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Refining Emotional Competence in a Dual Account of Decisional Competence

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by

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(United States of America)

Thesis submitted to the Department of Philosophy,
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Abstract

In my thesis, I aim to show that purely cognitive standards of decisional competence are incomplete and would be enhanced by including emotional competence in their assessments. In order to do this, I will critically assess and clarify the account of dual competence, i.e. competence determined through cognition and emotion, presented by Beck Cox White. Including emotional competence in determinations of decisional competence is desirable because it leads to a more accurate standard of competence. In chapter 1, I will begin by discussing morally significant features of competence, i.e. personal autonomy and well-being, as well as giving a brief description of paternalism, which is justified as a result of a determination of incompetence. In chapter 2, I will investigate various features of cognitive-based theories of competence and how competence is standardly determined on these accounts. In chapter 3, I will present White's alternative account of competence, i.e. dual competence, which integrates emotional and cognitive systems into competence assessments. In chapter 4, I will present objections to White's account of emotional competence, define emotion more precisely, offer two new conditions for assessing emotional competence, and respond to objections, concerning the scope of these determinations of competence and their risk of error, to my refined account of emotional competence.

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Introduction

Determinations of competence or incompetence indicate whether individuals should be allowed to make their own choices, or whether external interference is justified, in order to protect vulnerable persons from making potentially harmful decisions. The domain of decisional competence is usually, though not exclusively, medical or financial choices. There are many factors that should be given due consideration when making determinations of competence; however, the primary standards for determining competence refer to the cognitive abilities of an individual. These cognitive abilities include, among other abilities, the ability to reason, to understand relevant information, and to express a preference (Buchanan and Brock 1986, Appelbaum 1998). Becky Cox White proposed an alternative to the widely prevalent cognitive accounts of decisional competence, supported by Allen Buchanan, Dan W. Brock, and Paul S. Appelbaum. White's proposed alternative is a dual standard of competence, consisting of both cognitive competence and what she calls affective, or emotional, competence.

Although White's standard of dual-competence provides a useful and appealing alternative to the purely cognitive standard of competence, it is not sufficiently developed. One critical area, in which White's account is underdeveloped, is defining what precisely is meant by emotion. Before attempting to integrate emotion into determinations of decisional competence, we must first understand what emotion is and only then begin to develop a method for assessing emotional competence. This oversight, i.e. failing to precisely define what emotion is, has historically been made in philosophy. Prior to the twenty-first century, philosophers left emotions, as such, relatively unexplored. More often, the term 'passions' was used, notably by Hume; however, it is difficult to determine whether the states referred to by the term emotions

and passions are the same (Lewens 2015: 170). Perhaps the historic lack of philosophical inquiry into emotion stems from the traditional view that emotion and reason are at odds (Charland 1998: 68). This misconception can and must be clarified, particularly in the case of decisional competence, because emotion has significant effects on the decision-making process of most people. A standard of dual-competence provides a more comprehensive and accurate standard for determining competence; therefore, pursuing a refined version of White's standard of dual-competence is worth pursuing, both in terms of its practical applications and its related morally significant aspects, such as whether paternalism is warranted.

With this background information in mind, I aim to show that purely cognitive standards of decisional competence are incomplete and would be enhanced by including emotional competence in their assessments. In order to do this, I will critically assess and clarify the account of dual competence, i.e. competence determined through cognition and emotion, presented by Beck Cox White. Including emotional competence in determinations of decisional competence is desirable because it leads to a more accurate standard of competence. In chapter 1, I will begin by discussing morally significant features of competence, i.e. personal autonomy and well-being, as well as giving a brief description of paternalism, which is justified as a result of a determination of incompetence. In chapter 2, I will investigate various features of cognitive-based theories of competence and how competence is standardly determined on these accounts. In chapter 3, I will present White's alternative account of competence, i.e. dual competence, which integrates emotional and cognitive systems into competence assessments. In chapter 4, I will present objections to White's account of emotional competence, define emotion more precisely, offer two new conditions for assessing emotional competence, and respond to

objections, concerning the scope of these determinations of competence and their risk of error, to my refined account of emotional competence.

1. The Moral Importance of Competence

In this chapter, I will begin by outlining certain background issues relevant to determinations of competence that indicate the morally significant aspects of competence assessments, in order to clarify what is at stake in this discussion. In particular, I will discuss personal autonomy and the related ability to form a conception of the good, as well as the relation of these values to paternalism (paternalism being what is justified as a consequence of a determination of incompetence). These morally relevant issues, not only provide information on discussions of competence, but they also provide motivation for developing the more precise and accurate account of competence.

Within the liberal tradition, interference with self-regarding actions is often, but not always, considered objectionable, even when the outcomes of certain choices are detrimental to the agent who made them (Dworkin 2014). The objectionable quality of an interference with an agent's action, in most cases, stems from the idea that people are autonomous, self-determining agents. But what does it mean to be autonomous in the relevant sense? In what follows, I will invoke a notion of 'personal autonomy' endorsed by Joseph Raz (1988).

1.1 Personal Autonomy

Raz describes the ideal of personal autonomy as, "The vision of people controlling, to some degree, their own destiny, fashioning it through successive decisions throughout their lives" (Raz 1988: 369). While I make no metaphysical claims about the extent to which individuals do indeed control their own lives, what I would like to draw attention to instead is the fact that people commonly desire to make their own decisions, even in situations in which others might be better qualified to do so. Due to the increasing number of highly specialized areas of study in distinct fields, it seems that there are a number of experts who would be better equipped than

most of us to make decisions for each of us in almost every realm. Yet, even in cases when individuals do rely on experts, they tend to want to retain their autonomy when a final decision is made. In other words, individuals have a right to make decisions about their own lives even if they rely on experts for guidance. Another reason that making our own choices—fashioning our own destinies, as it were— is valuable seems related to the idea that individuals have a their own subjective set of values, commonly known as a conception of the good. In order to pursue their own conceptions of the good, individuals require personal autonomy (Raz 1988).

It is worth saying more about the ability to form a conception of the good because to a large extent it provides one way to determine competence. Each person has different values and goals, which taken together lead an individual towards certain ends. The assumption based on individuals having a conception of the good is that the decisions an individual makes are generally in accord with their overall her value structure, i.e. her conception of the good. An autonomous agent is free to pursue her own conception of the good.

1.2 Paternalism

Linked closely to autonomy and the ability to form and to pursue one's own conception of the good is paternalism. In brief, paternalism is interference with someone for her own good, and it has generally been considered a bad thing (Dworkin 2014). One of the reasons for this negative evaluation of paternalism is that it is said to (and often does) diminish personal autonomy (Dworkin 2014). Furthermore, paternalism might impose external values onto an agent, and it is easy to imagine how this could lead to unsavory consequences, depending on which ends are imposed. One example of paternalistic interference that would impose external values were it to be enacted is the controversial ban on internet pornography. Like many forms of paternalism, such as laws limiting or banning smoking or junk food, it is not completely clear who is the intended beneficiary of a ban on pornography—the actresses and actors or the individuals who

are watching porn. However, for argument's sake, let's assume that the ban on pornography is intended to prevent harm to the viewer herself. The external values imposed through the ban on porn might negatively affect some individuals' ability to enjoy sex, and if the enjoyment of sex is a part of their overall value structure, or conception of the good, this paternalistic interference would negatively influence their ability to autonomously pursue their chosen conception of the good.

