

# Virtual Mentor

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## CONLEY ESSAY

### 2011 Winning Essay

#### Is Anything Wrong Here? State University's Scholarship Case

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State University Medical School's explicit, community-based mission is to educate primary care physicians for its home state, which comprises mainly small towns and rural areas.

As its fortieth anniversary approached, State U. Medical School administration reviewed alumni data and realized that the school had not come close to fulfilling its mission. The school required those who received financial aid to complete residency in a primary care specialty within the state. If they did so—and most did—their loans were forgiven. But the alumni data showed that, over the years, an average of 60 percent of residents had gone on to fellowships in subspecialties immediately after residency, and many of those had moved out of state to practice.

As a corrective to this “mission slippage,” a new policy for state-funded loans and privately funded scholarships was proposed such that students who declared their interest in practicing primary care in the state and received full tuition from state or private sources had to practice primary care in the state for 10 years after completion of their residencies to repay the cost of their medical education. There was a sliding repayment scale based on service increments of 1 year for those who practiced primary care in-state but did not fulfill their 10-year service agreement.

Several of the school's private funders objected to the proposed policy; at least one was outraged.

“I've always supported our mission,” he said, “but this new policy is coercive. It's social engineering, is what it is. Flies in the face of everything this country and this state stand for. When my grandfather came to this state in the early part of the last century, a man could make his living any way he wanted to, long as he didn't break the law.”

“What's worse,” the funder continued, “is that this policy hurts the middle- and low-income kids. The rich kids don't need our support, so they can practice anything they want, anywhere they want.”

## Response

“Deficit” has proven a buzzword in recent years. Several states are facing significant budget deficits. In states’ efforts to cut costs, state medical schools and state loan forgiveness programs are feeling pressure [1]. Thus, states and schools should find ways of improving any budgetary deficits and collecting on any budgetary losses. Increasing gains from rural scholarship programs is one possibility, and so this case is worth reflection not only for its own sake, but for the sake of other states considering similar policy. However, moral indignation may follow elsewhere as it did in the case of State University. Is such indignation justified? Is there anything wrong with State University’s proposed scholarship policy?

We want to know (1) whether the proposed scholarship plan is *morally permissible* and (2) if so, whether it is most favorable among the permissible options. I will argue that it is permissible—with minor amendments—but that it is not the best of the permissible options generally speaking. However, it may be the best available option, depending upon the particulars of a state’s political climate.

In what sort of ways might this policy be impermissible? One benefactor objects: the proposed loan forgiveness strategy is (a) coercive, (b) social engineering, and (c) “hurts middle- and low-income kids.” Making sense of (a) is simple enough; coercion constitutes a wrong and is thereby impermissible. The charge that the strategy constitutes social engineering is somewhat confusing. Assuming that the social engineering should be (roughly) understood as offering incentives to change societal preferences and alter societal choices, it is unclear what speaks against “social engineering.” This sort of activity is engaged in by government and business routinely [2]. Therefore, let’s cast (b) aside as a red herring. Allegation (c) is somewhat ambiguous. It might mean that the policy is impermissible in virtue of “hurt[ing]”—or properly speaking *harming*—the students. Alternatively, (c) might be better understood as wrong in virtue not merely of the harm, but of the fact that the students harmed are “low- and middle-income kids.” This raises two possibilities: either the policy is wrong because it is distributionally unjust or the policy is wrong because it is exploitative. So the benefactor actually raises four possible objections; the policy may be impermissible as an instance of (1) coercion, (2) harmful wrongdoing, (3) distributional injustice, or (4) exploitation. I will argue that it is not an instance of the first three, and that, if it is an instance of the fourth, it can be remedied with a few amendments.

*Coercion.* A proposal is coercive if and only if one party proposes to violate the rights of another unless the second party complies with the first party’s directives [3]. Does the university’s offer to the student constitute a proposal to violate the student’s rights? It is unclear what right might be violated. The benefactor objected that “a man [used to be able to] make his living any way he wanted to, long as he didn’t break the law.” This might be a way of saying that individuals have a right to pursue any business venture with lawful means [4]. If so, this right must be a negative right (that others not interfere with their career plans) rather than a positive

(that others enable them to pursue any business venture that they choose). But the university is not violating this negative right.

