

Philosophy 459: Advanced Seminar in Ethics

Rationing in the Face of Covid-19

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Credits: 3

Meeting time

Wednesdays 4:30-7:30

OFFICIAL COURSE DESCRIPTION

Prerequisites: Two courses in philosophy and instructor's permission

Fulfills: Philosophy Dept. Major Ethics Requirement

Office Hours:

Because this course is on-line only, there will be no scheduled office hours. Students are encouraged to post questions to the "Questions for the instructors" Canvas discussion page, or to email one of the instructors.

LEARNING OUTCOMES

1. Ability to think critically about arguments.
2. Ability to interpret complex texts accurately and analyze them logically.
3. Ability to communicate precisely and concisely in both writing and speech.
4. Familiarity with rationing problems concerning health care, with special reference to vaccines and treatments for Covid-19.
5. Interpretative charity and intellectual honesty, which includes appropriate attribution to others of their ideas, and recognition and frankness about the limitations of one's own ideas.

COURSE REQUIREMENTS AND GRADING

Your grade will depend on homework (10%), a class presentation that is then revised and submitted as a paper (30%), a term paper (50%), and contributions to class discussion (10%). Attendance is required. The various assignments will be assigned numeric grades, which will be converted to a final letter grade according the following rubric:

A	B+	B	C+	C	D	F
90-100	85-89.9	80-84.9	75-79.9	70-74.9	60-69.9	< 60

CLASSES AND HOMEWORK Our expectation is that students will log in to each week's seminar having done the assigned readings, and that they will be engaged with the course material. More specifically, we expect students to come to almost every class with a brief question (no more than 80 words) concerning the readings. **Please make sure to do the reading for the first class**

and submit a question for it. These questions must be posted on the Canvas discussion page for the specific class no later than 6 p.m. the night **before** the class begins. Seminars will typically begin with discussion of some of your questions. You will receive full credit on the homework (10 points) if you post satisfactory questions for all but 2 homework assignments. After that, your grade will be diminished by 1 point for each missing or unsatisfactory question. Because your questions are supposed to help structure class discussion, late postings of questions are not accepted. A satisfactory question is both clearly written and engages with the assigned readings. A question such as “What does Norman Daniels think?” would not count as satisfactory. It is hard to be brief and crystal clear – but enormously valuable to the other members of the class.

SEMINAR PRESENTATIONS: Beginning with the third seminar meeting (February 3), student(s) will give a 10-minute oral presentation to the seminar developing some issue related to the readings for that week. A written version must then be submitted via Canvas no later than the following seminar. Late papers will be penalized, losing 2% of their point score for every day they are late. The written version is limited to no more than 2,000 words. The presentation and paper count for 30% of your semester grade.

TERM PAPER The term paper counts for 50% of your semester grade. It should be about 3,000 words (or 10 double-spaced pages) and must be submitted via Canvas by the last meeting of the seminar, April 28. Your topic must be approved by one of the instructors. Suggestions for term paper topics will be distributed later.

SEMINAR DISCUSSION: Contribution to seminar discussion counts for 10% of your semester grade.

FINAL EXAMINATION: There will be no final examination.

ATTENDANCE AND ZOOM ETIQUETTE:

- Attendance is mandatory. Unexcused absences will lower your semester grade by 4 points for each seminar missed.
- During the seminar, students should keep their video on (unless asked not to), and they should be seated, awake, and not conversing with others outside of the seminar either in person or by phones. Cell phones should be off. If you have pets, please try to keep them where they will not be distracting.

TEXTS: All of the readings will be available on the Canvas site for the course

RULES, RIGHTS & RESPONSIBILITIES

Students must be respectful of each other. This means that you should not interrupt students when they are speaking or fail to give polite attention to what they are saying. Everyone needs to work hard and to respect one another to make this class successful. Please do your part. Inappropriate behavior interferes with your own learning and distracts and demoralizes others.

Note: We understand these are difficult times for students. If you experience problems with course requirements, don't hesitate to contact an instructor.

