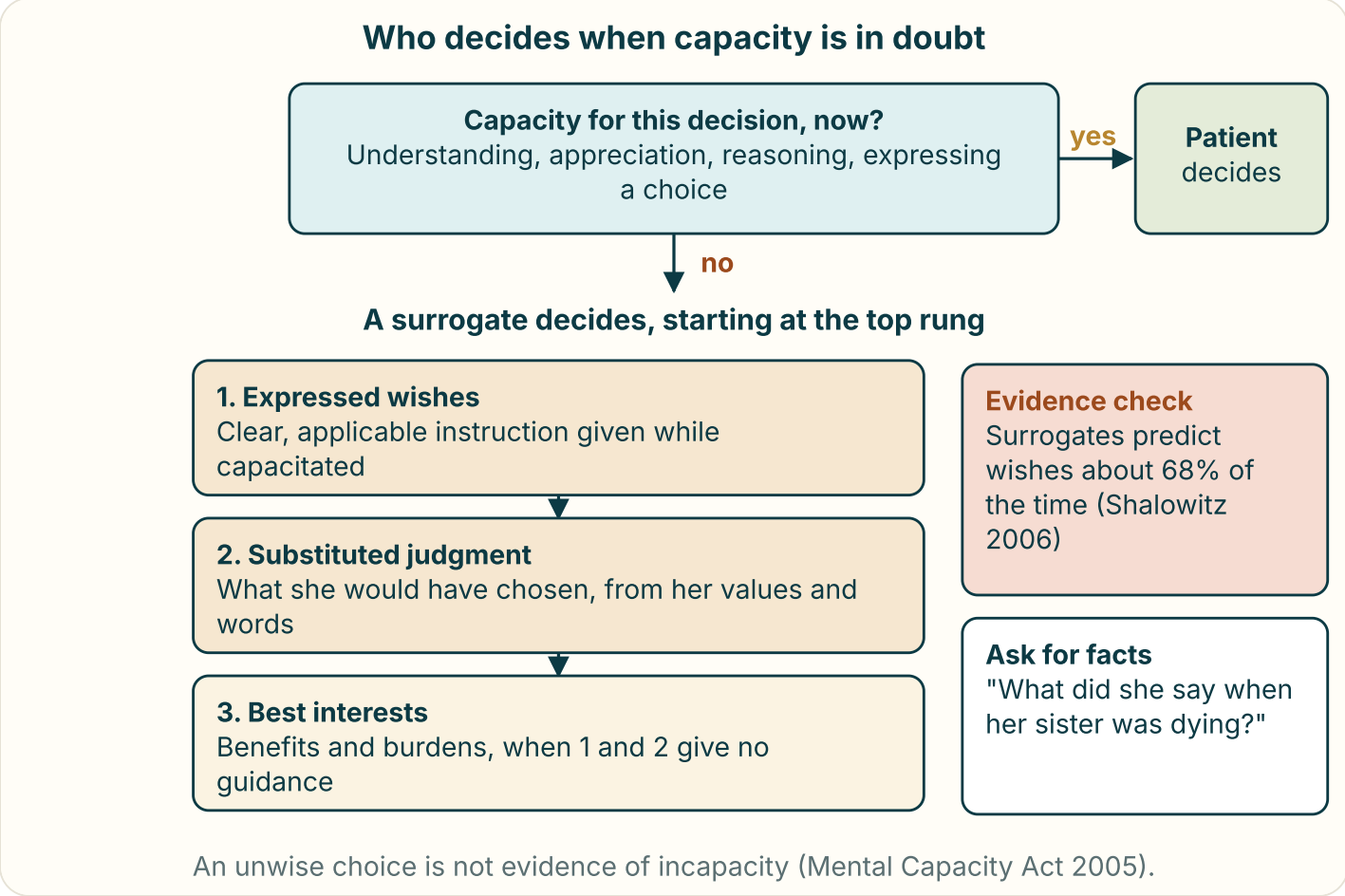
Confidentiality rests on access (consequences), respect (deontology) and fidelity (promising). **Tarasoff**: Poddar killed Tatiana Tarasoff on 27 October 1969. 1974: duty to warn; 1976: **duty to protect** ("the protective privilege ends where the public peril begins"). It is state law; Texas rejected it (Thapar, 1999). W v Egdell (1990) in England. **HIPAA** (1996; Privacy Rule 14 April 2003): treatment disclosures are permitted and **minimum necessary** does not apply to them; apps and DNA services sit outside it. UCLA (2008; $865,500 settlement, 2011). 42 CFR Part 2 protects substance use records. Genetics: ABC v St George's (2020) found a duty to weigh, not to disclose. **GINA** (2008) excludes life, disability and long-term care insurance and employers under 15.

