MINISTRY OF
SOCIAL AFFAIRS AND HEALTH
National Advisory Board on Health Care Ethics
(ETENE)
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ADVISORY OPINION

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COMMENTS ON THE "WHITE PAPER" DRAWN UP BY THE WORKING PARTY ON PSYCHIATRY AND HUMAN RIGHTS OF THE STEERING COMMITTEE ON BIO-ETHICS (CDBI)

The Ministry of Social Affairs and Health has asked the National Advisory Board on Health Care Ethics to comment on issues related to the treatment of psychiatric patients, in particular involuntary patients, dealt with in the "White Paper" of the Working Party on Psychiatry and Human Rights of the Steering Committee on Bioethics (CDBI). The National Advisory Board discussed the document at its meetings on 4 April and 30 May 2000, and states as its opinion as follows:

In Finland the legislative basis for involuntary treatment is laid down in the Mental Health Act. According to it the criterion for involuntary psychiatric treatment is psychosis, which is a clinical, often fairly unambiguous state, in some cases however difficult to detect. In addition, the person must be a danger to him/herself or others, and necessarily in need of hospital treatment. As regards persons aged under 18 years a serious mental disorder is a sufficient reason for involuntary treatment, if the other criteria are met. The methods of taking into treatment are to a great extent parallel to those presented in CDBI's paper. The need for involuntary treatment must be checked at regular intervals as suggested in the "White Paper". In Finland, most periods of treatment at a hospital are short, and efforts have been made to make psychiatric treatment more out-patient-oriented. Only roughly 6 per cent of all psychiatric treatments are long-term. The criteria laid down in the Mental Health Act for involuntary treatment also correspond well to those presented in CDBI's paper, or are in some respects even stricter.

The criteria for involuntary treatment must be strict so as to prevent arbitrariness against the patient. On the other hand, if the criteria are too strict they prevent the patient's access to treatment when in need of it. The admission criteria should be, where necessary, flexible enough to take account of the patient's interests, and it must be possible to use sound judgement. The definitions of different mental illnesses vary from one country and culture to the next, and for instance 'psychotic' can be in some countries a borderline state etc. Most psychotic cases are unambiguous, and in that case there is probably no doubt of the justification of involuntary treatment. As regards e.g. serious neuroses, demarcation can however be difficult. Involuntary treatment would perhaps be justified in some personality disorders, such as violence, but there is probably no indication of its effectiveness. This is being discussed e.g. in respect of serious anorexia and substance abuse. The "White Paper" does not give much clarity in these areas.

Also in utmost situations the aim should be to maintain the patient's right of self-determination, as far as possible. Respect for the patient's rights and human dignity and good and proper treatment must be remembered in constraining situations too. A person at risk of suicide must get help when in need of it. It is important to take account of family members' opinion, but their opinion should not be crucial in the treatment of a patient.

The “White Paper” aims to protect the patient’s rights when they have been restricted for a reason depending on her/his illness. Owing to the different practices and stipulations of different countries it may be difficult to find common lines, and even linguistic interpretations can be different. It came up in the course of the discussions at the Advisory Board on Health Care Ethics that, for instance, the concepts ’involuntary placement’ and ’involuntary treatment’ are confused, and it was not considered appropriate to separate them from each other. A clarification of this point could facilitate the understanding of the matter for those for whom English is a foreign language.

Electroshock treatment and psychosurgery are rather strong measures that cause permanent changes in the brain. Therefore the attitude towards their involuntary use must be very cautious.

In Finland a major problem has been the deficient co-operation of institutional care and out-patient care. The “White Paper” takes a stand on that. But the emphasis on this issue could be increased with a view to patients’ recovery.

On the whole, the “White Paper” is a thorough document, and its objective is respect for the right of self-determination of the patient in involuntary treatment, too. Psychiatric patients and their family members are one of the most vulnerable and defenceless patient groups in health care, and it is therefore important that society safeguards and highlights their rights. Although the Finnish legislation is in this respect fairly modern, there sometimes occur problems in the practices of involuntary treatment. The “White Paper” gives surely food for thought and will probably result in changes in some everyday practices in the context of involuntary treatment.

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