

Good-faith referral: the legal boundary between culturally informed service and discrimination

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Abstract. This paper revisits the legal boundary between lawful referral and unlawful discrimination in service provision by focusing on an undertheorized problem in regulatory and disciplinary settings: the difficulty of distinguishing between culturally informed referrals made in genuine good faith and referrals that operate in a discriminatory or exclusionary manner. Canadian anti-discrimination law properly prohibits denials of service and differential treatment based on protected grounds, including race, creed, sex, disability, sexual orientation, gender identity, gender expression, and family status. At the same time, the legal framework governing service provision and professional discipline must be sufficiently precise to distinguish between referrals rooted in stereotype, aversion, or improper purpose and referrals grounded in cultural knowledge, linguistic awareness, community context, and sincere concern for client welfare. Drawing on the Ontario *Human Rights Code*, Ontario Human Rights Commission accommodation principles, Ontario's effective-referral jurisprudence, and Canadian public-law principles of proper purpose, good faith, and reasonableness, this paper argues that identity-conscious referral is not inherently discriminatory. The paper further argues that in disciplinary settings, the difficulty often lies not only in assessing the referral itself, but also in determining whether the regulatory response reflects genuine justice or institutional pettiness. Where a referral is individualized, access-preserving, non-stigmatizing, and directed toward improving the client's substantive access, dignity, trust, and quality of service, it should not be treated as presumptively discriminatory merely because culture forms part of the analysis. The paper proposes a legal framework for recognizing a bounded category of culturally informed good-faith referral and argues that clearer legal recognition of this category would better align anti-discrimination law with substantive equality, procedural fairness, sound institutional design, and the avoidance of regulatory harm arising from institutional blind spots rather than with a purely formal model of sameness.

Keywords: good-faith referral, cultural competence, Ontario human rights law, Canadian law, regulatory harm

1. Introduction

The legal boundary between lawful referral and unlawful discrimination in service provision has become increasingly complex in a social and regulatory environment marked by heightened attention to identity, exclusion, anti-oppression, and equitable access to services. In many contemporary disputes, a service provider presents a referral decision as an exercise of professional judgment, an ethical boundary, or a

culturally responsive effort to improve service fit, while the recipient understands the same decision as stigmatizing, exclusionary, or discriminatory. Ontario law establishes a clear anti-discrimination baseline: the *Human Rights Code* guarantees equal treatment with respect to services and extends equality protections to self-governing professions [1]. At the same time, Ontario human rights doctrine emphasizes dignity, individualization, and full participation rather than a purely formal model of identical treatment [2]. Taken together, these features of the law suggest that the central legal question is not whether identity or culture may ever be relevant in service provision, but how such considerations are used, in what institutional context, and toward what end.

This paper argues that the broader inquiry into good-faith referral should be refined to account for a distinct category that existing legal discourse does not yet adequately define or protect: the culturally informed referral made in genuine good faith. Anti-discrimination law properly prohibits referrals rooted in stereotype, prejudice, aversion, or other forms of identity-based distancing. However, a referral grounded in cultural knowledge, contextual understanding, and a sincere effort to improve the client's service outcome should not be treated as presumptively discriminatory merely because culture, language, community context, or identity forms part of the analysis. To do so risks collapsing an important distinction between identity-conscious exclusion and identity-conscious care. The central claim of this paper is therefore that the law should distinguish more clearly between those two forms of decision-making and should recognize a measure of legal protection for the latter where the referral is individualized, non-stigmatizing, access-preserving, and genuinely directed toward the client's welfare [2, 3].

The paper further argues that the issue becomes especially delicate when a referral decision is later scrutinized by a regulator, tribunal, or disciplinary body. In that setting, the legal question is no longer limited to whether the original referral was justified. It also becomes necessary to determine whether the institutional response to the referral reflects genuine justice or whether it is affected by institutional pettiness: that is, by a mode of decision-making characterized by overreaction, symbolic disapproval, selective suspicion, or an unduly rigid reading of norms that obscures the actual purpose and context of the registrant's conduct. In the disciplinary context, the fine line between institutional pettiness and genuine justice becomes central because the consequences of misclassification may include reputational injury, disproportionate sanctioning, procedural indignity, and the suppression of culturally competent practice.