End of life: **Quinlan** (31 March 1976; ethics committees; she lived until 1985). **Cruzan** (25 June 1990, 5 to 4): a liberty interest in refusing treatment including nutrition, but states may demand clear and convincing evidence. **Bland** (1993). Schiavo (1998 to 2005). Four distinctions: **withholding equals withdrawing**; killing versus letting die (Rachels, 1975); **double effect**; **brain death** (Harvard 1968; UDDA 1981; McMath). "Futile" for the physiological case only; otherwise "potentially inappropriate" (2015). Texas 166.046 (1999; amended 2023). Saunders (1967) and Temel (2010: median survival 11.6 versus 8.9 months). Palliative sedation and **VSED** are

recognized practice. **MAID**: Glucksberg and Vacco (1997); Oregon (in effect 27 October 1997); about a dozen US jurisdictions; Canada (Carter 2015; C-14 2016; C-7 2021; about 15,300 deaths, 4.7%, in 2023). First ask what the request is communicating.

LOCK THESE IN

- Consent is a process with five elements; understanding is the one most often missing.
- Professional practice, reasonable person and subjective standards; Canterbury and Montgomery use materiality.
- Emergency, waiver and therapeutic privilege are narrow exceptions.
- Capacity is decision- and time-specific; the four abilities; unwise is not incapable.
- Surrogate ladder: expressed wishes, substituted judgment, best interests; surrogates right about 68%.
- POLST is a medical order for the seriously ill, not an advance directive.
- Tarasoff: duty to protect an identifiable person; HIPAA permits treatment disclosures.
- Withholding and withdrawing are equivalent; reserve "futile" for physiological futility.



Capacity first, then the ladder. If the patient cannot decide this question now, a surrogate climbs from expressed wishes to substituted judgment to best interests, asking for evidence rather than impressions.

Disclosure standards

Standard	Test	Leading case
Professional practice	What a reasonable practitioner would disclose	Natanson v. Kline, 1960
Reasonable person	What a reasonable person in the patient's position would want	Canterbury, 1972; Montgomery, 2015
Subjective	What this patient would have found material	Scott v. Bradford, 1979
Modified objective	Causation: would this plaintiff have refused?	Reibl v. Hughes, 1980

Key terms and comparisons

Item	Meaning	Note
Capacity vs competence	Clinical judgment vs court's legal status	Capacity is decision-specific
Appreciation	Accepting the facts apply to oneself	Fails in psychotic denial, anosognosia
Assent	Child's own agreement	From about age 7
Substituted judgment	What she would have chosen	Ask for evidence
Living will vs proxy	States wishes vs names a person	Proxy adapts better
POLST	Signed order for the seriously ill	Oregon, 1991; actionable by EMS
Duty to protect	Steps to protect an identifiable person	Tarasoff, 1976
Minimum necessary	Limit disclosure to the purpose	Does not apply to treatment
Withhold vs withdraw	Morally equivalent	Makes time-limited trials possible
Palliative sedation vs MAID	Relief of refractory symptoms vs medication to end life	Intent, titration, aim

End-of-life cases

Case	Year	Holding
In re Quinlan	1976	Guardian may decline extraordinary treatment; ethics committees
Cruzan	1990	Liberty interest; states may require clear and convincing evidence
Airedale v Bland	1993	Nutrition and hydration may be withdrawn when of no benefit
Glucksberg and Vacco	1997	No constitutional right to assisted suicide
Carter v Canada	2015	Blanket ban violated the Charter

Worked cases

WORKED CASE 1 · WHICH DISCLOSURE STANDARD?

A surgeon did not mention a 1% risk of paralysis, saying most surgeons in town would not either. Under each standard, was disclosure required?

STEP 1 · PROFESSIONAL PRACTICE

If local custom is silence, the surgeon complied. That is the standard's flaw.

