

Moral Entanglements and Ancillary-Care in  
Medical Research, Traditional Clinical  
Medicine, and Direct-to-Consumer Contexts

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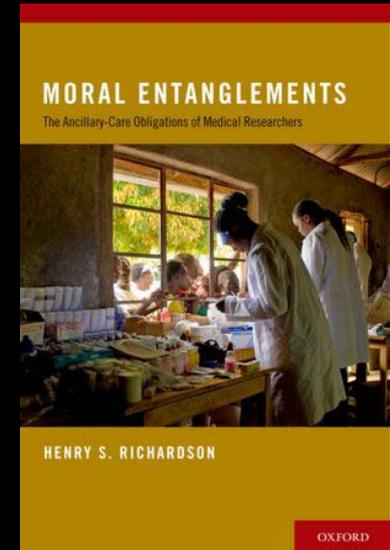
President's Commission for the Study of  
Bioethical Issues

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# Aim & outline

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- Past argument: medical researchers have **special ancillary-care obligations** to their study participants, arising from **privacy-based moral entanglements**
- Today:
  - Transactional duties as key
  - Relation of AC to **incidental findings**
  - Extension to the clinical & DTC contexts



# Duties, general and special 1

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- General duties: incumbent on all persons, irrespective of
  - Who they (otherwise) are
  - Any history of transactions with others
- Special duties, two types:
  - Incumbent on persons because of who they are (e.g. associational duties, filial duties)
  - Incumbent on persons because of how they have transacted with others (transactional duties)

# Duties, general and special 2

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- General duties; e.g.:
  - Beneficence (incl. rescue, charity)
  - Justice
  - Respect for persons
- Transactional duties
  - Voluntary undertakings (promises, fiduciary obligations)
  - Duties of reparation and compensation for harm
  - Moral entanglements

# “Moral entanglements”

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- Moral obligations that arise unintentionally\* from a transaction that is morally innocent (neither party has done wrong)
  - \*independently from either party having intended it

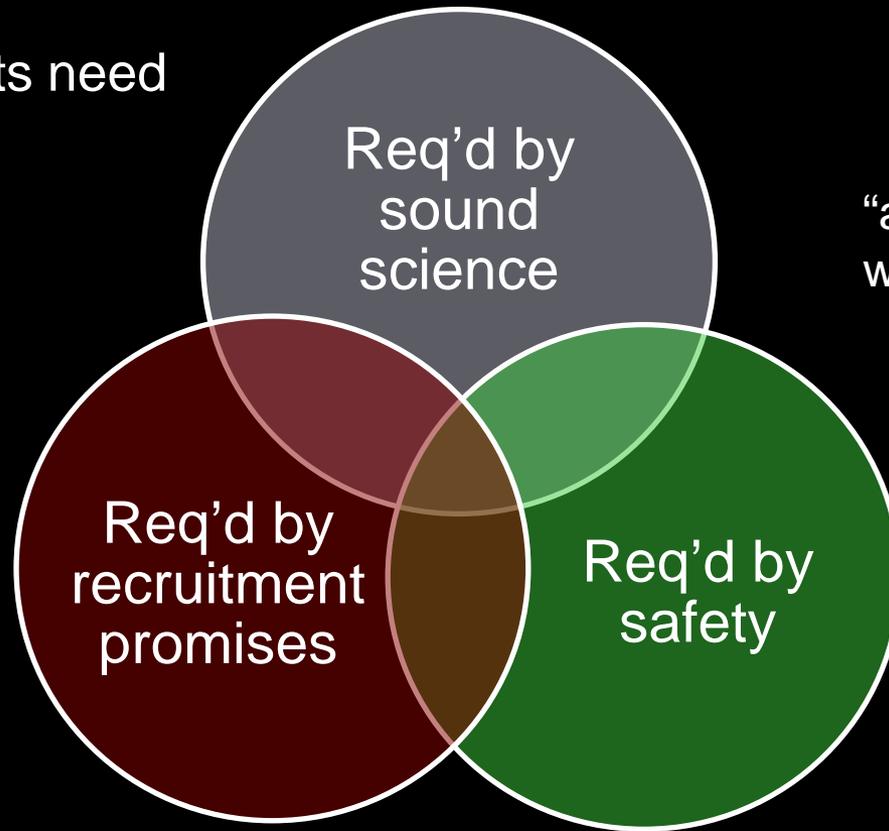


R. L. Washington, “Make a Move”  
[www.arte10.com](http://www.arte10.com)

# “Ancillary care” in medical research

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Care that subjects need



“ancillary care” as  
what’s left over

Two white arrows originate from the text. One arrow points upwards towards the top of the Venn diagram, and the other points downwards towards the bottom of the Venn diagram.

