

The National Advisory Board on
Social Welfare and Health Care Ethics ETENE

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Pirkanmaa Hospital District Joint Municipal Authority
Ethics Committee
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EXAMNATIONS OF SEXUAL IDENTITY IN MINORS

On 10 March 2011, the Ethics Committee of Pirkanmaa Hospital District requested ETENE's position on examinations of transsexualism in minors. The request for a position was prompted by a memorandum drawn up by eight specialists working in the areas of Tampere University Hospital and Helsinki and Uusimaa Hospital District (received by ETENE on 27 April 2011), in which the authors take a position on the ethical problems of diagnosing and treating transsexualism.

Section 1 of the Act on the Legal Recognition of the Gender of Transsexuals (563/2002) contains provisions on the conditions for recognition. A person can be legally recognised to belong to the gender opposite to that according to which he or she is recorded in the population information if he or she presents a medical statement stating that the person permanently feels he or she belongs to the gender opposite to that assigned to him or her and lives in that gender role, and that he or she has been sterilised or is for some other reason infertile. In addition, he or she must be of age, not married or living in a registered partnership and be a Finnish national or have his or her place of residence in Finland.

Under Section 6 of the Act on the Legal Recognition of the Gender of Transsexuals, further provisions on the medical statement as well as on arranging the medical examination and treatment aiming at changing a person's gender are laid down by decree of the Ministry of Social Affairs and Health. The decree of the Ministry of Social Affairs and Health centralises the examination and treatment of transsexuals to two hospitals and harmonises the practice which the Local Register Offices follow to recognize a transsexual's gender. Persons suffering from a gender identity disorder must be referred to either Helsinki or Tampere University Hospital for examination. The hospitals must have a multi-professional team led by a psychiatrist whose members have expertise in treating transsexuality.

Government decree on the arrangement and centralisation of specialist medical care (valtioneuvoston asetus sairaanhoidon järjestämisestä ja keskittämisestä, 336/2011) prescribes that psychiatric and endocrinological examinations and the initiation of treatment of transsexual persons, and genital surgery excluding hysterectomies and oophorectomies, are carried out at Helsinki University Hospital, while psychiatric and endocrinological examination and treatment of transsexual persons are carried out at Tampere University Hospital.

The Act on the Status and Rights of Patients (785/1992) applies to the examination and treatment of the aforementioned patients. Under Section 7 of the Act, the opinion of a minor patient on a treatment measure has to be assessed if it is possible with regard to his/her age or level of development. If a minor patient owing to his/her age and level of development can decide on the treatment given to him/her, he/she has to be cared for in mutual understanding with him/her. If a minor patient cannot decide on the treatment given to him/her, he/she has to be cared for in mutual understanding with his/her guardian or legal representative. A minor patient's ability to form an opinion of examinations to be carried out and his or her treatment is assessed by a health care professional in each individual case.



Being of age is thus not a precondition for the examination and treatment of transsexuality. On the other hand, being of age is a precondition for legally recognizing a person as belonging to the gender opposite to that according to which he or she is recorded in the population information system.

Currently, the examination and treatment of transsexuality are centralised to specialist outpatient clinics at Tampere University Hospital and Helsinki University Hospital. The estimated duration of the diagnostic phase is six months, which is often followed by hormonal treatment and a real life test phase of about one year. During this period, the patient practices living in the role of the gender that he or she feels is appropriate. The treatment outcomes have been assessed as good; results that are at least satisfactory have been achieved in some 70 – 90% of the patients treated. However, follow-up studies indicate that a few per cent of the patients regret the gender change after the treatments. As a rule, only patients who are of age have been examined and treated in Finland at the specialist outpatient clinics of Tampere University Hospital and Helsinki University Hospital. In 2010 and 2011, examinations of minor patients were initiated at both specialist units.