STEP 2 · REASONABLE PERSON

Would a reasonable person attach significance to a 1% paralysis risk? Yes, so it is **material** and must be disclosed (Canterbury).

STEP 3 · SUBJECTIVE

Would this patient have found it material? Likely yes, but proof leans on hindsight.

STEP 4 · LESSON

Under the majority modern standard, disclosure was required.

WORKED CASE 2 · ASSESSING CAPACITY

A man with schizophrenia accurately lists the risks of refusing dialysis but says the lab results belong to another patient. Which ability fails, and what follows?

STEP 1 · UNDERSTANDING

He can restate the facts: intact.

STEP 2 · APPRECIATION

He denies they apply to him: **impaired**.

STEP 3 · SLIDING SCALE

Refusing a high-benefit treatment warrants a searching assessment.

STEP 4 · NEXT

If he lacks capacity for this decision, a surrogate climbs the ladder. Reassess as his condition changes.

WORKED CASE 3 · CLIMBING THE SURROGATE LADDER

A woman with advanced dementia needs a decision about a feeding tube. There is no written directive. Her son says, "She'd never want to be a burden."

STEP 1 · EXPRESSED WISHES

No clear, applicable instruction exists. Move down.

STEP 2 · SUBSTITUTED JUDGMENT

The son's impression is weak evidence. Surrogates are right about 68% of the time.

STEP 3 · ASK FOR FACTS

"What did she say when her own mother had a feeding tube?" Concrete recollections strengthen the judgment.

STEP 4 · FALL BACK

Only if nothing gives guidance, weigh benefits and burdens: **best interests**.

WORKED CASE 4 · A TARASOFF MOMENT

In therapy, a patient says he plans to hurt his former partner, whom he names. What does the duty require?

STEP 1 · CHECK THE TRIGGER

A serious threat of violence against a reasonably identifiable person.

STEP 2 · CHOOSE THE STEP

Under Tarasoff (1976) it is a **duty to protect**: warn her, notify police, seek commitment, or other reasonable steps.

STEP 3 · CHECK YOUR JURISDICTION

Some states make disclosure permissive; Texas rejected a duty to warn (1999).

STEP 4 · LEAST DISCLOSURE

Disclose only what removes the peril, and document your reasoning.

TRAPS PEOPLE FALL INTO

- **"The form is signed, so consent is done."** The form documents authorization only.
- **"Any questions?" as a comprehension check.** Use teach-back.
- **Assessing capacity only after a refusal.** Would you question it if he had said yes?
- **Treating an unwise choice as incapacity.** The Mental Capacity Act forbids it.
- **Filling out POLST for a healthy 30-year-old.** It is for the seriously ill.
- **Citing HIPAA to block treatment communication.** Treatment disclosures are permitted.
- **Thinking withdrawing is worse than withholding.** They are equivalent; otherwise no one starts a trial of therapy.
- **Calling value disputes "futile."** Say potentially inappropriate and use a fair process.

Chapter 9 self-test · ten items

1. Which case first used the phrase "informed consent"?

A. Schloendorff (1914)
B. Canterbury (1972)
C. Montgomery (2015)
D. Salgo (1957)

D. Salgo (1957) Martin Salgo was paralyzed after an aortography no one had described.

2. Under Canterbury v. Spence, when is a risk material?

A. When a reasonable person in the patient's position would weigh it
B. When most local surgeons would customarily disclose it
C. When this particular patient later says that it mattered
D. When it exceeds a fixed 5% threshold

A. When a reasonable person in the patient's position would weigh it The scope is set by the patient's informational need.

3. Which element of consent can no form supply?

A. Authorization
B. Understanding
C. Disclosure
D. Capacity

B. Understanding Only a conversation, tested by teach-back, shows it.

4. Therapeutic privilege is defensible only when what is true?

A. The patient seems anxious, tearful or upset at the news
B. The family asks the team for the news to be withheld
C. There is a specific expectation of serious harm, not distress
D. The prognosis is poor

C. There is a specific expectation of serious harm, not distress Montgomery called the exception limited.

5. A patient with dementia can name her son as proxy but cannot weigh a complex surgery. This shows capacity is what?

A. Global across all decisions
B. Permanent once established
C. Decision-specific
D. A legal status

C. Decision-specific Capacity is judged decision by decision and moment by moment.

6. What is the correct order of surrogate standards?

A. Expressed wishes, substituted judgment, best interests
B. Best interests, substituted judgment, expressed wishes
C. Substituted judgment, expressed wishes, best interests
D. Best interests, wishes, substituted judgment

A. Expressed wishes, substituted judgment, best interests Best interests is the fallback when the first two give no guidance.

