

Bioethics Ideals and Norms

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Disclosures

Jennifer Baker, Ph.D., has no conflicts of interest or relevant financial relationships to disclose.

Four learning objectives

Identify

Identify the ideal of equal treatment we associate with the practice of medicine.

Describe

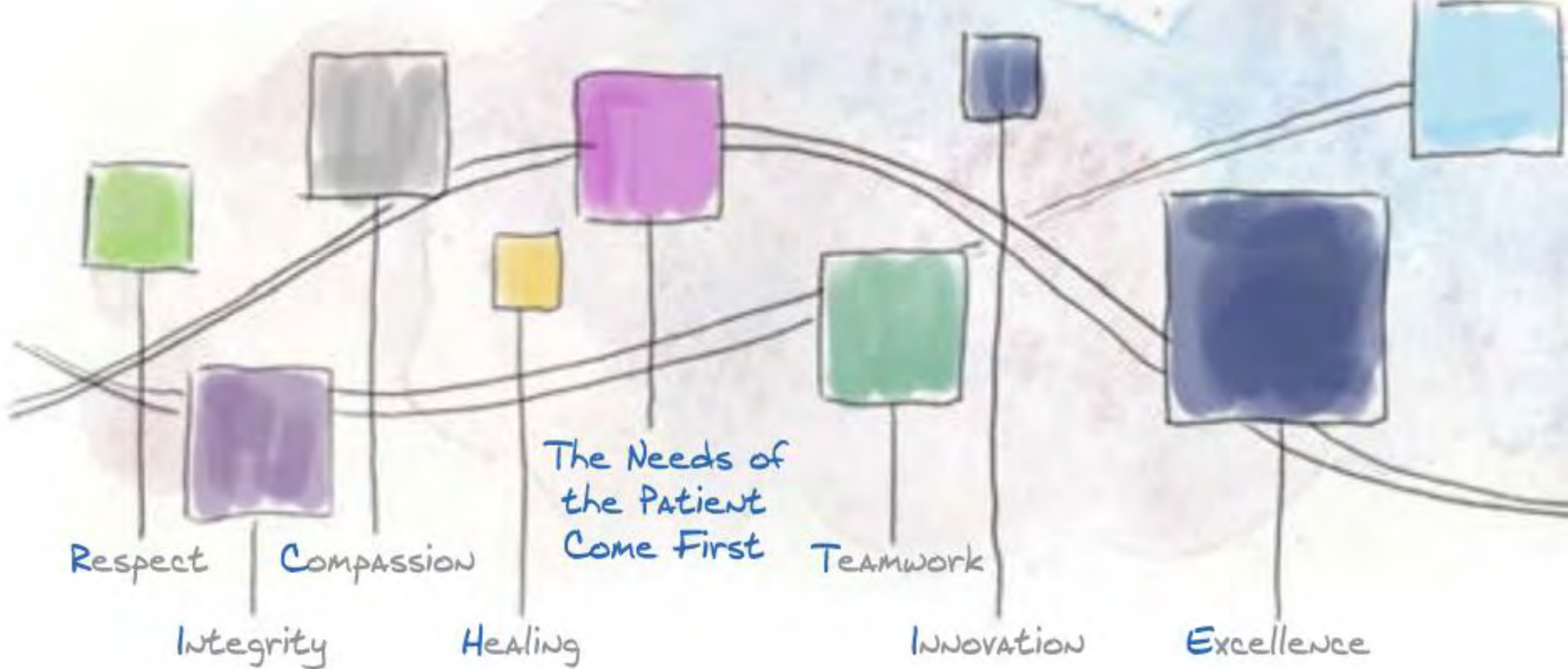
Describe distinctive norms that result from this ideal being held by clinicians.

Recognize

Recognize tensions between equality-based norms and other professional, market, and social norms.

Explain

Explain one way in which we might strengthen equity-based norms given the above tensions.



What is the nature of ethical commitment in medicine?
My proposal: It includes internalization of moral norms.

Salt Lake City Police Department


Wubbels: I'm just trying to do what
I'm supposed to do, that's all.

Various explanatory framework on norms

Historical and sociological: norms (rules, mores, taboos, laws) serve some function.



“Social Norms Theory”: there is distance between what we take group norms to be and what they actually are. This research focuses on manipulating this misperception.



Philosophers and economists on social norms: They are one type of collective behavioral pattern, informal rules that are recognized and known, there is interest in complying with them, and we (a) expect others to follow the norm and (b) expect that we, too, are expected to follow it.