The broader implications of this distinction are both doctrinal and institutional. If all culturally informed referrals are treated as presumptively suspect, service providers may be incentivized to adopt an artificial form of neutrality that under-recognizes real cultural dynamics, discourages context-sensitive judgment, and may result in poorly matched service relationships that preserve formal sameness while undermining substantive care. Human rights law has long moved beyond a purely formal conception of equality, and the OHRC's accommodation framework is expressly guided by dignity, individualization, and integration and full participation [2]. A legal framework capable of identifying subtle discrimination should also be capable of distinguishing it from benevolent, culturally competent referral. From a law-reform perspective, the task is not to weaken anti-discrimination protections, but to improve doctrinal precision so that equality law remains attentive both to exclusionary practices and to the institutional value of culturally informed, good-faith service design.

For the purposes of this paper, these broader institutional risks may be captured by the concept of regulatory harm [4]. As used here, a term coined by Dr. Yujia Zhu, regulatory harm refers to harm arising from exclusion, misrecognition, disciplinary vulnerability, reputational injury, procedural indignity, selective evidentiary treatment, coercive or disproportionate sanctioning, or the suppression of legitimate social innovation caused by institutional blind spots. Framed in this way, the legal issue is not limited to whether a

particular referral decision is formally defensible. It also includes whether an overly rigid, insufficiently contextual, or institutionally overbroad response may itself generate harms that equality law, procedural fairness, and sound regulatory design ought to avoid.

2. Reframing the original problem: referral, discipline, and the fine line between institutional pettiness and genuine justice

The conventional framing of referral disputes often assumes a relatively simple binary: either a referral is lawful professional conduct, or it is discriminatory exclusion. That binary is inadequate, particularly in cases involving the prosecution or discipline of a registrant. A more analytically useful framework recognizes at least three possibilities. First, a referral may indeed be exclusionary, rooted in stereotype, aversion, or improper purpose. Second, a referral may be a legitimate, culturally informed, and client-centered exercise of judgment. Third, and most importantly for regulatory analysis, the institutional assessment of a referral may itself become flawed, not because the legal standards are inherently deficient, but because the decision-maker applies them in a way that is overly rigid, selective, symbolic, or insufficiently attentive to context.

This third possibility is where the concept of institutional pettiness becomes relevant. Pettiness is not used here as a casual insult or as a substitute for legal analysis. Rather, it names a recognizable institutional tendency: the tendency to convert ambiguity into suspicion, to interpret deviation from dominant norms as evidence of wrongdoing, or to treat culturally complex conduct through a narrow framework that privileges order, optics, or institutional self-protection over contextual fairness. In disputes involving a prosecuted registrant, the key difficulty is therefore not simply whether the referral was right or wrong in the abstract, but whether the regulatory body is capable of distinguishing between a culturally sensitive act undertaken in good faith and a discriminatory act grounded in bad faith. That distinction requires more than formal legal categories; it requires disciplined attention to purpose, effect, context, and institutional positioning.

This reframing is consistent with Ontario human rights law's emphasis on effect, dignity, and individualization rather than formal labels alone [1, 2]. It is also consistent with Canadian public-law reasoning, which favors structured and justified analysis over slogan-driven conclusions. In *Law Society of British Columbia v. Trinity Western University* (2018), equality-related public-interest considerations were treated as significant, but they were still assessed through a reasonableness framework rather than as self-executing conclusions [5, 6]. The lesson for referral cases is similar: identity-conscious conduct is not legally resolved merely by naming it. The relevant inquiry is how it operates, whom it benefits or burdens, and whether the reasoning used to assess it is justified and fair.

3. The human rights baseline: equal treatment in services and professional contexts

Any argument for recognizing or protecting culturally informed good-faith referral must begin from a clear anti-discrimination baseline. Section 1 of Ontario's *Human Rights Code* guarantees every person equal treatment with respect to services, goods, and facilities without discrimination on enumerated grounds, while section 6 extends equality protections to membership in a trade union, trade or occupational association, or self-governing profession [1]. These provisions are significant because many referral disputes arise in contexts where one actor exercises meaningful control over access to regulated, gatekept, or socially consequential services. In such settings, access is not solely a matter of private discretion; it is governed by public commitments to equality, fairness, and non-discrimination.