7. What is a POLST?

A. A living will that any competent adult can complete
B. A court order naming a guardian
C. A form that appoints a health care agent for the future
D. A signed medical order for the seriously ill, usable by EMS

D. A signed medical order for the seriously ill, usable by EMS It directs care now and travels across settings.

8. What did the 1976 Tarasoff decision establish?

A. A duty to warn anyone at all whom a patient dislikes
B. A duty to protect an identifiable person at serious risk
C. A total ban on any disclosure of psychotherapy notes
D. A federal rule binding every state

B. A duty to protect an identifiable person at serious risk It broadened the 1974 duty to warn; it is state law.

9. Which is outside GINA's protection?

A. Health insurance underwriting
B. Life insurance underwriting
C. Hiring by a large employer
D. Firing by a large employer

B. Life insurance underwriting GINA excludes life, disability and long-term care insurance and employers under 15.

10. Cruzan (1990) held what?

A. There is a constitutional right to assisted suicide
B. Feeding tubes never count as a form of medical treatment
C. Courts must approve every withdrawal
D. States may require clear and convincing evidence of wishes

D. States may require clear and convincing evidence of wishes It assumed a liberty interest in refusing treatment, including nutrition.

CHAPTER 10

Professional and Business Ethics

Read it in full: **Chapter 10 in the textbook**. Practice it in the lab: **The Conflict-of-Interest Drift Bench** and **The Whistleblowing Gate**.

What to know

"Profession" comes from professio, a public declaration. A profession is a **bargain**: society grants monopoly, control of entry and self-regulation; the group promises to put the client and public first. Flexner (1915) listed criteria; Freidson (2001) set professionalism beside market and bureaucracy as three logics; Abbott (1988) showed professions also fight over **jurisdiction**.

Marks: specialized knowledge, restricted entry, self-regulation, fiduciary orientation, public-service mandate, a code with enforcement.

Role morality: a role changes what you may and must do. Applbaum (1999) used Sanson, the Paris executioner who beheaded Louis XVI on 21 January 1793: if a role can turn killing into justice, what can it not transform? Roles get moral force from the value of the institution they serve. "I was following protocol" is the start of a justification, never all of it.

A **fiduciary** relationship arises when one party must rely on another's judgment and cannot check it (from fides, faith). Duties: loyalty, care, candor, confidentiality, avoiding conflicts. An arm's-length seller must not lie but need not volunteer a better competitor; a fiduciary must. Pellegrino: illness itself creates the dependence. Finance: advisers under the 1940 Act are fiduciaries; brokers had suitability; **Regulation Best Interest** (2019; compliance 30 June 2020) raised the broker standard without merging them.

Codes: the Hippocratic Oath (fifth or fourth century BCE) was one school's. Percival's Medical Ethics (1803) settled a Manchester turf war; the AMA code (1847) was the first national code. The 1893 nursing pledge came from Lystra Gretter's committee in Detroit. The ANA adopted a code in 1950 (nine provisions in 2015; revised 2025); Provision 5 gives duties to self. The ICN code dates from 1953 (revised 2021). Codes socialize, give cover for refusal, set a public standard and supply legal norms; they can be vague, self-serving (the FTC challenged AMA advertising bans in 1975) and weak without enforcement.

Codes differ on whose harm counts most. **NSPE**: hold paramount the safety, health and welfare of the public (public over client). **ABA Rule 1.6** (Model Rules, 1983): near-absolute confidentiality, mostly permissive harm exceptions. Nursing: primary commitment to the patient plus a duty to protect patients from unsafe practice by anyone.

Licensure: a state **Nurse Practice Act** and board of nursing; a discipline ladder from letter of concern to revocation; the Nurse Licensure Compact. The **National Practitioner Data Bank** (1986 act; operational 1990) and Nursys stop people moving states to start over. **Alternative-to-discipline** programs are monitored treatment, not leniency. The "one nurse in ten" substance use

claim is not well supported. Reporting impaired or unsafe colleagues is a duty: you report a condition, not a sentence.

