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Capacity and Competence Considered: A Sweeping Overview of Beauchamp and Childress

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The Capacity for Autonomous Choice

It is often the case that patients are not competent to give valid consent to or refusal from a particular medical course of action. According to Tom Beauchamp and James Childress, this sort of question turns on whether or not the patient is capable, psychologically or legally, of making a decision that can be considered adequate. Competence in decision making is thus intertwined with autonomous decision making, as well as to what makes consent valid.¹

Judgments of capacity are often distinguished from those of competence. Whereas health professionals have the authority to assess capacity and incapacity, courts alone have the authority to determine competence and incompetence.²

This distinction, however, breaks down in practice, according to Beauchamp and Childress. When health professionals determine that a patient lacks decision-making capacity, the consequences of that determination may be precisely the same as those that attend to a legal determination of incompetence.³

Competence Judgments

Competence judgments function to distinguish persons whose decisions should be solicited, accepted, and honored from those whose decisions need not, or ought not, be solicited, accepted, and honored. Though health professionals do not have the (legal) authority to declare patients incompetent, they do have the authority, within limits, to overturn or limit patients’ decisions about care.⁴

There is, to the minds of Beauchamp and Childress, a core meaning of the word competence that applies in all contexts: “the ability to perform a task.” Distinguishing what criteria should be used in the assessment of competence, however, is difficult to determine. Particular competencies are relative to particular tasks. In other words, the ability, or competence, to decide is relative to the decision being made. For example, a person may not, for a multitude of reasons, possess the competence to grapple with the severity of his illness, and thus to make an informed decision concerning the course of his medical treatment; but he may very well possess the competence to inform the medical team of whom he most trusts to make important decisions in his life.⁵

Competence can vary over time. Persons who are incompetent to do something at one point may later become competent to do so, and vice versa. Illnesses can create chronic changes of intellect, language, or memory, and they can also be characterized by rapid reversibility of these functions. In cases of the latter, competence may vary from hour to hour. Thus, a declaration of specific incompetence may protect from sweeping generalizations that exclude persons from all decision making whatsoever.⁶
Such conceptual observations, say Beauchamp and Childress, have practical significance. Traditionally, the law has presumed that persons who were incompetent to manage their estate were also incompetent to vote, make medical decisions, marry, and the like. The sweep of these laws, based on a total judgment of the person, have at times extended too far.\(^7\)

Competent persons will sometimes act incompetently in particular circumstances. Beauchamp and Childress provide an apt example of just this:

Consider the following actual case of a hospitalized patient with an acute disc problem whose goal is to control back pain. The patient decided to manage the problem by wearing a brace, a method she had used successfully in the past. She believes strongly that she should return to this treatment modality. This approach conflicts, however, with her physician’s unwavering and insistent advocacy of surgery. When the physician, an eminent surgeon who alone in her city is suited to treat the patient, asks her to sign the surgical permit, she is psychologically unable to refuse. Her illness increases both her hopes and her fears, and, in addition, she has a passive personality. In these circumstances, it is psychologically too risky for her to act as she desires. Even though she is competent to choose in general, she is not competent to choose on this occasion because she lacks adequate capacity.\(^8\)

As this case illustrates, the concept of competence in decision making is very close to the concept of autonomy. Patients are competent to make a decision insofar as they possess the capacity to understand the material information, make a judgment about this information in light of their values, intend a particular outcome, and communicate freely their wishes to caregivers. Although autonomy and competence differ in meaning (the former meaning self-governance; the latter meaning the ability to perform a task or range thereof), the criteria of the autonomous person and the competent person are strikingly similar.\(^9\)

Just as persons are more and less athletic, persons are more and less able to perform a specific task to the extent that they possess a certain range of abilities. The ability of this continuum runs from full mastery through the several levels of partial proficiency to complete ineptitude. Beauchamp and Childress suggest that, for practical reasons, we need threshold levels below which a person with a certain level of abilities for a particular task is incompetent. They write:

Not all persons are equally able, and not all incompetent persons are equally unable, but competence determinations sort persons into these two basic classes, and thus treat people as competent or incompetent for specific purposes. Above the threshold, we treat persons as equally competent; below the threshold we treat them as equally incompetent. Gatekeepers test to determine who is above and who is below the
threshold. Where we draw the line should depend on the particular tasks involved.\textsuperscript{10}

\textit{Standards of Competence}

The following schema, proposed by Beauchamp and Childress, is expressive of the range of inabilities currently required by competing standards of incompetence. These standards range progressively by ability, from the first requiring the least to the last requiring the most. They are:

1. Inability to express or communicate a preference or choice;
2. Inability to understand one’s situation and its consequences;
3. Inability to understand relevant information;
4. Inability to give a reason;
5. Inability to give a rational reason (although some supporting reasons may be given);
6. Inability to give risk/benefit-related reasons (although some rational supporting reasons may be given);
7. Inability to reach a reasonable decision (as judged, for example, by a reasonable person standard).\textsuperscript{11}

These standards center around three kinds of abilities or skills. Standard 1 looks for the simple ability to state a preference (an admittedly weak standard). Standards 2 and 3 search for the abilities to understand information and appreciate the situation one is in. Standards 4-7 look for the ability to reason through a consequential life decision.\textsuperscript{12}

Beauchamp and Childress underscore the clinical need to select one or more of these standards and turn it into an operational test of incompetence that establishes passing and failing evaluations. The following ingredients incorporate such normative judgments:

1. Choosing the relevant abilities for competence;
2. Choosing a threshold level of the abilities in item 1;
3. Choosing an empirical test for item 2.\textsuperscript{13}

To be sure, no one of these standards provides a fully accurate or completely reliable way to assess decision-making capacity. In the final analysis, the assessment of decisional competence remains heavily a matter of clinical judgment.\textsuperscript{14}

\textbf{REFERENCES}