Then again, this definition of coercion is not universally accepted, but most agree that coercive proposals must at least be threats rather than offers [5]. How can the university's offer, which expands the students' options rather than limits them, be coercive? Some argue that certain offers may be coercive. David Zimmerman is the most prominent defender of this view. On his account an offer is coercive only if the offering party is actively keeping the offered-to party in a position that makes the offer attractive [6]. Yet on this account the university's offer is not coercive because the university is not keeping the students in this scenario in such a position.

*Wrongful harmdoing.* It should be noted that the university is not worsening the students' financial means or welfare, or infringing their rights [7], so it is hard to see how it "hurts" the middle- and low-income students. The benefactor notes that students who accept the offer cannot "practice anything they want, anywhere they want." Yet the university is only taking away that right in virtue of the students' contractual obligations, and the students are clearly free to refrain from contracting.

*Distributionally unjust.* Perhaps the benefactor believes that the university owes more to the less well-off because they are less well-off [8]. We all owe something to those less fortunate than we; maybe the university should discharge this obligation by helping these students. This form of the objection touches on some of the deepest problems of political philosophy—the scope and extent of our duties to the less fortunate. I think, however, we can answer this objection without taking up these issues.

Presumably the argument that the university must discharge its obligations in this way hinges on the claims of some special relationship with *these students* or the fact that this is the best way of discharging a general obligation to the less fortunate. Further argument would be required to defend the former special obligation claim; the university has many competing obligations from special relationships with its patients, state residents, and members of the rural population of the state. I see no obvious reason that the students' claims take priority. To argue for the second claim—the school's general obligation to the less fortunate—one would have to clarify all ways that the university might bring about a more just state of affairs, arguing that this way of discharging the obligation is better than any alternative. I doubt that this argument can be provided [9].

*Exploitation.* Maybe the benefactor has in mind a different claim, that the university is unfairly taking advantage of these students. On this view the policy targets "the low- and middle-income kids" because of their financial constraints. *Exploitation* occurs when one individual gains an unfair benefit from an exchange with another; the question is not about the structural conditions that create incentives for the transaction, but about whether the costs and benefits are fair to each party [10]. Hence, the policy is not exploitative merely because the students are "low- and

middle- income kids” [11]. The question is whether the students’ gains and costs are unfair.

Exploitative offers may confer either a net cost or a net benefit to the exploited party [12]. It is unlikely that there is a net cost. Opponents of the scholarship program might think that the students incur a cost in expected earnings by working in a rural area that the scholarship is insufficient to compensate. Surprisingly, evidence shows that the difference in income is only approximately 5 percent [13]; moreover, when adjusted for cost of living, rural physicians may make more than their urban colleagues [14].

Alternatively, opponents of the program might think that there is a net loss to students’ well-being that cannot be construed merely in economic terms. Yet if students perceive such a net loss to their well-being, it is hard to understand why they would consent to it [15]. Opponents might respond that such students are misunderstanding their own interests, are uninformed about their potential future outcomes, or are committing some other rational error; and so they are consenting to an offer that is against their interests. However, accusing students of misunderstanding their own interests may be paternalistic. Students may value working in rural family health settings [16, 17]. Likewise, we should be careful to resist the thought that they are committing some rational error just because opponents of the policy believe that the transaction is unfair. At the very least, we should want further support for this claim, and I am not certain of what it is. However, students may be uninformed about their possible futures, enabling them to be exploited. This charge of exploitation would then be parasitic on a further way that the policy might be impermissible, one which the benefactor did not consider: consensual defect.

*Consensual defect.* One might argue that the students are entitled to disclosure of their expected future opportunities [18]. If the university does not disclose, it is violating the rights of the students. It is not clear whether students are entitled to such disclosure. It is considered “fair game” in many contractual negotiations to keep certain information from the other party (consider, e.g., labor union negotiations). In other situations nondisclosure constitutes a wrong, rendering the transaction nonconsensual (consider withholding a car’s repair history during used car sales). I do not know whether the students are entitled to such disclosure; however, the remedy to this potential wrong and the exploitation that it might enable is simple: disclose expected future opportunities for pursuing and not pursuing this offer.