The Ontario Human Rights Commission further explains that discrimination may be direct, indirect, or subtle, and that a finding of discrimination does not depend on proof of hostile intent [2]. This point is especially important in referral cases, where decisions are often expressed in polite, professional, or ostensibly compassionate terms. The absence of overt hostility does not resolve the legal analysis. If a referral imposes a burden, withholds a benefit, or communicates unequal status in a manner connected to a protected ground, it may still attract human rights scrutiny. In this respect, the law properly looks beyond formal characterization. Describing a decision as a "referral" rather than a "refusal" does not, without more, determine its legal validity.

At the same time, the same human rights framework rejects the notion that equality requires blindness to difference. The OHRC's accommodation principles repeatedly emphasize dignity, individualization, and integration and full participation [2]. These principles suggest that substantive equality may, in some circumstances, require careful attention to context rather than its denial. A legal regime committed to individualization cannot coherently proceed on the assumption that all explicit recognition of culture, language, or community knowledge is inherently suspect. The more precise question is whether those considerations are being used in a way that undermines access and dignity, or in a way that supports more meaningful and equitable service provision.

4. Why culture can be a legitimate service consideration

Culture is often addressed in legal discourse primarily as a ground of vulnerability or as a potential site of stereotyping. That concern is both necessary and well-founded, but it does not fully capture the range of ways in which culture may be relevant to service provision. In many service contexts, cultural knowledge bears directly on communication, trust, disclosure, help-seeking patterns, stigma, family expectations, spirituality, attitudes toward institutions, and the interpretation of need. In such settings, cultural mismatch may affect not only interpersonal comfort, but also the quality, effectiveness, and practical accessibility of the service relationship. A provider who recognizes these dynamics and facilitates a more appropriate cultural or linguistic match may, in some circumstances, be acting to improve the person's substantive access to service rather than withdrawing from responsibility. Ontario's accommodation framework supports this broader view by treating dignity and individualization as central features of lawful service delivery [2].

At the same time, any such argument must maintain a clear distinction between culturally informed judgment and stereotype. Cultural knowledge is not equivalent to cultural assumption. A provider who proceeds on the basis that "people from your group are better served elsewhere" engages in a form of categorical sorting that is difficult to reconcile with human rights principles. By contrast, a provider who relies on specific features of an individual's circumstances, language needs, community context, or expressed concerns to conclude that another provider with more precise cultural fluency or community knowledge may be better positioned to assist that individual is engaged in a different form of reasoning. The former reflects generalized classification; the latter may reflect individualized care. Ontario's accommodation principles, with their emphasis on dignity and individualization, leave conceptual room for this distinction even as they continue to caution strongly against group-based assumptions and exclusionary decision-making [2].

For disciplinary purposes, this distinction is critical. A regulator that fails to distinguish between stereotype-based sorting and context-sensitive professional judgment risks treating cultural competence itself as suspicious. That would not only flatten a nuanced area of service provision into an undifferentiated risk category, but also create incentives against the very kind of culturally responsive practice that substantive equality may sometimes require.

5. Good-faith referral in Ontario Law

Ontario's effective-referral jurisprudence indicates that referral is not inherently problematic in law. In *Christian Medical and Dental Society of Canada v. College of Physicians and Surgeons of Ontario* (2019), the Ontario Court of Appeal upheld CPSO policies requiring physicians with conscientious or religious objections to provide an effective referral [3]. The case arose from a conflict between patients' access to medical services and physicians' claims to refrain from direct participation in services to which they objected on religious grounds. Its significance for present purposes lies in the Court's acceptance of referral as a lawful institutional mechanism for reconciling competing interests, provided that meaningful access to services remains protected.

The case is relevant here for two related reasons. First, it confirms that referral may function as a recognized legal structure rather than merely as a euphemism for refusal. Second, it demonstrates that the legitimacy of referral depends substantially on whether access is in fact preserved. The sincerity of the provider's position, standing alone, is not determinative; the more important question is whether the referral framework protects the individual from being stranded, delayed, or effectively denied service. That logic can be extended, cautiously, to culturally informed referrals. If the law can recognize referral as legitimate where a provider's moral commitments are in tension with direct service, it should also be capable of recognizing referral as legitimate where the provider is motivated by the client's welfare and concludes, on an individualized basis, that another provider may be better positioned to assist because of cultural or linguistic competence.

The relevance of *Christian Medical* is not that conscience-based and culture-based referral are identical. Rather, the case illustrates a broader doctrinal point: referral is not presumptively unlawful merely because it involves differentiated decision-making. Its legal meaning depends on purpose, context, structure, and effect. That is precisely why disciplinary systems should avoid treating the mere presence of identity-conscious reasoning as dispositive.

