

Justice and Health Care: Adding Philosophy to the Debate

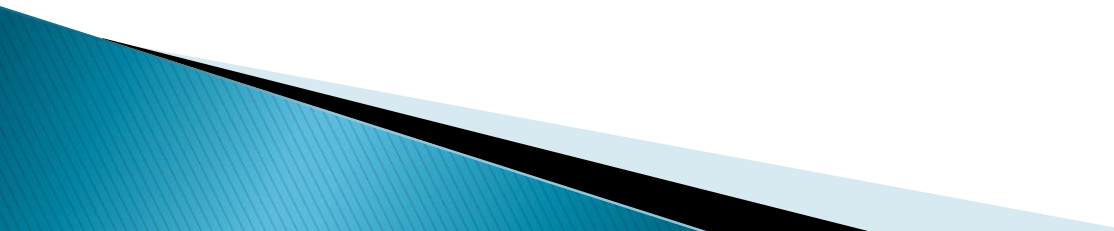
School of Public Health, UT Knoxville
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Rick Mathis, Ph.D.
Director of Research and Analysis
The Ochs Center for Metropolitan Studies
www.ochscenter.org

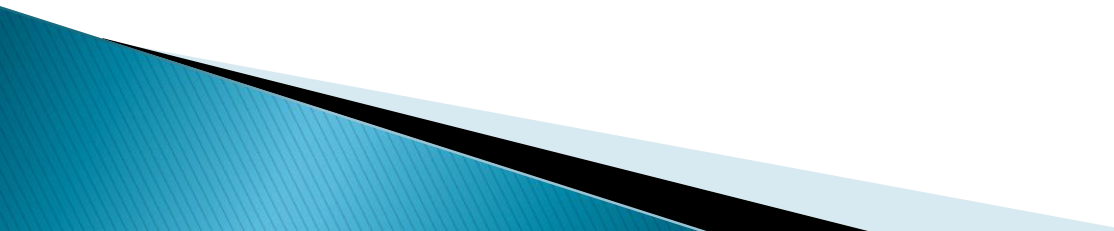
Why does this man no longer work for the government?



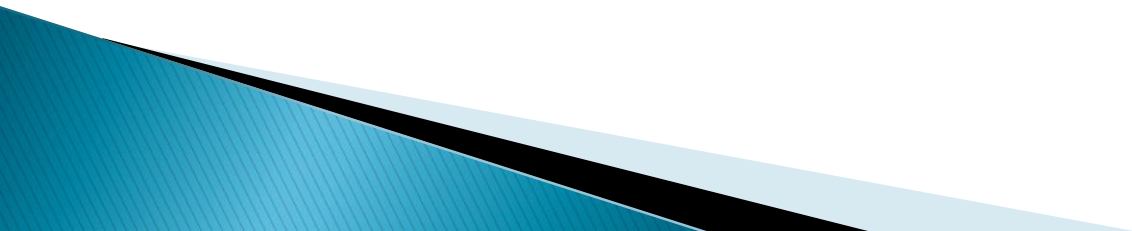
Don Berwick

- ▶ Respected physician dealing with quality and health care
 - ▶ Past President and CEO at Institute for Healthcare Improvement
 - ▶ “The decision is not whether we will ration care—the decision is whether we will ration with our eyes open” (2009)
 - ▶ Stepping down from CMS due to recess appointment
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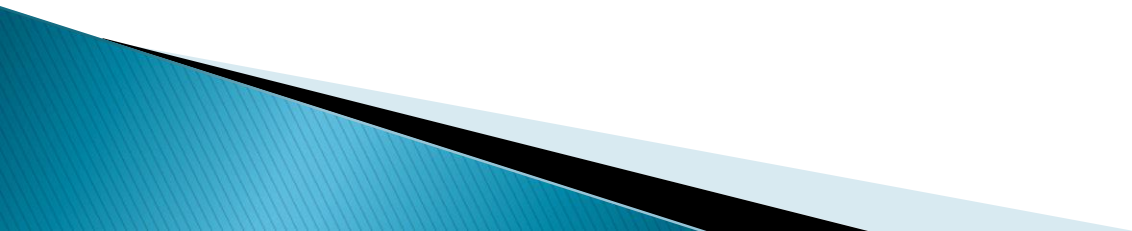
Berwick's 5 principles for change

