

LEGAL AND MORAL DILEMMAS WITH EUTHANASIA AT THE END-OF-LIFE CLINIC

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DISCLOSURES

- **Nothing to disclose**

AGENDA

- **Moral considerations**
- **The Dutch law**
- **Exceptional situations**
- **Practical considerations**
- **Summary and conclusions**

ETHICAL THEORIES

- Deontology (Kant)
- Consequentialism (utilitarianism, J.S. Mill)
- Virtue ethics (Aristoteles, MacIntyre)
- Divine Command Theory
- **Pluralism**
 - Several values are equally correct and fundamental
 - These values may be in conflict with each other
- Etcetera

MORAL DILEMMA

A situation of conflicting moral values and/or standards.

which values/standards ?

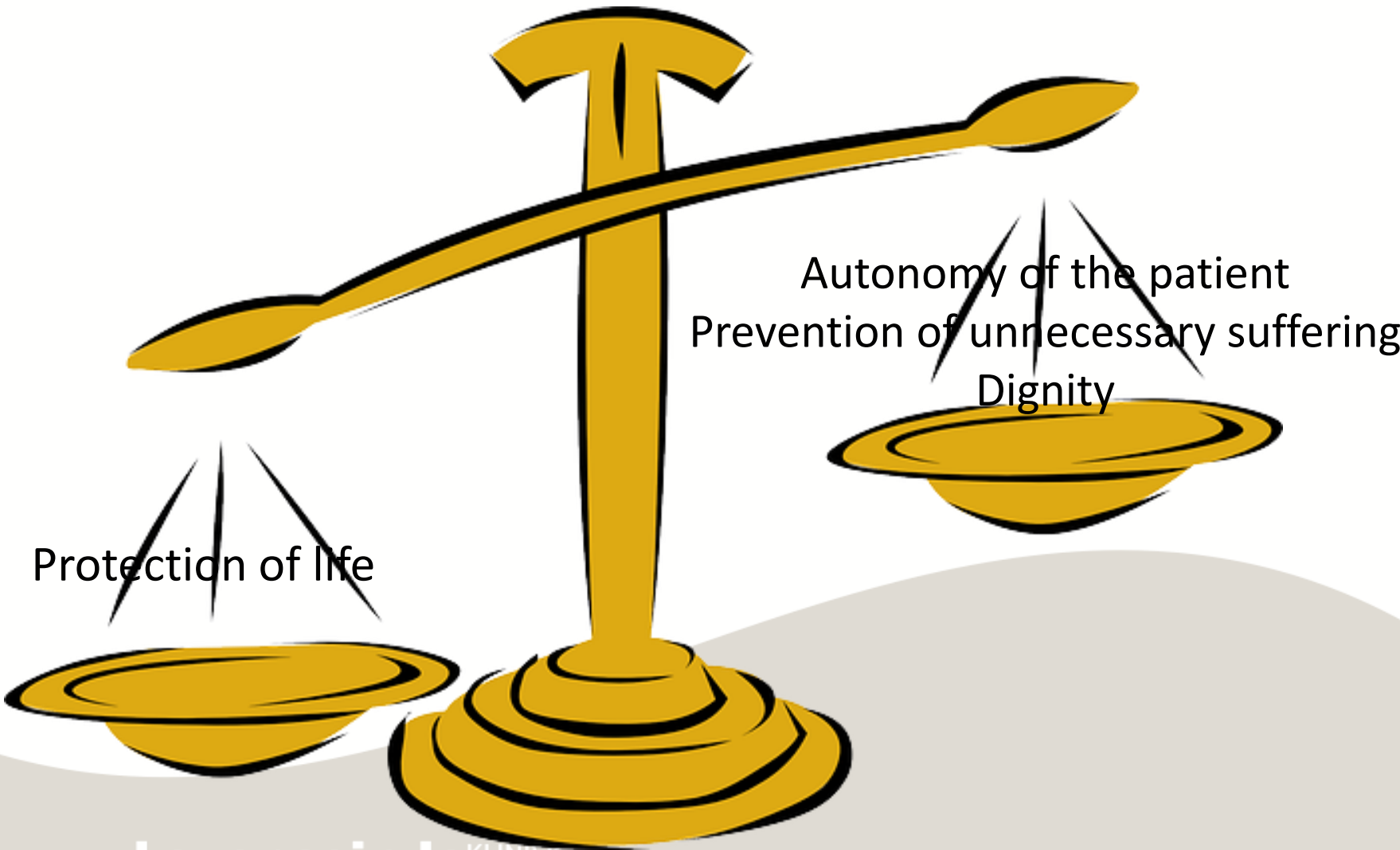
how to choose ?

