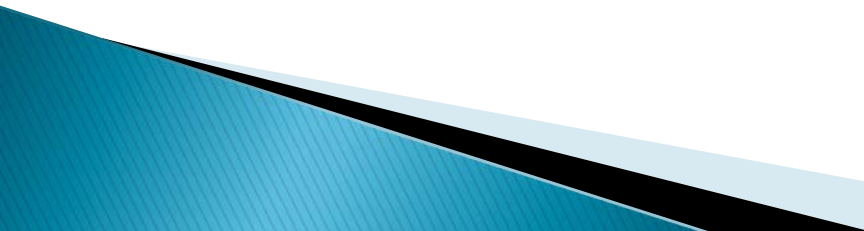


ADVANCE CARE PLANNING: What Gives Prior Wishes Normative Force?

**Workshop on Dying Well
Chinese University of Hong Kong
Centre for Bioethics
November 9–10, 2015**

**Nancy S. Jecker, Ph.D.
Professor, Department of Bioethics & Humanities
University of Washington, School of Medicine
nsjecker@uw.edu**



▶ *First Person Framing: If I lose decision making capacity, how should decisions be made on my behalf?*

- Elicits heightened concern about one's own future self
- Awakens a sense of responsibility about future outcomes
- Triggers distinct emotional responses (e.g., fear, anxiety, dread, rather than compassion, empathy)

▶ *Claims*

- 1st person framing is the right way to think about decision making for someone who loses capacity
- This is true irrespective of whether $(p \text{ at } t) = (p \text{ at } t+1)$
- Even if $(p \text{ at } t) \neq (p \text{ at } t+1)$, a “special relationship” exists between them

▶ *The Conventional Wisdom*

The normative force of my prior wishes is simply that they are *mine*

▶ *2 Views:*

- 2–Person View: The prior capacitated person ceases to exist, & has no decision–making authority over the incapacitated pt
- 1–Person View: The prior capacitated person survives, & retains decision–making authority over the now incapacitated pt

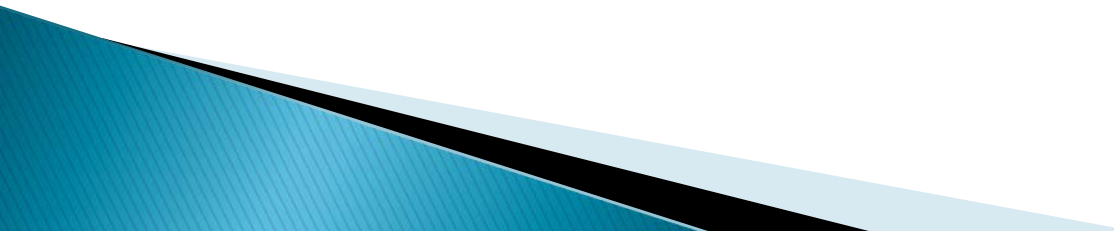
▶ *Basis for 1–Person View*

The Spatial–Temporal View. b is a continuer of a just in case b's properties grow out of, or are causally produced by, or are to be explained by, b's having earlier had the properties a then had

▶ *Basis for 2–Person View*

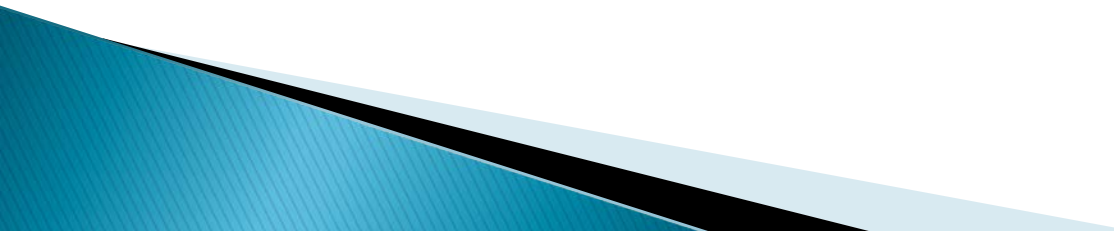
- *Naïve Memory View*: b is a continuer of a just in case b possesses all the memories that a possessed
- *Causal Memory View*: b is a continuer of a just in case b possesses all the memories that a possessed, and these memories were caused by the experiences the memories are about

▶ *Our Predicament:*

- We have not settled the metaphysical debate about the persistence of persons
 - Who ought to decide on behalf of pts who lose decisional capacity?
- 

▶ *A Third Way:*

Challenging assumptions:

- People are rationally required to coordinate their attitudes at one time w/ their attitudes at another time
 - The normative force of temporally remote desires is due to the existence of a continuous self
- 

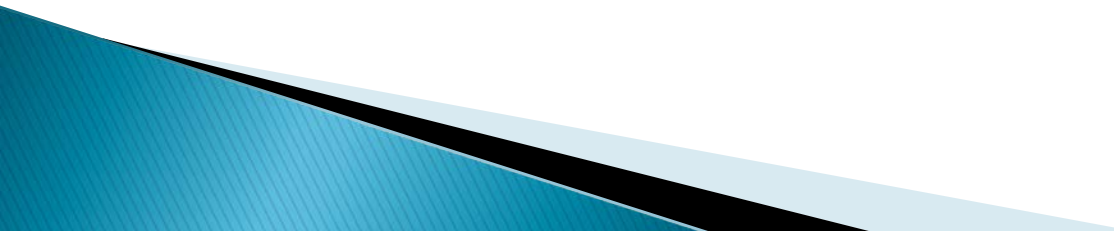
▶ Fickle Frank

Frank is a physicist who changes his mind frivolously. At breakfast, he holds the Everett multiple universe interpretation of quantum mechanics. By mid-morning, he is in favor of the Copenhagen interpretation. At lunchtime, he switches again, siding with the de Broglie-Bohm theory. By afternoon he is firmly convinced that some sort of hidden variable approach must be right. It is *not* that he keeps gaining new evidence throughout the day that supports different hypotheses. He just changes his mind.