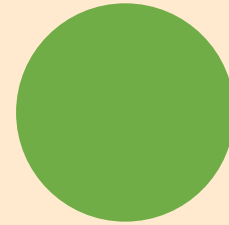
Cristina Bicchieri, *Norms in the Wild: How to Diagnose, Measure, and Change Social Norms*, Oxford University Press, 2017 (earlier *The Grammar of Society*)



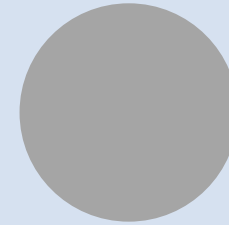
Social norms stop existing when enough of us stop believing enough others will abide by it.



They are not abstract or remote, even if unstated, as they are made up of shared beliefs about expectations.



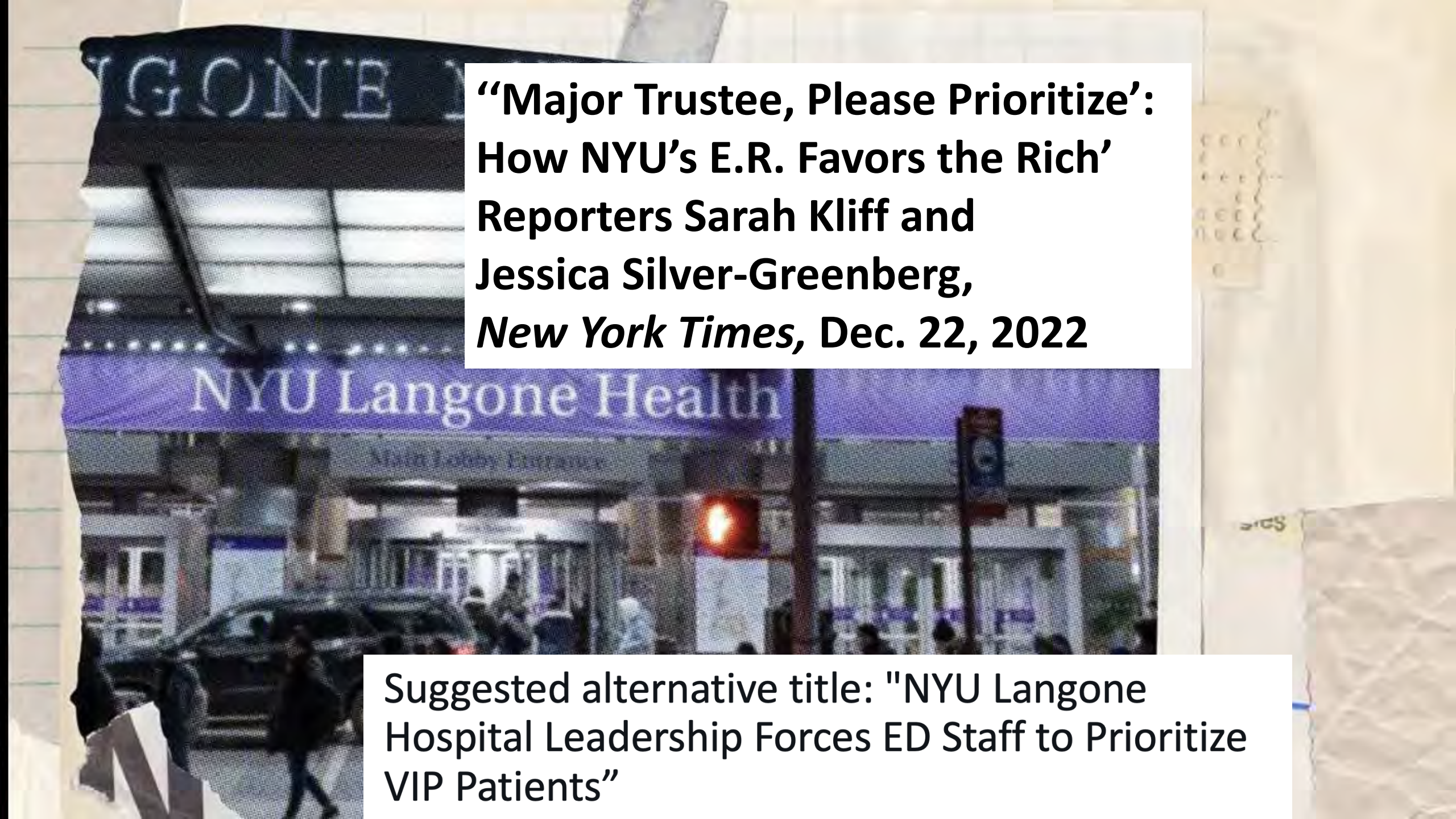
Our motivation to follow norms depends on what we are seeing from others.