What is most relevant for the purpose of this thesis, with regards to paternalism, is that when a person is determined incompetent to make a decision, external interference of some kind is justified. Being under the influence of alcohol is a clear example of a state in which an individual is deemed incompetent to make certain decisions, e.g. the decision to drive a car or the decision to get a tattoo. In these cases, it would generally be accepted (and also legally sanctioned) to interfere with a person's impaired decision-making capacity. Similarly, a judgment of incompetence can justify paternalism of some kind, in order to help an incompetent agent make certain decisions, while respecting the autonomy—through non-interference—of those who are competent to make their own decisions. Due to the external interference justified by a judgment of incompetence, it is clear that someone being deemed incompetent is non-trivial, as this interference might have far reaching consequences in terms of personal autonomy. A judgment of incompetence might restrict a person's ability to pursue certain ends she finds desirable, including many optional and risky operations.

I will conclude my remarks on paternalism by noting a distinction between two types of paternalism: soft and hard. Soft paternalism comes into play when a person is considered to be acting incompetently: "It is argued that interfering in the decision making of these individuals is justified on the basis that the decision is not really their own, and thus, their autonomy is not

really offended” (Le Grand and New 2015: 27). On the contrary, hard paternalism warrants interference even when it is the case that an agent’s autonomy is infringed upon. This type of paternalism is usually justified on the grounds that it prevents a serious harm from ensuing. It is impossible to treat an incompetent individual hard paternalistically.

Due to the morally significant issues surrounding determinations of incompetence—including the importance of respect for personal autonomy, the ability to pursue one’s own conception of the good, and the type of paternalism justified when an individual is found to be incompetent—it is clear that the standard for determining competence should be complete, precise, and accurate to the fullest extent possible. These moral considerations provide motivation for developing a comprehensive standard of competence. In the next chapter, I will describe the general features of cognitive accounts of competence, opposing standards of competence, and two errors that should be avoided when determining decisional competence.

2. The Cognitive Account of Competence

In medical and juridical contexts, an assessment of an individual's competence determines whether an interference with the individual's ability to make her own decisions is warranted. In most liberal, western countries, legal institutions find incompetence a necessary condition for justified paternalism (Buchanan and Brock 1986: 40). Determinations of competence can occur in a variety of fields, including decisions related to healthcare or medical treatments, personal finances, or domicile in old age. These examples draw attention to the fact that determinations of competence occur within institutional frameworks, and thus, are restricted by the legal constraints that govern these institutions. This element of competence, i.e. the institutional element, gives rise to numerous practical questions. For example: who is responsible for determining competence? Who should decide for an individual who is incompetent? However, rather than addressing these applied issues of competence, in this chapter I will examine features of competence and discuss various theoretical standards of competence.

2.1 Understanding Competence

In order to understand what is meant by a determination of competence, it is important to bear in mind several features of competence. In particular, I will discuss four relevant features of competence standardly taken into consideration when assessing whether an individual is competent to make her own decision in the relevant domain. These four features are: (1) the local nature of determinations of incompetence, (2) competence as a threshold concept, (3) the capacities required for competency, and (4) the necessity of the individual having (or having had) a conception of the good. After discussing each of these basic aspects of competence, I will proceed by examining various cognitive standards of competence.

First, proponents of cognitive standards of competence typically adopt decision-relative accounts, meaning incompetence functions on the level of individual decisions (Buchanan and Brock 1986). This understanding of competence contrasts to a global determination of incompetence that would prohibit an individual from making any of her own decisions. Therefore, the sense in which we use competence here allows for a person to be deemed incompetent to make a certain decision, while being fully capable of making another decision based on the particular circumstances surrounding the decision and the individual's own capacities. In other words, determining competence is decision-relative. A determination of competence determines a particular person's ability to perform a particular decision-making task at a certain time under a certain set of conditions (Buchanan and Brock 1986: 23). This feature of competence provides an explanation for why an individual may, under certain circumstances, be deemed incompetent to manage her finances, yet still be fully competent in making decisions about what she wears or eats or when she goes to sleep. However, the decision-relative nature of competence might lead to challenges when establishing a framework for determinations of competence. For this reason, other considerations are necessary in order to make an accurate competence assessment.

Given that a judgment of competence occurs locally, on a decision-relative basis, it is perhaps unsurprising that competence is usually interpreted as a threshold concept. This means that a person is either competent or incompetent to make a decision in a certain instance, and this can be determined by assessing whether an individual reaches a certain threshold, or if she falls below the threshold for competent decision-making. By interpreting competence as a threshold concept, it is still possible for there to be degrees of decision-making ability, in the sense that some individuals are better equipped to make certain decisions than others. However, the ability

to make the ‘best’ decision is not a relevant consideration when assessing competence. To clarify this point, take the following example adapted from Brock: a financial analyst might have more insight into markets, and correspondingly a better understanding of when to invest than a shortsighted and averagely intelligent person. However, once a certain threshold of competence is met, both the financial analyst and a less informed investor are equally competent to make a decision concerning how to invest their money (Brock 1987: 242). This example illustrates that while some individuals make better decisions than others, less skilled, talented, gifted, and intelligent individuals are still competent to make their own decisions if they reach a certain threshold. In my mind, this argument also strengthens the case against consequentialist accounts of competency, i.e. accounts that assess the outcome of the decision when determining whether an individual is competent to make a decision, because, rather than comparing outcomes and promoting the most optimal as prescribed by the specific consequentialist theory, there is space for the expression of personal autonomy (here, the ability to shape one’s own life).¹

Even with these considerations in mind, it is difficult to set an exact threshold for competence. One reason that this is difficult is because, without further considerations, there is limited information that can be assessed when determining exactly where the threshold should be, aside from the anticipated outcome of a decision. In order to solve this problem, the presence of certain capacities and abilities has been introduced as a condition for determining competence. Specifying these capacities and abilities allows for more precise areas in which a threshold can be set.

Since determinations of competence are decision-relative and a person must meet a certain threshold in order to be competent (rather than having the ability to make the optimal

¹ While the idea for this example is taken from Brock’s “Paternalism and Promoting the Good” (1987), his argument and general aim differs greatly from my own. Since the argument itself is not strictly relevant to the topic at hand, I will not discuss it further here.

decision), a challenge in making determinations of competence is that features of competence should be neither too demanding nor too permissive. Here, I will discuss in greater length a few of the proposed cognitive features used to assess an individual's competence; however, before proceeding, it is important to note what I mean by 'cognitive.' In the following, I will use White's broad definition of cognitive, which "applies to the capacities of attention and perception, language usage (fluency, articulation, and comprehension), memory, and cognition itself (intelligence, calculation, insight and judgment, manipulation of data, and abstract thinking)" (White 1994: 117). If these types of capacities and abilities alone establish competence, then the account is cognitive.

Buchanan and Brock, as well as Appelbaum, refer to cognitive competence. According to Buchanan and Brock, competence requires two capacities: first, the capacity to communicate and to understand, and second, the capacity for reasoning and deliberation. How well must an individual reason in order to be competent? For Buchanan and Brock, there is no precise answer; rather the ability to reason should be relational to the type of decision being made (Buchanan and Brock 1986: 37). Meaning the greater amount of risk induced by making a certain choice, the greater the capacity to reason and to deliberate about the specific choice should be. On the other hand, relatively peripheral choices, e.g. what to wear, require less capacity to reason and to deliberate because the risks involved tend to be lower. There are certain cases, perhaps even many, when decisions fit neatly into the category of peripheral or significant and the capacity to reason and to deliberate can be measured in relation. However, one might object that, in practice, whether a decision is peripheral or significant cannot be assessed until after a decision has been made, an action performed, and its consequences assessed. However, a possible response to this

objection could be that since the distinction between peripheral and significant decisions is itself imprecise, it is appropriate that the capacity to reason and to deliberate is equally imprecise.

Next, I will briefly consider Appelbaum's account of competence, which is also cognitive. He too introduces several similar cognitive capacities, a combination of which must be present if an individual is deemed competent to make decisions. The capacities are as follows: (1) the ability to express a choice, (2) the ability to understand and to appreciate the significance of information as it pertains to one's situation, and (3) the ability to reason with the relevant information in a logical process (Appelbaum 1998: 379). The ability to express a choice is usually considered an extremely minimal standard for decisional competence and tends to support looser standards of competence; however, I will discuss this condition and its corresponding results, in terms of determinations of competence, in more detail when discussing standards of competence.

