Professional Ethics and Organ Transplantation: Analysis for Action

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Objectives

1. Understand the relationship between ethics and health care
2. Explain the unique ethical complexities of transplant medicine
3. Recognize ethical challenges in transplant medicine

The Professional-Patient Relationship

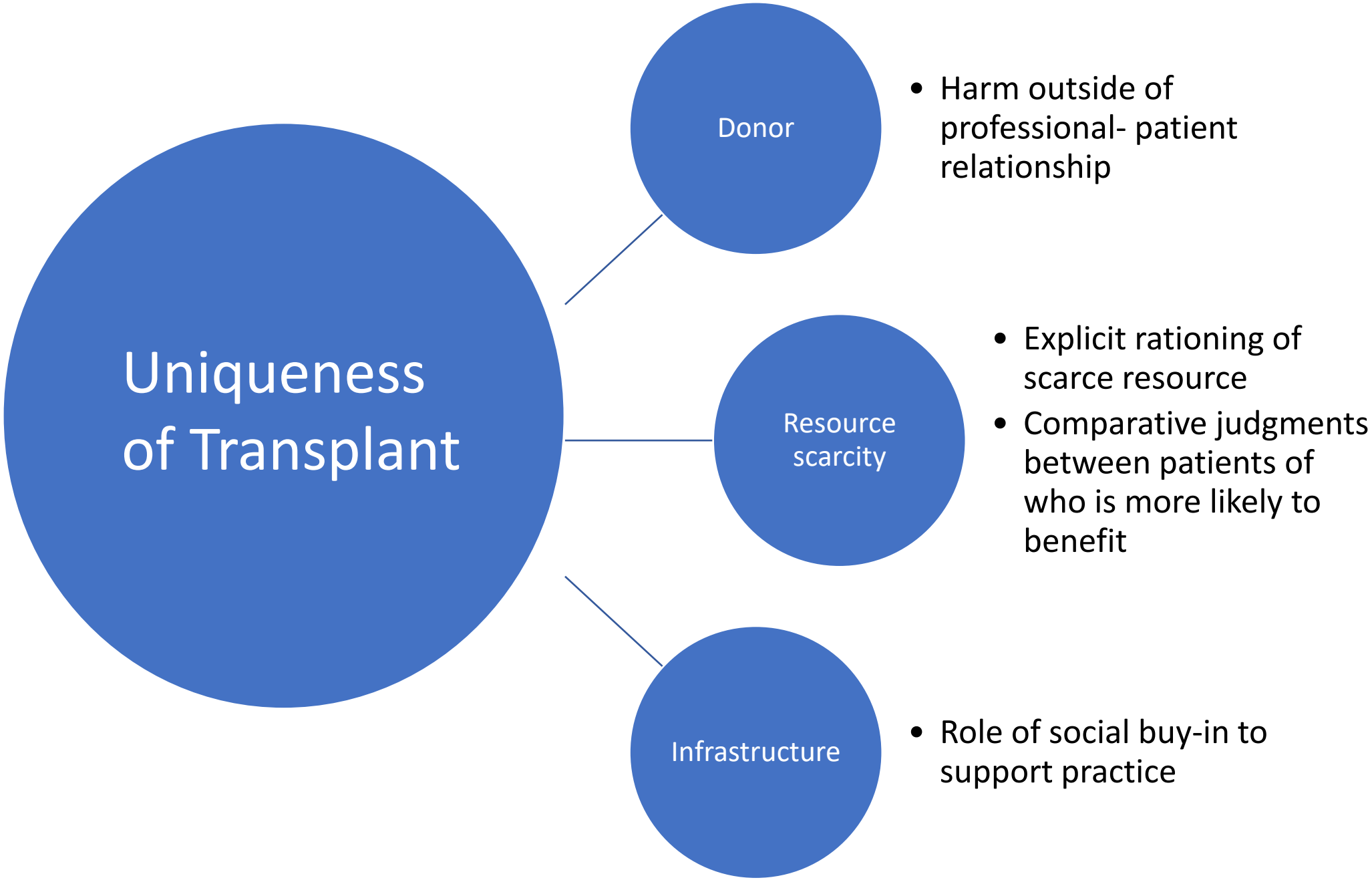
- Clinical encounter grounded in relationship between persons
  - One person (the patient) seeking help in meeting basic need
  - Another person (the professional) presenting themselves as able to meet that need
- Medicine = inherently ethical profession
  - Grounded in *commitment* to provide care to those who seek it
  - “In the usual course of a therapeutic relationship, clinical care and ethical imperatives run smoothly together” (Jonsen et al, 1)