Norm-driven behavior is complex and heterogeneous

Evidence of social norms in medicine

- Obvious norm-conformity: sanctions, compliance, and agents recognizing this. The acculturation that happens through teaching in medical training.
- The presence of other's expectations. The way clinical practice norms are acknowledged to have a time and place and membership.
- A sense of obligation apart from concern about rewards/ pain (people will quit jobs due to this). That 11 ED physicians have left NYU Langone Hospital over the prioritization of VIP patients.



**“Major Trustee, Please Prioritize’:
How NYU’s E.R. Favors the Rich’
Reporters Sarah Kliff and
Jessica Silver-Greenberg,
New York Times, Dec. 22, 2022**

Suggested alternative title: "NYU Langone Hospital Leadership Forces ED Staff to Prioritize VIP Patients"

Hospitals fail to live up to justice and equity ideals in many ways, how could one such failure become significant enough to physicians to leave over it?



Dr. Michelle Romeo, who worked in the emergency room until 2021, recalled a famous actor's jumping to the front of the line for a CT scan.

Ashley Gilbertson for The New York Times

"It didn't matter how busy it was. A VIP was coming, and we had to drop everything." ER Doctor



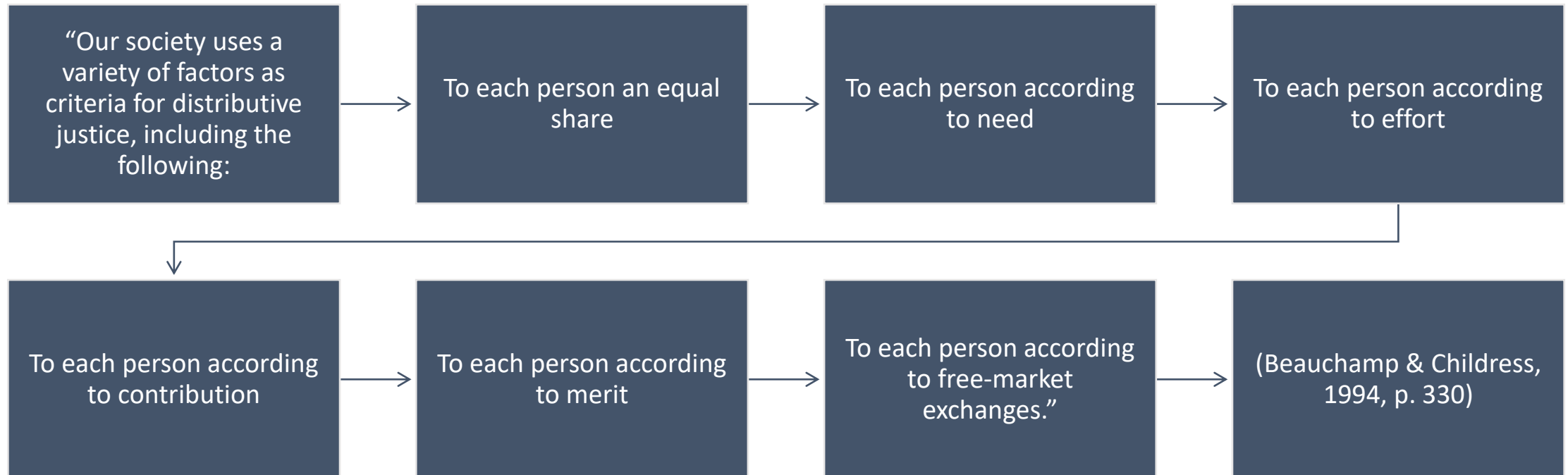
Reporting by Erik Schreiber, January 2, 2023

“When Kenneth G. Langone, a billionaire and founder of Home Depot, came to the NYU emergency department with stomach pain in September 2021, he was quickly treated in a room that ostensibly is reserved for patients in critical condition. Langone is chair of the hospital’s board of trustees and has donated hundreds of millions of dollars to NYU’s hospital system. Langone’s symptoms were associated with a bacterial infection.

In spring 2022, Democratic Senator Charles Schumer of New York brought his wife to the emergency department when she had a fever and was short of breath. Schumer and his wife were rushed into a room and tested for COVID-19. Meanwhile, sicker patients were being treated in the crowded emergency department’s hallways.