As the capacity to reason was discussed above, I will focus here on the capacity to understand although it seems both capacities are subject to similar treatments. Of understanding, it is reasonable to ask a plethora of questions: what information should be understood? How can we establish that someone understands the relevant information? Given that understanding seems to come in a variety of degrees, how do we distinguish when someone understands well enough or fully enough? Perhaps an example would provide plausible, approximate answers to these sorts of questions.

Imagine a surgeon, who has gone through extensive medical training and has been performing certain operations for a significant portion of her career. The surgeon understands the relevant information required to make a decision to undergo a major operation on several levels: she has adequate physiological background knowledge; she understands the procedure, the

anticipated side effects, and the risks and benefits of the operation. Without consideration of values, her capacity to understand and to reason seems nearly ideal. On the opposite end of the spectrum, there are young children, cognitively impaired individuals, or people who are unconscious. Creating specific guidelines for when a person understands or reasons sufficiently, in a specific situation, seems nearly impossible, especially in borderline cases. This difficulty in assessing borderline cases arises for numerous reasons. One such example is a person who appears to understand sufficiently, but who actually does not. It would be difficult to assess the competence of this individual based on her ability to understand in this scenario. Therefore, I suggest instead a negative account that focuses on specific situations in which these capacities are impaired; when these impairments are present, there might be good reason to question an individual's capacity to understand and to reason.

The first and more obvious type of impairments occurs on the physical level, e.g. brain damage resulting from an accident. Physical impairments cover cases of unconscious individuals, people in comas, and the like. Perhaps physical impairments also extend to young children, whose brains have not yet developed sufficiently in certain regions to make long-term decisions, analyze risk, etc. (Though young children could also be thought not to understand based on their limited life experiences, ability to make accurate predictions about the future, and many other factors that will not be discussed here.)

However, the more interesting type of impairment occurs on the psychological level, manifesting in what Buchanan and Brock call 'psychological blocks.' They write, "Even where cognitive function is only minimally impaired, ability to express desires and beliefs may be greatly diminished or absent... Major psychological blocks—such as fear, denial, or depression—can also significantly impair the appreciation of information about an unwanted or

dreaded alternative” (Buchanan and Brock 1986: 25). Of the psychological blocks mentioned, I think that depression seems a clear indicator that an individual’s capacity to understand and to reason might be flawed. Buchanan and Brock continue, “Psychological processes—such as severe depression, denial, or anxiety—that prevent a patient from achieving adequate understanding or reasoning in a particular decision at hand” (Buchanan and Brock 1986: 43). One explanation of why these psychological blocks might inhibit the capacity to adequately understand or reason could be the automatic nature of these processes, such as depression, denial, or anxiety. Due to the automatic nature of these processes, it seems that the capacities to reason and to understand might be bypassed; therefore, it would be appropriate to question the decision-making capacity of an individual on this basis.² However, it would be inappropriate to claim that all depressed individuals are incompetent since competence is decision-relative (see section 2.1). In sum, the extent to which psychological blocks compromise an individual’s ability to understand or to reason can only be determined on a case-by-case basis, particularly by considering the process through which an individual came to reach her decisions.

So far, the capacities discussed include the ability to reason, to understand information, or to express a choice. The final feature used to determine competence relates to an agent’s subjective set of values. Specifically, in order to be competent to make decisions, an individual must have her own conception of the good. In terms of determining competence, an individual’s conception of the good must have “sufficient internal consistency and stability over time in the values relative to a particular decision” (Buchanan and Brock 1986: 26). The consistency and stability requirements seem to justify decisions—to end life support, for example—on the basis

² It is important to note that while at first glance emotions may also seem to be automatic, I will employ a procedural account of emotion that requires reflection, a capacity that might be limited in terms of severely depressed individuals.

that the decision is in accord with an individual's long-term values and does not stem from one of the psychological blocks, such as intense fear.

2.2 Standards of Competence

The conflicting values at stake in discussions of competence are respecting personal autonomy and helping individuals who are unable to make their own choices. As Buchanan and Brock succinctly state:

“[The] function [of determinations of competence] is, first and foremost, to sort people into two classes: (1) those whose voluntary decisions (about their healthcare, financial affairs, and so on) must be accepted by others and respect as binding, and (2) those whose decisions, even if uncoerced, will be set aside and for whom others will be designated as surrogate decision makers” (Buchanan and Brock 1986: 27).

Therefore, determinations of competence should to the extent possible appropriately sort individuals into one of these two classes. Most people should have their decisions respected by default, given the underlying value of personal autonomy, unless there is reason to question their competence. Support for this claim can be found by appealing to the moral significance of autonomy (for a more detailed discussion of the value of autonomy see section 1.1).

Despite variations, current standards of competence vary but tend to dwell centrally between two theoretical poles: one extreme is the minimal condition of competence, i.e. being the ability to express a preference. The opposite extreme involves looking at the outcome of a decision in order to determine competence (Buchanan and Brock 1986: 32-33). When establishing what standard of competence should be used, two common types of error should be taken into consideration: first, the failure to protect a vulnerable person from the harmful consequences of her decisions; second, the failure to permit someone to make her own decision when she is able to do so. Merely expressing a preference, as a condition for competence, allows people to make their own choices but consequently may fail to protect individuals. On the other hand, looking primarily at the consequences of an action fails to respect the plurality of values

that might inform a decision, even if the decision would likely bring about harmful consequences. This failure becomes clear when you imagine any decision resulting in death or a shortened life (for example, forgoing life saving medical treatments). It is clear that these two extremes are very problematic; however, they do provide two theoretical ends of the spectrum of standards of competence. Understanding standards of competence on this spectrum is useful because it indicates the need for a more nuanced method for establishing competence. The more nuanced, moderate method for determining competence, which I—alongside others, including Brock and Buchanan—endorse, is procedural. This means that the consequences of decisions alone are irrelevant if an individual has undergone an appropriate process to reach her decision, a decision that should be in alignment with her general values or conception of the good. Preferences, then, do play a role in the procedural account, but they should be relatively stable over time. If an individual's preferences change radically, it should raise suspicion about her competence to make a decision and the underlying causes of this change in preference should be examined. Only after examining how and why her preferences changed can a determination of competence be made.

In this chapter, I looked closely at competence, calling attention to four features generally associated with it: determinations of competence are (1) decision-relative, (2) competence is a threshold concept, (3) there are certain cognitive capacities required for competence, and (4) an individual must have a conception of the good in order to be competent. I then discussed two theoretical, opposing standards of competence and the errors each standard attempts to avoid, in order to illustrate the need for a more nuanced method for determining competence. In response to this need, I proposed a procedural account of competence that takes into consideration how

choices were made and how this choice aligns with an individual's subjective set of values. In chapter 3, I will present a challenge to the cognitive standard of competence presented here.

3. A Challenge to the Cognitive Standard

Although cognitive accounts of competence provide useful information about a person's decision-making capacity, they are incomplete because they fail to include another important source of information relevant to decision making, i.e. an individual's emotions. In failing to consider the role of emotion in decision-making, the proponents of cognitive standards of competence cannot fully address certain scenarios in which a person's competence might or might not be called into question. At the same time, many decisions are heavily influenced by emotion, and in order to deal with these types of cases, without inconsistency, emotions must be considered when assessing competence.