Disruptions to Care

- Communication breakdown
- Lack of patient participation
- Insufficient trust
- Differing values
- Clinical or moral uncertainty
- Conflicting commitments

- “Hard cases” are those that challenge our assumptions about the relationship and the activity of care

Abstract Principles		Clinical Expressions
Beneficence	→	Meeting patients' health needs
Respect for autonomy	→	Attention to individuality
Non-maleficence	→	Cultivating and upholding trust
Justice	→	Advocacy for patient


Uniqueness of Transplant
Donor
Resource scarcity
Infrastructure
• Harm outside of professional- patient relationship
• Explicit rationing of scarce resource
• Comparative judgments between patients of who is more likely to benefit
• Role of social buy-in to support practice

UTILITY

"The principle of utility, applied to the allocation of organs, thus specifies that allocation should maximize the expected net amount of overall good (that is, good adjusted for accompanying harms), thereby incorporating the principle of beneficence (do good) and the principle of non-maleficence (do no harm)."

"Ethical Principles in the Allocation of Human Organs". https://optn.transplant.hrsa.gov/resources/ethics/ethical-principles-in-the-allocation-of-human-organs/

JUSTICE

"Justice, as used here, refers to fairness in the pattern of distribution of the benefits and burdens of an organ procurement and allocation program. Thus, we are concerned not exclusively with the aggregate amount of medical good that is produced, but also with the way in which that good is distributed among potential beneficiaries."

"Ethical Principles in the Allocation of Human Organs". https://optn.transplant.hrsa.gov/resources/ethics/ethical-principles-in-the-allocation-of-human-organs/

