

Publication

The notion of free will and its ethical relevance for decision-making capacity

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Obtaining informed consent from patients is a moral and legal duty and, thus, a key legitimization for medical treatment. The pivotal prerequisite for valid informed consent is decision-making capacity of the patient. Related to the question of whether and when consent should be morally and legally valid, there has been a long-lasting philosophical debate about freedom of will and the connection of freedom and responsibility.; The scholarly discussion on decision-making capacity and its clinical evaluation does not sufficiently take into account this fundamental debate. It is contended that the notion of free will must be reflected when evaluating decision-making capacity. Namely, it should be included as a part of the appreciation-criterion for decision-making capacity. The argumentation is mainly drawn on the compatibilism of Harry Frankfurt.; A solution is proposed which at the same time takes the notion of free will seriously and enriches the traditional understanding of decision-making capacity, strengthening its justificatory force while remaining clinically applicable.

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