Including both emotion and cognition in determinations of competence is motivated by the need to appropriately address cases in which an individual's decision is motivated by emotion. The following example taken from Becky Cox White's *Competence to Consent* illustrates the relevance of emotion in decision-making:

Mrs. J is a 28-year-old weaver who has been quadriplegic since a boating accident 18 months ago. She requires complete assistance in activities of daily living. For the first several months, she was cautiously optimistic about her prognosis... For the last year, however, she has recognized that her paralysis is complete and permanent. A brilliant and nationally acclaimed artist who ran her own studio, she has not been able to adjust emotionally to the fact that she will never again be able to practice her craft. She is tearful during most of her waking hours... She repeatedly expresses her sorrow and her wish that someone would help her to end her life (White 1994: 169-170).

This is a rather complex example as there are many points to consider. However, for our purposes, I will focus on the fact that emotion does have a significant effect on Mrs. J's decision to end her life. How can the competence of Mrs. J be assessed on the cognitive standard of competence? One solution could be to argue that she is incompetent due to a psychological block, e.g. depression, of the sort described in Chapter 2. At the same time, it seems that her

decision to end her own life could at least *potentially* be a competent one.³ Can a cognitive standard of competence account for this, i.e. that Mrs. J is in fact competent to make this decision? The answer to this question is not at all clear, but it seems like that a cognitive account of competence could not account for Mrs. J's competence in this scenario. However, a plausible starting point for assessing this situation would be to investigate the emotions of the individual in question, prior to determining whether she is competent or incompetent. In order to do this, we need a standard of competence that includes emotion. Specific arguments for integrating both emotional and cognitive systems into the assessment of competence will be presented later in this chapter. Preliminarily, I only aim to show why it is necessary to include emotion as a consideration when determining competence.

In the following section, I will critically reconstruct White's account of competence, which aims to integrate what White refers to as affective competence (though I prefer the term emotional competence) with cognitive competence, resulting in an individual who is dually competent. In particular, I will discuss White's arguments for why affect should be included in competence determinations, the information provided by the cognitive and affective systems respectively (in order to point out the similarities of the two systems), and her proposed method for determining affective competence. This sets the stage for chapter 4, in which I will discuss specific problems with White's account. By clarifying and refining White's account, I will attempt to formulate a more accurate account of competence.

³ For the sake of focusing on the role of emotion in the decision-making process, I assume here that Mrs. J would end her own life, due to the complexities of asking another person to assist her in ending her life. While the discussion of assisted suicide is certainly pressing, it extends beyond the scope of the present work.

3.1 White's Account

In *Competence to Consent*, White endorses dual-competence, i.e. the view that individuals should be considered competent only if they are both cognitively and affectively competent, in the domain of medical decision-making. Of this account, she writes:

We find that persons worthy of respect are persons who reason, to be sure, but who also experience and express their feelings. This being so, we understand that, while cognitive capacities are necessary, they are not sufficient. Just as acting from emotion without the benefit of reason is usually inappropriate, so acting from reason without counsel from affect is usually unacceptable (White 1994: 144).

This quotation seems like a good starting point when examining White's account, as it provides a broad overview of her position by indicating the significance of the shared role of reason and affect in establishing decisional competence. Moreover, it highlights the flexibility of White's account in that she appeals to what is 'usual,' in the sense of habitual or regularly done by the individual in question.

In this section, I will look more closely at certain aspects of White's account, including her justification for why affect should be included in determinations of competence and her method for determining when it is appropriate for affect to influence a person's decision. In the next section, I will bring to light two problematic aspects of her account, namely her reference to the capacity to "function well" affectively and her vagueness in relation to what exactly affect is. In chapter 4, I will attempt to respond to each of these objections to White's account by providing a more comprehensive theory of emotion and two conditions under which emotional competence can be established.

According to White, dual competence means that "[h]ealthy persons function effectively in both spheres, exercising both cognitive and affective abilities with facility" (White 1994: 117). Although White does not explain what is meant by affect in much depth (something I will later attempt to clarify), she does mention that her understanding of the affective system is a broad

one, consisting of emotions, motivations, and behavioral control. Of these three aspects of the affective system, emotion seems to add the most new information to the cognitive standard of competence. This is because motivations seem to be linked closely to an individual's conception of the good (discussed in chapters 1 and 2). Behavioral control does not appear to provide information at all, but rather it introduces other issues not strictly relevant to this thesis, e.g. weakness of the will. Given these considerations, emotion seems the most significant source of information provided by the so-called affective system. Moreover, despite including these three aspects of the affective system, throughout her writing White seems to refer predominately to emotion's role in decision-making, as will be evident when look closely at her account. In what follows, I will proceed under the assumption that the terms emotion and affect can be used interchangeably. In chapter 4, I will introduce a theory of emotion in order to clarify what is meant by this term.

At this juncture, it is sufficient to say that there are two sets of abilities the cognitive (well defined) and the affective (less clearly defined), both of which White argues are necessary for a person to be competent. In what follows, I will adopt an account of dual competence, as both cognitive and emotional factors influence decisions and, therefore, should be considered in decision-making, particularly when determining whether a person is competent.

3.1.1 Why include affect in an account of competence?

Cognitive accounts of competence have been widely accepted and used, so why should affect be included in determinations of competence? As discussed in chapter 1, determinations of competence should attempt to avoid two types of error: the failure to protect a vulnerable person from the harmful consequences of her decisions and the failure to permit someone to make her own decision when she is able to do so. I argue that the more relevant information presented about how and why a person came to a decision, the greater the ability we have to balance these

two types of error. As a consequence, the resulting theory of competence would be more accurate and complete. This argument is consistent with the procedural method of determining competence, which was introduced in chapter 2. A procedural method for determining competence holds that consequences of decisions are irrelevant if an individual has undergone an appropriate process to reach her decision. In this case the appropriate process for reaching a decision would include a sufficient amount of relevant information; therefore, the more relevant information we have about how and why a person came to a decisions, the clearer the process through which an individual made a decision becomes. If this process is clear, we avoid the error associated with assessing only consequences of actions, while also avoiding allowing individuals who are not competent to make decisions from doing so.

White has also formulated a response to the question of why affect should be included in determinations of competence. I will discuss two of the arguments that she presents to justify the inclusion of the affective system in decision-making. First, she argues that the cognitive and affective systems are “functionally intertwined” to the extent that if one system is influenced the other is inevitably influenced as well. In a sense, this seems to be an empirical claim that could be tested by altering one system and seeing how this affects the other system. However, she does make an interesting claim in relation to this argument. White writes, “[E]xcessive rationality also has a negative impact. If only reason’s input is recognized, the emotions can wreak havoc with the body in subversive ways, both physiologically (e.g., ulcers) and psychologically (e.g., depression)” (White 1994: 118). For example, ignoring emotional responses (such as dread or anxiety) when beginning a new job and focusing instead only on rational inputs (the competitive salary, benefits, etc.) could lead to negative consequences, both physiological and psychological. This claim is meant to provide counterevidence to the usual view that “excessive emotionality

provokes choices that fail to promote [an individual's] best interests" (White 1994: 118). Here, the need for proportional consideration of both cognitive and affective systems is evident, in addition to noting some of the concrete, negative consequences of disregard of the role of emotion in decision-making.

White argues that the cognitive ability to deliberate requires various pieces of information, some of which are feelings.⁴ White writes, "Emotions convey vital information about how a person feels" (White 1994: 118). The way people feel, i.e. their emotions, explains, in part, why people elect different goals and employ different means for pursuing these goals. White writes, "Two persons presented with the same choice can admit the same facts but choose different options because their feelings about the facts or the options differ" (White 1994: 118). In other words, a person's emotions towards various options heavily influence their decisions. The following example concerning Mrs. F illustrates this point.