1. Put patients first
 2. Put the poor and disadvantaged first
 3. Start at scale. “There is no more time left for timidity. Pilots will not suffice”
 4. Return the money—ensure that employers, states, and taxpayers see their health costs fall
 5. Act locally
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Today's Discussion

- ▶ My background
 - ▶ Current issues in health care policy
 - ▶ Consider how philosophers and philosophy can help the discussion
 - ▶ Look at some arguments for how health care should be accessed
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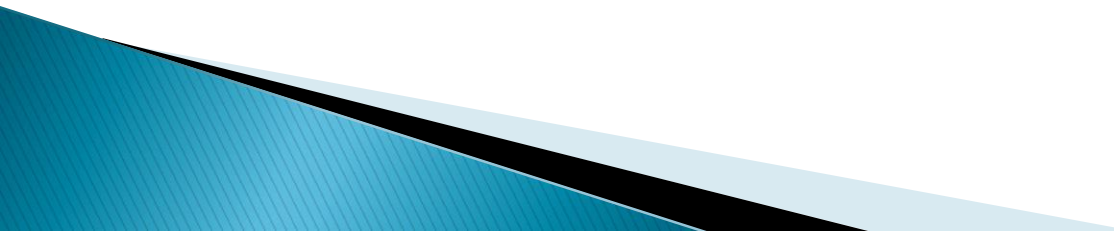
The Current Situation

- ▶ Our current system of health care
 - ▶ Public vs. private coverage
 - ▶ Health care reform has been a concern among the electorate for some time
 - ▶ Health care costs are high and, arguably, unsustainable
 - ▶ Health insurance premiums continue to rise
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Recent Headline

Group health plan premium increases
jumped 9% this year: Kaiser survey
September 27, 2011 – 3:02pm

But . . .

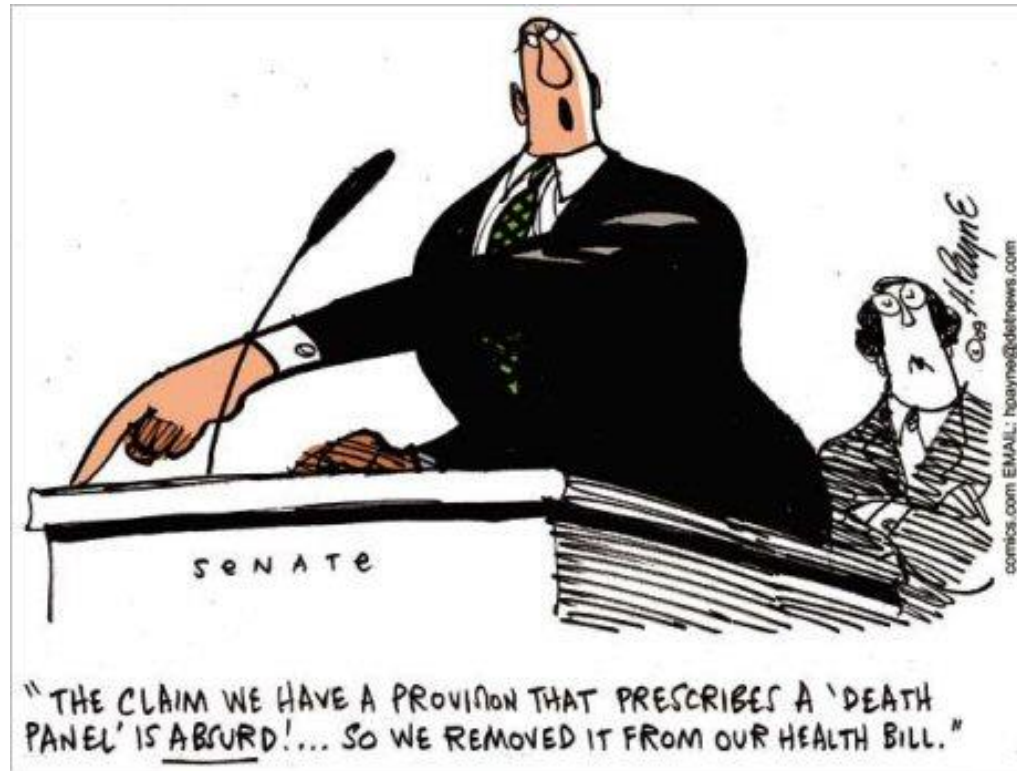
- ▶ People fear the government running the health care system (GOP promise to repeal Obamacare)
 - ▶ People don't trust insurance companies with their health care (Michael Moore, David Shore)
 - ▶ If people fear the government and they fear the market, what's left?
 - ▶ These fears often prevent reasoned discourse
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Obama Care and Death Panels