RELEVANT MORAL VALUES

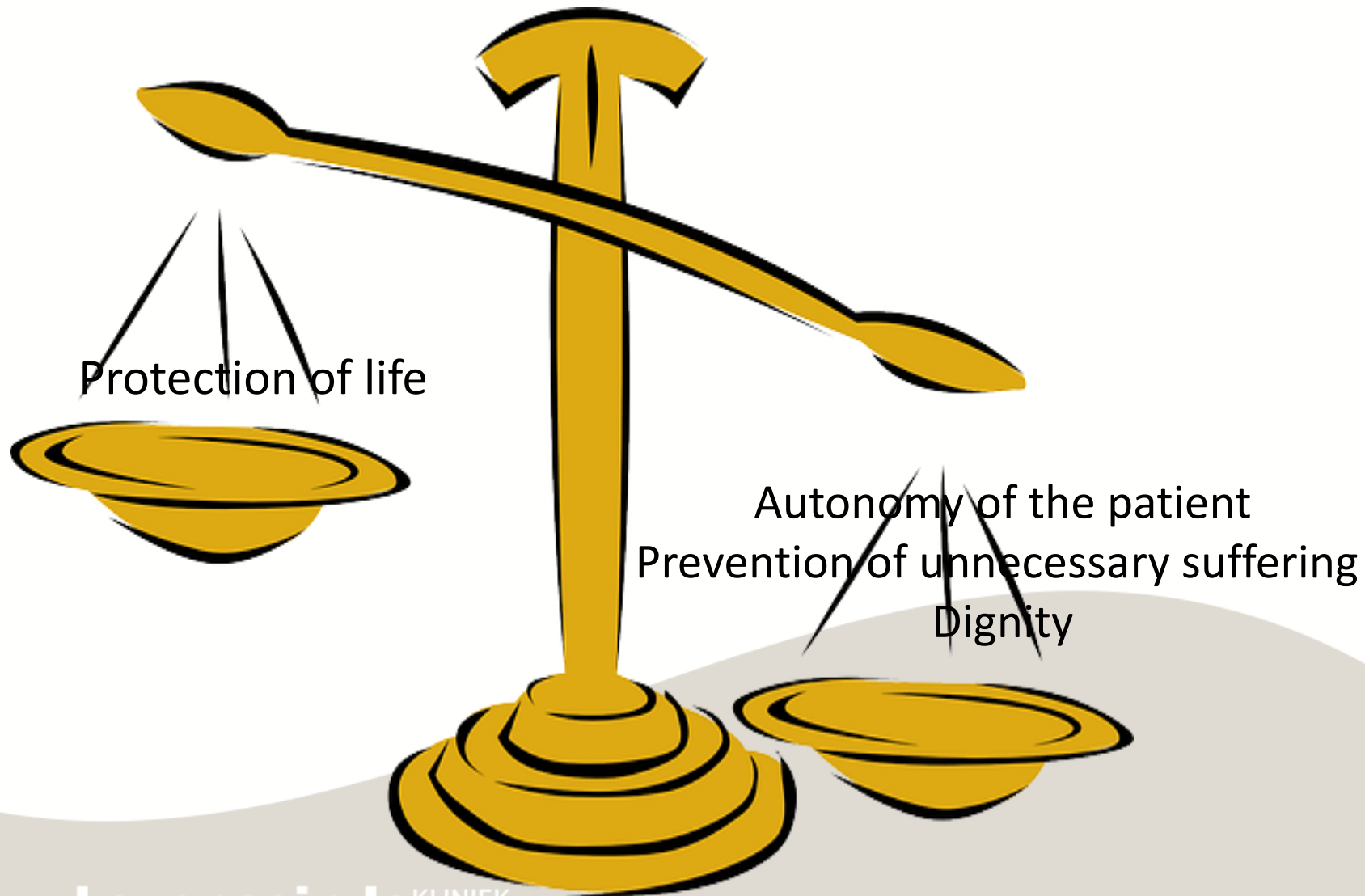
- **Protection of life**
- Respect for **autonomy** of the patient
- **Mercifulness** (i.e. to alleviate or avoid suffering)
- Promotion of **dignity** of the patient

