Ethics: Bioethics (Fall 2014) Laura Guidry-Grimes

Incompetent Patients and End-of-Life Decisions

Surrogate Decision-Making Standards

Substituted Judgment

 Surrogate uses discretion, imagination to judge what formerly capacitated patient would want in this scenario

Pure/Precedent Autonomy

- Based in advance directive explicit, autonomous wishes of formerly capacitated patient as guide
 - Instructional (living will) or proxy (power of attorney)

Best Interests

- Never capacitated or insufficiently known wishes: Choose option with the highest net benefit and lowest net harms/risks for this individual
 - Can be more or less individualized, tailored



- What are ethical reasons for respecting someone's advance directive (AD) in any given case?
 - To what extent are ADs *authoritative* in how medical care ought to proceed?

Why might having a *practice* of writing and enforcing ADs serve moral ends that a society ought to have?

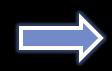
The Orthodox Approach

- Orthodox approach: Respecting ADs or using substituted judgment for pts who are now incompetent
- Questions to ask

- Does this approach achieve its moral aims, or could it in some cases?
- What are the dangers of this approach?
- Are there alternatives that will be more successful, ethically speaking?

Alleged Benefits & Troblems

 Extends freedom, autonomy; projects "critical interests" (Ronald Dworkin)



Former autonomous
person is gone
forever; "experiential
interests" of current
individual matter
most

 Protect from overtreatment, undignified existence



Results in undertreatment; no current interest in "dignity"

Alleged Benefits & Troblems

 Prioritize family discretion



 Allows for covert judgments about quality of life, burdens

 Privileges interests of the patient over others' interests Fails to privilege actual interests of current patient; imaginative barriers for former patient

Saikewicz Case

- Alleges substituted judgment standard misplaced
 - NEVER competent or capacitated (uncontroversial)
- Patient's best interests indicate nontreatment, though it would be standard for competent patients

Do you agree with the court's opinion? What do you see potential problems or objections?



Cantor's five scenarios

- Do you believe the AD ought to be followed?
- What are the moral costs and moral benefits with either decision?
- Ethical implications for general policy?

Questions? Comments?