6. The fine line between institutional pettiness and genuine justice in referral cases

The language of "pettiness" remains analytically useful, but in this context it is most helpful when understood at the institutional level rather than merely as a personal trait. In disputes involving a prosecuted registrant, there is often a fine line between a genuinely justice-oriented regulatory response and a response that, while formally framed as principled, may in substance reflect institutional pettiness. The central difficulty lies in determining whether a registrant's referral was a culturally sensitive act undertaken in good faith and in the client's interest, or whether it functioned as a discriminatory act grounded in bad faith, stereotype, or improper distancing. That distinction cannot be resolved through labels alone. A regulator or tribunal must examine purpose, context, effect, and the quality of the reasoning used to characterize the referral.

"Institutional pettiness" does not denote a formal doctrine. Rather, it refers to a recognizable mode of decision-making in which regulatory scrutiny becomes shaped by symbolic disapproval, selective suspicion, reputational self-protection, or an unduly narrow reading of professional norms rather than by a careful assessment of the client's welfare and the registrant's actual reasoning. Where that occurs, the regulatory process risks mistaking culturally informed judgment for misconduct, particularly in cases where culture, language, community knowledge, or relational nuance are treated as presumptively suspect rather than as potentially relevant to service quality. Ontario human rights law supports caution against that kind of

formalism because it directs attention to actual burden, dignity, and substantive effect rather than to surface characterization alone [1, 2].

Canadian public-law principles reinforce the same concern. Under *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019), a lawful decision must be justified, transparent, and intelligible, and it must remain responsive to the statutory and factual constraints bearing on the matter [6]. In a different doctrinal setting, *Bhasin v. Hrynew* (2014) recognized good faith as an organizing principle of Canadian contract law and affirmed a duty of honest performance [7]. Read together, these authorities support a broader institutional proposition: legal and regulatory systems should be attentive to the risk that formal process, discretionary language, or disciplinary framing may obscure conclusions that are insufficiently grounded in proper purpose, contextual fairness, or principled reasoning. In cases involving referral by a registrant, the question is therefore not simply whether identity or culture entered the decision-making process, but whether the referral was directed toward the client's welfare through individualized and culturally informed judgment, or away from the client through exclusionary reasoning dressed in professional language.

On this view, the line between institutional pettiness and genuine justice is especially important. Genuine justice requires regulators and tribunals to distinguish carefully between bad-faith referral, which may properly attract sanction, and good-faith culturally sensitive referral, which may instead reflect a serious attempt to promote trust, dignity, and effective service. Institutional pettiness, by contrast, emerges where that distinction is flattened, where suspicion substitutes for analysis, or where the registrant's conduct is interpreted through an overly narrow or image-protective framework that fails to account for cultural nuance, service context, and client-centered purpose. A fair legal framework should therefore not assume that referral involving culture is either inherently benign or inherently suspect. Rather, it should ask whether the referral was individualized or stereotyped, access-preserving or access-impairing, dignifying or stigmatizing, and grounded in good-faith concern for the client or in bad-faith exclusion. That is the point at which the difference between institutional pettiness and genuine justice becomes legally significant.

7. Social justice, formal sameness, and substantive equality

This debate also engages competing conceptions of social justice. One approach treats equality as requiring strong caution toward any explicit identity-conscious differentiation. On that view, the safest legal position is to discourage referrals based on culture, identity, or community context on the ground that such distinctions may reproduce patterns of historical exclusion. That concern is neither trivial nor misplaced. However, if applied too rigidly, it risks collapsing substantive equality into a purely formal model of sameness. Ontario accommodation doctrine points in a different direction: it emphasizes that genuine equality may require responses attentive to individual needs and contexts rather than identical treatment in all cases [2].

A social-justice-oriented framework, properly understood, should therefore ask whether a culturally informed referral undermines or advances the individual's substantive equality. Where referral functions primarily to distance, marginalize, or redirect the person away from meaningful service, it properly attracts legal concern. By contrast, where referral is used to facilitate better communication, greater trust, and more effective service in a manner that preserves access and dignity, a blanket presumption of discrimination becomes more difficult to sustain. Canadian law's broader equality and reasonableness jurisprudence supports this kind of structured, context-sensitive inquiry rather than a rigid rule of identity-blindness [5, 6].