ACADEMIC INTEGRITY

By enrolling in this course, each student assumes the responsibilities of an active participant in Rutger's community of scholars in which everyone's academic work and behavior are held to the highest academic integrity standards. Academic misconduct compromises the integrity of the university. Cheating, fabrication, plagiarism, unauthorized collaboration, submitting a paper or a portion of a paper written for another class, and helping others commit these acts are examples of academic misconduct, which can result in disciplinary action. This includes but is not limited to failure on the assignment/course, disciplinary probation, or suspension. For more information, refer to Rutger's Academic Integrity Policy:

<http://nbacademicintegrity.rutgers.edu/home/academic-integrity-policy/>

Note that you need not intend to plagiarize in order to do so. You are guilty of plagiarism if you represent the ideas of others as your own or if you present, as new, ideas you derived from an existing source regardless of intending to do so. All sources and assistance used in preparing your papers must be precisely and explicitly acknowledged. If you have any questions about what constitutes plagiarism, please talk with an instructor. Ignorance of what constitutes plagiarism is not a defense. It is your responsibility to be sure. The web creates special risks. Cutting and pasting even a few words from a web page or paraphrasing material without a reference constitutes plagiarism. If you are not sure how to refer to something you find on the internet, you can always give the URL. It is generally better to quote than to paraphrase from material on the web, because in the absence of page numbers it can be hard to find passages that are paraphrased rather than quoted. The *minimum* penalty for plagiarism in this course -- even of just a phrase -- is a zero on the assignment.

In our experience, plagiarism usually happens because it is 3 a.m. on the morning when a paper is due. Your current draft is going nowhere. You're exhausted, increasingly desperate and not at your moral or intellectual best. And you've come across an obscure web page that says pretty much what you've been trying to say. And ... well you can fill in the rest, including what happens when you get caught. This is the time to stop and go to bed. Much better to talk with us and get some help, take the penalty for not handing the paper in on time, and write a paper that gives you some satisfaction and that doesn't risk expulsion from the University.

ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES

Students with disabilities requesting accommodations must follow the procedures outlined at the [Office of Disability Services](#). We hope to make this course as accessible as possible to anyone with a disability. Please let us know as early in the course as you can if you need accommodations in the curriculum, instruction, or methods of assessment in this course to enable you to participate fully. We will maintain confidentiality of any information you share with us.

DIVERSITY, INCLUSION AND ETHICAL CHALLENGES

You may read views that challenge your beliefs. There will be (and should be) lots of disagreement and respectful argument. We welcome and encourage conflict among ideas. Philosophy thrives on disagreement, and this course will may present you with arguments that threaten some of your fundamental convictions. (If others do not challenge us, we will never find our mistakes or the real wisdom in what we already believe.) Disagreement is not disrespect. To

take issue with the opinions of others shows a kind of respect in treating their views as worth discussing.

CONTENT INTRODUCTION:

This is a seminar devoted to the moral questions concerning the distribution of health care. Because health care has the potential to transform individual lives and the deprivation of health care can disable and kill, who gets what health care is a pressing problem, obvious in the case of Covid-19, in which vaccines and treatments will be in short supply, at least for a while. When there is not enough to go around, some people will not receive health care that is expected to be beneficial to them. Deciding who is and who isn't to be treated – that is, rationing – is unavoidable. How should it be done? Which distribution of health care saves the most lives or avoids the most illnesses? Which distribution is most respectful of individual values and choices? Which distributions are fair? Are some deaths worse than others? If individuals are careless of their health, should that affect their priority? These are some of the questions the seminar will tackle.

In tackling these questions, the seminar will examine work in applied ethics and in background ethical theory by philosophers and health economists. It will make use of the draft of a book by Dan Hausman, a number of essays by Frances Kamm, as well as articles and book chapters by such thinkers as Peter Singer, Peter Ubel, Hilary Greaves, and John Broome.

DETAILED GOALS:

1. The main goal is to introduce students to an array of ethical problems that arise in the attempt to distribute health care to members of the population in the best possible way. What is “best” is controversial. There is some agreement that health-care resources should, other things being equal, aim to make people better off and free them to engage in the whole range of human activities and that in pursuing these aims, health care should be distributed fairly and respectfully. It is difficult to say what all this means concretely, and it is also difficult to establish priorities among these different ethical considerations.
2. Right now the world is confronting the worst pandemic of the modern era. Shortages of protective equipment, medicines, and the gradually increasing availability of vaccines post immediate life and death problems. We aim to consider to what extent philosophical reflection on health-care allocation can guide policy in these difficult times.
3. One cannot address the specific moral questions that arise concerning how to allocate health care without considering more general questions concerning the foundations of ethics. Although these will not be our main concern this semester, they cannot be avoided; and this course should help you to think about them

WHAT THIS COURSE DOES NOT AIM TO DO:

1. This course does not aim to provide pat answers.
 2. It is not possible to provide a thorough or precise introduction to either moral theory or the specific problems concerning how to distribute health care; and so we cannot hope to do so.
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Tentative Course Outline

Wednesday, January 20: Introduction: Rationing health care in the face of Covid

- Toner, Eric, Ann Barnill, *et al.* Interim Framework for Covid-19 Vaccine Allocation and Distribution in the United States. Johns Hopkins, 2020, pp. 8-16.
 - People Are Dying. Whom Do We Save First with the Vaccine? *New York Times*, Dec. 24, 2020
 - Norman Daniels, “Four Unsolved Rationing Problems: A Challenge” Hastings Center Report 1994.
 - Frances Kamm, “To Whom?” *Hastings Center Report* 1994.
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Wednesday, January 27: Covid-19; Whose lives should be saved first?