Thompson (NEJM, 1993): a **conflict of interest** is a set of **conditions** in which judgment about a **primary interest** tends to be unduly influenced by a **secondary interest**. It is a situation, not an accusation, so remedies are structural: disclose, recuse, divest, prohibit. Types: direct financial, gifts, ownership (Stark law), institutional, non-financial, relational, anticipatory (revolving door).

Evidence: Wazana (JAMA, 2000) found contact with drug reps changed prescribing and doctors denied it while blaming colleagues: the **bias blind spot**. DeJong (2016): even one sponsored meal, mostly under $20, was associated with more brand-name prescribing, dose-response, observational. The **Sunshine Act** (2010) and **Open Payments** (2014; extended to NPs, PAs and others in 2021). Cain, Loewenstein and Moore (2005): **disclosure can backfire**. Purdue's OxyContin (1996) leaned on the five-sentence Porter and Jick letter (1980); guilty pleas in 2007 and 2020; Harrington v. Purdue (June 2024).

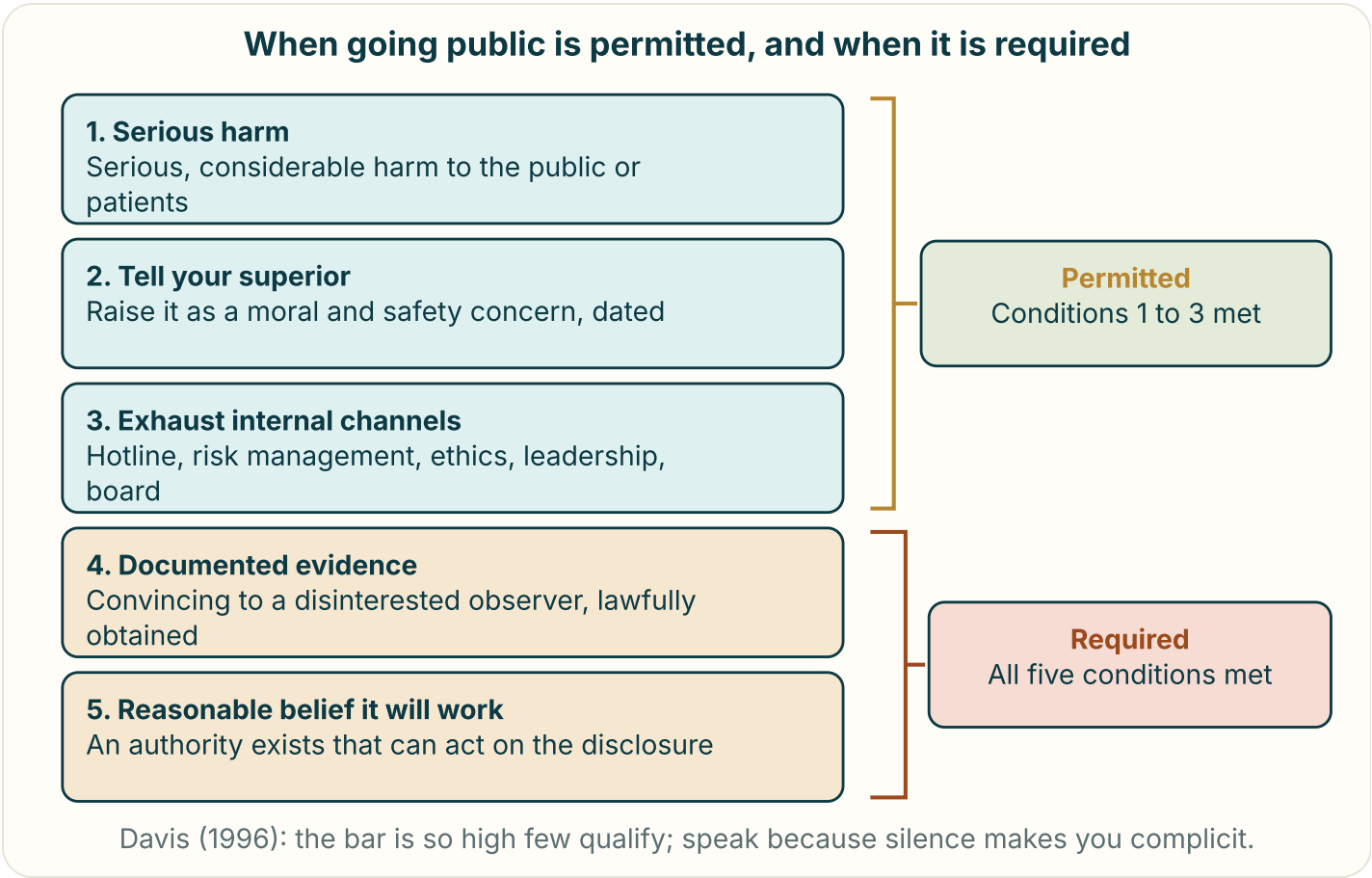
Challenger: on 27 January 1986 Boisjoly and Thompson warned the O-rings were untested far below the 53°F coldest prior launch; Mason told Lund to put on his "management hat"; Challenger broke apart 73 seconds after launch on 28 January. The structural failure: the **burden of proof reversed**. Hirschman (1970): exit, voice, loyalty. **De George**: conditions 1 to 3 (serious harm, tell your superior, exhaust internal channels) make whistleblowing permitted; adding 4 (documented evidence) and 5 (reasonable belief it will work) makes it required. Davis (1996) argues from complicity. Wigand, Watkins, Cooper, Rowley; Winkler County (2009; Mitchell acquitted 2010; $750,000 settlement). False Claims Act (1863; 1986) and **qui tam**; Sarbanes-Oxley (2002); Dodd-Frank (2010); WPA (1989). Mid Staffordshire (2013), duty of candor (2014), Freedom to Speak Up (2015). Moral distress (Jameton, 1984) and moral residue (Webster and Baylis, 2000).