According to the World Health Organisation's classification of diseases ICD-10, the diagnostic criteria for transsexualism include the person's feeling that his or her anatomical gender is unpleasant or inappropriate, and a desire to live and be accepted as a member of the opposite sex. This may be associated with the wish to make one's body as congruent as possible with one's preferred sex through surgery and hormonal treatment. His or her transsexual identity has persisted for at least two years. It is not a symptom of another mental disorder, such as schizophrenia, or associated with chromosome abnormality. The feeling of belonging to the opposite sex has been found to be relatively permanent, and treating the situation with psychotherapy has not been productive. The condition is often associated with significant mental health problems, plenty of human suffering and distress, and an increased risk of suicide. Gender reassignment therapy has in most cases been found to effectively alleviate the problems associated with the condition and to improve the patient's functional capacity. In various parts of the world, the prevalence of sexual identity disorders is estimated at 6 – 25/100,000 people, and their incidence at 0.2 – 1.6/100,000 people a year. In Finland, the number of new patients seeking treatment is less than one hundred a year.

Questions related to the examination and treatment of transsexualism in minors are topical in many European countries. However, changing gender typically is only possible for adults (aged 18 or over). A study on how examinations and treatment related to gender identity are arranged in Europe is under way (Cohen-Kettenis, Kaltiala-Heino 2011). According to this study, children and young people are also examined and treated if necessary at least in Sweden, the Netherlands, the United Kingdom, Germany and Spain. Units specialising in the examination and treatment of gender identity in minors have been established, or are about to be established, in these countries.

Since this issue came up, ETENE has received opinions on it from LBGTI Rights in Finland (SETA) (24 June 2011) and patient's association Trasek (26 April 2011), letters from Yrtti and Susi (26 April 2011), Pimenoff (5 May 2011, 16 September 2011 and 17 September 2011) and Mattila (6 September 2011), and on request (17 September 2011), information on international aspects was obtained from Kaltiala-Heino.

ETENE has examined the statements, letters and legislation on this issue and the international situation. At ETENE's meeting on 5 May 2011, introductions on the topic were given by Aino Mattila, Adjunct Professor of Social Psychiatry at Tampere University, and Nina Lindberg, Adjunct Professor and Chief of Division at Helsinki University Hospital. ETENE discussed the issue at its meetings on 5 May 2011 and 22 September 2011.



As its position on the examination and treatment of gender identity in minors, ETENE notes that:

From an ethical point of view, the best interests of a child or a young person, doing good and doing no harm play a key role. In addition, the self-determination, self-acceptance and need to be accepted by others of a child or a young person must be respected as indicated by his or her level of development. The opinions of the child or the young person must always be listened to, while listening to and respecting the views and involvement of the child's or the young person's parents in the matter. From society's point of view, the ethical principles of equality, equal treatment, non-discrimination and tolerance are highlighted.

ETENE finds that from the medical perspective, Finnish legislation appropriately enables the examination of gender, gender reassignment treatments and gender change of adults. Under the Act on the Status and Rights of Patients, a young person's wishes should be heard, but decisions must be carefully considered and justified. What children and young people feel about their own gender identity is important. Particular attention should be focused on young people who since early childhood have experienced a strong and persistent feeling of belonging to the opposite sex as part of their gender identity.

In the system of regional levels of treatment, a child, a young person and their families should have access to initial information and examinations as a local service, also in problems of gender identity. A natural solution would be starting the examination of the case at specialist care units close to the child or the young person, where other necessary examinations could be carried out, for example investigating the situation of the family and any needs for child welfare services. The fact that a young person's identity is not fully formed and that his or her personality structure is not necessarily yet firmly established should be taken into account. Both in primary and specialist care, adequate expertise and knowledge of a child and youth psychiatrist is required for assessing situations presenting a conflict of gender identity.

The examination and treatment of gender identity require specialist expertise, and as stated in the legislation, a child or a young person must be referred to a specialist unit in Helsinki or Tampere for examinations if necessary or on request. These units need multiprofessional teams with expertise in assessing and examining the gender identity of a minor. The gender identity examinations of minors that have in recent years been initiated at the specialist units contribute to clarifying the treatment policies and supporting the lives of children, young people and their families. Similar operating policies in certain European countries would also appear to support the examination and treatment of gender identity in minors.

An obstacle to making decisions on the opportune moment for starting examinations and treatment and to assessing the situation is the sexual identity of children and young people, which often is not fully established, and particular care is required in differential diagnostics (other sexual identity disorders, mental health problems, chromosomal disorders). Particular care and restraint need to be exercised with irrevocable treatments in minor patients. Being of age may be regarded as the reference age limit for treatment, but exceptions to this rule may be made for weighty reasons.

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DISTRIBUTION

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