On one occasion, a well-known actor with a headache and low-grade fever was placed at the front of the line for a CT scan, Dr. Michelle Romeo told the *New York Times*. When the actor demanded a spinal tap that Romeo thought was unnecessary, a supervisor told her to perform it anyway. The test results were normal. The actor was treated ahead of a patient from a nursing home who had possible sepsis and had been waiting three hours for treatment.”

The principle of justice in bioethics.



Hospitals Are Like The Four Seasons, If You're Rich & Sick

“At Mount Sinai, if a patient staying in one of the \$1,600-night suites wants something other than Jello or creamed corn, the staff obliges. “If they have a craving for lobster tails and we don't have them on the menu, we'll go out and get them.”

“Fueling the boom of luxury hospital suites are rich medical tourists from other countries who often pay in cash, as opposed to the rest of us sick fiends who have to use insurance. “It’s not just competing on medical grounds and specialties, but competing for customers who can go just about anywhere,” one of the designers of Greenberg 14 South says. **“Theoretically, it trickles down.”**

David Rosner, a professor of public health at Columbia, explains the hospitals' dilemma: “Today, they pride themselves on attracting private patients, and on the other hand ask for our tax dollars based upon their older charitable mission.” The Gothamist, 2012

“Perceived safety and value of inpatient “very important person” services.” Allen-Dicker J, Auerbach A, Herzig SJ. *J Hosp Med.* 2017

“The majority of physicians did not perceive a difference in quality of care between VIP and non-VIP care, with 17% perceiving that VIP care was worse and 6% perceiving that VIP was superior.”
AMA J Ethics. 2023



VIPs “very important or influential person”

VIP floor

- For patient security or national security

VIP treatment

- Multitiered health service delivery streams
- Boutique hotel-style hospital stays
- Concierge or retainer-based medicine

COMMENTARY

JORGE A. GUZMAN, MD

Director, Medical Intensive Care Unit,
Respiratory Institute, Cleveland Clinic

MADHU SASIDHAR, MD

Respiratory Institute, Cleveland Clinic

JAMES K. STOLL

Chairman, Education Inst
Director, Leadership Deve
Staff Affairs Office; and I
Respiratory Therapy, Dep
Allergy, and Critical Care
Cleveland Clinic

Caring for VIPs: Nine principles

COMMENTAR

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Chairman
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Don't bend

- Principle 1: Don't bend the rules.

Work

- Principle 2: Work as a team, not in "silos."

Communicate

- Principle 3: Communicate, communicate, communicate.

Manage

- Principle 4: Carefully manage communication with the media.

Resist

- Principle 5: Resist "chairperson's syndrome."

Care

- Principle 6: Care should occur where it is most appropriate.

Protect

- Principle 7: Protect the patient's security.

Gifts

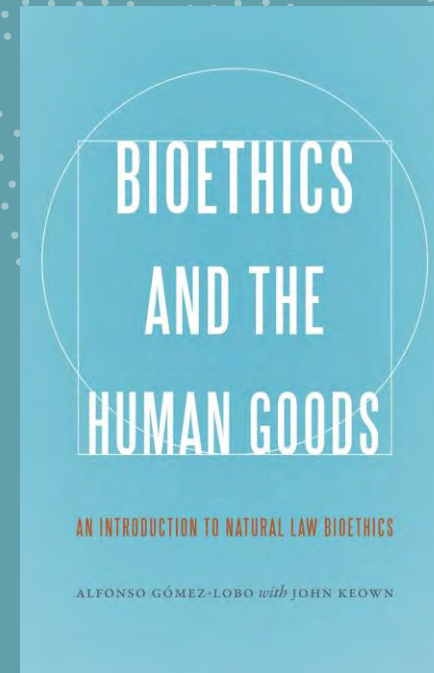
- Principle 8: Be careful about accepting or declining gifts.

Work

- Principle 9: Work with the patient's personal physicians.

The “more philosophy” solution?

Perennial requests for more substantial conceptions of good to make use of the principles of medical ethics: more philosophy so that we share normative beliefs.



Gómez-Lobo notes that principlism bars health care professionals from relying on any substantive conception of the good life when it comes to understanding the content of the four principles. In line with its non-axiological conceptual structure, it divorces principles from any foundational account of human well-being. The apparent goal of this prohibition is to have a bioethical theory that respects moral and religious pluralism by remaining neutral between competing doctrines of the human good.