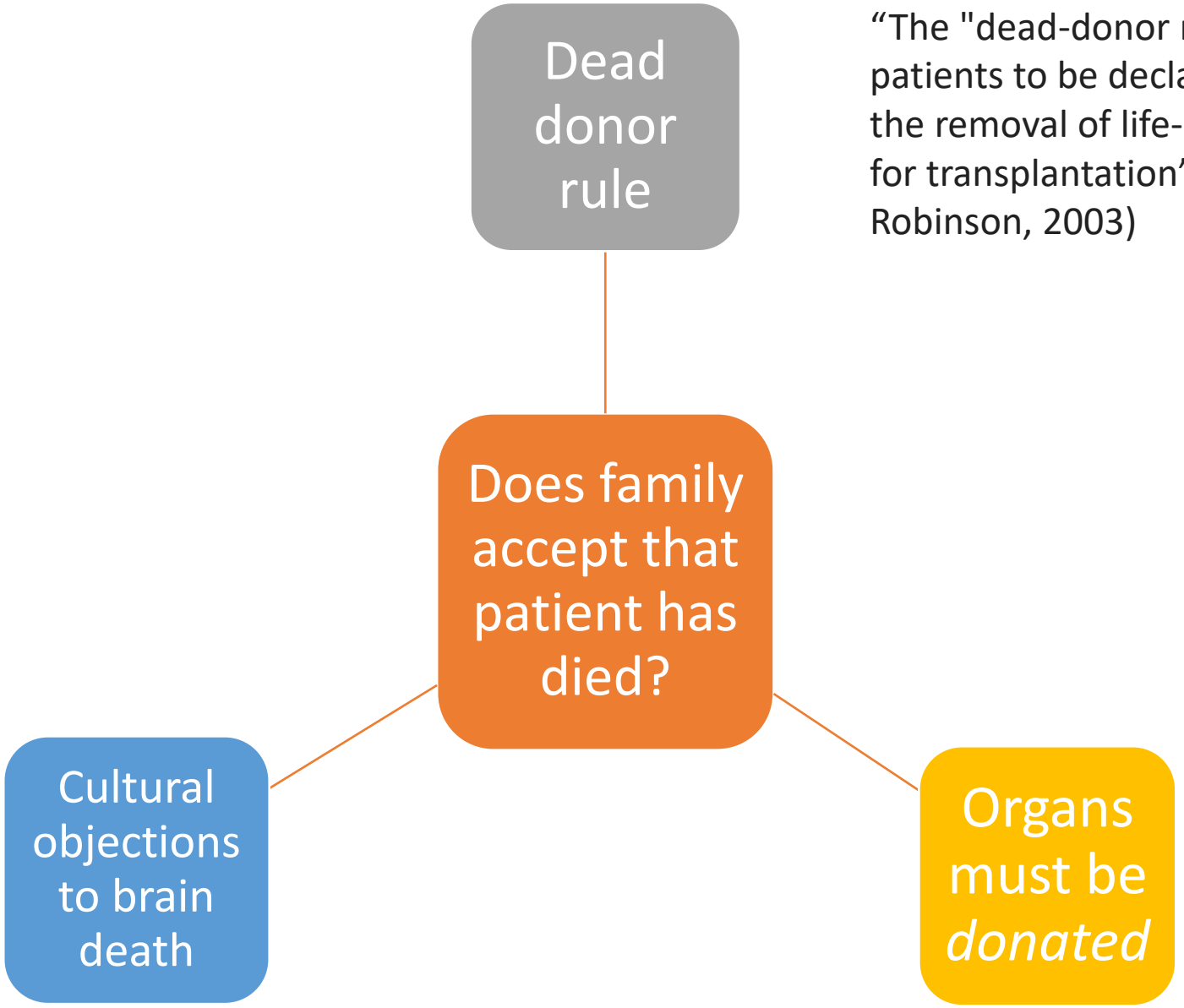
RESPECT FOR PERSONS

"This principle holds that we owe to humans a respect that they should be treated as "ends in themselves," not merely as means. This principle embraces the moral requirements of honesty and fidelity to commitments made. Most importantly, respect for persons embraces the concept of respect for autonomy."

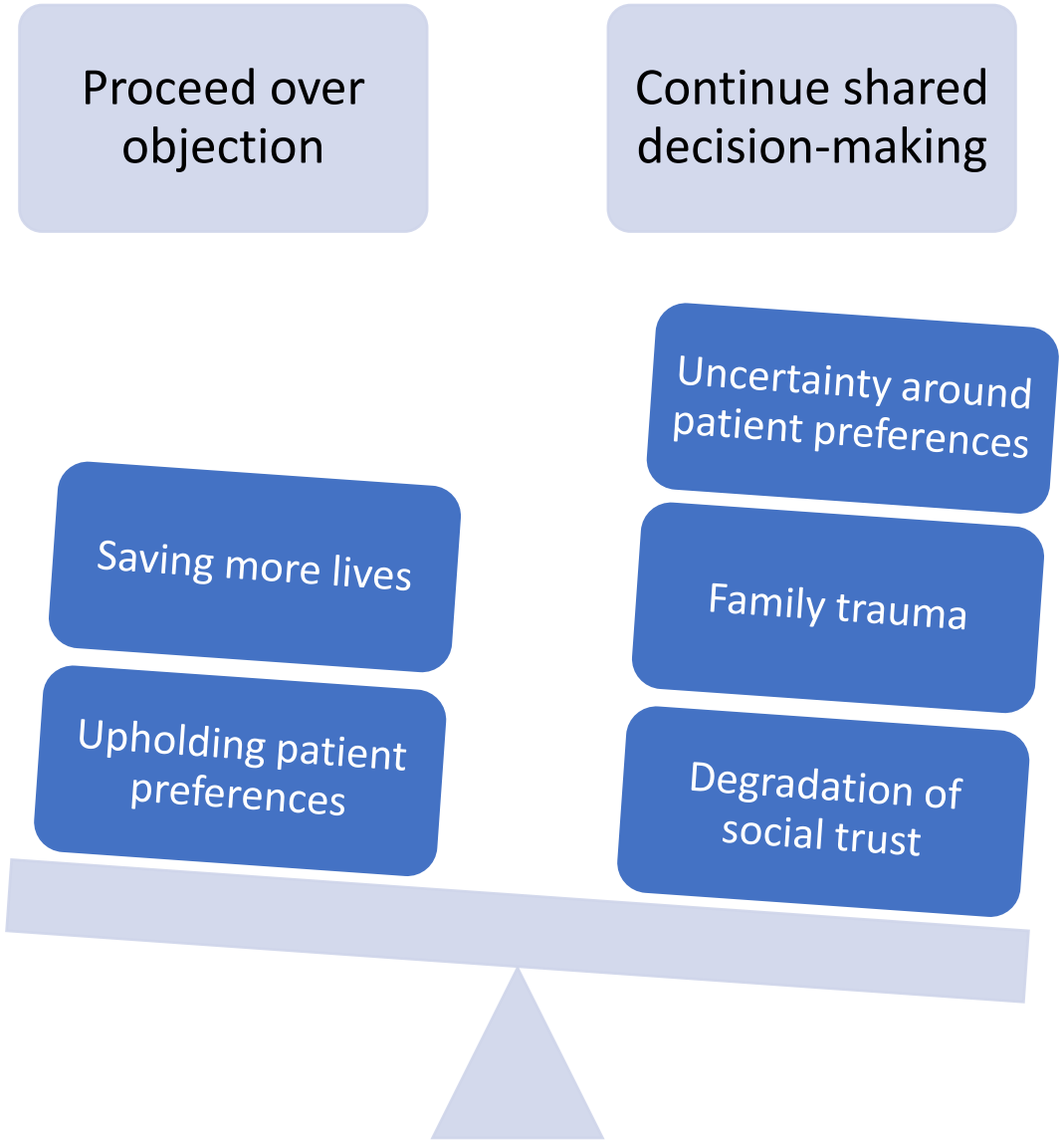
"Ethical Principles in the Allocation of Human Organs". https://optn.transplant.hrsa.gov/resources/ethics/ethical-principles-in-the-allocation-of-human-organs/