I argue further that emotions express certain values and goals that an individual possesses, meaning that the differences in one person's emotional response to an option, or facts of the matter, partially reveal her conception of the good. This can be illustrated with the following example taken from White:

Mrs. F...has just been admitted to the hospital for a biopsy and frozen section of a lump in her left breast. Because both her mother and her sister died during operative procedures (one during a mastectomy), she has an enormous fear of surgery and strongly wishes to avoid any operative procedure. [...] She adds that, even were the outcomes significantly different, she would rather take her chances with radiation therapy that subject herself to the overwhelmingly frightening (to her) experience of mastectomy (White 1994: 134).

⁴ Again White's terminology is rather imprecise, as she interchangeably uses the words 'affect,' 'feelings,' 'emotions,' leaving the reader to interpret the differences or similarities in meanings of the terms on her own. For our purposes, I will interpret emotion and feeling as synonymous, as they both seem subject to the same treatment in terms of the theory of emotion outlined in chapter 4. However, for clarity and consistency, I will use the term emotion.

It is clear from this example that avoiding operative procedures (and the fear associated with them) is a subjective value that ranks highly in Mrs. F's value structure, even when this decision would lower her chance of living. In other words, Mrs. F values avoiding fear enough that she is willing to opt for a less effective treatment. Although Mrs. F's surgeon disapproved of her decision, her decision, which was based significantly on emotion (fear), should still be respected and upheld because it is compatible with her overall conception of the good (White 1994: 134). The ability to pursue one's own conception of the good is a fundamental part of personal autonomy, one of the primary morally significant aspects of competence, discussed in chapter 1. Therefore, the argument that emotions express values seems doubly important in relation to determinations of competence, in that emotion both gives relevant information and signals an individual's underlying set of subjective values. Without considering the informational content provided by emotions, an individual lacks information relevant to decision making. Likewise without considering her emotional response to alternative options, an individual runs the risk of failing to acknowledge her subjective set of values, i.e. conception of the good.

After offering these two arguments for including affect into determinations of competence, White turns to a discussion of the cognitive aspect of competence. In particular, she describes five cognitive functions required for decisional competence. The initial function of the cognitive system is to receive information. She writes, "Once this information has been received, reason has something to reason about" (White 1994: 126). Next, what information is relevant to an individual's particular situation must be discerned. The final three cognitive functions described by White are the ability to reason about different choices, the ability to comprehend the likelihood of a particular outcome, and the ability to rank preferences, respectively. This entire process, White asserts, is "what is meant by 'having good reasons' for a decision. Good

reasons are those that, established by the preceding process, specify the choice that will most likely promote one's values. "This process is what cognitive competence contributes to decision making" (White 1994 127). I will not say more about cognitive standards of competence, as they were discussed at length in Chapter 2. However, I would like to briefly note a similarity between the affective and cognitive systems, i.e. both systems receive information and help an individual to recognize the relevance of the information to her own situation. In 3.1.2, I will describe in more detail the type of information provided by the affective system and how this information signifies relevance to one's own situation.

3.1.2 What information is provided by the affective system?

So far, I have discussed arguments for including the affective system and the cognitive system when assessing competence, specifically I argued that the more relevant information presented about how and why a person came to a decision, the greater the ability we have to balance errors associated with determinations of decisional competence, which results in more accurate accounts of competence; further, I argued that emotions express certain values and goals that an individual possesses (3.1.1). I have also highlighted a significant similarity between the two systems, i.e. that they both provide different sorts of information and various ways for determining the relevance of such information to a person's situation. Next, I will discuss what specific information the affective system provides, according to White.

In order to understand the information provided by emotions, it is helpful to address the three categories of emotion discussed by White (which she adapted from D.N. Perkins, 1981). These are felt emotions, cognitive emotions, and expressions, and each type provides different information. Felt emotions give insight into a person's present situation. White writes, "How one feels conveys important information about the nature of one's situation. Were the situation different, one's feelings would differ as well" (White 1994: 128). In addition to providing

information about a person's specific situation, felt emotions can serve as motivation to change her situation if the felt emotion is unpleasant or not preferred by the individual. White gives two examples to clarify this type of emotion. She writes, "We feel anger upon realizing that others have acted against our well-being. We feel happy when others promote our welfare" (White 1994: 129). Felt emotion can be inappropriate, in the sense of incorrect, because it is based on an individual's understanding of a situation. If someone is wrong about the facts of the matter, her emotion may not suit the circumstances. The so-called inappropriateness of felt emotions can be illustrated by the following situation. Imagine that two friend are walking to a café when suddenly one friend leaps towards the other and pushes her to the ground. The immediate emotional response of the friend, who was pushed, might be anger. However, when you learn that a biker was coming full-speed in your direction, you will likely feel happy that your friend was looking out for you and interfered in order to ensure your well-being.

Individuals also feel the next category of emotion, i.e. cognitive emotions; however, cognitive emotions are "produced by the search for knowledge or attempts at problem solving, and indicate the success or failure of these searches or attempts" (White 1994: 129). An example of a cognitive emotion is feeling regret after making a poor decision, like staying up all night drinking before an important deadline. Similar to felt emotions, this type of emotion provides relevant information and motivation; the difference being that, in the case of cognitive emotions, the motivation provides feedback on how to achieve (through reason) preferred affective states. Regret, for instance, provides information about what should be done differently in the future.

In White's account, the final category of emotion is expressions. Expressions signal affective states to others, and should "motivate perceivers to behave in certain ways," i.e. to assist the decision maker by providing more information in the case of patient-doctor

relationship (White 1994: 129). What information, then, do emotions provide? Emotions provide information about the situation and about the success or failure of the decision-making process, while expressions of emotion provide information to others about how the decision-maker feels about certain options and may indicate a need for more information, reassurance, or clarification.

As we have seen, dual competence, i.e. competence in both the affective and the cognitive systems, provides different types of information and links decisions with personal values. However, in the same way that individuals can be cognitively incompetent or competent, there must be a method for making determinations of competence in relation to the affective system. After discussing the reasons for adding emotion to determinations of competence and the types of information the different categories of emotion provide, I will now discuss the conditions under which the affective system leads to competent or incompetent decision-making on White's account.

3.1.3 How to establish affective competence?

On White's account, how can affective competence or incompetence be determined? White seems to describe two conditions that should be met by affectively competent persons, namely the person should be able to indicate the role of emotion on her decision-making process and the person should display typical patterns of behavior consistent with her values and habitual practice. I will discuss each of these conditions in turn.

Initially, White argues, "The affectively competent person will be able to indicate the role emotions played in reasoning" (White 1994: 130). This means that ideally a person should be able to trace and to articulate her emotions at various phases throughout the decision-making process, but minimally, she should be able to express her emotions at the completion of her decision-making process. While this condition requires cognitive elements, e.g. the ability to express oneself, its primary function seems to be establishing an awareness of the emotional

processes at play. Perhaps this condition is intended to rule out competence in cases where emotions are erratic, and, therefore, fail to provide significant information and to serve as good reasons for making decisions. An erratically emotional person would either experience emotions for no reason at all or rapidly switch between emotions without a reason for doing so. To illustrate this point, imagine the same pair of friends walking to a café (3.1.2). In the original example, one friend pushed the other to the ground, in order to save her friend from being hit by a biker. However, on this lucky day, there were no careless bikers and no one is pushed. Nonetheless, from one moment to the next, friend X feels anger, then happiness, then anger, towards friend Y. On this basis, friend X decides to end the friendship with her befuddled companion. While friend X might be able to state her emotions (anger, then happiness, then anger), due to their erratic nature she would be hard-pressed to trace their origins or to describe how they lead to her decision.