More on fear (and understanding)





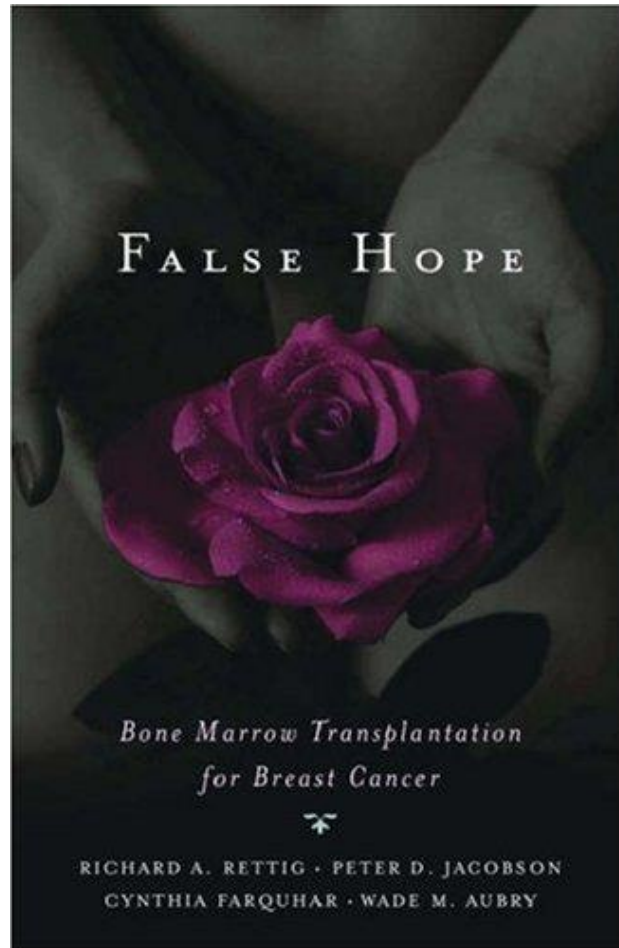
One Example of Government Fear

- ▶ Comparative Effectiveness Research
 - Should studies be undertaken to determine the most effective treatments for conditions?
 - Should costs be considered?
 - How should the information be used?
- ▶ So—let's have the market decide?

That means insurance companies



Insurance fears: Bone Marrow Transplant for Breast Cancer



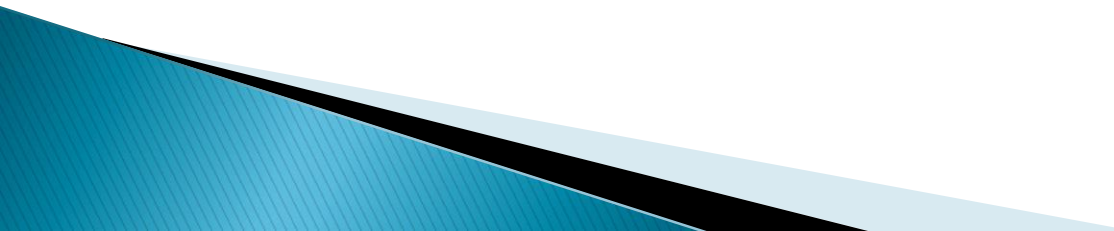
Nataline Sarkisyan

- ▶ 2007 case
 - Insurance company would not cover liver transplant for very ill young woman
 - Reversed itself but she died before the transplant could take place
 - Cost would have been \$450,000