Types

“Merely” expediated care

- Access lines to notify ER of arrival, texts and emails to staff after
- Notes on charts to “prioritize” a “trustee”

Additional care

VIPs request for spinal tap honored by supervisor

Prioritized care

“line jumping”

Critical care rooms in ER kept empty for arriving VIPs, use of ICU

Rationales for VIP treatment

Clinicians' personal conceptions of what these patients deserve

Meeting the “implicit” expectations of hospital administration

Why not “please or encourage the donor”? rationale

- The assumption that money will “trickle down” to the underserved
- It is merely prudent in terms of garnering more general support

Stated reasons for resignations (2021)

To the NYTimes:

"As emergency department doctors, we have two important skills: triage and resuscitation.

This system is in direct defiance of what we do and what we were trained to do."

Not likely...

- Some reasonable priorities being noted (extra privacy needs for celebrities, etc.)
- The “mere” expediting of care
- Consults and extra consideration for friends and other clinicians
- Our actual, or full system (to include the practice of and training in triage and resuscitation, and also current approaches to patient payment)

NYU Langone's response: accuse the clinicians of hypocrisy over equality

Lisa Greiner, a spokesperson for NYU Langone, told the NYTimes that the quoted ER doctor had alerted colleagues on a few occasions when her family or friends were in the emergency room.

The doctor responded to the reporters that her actions were distinct from the what she perceived as institutional pressure to prioritize VIPs.

NYU Langone's later response

"NYU Langone Health provides one standard of world-class care to every single patient that comes through our doors, and the article seeks to undermine the great work our care teams diligently deliver every day to save lives regardless of race, gender, ethnicity, religion, status, or wealth."

“one standard of world-class care to those who come through their doors”



Recognize tensions between equality-based norms and other professional, market, and social norms.



Identify the ideal of equal treatment we associate with the practice of medicine.

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Seven questions

- To what extent is trickle down provision of healthcare true?
- What does it matter what clinicians know about the economics of their hospital?
- How much transparency in cost supports medical norms?
- Is the issue respect for medical judgment?
- Is the tension between market norms and medical norms irresolvable?
- Is public health care the only way to resolve these tensions?
- Are our current ethical ideals a form of propaganda or ideology?



“Concierge care may be the best way to keep the charitable mission of hospitals going.”

Trickle-down justification

Dana Goldman, NYTimes Opinion,
Leonard D. Schaeffer chair,
University of Southern California
Schaeffer Center for Health Policy
and Economics

AUGUST 22, 2016

In both cases, hospital executives and their trustees must find ways to grow margins and retain favorable bond ratings—i.e., access to capital at low cost. This is where concierge medicine comes in. Concierge medicine, where patients pay a fee for enhanced access to medical services such as no-wait office visits or more face-time with physicians, allows hospitals to identify the wealthy consumers and charge them more for what is essentially the same care.

This pricing strategy is common in consumer products: hardcover books provide the same content as their paperback counterparts, but look better on the shelf; first-class air passengers arrive at the same time as the coach passengers, but enjoy better food and more comfortable seats. And the significantly higher prices paid for these extras translate into higher profits for the overall enterprise.

Trickle-down justification

Dana Goldman, NYTimes Opinion, Leonard D. Schaeffer chair, University of Southern California Schaeffer Center for Health Policy and Economics

AUGUST 22, 2016

In the case of hospitals, the profits from concierge care will be used to finance unprofitable activities such as charitable care. Just as some coach passengers resent first class travelers with their luxurious leg room and complimentary champagne, some will resent concierge patients getting preferential health care services. But concierge care may be the best way to keep the hospital's charitable mission flying.

Marquez and Lever (2023)- trickle down fallacy

Care of the overserved does *not* finance the care of the underserved in a profit-motivated system.