While this condition for establishing emotional competence seems compelling overall, a potential objection could be that certain individuals are not emotionally introspective. Despite being affected by one's emotions, it is plausible, indeed likely, that some people may not be able to articulate the role that emotions played on their decision-making process. In order to illustrate this point, imagine a person who grew up in a society where talking about one's emotions was strictly prohibited. Any discussion of emotions would lead to heavy penalties and perhaps even exile from the community. However, an individual in this society is faced with an important and difficult decision. During the decision-making process, the individual has problems sleeping, withdraws from social life, and cannot concentrate on daily tasks. Although she cannot articulate how her emotions influenced her decision (because it is forbidden to do so in her society, and she does not have experience discussing such things), it seems that her emotions are keying her in to

certain important information about her situation. While this is an extreme example, it applies, to some extent, to many situations in which people find it uncomfortable to speak about their emotions in social situations, as it is not the norm to do so, or in situations where people are not experienced at discussing their emotions, so it is difficult for them to do so, even when they might otherwise be competent emotionally. For this reason, indicating the role of emotion will in some cases fail to provide insight into whether or not a person is competent, as determining such persons to be incompetent might prevent them from making their own decisions even in cases when they are in fact able to do so. Although this condition for emotional competence is worth bearing in mind, it is clear that further conditions must be established.

As mentioned at the beginning of this chapter, White's account of decisional competence is flexible. This is made readily apparent when considering her claim that the extent to which emotion is used in decision-making (relative to cognitive considerations) varies from person to person and should be consistent with what White calls a person's "decision making style" (White 1994: 138). On White's account, emotion must be present when making a decision to the same extent that it is present for the individual in question on a regular basis, i.e. habitually. There is not precise balance between cognitive and emotional decision-making. White writes, "The person who shows too much reason or not enough emotion may be competent if that approach is habitual, but incompetent if such an approach is atypical" (White 1994: 137). For example, if a person regularly makes decisions without much consideration to her emotions, then it should not be alarming when she behaves similarly in another situation. On the other hand, it would raise concern if a person who usually considers her emotions has no affective response to her situation at all. The conditions for emotional competence that I will argue for and develop in chapter 4 are related to typical patterns of behavior, but they are more nuanced.

On White's account, the two conditions that must be met for a person to be considered affectively competent are: first, the ability to explain the role emotion played in her decision-making process, and second, the proportion of affect to reason is consistent with an individual's habitual decision-making style. However, according to White, the affective system can also provide clues to affective incompetence. White writes, "Those whom incompatible desires fail to provoke negative responses are rightly suspected of fail to appreciate their situations" (White 1994:132). In other words, a lack of emotional response in a situation—in which there are two incompatible and conflicting choices—would elicit worries in regards to an agent's emotional competence. In this case, an individual *should* feel something according to White, and if they do not, the person's competence may be called into question.

Building on the notion that a person should have an emotional response in some situations (i.e. when a person must decide between two irreconcilable options), White takes a stronger position when she writes, "Total absence of affective expression is only superficially problematic; total absence of *affective ability* will make one incompetent to consent" (White 1994: 137, emphasis added). Here affective ability seems to mean an individual's ability to function emotionally, while affective expression seems to correspond to the category of emotion that White calls 'expressions,' through which an individual communicates her emotions to others. Her reason for making this claim, i.e. that an individual is incompetent to consent if she lacks affective ability, is that, without the affective system, an individual does not have appropriate information, and thus, the individual is not relevantly informed. White continues, "As we would not accept a person's decision if he did not have the relevant cognitive facts, so we cannot accept a person's decision if he does not have the relevant affective facts because he is omitting a normal aspect of his decision-making system" (White 1994: 137). Although this is a

strong claim, it seems consistent with White's overall position, including her claims that emotions provide information, the cognitive and affective systems are intertwined, and that one's emotions reveal something about her subjective values. Based on these considerations, the condition for competence that requires individuals to respond emotionally in specific situations seems plausible.

In this chapter, I have critically reconstructed White's account of dual competence, focusing in particular on her arguments for including both the affective (emotional) system and the cognitive system when determining competence, the types of information provided by the affective systems, and the conditions for determining whether a person is affectively competent. In the next chapter, I will attempt to refine an account of emotional competence by addressing certain problematic aspects of White's account, defining emotion, introducing two additional conditions for emotional competence. Finally, I will respond to a significant anticipated objection to my own account.

4. Refining Emotional Competence

In chapter 3, I discussed in some detail White's account of dual-competence. However, certain aspects of her account were not sufficiently developed. These include the vagueness of her terminology, specifically what is meant by affect, as well as the insufficiency of her conditions for establishing emotional competence, i.e. the condition that an individual explain the role emotion played in her decision-making process and the condition that the proportion of emotion to reason is consistent with an individual's habitual decision-making style (3.1.3). In this chapter, I will explicate certain objections to her account and attempt to clarify these issues in order to provide a more accurate account of decision-making competence. After addressing the problematic aspects of White's account, I will develop a working definition of emotion derived from Jenefer Robinson's theory of emotion, I will add two additional conditions for emotional competence, and I will defend this refined account of emotional competence from a critical objection.

4.1 Problematic Aspects of White's Account

On the whole, White's account is illuminating and enhances the standard cognitive account of competence; however, in this section, I will discuss some objections to this account in an attempt to clarify and to refine a dual account of competence. Clarifying this account is worthwhile because it will result in a more precise and accurate account of decisional competence. In particular, I aim to develop the emotional competence aspect of dual-competence, working under the assumption that the cognitive standard of competence (as described in chapter 2) is either relatively unproblematic or that, if the cognitive standard is indeed problematic, then correcting this account is beyond the scope of the current project.

In what follows, I will present two fairly serious objections to White's account, concerning the conditions for establishing competence and the vagueness surrounding the meaning of affect. My responses to the objections will carry over into the next sections, as I seek to develop a more refined account of emotional competence, which can then be integrated with a cognitive standard of competence to ensure more accurate determinations of dual-competence.

As noted throughout chapter 3, White's account is fairly imprecise in terms of what 'affect' actually refers to. Although she originally introduces the affective system in a broad sense, she primarily seems to focus on what she calls, interchangeably, emotions or feelings. This vagueness limits the usefulness of White's account because it fails to clarify what qualifies as affect, i.e. what affect is, and the resulting uncertainty increases the difficulty of determining whether an individual is emotionally competent to make a decision.

White's introduction of categories of emotions might have been an attempt to clarify what she means by affect. However, I argue that this distinction is of limited use. Although this distinction does highlight the difference between *having* emotions and *expressing* them, differentiating between felt emotions, cognitive emotions, and expressions (all of which essentially provide information) does little to enhance our understanding of what emotions actually are. That being said, White's primary objective was not to provide an account of emotion, although it does seem that defining emotion would provide a more accurate account of emotional competence, which I seek to do. The difference between having emotions and expressing emotions is significant because White claims that, if an individual is habitually emotional, then having emotional ability (to the same extent as she usually does) is necessary for being (emotionally) competent (and thus, dually competent); while the lack of emotional expression is not problematic, in the sense that it can be solved by asking an individual what her

emotional state is, or was, at the time of making a decision. This aspect of competence was discussed at greater length in chapter 3, so I will not discuss it further here. My point is that although White's distinction between expression and emotion is of some use, her theory is incomplete and would be improved by a clearer definition of emotion.

As I hope the examples in chapter 3 indicated, cognitive and felt emotions take different objects.⁵ In the case of felt emotions, the general situation is the object of the emotion, while in the case of cognitive emotions, the object is the cognitive process being undertaken, i.e. an assessment of the deliberative process. It seems like too strong of a claim to say that these are entirely different categories of emotion, when it seems that they are emotional responses to different objects. In the next section, I will introduce a theory of emotion in an attempt to clarify determinations of emotional competence.