- Some people regard protection of life as the only relevant value
- Other people regard autonomy of the patient as the only relevant value
- I disagree with both

WEIGHING VALUES



WEIGHING VALUES



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THE DUTCH PENAL CODE ART. 293 SUB 1

- Euthanasia is a criminal offense
- A person who terminates the life of another person at that person's express and earnest request is liable to a term of **imprisonment** of not more than **twelve years** or a fine of the fifth category.

THE DUTCH PENAL CODE ART. 294 SUB 2

- Assisting suicide is a criminal offense
- Any person who intentionally assists in the suicide of a person or provides him with the means thereto shall, if suicide follows, be liable to a term of **imprisonment** not exceeding **three years** or a fine of the fourth category.

THE DUTCH PENAL CODE ART. 40

- Conflict of conscience may exclude criminal liability
- Any person who commits an offence under the compulsion of an irresistible force shall not be criminally liable.

THE DUTCH PENAL CODE ART. 293 – 294 SUB 2 EXCEPTION !!!

Termination of Life on Request and Assisted Suicide Act

Euthanasia and assisted suicide are not punishable if:

- Performed by a doctor
- Reported to the coroner (death of unnatural cause)
- Criteria of due care are met

THE REQUIREMENTS OF DUE CARE MEAN THAT THE PHYSICIAN IS CONVINCED THAT....

- the request is voluntary and well-considered
- suffering is unbearable with no prospect of improvement
-has informed the patient
-no other reasonable solution

THE REQUIREMENTS OF DUE CARE MEAN THAT THE PHYSICIAN.....

- ... has consulted at least one other, independent physician
- ... has terminated a life or assisted in a suicide according to the protocol (requirements of medication and dose).

THE REQUIREMENTS OF DUE CARE

- Open values: suffering, voluntarily, other reasonable solution, not further specified
- The physician should be **convinced**
 - personal interpretation of the doctor according to his moral values
 - euthanasia or physician assisted suicide is **not** a patients' right
- Governmental committee (lawyer, ethicist and physician) judges afterwards.
- If this committee is not convinced, case is transferred to health care inspection and Prosecutor

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EXCEPTIONAL SITUATIONS

- **Psychiatric patients (1 %).**
 - voluntary and well considered ?
 - other reasonable solution ?
- **Dementia. (2 %).**
 - early: no suffering
 - late: no voluntary decision ?
suffering ?
- **Minors**
 - < 12 no
 - 12 – 16 decision of parents and patient together
 - 16 – 18 decision of patient, but parents involved
- **Medical basis of suffering absent**
 - no

EXCEPTIONAL SITUATIONS

continued

- **Patients' doctor refuses**
 - second opinion by other doctor for instance
End-of-Life Clinic

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PATIENT 1

- Female, born 20-10-1920
- Alzheimer
- Son calls to End-of-Life Clinic:
Written statement signed in 2002: “.... I want euthanasia if I have dementia and if I don't recognize my children.”
This is now the case for more than 2 years.
Please help her.