For disciplinary systems, this means that social justice should not be reduced to reflexive suspicion toward all culturally differentiated judgment. A more institutionally mature approach would ask whether the referral

reflected exclusionary treatment or substantive care, and whether the regulator's own response remained faithful to the demands of fairness, proportionality, and contextual reasoning.

8. A proposed doctrine: culturally informed good-faith referral

To reconcile anti-discrimination law with culturally competent service provision, this paper proposes recognition of a bounded doctrine of culturally informed good-faith referral. The proposed doctrine would not immunize all culture-related referrals from scrutiny. Rather, it would operate as a narrow legal protection, or safe harbor, in circumstances where specified conditions are satisfied.

First, the referral must be client-centered in purpose. Its dominant objective must be to advance the client's welfare, dignity, trust, communication, or substantive access to appropriate services, rather than to serve the provider's convenience, avoidance, or symbolic distancing. This requirement reflects the law's concern with proper purpose and helps guard against provider-centered offloading [6].

Second, the referral must be individualized. The provider must rely on the actual features of the individual's circumstances rather than on generalized assumptions about a cultural, ethnic, linguistic, religious, or identity group. This requirement aligns closely with OHRC accommodation principles, which place significant weight on individualization as a component of lawful and equitable service provision [2].

Third, the referral must be grounded in demonstrable cultural knowledge or contextual understanding, rather than in vague assertions of "fit." The provider should be able to identify the relevant cultural, linguistic, community, trauma-related, or relational considerations and explain why they bear on service quality in the particular case. This requirement is important because it helps ensure that the doctrine does not become a coded justification for exclusionary decision-making.

Fourth, the referral must be access-preserving. Drawing on the logic of effective referral, the provider should make a genuine effort to connect the individual with an available and accessible alternative. A referral that leaves the person without realistic access to service, or that predictably results in delay or disruption, should not qualify for protection [3].

Fifth, the referral must be non-stigmatizing in manner and effect. Even a substantively defensible referral may become problematic if it is communicated or implemented in a humiliating, essentializing, or otherwise degrading way. The manner in which referral occurs is legally relevant because dignity is itself a core accommodation principle within Ontario human rights doctrine [2].

These conditions would not displace the *Human Rights Code*. Rather, they would refine the way equality law distinguishes between discriminatory exclusion and benevolent, culturally competent professional judgment. Properly bounded, such a doctrine would strengthen rather than weaken substantive equality by permitting cultural knowledge to be used in the service of the client, while maintaining safeguards against stereotype, stigma, and unequal access. It would also reduce the risk of regulatory harm produced by overinclusive or insufficiently nuanced approaches to service governance.

9. Why legal protection is needed

Clearer legal protection for culturally informed good-faith referral is normatively justified for several reasons. First, in the absence of such protection, providers may become reluctant to acknowledge cultural dynamics even where those dynamics materially affect service quality, communication, or trust. A legal environment that treats all culture-conscious referral as presumptively suspect may encourage an overly rigid form of formal neutrality, even in circumstances where a more context-sensitive approach would better serve the individual.

In practice, that dynamic may produce poorer outcomes for those whose needs are not well met by uniform service models.

Second, recognition of this category would better align doctrine with the established commitments of substantive equality. Human rights law has long recognized that identical treatment may be unequal in effect and that accommodation requires attention to actual circumstances rather than abstract sameness. From that perspective, a carefully bounded doctrine of culturally informed good-faith referral would not represent a departure from equality law, but rather an extension of its underlying logic into an area where institutional guidance remains underdeveloped [1, 2].

Third, the absence of such protection risks privileging performative inclusion over effective service design. A provider may decide to retain a service relationship primarily to avoid the appearance of differential treatment even where another provider would be better positioned to assist because of cultural fluency, shared language, or community literacy. In that circumstance, formal retention may protect institutional optics while doing relatively little to advance the individual's actual welfare. These concerns arise directly from the accommodation and equality principles already embedded in Ontario human rights law and suggest that greater doctrinal precision would improve, rather than diminish, the fairness and coherence of service provision [1, 2].

