Is it Wrong to Kill my Future Self?

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case

When Jen W was 60 years old, her 81 year old mother was diagnosed with a moderate dementia and was moved to a nursing home focusing on neurologically impaired residents. In the next year, Mrs. W's memory declined rapidly including the loss of capacity to recognize even immediate members of her family. In this same time period, Jen became very upset by her mother's relationship with a strange elderly man living at the same facility. Although Jen found this relationship to be inappropriate, she felt the staff at the facility did not do enough to fulfill her request that her mother not be allowed to fraternize with her new friend. Mrs. W died two years later, but the course of her illness left her daughter with significant distress.

Cont…

As a result, Jen decides in her mid-sixties to create a personal directive stating that, in the event she acquires a degenerative and irreversible neurological condition like her mother's dementia, when certain clinical criteria were fulfilled, she would like to undertake/receive MAID. The directive named an agent (her daughter) and mentioned a list of sufficient criteria to activate the request including: significant loss of memory, enduring inability to recognize friends and family, enduring incontinence or inability to maintain basic self-care, and/or enduring dysphagia.

Advanced Directives in MAID Requests

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- We have a year of experience now.
- The unpredictable overlapping of rules and regulations, the uncertainty of process, and the under-representation of stakeholders, presents significant potential burden to bedside clinicians.

Arguments for MAID via PD

- The very purpose of Personal Directives are to enable competent creators to clearly define their values and desires should they lose the capacity to make day to day decisions. If MAID is considered a medical intervention, there is no prima facie reason to exclude it from a continuum of care offered to anyone who has the capacity to choose. If the principle of autonomy grounds the right of competent patients to consent to, or refuse, even life-sustaining treatment, then the PD as an extension of an autonomous choice should not be excluded in one specific circumstance without a clear rationale.

Arguments for MAID via PD

- In our current regulative structure, patients are required to have capacity to consent to MAID at the time of the intervention. A loss of capacity, even after the MAID request, disqualifies the patient from receiving MAID. The status quo results in increased patient anxiety about fulfilling criteria, timing, and potentially having the window of MAID closed. It can also potentially cause patients to rush to choose MAID based on the limited window of opportunity rather than the ultimate desire to end their lives.

Bill C-14

- being an adult (at least 18 years old) who is mentally competent (“capable”) to make health care decisions for themselves;
- having a grievous and irremediable medical condition (as defined under subsection 241.2(2));
- making a voluntary request for medical assistance in dying which does not result from external pressure;
- giving informed consent to receive medical assistance in dying; and,
- being eligible for health services funded by a government.

Bill C-14 interpretation of ‘grievous and irremediable’

- having a serious and incurable illness, disease or disability; and,
- being in an advanced state of irreversible decline in capability; and,
- experiencing enduring physical or psychological suffering, due to the illness, disease, disability or state of decline, that is intolerable to the person and cannot be relieved in a manner that they consider acceptable; and,
- where the person’s natural death has become reasonably foreseeable taking into account all of their medical circumstances, without requiring a specific prognosis as to the length of time the person has left to live.

So what's the problem?

1. Although the law seems much less controversial, ethically, philosophically speaking, the argument in support of MAID requests via PD seems to rely on the hidden premise that the person who writes the PD is in some relevant respect the same as the person who will be killed as a result of the implementation of the MAID request.

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But what does this mean?

I argue that what we really want is some certainty that Mark at time 1 (t1) is in some meaningful respect similar enough to Mark at time N (tn) such that, the Mark(tn) would still want what Mark(t1) wanted.

Personal Identity Through Time

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- It shouldn’t be difficult, after all, what do we have the most direct and intuitive knowledge of if not ourselves and what it is to be a self through time?

David Hume (1711-1776)

"There are some philosophers, who imagine we are every moment conscious of what we call our SELF; that we feel its existence and continuance in existence; and are certain, beyond the evidence of a demonstration, both of its perfect identity and simplicity. ...[But] from what impression could this idea be deriv'd? ...For my part, when I enter most intimately into what I call *myself*, I always stumble on some particular perception or other, of heat or cold, light or shade, love or hatred, pain or pleasure. I never can catch *myself* at any time without a perception, and never can observe anything but the perception."

Ludwig Wittgenstein (early)

5.631

The thinking, presenting subject; there is no such thing.

If I wrote a book "The world as I found it", I should also have therein to report on my body and say which members obey my will and which do not, etc. This then would be a method of isolating the subject or rather of showing that in an important sense there is no subject: that is to say, of it alone in this book mention could not be made.

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- Psychological attributes (John Locke)
  - Memory
  - Continuity i.e. causality through time
  - Character
  - Goals
  - Values

Theories of Identity

What are some historical criteria for personal identity through time?

- Certain type of sameness (numerical identity)
- Psychological attributes (John Locke)
- Somatic (bodily) similarity

Bring on the thought experiments…

- The Prince and the Cobbler
- The Ship of Theseus
- Brain/Body Switch
- The Transporter
- Transporter 2 – Return of the Transporter
- Brendan to Ann-Margret

Newman, G., Bloom, P. & Knobe, J. (2014). Value Judgments and the True Self. Personality and Social Psychology Bulletin, 40, 203-216.