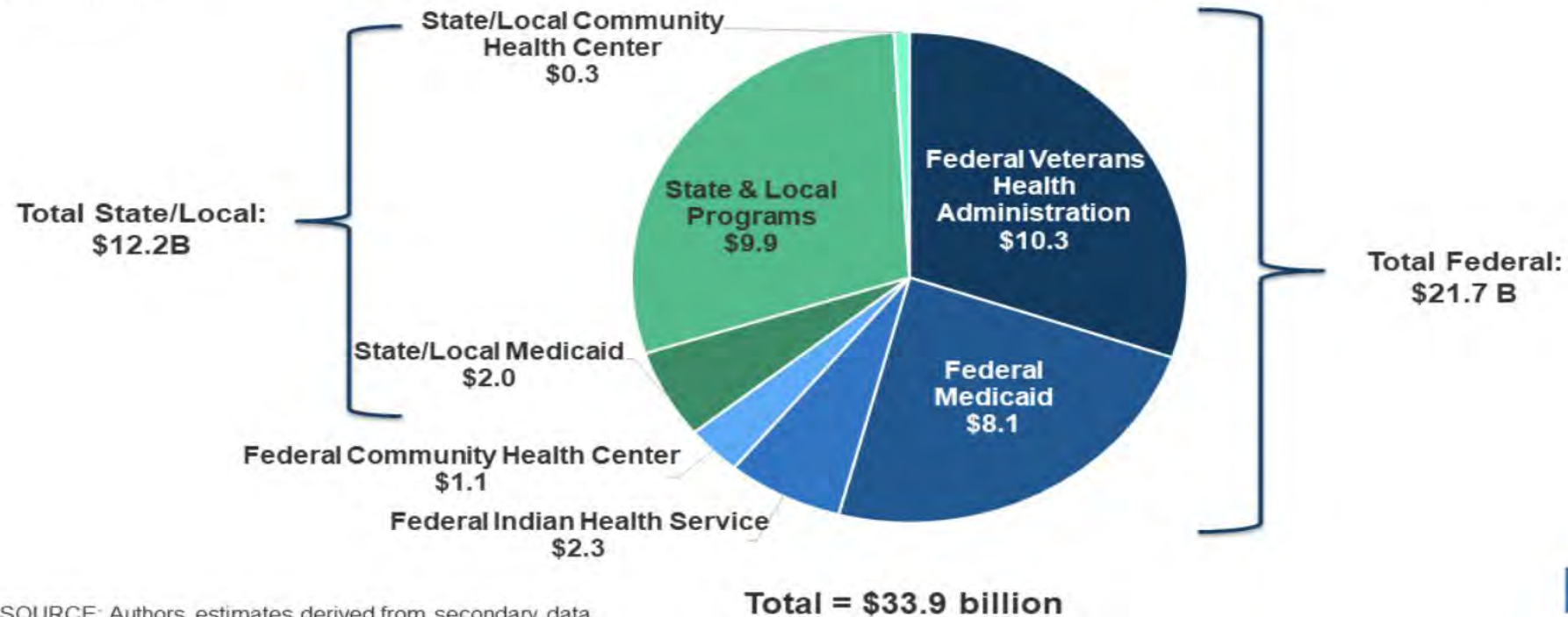
Why VIP Services Are Ethically Indefensible in Health Care

Denisse Rojas Marquez, MD, MPP and Hazel Lever, MD, MPH

AMA J Ethics. 2023;25(1):E66-71. doi: 10.1001/amajethics.2023.66.

Sources of Public Funding for Uncompensated Care Costs for Uninsured People, by Program Type and Source of Funds, 2017

\$ Billions



SOURCE: Authors estimates derived from secondary data.

KFF

Teresa A. Coughlin and Haley Samuel-Jakubos, The Urban Institute;
Rachel Garfield, KFF.

Could the physicians' motivation be the objection to the false stance that VIP care supports the care of others?

- The attractions of VIP care seem to obscure poor econometrics (trickle-down provision is not happening default but requires intention policy).

Research Letter

February 17, 2020

Charity Care Provision by US Nonprofit Hospitals

Ge Bai, PhD, CPA¹; Farah Yehia, MPH²; Gerard F. Anderson, PhD²

» [Author Affiliations](#) | [Article Information](#)

JAMA Intern Med. 2020;180(4):606-607. doi:10.1001/jamainternmed.2019.7415

Some moral reasons to be opposed to VIP care: it is unjust and inefficient.