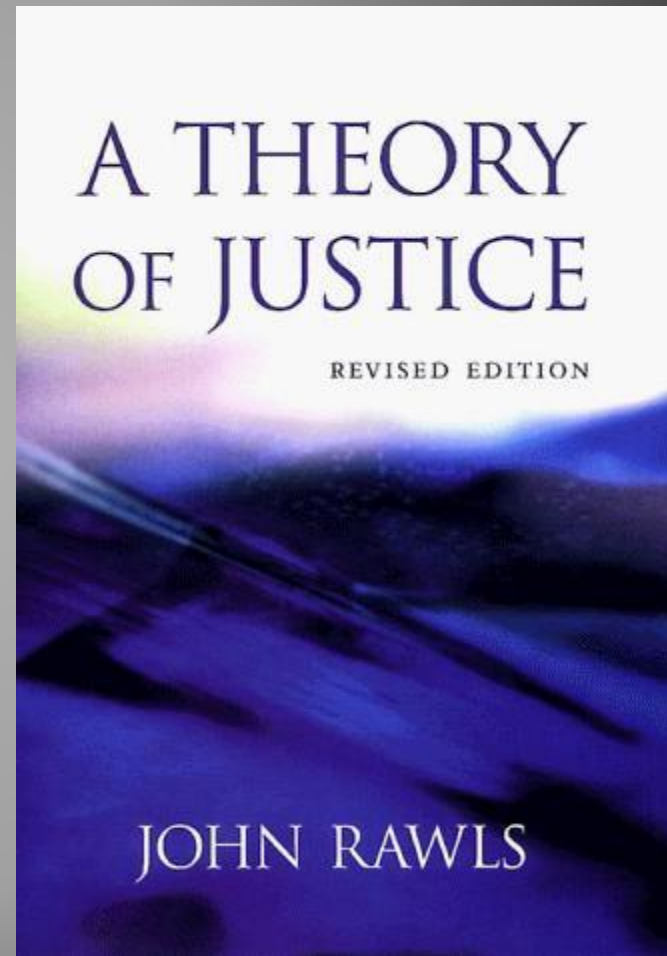
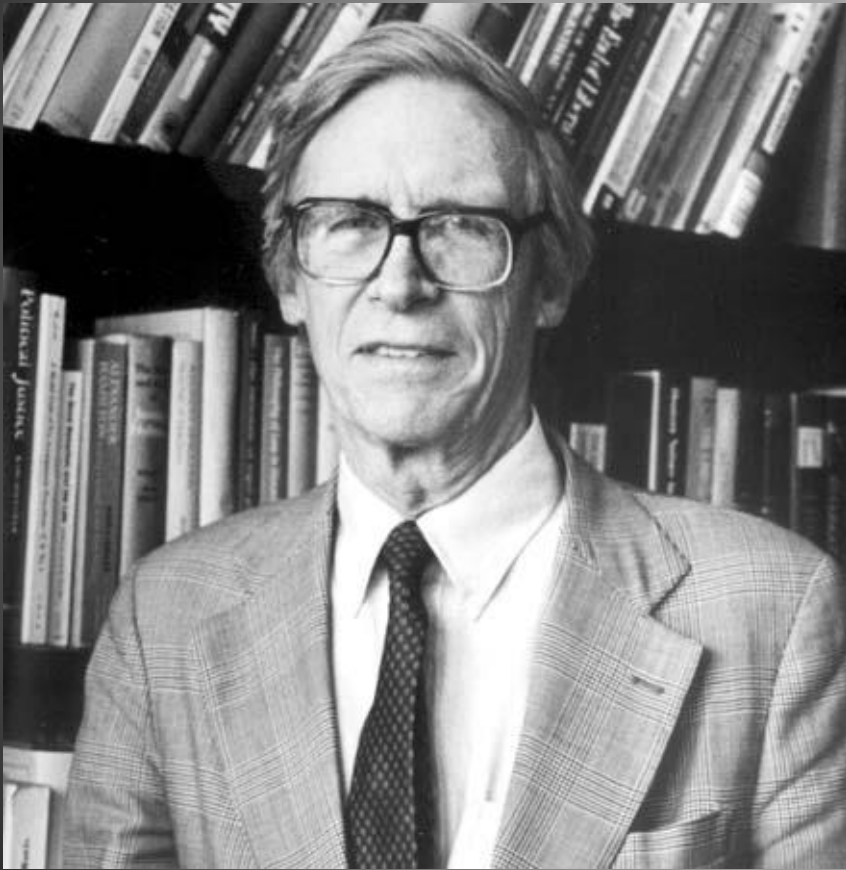
Let's pretend that . . .

