The opinion of the Health-Care Professions regarding the concept of "treatment that cannot be deferred"

The Swedish law (2013:407) on health and medical care for certain foreigners living in Sweden without necessary permits came into force July 1, 2013. A central concept in the new law is "treatment that cannot be deferred".[1] The law specifies that persons of the age of 18 or over living in Sweden, unsupported by authority decisions or legal decree, i.e. undocumented adult immigrants or so-called persons *without permission* (Sw. "utan tillstånd"), have a right to "treatment that cannot be deferred".[2] Previous, since July 2008, this right to health and medical care is already extended to include asylum-seekers.

The National Board of Health and Welfare[3] has been given the task to officially clarify the application of concept at issue here. For this purpose the Board held a hearing, on September 2, 2013. A widespread consensus prevailed among the participants regarding the difficulties of finding a useful definition for the health care and dental services.

We, who represent a number of large health professions, hereby want to clarify our opinion regarding the concept "treatment that cannot be deferred" – why it neither fits into nor is useful in health care institutions, unless it is accompanied with the introduction of new and, in our opinion, inappropriate priority-setting principles.

A fundamental principle in the work ethic of health professionals is to provide health care on the basis of need. No other circumstances, such as a person's social position, ethnic affiliation, gender, age, colour, sexual orientation or legal status may limit this right to health care according to individual needs. To discriminate/prioritize on the basis of criteria other than medical needs is unethical.[4]

Priority-setting principles

In 1997 the Swedish Parliament (Riksdagen) adopted three principles that

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[1] Synonyms to deferred: postponed, wait.

[2] *Lag (2013:407) om hälso- och sjukvård till vissa utlänningar som vistas i Sverige utan nödvändiga tillstånd*.

[3] Socialstyrelsen, a government agency under the Ministry of Health and Social Affairs. From January 1, 2014 major parts of this agency is merged with two other public agencies to form a new public health agency called the Public Health Agency of Sweden (Folkhälsomyndigheten).

[4]

should directly priority-setting in health care in this country, following an official report, issued by the Swedish Government.
The overarching principle for priority-setting should be Human Dignity (Människovärdesprincipen)[5] – the equal dignity of all human beings.
Thereafter, the principle of Needs and Solidarity (Behovs- och solidaritetsprincipen) follows – resources should be invested where needs are greatest and she/he who has the greatest need should be treated first.
Finally, the Cost/Effectiveness principle should be considered– resources should be used where they render the greatest benefit.
This principle is subordinate to the two other principles.

According to the principle of Human Dignity, a health care-provider may not deselect or withhold a certain kind of treatment for a patient only on the basis of her/his formal legal status. All human rights are based on the inherent, irrevocable human dignity of all, and this dignity is not negotiable or relative. To deselect or withhold a certain kind of treatment can therefore be interpreted as contravening the Swedish Parliament's overarching principle for priority setting in the health care system.

The principle of Needs and Solidarity presupposes a medical need of treatment. The particular need may vary in urgency. Treatment that "can be deferred" on the other hand may be interpreted both as treatment without any medical need or treatment that cannot be prioritized. Such treatment, for example elective plastic surgery for cosmetic reasons, is usually not covered by public funding and therefore falls outside the ordinary framework for discussions pertaining to priority-setting in the medical sphere.
Most likely, this type of non-subsidized care will be offered for undocumented immigrants and asylum-seekers also in the future – but with the same restrictions that apply to everyone.

Patient rights and security

From the perspective of the individual patient and her/his rights and security[6] the same fundamental demands must be placed on all health care. All treatments must be carried out with the patient's informed consent and be based on science and proven medical experience. Diagnostics and treatment should be performed quickly if it is found necessary for the individual patient's condition. Unnecessary waiting, dismissal or deprioritization should not occur. To introduce legal obstacles that prevent treatment at the right time and to the right

[5] General Declaration on Human Rights art.1
[6] In Sweden the law is called the Patient Security Act, while the other Nordic countries deals with the same issues under the Patient Rights Act.

patient may jeopardize the rights and security of the patients and should therefore not be accepted.

Trust in the health care system

All patients have the right to expect an objective, unbiased and professional assessment of their symptoms or illness. The investigation or treatment suggested to a patient should only be planned on the basis of the patient's needs. Taking any other conditions into consideration, e.g., migration policy consequences, must be regarded as inappropriate and damaging to the public's trust in the health care system. In such a system, persons seeking health care cannot be sure that the same basic terms, conditions and criteria really apply in equal measure to each and everyone who needs medical care.

