**Briefing**

**Autonomy and Paternalism**

**Autonomy**

Derived from Greek ‘autos’ an ‘nomos’ – self-rule.

Autonomy or self-determination is perhaps the dominant principle of medical ethics. It encompasses the capacity to think and decide and to act on the basis of such thought and decision. It is closely related to the notion of choice.

Informed consent to medical treatment lies at the heart of autonomy and privacy and confidentiality and are also derived from the principle of ‘respect for persons’, i.e. autonomy.

Autonomy is an intrinsic value of **deontological theory**: people are seen as ends in themselves and not treated as means to the ends of others. **Immanuel Kant** argued that respect for autonomy flows from the recognition that all persons have unconditional worth, and each has the capacity to determine his or her own destiny. To violate a person’s autonomy is to treat that person merely as a **means to an end** (i.e. to treat that individual in accordance with one’s own goals and purposes without any recognition of his or her goals, values, and intended ends).

To reject that individual’s goals and objectives or to restrict that individual’s freedom to act on those goals and purposes is a failure to respect his or her autonomy.

**John Stuart Mill** was concerned about the ‘individuality’ of action and thought. He argued that individuals should be allowed to develop their potential according to their own personal convictions as long as they did not interfere with a like expression of freedom by others. His view was that a person’s autonomy should be respected unless it causes **harm to others**. Limits take into account the respect for others and the need for all to live in a society that has established structures and boundaries. Mill did not think that liberty should be limited on the sole grounds that a person’s choice would harm themselves – competent adults should be free to risk their own health and well-being without interference.

A person’s autonomy may be restricted in certain circumstances, for example:

- to prevent that person from harming others (harm principle)
- to prevent that person from harming him/herself (soft paternalism)

Thus, autonomy and patient preferences or wishes are not absolute. They must be weighed against competing liberties and interests. Autonomy means that patients can choose what type of treatment they would prefer, given a choice, and even choose not to be treated at all but practical limitations exist in any healthcare system. Choices have to be made within healthcare setting with a limited range of treatment options (For example: Fertility treatment - NICE 2004). In these circumstances, people accept that it is more important to protect the social system than to promote autonomy.

Healthcare professions can be considered to have dual autonomy; personal autonomy and professional autonomy. As roles in healthcare change so does the extent to which health professionals have autonomy within the healthcare team.

**Children’s autonomy and the role of paternalism**

Few philosophers would argue that children have the competence for complete autonomy. Paternalism has an important role in restricting their powers of self-determination.

Mill considered it self-evident that children are too immature to be autonomous. Lacking the capacity for autonomy, there was an obvious need for paternalism:

> “It is perhaps hardly necessary to say that this doctrine is meant to apply only to human beings in the maturity of their faculties. We are not speaking of children, or of young persons below the age which the law may fix as that of manhood or womanhood. Those who are still in a state to require being taken care of by others, must be protected against their own actions as well as against external injury.”

JS Mill *On Liberty* (1859)

While a paternalistic approach towards young children is supported both morally and legally, both society and the law recognise that mature adolescents have a right to make decisions for themselves in certain contexts (statute and case law – see *Gillick* (1985 case))

**Should autonomy be seen as a matter of degree rather than ‘all or nothing’?**
Paternalism
Derived from the Latin *pater*, meaning to act like a father, or to treat another person like a child.
In modern philosophy and jurisprudence, it is to act for the good of another person without that person's consent, as parents do for children. It is controversial because its end is benevolent, and its means coercive. Paternalists advance people's interests (such as life, health, or safety) at the expense of their liberty. The traditional model of health care provision was based on the principle of beneficence: the notion that patient's best interests come first. This raises the question as to who decides what are the patient’s best interests. Beneficence can easily slide into paternalism — the notion that *doctor knows best*.

**Hippocratic oath:**
“… I will follow that system of regimen which, according to my ability and judgment, I consider for the benefit of my patients …”

Paternalism is not an ethical principle. Rather, it describes a way of acting that generally overrides the principle of respect for autonomy; and the agent/actor will usually try to justify her/his actions by appealing to the principles of beneficence and/or non-maleficence.
Paternalism is recognised as 'weak' and 'strong'; or 'soft' and 'hard':

**Weak (soft) paternalism**
Weak paternalism is overriding an *incompetent* person’s wishes (and perhaps this is not paternalism at all).

**Strong (hard) paternalism**
Strong paternalism is overriding a *competent* person’s wishes.

While strong paternalism is generally rejected, weak paternalism, can be justified in some cases (e.g. acting for the benefit or best interests of an incompetent patient). In a legal context paternalisms can be seen in the doctrine of ‘therapeutic privilege’, where a doctor can withhold information he considers may have an adverse impact on the patient’s chances of recovery (see Sidaway (1985 case)).

In modern society, shared decision-making is best for both the patient and the healthcare professional. The patient and the caregiver work together as a team.