# AC needs in medical research: examples (and relation to IFs)

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- Schistosomiasis encountered in a malaria trial
- Pancreatic cancer encountered in a trial of virtual colonoscopy procedures
- Anti-retroviral provision to those who become HIV+ during an HIV-vaccine trial

Incidental findings

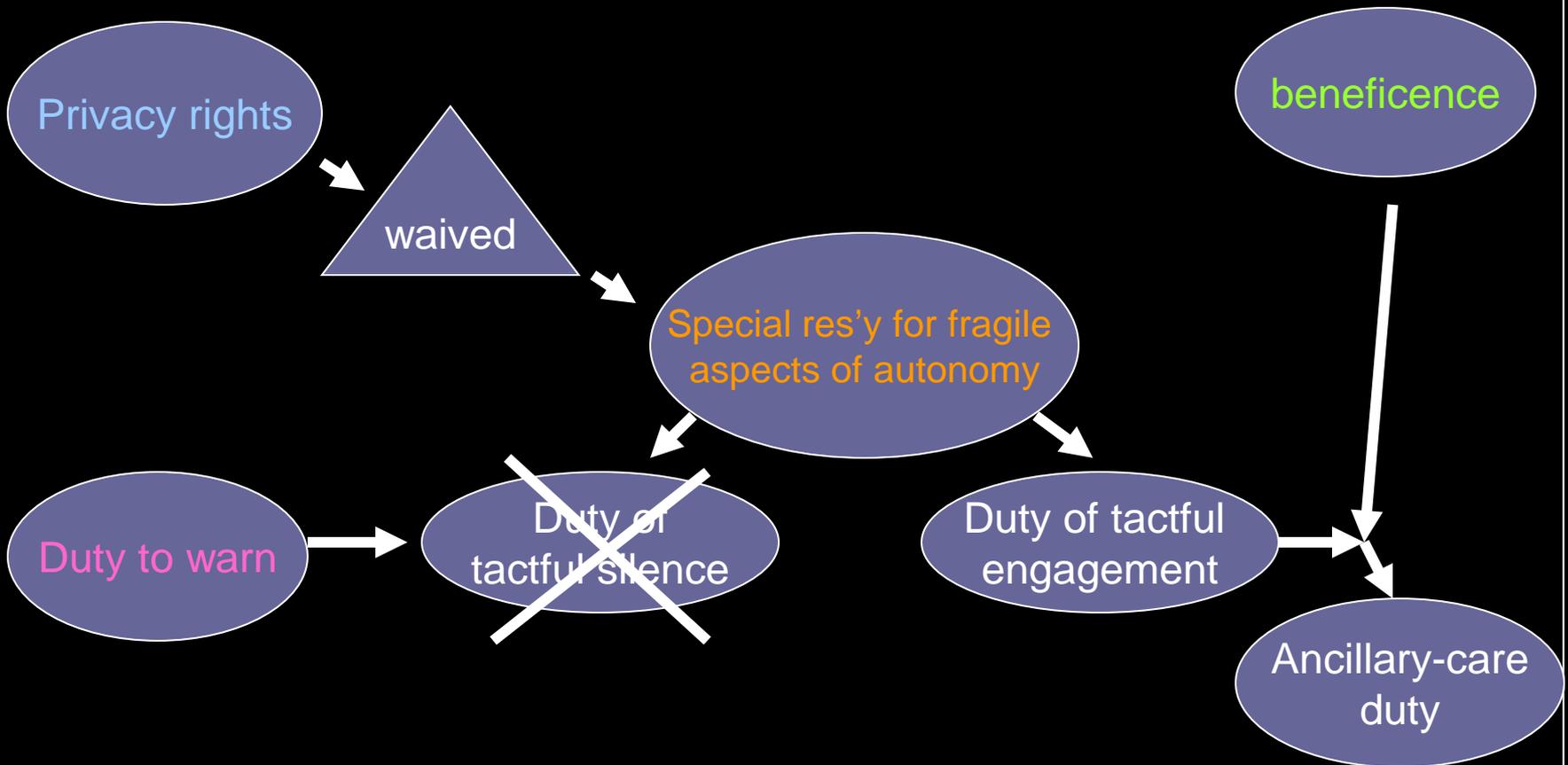
Not incidental findings

# Ancillary care obligations, general and transactional

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- General grounds for ancillary-care obligation:
  - Rescue (Richardson & Belsky 2004, M. Merritt 2011)
  - Justice (C. Hooper 2010)
- Transactional grounds for ancillary-care obligation:
  - “The special ancillary-care obligation,” arising from a **privacy-based moral entanglement** (Richardson 2012)
    - Applies to what researchers discover by carrying out study procedures (obligation’s “scope”)
      - As in all three examples given