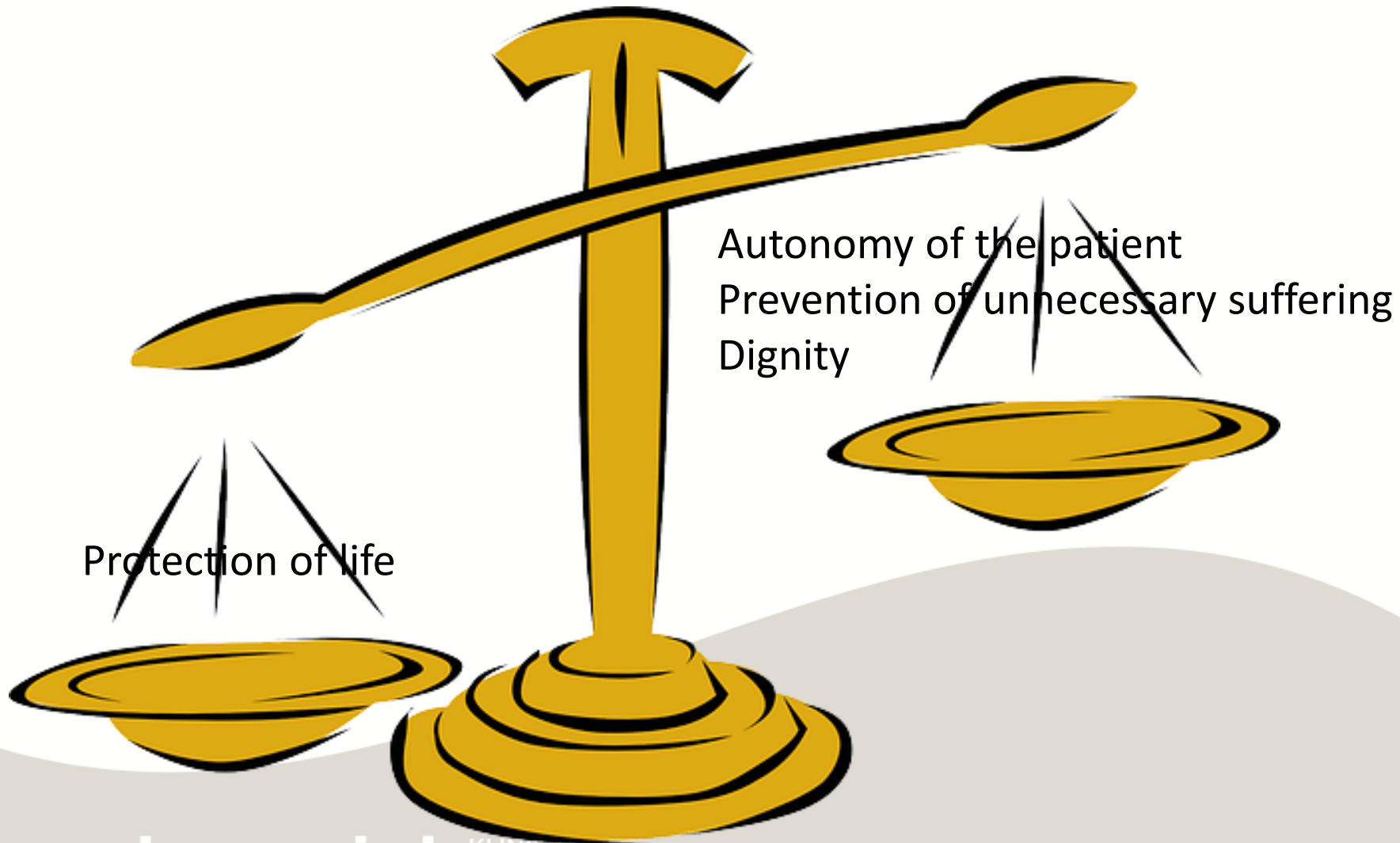
PATIENT 1

continued

- Our doctor visits the patiënt, she doesn't seem to suffer and she didn't remember anything of her written statement
- Our doctor asks: "If this glass of medication would result in a deep sleep, followed by death, what would you do?"
- Patiënt answers: "I would throw it away immediately"

PATIENT 1

moral evaluation



PATIENT 1

legal evaluation

- Decision voluntary ?
 well-considered ?
- Suffering no prospect of improvement ✓
 unbearable -
- Patient informed about the situation -
- No other reasonable solution ?
- Independent consultation NA
- Performance according to the protocol NA

PATIENT 2

- Male, born 20-8-1925
- Request for euthanasia with the following information:
 - Lymph node cancer
 - no useful treatment
 - the cancer is digesting me and I have Crohn and asthma
 - GP thinks that I 'm not yet suffering enough.