Newman, G., De Freitas, J. & Knobe, J. (2015). Beliefs About the True Self Explain Asymmetries Based on Moral Judgment. Cognitive Science, 39, 96-125.

Josh Knobe's 'Mark'

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CLINICAL ethics

So, it's not that…

People always believe your beliefs are your true self

And it's not that…

People always believe that your emotions are your true self

But…

whichever they regard as the good part, the part worth preserving, that is the good part. They think that is your true self.

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2. We may have good reason to doubt that Mark(t1), Mark(t2),…Mark(tn) are the same person in the non-trivial ways we are attempting to identify.

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2. We may have good reason to doubt that Mark(t1), Mark(t2),…Mark(tn) are the same person in the non-trivial ways we are attempting to identify.

Therefore: We have an obligation to ask the question, what right does Mark(t1) have the right to take the life of Mark(tn)? Or, what claim could Mark(tn) have to continue life despite Mark(t1)'s plans for him?

Review

When Jen W was 60 years old, her 81 year old mother was diagnosed with moderate dementia and was moved to a nursing home focusing on neurologically impaired residents. In the next year, Mrs. W's memory declined rapidly including the loss of capacity to recognize even immediate members of her family. In this same time period, Jen became very upset by her mother's relationship with a strange elderly man living at the same facility. Although Jen found this relationship to be inappropriate, she felt the staff at the facility did not do enough to fulfill her request that her mother not be allowed to fraternize with her new friend. Mrs. W died two years later, but the course of her illness left her daughter with significant distress.

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Review

Argument 1: The very purpose of PDs is to enable competent creators to clearly define their values and desires should they lose the capacity to make day to day decisions. If MAID is considered a medical intervention, there is no prima facie reason to exclude it from a continuum of care offered to anyone who has the capacity to choose. If the principle of autonomy grounds the right of competent patients to consent to, or refuse, even life-sustaining treatment, then the PD as an extension of an autonomous choice should not be excluded in one specific circumstance without a clear rationale.

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Argument 2: In our current regulative structure, patients are required to have capacity to consent to MAID at the time of the intervention. A loss of capacity, even after the MAID request, disqualifies the patient from receiving MAID. The status quo results in increased patient anxiety about fulfilling criteria, timing, and potentially having the window of MAID closed. It can also potentially cause patients to rush to choose MAID based on the limited window of opportunity rather than the ultimate desire to end their lives.

Review

At the conclusion of Part 1, I suggested an argument to problematize MAID via PD. The argument focused on the question of the existence of personal identity through time and considered several philosophical approaches to this question. I argued that *none* of the competing theories of identity seem adequate to fulfill the similarity of personhood criteria in dementia cases like our example.

Review

- Premise 1. Although the law seems much less controversial, ethically, philosophically speaking, the argument in support of MAID requests via PD seems to rely on the hidden premise that the person who writes the PD is in some relevant respect the same as the person who will be killed as a result of the implementation of the MAID request.
- Premise 2. We may have good reason to doubt that Mark(t1), Mark(t2),…Mark(tn) are the same person in the non-trivial ways we are attempting to identify.
- Therefore: We have an obligation to ask the question, what right does Mark(t1) have to take the life of Mark(tn)? Or, what claim could Mark(tn) have to continue life despite Mark(t1)'s plans for him?

Why should we care about…

- Philosophical abstractions like personal identity?
- or autonomy?

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Philosophical skepticism about the stability of personhood through time is not enough to make this question important. A potential conflict between two iterations of a person at different times does…

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- Personal Directives

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- Personal Directives
- Surgical Covenants
- Ulysses contracts

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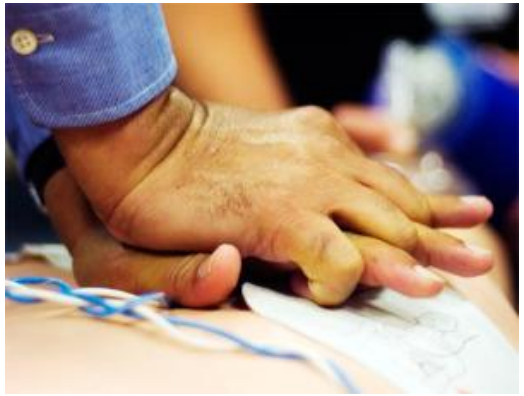
Are there any analogies in healthcare?

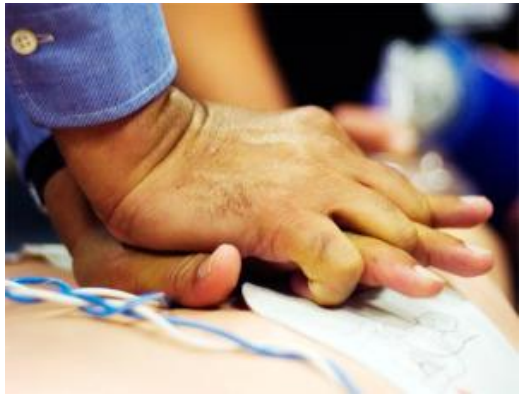
- autonomy
  - As response to technology
  - As an articulation of Will
  - As a consumer right?

