



November 15, 2000

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Reference number 44/59/97

Issue: REQUEST FOR AN ADVISORY OPINION ON MONETARY COMPENSATION FOR HANDICAPS CAUSED BY LOBOTOMY

The Ministry of Social Affairs and Health asked ETENE for an advisory opinion on the subject of monetary compensation for handicaps caused by lobotomy. ETENE discussed the issue at its meetings on January 27, 2000, April 4, 2000 and October 31, 2000. The January meeting consulted Professor Kalle Achté. In addition, the Board used *Lobotomiat Suomessa* ('Lobotomies in Finland', edited by Risto Vataja), a National Research and Development Centre for Welfare and Health publication, and a number of publications edited by professor Achté as source material.

On the basis of the discussions at the meetings on January 27, 2000 and April 4, 2000, ETENE found that the issue involves some considerable problems of principle, and consequently asked for a more extensive expert statement from Raimo Pekkanen, LL. D. and a deputy member of ETENE. His memorandum deals with the compensation practices used in Norway, for instance, and considers a number of alternative scenarios if the Finnish Government decided to pay out monetary compensations to lobotomy patients.

In his memorandum, Raimo Pekkanen concludes that no monetary compensations should be made for handicaps caused by lobotomy. He gives a number of reasons for his opinion: the operations were performed a long time ago, and only a small number of the patients are alive today. In other words, only a very few lobotomy patients would receive the compensation. On the other hand, only a few of those receiving it could still personally benefit from the compensation, so that in most cases the money would pass into the hands of their relatives. Thirdly, the compensation procedure would serve to open the door to other groups with equal claim to monetary compensations (e.g. the compulsorily sterilized and castrated).

On the basis of Pekkanen's memorandum and the discussions at its meetings, ETENE sets out its advisory opinion as follows:

Lobotomy was introduced in the 1940s and '50s as a treatment especially for restless schizophrenics, and was adopted quickly throughout the world. In Finland, the procedure was introduced in 1946. A total of 1,500 lobotomies were performed in this country before the procedure was supplanted by new treatments, particularly pharmaceutical treatments, in the 1960s. The mortality rate for lobotomy was 5%, and it had severe aftereffects, including epilepsy, cerebral haemorrhages, and meningitis. The outcome of the operations was assessed as excellent in only 10% of cases; in 25% the patients benefited from lobotomy, and in 43% their condition deteriorated or they died.

The key issues in evaluating the ethical status of the operation are as follows:

- As a rule, the procedure was performed in the spirit and on the basis of the medical knowledge of the time. Today we have drugs for the treatment of the illnesses that used to be treated with lobotomy.
- The procedure received great international attention and renown in its time, including the Nobel Prize for Medicine in 1949.
- It is hard to make a generalization on the ethical status of lobotomy, for it is considered to have benefited some of the patients. Most of the patients did not benefit from the procedure and it handicapped some of them. The causes for the treatment were varied and the operations were performed over a long period of time.
- It is obvious that in some cases the patient's own opinion has been grossly ignored. Available information on the negative effects of lobotomy changed gradually. When Professor Kalle Achte published the results of his study on the negative effects of lobotomy in 1957, the number of lobotomies performed in Finland was reduced and fairly quickly came to an end. It would be justified to question whether it was ethically sound to perform the procedure on anyone after reliable data on the apparent negative effects of lobotomy became available.
- On the issue of monetary compensation, the Board has decided not to recommend the payment of one-off monetary compensations to lobotomy patients. Its decision is based on the fact that the operations were performed a long time ago, only a small number of the patients are alive today and consequently only a small number of them could be compensated. The one-off compensation would make no distinction between those who were handicapped by the procedure and those who benefited from it, which would make it inequitable with regard to the negative effects experienced. At this stage the compensation would benefit the patients themselves very little, but most of the money would end up in the hands of welfare institutions or family members, who, on the other hand, may have taken care of the patients. An additional reason for the Board's decision not to recommend monetary compensation to lobotomy patients was that it would open the door to several other groups of patients with as good a claim to financial compensation for procedures performed on them that are now considered unjust and unethical.

National Advisory Board on Health Care Ethics

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Raimo Pekkanen's memorandum on monetary compensation for lobotomy
Extract from the minutes of the ETENE meeting 5/2000

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