# How the special ancillary-care obligation arises from a privacy-based moral entanglement



# Broadening “ancillary-care obligations” for the three contexts

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- “Ancillary-care obligations” more broadly defined: **obligations that arise for reasons incidental (or ancillary) to the aim or focus of a relationship.\***
  - HIV vaccine researchers aimed to find HIV status
  - But post-trial care not part of the aim or focus of the relationship
- Analogously, “**the special AC-obligation**” can mean: any AC obligation arising from **privacy-based moral entanglement**

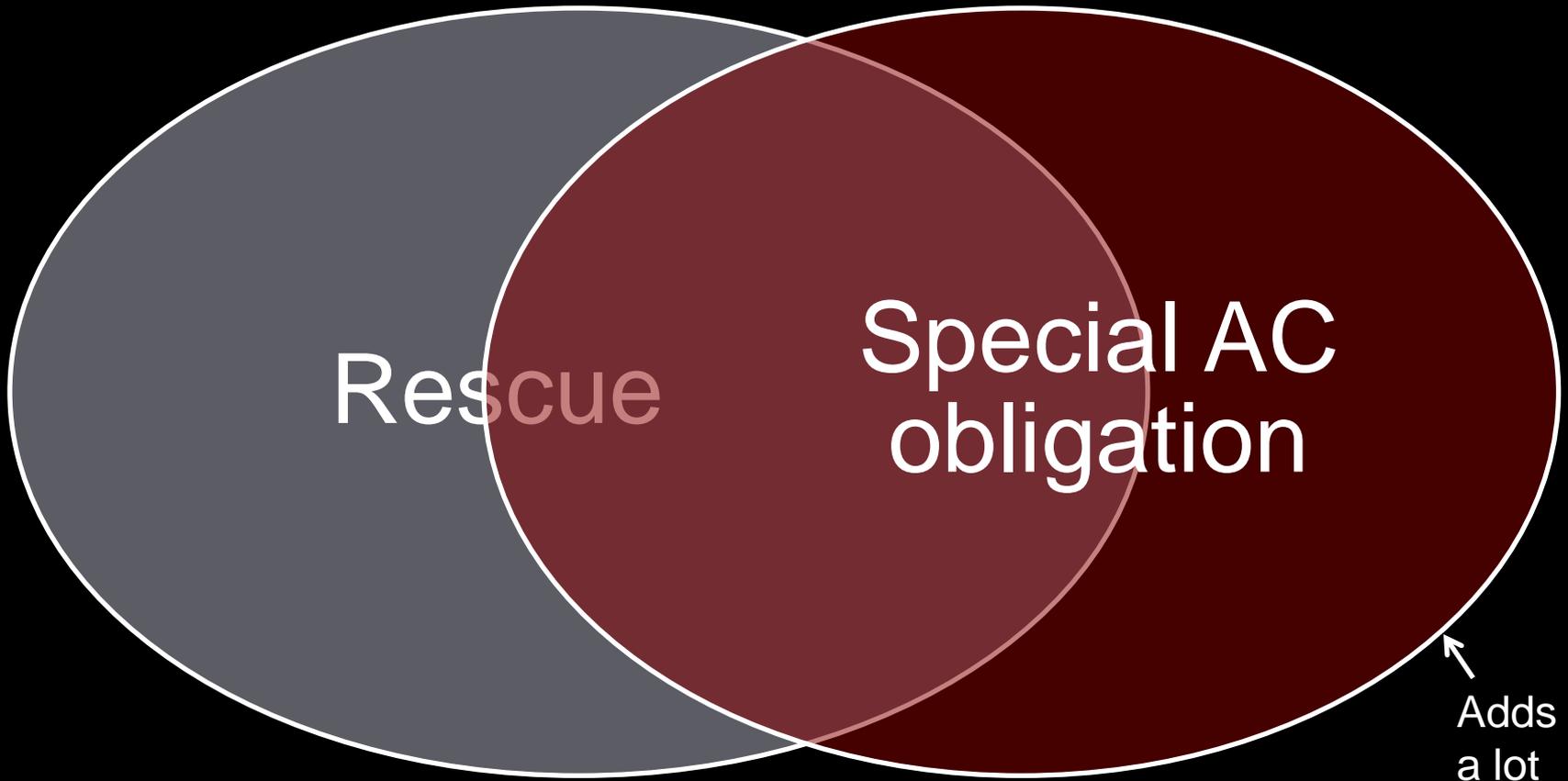
\* Richardson, “Ancillary-care Obligations,” *Int'l Encyc. of Ethics*, forthcoming