In chapter 3, we have established that on White's account competence should be determined in relation to habitual tendencies of the decision maker. In other words, competence seems to be relative to the typical decision-making style of the relevant person. As mentioned before, the flexibility of White's account is appealing. However, in certain instances White's account becomes permissive to the extent that it seems probable that almost no one would be considered incompetent so long as they respond affectively in a manner that is habitual. This worry arises when White introduces the emotional decision maker, i.e. a person who "feel[s] rather than reasons" (White 1994: 139). White writes, "In times of stress habitual responses are often more reliable. So long as she is moving ahead with the decision making process (here, resolving the problem at hand by appealing to feelings), *she is competent for her*" (White 1994: 139, emphasis added). However, the idea that someone can be competent relative to herself is

⁵ For a more complete discussion of the objects of emotion, see section 4.3 Conditions for Emotional Competence.

problematic and likely to fail to protect individuals from the consequences of their harmful decisions.

While a person need not make the most optimal decision (as the financial advisor example in chapter 2 demonstrates), the threshold for competence should prevent people who are unable to make decisions from doing so. In order to do that, competence cannot be completely agent relative in the manner that seems to be implied by White's statement "competent for her." In order to illustrate why "competent for her" is no good, let's go back to the example of young children discussed in chapter 2. In section 2.1, I listed several (non-exhaustive) reasons that young children might not be cognitively competent: their brains have not yet developed sufficiently in certain regions to make long-term decisions or to analyze risk. They may not be able to understand based on their limited life experiences, and they likely have a limited ability to make accurate predictions about the future. The case of young children is problematic for White because, based on her account of emotional competence, it seems that young children would, at least in theory, be considered emotionally competent, so long as they could, when prompted, express the role emotion played in their decision-making procedure (e.g. I was angry, so I ran away from home) and this decision was consistent with their overall decision-making style (e.g. I always make decisions based on my emotions, just ask my mother). Of course, it would be absurd to imagine that young children, who are still developing both emotionally and cognitively, are competent to make their own (non-trivial) decisions, and indeed there are laws prohibiting it, in order to protect young children from making harmful decisions. However, on this account the incompetence of children would result from cognitive competence (rather than emotional competence).

This leads us to a difficult question: is emotional competence really contributing to an account of dual-competence, if the conditions for establishing emotional competence are so permissive? In other words, if emotional competence is only relative to habitual displays of emotion and some people do not rely on their emotions when making decisions, to what extent is emotional competence necessary to determinations of competence? Or more pointedly, are these determinations of competence “dual” in a significant sense? After defining emotion in the next section, I will attempt to provide further conditions to assess emotional competence with the aim of making more strenuous and, thus, more accurate conditions for determining emotional competence.

4.2 Defining Emotion

Borrowing from Robinson’s elegant theory of emotion, we can understand emotion as a process consisting of three stages, each of which function in feedback loops. The first step involves an initial affective appraisal of an object, the next step involves a physiological response, and the final step consists of a more discriminating affective appraisal (Robinson 2005: 59). Robinson writes, “Once an emotional process has been initiated, there is constant cognitive monitoring of the situation” (Robinson 2005: 75). This monitoring allows objects to be updated. For example, if you walk into a dark room and immediately perceive a person sitting in front of you, your heart rate might increase as your body prepares for fight-or-flight mode, and you feel ‘fear.’ After a few seconds, you switch on the lights and see that what you imagined to be a person was actually only a jacket draped across an armchair. Your heart rate will slow, as your body returns to homeostasis, because the cognitive monitoring element of emotion has taken place and provided new feedback relevant to your situation.

This theory of emotion has two benefits: first, it seems to map the way emotions actually function (as the armchair example demonstrates); second, it disambiguates the numerous terms

used, presumably, to discuss emotion (for example, affect, passions, feelings, moods, etc.) and, therefore, allows for more accurate and precise claims concerning the role emotions should play in decision-making. Traditionally, when emotion is pitted against reason (in the sense of rationality), what is referred to as ‘emotion’ seems to be any experience that is entirely non-cognitive, based on the broad understanding of cognitive outlined in chapter 2. Emotion, understood in this way, can provide very little, in terms of information and influence on decision-making. However, by including “affective appraisal” as part of the process of emotion, as Robinson does in her theory, we are able to discern what is of use in emotion and what is not, at least if an individual is emotionally competent. Useful information discerned from an emotional process can be evaluated after the initial affective appraisal and the physiological response, in order to assess whether or not the information gathered from the first two steps of the process of emotion is worth considering. Based on this theory of emotion, how can we determine if an individual is emotionally competent? In the next section, I will briefly recall the plausible conditions for emotional competence suggested by White and add two of my own conditions for emotional competence, drawing on Robinson’s theory of emotion.

4.3 Conditions for Emotional Competence

On White’s account of dual competence, there are two conditions that establish emotional competence. These conditions are: (a) the ability to explain the role emotion played in her decision-making process and (b) the proportion of emotion to reason is consistent with an individual’s habitual decision-making style. As the discussions in chapter 3 and in the previous section indicate, these conditions alone are not sufficient for establishing emotional competence. The first objection I raised to White’s account of dual competence is the vagueness of her terminology, specifically the fact that her vagueness increases uncertainty, in terms of determining whether an individual is emotionally competent to make a decision. The second

objection I have identified with White's account is that in certain instances White's account becomes permissive to the extent that it seems probable that almost no one would be considered incompetent so long as they respond emotionally in a manner that is habitual. This is problematic because it does not place an appropriate significance on emotional competence in relation to cognitive competence. For these reasons, I will propose two new conditions, based on assumptions from Robinson's theory of emotion, that are better able to capture when an individual is emotionally competent.

Based on the theory of emotion presented in the previous section, there are two key assumptions that will play a significant role in determining the extent to which emotions can function as reasons in competent decision-making. The two assumptions are as follows:

First, emotions take objects.⁶ This means that if I am experiencing an emotion (anger), it is directed at something (the late bus) or someone (my grouchy neighbor). The existence of an object—which can be understood as an emotional stimuli—matters because it seems that for emotion to provide information, it should be responsive to something, whether it be something physical or something more abstract. Someone who experiences an emotion without an object would likely not be in a position to make decisions based on her emotions, as her emotional response fails to give information about her environment or situation. In chapter 3, I discussed one of White's conditions for affective competence, i.e. the ability to articulate the role emotion plays in one's decision-making process. While this condition is useful in ruling out cases in which emotions are erratic (recall the example of the two friends walking from section 3.1.3), it seems problematic because not all people are emotionally introspective. The assumption that

⁶ That emotions take objects was briefly mentioned previously in this chapter, when I raised an objection to White's three categories of emotion. My hope is that the examples were sufficiently clear to understand what it means for an emotion to have an object; however, here I will describe in more detail what precisely this implies.

emotions must respond to an object serves the same function as the condition proposed by White, i.e. ruling out erratic emotion, without requiring emotional introspection. For this reason, it seems to be a more effective measure for establishing emotional competence.

Second, on Robinson's account, emotions are subject to cognitive monitoring. Cognitive monitoring has many implications, including culturally specific elements, such as appropriateness or inappropriateness. For our purposes, cognitive monitoring is most significant in the sense that it brings a 'temporal dimension' to emotion. This means that emotions are sensitive to developments over time; these developments are the result of continuous feedback relevant to an individual's situation and how it may have changed. (This assumption aligns nicely with White's argument that emotions provide information about one's situation, which is to my mind one of the most significant contributions of her account.) Cognitive monitoring, paired with sensitivity to developments in one's situation over time, seems to be something that rules out certain individuals. Recall the armchair example from 4.2. There is an individual who feels afraid because she believes that a person is standing in their living room. Switching on the light reveals that the imagined person is merely a jacket draped across an armchair. If this individual's emotional response does not change in light of the new information, it seems unlikely that her emotions provide useful information relevant to her situation. Therefore, she would not be emotionally competent.

