Discussions of paternalism are often marred by the failure to consider the wide variety of paternalistic acts. Thus Gerald Dworkin in his article “Paternalism” says: “By paternalism I shall understand roughly the interference with a person’s liberty of action justified by reasons referring exclusively to the welfare, good, happiness, needs, interests, or values of the person being coerced.” All Dworkin’s examples are of laws or regulations which he considers paternalistic. Though he does recognize that there is such a thing as “parental paternalism” he simply assumes that it will always involve the parent’s attempt “to restrict the child’s freedom in various ways” (p. 119). Paternalism in law doubtless does involve interference with liberty most of the time, but this is due to the nature of law, not to the nature of paternalism. The first of the above quotations also suggests that Dworkin incorrectly regards interfering with a person’s liberty of action

The material in this paper is the product of a faculty seminar at Dartmouth which included the following members of the Departments of Philosophy, Psychiatry and Religion: Bernard Bergen, Ph.D., K. Danner Clouser, Ph.D. (Department of Humanities, College of Medicine, Hershey Medical Center), Ronald Green, Ph.D., Stanley Rosenberg, Ph.D., Joel Rudinow, Ph.D., Raymond Sobel, M.D., Gary Tucker, M.D., and Peter Whybrow, M.D.

2. Dworkin’s view that paternalism always involves the restriction of liberty is the standard one. See, for example, “Criminal Paternalism” by Michael D. Bayles and “Justifications for Paternalism” by Donald H. Regan, both in The Limits of Law–Nomos XV, ed. J. Roland Pennock and John W. Chapman (Chicago, 1974), pp. 174–188 and 189–210.
as entailing that the person is being coerced. The following example shows that an adequate account of paternalism must allow not only for paternalistic action in which no person is being coerced but also for paternalistic action which does not involve interfering with anyone’s liberty of action.

Mr. N, a member of a religious sect that does not believe in blood transfusions, is involved in a serious automobile accident and loses a large amount of blood. On arriving at the hospital, he is still conscious and informs the doctor of his views on blood transfusion. Immediately thereafter he faints from loss of blood. The doctor believes that if Mr. N is not given a transfusion he will die. Thereupon, while Mr. N is still unconscious, the doctor arranges for and carries out the blood transfusion. (Similar cases may easily be constructed using antibiotic drugs or vaccines.)

This example shows not only that paternalistic action need not be coercive and need not involve an attempt to interfere with the liberty of action of a person, but also that it need not even involve an attempt to control the behavior of the person. We regard coercive action, which involves the use of threats, as a subclass of attempts to interfere with liberty of action. Attempts at such interference are, in turn, a subclass of attempts to control behavior. Thus, by showing that we can have paternalistic action which does not even involve an attempt to control behavior, we can show that paternalistic action need not be coercive nor involve an attempt to interfere with liberty of action. In the blood transfusion case there was no attempt to control behavior, indeed there was no behavior to control; thus it seems clear that there was no attempt to interfere with liberty of action and no coercive action. The same points can be made by considering an example of paternalistic deception which is intended to affect feelings rather than behavior. Consider a case where a doctor lies to a mother on her deathbed when she asks about her son. The doctor tells her that her son is doing well, although he knows that the son has just been killed trying to escape from prison after having been indicted for multiple rape and murder. The doctor behaved paternalistically but did not attempt to control behavior, to apply coercion, or to interfere with

3. For a fuller account of coercion see Coercion—Nomos XIV, ed. J. Roland Pennock and John W. Chapman (Chicago, 1972), especially chaps. 3 and 4.
liberty of action. Even in political rather than personal situations, paternalism may involve deception in order to affect the body rather than behavior—for example, officials surreptitiously introduce fluorides into a city’s water supply to reduce tooth decay in the inhabitants.

Of course, many paternalistic acts do involve attempts to control behavior, but even these are not all best described as attempts to deprive a person of freedom.4 (As shown above, it is clearly wrong to describe all paternalistic acts as involving coercion.) The following is a clear case of paternalism involving the deprivation of freedom.

Mr. K is pacing back and forth on the roof of his five-story tenement and appears to be on the verge of jumping off. When questioned by the police he sounds confused. When interviewed by Dr. T in the emergency room, Mr. K admits to being afraid that he might jump off the roof and says that he fears he is losing his mind. However, he adamantly refuses hospitalization. Dr. T decides that for his own protection, Mr. K must be committed to the hospital for a period of forty-eight hours.

The following case, though it might be described as deprivation of freedom, seems more accurately described as depriving a person of opportunity.