PATIENT 2 continued

- GP - lympe node cancer is low grade Non Hodgkin Lymfoma, without treatment stable for 2 years.
 - treatment with mild chemotherapy possible, but not necessary now.
 - therefore no reason for euthanasia

PATIËNT 2 continued



- My first visit to the patient:

First impression: Vital for his age. I hope to be like him when I 'm 88 !

Patient says: “confused, tired, shortness of breath, digested by cancer.”

PATIËNT 2 continued

- **Discrepancy** between my first impression, the opinion of the GP and what the patiënt tells me.
- **Furher investigations:**
 - cancer:CT-SCAN: Stable disease for 2 years
 - lungs: spirometry: Severe lung damage
 - confusion: Minor cognitive problems
- **Consultation pulmonologist:**
 - Cause of lung damage unclear
 - lung biopsy necessary if you want to know.
 - at this age no treatment options, whatever the cause.

PATIËNT 2 continued



- **Biography of the patiënt**

- Self made man
- Started as a carpenter
- Ended as a CEO in a large construction company
 - his work people were afraid of him because of his high demands
 - also high demands of himself

- **Couldn't fulfill his own demands:**

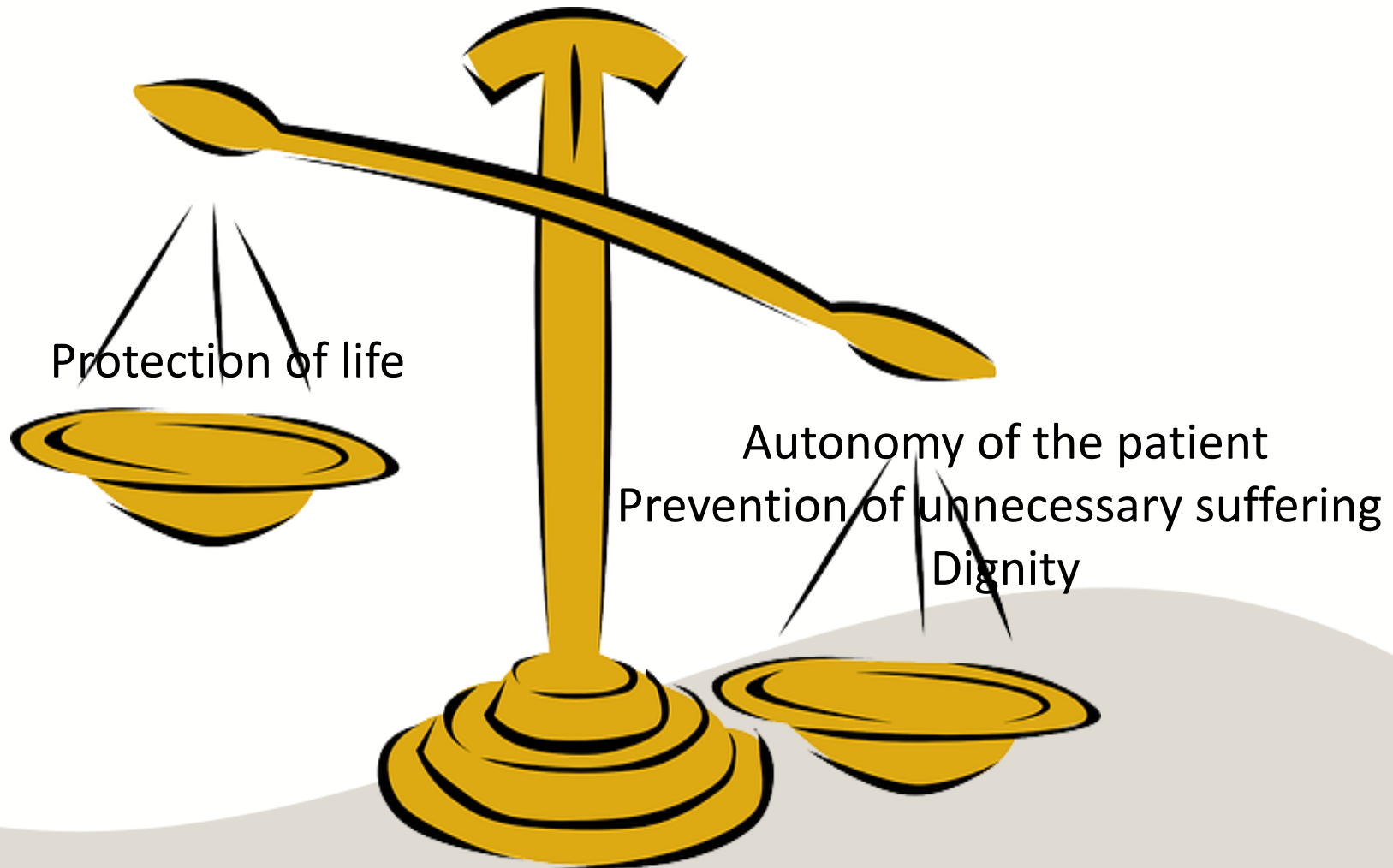
- shortnes of breath I cannot do anything
- tired cancer digests me
- sometimes confusion dementia