Treatment that can be deferred – does it exist?

The formulation "can be deferred" (or its linguistic equivalents "can be postponed"/ "can wait") is difficult to translate into medical reality. Within institutionalized medicine a distinction is commonly made between emergency treatment and elective treatment. The latter category normally refers to "planned treatment". This is understood as a treatment that is necessary, but not immediately urgent and therefore possible to schedule in. This is something quite different from the concept "treatment that can be deferred" since this implies a postponement of a necessary treatment, without any planning for if or when an intervention may be carried out. This type of prioritization does not exist in current medical practice. Perhaps "treatment that can be deferred" could be defined as unnecessary or superfluous treatment, in which case it should rationally not be given to any patient.

An alternative, but incorrect, translation of the phrase "can be deferred", in an attempt to give it a medical meaning, can be found in the term "expectation". The notion of expectation or wait-and-see refers to a symptom or an illness that in all probability will pass or heal without active treatment. This kind of "expectation" is as a clinical opinion that often requires renewed contacts or follow-up to ensure the health care-provider that nothing further needs to be done. The term expectation is often used in clinical practice but cannot be regarded as synonymous with "can be deferred" in this context.

Lists of diagnoses

It is sometimes said that certain kinds of diagnoses are such that "can be deferred". However, this view is not founded on any deeper knowledge of medical facts. Most diagnoses, not least of many chronic illnesses, have varying

progression and therefore different need for treatment. One patient with diabetes may feel very well and not be in need of any treatment besides self-monitoring – if her/his blood sugar values are stable. However, the same patient may need intensive hospital care if s/he experiences serious distortions in blood sugar values. Hence, lists of diagnoses lack practical usefulness in this context. If every diagnosis were to be sub-classified along a scale of degrees of seriousness that in turn could be translated into related degrees or differences in the extent to which treatment "can be deferred" the practical difficulties with these types of lists would increase further. Consequently, we do not find that lists of diagnoses are useful for defining "treatment that cannot be deferred".

Our recommendation

We suggest that the concept "treatment that cannot be deferred" shall be interpreted according to the priority-setting principles accepted by the Swedish Parliament in 1997. This interpretation does neither conflict with our professional ethics, nor does it presuppose the introduction of new priority groups or principles. The individual patient gets treatment according to her/his need, both emergency and elective treatment. If a need for treatment is deemed to exist, this treatment should be offered on the same terms and conditions for everyone.

The national inquiry presented in 2011[7] came to the conclusion that medical treatment ought to be provided in accordance with need and on equal terms. This is a well-founded conclusion resting on ethical, legal and practical points of departure.
We do not consider that the introduction of a new priority group (treatment that cannot be deferred) benefits the rights and security of the patient or the trust in the health care system. On the contrary, it risks creating a worse and more arbitrary health care for large groups of patients. The concept of "treatment that cannot be deferred" should therefore neither be used for care-provision to asylum seekers nor so-called undocumented.

November 20 2013
List of signatories:
Akademikerförbundet SSR - The Union for Professionals
Farmaciförbundet
Förbundet Sveriges Arbetsterapeuter, FSA - The Swedish Association of Occupational Therapists FSA
IFMSA (International Federation of Medical Students´Associations)
Legitimerade Sjukgymnasters Riksförbund, LSR - Swedish Association of Physiotherapists

[7] http://www.regeringen.se/content/1/c6/16/98/15/1ce2f996.pdf
SOU 2011:344 with a Summery in English page 31 to 46

Optikerförbundet
Riksföreningen för skolsköterskor - Swedish Association of School Nurses
SRAT – a university graduates or professionals with a college degree, specialists and managers in the fields of health, communication and management
Svensk Förening för Röntgensjuksköterskor
Svensk Optikerförening
Svensk sjuksköterskeförening - Swedish Society of Nursing
Svenska Barnläkarföreningen – Swedish Paediatric Society
Svenska Barnmorskeförbundet - The Swedish Association of Midwives
Svenska Läkaresällskapet - The Swedish Society of Medicine
Svenska Logopedförbundet
Sveriges Farmaceuter
Sveriges läkarförbund - The Swedish Medical Association
Sveriges Psykologförbund - Swedish Psychological Association
Sveriges Tandhygienistförening, STHF -
Sveriges Tandläkarförbund - The Swedish Dental Association (SDA)
Vårdförbundet - The Swedish Association of Health Professionals
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