Professor B tells his wife that he has had a brief affair with her best friend. On hearing this, his wife becomes very depressed and says that she wants to kill herself. In fact, she once took an overdose of sleeping pills when she was depressed. Before leaving for a class that will be over in two hours he, without telling her, removes all the sleeping pills from the house.5

4. Dworkin makes no distinction between “interfering with liberty” and “restricting freedom.” There may be no distinction to be made here, but we think it is useful to distinguish between the different ways that one can attempt to control another’s behavior. We shall use “depriving of freedom” as the one corresponding most closely to Dworkin’s phrases, and distinguish it from other ways of controlling behavior, for example, disabling a person.

5. In this example, whether we regard Professor B’s act as paternalistic or not depends upon whether we regard him as depriving his wife of the opportunity to take the sleeping pills. Similar problems arise with regard to companies that are called paternalistic. Suppose a company puts a significantly larger percentage of money per employee into pensions and benefits than most companies do, and a correspondingly smaller one into salaries and wages. Whether we regard the company as paternalistic will depend on whether we regard the company as
There are other paternalistic acts that are best described as disabling. This can involve physically disabling a person; for example, a mother, convinced that her son will be killed if he joins the Marines, breaks his arm in order to prevent him from doing so. This somewhat unusual case may broadly be described as an attempt at behavior control, but the result is not attained by depriving the son of freedom. Knocking someone out by a blow, as one might do to a friend who seemed about to attack an armed robber, can be a paternalistic act, but it is more plausibly described as temporary disabling than as deprivation of freedom. Disabling the will of a person, that is, doing something that takes away his ability to will to do certain kinds of acts can also be paternalistic. Thus certain kinds of aversive conditioning may result in a lack of the ability to will, and may be done primarily to prevent a patient from carrying out actions which are harmful to himself.

All of the paternalistic acts described above involve doing something which needs moral justification. We believe that an essential feature of paternalistic behavior toward a person is the violation of moral rules (or doing that which will require such violations), for example, the moral rules prohibiting deception, deprivation of freedom or opportunity, or disabling. One can even imagine a paternalistic act which involves breaking the moral rule against killing, for example, killing a person who has developed the symptoms of rabies and thus faces a certain and excruciatingly painful death. Obviously one can also act paternalistically by violating the moral rule prohibiting the causing of pain, either physical pain or mental suffering, if it is done in order to prevent what one believes to be even greater pain or suffering, as the following case shows.

depriving its employees of the opportunity to spend their money in the way that they choose. If we think the company is paying a fair wage as well as putting more than is required into the pension fund, then it is not correct to view the company as paternalistic. It is often difficult to determine the difference between depriving someone of something, and simply not providing him with that thing. We make no attempt in this paper to resolve this problem. We do claim that an action is paternalistic only when it deprives someone of an opportunity (or in some other way violates a moral rule). We wish to thank Gerald Dworkin for calling our attention to this problem.
Mrs. B will undergo surgery in two or three days for a malignant tumor of her right breast. She has obviously understood her situation intellectually, but her mood has been rather blasé and she appears to be rather inappropriately minimizing the emotional gravity of her situation. Dr. T’s experience is that women in Mrs. B’s situation who before mastectomy do not experience some grief and at least moderate concern about the physical and cosmetic implications of their operation often have a very severe and depressive post-operative course. Though Mrs. B has insisted that she does not wish to talk about the effects of the surgery, Dr. T talks with her about such effects prior to surgery in order to facilitate her emotional preparation for her impending loss.

This last example also goes against a common view of medical paternalism. If one is presented with the following question: Which doctor is acting paternalistically, one who confronts a patient with a painful truth, or one who withholds the truth in order to avoid the pain it will cause the patient? most will answer that it is the latter, not the former, who is acting paternalistically. But as the example immediately above makes clear, this need not be the case. Which, if either, doctor is acting paternalistically depends upon whether he will proceed with what he thinks is best for the patient regardless of the patient’s expressed wishes on the matter. If the patient wants to be told the truth, no matter what, then to withhold it simply to prevent his suffering the effects of being told is paternalistic. But if the patient says that he does not want to be told the truth—say, about his having terminal cancer—then it is paternalistic of the doctor to cause suffering by forcing the truth on the patient on the grounds that it is better for him to face the painful truth now.

With this background, we offer the following definition of paternalistic behavior:

A is acting paternalistically toward S if and only if A’s behavior (correctly) indicates that A believes that:

1. his action is for S’s good
2. he is qualified to act on S’s behalf
3. his action involves violating a moral rule (or doing that which will require him to do so) with regard to S
(4) he is justified in acting on S's behalf independently of S's past, present, or immediately forthcoming (free, informed) consent.