PATIËNT 2 continued

- Suffering, that wouldn't be unbearable for **ME** if it was **MY** suffering, was in fact unbearable for **this patient** with his **character** and **biography**.
- Suffering based on lung damage in combination with Crohns disease and normal aging, emotionally colored by the presence of cancer that by itself didn't cause many problems.

PATIENT 2

moral evaluation



PATIENT 2

legal evaluation

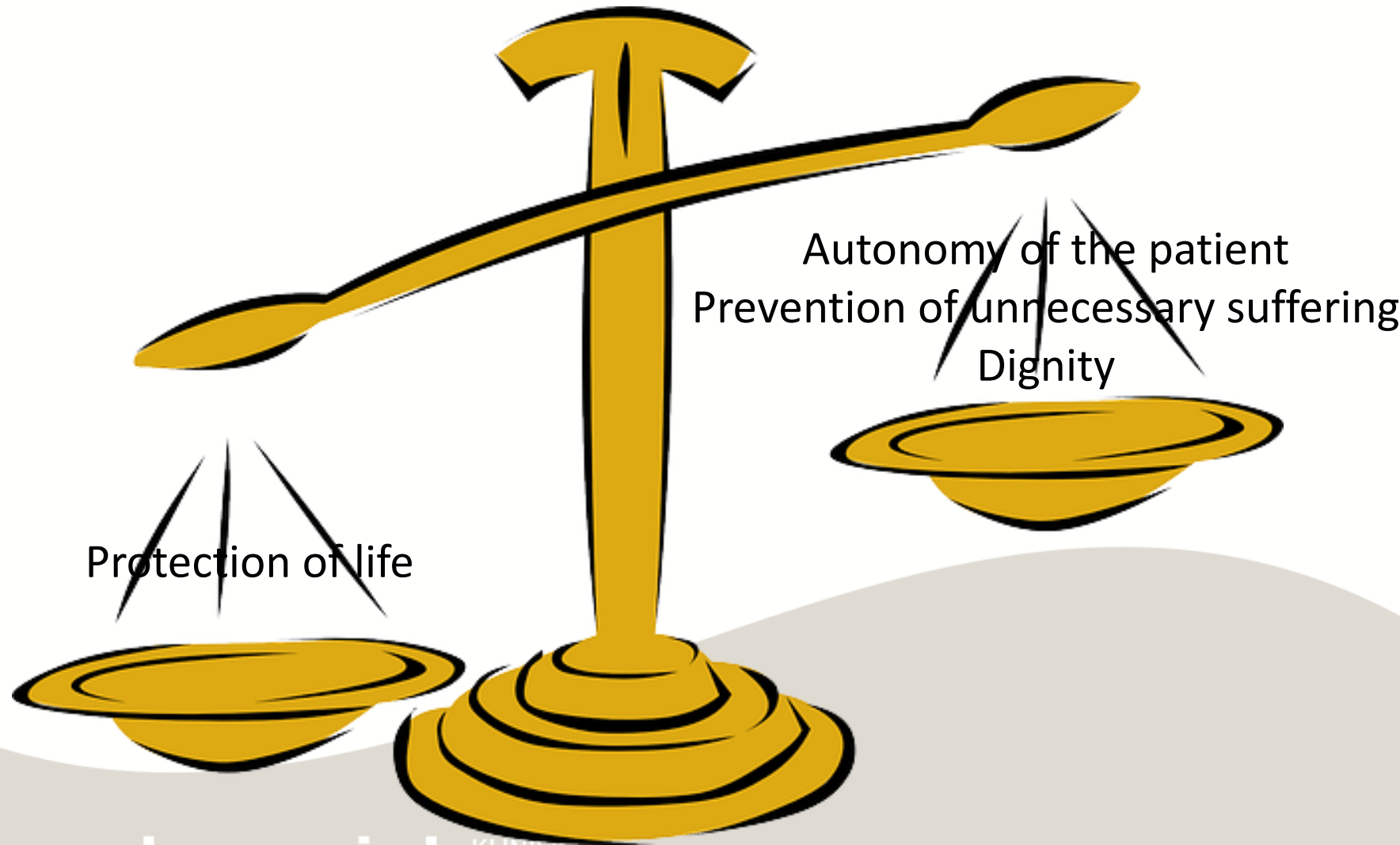
- Decision voluntary ✓
 well-considered, ✓
- Suffering no prospect of improvement ✓
 unbearable ✓
- Patient informed about the situation ✓
- No other reasonable solution ✓
- Independent consultation ✓
- Performance according to the protocol ✓

