CONSCIENTIOUS OBJECTION… OR CONVENIENCE?

CLINICAL CASE

Juana is a 68-year-old widow who has three daughters and five grandchildren. One of her daughters lives with her. She is a smoker and has a personal history of being overweight, having hypertension, dyslipidemia, irritable bowel syndrome, chronic neck and back pain, depressive syndrome, and stage 3 rheumatoid arthritis (RA), with significant joint deformity. She presents chronic pain, both due to cervical and low back pain, as well as RA. Her team consists of Rheumatologist, Psychiatrist, and a member from the Pain Unit; her RA is treated according to the latest guidelines. Additionally, she is on the third level of the WHO pain therapeutic scale. She is not able to quit smoking. Although she has significant joint pain, she tries to follow recommendations for physical exercise. She has been evaluated by Traumatology, who do not consider her to be in need of surgical intervention.

Today, she goes to her primary care physician, whom she has known for more than 10 years. She asks him for information to request euthanasia. She states that the intensity of her chronic pain is unbearable. At home, she has to do "practically everything", but struggles to even prepare her breakfast. Over the last few weeks, she feels hopeless and wishes to die because of the intensity of the pain and because she feels "useless". She can hardly work or help at home. Her doctor is not a conscientious objector but does not want to take charge of the case, because he considers it too complicated and emotionally costly for him. He speaks with the head of the Center, who informs him of the procedure for conscientious objection and, at the same time, explains that accepting Juana's request for euthanasia does not imply that he is the physician responsible for the euthanasia. The physician does not know whether to object (because of the complexity of the procedure and in case he is "singled out" by colleagues), or whether to take charge of the case. If he objects, he has doubts about whether he is abandoning his patient.

ETHICAL ANALYSIS OF THE CASE

In the case presented, the ethical conflict is not due to the request for euthanasia, which is currently a legal procedure in Spain, nor whether the patient meets the criteria for receiving this service (which is a clinical question, as will be seen later). The conflict lies with the professional himself, who does not know whether to step aside and become an objector (when in fact he is not), or whether to fulfill his professional duty of care to the patient.

Conscientious objection occurs when a service that is legal (and falls within the scope of services) violates the ethical convictions of the professional. This can happen with euthanasia. This is recognized by law and, if so, the professional has the right to object. However, in the case described above, what is colloquially called "convenience objection" or *pseudo-objection* could be taking place: the professional is not really an objector, but for personal reasons (convenience, lack of knowledge of the procedure, lack of time, fear of what people will say, etc.), he or she is considering objecting. These cases, in addition to not being true objections, involve a transfer of the professional's responsibility to other colleagues.

POSSIBLE COURSES OF ACTION

- Tell the patient that he/she does not meet the requirements for euthanasia.
- Tell the patient that he/she is a conscientious objector and refer the patient to another family physician.
- Refer the patient to rheumatology in order for the rheumatologist to make the request.
- Proceed to arrange for euthanasia since this is the patient's preference.
- Refer the patient to Mental Health, because at this moment she may be suffering from depression. Propose starting antidepressant treatment.
- Put the patient in contact with RA patient associations.
- The professional should reflect to determine if he/she is really a conscientious objector. If yes, they should object, but if not, they must initiate the procedure with the patient. At least acknowledge her request.
- Tell the patient that she needs to be informed about the entire euthanasia procedure since this is her first request.
- Tell the person in charge of the health center about the case and the patient’s need for information and allow time to be able to do so.
- Contact social services to assess the possibility of home assistance to reduce the patient's workload at home.

RECOMMENDED COURSE OF ACTION

- Firstly, the professional should reflect on whether he/she is really a conscientious objector. It seems that in this case, the physician is not, so he should inform himself about the law and about his healthcare obligations as the physician responsible for the patient.
- One problem for many physicians is that they are not trained in this area and lack the time to perform new and complex procedures, such as the provision of

assistance in dying. If the physician is not an objector, he/she needs time, information, and reflection on his/her objector status. The physician in charge of the patient should be aware of the case, as well as of the need for information and time. The physician should tell the patient that she needs to be fully informed about the euthanasia procedure.

- Given that Juana has difficulty controlling her pain and it is affecting her quality of life along with a mood disorder, it is advisable to talk to her rheumatologist (and perhaps the Pain Unit), put her in contact with an association of RA patients and refer her to social work, in case they can provide some help at home. She should also be assessed by Mental Health and consideration should be given to starting antidepressant treatment.

DISCUSSION

The case in question is about conscientious objection and the importance of determining whether the professional is a true objector. If a physician is, they have every right to object, however, if not, they must fulfill their duty of care. Nevertheless in order to do so, the physician needs training and time, something that is not often provided to professionals in procedures as complex as the one in question.

According to Organic Law 3/2021 regulating euthanasia, the following requirements must be met in order to provide assistance in dying:

1. Spanish nationality or residence in Spain for more than twelve months.
2. Be of legal age (18 years old), and be competent and conscious at the time of application.
3. Have written information on the procedure and possible alternatives, such as comprehensive palliative care, and support under the law of dependency.
4. To make two requests, at least 15 days apart, freely and voluntarily.
5. Provide written informed consent for the procedure to be carried out.
6. Suffer from a serious and incurable disease or a serious, chronic, and disabling condition.

In today's case the patient would meet the first five criteria, but very doubtfully the sixth. According to the Law, a serious and incurable disease is "one that by its nature causes constant and unbearable physical or psychological suffering with no possibility of relief that the person considers tolerable, with a limited life prognosis, in the context of progressive fragility". Therefore, RA would not qualify. As for the severe, chronic and disabling condition, "it refers to limitations that directly affect physical autonomy and activities of daily living, in such a way as to make it impossible to fend for oneself, as well as the ability to express oneself and relate, and which are associated with constant and intolerable physical or psychological suffering for the sufferer, with the certainty or high probability that such limitations will persist over time without the possibility of cure or

appreciable improvement". Perhaps Juana's case does not correspond to this second assumption either. If so, Juana would not be a candidate for euthanasia, because she does not meet the criteria for it.

In the event of uncertainty as to whether the requirements are met, the responsible physician may consult a specialist. In addition, following the report of the attending physician, the procedure provides for the intervention of an expert in the pathology (consultant physician). In the present case, that would be a rheumatologist with experience in RA, who should determine whether the requirements for euthanasia are really met.

Occasionally, patients request actions or procedures that are not indicated. In the present case, the patient's chronic pain and suffering have generated a desire for her to die, so she requests euthanasia without, possibly, meeting the criteria for such a procedure. However, denial of the procedure should not lead to abandonment of the patient. The best alternatives should be found for the clinical and psychological care of the patient, in order to seek care for her best welfare, as indicated in the recommended courses of action.

Sgd.: ASISA-Lavinia Bioethics and Health Law Committee

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