- ▶ Health care costs are limited
- ▶ People are not immortal
- ▶ We need some principles to help us make decisions
 - Considered Values
 - Rationality

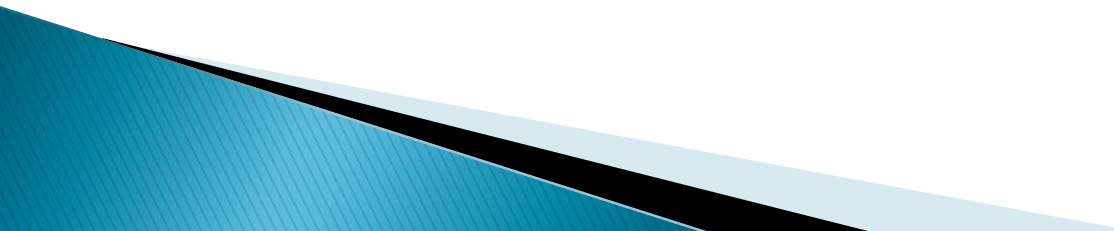
Some Philosophical Traditions

- ▶ Libertarianism – no government intervention; let the market decide
 - ▶ Utilitarian – what is the greatest good for the greatest number?
 - ▶ Kantian – are there principles that we can construct that rational people would agree to?
 - ▶ Deliberative – public dialogue
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John Rawls