Business purpose. Friedman (13 September 1970): increase profits **within the rules of the game**, without deception or fraud; the omitted clause is the argument. Freeman's **stakeholder theory** (1984). Dodge v. Ford (1919) versus Stout (2012); eBay v. Newmark (2010). Benefit corporations: Maryland 2010, Delaware 2013. Business Roundtable statement (19 August 2019, 181 CEOs). The Pinto memo was a 1973 regulatory submission; Ford was acquitted in 1980.

Structure beats character: Volkswagen (EPA notice 18 September 2015; about 11 million vehicles), Wells Fargo (target of eight products; $185 million in 2016; about 3.5 million accounts; about 5,300 fired; $3 billion in 2020), Theranos (convicted January 2022), Boeing 737 MAX (Lion Air 189 dead; Ethiopian 157 dead). The recipe: impossible target, unsafe to say no, metric that rewards appearance.

LOCK THESE IN

- A profession is a bargain: monopoly and self-regulation for putting the vulnerable first.
- Roles redistribute moral labor but cannot dissolve it (Applbaum).
- Fiduciary duty grows with the other party's dependence.
- NSPE puts the public first; ABA Rule 1.6 makes confidentiality near-absolute.
- A conflict of interest is a condition, not an accusation; remedies are structural.
- Small gifts influence; disclosure alone can backfire.
- De George: 1 to 3 permitted, all 5 required.
- Corporate wrongdoing is usually design: target, silence, metric.



Permitted, then required. The first three conditions make going public permissible; documented evidence and a real prospect of success make it obligatory. Every case that reaches this gate is a sign internal voice already failed.

Codes compared

Code	Adopted	Central commitment
ANA Code for Nurses	1950; 2015; 2025	Primary commitment to the patient; duties to self
ICN Code	1953; 2021	Nurses and patients, practice, profession, global health
AMA Code	1847, drawing on Percival 1803	Patient welfare and professional integrity
NSPE Code	1946; canons from 1964	Hold paramount public safety, health and welfare
ABA Model Rules	Canons 1908; Rules 1983	Diligent representation; near-absolute confidentiality

Key terms and comparisons

Item	Meaning	Remedy or note
Direct financial COI	Fees or royalties from a maker you recommend	Disclose and recuse
Gifts	Meals, pens, registrations	Ban or strict limits
Ownership	Owning where you refer	Divest; Stark law
Institutional COI	Hospital equity in a trial sponsor	Independent oversight
Non-financial COI	Career built on the hypothesis	Preregistration, blinding
Fiduciary vs arm's-length	Must volunteer a better option vs must not lie	Duty rises with dependence
Qui tam	Private False Claims Act suit	Whistleblower shares recovery
Shareholder primacy	Maximize returns within the rules of the game	Friedman, 1970
Stakeholder theory	Create value across all affected groups	Freeman, 1984
Benefit corporation	Public benefit written into the charter	Maryland 2010; Delaware 2013

Worked cases

WORKED CASE 1 · APPLYING THOMPSON'S DEFINITION

A nurse educator consults for a wound-care company and sits on the committee choosing the hospital's dressings. Is there a conflict, and what is the remedy?