▶ *The Frankfurt Physicists:*

A conference on quantum mechanics is held in Frankfurt. Proponents of a wide range of interpretations of quantum mechanics attend. A team of researchers from MIT believe the Everett multiple universe hypothesis. Seated next to them is a Cambridge prof who advocates the Copenhagen interpretation. Further down the row is a philosopher of physics who authored a book arguing for the de Broglie–Bohm theory.

▶ *Justified Beliefs:*

- What justifies a person's beliefs is not their relation to that person's prior beliefs
 - Instead, it is their relationship to *evidence*
- 

▶ *Implications:*

- The best choice for an incapacitated pt is not nec to comply with the wishes of a prior capacitated person
- Instead, we ought to think in terms of what the evidence now indicates

▶ *Implications:*

- Normative requirements do not depend on the persistence of persons, they are impersonal

▶ *Challenge:*

- What counts as evidence for fickle Frank & the Frankfurt physicists is empirical
- What counts as evidence for the best treatment choice for a pt requires more...

▶ *The Conventional Wisdom*

If We Assume The 2–Person View:

- Respect for autonomy no longer justifies respecting prior wishes, e.g., advance directives
- P at t cannot access important information about p at t+1, & thus may not be the best surrogate

▶ *Challenging the Conventional Wisdom*

- A “special relationship” exists between persons & their successor(s)
- The person who I become used to be *me*; they are *my* successor

▶ *The connection bwn me & my successor*

My successor will:

- “take over” my life
- experience the world in the body that used to belong to me
- Live in the home I once lived in
- Be visited by my friends
- Belong to my family
- Be cared for by my physician
- Enjoy access to my bank account & all my worldly possessions

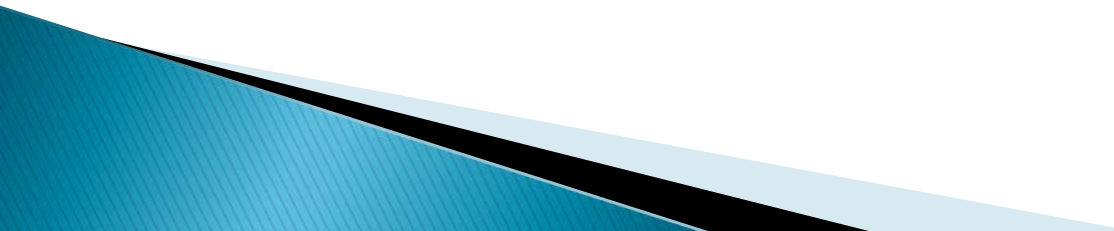
▶ *Analogy: Successor & Bodily Remains*

- The physical remains I leave behind are *my* remains
- The successor who takes over after I leave is *my* successor


▶ *Objection*

- When deciding about a successor, their desires & experiences matter too
- (p at t) cannot directly observe (p at t+1)
- *Response:* No one (aside from the pt) can

▶ *Analogy: Successor & Loved Ones*

- When a pt loses capacity, we grant decision-making to those who stand in a special relationship to the pt, i.e., to spouses, adult offspring, parents, siblings
 - Predecessors are similar, i.e., stand in a special relationship to the pt
- 

▶ *A Continuum:*

- Me
 - Loved one
 - Close friend
 - Family member
 - Fiduciary relationships
 - Extended family
 - Acquaintances
 - Friend of a friend
 - Someone we see on our daily commute
 - An individual we read about on the internet
 - Total stranger
- 

▶ *Prudence*

Managing the claims of the self at distinct time-slices & sometimes denying the demands of present time-slices with an eye to serving the welfare of the whole temporally extended self

▶ *Modified Prudence*

Keeping a successor's interests in mind when making decisions now

Advance care planning

▶ *Objection*

- It serves our self-interest to protect future selves, but protecting the welfare of 3rd parties does not...
- *Reply:* Integrity is the act of unifying the parts of a person(s) into a coherent whole

▶ *Integrity*

Identity With A Narrative Twist:

What makes an action, experience, or psychological characteristic properly attributable to some person (and thus a proper part of his or her true identity) is its correct incorporation into the self-told story of his or her life

A Macintyre, 1989. *The Virtues, the Unity of a Human Life and the Concept of a Tradition*. In S Hauerwas and LG Jones, eds., *Why Narrative?* W.B. Eerdmans.

▶ *Integrity (contd.)*

- ▶ To be a person is to have a unifying narrative
- ▶ Prudential concern for successors (& future selves) arises due to a narrative that connects them to our present self

▶ *Conclusions*

- ▶ Identity is constituted not just by p-connection & continuity, but by creating a narrative whole
 - ▶ Modified prudence & integrity enjoin us to care about and attempt to unify distinct time slices and/or distinct successors & predecessors
 - ▶ When pts lose capacity, the task of preserving integrity falls to us
- 