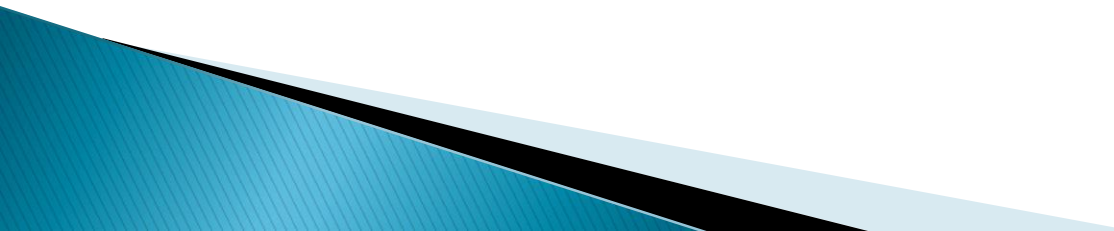
Basic Argument

- ▶ Justice as Fairness
 - ▶ Social Contract Theory
 - ▶ Application of rationality and rational choice; against utilitarianism
 - ▶ Beyond bias of a person's place in society
 - ▶ Veil of ignorance
 - Don't know place social status, etc.
 - Must devise just principles to guide society
 - More guidelines than specific policies
 - Consistent with considered convictions
 - Principles consistent with rational plan of life
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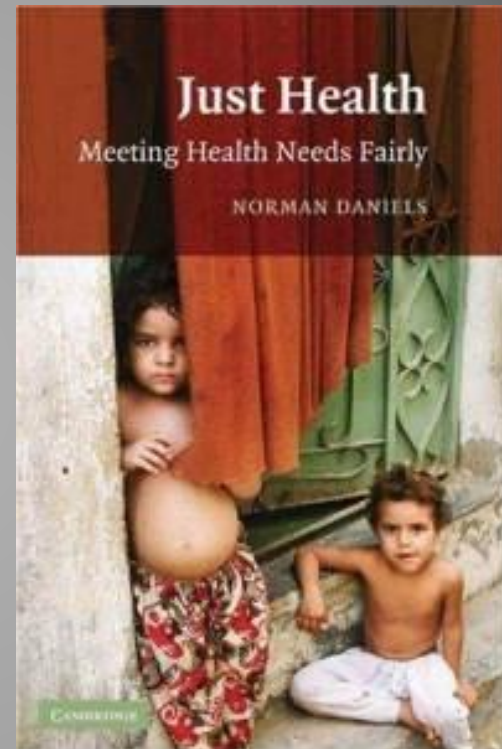
Two Principles of Justice

- ▶ Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.
- ▶ Social and economic inequalities are to be arranged so that they are both:
 - to the greatest benefit of the least advantaged, and
 - attached offices and positions open to all under conditions of fair equality of opportunity.

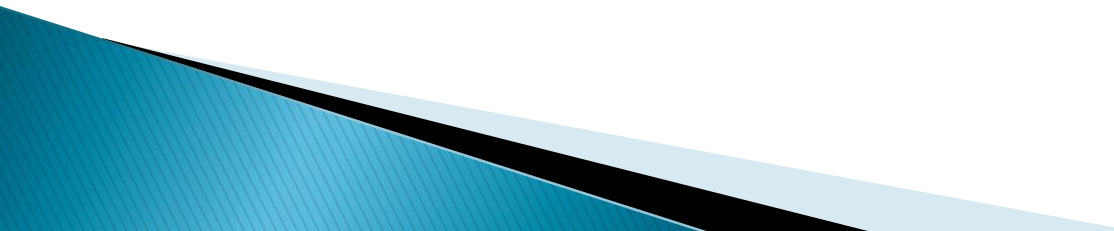
Criticisms of Rawls

- ▶ It's a liberal theory of justice
 - Leftists and Libertarians disagree with approach
 - ▶ A means of justifying already held convictions
 - ▶ Veil of ignorance
 - Not a real situation
 - Minimizes risk – not how people would act
 - ▶ Principles can be hard to implement – who are the least advantaged?
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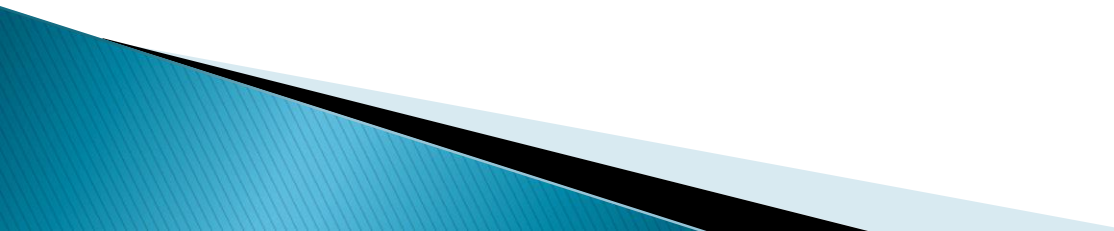
Norman Daniels