(5) S believes (perhaps falsely) that he (S) generally knows what is for his own good.

From this account of paternalistic action it is easy to derive accounts of paternalistic attitudes, persons, laws, and so on, but we shall not consider these matters here. What we wish to do now is to discuss the various features of our definition. There is no dispute about (1). If A is acting paternalistically toward S, then A must have the good of S, not his own good, as the goal of his action. Further, insofar as A's behavior toward S is paternalistic, it is only S's good, not the good of some third party, which is involved. This is not to deny that actions can be partially paternalistic; they can be intended for the good of S and others, including A. But what makes A's action toward S paternalistic is never the good of anyone other than S himself.

Feature (2) requires more discussion. In most of the cases that we have considered, being qualified to act on S's behalf involves having certain professional qualifications. But though paternalism is often practiced by those with professional qualifications—such as doctors, lawyers, and social workers—paternalism can be practiced by anyone who has qualifications which he believes enable him to see better than S what is for S's good. Clearly we do not want to make it impossible for a father to act paternalistically toward his teenage son. The father believes his age and experience qualify him to act on his son's behalf, even against his son's express desires. An average person may act paternalistically toward someone who is mentally retarded or partially senile, and a sane person may act paternalistically toward someone who is not sane. They can do this because they believe that being average (or sane) makes them better able to judge the good of S than S himself. In the same way, a sober person can act paternalistically toward a drunk because he feels, at least at the time, that he can tell what is for the drunk's good better than the drunk. A general belief in A's knowing what is for the good of S better than S does himself is required for paternalistic action, and explains why a small child usu-
ally cannot be said to be acting paternalistically toward his parents even when he satisfies all of the other conditions.

Feature (3) involves an expansion of what is normally said about paternalism, namely that it involves a deprivation of freedom of the person toward whom one is acting paternalistically. We have seen that paternalism need not always involve violating the moral rule prohibiting the deprivation of freedom or opportunity, and that it can involve violating the moral rules against killing, causing pain, disabling, depriving of pleasure, deception, or breaking a promise. Paternalism involving breaking a promise is even discussed by Plato, who advocates not returning a weapon to someone who has gone mad, even though you have promised to do so. But an action is not paternalistic unless the person whom A intends to benefit is also the person toward whom A breaks a moral rule. For example, suppose that, without telling your younger brother, you beat up the street bully and tell him that you will do it again if he bothers your brother. If this act is paternalistic toward your brother, as we think it is, it is not so because you have broken a moral rule by beating up the bully. It is paternalistic because you have deceived your younger brother by taking an action which normally would require his consent. Thus, acting without his consent counts as deception.

The paternalistic act need not itself constitute a violation of moral rules, it may involve only doing that which will require one to violate a rule. Giving the blood transfusion to the unconscious member of the religious sect is a paternalistic action which does not itself constitute a violation of any moral rule, but which does involve doing that which will require one to violate a moral rule. For, if the person lives, the doctor must either deceive him regarding the blood transfusion or cause him painful feelings by informing him of the action taken. Since the doctor’s initial act requires him to violate a moral rule with regard to his patient, we count it as a paternalistic act.

In our opinion, violating a moral rule involves doing something that would be morally wrong unless one has an adequate justification for doing it. Thus, killing, causing pain (mental or physical), disabling, and depriving of freedom, opportunity, or pleasure are all violations of moral rules. The same is true of deceiving, breaking a
promise, and cheating. Paternalistic behavior always involves violating one of these rules (or doing that which will require one to do so) with regard to the person you intend to benefit, independently of his past, present, or immediately forthcoming consent. It is customary to view killing, deceiving and breaking a promise as violations of moral rules, but there is no such tradition with regard to causing someone mental or physical pain, or disabling him, although to do so without adequate justification, is clearly immoral. We see no reason for distinguishing killing and deceiving from causing pain and disabling and think it most fruitful to regard all of these acts, as well as depriving of freedom or opportunity, as violations of moral rules.⁶

Feature (4) makes clear that A believes that he has the moral justification for violating a moral rule with regard to S, and that his action on S’s behalf does not need S’s past, present or immediately forthcoming consent. A may believe this because A thinks that he will at some future time obtain S’s retrospective consent. Though belief about future consent may justify A’s action, it does not prevent the action from being paternalistic. If A has S’s consent to act on S’s behalf, or if A expects S’s immediately forthcoming consent for A’s action, then an action which might otherwise be paternalistic is not so. For example, I pull someone from the path of an oncoming car which I believe he does not see. If I act because I think that immediately upon being apprised of the facts he will approve of my action, my action is