STEP 1 · PRIMARY INTEREST

Patient welfare and sound product evidence.

STEP 2 · SECONDARY INTEREST

Consulting income and the relationship with the company.

STEP 3 · THE CONDITION

Her judgment on dressings **tends** to be influenced. That is a conflict, not an accusation.

STEP 4 · REMEDY

Disclosure alone can backfire (Cain, 2005). For a purchasing decision, **recusal** is the honest remedy.

WORKED CASE 2 · RUNNING DE GEORGE'S GATE

A nurse sees repeated unsafe staffing that has led to two near-miss medication errors. She has told her manager in writing and used the hotline, with no change. She has dated incident reports. Is going to the state agency permitted or required?

STEP 1 · SERIOUS HARM

Near-miss errors from unsafe staffing: serious, likely harm.

STEP 2 · SUPERIOR TOLD

Yes, in writing.

STEP 3 · INTERNAL CHANNELS

Manager and hotline used. If risk management and leadership were also tried, the first three are met: **permitted**.

STEP 4 · EVIDENCE AND EFFICACY

Dated reports convince a neutral observer, and the state agency can act. All five met: **required** on De George's view.

DAVIS'S VIEW

She should speak because staying silent would make her complicit.

WORKED CASE 3 · STRUCTURE, NOT BAD APPLES

Wells Fargo set a target of eight products per household and later fired about 5,300 employees. Diagnose.

STEP 1 · THE TARGET

Unreachable honestly.

STEP 2 · VOICE

Saying no was career-limiting; escalation did not work.

STEP 3 · THE METRIC

Rewarded the appearance of sales, not real customer need.

STEP 4 · VERDICT

Firing low-level staff leaves the design intact, so the behavior returns. Fix the target, the escalation route and the metric.

WORKED CASE 4 · READING FRIEDMAN WHOLE

A manager quotes Friedman: "The social responsibility of business is to increase its profits," to justify hiding a product defect. Respond.

STEP 1 · RESTORE THE CLAUSE

Friedman said profits should be pursued **within the rules of the game**, without deception or fraud, conforming to law and ethical custom.

STEP 2 · APPLY IT

Hiding a defect is deception. Friedman's own essay forbids it.

STEP 3 · THE REAL DEBATE

Friedman and Freeman disagree about accountability and purpose, not about whether fraud is allowed.

TRAPS PEOPLE FALL INTO

- **"It's my job" as a full justification.** The role itself must be defensible.
- **Treating a conflict of interest as an accusation.** It is a condition; fix it structurally.
- **Thinking small gifts are harmless.** Reciprocity is triggered by the gift, not its price.
- **Relying on disclosure alone.** It can make advice more biased.
- **Calling whistleblowing a virtue to aim for.** It signals that internal voice already failed.
- **Collapsing permitted and required.** Conditions 4 and 5 turn permission into duty.
- **Quoting Friedman without his clause.** Within the rules of the game, without deception or fraud.
- **Blaming bad apples.** Ask what people were rewarded and punished for.

Chapter 10 self-test · ten items

1. What does society give a profession in its bargain?

A. Tax exemption and a guaranteed income for its members

B. Immunity from any malpractice suits brought by clients

C. Monopoly, control of entry and self-regulation

D. Freedom from any written code

C. Monopoly, control of entry and self-regulation In return the profession promises competence, integrity and service.

2. Applbaum's example of the executioner Sanson shows what about roles?

A. Roles draw their moral force from the institution they serve
B. Roles fully excuse any act that is done within them
C. Public officials can never be blamed for following orders
D. Only private persons have moral duties

A. Roles draw their moral force from the institution they serve A role can redistribute moral labor but cannot dissolve it.