1. F. M. Kamm, “The Badness of Death and What to Do About It (if Anything),” pp. 1-30 of *Almost Over: Aging, Dying, Dead*. New York: Oxford University Press, 2020.
 - John Broome, “The Badness of Dying Early,” pp. 105-15 of *Saving People from the Harm of Death*.
 - Hilary Greaves, “Against “the Badness of Death,” pp.189-202 of *Saving People from the Harm of Death*.
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Wednesday, February 3: What is rationing and what principles should guide it

- Peter Ubel, *Pricing Lives*, Chapters 1-2 (26 pp.)
 - Daniel Hausman, *Health Care: Respectful, Cost Effective, and Fair*, Introduction and chapter 1 (31 pp.)
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Wednesday, February 10: Cost effectiveness and rationing

- Peter Ubel, *Pricing Lives*, Chapters 3, 11 (28 pp.)
 - Daniel Hausman, *Health Care: Respectful, Cost Effective, and Fair*, Chapters 2 and 3 (37pp.).
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Wednesday, February 17: Is allocation via cost-effectiveness unfair?

- Daniel Hausman, *Health Care: Respectful, Cost Effective, and Fair*, Chapter 4 (12 pp.)
 - John Broome, “Fairness” *Proceedings of the Aristotelian Society*, pp. 87-101.
 - Matthew Adler, *Well-Being and Fair Distribution*, pp. 321-39.
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Wednesday, February 24: Fairness and health care allocation

- Frances Kamm, “Cost-Effectiveness Analysis and Fairness,” Appendix to *Almost Over: Aging, Dying, and Death*, pp 297-310.
 - Daniel Hausman, *Health Care: Respectful, Cost Effective, and Fair*, Chapters 5 and 6, skip subsections 5.2.1 and 5.2.2.
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Wednesday, March 3: The fair chances objection

- Daniel Hausman, *Health Care: Respectful, Cost Effective, and Fair*, Chapter 7 (31pp.)
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Wednesday, March 10: Does cost-effectiveness fail to prioritize severity sufficiently?

- Nord E, Pinto JL, Richardson J, *et al.* “Incorporating societal concerns for fairness in numerical valuations of health programmes,” *Health Economics* 1999; 8:25–39.
- Daniel Hausman, *Health Care: Respectful, Cost Effective, and Fair*, Chapter 8 (30 pp.).

Wednesday, March 17: Spring Break

Wednesday, March 24: Partial aggregation

- Frances Kamm “Health and Equity” pp. 363-92 of *Bioethical Prescriptions: To Create, End, Choose, and Improve Lives*. Oxford, 2013.
- Alex Voorhoeve, How Should We Aggregate Competing Claims? *Ethics* 2014
- Bastian Steuwer, Aggregation, Balancing, and Respect for the Claims of Individuals *Utilitas* 2020

Wednesday, March 31: Partial aggregation and cost effectiveness

- Daniel Hausman, *Health Care: Respectful, Cost Effective, and Fair*, Chapter 9 (29 pp.)

Wednesday, April 7: Disability, discrimination, and cost-effectiveness

- Peter Singer, *et al.* Double jeopardy and the use of QALYs in health-care allocation. *Journal of Medical Ethics* 21(1995): 144-50.
- Frances Kamm “Rationing and the Disabled” pp.486-505 of *Bioethical Prescriptions*
- Daniel Hausman, *Health Care: Respectful, Cost Effective, and Fair*, Chapter 10 (27pp).

Wednesday, April 14: How should health care be allocated?

- Daniel Hausman, *Health Care: Respectful, Cost Effective, and Fair*, Chapter 11.

Wednesday, April 21: Rationing and Covid-19: Special topics (1): Withdrawing treatment, and personal responsibility

- T.M. Scanlon, “Responsibility for Health and the Value of Choice”
- Daniel Wikler, “Personal and Social Responsibility for Health”
- Frances Kamm, “Terminating Nonfutile Use of a Scarce Resource” In *Bioethical Prescriptions*, pp. 402-406

Wednesday, April 28: Rationing and Covid-19: Special topics (2): Vaccination (discrimination, not killing vs. saving lives vs. slowing transmission, third party (non-health) effects)

- Report of the National Academy of Sciences and the Institute of Medicine, introduction, ch. 3, 4 and 8.
- Frances Kamm, “Some Rights in a Pandemic” (21pp.)