PATIENT 3

- Male born 20-05-1971
- Deep depression since a month
- Suicide attempt 2 x in two weeks
- Antidepressant drug started 10 days ago, no effect
- Request for euthanasia
- GP: No euthanasia. Other reasonable solution
- Psychiatrist: Same conclusion
- Psychiatrist End-of-Life Clinic: Same conclusion

PATIENT 3

moral evaluation



PATIENT 3

legal evaluation

- Decision voluntary ?
 well-considered, ✓
- Suffering no prospect of improvement -
 unbearable ✓
- Patient informed about the situation ✓
- No other reasonable solution -
- Independent consultation NA
- Performance according to the protocol NA

PATIENT 4

- Female born 20-02-1962
- Sexually abused as a child by father and brother
- Maltreatment by mother
- PTSS with anxiousness, social isolation and compulsion disorder and re-experience of traumata
- Many psychiatric treatments over more than 30 years
- Euthanasia request
- GP: euthanasia for psychiatric patient too complex
- Referred to End-of-Life Clinic

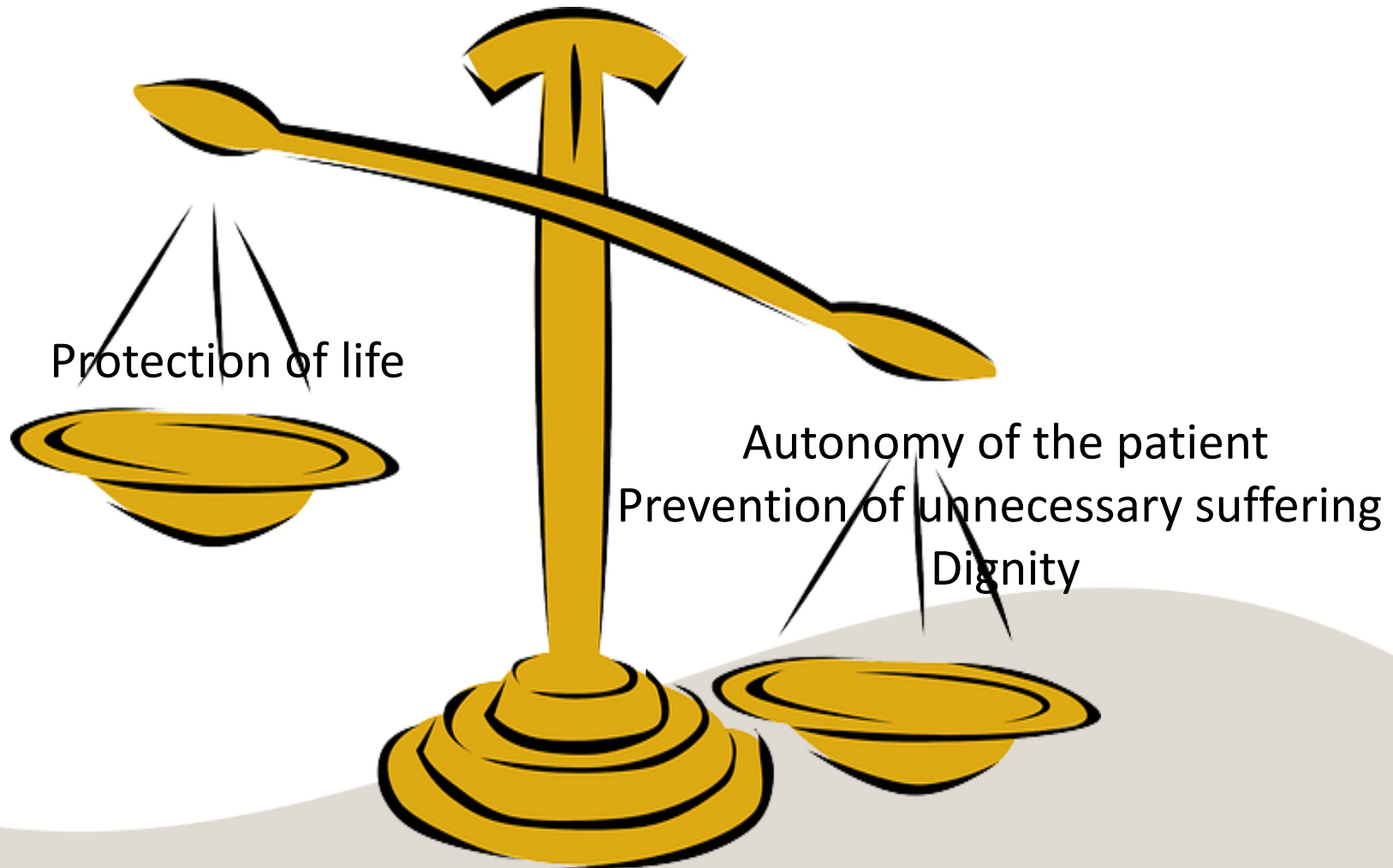
PATIENT 4

continued

- End-of-Life Clinic collects medical data
- Patient visits End-of-Life Clinic for consultation psychiatrist.
Conclusion: further investigation.
- 6 visits of doctor and nurse of End-of-Life Clinic.
- Many phone calls to GP and patients psychologist.
- Independent psychiatrist visited the patient twice (1,5 hr) and discussed many hours with me.

PATIENT 4

moral evaluation



PATIENT 4

legal evaluation

- Decision voluntary ✓
 well-considered, ✓
- Suffering no prospect of improvement ✓
 unbearable ✓
- Patient informed about the situation ✓
- No other reasonable solution ✓
- Independent consultation ✓
- Performance according to the protocol ✓

PATIENT 4 continued

- Last words of the patient:

IT FEELS VERY GOOD, DOCTOR !

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SUMMARY AND CONCLUSIONS

- A request for euthanasia or physician assisted suicide is always a moral dilemma.
- Weighing different moral values in relation to legal criteria
- The legal requirements of due care are not further specified
- The physician should be **convinced that**
 - personal interpretation of the doctor according to his moral values
 - euthanasia or physician assisted suicide is **not** a patients' right

SUMMARY AND CONCLUSIONS

- Every doctor needs to evaluate a request for euthanasia
- A patient whose request is rejected may ask for a second opinion, for instance at the End-of-Life Clinic
- In most patients, application of the Dutch legal criteria results in similar conclusions as my personal moral evaluation.