Students may be committing other rational errors, but it is not obvious that they are doing so. Moreover, it is simply not obvious that the students suffer a net loss in this transaction. So let’s set aside that possibility and consider whether the students are being exploited while gaining from the transaction.

The university may be exploiting the students—even though they are benefiting from the transaction—if the degree to which the students benefit is not fair. Consider the

case of price gouging. If a catastrophe leads to a gas shortage and the local gas station grossly increases prices, I may be better off with the gasoline even if the gas station is exploiting me.

One might argue that the sliding scale of repayment and the length of service impose too much cost on students for their commitment. My own intuitions are that this transaction is perfectly fair. (Remember that if students break the agreement, they merely repay the amount that they would have paid in tuition and interest if they had never made the agreement). However, reasonable people may disagree about the case. Given the possibility that reasonable people will disagree, State University should consider a public deliberation process in which potential and current students, university representative, citizens (especially those from a rural area), benefactors, and other stakeholders share their views about what the fair terms of the agreement might be.

We have seen that the university's policy is not coercive, harmful wrongdoing, nor distributionally unjust. The policy may be exploitative, and students may be deprived of their due disclosure. Thus, it is reasonable to add (1) a disclosure process, counseling the students on their options and their expected future scenarios given whatever decision they make, and (2) a public deliberation about the terms of the agreement. At this point, I want to suggest that this is all that can reasonably be expected of the university and, as I can see no other wrong that the university might be charged with, I conclude that the policy is permissible for the university and the benefactors.

Among the permissible policies, is this the one the university should choose? The answer to this question depends on a number of considerations. Does this policy maximize long-term retention of physicians in the state's rural areas? How does it affect the well-being of the students? How does it affect patient care? Evidence suggests that loan repayment programs—which physicians enter after their training—attain better long-term retention and physician satisfaction than scholarship programs, such as the proposed policy—which students commit to before medical school [19]. Such evidence suggests that programs which create commitments after medical school or residency should be preferred over scholarship programs like the one proposed.

Nevertheless, such choices may not be an option for State University. Consider one possibility. Programs aimed at attracting physicians later are often pursued on a statewide level without specific ties to any university; although State University's funding might be put to better use through such a program, the funding may not be tied to the university [20]. If so, the university may prefer guaranteed funding to a suboptimal program over funding to an optimal program that may not come to fruition [21].

Sorting through these particulars requires more information about State University's political climate than we have. As with many ethical issues, practical wisdom will be

required when implementing ethical judgments, especially in the realm of politics [22]. We must, therefore, be satisfied with the limited conclusion that programs aimed at recruiting physicians after medical school are more likely to meet State University's goals than scholarships for students. However, the proposed scholarship plan is permissible—with the two amendments previously mentioned—and should be pursued if it is the optimal path in the state's political climate.