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⁶. For a fuller account of moral rules, including an account of how one can justify a violation of a moral rule see The Moral Rules, by Bernard Gert (New York, 2nd paperback ed., 1975). If one prefers the language of rights to that of moral rules, one might plausibly hold that all paternalistic behavior involves the violation of a person’s rights. The close connection between rights and liberties may then partly explain the widely held but mistaken view that paternalism always involves the restriction of liberty of action. For example, in the blood transfusion case, it is plausible to say that we are violating the patient’s rights, but it is not plausible to say that we are restricting his liberty of action. Similarly, paternalistic behavior involving deception may sometimes be taken as violating the person’s right to know, when it cannot be taken as restricting his liberty of action. There may be no substantive difference between violating a moral rule (or doing that which will require one to do so) with regard to someone independently of his past, present, or immediately forthcoming consent, and violating his rights. However, since we find the terminology of moral rules to be clearer than that of rights, we have presented our analysis of paternalism solely in terms of violating a moral rule.
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not paternalistic even though it may satisfy all the other conditions of paternalistic behavior. But if I think that he is trying to commit suicide because of a temporary depression and that he will thank me when he recovers, then my act is paternalistic. Of course, there are borderline cases.

Past, present, or immediately forthcoming consent removes A’s act from the class of paternalistic acts. For example, suppose a very distraught patient comes to a psychiatrist and says that he knows that he badly needs treatment and that he would like the psychiatrist’s advice about whether to be hospitalized. The psychiatrist is not acting paternalistically when he urges the patient to enter the hospital. Then suppose that, later, the patient wishes to be discharged from the hospital and the psychiatrist refuses permission because he thinks the patient may do himself serious harm if he is allowed to leave. The psychiatrist’s refusal is a paternalistic act. Future consent, though it may justify A’s act, does not make the action nonpaternalistic. But future consent is not the only thing which can justify paternalistic acts: prevention of bad consequences if they are significant enough may also justify them.

Feature (5) is presupposed in many accounts of paternalism, but rarely is made explicit. We can be paternalistic only toward those whom we regard as believing themselves to be capable of acting on their own behalf. Thus we cannot act paternalistically toward infants and animals unless we believe them to have this sort of self-consciousness. There is, of course, an analogue to paternalism in our treatment of some animals, but it simply muddies the conceptual waters to allow for paternalistic action toward animals and infants. One can act paternalistically toward children, especially older children, for we have

7. We might call this paternal behavior and distinguish it from paternalistic behavior in that it does not involve violating a moral rule with regard to S independently of S’s past, present, or immediately forthcoming consent. We do not intend this statement to be taken as a complete account of paternal behavior.

It should be noted that persons can disagree as to whether behavior is paternal or paternalistic (see fn. 5). Also, we recognize that the term “paternalistic” is often used to describe behavior that we think is more appropriately described as paternal, but we think this no more significant to our analysis than the fact that “jealous” is often used to describe an attitude which is more appropriately described as envious is significant for an analysis of jealousy.
no desire to maintain the paradoxical position that a father cannot act paternalistically toward his children. We can act paternalistically toward those who, we believe, do not, in fact, know what is for their own good, but we cannot act paternalistically toward someone whom we do not regard as believing that he knows what is for his own good.8

Now that we have given our definition of paternalism and explained it in some detail, let us consider some cases of psychiatric intervention and see whether the account is of any help in determining whether they are paternalistic or not.

Mrs. P, on her first visit as an out-patient, is insistent during the last few minutes of her session that Dr. T give her some medicine for her nerves and for the vague, poorly localized pains which she describes. He feels there is no medical reason for her to have medication but judges that if he refuses her request outright, a useful and productive initial interview will end on a very sour note. However, he believes strongly in not administering active drugs when there is no medical reason for doing so; therefore, he writes her a prescription for a week’s supply of a placebo and makes a note on her chart to discuss the issue of medication with her in detail at their next week’s appointment.

Dr. T’s act is clearly paternalistic: he has given her a placebo for what he believes is her own good; he believes he is qualified to carry out such an act on her behalf; he knows he is deceiving her, but believes that he is justified in acting independently of her consent (in this case, even of her knowledge); further he views her as obviously being someone who believes she knows what is for her own good (e.g. to be given a drug). Note that he has not restricted her liberty. Nor has he controlled her behavior: he acted paternalistically to prevent her having bad feelings, not to prevent or encourage any actions on her part.