# The three contexts

	Medical research with human subjects	Traditional clinical medicine	Direct-to-consumer imaging & genomics
Aim or focus of the relationship	Generating generalized knowledge	Promoting patient health	Promoting patient health
Social setting	Regulated science	Regulated monopoly with attached fiduciary duty	? Free-enterprise commercialism?

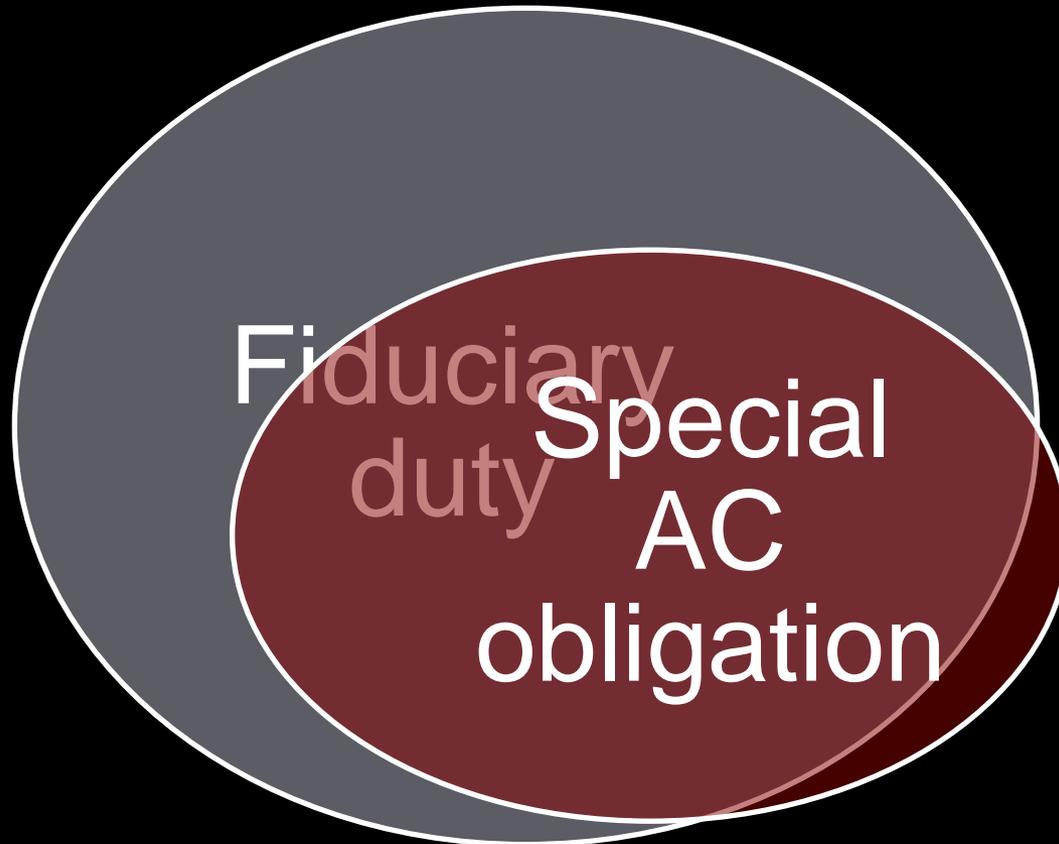
# The special AC obligation in medical research

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# The special AC obligation in clinical medicine

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Doesn't add much;  
maybe, ordering IV  
contrast with a virtual  
colonoscopy to  
lessen false  
positives?