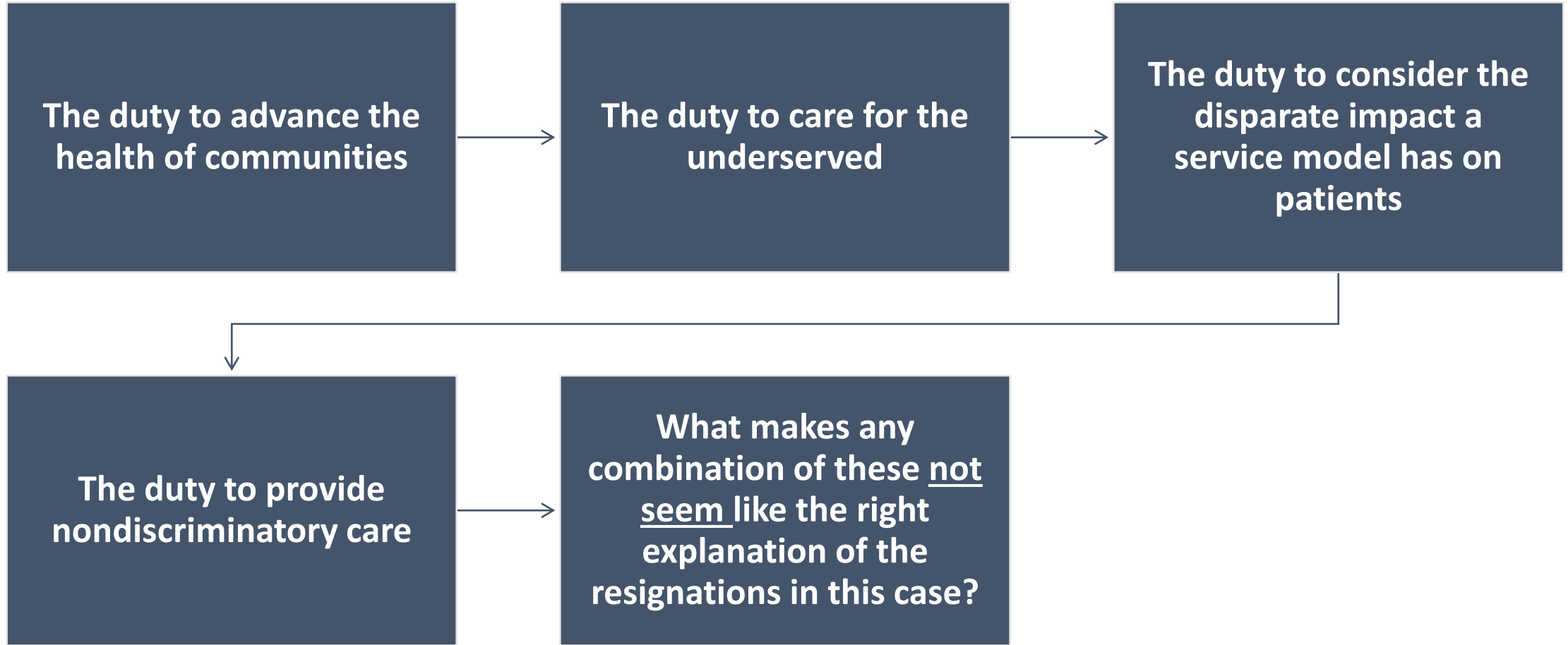
*“the reinforcement of existing social inequities, particularly racism and classism, through unequal tiers of care;

* the maldistribution of resources in a resource-limited setting.”