8. Throughout our analysis we assume that A’s beliefs are at least plausible, though they need not be true. If A’s beliefs are wildly false, for example, he thinks flowers believe they know what is best for them, then we may hesitate to maintain that he is acting paternalistically toward the flowers when he waters them though he believes that they would prefer to remain dry. We are indebted to Timothy Duggan for calling our attention to this point.
Since this is an instance of paternalism, it requires moral justification. In this case Dr. T could attempt to justify giving a placebo (thereby breaking the moral rule prohibiting deception) by making several claims. He could claim that this action was preferable to giving her an active drug, an action that would have been contrary to his proper duty as a physician and would have needlessly exposed her to the risks always attendant upon ingesting any active compound. He could also claim that giving her a placebo was better than flatly refusing her a prescription, an act which would have resulted in her mental suffering.

The morality of giving placebos is an issue about which rational persons may and do disagree. On the basis of the information given in the example we agree that giving any active drug would clearly be wrong; nevertheless, there is insufficient reason to believe that the possible mental suffering caused by Dr. T’s refusal would, on balance, be adequate to justify his deception of Mrs. P.

Dr. T is leading a new therapy group during its second session. The group consists of patients who have all claimed to have difficulty in relating to other people.

One patient, Mr. G, is a single professional man in his early 30s who has complained of an inability to maintain lasting friendships with either men or women. It has become apparent to Dr. T through watching the group interaction that Mr. G, while not totally unlikable, has a penchant for being self-centered, critical of others, and smugly certain about his own opinions. It has also become apparent that Mr. G has little insight into these characteristics and the way they irritate other members of the group. Dr. T believes it would be useful for Mr. G to acquire insight into the effect his personal style has on others. Of course, whether Mr. G will then try to change his style will be his own decision.

Accordingly, midway through the session, Dr. T begins to encourage other group members to confront Mr. G with their feelings about him, despite Mr. G’s obvious anger and great discomfort when they begin to do so.

This satisfies four of the five elements of the definition: Dr. T believes that confrontation is for Mr. G’s good, believes that he is qualified
to act on Mr. G’s behalf, knows that he is violating a moral rule by causing Mr. G mental suffering, and thinks that Mr. G is someone who believes he knows what is for his own good. What is not clear from the example as given is whether Dr. T believes he is justified in urging confrontation independently of Mr. G’s consent. This is not clear because nothing is specified about the nature of the prior agreement between Dr. T and Mr. G; in particular, whether Mr. G has or has not consented to confrontation-type activities (i.e. experiencing emotional pain in the hope of achieving greater self-understanding) and, further, whether Dr. T’s actions are or are not independent of any consent Mr. G has given. Thus we do not know on the information given whether Dr. T’s actions are paternalistic. Dr. T might claim that Mr. G’s presence in group therapy demonstrates implicit consent to being confronted in an emotionally painful way, but that claim would seem weak if Mr. G genuinely had no such expectations.

We stress this example because it seems similar to the dilemma posed by many psychiatric interventions: whether they are paternalistic (and thus require justification) turns heavily on the nature and quality of the consent given by the patient and the degree to which the psychiatrist acts independently of that consent for what he feels is the good of the patient.

In this case, if Dr. T has obtained consent so that Mr. G has agreed to be exposed to emotionally painful experiences then Dr. T’s actions are not paternalistic. If consent has not been obtained, then he is acting paternalistically. He could try to justify his actions on the grounds that by causing Mr. G to suffer emotionally for a short period now, he might decrease Mr. G’s long-term suffering afterward. This might be true and, of course, is the case with many medical interventions. However we believe it would be unwarranted for Dr. T to make this decision unilaterally in a setting where Mr. G could have easily been allowed to decide ahead of time whether he was willing to gamble on the exchange of more emotional pain now for possibly less later. Thus if Mr. G’s consent had not been sought, we would view Dr. T’s actions as unjustified paternalism.

We think that the account presented here clarifies many of the features of paternalism. It explains why doctors and others usually
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resist the charge of paternalism. People generally do not want to be in a position where they have to justify their actions. Thus even though our account does not allow paternalism to degenerate into a term of abuse—for there can be justified paternalism—it makes clear that paternalism involves violating a moral rule without consent and thus requires justification. We can also understand why the concept of paternalism is so closely tied to the notion of informed consent. Particularly in the doctor-patient relationship, it is often not clear whether and to what extent the patient has given his consent to the doctor. This vagueness is evident in the example of the patient in group therapy.

In addition to clarifying the concept of paternalism, we think that the description we have provided allows for some interesting empirical research. For example, what factors in medical training lead a doctor to act paternalistically? To what extent would awareness that one was acting paternalistically (as defined in this paper) decrease (or increase) one’s tendency to act paternalistically? Is there a significant difference between doctors who often act paternalistically and those who do so infrequently with regard to their belief about whether people generally know what is for their own good?