Case #1: Family Dissent to Donation

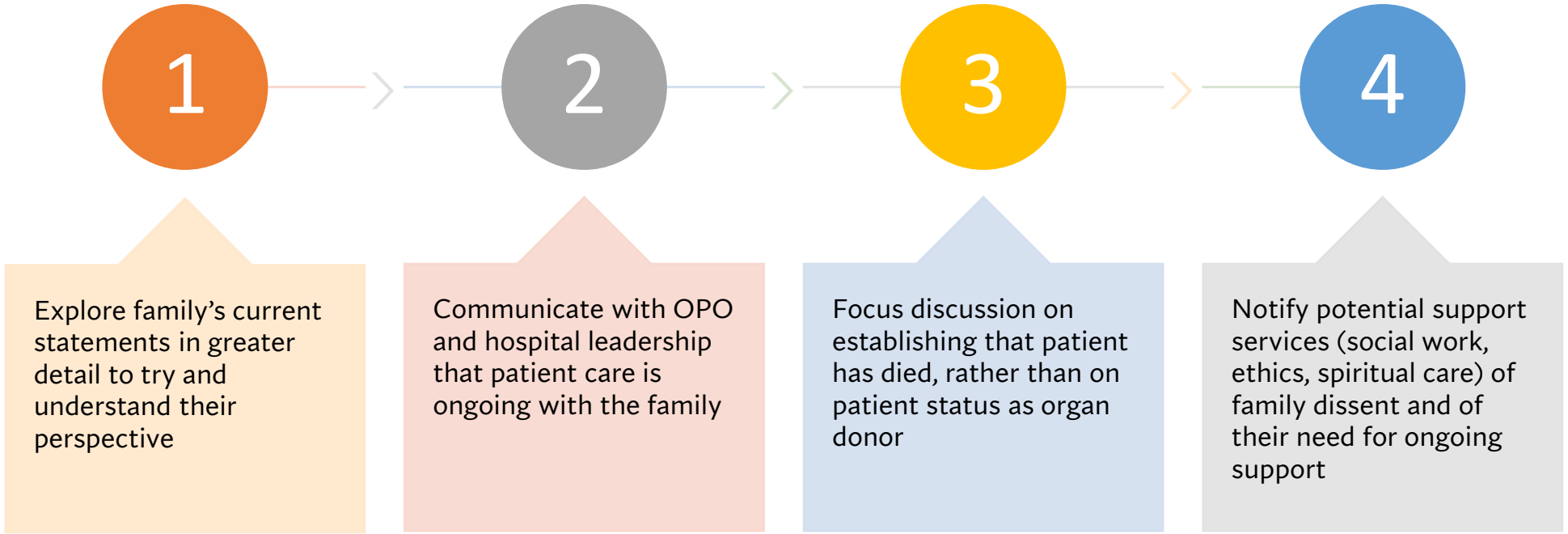
- 23M admitted after GSW to face and neck s/p CPR with ROSC and intubated in field
- 12 hours after admission, CT scan showing worsening swelling of brain
- Patient formally assessed and declared dead by neurological criteria (“brain dead”)
- Drivers’ license indicates individual is registered organ donor
- Local OPO determines individual is good candidate for procurement
- Family is notified of situation and refuses donation because they “want to give him time to see if he will wake up”