3. Which standard did Regulation Best Interest raise?

A. The investment adviser's existing fiduciary standard
B. The broker-dealer standard, above mere suitability
C. The nurse practice standard of care
D. The engineer's duty to the public

B. The broker-dealer standard, above mere suitability It raised the broker standard without fully merging it with the adviser's fiduciary duty.

4. Which code puts the public above client and employer?

A. The ABA Model Rules
B. The AMA Code of 1847
C. The NSPE engineering code
D. The 1893 nursing pledge

C. The NSPE engineering code Its first canon: hold paramount the safety, health and welfare of the public.

5. In Thompson's definition, why is the word "conditions" important?

A. It limits conflicts of interest to financial interests only
B. It means only completed acts can ever count as conflicts
C. It requires proof of actual bias
D. It makes a conflict a situation rather than an accusation

D. It makes a conflict a situation rather than an accusation That is why the remedies are structural, not effort to be objective.

6. Cain, Loewenstein and Moore (2005) found what about disclosure?

A. Disclosing advisers gave more biased advice
B. Disclosure fully removed any bias from the advice
C. Advisees overcorrected for the bias they were told about
D. Disclosure had no measurable effect

A. Disclosing advisers gave more biased advice Advisers felt licensed; advisees discounted too little.

7. What structural failure defeated the Challenger engineers?

A. The engineers stayed silent until after the launch had failed
B. NASA had no data at all from any of the prior launches
C. The O-rings had never shown any erosion
D. The burden of proof was reversed onto proving danger

D. The burden of proof was reversed onto proving danger Management demanded proof of danger at a temperature no one had flown.

8. On De George's account, what makes whistleblowing obligatory rather than permitted?

A. Reporting the concern to the immediate supervisor first
B. Documented evidence plus reasonable belief it will work
C. Any harm at all, however small, to the company's profits
D. Approval from the company's legal team

B. Documented evidence plus reasonable belief it will work Conditions 1 to 3 permit; adding 4 and 5 requires.

9. What does a qui tam suit allow?

A. A private citizen to sue for fraud on the government's behalf
B. A company to sue a former employee for leaking its secrets
C. A licensing board to revoke a license without a hearing
D. A patient to sue for battery

A. A private citizen to sue for fraud on the government's behalf Under the False Claims Act, the relator shares in the recovery.

10. Friedman's 1970 essay is usually misquoted by leaving out what?

A. That firms must serve every stakeholder group equally
B. That managers answer only to government regulators, not owners
C. That profit must be pursued within the rules, without fraud
D. That profit is not a legitimate goal

C. That profit must be pursued within the rules, without fraud Read whole, the rules constrain the pursuit of profit.

Cram sheet

Everything from chapters 9 and 10 in one place. Cover the right column and see if you can rebuild each row.

Cases and dates

Case or event	Year	Point
Schloendorff	1914	Right to decide about one's body (dictum)
Salgo	1957	Coined informed consent
Canterbury v. Spence	1972	Reasonable person standard; material risk
Tarasoff	1974; 1976	Duty to warn, then duty to protect
Quinlan	1976	Guardian may decline; ethics committees
Gillick	1985	Under-16 consent with sufficient understanding
Cruzan	1990	Clear and convincing evidence may be required
Bland	1993	Nutrition and hydration may be withdrawn
Glucksberg and Vacco	1997	No constitutional right to assisted suicide
Montgomery	2015	UK adopts materiality from patient's view
Challenger	27 to 28 January 1986	Reversed burden of proof
Friedman	1970	Profit within the rules of the game
Freeman	1984	Stakeholder theory

Lists to know

List	Items
Five elements of consent	Capacity, disclosure, understanding, voluntariness, authorization
Four abilities	Understanding, appreciation, reasoning, expressing a choice
Surrogate ladder	Expressed wishes, substituted judgment, best interests
Consent exceptions	Emergency, waiver, therapeutic privilege
COI remedies	Disclose, recuse, divest, prohibit
De George	Harm, superior, internal channels (permitted); evidence, efficacy (required)
Failure recipe	Impossible target, unsafe to say no, metric rewards appearance

Numbers

Item	Value
Surrogate accuracy	About 68% (Shalowitz, 2006)
Health literacy	About a third of US adults basic or below (2003)
Temel 2010 survival	11.6 vs 8.9 months median
Canada MAID 2023	About 15,300 deaths, 4.7%
Wells Fargo	Target 8 products; about 3.5 million accounts; about 5,300 fired

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