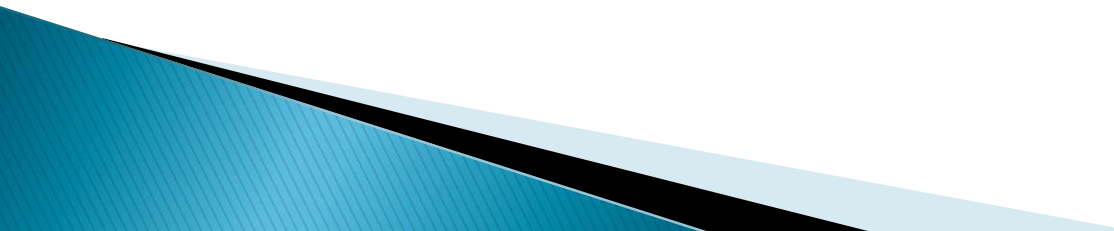
Norman Daniels: Just Health

- ▶ Worked with John Rawls
 - ▶ Extension of Kantian Constructivism
 - ▶ Don't think of health care as a right but as a special opportunity
 - ▶ Ensure that the least advantaged members of society have some level of access to health care
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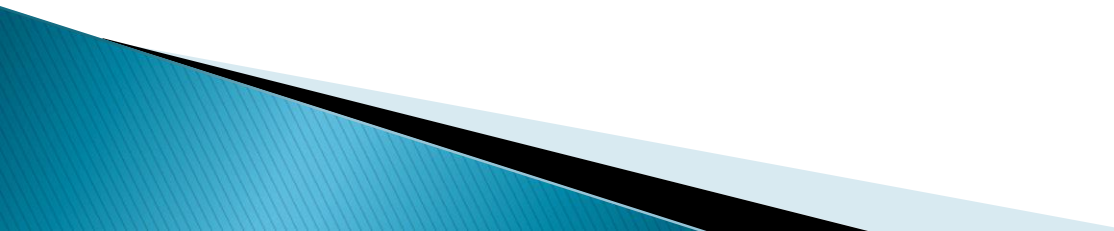
Application to Health Care

- ▶ Health care is not a right but represents a special opportunity
 - ▶ Without it you can't pursue a rational plan of life
 - ▶ We need to ensure that everyone has a certain amount of access to health care
 - ▶ Special consideration for the least advantaged
 - ▶ But still need to work out the details – not concerned with how this happens
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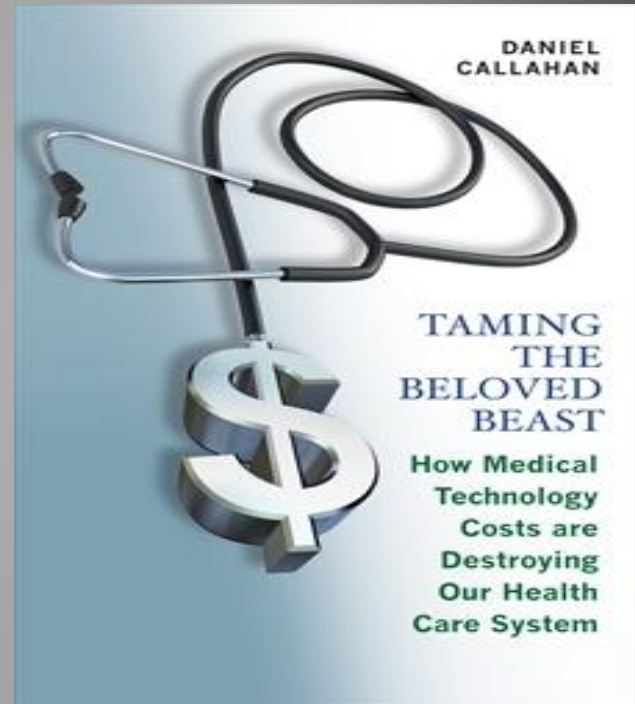
Four Conditions to Meet Health Needs Fairly

1. **Publicity**—decisions on limits to meeting health needs and their rationales must be publically available
 2. **Relevance**—appeals to evidence, reasons, and principles accepted as relevant by fair minded people
 3. **Revision and appeals condition**—opportunities for challenge and dispute based upon new evidence
 4. **Regulative condition**—voluntary or public regulation to ensure first three are followed
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Some Examples