## References

1. Ramshaw E. Texas physician loan repayment deal in jeopardy. *Texas Tribune*. February 9, 2011. <http://www.texastribune.org/texas-state-agencies/department-of-state-health-services/texas-physician-loan-repayment-deal-in-jeopardy/>. Accessed November 19, 2012.
2. For some creative examples, see: Thaler R, Sunstein C. *Nudge: Improving Decisions about Health, Wealth, and Happiness*. New Haven: Yale University Press; 2008. If, on the other hand, the benefactor means that this particular social engineering is wrong in virtue of some other fact, say because it is coercive or exploitative, then the charge of “social engineering” is merely parasitic on the further wrong, whatever that may be.
3. This statement is a simplified version of the analysis offered in Wertheimer A. *Coercion*. Princeton, NJ: Princeton University Press; 1987: 202-241.
4. It is further unclear what set of individuals this might be and in virtue of what they might have this right. Is the set supposed to be human beings? Rational agents? US citizens? Or perhaps state citizens?
5. Hawkins J, Emanuel E. Clarifying confusions about coercion. *Hastings Cent Rep*. 2005;35(5):16-19.
6. Zimmerman D. Coercive wage offers. *Philosophy Public Aff*. 1981;10(2):121-145. I have benefitted in understanding Zimmerman's account (and coercion generally) from Anderson S. Coercion. *Stanford Encyclopedia of Philosophy*. <http://plato.stanford.edu/entries/coercion/>. Accessed November 19, 2012.
7. With the possible exception of the right to full disclosure of their expected future opportunities, which I consider later.
8. The view that distributional justice requires that society create distributional policies that preferentially favor the less well off (prioritarianism) is most famously advocated in Rawls J. *A Theory of Justice*. Cambridge, MA: Harvard University Press; 1971.
9. In fact, I will later argue that at least one policy is superior.
10. Wertheimer A. *Exploitation*. Princeton, NJ: Princeton University Press; 1996: 10-12.
11. Compare points made about exploitation of poor countries during research participation in the “fair benefits” framework put forward by the Participants in the 2001 Conference on Ethical Aspects of Research in Developing Countries. Moral standards for research in developing countries: from “reasonable availability” to “fair benefits.” *Hastings Cent Rep*. 2004;34(3):17-27, which is also indebted to Wertheimer's *Exploitation*.

12. For argument that exploitative transactions can benefit the exploited party, see: Wertheimer, *Exploitation*, 14-24, 207-246. These transactions are still impermissible because they are exploitative.
13. Weeks WB, Wallace AE. Rural-urban differences in primary care physicians' practice patterns, characteristics, and incomes. *J Rural Health*. 2008;24(2):161-170.
14. Reschovsky J, Staiti A. Issue brief 92: physician incomes in rural and urban America. Center for Studying Health System Change. <http://hschange.org/CONTENT/725/>. Accessed November 19, 2012.
15. Actually, if one believes that students are consciously sacrificing their own interests for the sake of others (i.e., patients in rural communities), then it would not be hard to understand why they would consent to something that makes them worse off. For my thoughts about whether this case might be one of self-sacrifice and exploitation, see note 17.
16. In fact, rural background is associated with recruitment and retention to rural medicine, suggesting this may be the case. See Daniels ZM, Vanleit BJ, Skipper BJ, Rhyne RL. Factors in recruiting and retaining health professionals for rural practice. *J Rural Health*. 2007;23(1):62-71.
17. We should be careful here as students might value some activity, and yet take it to be a loss to their well-being. Cases of self-sacrifice often have such a structure. So there are two options: either students take themselves to be gaining (in terms of their interests) from this transaction, or they take themselves to be losing (in terms of their own interests) but are happy to sacrifice their interests for the interests of others. These cases might be importantly different for the theory of exploitation generally. However, regarding the case at hand, my response to both would be the response that I give to the worry that the sliding scale of repayment and the length of service impose too much cost on students for their commitment and is therefore unfair. See 67-68 of the text above. So, we may sidestep the larger issues in the theory of exploitation for the purposes at hand.
18. Many have argued that this is true in regard to "informed consent" to medical decisions. For the canonical statement on disclosure in informed consent, see Faden R, Beauchamp T. *A History and Theory of Informed Consent*. New York: Oxford University Press; 1986: 305-315.
19. Pathman DE, Konrad TR, King TS, Taylor DH Jr, Koch GG. Outcomes of states' scholarship, loan repayment, and related programs for physicians. *Med Care*. 2004;42(6):560-568. As Pathman et al point out, increased satisfaction and retention is likely due to the fact that physicians who are offered an option after medical school can make commitments after they have made career and family decisions, and so these commitments may harmonize with these decisions. On the other hand, those who commit earlier may later find conflicts with career and family desires.
20. Perhaps the funding originated in the state legislature, and the state funding would be better put to use through the alternative program. This would be better if possible, but depending on the state's political landscape,

21. This is just one way in which pursuing alternative policies may be impractical; there may be others. For instance, the funding may be tied to the university through trusts or endowments, creating the same tactical problems.
22. Consider another political hurdle. Legislators may have a stronger interest in giving scholarships to their constituents than in supporting loan repayment programs, which could be competed for by out-of-state residents.

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