"The "dead-donor rule" requires patients to be declared dead before the removal of life-sustaining organs for transplantation" (Truog and Robinson, 2003)


Proceed over objection
Continue shared decision-making
Saving more lives
Upholding patient preferences
Uncertainty around patient preferences
Family trauma
Degradation of social trust

Next Steps for Action



Case #2: Social Contraindications

- 45-year-old inmate serving life sentence for double homicide with EtOH cirrhosis and hep C with MELD
- Admitted to hospital for altered mental status
- Prison staff asks for patient to be considered as potential liver transplant
- No obvious medical contraindications
- Team has concerns about incarceration, drug and alcohol use, and compliance

AM Cameron, AK Subramanian, MS Sulkowski, et al. Should a prisoner be placed on the organ transplant waiting list? Virtual Mentor. 2008;10(2):88-91.

Rationing as Threat to Care?

- Apparent threats posed by rationing
  - Undermines respect for patient choice
  - Changes goals of healthcare to saving as many lives as possible
  - Withholding LST from patients who may benefit from its use and who want it

Question: does rationing itself thwart the ability to enter into a caring relationship?

Some Comfort

- Mere apparent threats:
  - Patient choice: rationing does not take away someone's freedom to choose
  - Goals of healthcare still oriented towards optimizing benefit for each patient to the greatest extent possible
  - Inability to offer LST in some circumstances does not mean we are wholly incapable of meeting care needs
- Rationing = attempt to achieve good medical outcome as best we can *given* constraints

BUT….