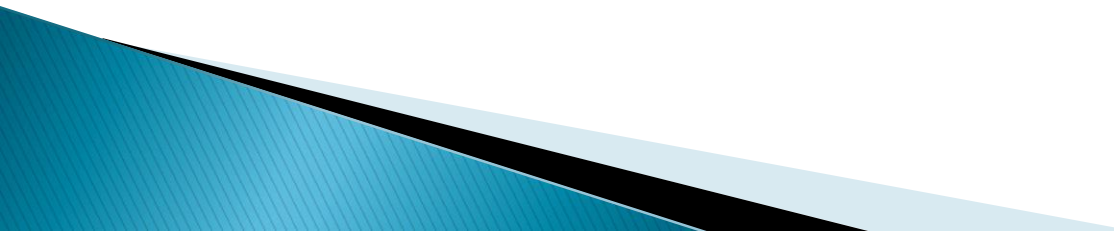
- ▶ Who should have access to care
 - ▶ What should be covered (basic benefits package)
 - ▶ Difficult examples (end-of-life treatment; autism; transplants)
 - ▶ Rationality and publicity key
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Daniel Callahan



Daniel Callahan

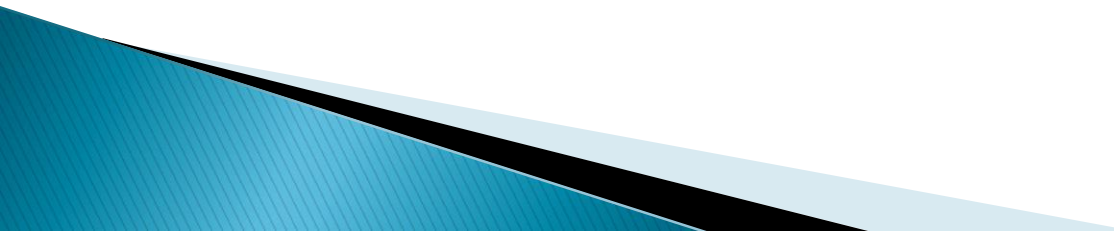
Bioethicists at the Hastings Center

- ▶ *Taming the Beloved Beast: How Medical Technology Costs are Destroying our Health Care System*
 - ▶ Medical Technologies are driving health care costs to unsustainable levels
 - ▶ We are likely going to have to go to a universal system of health care to address this
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Current Situation: Headed toward a three tiered system

- ▶ Extensive access to health care
- ▶ Limited access to health care
- ▶ No access to health care

Callahan's Principles

- ▶ Provide basic care for more patients through preventive health and primary care
 - ▶ Make it difficult to receive higher level, more expensive care, such as expensive cancer treatments and heart repairs
 - ▶ Our priorities should begin with children, remain high with adults during their midlife, and then decline with the elderly
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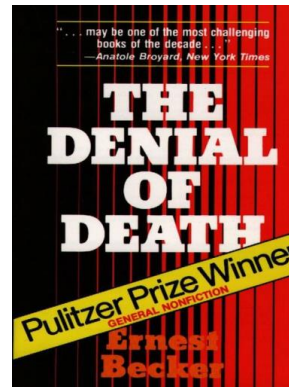
Does this fit with our current view?

A quick and dirty summary of the US Government: It's a giant insurance company, mainly serving old people, that also has an army.

--Paul Krugman

Barriers to Callahan


- ▶ A culture, a medical profession, a medical industrial complex, and an enthusiastic public in love with medical technology
- ▶ My care vs. societal impact (“European” values versus a culture of individualism)
- ▶ Skepticism towards the government
- ▶ The Denial of Death
- ▶ The “r” word



Basics of the Argument

- ▶ Utilitarian?
- ▶ Communitarian?

Basic questions we need to ask

- ▶ What do we value in a world of limited resources?
 - ▶ Should health care be more available to young or old; rich or poor; employed and unemployed?
 - ▶ What are we paying for now (ER visits)?
 - ▶ Is it okay for people to be uninsured?
 - ▶ What do cases such as Nataline's tell us?
 - ▶ Should we factor in health habits and costs?
 - ▶ Is a mandate to purchase insurance just?
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Conclusion

- ▶ Health and health care is a volatile issue
 - ▶ Deep distrust of the players involved
 - ▶ Thinking about justice can help
 - ▶ Costs will be a consideration
 - ▶ Libertarian leaning positions could prove interesting
 - ▶ We need reasoned debate
 - ▶ Further study: Michael Sandel on Justice
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