analesdepediatría

www.analesdepediatria.org

LETTER TO THE EDITOR

Reflections in bioethics key to the document ''Clinical guidelines for the care of transsexual, transgender and diverse gender minors''

Reflexiones en clave bioética al documento «Guía clínica de atención a menores transexuales, transgéneros y de género diverso»

Dear Editor:

We have read the article recently published by Moral-Martos et al., ''Guía clínica de atención a menores transexuales, transgéneros y de género diverso'' with great interest.[1]

First of all, we would like to highlight the importance of documents of this nature, which are invaluable for professionals serving the trans collective, of high quality given not only given the professional trajectory of its authors, but also its scientific contents. However, we would like to make some comments to enrich this source with additional details.

The main point which we would like to reflect on concerns the conditions under which informed consent is obtained. In Spain, from a legal standpoint, Law 41/2002 established the concept of *mature minor* for children aged 12 years and older, but this concept was overridden with the amendment enacted with Law 26/2015. Under current law, minors aged less than 16 years cannot give consent to treatment, which will always be provided by proxy by their legal guardians. Above this age, consent by proxy could not be given except in cases entailing ''great risk''. At any rate, the prevailing principle in health care delivery is not, unlike in other areas, the principle of autonomy, but the greatest interests of the child, which are usually adequately represented by the parents, but in no case entails that parents systematically validate the wishes of the minor.[2]

The judgment in the case of Bell vs Tavistock in 2020 constituted a turning point in the ethical and legal debate. In this ruling, which concerned the practice of prescribing puberty blockers (PBs) to minors, the court highlighted several points: the empirical evidence demonstrates that, although different stages of treatment are defined (PBs first, followed by hormone therapy [cross-sex hormones] and then surgery), these stages may merge (point 57) so that, in practice, stages 1 and 2 converge into a single clinical pathway (point 136), so that the minor must understand not only the consequences of treatment with PBs but also of cross-sex hormones (point 138). The court pointed out that it is difficult for a minor aged 16 years to weigh up such information (point 139) and this could not be addressed merely by providing additional information (point 144).[3]

Similarly, the Académie Nationale de Médecine in France recently issued a communiqué calling for prudence in clinical management in this context.[4]

All of this poses questions regarding the appropriateness of treating children aged less than 12 years, as has been proposed, with PBs. It is concerning that decisions may be made in children who are in vulnerable situations that may lead to treatments with irreversible consequences with scarce scientific evidence in support. The possibility, while rare, of a future wish to detransition calls for exercising the greatest caution, individualising treatment and limiting or delaying treatments that can have irreversible consequences. This is a stance that should be adopted within the framework of the positive promotion of diversity that, as paediatricians, we continue to pursue.[5]

References

1. Moral-Martos A, Guerrero-Fernández J, Gómez Balaguer M, Rica Echevarría I, Campos-Martorell A, Chueca-Guindulain MJ, et al. Guía clínica de atención a menores transexuales, transgéneros y de género diverso. An Pediatr (Barc). 2022;96:349.e1–11.
2. Pina-Camacho L, Vidal J, Picouto MD, Justo Ortiz E, De Montalvo Jääskeläinen F, Moreno C, et al. Atención a menores con progenitores en conflicto en materia de información y consentimiento relativos a la salud de los hijos. Protocolo asistencial en el contexto de la legislación vigente. An Pediatr (Barc). 2021;94:338.e1–7.
3. High Court of Justice of England and Wales. Administrative Court. Divisional court. ''Sentencia del Caso Bell v Tavistock'', Case No: CO/60/2020, 01/12/2020, pp. 15-36 [Accessed 25 April 2022]. Available from: https://www.judiciary.uk/wp-content/uploads/2020/12/Bell-v-Tavistock-Judgment.pdf.
4. Académie Nationale De Médecine, ''Communiqué: ''La médecine face à la transidentité de genre chez les enfants et les adolescents'''', 25/02/2022 [Accessed 25 April 2022]. Available from: https://segm.org/sites/default/files/22.2.25-Communique-PCRA-19-Medecine-et-transidentite-genre.pdf.
5. Riaño Galan I, del Río Pastoriza I, Chueca Guindulain M, Gabaldón Fraile S, de Montalvo Jääskeläinen F. Posicionamiento Técnico de la Asociación Española de Pediatría en relación con la diversidad de género en la infancia y la adolescencia: mirada ética y jurídica desde una perspectiva multidisciplinar. An Pediatr (English Ed). 2018;89:123.e1–6.

Rafael Martínez de la Ossa Sáenz-López[a,*],
Laura Trujillo Caballero[b]

[a] *Pediatra, UGC Órgiva, Área de Gestión Sanitaria Sur de Granada, Granada, Spain*
[b] *Pediatra, UGC, Hospital Universitario Virgen de las Nieves de Granada, Granada, Spain*

[*] Corresponding author.
E-mail address: rafaossa@gmail.com
(R. Martínez de la Ossa Sáenz-López).

DOI of original article: https://doi.org/10.1016/j.anpedi.2022.04.019

2341-2879/© 2024 Published by Elsevier España, S.L.U. on behalf of Asociación Española de Pediatría. This is an open access article under the CC BY-NC-ND license (http://creativecommons.org/licenses/by-nc-nd/4.0/).