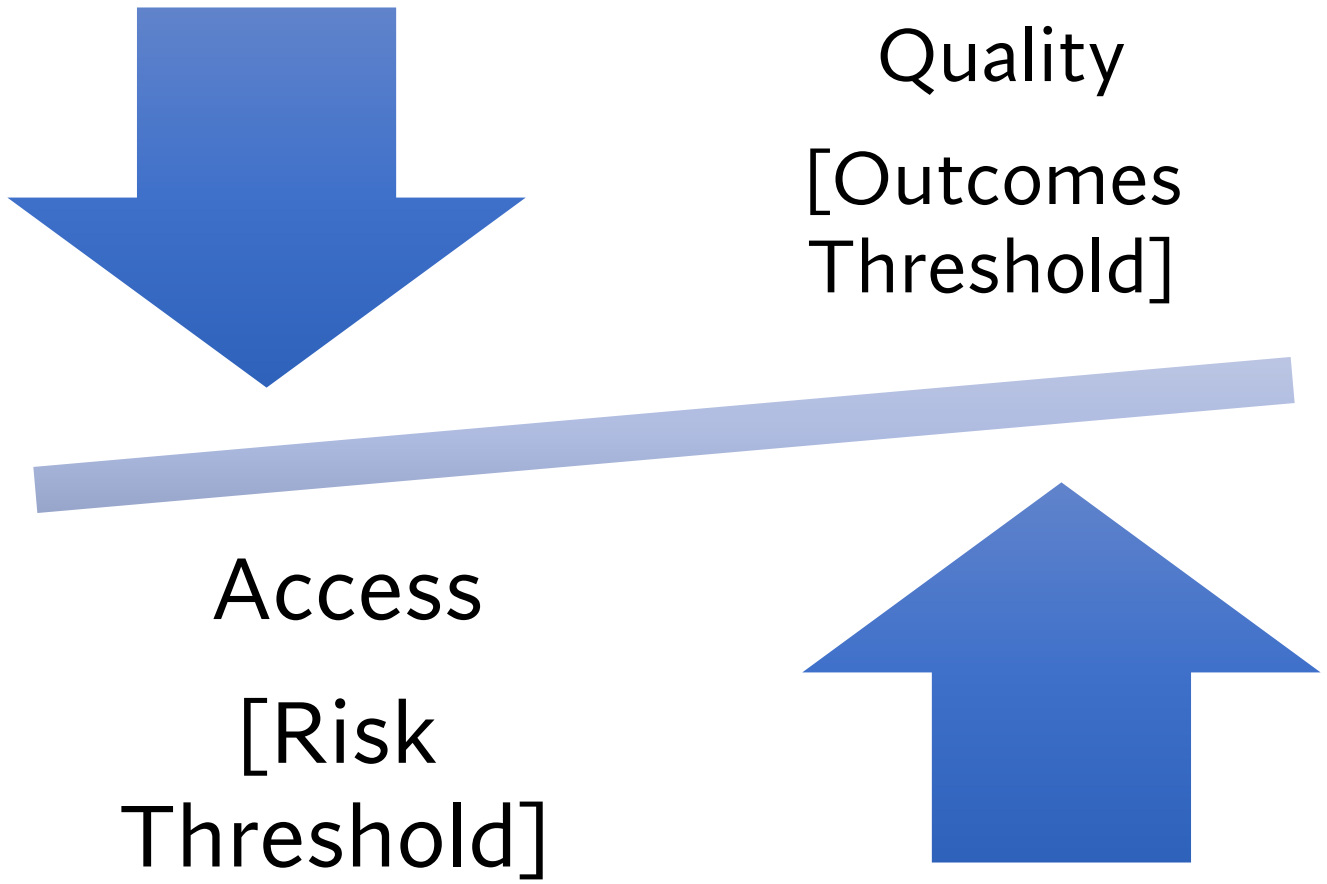
"When we knowingly and deliberately refrain from meeting some legitimate needs, we had better have justification for the distributive choices we make."

Norman Daniels, "Rationing Fairly: Programmatic Considerations," *Bioethics*, 1993

Fair Chances/Best Outcomes

"How much should we favor producing the best outcome with our limited resources?"

Norman Daniels. "Meeting the Challenges of Justice and Rationing". *Hasting Center Report,* July-August 1994. p. 27


Quality
[Outcomes Threshold]
Access
[Risk Threshold]

Fair Chances/**Best Outcomes** Problem

BENEFITS

Preference for best outcome:

- Reduces risks of harms and burden on patients
- Reduces risk of disproportionate costs
- Protects patients from rash experimentation or innovation

COSTS

Preference for best outcome:

- Denies others chance at benefit
- Denies higher risk patients and higher risk organs chance acceptable outcome
- Can discourage innovation

Fair Chances/Best Outcomes Problem

BENEFITS

Preference for fair chance:

- Increase recipients' chance at acceptable outcome
- Increase donor chance at providing some benefit to recipient
- Increase need for innovation that leads to progress

COSTS

Preference for fair chance:

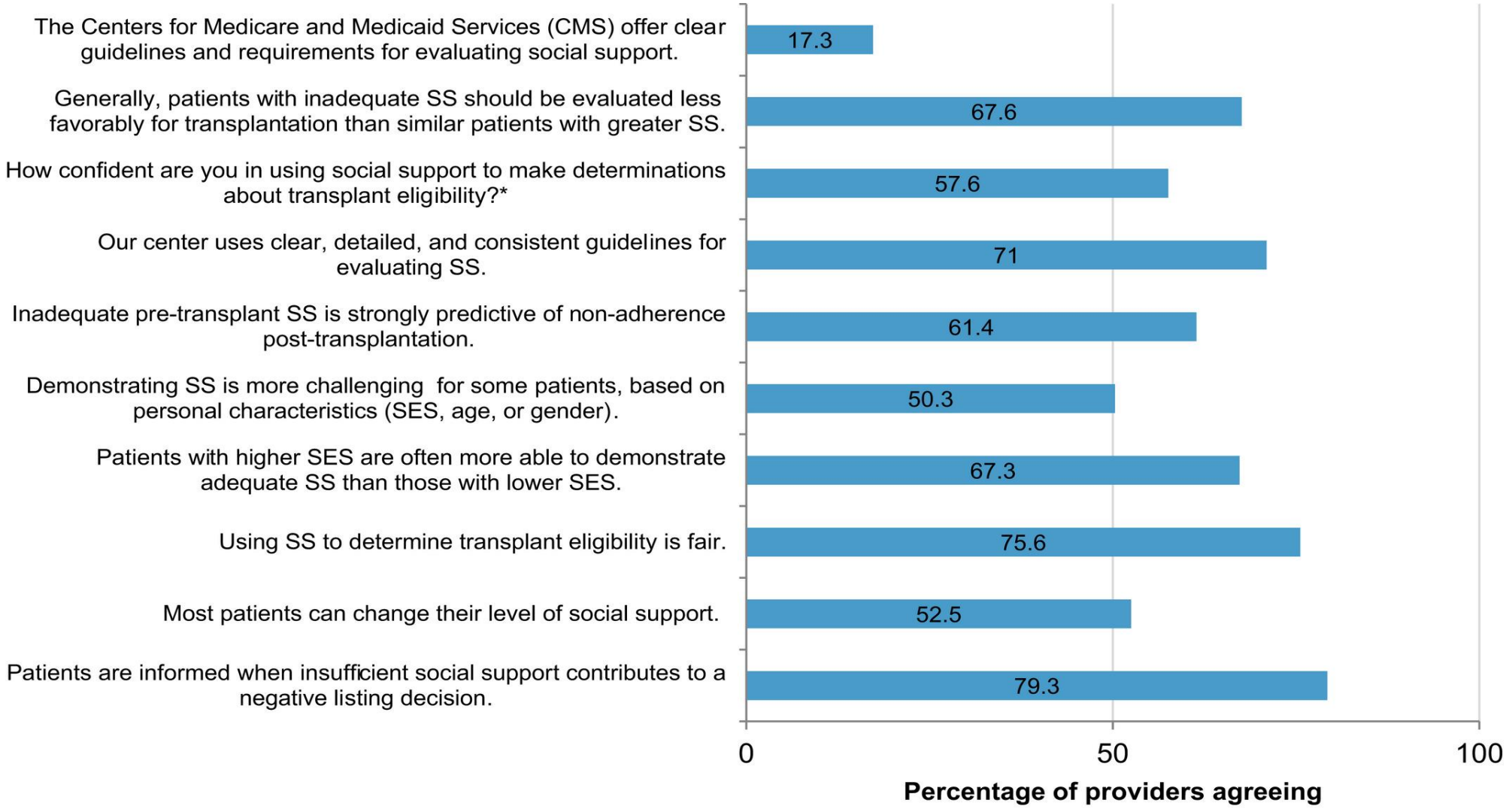
- Increased burden and harm for most vulnerable recipients
- Increased costs for complicated patients with poor outcomes
- Decreased trust in transplant programs

Social Contraindications

Intuitively relevant for likely success of transplant

Introduce high risk of bias

Excluding patients from transplant due to social support: Results from a national survey of transplant providers



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By topic
By organ
Member evaluation
Improvement

Convicted Criminals and Transplant Evaluation

Reviewed in 2015

Ethics Committee Position Statement [1]

Punitive attitudes that completely exclude those convicted of crimes from receiving medical treatment, including an organ transplant are not ethically legitimate. The more difficult question is whether one's status as a convicted criminal should be a factor in reaching a decision regarding who should be eligible to obtain an organ transplant. In other words, should convicted criminal status be considered in evaluating individuals for organ transplantation?

“The UNOS Ethics Committee opines that absent any societal imperative, one's status as a prisoner should not preclude them from consideration for a transplant; such consideration does not guarantee transplantation. Acknowledged are medical and non-medical factors that may influence one's candidacy for transplant however prisoner status is not an absolute contraindication.”

