



MINISTRY OF
SOCIAL AFFAIRS AND HEALTH

OPINION

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FINLAND
National Advisory Board on Health Care
Ethics (ETENE)
Ritva Halila

16th July, 2004

Ministry of Social Affairs and Health
Health Department

Subject

OPINION ON THE MEMORANDUM OF THE WORKING GROUP ON CIRCUMCISION OF MALE CHILDREN

The Ministry of Social Affairs and Health has asked the Advisory Board on Health Care Ethics (ETENE) to give its opinion on the memorandum of the Working Group on circumcision of male children. After having discussed the issue at its meeting on 2 June 2004 the Advisory Board decided to state as its opinion as follows:

The Working Group suggests in its memorandum that a law should be enacted on circumcision of young boys on non-medical grounds. The law would lay down as a condition that the operation may only be performed by a physician, a written consent is obtained from the boy's guardians, the opinion of the boy is taken into account, and that other relevant health care legislation is applied to the circumcision performed. The Working Group proposes that the operation should be performed within public health care in the same way as is done in regard circumcisions performed on medical grounds.

ETENE agrees with the Working Group on many points. Bodily integrity is safeguarded by the Constitution and interfering in it is only allowed under the protection of the law. Legislation provides the preconditions for performing the operation under sufficiently safe conditions, and a law on the issue would thus prevent performing circumcisions under improper conditions. Against this background the Working Group saw it justified to enact a separate act on the issue. Some members of the Advisory Board however considered a separate law unnecessary. One member raised the question whether regulation of the permissibility of circumcisions by legislation would be over-regulation; then an alternative would be to include in legislation a mention of circumcision as a matter covered by public health care, while the working group's memorandum would provide background material. The Advisory Board also agrees with the opinions of the Working Group in the respect that enacting a law would not mean giving up the long-term aim to stop the practice of circumcision of young boys in co-operation with the communities concerned.

Back in 1999 ETENE gave the Ministry of Social Affairs and Health an opinion on circumcisions. The views then expressed by the Advisory Board are largely consistent with the memorandum of the Working Group.

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The Advisory Board on Health Care Ethics further considers that the question of the informed consent of a child is problematic. A child's capacity to understand the meaning of the operation and getting an informed consent against that background is not unambiguous. It is important to stress the principle under the Act on the Status and Rights of Patients regarding hearing a child. The religious conviction of the parent may not take precedence over the child's will or opposition to the measure, even if the child does not fully understand its meaning. The Advisory Board wishes that the position of the Working Group, which is clearly presented in the memorandum, will be stressed to a greater extent in the bill (section 5).

At its meeting the Advisory Board also discussed the fundamental rights enshrined in the Finnish Constitution and the relationship between the different fundamental rights. Bodily integrity is a fundamental right and an interest of the child, but it is also a fundamental right and in the interests of a child to be able to grow up in the community that he belongs to. It was emphasised in the discussion of the Advisory Board that the fundamental rights must be weighed against the realities in a society and community; the issue concerned here is not exclusively of a medical nature.

As regards the differing opinion and statement in the memorandum relating to the resources of public health care the Advisory Board states that it is important to see this issue in its right proportions. The number of circumcisions performed in Finland for religious reasons has been about 200 per year. A major part of them will probably be performed within the private sector in the future as well. It has to be remembered that social assistance is a discretionary form of support and varies from one municipality to another. Immigrant families in a difficult financial situation should not be placed in an unequal position in regard to the safety of the operation. Instructions should be issued to perform circumcisions in a uniform way throughout the country and so that people are in an equal position irrespective of where they are living or of their financial standing.

From the societal point of view it is important to draw a parallel between the operation and other operations performed within health care and the overall public health care system. This means e.g. that circumcisions are prioritised or 'posteriorised' on the same criteria as other measures within health care. The Advisory Board sees it important that physicians are allowed to refuse to perform the operation.

On behalf of the Advisory Board on Health Care Ethics (ETENE)

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