In this respect, clearer legal protection is justified not only as a matter of fairness to individual decision-makers, but also as a means of avoiding regulatory harm. Where culturally informed, good-faith referral is treated in an undifferentiated way as presumptively suspect, the result may be forms of misrecognition, reputational injury, procedural indignity, selective evidentiary treatment, disproportionate sanctioning, or the suppression of legitimate service innovation that a more carefully calibrated legal framework could avoid [4]. This justification is especially strong in disciplinary contexts, where the costs of misclassification are not merely doctrinal but institutional and reputational.

10. Counterarguments

The strongest objection to recognizing a protected category of culturally informed good-faith referral is that such a doctrine could be misused as a cover for discrimination. That concern is substantial and should be taken seriously. Providers may invoke concepts such as "fit," "community," or "cultural nuance" in ways that obscure discomfort, bias, or other exclusionary motivations. For that reason, any proposed doctrine must remain narrow, evidence-sensitive, and structured around clear safeguards, including individualization, demonstrable cultural knowledge, preservation of access, and non-stigmatizing implementation. The appropriate response to the possibility of misuse, however, is not to prohibit all culturally informed referral. Rather, it is to articulate disciplined criteria capable of distinguishing informed, client-centered judgment from disguised exclusion. That approach is consistent both with Ontario human rights principles and with Canadian public law's broader insistence on justification, proper purpose, and accountable decision-making [2, 6].

A second objection is that equality law should approach any decision involving identity or culture in the allocation of services with substantial caution. That position reflects an understandable concern that explicit identity-conscious reasoning may reproduce historical patterns of exclusion. Yet if taken as an absolute rule, it risks reintroducing formal sameness at the expense of substantive equality. Ontario's accommodation doctrine moves in the opposite direction by emphasizing dignity, individualization, and context-sensitive assessment rather than identical treatment in all cases [2]. If the law is capable of recognizing individualized accommodation in other areas of human rights analysis, it is not conceptually implausible to recognize, in a

carefully bounded way, individualized and client-centered cultural referral where the evidence shows that it advances the person's substantive access, dignity, and quality of service.

A third objection, particularly relevant in professional discipline, is that regulators must maintain clear norms and cannot be expected to parse every claim of cultural nuance in detail. That concern speaks to administrative efficiency and institutional consistency. Yet efficiency cannot substitute for fairness where the conduct at issue is highly context-sensitive and where misclassification may trigger serious professional and reputational consequences. The proper institutional answer is not categorical simplification, but structured criteria that improve consistency without sacrificing contextual justice.

11. Conclusion

The legal boundary at issue in the broader inquiry into pettiness, social justice, and good-faith referral should not be drawn solely by asking whether identity or culture played a role in a referral decision. The more analytically significant question is how those considerations were used, in what context, and toward whose interests they were directed. Referral rooted in pettiness, stereotype, aversion, or provider-centered distancing remains properly subject to anti-discrimination scrutiny. By contrast, referral grounded in genuine cultural knowledge, individualized judgment, and a sincere effort to advance the client's welfare calls for a different legal analysis. Ontario law already contains the doctrinal foundations for such a distinction. The *Human Rights Code* protects equal treatment in services and professional settings; Ontario Human Rights Commission accommodation principles emphasize dignity, individualization, and full participation; and Ontario's effective-referral jurisprudence recognizes referral as a legitimate legal mechanism where it genuinely preserves access.

The contribution of this paper is to show that the problem is not confined to the original referral decision itself. It also lies in the institutional assessment of that decision, especially where a registrant is prosecuted or disciplined. At that stage, the fine line between institutional pettiness and genuine justice becomes central. A regulator or tribunal that fails to distinguish between bad-faith exclusion and good-faith culturally sensitive referral risks not only doctrinal error, but regulatory harm. Properly structured, a doctrine of culturally informed good-faith referral would not weaken anti-discrimination law. It would refine it by improving the law's ability to distinguish between identity-conscious exclusion and identity-conscious care, and by requiring institutions to justify their own interpretations with greater contextual sensitivity and procedural fairness.

On this view, the relevant legal inquiry is not whether culture, language, or community nuance was acknowledged, but whether the referral was exclusionary or benevolent in purpose, individualized or stereotyped in method, access-preserving or access-impairing in effect, and dignifying or stigmatizing in operation. A legal framework unable to make those distinctions risks discouraging culturally competent service provision in the name of equality and, in doing so, may generate avoidable regulatory harm [4]. A framework capable of doing so would be better aligned with substantive equality, procedural fairness, and the institutional design of service systems that aim to be both inclusive and effective.

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