In order for a person to be emotionally competent, a person's emotions should meet the two conditions derived from the assumptions of Robinson's theory of emotion detailed above. I will call these conditions 'responsiveness' and 'update-ability,' respectively. To illustrate these two conditions, let's take a rather far-fetched example. Imagine Amy. She is an heiress, who experiences an intense emotion when she is touched on her right arm. The emotion she

experiences is so overpowering that when she is touched on her right arm at work, she immediately quits her beloved job. Amy meets the criteria of responsiveness because her emotion was elicited by a stimuli, i.e. being touched on her right arm. However, it is unclear whether she meets the update-ability condition.

To assess whether she meets this condition, let's imagine further that Amy grew up in a society, or household, where she was taught that if she were touched on her right arm at her workplace, something extremely negative would happen. The first time she is touched on her right arm at work, her immediate affective appraisal might be something like 'bad' or 'oh nooooo' or '!!!!' and would manifest various physiological responses. Her immediate cognitive appraisal of the intense emotion she experienced, as a result of being touched on the right arm, might indicate to her that she should immediately leave and quit her job. However, depending on what happens next, she may well update her response in such a way that she places less significance on the incident (assuming there are no negative consequences). If no harm comes from being touched on her right arm, Amy might realize that her fear was unwarranted and reassess—by means of the continuous feedback loops resulting from the process of emotion, proposed by Robinson—the information provided by her emotion. In this case, she meets the update-ability condition.

In this section, I have proposed two original conditions, i.e. the responsiveness condition and the update-ability condition, that contribute to the assessment of emotional competence derived from assumptions based in Robinson's theory of emotion. These conditions are preferable to White's conditions because they seem to capture some of the relevant considerations in White's account, while also being less permissive and excluding certain individuals, such as those whose emotions do not respond to objects and those whose emotions

do not change in light of new relevant information. In refining the conditions for emotional competence, I aim to strengthen and to clarify the method for assessing emotional competence. This refined method for determining emotional competence allows both emotional competence and cognitive competence to play significant roles in assessing whether or not an individual is dually competent. In making determinations of competence that include both emotion and cognition, there is a more complete and accurate account of decision-making competence

4.4 Objections to the Refined Account of Emotional Competence

The conditions of responsiveness and update-ability outlined in the previous section lead to a better standard of emotional competence, a standard in which both the emotional systems and the cognitive systems influence determinations of competence in a significant way. This refined view of emotional competence provides clearer and more accurate standards for assessing the emotions of individuals during the decision-making process. However, the increased role of emotion in determining competence leads to a serious question: if people lack the emotional systems, i.e. they completely lack all emotional ability, are they necessarily incompetent to make decisions? Based on the position that I share with White, i.e. the position that competent individuals should be dually competent, plus the addition of my own more demanding conditions of responsiveness and update-ability, my account of competence seems to entail that emotion must be present when an individual is making a decision. This gives rise to a serious potential objection to my account: should those individuals who lack emotional ability be considered incompetent to make decisions in all cases?

In short, this standard of dual competence requires that individuals have some emotional ability if they are to be considered competent. Here, I expect that there will be some disagreement. One might object that sociopaths or some people with autism (to name two groups who have less ability than most to process emotional information) should not be determined

incompetent to make their own significant decisions just because they, to a greater or lesser degree, lack emotion. While I admit that this seems like an extreme position, I will argue that it need not be detrimental to my position. In response to this objection, i.e. the objection that my refined version of emotional competence renders too many people and groups incompetent, I will present two counterarguments, concerning the scope of determinations of competence and the risk of error in determining competence.

4.4.1 Scope of determinations of competence

First, it is important to remember that determinations of competence are decision relative (as discussed in chapter 2), and thus, if a person is found incompetent to make a particular decision, her autonomy is only infringed upon in relation to a specific decision. Individuals who lack emotional competence (perhaps even those who lack cognitive competence) are still able to make many of their own decisions. For example, individuals should be able to choose what they would like to eat, when they would like to sleep, how they spend their free time, what they read and wear, how often to floss, etc. under almost all circumstances.

My reason for making this claim is the following: as discussed in 2.1 in reference to the cognitive standard of competence, the greater amount of risk induced by making a certain choice, the greater the capacity to reason about the specific choice should be. To the contrary, peripheral choices require less capacity to reason because the risks involved tend to be lower. I propose that the extent to which an individual should have emotional ability should be relative to the risk involved in the decision, in the same way that the ability to reason should be related to risk. This allows standards of dual-competence to avoid the problem of requiring an emotional response from individuals before they are able to decide, for example, when to floss.

Moreover, assessments of competence are initiated most frequently when an individual is faced with a significant choice and makes a decision that either goes against expert advice or

involves extreme risk. In these situations, determinations of competence become relevant. In chapter 2, we also established that determinations of competence are intended to protect vulnerable individuals from the harmful consequences of their decisions, while also allowing people to make their own decision when they can. The fact that an individual has no emotional response, for example, to a situation in which she must decide whether or not to have an invasive and painful, yet possibly life-saving surgery, should (and in my account as well as White's account does) trigger our concern in regards to her decision-making competence, as mentioned in chapter 3. While this might mean that entire groups (such as sociopaths or some people with autism) are globally rendered incompetent, it does not matter in any practical sense. Upon further close inspection of the specifics of an individual's situation, if she is completely lacking in emotion, there might be good reason to assign a person to help her make a decision. However, in order to make this determination, an individual's specific situation must be examined.

4.4.2 Error in determinations of competence

My refined account of emotional competence might, in certain specific instances, wrongly render people incompetent due to their lack of emotion. On the other hand, an account of decisional competence, which does not include emotion, risks wrongly determining an individual to be incompetent when emotion influences her decision-making process. Risks of error are always possible when determining whether an individual is competent to make her own decision. However, a more comprehensive account competence (in this case, one that includes emotion and cognition) does not create more risk of wrongly determining competence, and it might even raise our awareness of the inherent risk involved. In determining competence, we should be aware of what is at stake and the risks associated with inaccurate determinations of competence or incompetence. The details of a specific situation should always be carefully scrutinized. By

carefully considering more aspects of competence, i.e. both cognitive and emotional competence, we are better able to make accurate assessments of competence.

Conclusion

In my thesis, I began by highlighting the morally significant aspects of determinations of competence, including autonomy, conceptions of the good, and paternalism (chapter 1). Next, I explicated the cognitive accounts of competence presented by Buchanan and Brock and Appelbaum, while attempting to make clear what competence is and the various standards of competence, as well as the risks associated with each standard (chapter 2). After this preliminary discussion of competence, I presented White's account of dual-competence, i.e. an account of competence that includes both cognition and emotion, as a challenge to the purely cognitive accounts discussed previously. In this chapter, I explore the following questions: Why include affect in an account of competence? What information is provided by the affective system? How to establish affective competence? These questions were addressed in order to justify the inclusion of both emotion (or affect, as White calls it) and cognition in accounts of decisional competence (chapter 3). Although White's account of dual-competence provides a good starting point in terms of understanding the need for accounts of competence that are not purely cognitive, her account is fairly susceptible to objections. The most significant objections to White's account concern the vagueness of her terminology and the insufficiency of her conditions for determining competence. In response to these objections, and with the goal of creating a more accurate standard of emotional competence, I introduce Robinson's theory of emotion and two conditions for establishing emotional competence, derived from assumptions implicit in Robinson's theory. These conditions are (a) responsiveness and (b) update-ability. I then responded to objections with my refined account of emotional competence, namely that the scope of determinations of incompetence would be too broad and that the risk of error in determining competence would increase. I responded to the first objection by arguing that

emotional ability should be proportional to the amount of risk involved, in the same manner as the ability to reason is related to risk on the cognitive standard. I responded to the second objection by claiming that consideration of more aspects of competence, i.e. both cognitive and emotional competence, leads to more accurate assessments of competence (chapter 4).

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