UNOS Ethics Committee, “Convicted Criminals and Transplant Evaluation”, Position Statement, reviewed 2015, https://optn.transplant.hrsa.gov/professionals/by-topic/ethical-considerations/convicted-criminals-and-transplant-evaluation/

Ethical Management of Uncertainty

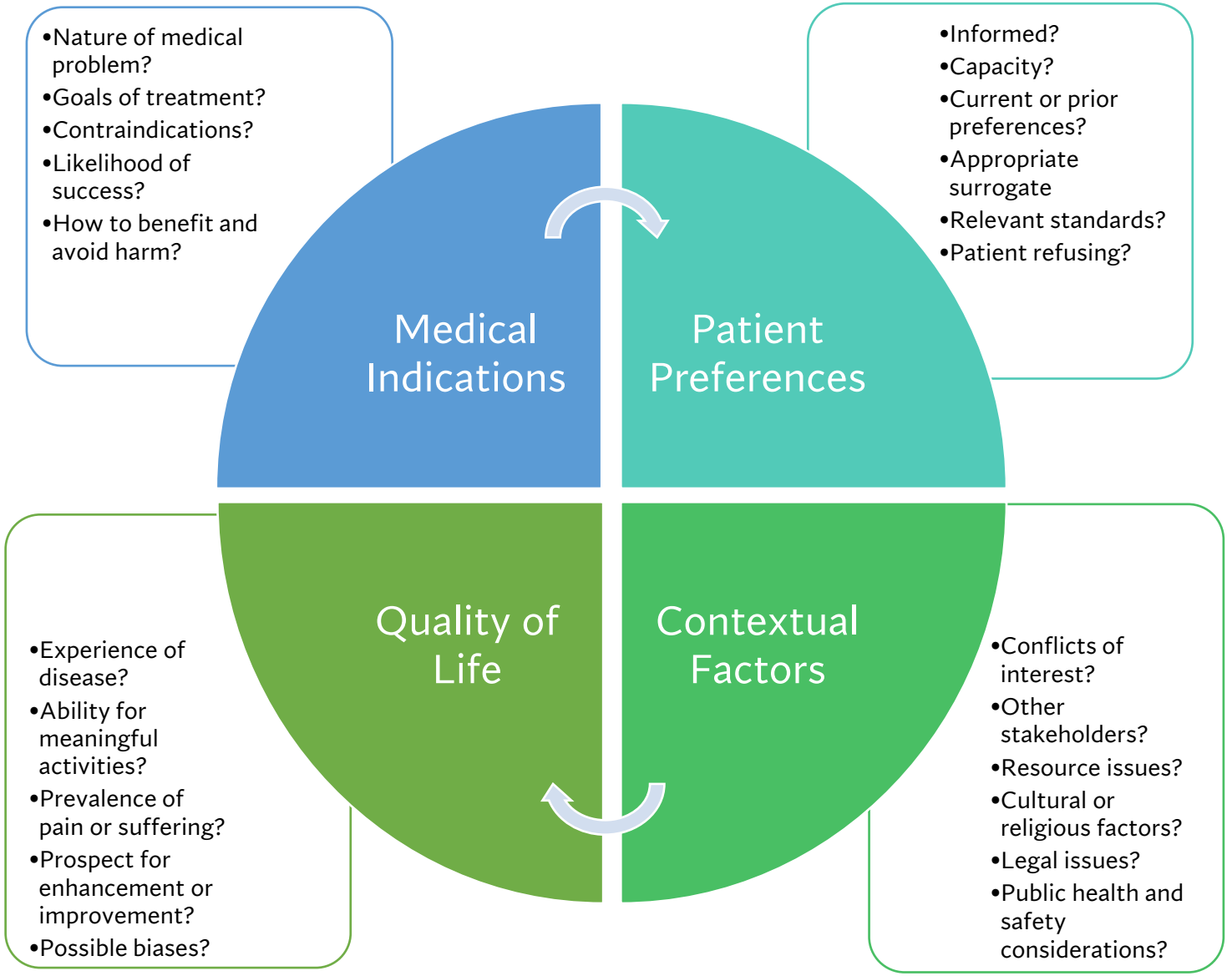
- Establishing clear local standards based on available national guidelines and institutional capabilities
- Avoiding categorical refusals based simply on factors about patient social status
- Ameliorating and addressing social contraindications directly where possible
- Collecting data about outcomes and updating standards accordingly

Four-Box Method

Developed by Jonsen, Siegler, and Winslade

Highly useful for fact-finding and sorting information

Provides good foundation for ethical reasoning



Feedback!
Transplant Ethics
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