Some Suggestions for Reading Philosophy:

Although you may not be able fully to understand every reading assignment, that is the goal. Here are some detailed hints that might help you achieve it:

1. Use your highlighter sparingly. It is useful to pencil in marginal notes summarizing or querying specific points than to highlight passages. Actively engaging the author is

valuable. Only highlight a small percentage of the text. (There is not much point to highlighting everything, apart from adding color to the page!)

2. You should try to read the assignments at least twice. During the first reading you should ask yourself:
 - What is the author's position?
 - What is the general structure of the paper? Is it a collection of separate arguments, or does it aim to make one main argument?
 - What are the author's main assumptions? (Where is the author coming from?)
 - Against whom does the author take him/herself to be arguing? What is the context in which the piece was written?
 - What is the main line of argument (or what are the main lines of argument)?
 - What objections does the author address and how successful is the author in answering them?
 - How does the author's position relate to your views? To what extent does the author reinforce or challenge your views?
 - How do the author's arguments relate to the arguments developed in class and in other reading assignments? What criticisms would the author make of arguments developed in class or in other readings? To what extent is the position of the author open to criticisms made in class or in other readings?
3. During the second reading of the assignment, you should proceed more slowly and critically. Rather than merely asking questions about what the author's purposes, organization, and argument are, you should try to assess all of these and particularly the author's arguments

General Suggestions on Writing the Papers:

Style and references:

1. You are expected to give references when you cite detailed claims or arguments made in the readings, and your papers should, where appropriate, show familiarity with relevant materials from the lectures or reading for the course. But you are expected to write essays, not examination answers. So don't introduce irrelevant matters to demonstrate that you have done the course readings. (But you must not ignore relevant supporting arguments and, particularly, objections in the readings.) Cite the readings only when they are relevant. Be sure that your paper is a well organized argument for some clearly articulated thesis.
2. When you quote, paraphrase, or make use of a point made by others, be sure to document the source. I am not particular about what style you use. All that matters is that your references be precise and usable. If you say that Hausman says that is unavoidable, it should be clear on what page Hausman supposedly says that. The easiest way to give a reference is simply to put the source and page number in parenthesis. Papers without clear references (where needed) will be marked down.
3. Requirements on the format of the papers
 - Papers must be typed or printed double-spaced
 - Papers should use at least a 12 point font

- Papers should have at least 1.25 inch margins on all sides, so that there is plenty of room for marginal comments.
- Be sure to keep copies of your papers.
- All papers should be submitted via the submission feature on Canvas.
- Papers for the course must be essentially correct in their "mechanical" aspects-- spelling, punctuation, grammar, typing, and so forth. Papers with more than 3 or 4 errors per page will be marked down by 10%, and if they are very messy, they will not only be penalized, but they will also be returned for correction before they are graded.
 - Obviously spelling and typing are of no intrinsic importance, but messy papers are hard to assess; and it is not unfair to expect you to take responsibility for making sure that your papers are correct in these regards. If you have difficulty with the mechanical features of paper writing, please get someone to proofread your paper before you hand it in.

Hints on Essay Writing:

1. A paper topic is not a recipe for writing an essay. You have to decide what overall view you are explaining and defending. If asked, "What does your essay *show*?" you should have an answer. That answer is your essay's thesis. A description of what your paper is *about* is not your paper's thesis. A thesis is an assertion of some kind. It need not be some unqualified declaration about the subject matter, such as "Rationing is never permissible." It might instead be, something like, "There is no decisive reason to accept or reject Singer's view," "Daniels relies on the following implicit premise in reaching his conclusion," or "Singer's and Hausman's views are less different than they may appear." A paper that uncovers an alternative approach to a topic has something to say about that alternative approach. It has an answer to the question, "What does your paper show?" Or, if not, it's a collection of remarks, not an essay. This is *not* a peculiarity of philosophy papers. The same goes for poetry analyses or an essay in history or sociology. Similarly, a paper that uncovers a missing morally relevant distinction has an answer to the question, "What does your paper show?" It establishes a thesis. Exactly the same thing should be said about papers that compare different views or criticize a view. Defending a thesis is how one writes an essay, and it encompasses all the different kinds of essays, whether they are comparing, supporting, or contesting claims; identifying an equivocation, a mistaken presupposition, a logical flaw, an unsupported generalization, or a author's stunning insight, or presenting some general perspective on the subject matter.
2. The task of writing good essay is virtually identical with the task of thinking out a clear thesis or conclusion that you want to defend and then elaborating and defending it. You should be able to say clearly and precisely not only what your paper is about, but also what your paper maintains. Be sure your paper has both a thesis--that it asserts something definite--and a logical organization. Once it is clear what you want to show, you will have a criterion to decide what is relevant and the basis for organizing your paper. Can you put your main point clearly in a sentence? Can you say clearly in a sentence what your paper shows or proves? Are all the parts of your paper relevant to your main point? Is the structure of your argument clear? No good essay merely summarizes things you have read and then offers your remarks or points of comparison or differences you