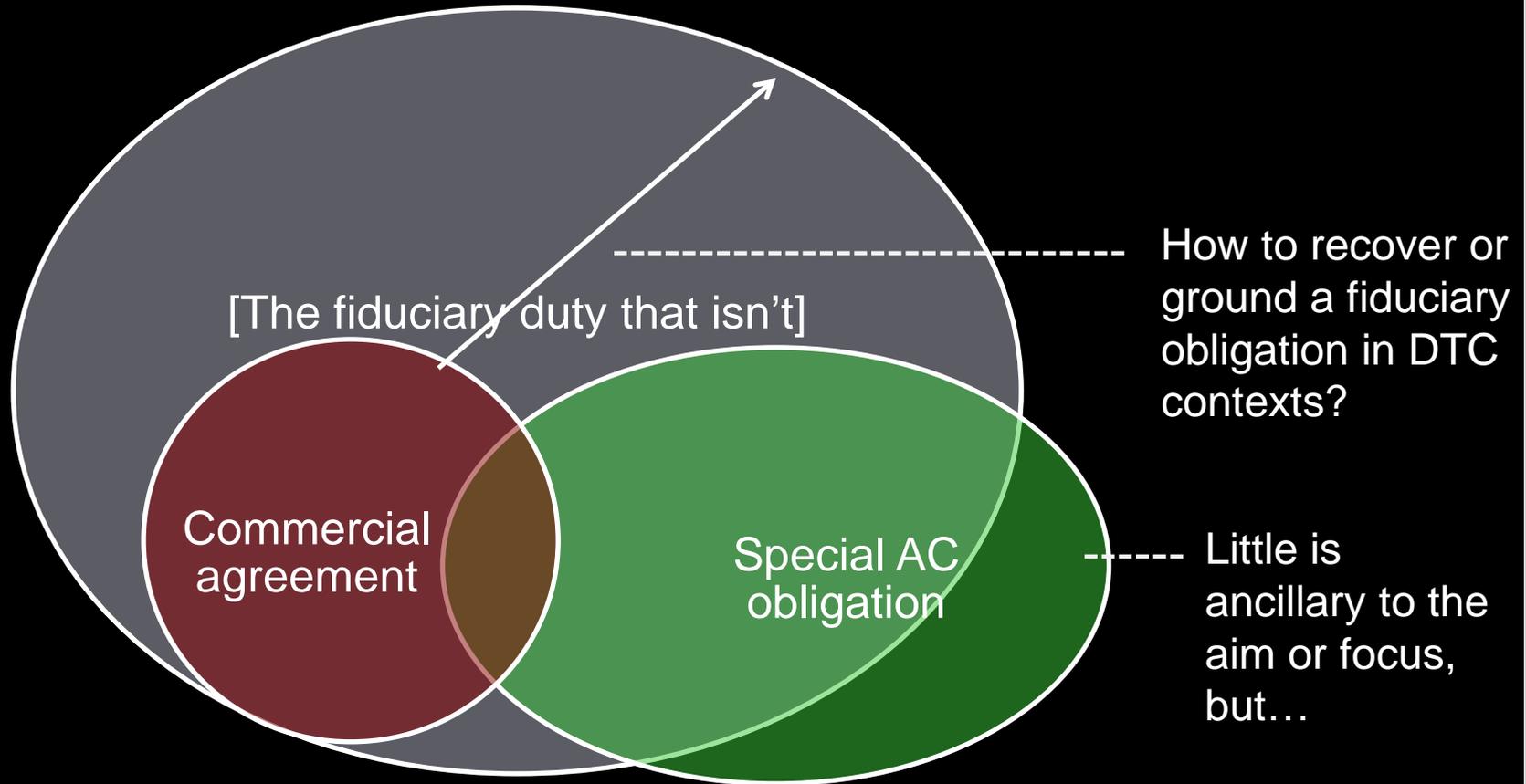
# Is DTC really different from ordinary clinical medicine?

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- If a physician's ordinary fiduciary duty applies, then perhaps not.
- But suppose the fiduciary duty does not apply in the ordinary way...

# The special AC obligation in direct-to-consumer medicine

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# Fiduciary obligation in DTC contexts as a **privacy-based moral entanglement**

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- [So, drop out the “**ancillary**” bit.]
- As in medical research, the transaction begins with a waiver of privacy rights
- This provides a reason why DTC purveyors should follow up on whatever they find
  - This may be broader than what the commercial agreement provides
  - Will still be narrower than traditional medicine’s fiduciary duty, as there will be no duty to hunt