Why VIP Services Are Ethically Indefensible in Health Care

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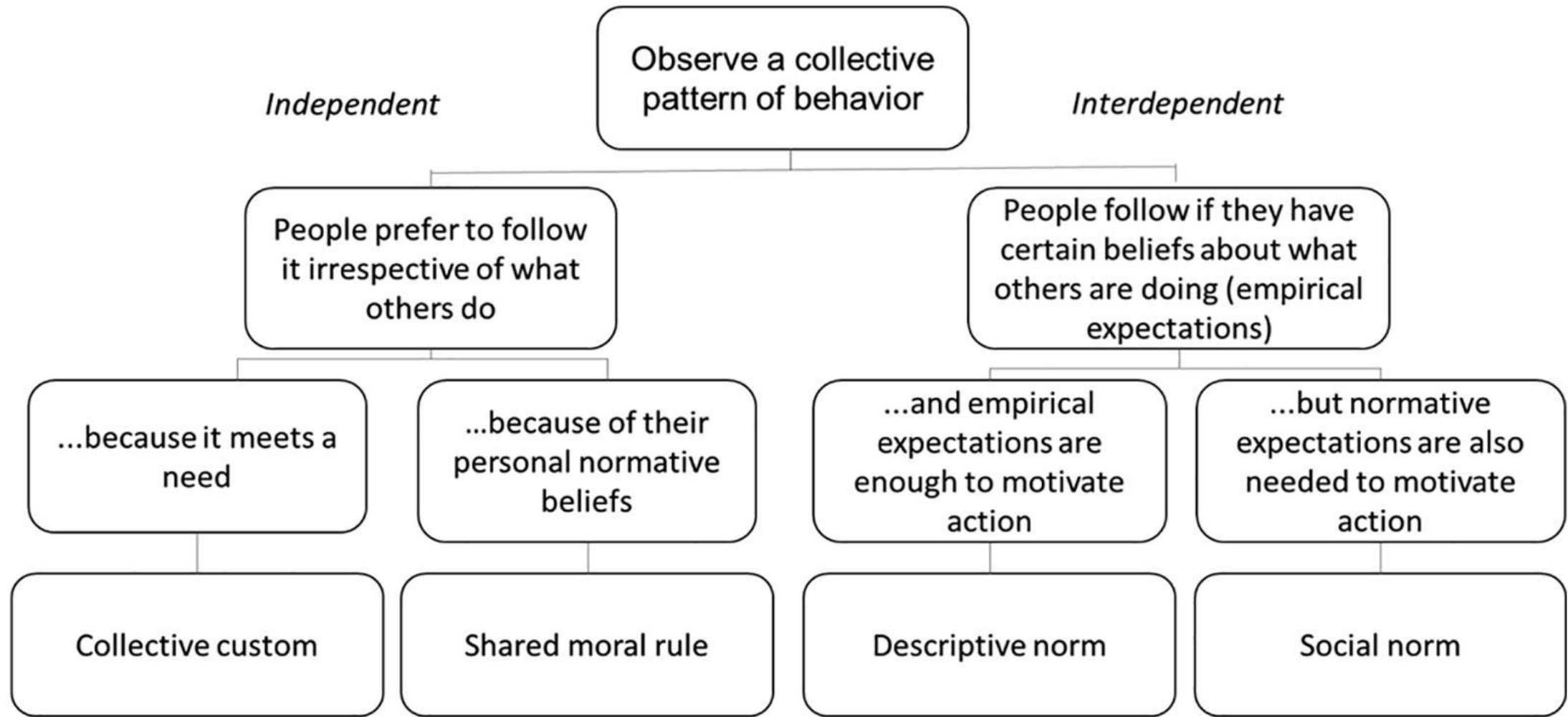


1. Norms among physicians have developed along the moral ideals formally attested by hospitals, that we have, “one standard of world-class care for anyone who comes through our doors.”

2. Economic rationales seem threatening and audacious in regard to VIP care.

3. Other duties are comfortably honored only in part, or imperfectly.

Categories of behavior under SNT



Source: Bicchieri (2016)

What would the analysis be if honoring medical judgment in patient prioritization were regarded as a social norm?

Accounts for why clinicians would internalize this norm. But non-clinicians may not.

Does not require an account of justice be recognized or applied consistently. Will not sound like bioethics discussions of justice.

More motivating than other results of economic analyses.

Can account for why resignation would be chosen by physicians.*

The practice of medicine depends on the norms of a charitable mission, not as biomedical texts articulate that, but as clinicians understand others understand.

We need to see others maintaining norms of equal treatment and of clinicians as having charitable goals.

Regarding clinicians as salespersons or the hospital as a market for goods (despite the ways in which it is) undermines medical norms' very support.

If unrecognized social norms are the basis of objecting to VIP practices, then

a) the norms will define the interests (not the job or losses or other arrangements for patients) and

b) failure to honor the norm will be seen as a threat to collective norm following.

This is why refusing to give hall consults to other clinicians is not in accordance with the physician's objections.

Seven answers

- Trickle down provision of healthcare is not an easy justification of VIP care.
- It may not matter what clinicians know about the economics of their hospital.
- Medical ethical norms may be at odds with transparency in cost.
- The issue includes respect for medical judgment.
- The tension between market norms and medical norms is ever-present, and may be even in public provision systems. We have a variety of ways to mitigate these and that could impact morale.
- Our current ethical ideals may not represent what we believe.



Describe distinctive norms
that result from this ideal
being held by clinicians.

- *That they are served by concierge care “trickling down” is not how we regard lower-income patients.
- *Physicians ought to be able to honor their medical judgement and should not feel pressure to do what VIPs ask.
- *Physicians can expediate treatment for those they know or work with.
- *Physicians should not be attempting to make money from patients.

Honor the norms, honor the norms of medical training. *Show* hospitals and clinicians engage in them.

Example: MUSC Cares Clinic for the Unhoused



Explain one way in which we might strengthen equity-based norms given the above tensions.

THANK YOU!



severe Low Back pain. Hx
of L1 compression fx last
year. Major trustee, please
prioritize. Page Neuro
resident

Referring