- noticed. Every acceptable essay integrates its remarks into an argument of its own. Exposition of the views of others should always be part of your argument for your thesis.
3. Note that a well-organized paper is not merely orderly. It would only be well-organized--truly one paper--if the discussions of the claims bear some relations to one another and if the paper added up to some unified and substantive statement.
 4. Avoid first paragraphs that say things such as, "First I will discuss the views of Kamm and Hausman. Then I will discuss their strengths and weaknesses. Then I will compare their conclusions and formulate my opinion." Passages such as these make it sound as if your argument will begin only on the last page. Exposition of the views of others has to find its place *within your argument*, not as a preface to your argument. If you think in terms of what you want to establish, and outline your paper in terms of stages in your argument, your essay will be much stronger.
 5. Try to say exactly what you mean. Pay careful attention to your language. Sentences such as "Rationing is a tautology" are unacceptably careless. (Rationing is not a statement that is either true or false in virtue of its meaning.) *Value your words* and use them accurately.
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Special Considerations in Writing Philosophy Papers:

1. In a political debate, the point is to win, and one consequently tries to make the arguments of one's opponents sound as ridiculous and worthless as possible. In a philosophical debate (or in writing a philosophy essay), in contrast, the objective is to learn the truth. So you should try to make the arguments conflicting with your views as compelling as possible, before you answer them. If there are any objections to what you are maintaining that you cannot answer, then you cannot be sure that you are right. Work hard at trying to see "the other side".
 2. Although many sociological and historical facts are relevant to the issues you are addressing in your essays, be careful to keep your focus philosophical. If you aren't sure whether your papers are philosophical or not, check with me.
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Some recommendations on how to write BADLY: (adapted from Martin Hassel <http://lacasahassel.net/cv/martin/howto.htm>)

1. *Begin with a sentence that is clear and direct:*
Covid-19 will infect additional people before the public health system can vaccinate them.
2. *Change its verbs, adjectives, and adverbs into abstract nouns:*
Additional people will have a Covid-19 infection before the public health system provides them with a vaccination.
3. *Make the sentence passive:*
Additional people will have been infected by Covid-19 before they have been provided with a vaccination by the public health system.
4. *Use two words where one would do:*
Additional unfortunate people will have been infected by the Covid-19 virus before they had a chance to have been provided with an effective vaccination by the personnel of the public health system.
5. *Use plenty of 'in regard to,' 'as to' and similar terms:*

In regard to protection from Covid-19, additional unfortunate people will have been infected by the Covid-19 virus before they had a chance to have been provided with an effective vaccination by the personnel of the public health system.

6. *Sprinkle with words that do not add anything:*

In regard to the important matter of protection from Covid-19, it is interesting to note that some additional unfortunate people will have been infected by the Covid-19 virus before they had a genuine chance to have been provided with an effective vaccination by any of the personnel of the public health system.

7. *Use negatives:*

In regard to the not unimportant matter of no longer being at risk from Covid-19, it is not uninteresting to note that some additional people who were not fortunate will not have escaped having been infected by the Covid-19 virus before they had a non-negligible chance to have been provided with a not ineffective vaccination by any of the personnel of the public health system.

8. *Repeat the preceding steps:*

How awful can you make the sentence? (**This is not a skill to be cultivated!**)

Seeking help:

When working on the final versions of your essays, feel free to contact us for help.

There are some excellent resources on the web for writing philosophy papers. We particularly recommend:

www.sfu.ca/philosophy/writing.htm This is brief, clear, and helpful.

<http://www.jimpryor.net/teaching/guidelines/writing.html> Excellent, but much lengthier.

<http://writingcenter.unc.edu/handouts/philosophy/> For those who are serious about philosophy.

<https://www.american.edu/cas/philrel/pdf/upload/tips.pdf> Contains lots of references for further study.

A terrific general source on writing is Strunk and White's *The Elements of Style*. The first edition is available on the web at <http://www.bartleby.com/141/>