*"**A decision regarding a no-CPR order cannot be made unilaterally by the physician**. Where a physician is of the opinion that CPR should not be provided for a patient & that a no-CPR order should be written in the patient's record, the College requires physicians to discuss this with the patient and/or substitute decision-maker at the earliest and most appropriate opportunity, and to explain why CPR is not being proposed. This discussion must occur before a no-CPR order can be written.*

If the patient or substitute decision-maker disagrees and insists that CPR be provided, physicians must engage in the conflict resolution process as outlined in Section 8 of this policy which may include an application to the Consent and Capacity Board. Physicians must allow the patient or substitute decision-maker a reasonable amount of time to disagree before a no-CPR order can be written.



While the conflict resolution process is underway, if an event requiring CPR occurs, physicians must provide CPR. In so doing, physicians must act in good faith and use their professional judgment to determine how long to continue providing CPR.”



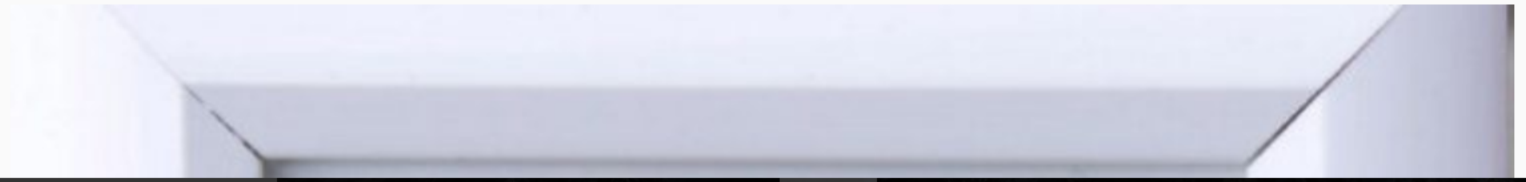
Family of Toronto man declared brain dead say ruling goes against his religion

The 25-year-old suffered an asthma attack at home in late September

The Canadian Press Posted: Nov 01, 2017 7:43 AM ET | Last Updated: Nov 01, 2017 7:43 AM ET

Judge adjourns case to revoke death certificate for Brampton woman on life-support until next month

Dr. Paul Byrne's testimony denied by judge over his lack of understanding of Canadian medical guidelines, and his 'lack of independence, partiality and bias' on the subject of brain death.



The problem of ‘consumer’ autonomy

Definitions and coventions…

Ultimately…

Definitions and conventions…

Ultimately…

Seeking a ‘true’ definition of personhood over time falls prey to the fallacy of essentialism, which is, to assume that the word person has some essential true definition to be determined by appeal to philosophy, natural/social sciences, etc. Like the concept of ‘death’, personhood is a continuum, upon which one may point and say, ‘that is personhood’! But the exact spot at which one points will tell you more about the pointer than the concept.

Conclusion #1

With regards to our example: For a MAID request expressed in a personal directive to be ethical, the must be some continuity between the expressed interests of the requester$_{T1}$ and the requester$_{Tx}$, such that, if requester$_{Tx}$ is flourishing in some unpredictable capacity, that capacity has a recognized prima-facie moral consideration.

What matters most to persons?

What matters most to persons?

- Can we practically avoid nebulous discussions of quality of life?
- Yes, by thinking about the goals of medical intervention.

Flourishing Framework

Teleological Assumptions:

- The ‘goodness’ of life is achieved through the fulfillment of capacities.
- Persons have innumerous but unique combinations of capacities. In fact, so many that the greatest challenge in life is choosing the capacities we attempt to fulfill.
- As we age, we lose capacities. Perhaps we explore new avenues, perhaps we are satisfied by a subset of our diminishing set.
- Goodness of life (happiness) correlates with fulfillment of capacity but does not correlate with number of capacities.

Flourishing Framework

- Medical interventions can (should) be understood in a strict teleological fashion. This mean: At any time, a team should be able to answer the following questions:
  - What is the therapeutic goal of this intervention?
  - What capacity can this intervention either protect or restore?
  - Is the burden of this intervention proportionately offset by a benefit?

Conditions which undermine flourishing

- Pain
- Lack of all capacity
- Awareness of loss of self-identified ‘core’ capacity

Conclusion 2

Proposal for an ethical MAID request via Personal Directive…

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Proposal for an ethical MAID request via Personal Directive…

1. Must recognize the unpredictability of future potential forms wellbeing.
2. Must recognize and avoid the potential tyranny of former self toward present self.
3. A flourishing person has *prima facie* claim to fundamental moral consideration.
4. A non-flourishing person has no *prima facie* claim that should contradict a specific MAID request via PD.

What

Part 2.

- Case discussion
- Review of status internationally
- An attempt at what an ethical example of MAID via PD could actually look like.

Please feel free to ask questions or comment: bleier@ualberta.ca