

Practices Concerning Pregnancy

By SMA Ethics Committee

The advice in this column was extracted from replies to the specific circumstances and situations mentioned in the queries which were sent to the Ethics Committee. Different circumstances may result in different opinions. If you have any comments, please email them to news@sma.org.sg.

Mandatory reporting of pregnancy in a girl below 14

A doctor asked the Committee for advice regarding his duty to notify relevant law enforcement agencies if he, in the course of a clinical consultation, becomes aware that a patient below the age of 14 years is engaging in sexual intercourse or is pregnant.

We consulted one of our honorary legal advisors, who highlighted the following points:

- Under Chapter XVI, Section 376(e) of the Penal Code, sexual intercourse with a woman under 14 years of age, whether with or without her consent, is considered statutory rape, a punishable offence and also a seizable one (for which a police officer may ordinarily arrest without a warrant).
- Section 22(1) of the Criminal Procedure Code (CPC) places a legal obligation on every person aware of the commission or intent to commit a criminal offence to make a police report. It thus overrides the duty of medical confidentiality – it not only permits medical practitioners to disclose information, but also places a legal obligation on them to do so.
- Section 22(1) of the CPC is applicable to a wide number of seizable and punishable offences under the Penal Code, including statutory rape.

Therefore, if a medical practitioner becomes aware of a statutory rape (defined by the Penal Code as sexual intercourse with a woman under the age of 14 years) through his work as a doctor, he is obligated by law, like any citizen, to notify the police.

However, if the woman is between 14 to 16 years old, it is less clear whether the doctor is legally obligated to breach medical confidentiality. Consensual sexual intercourse regarding a woman in this age group is an offence under the Women's Charter ("carnal connection"), but is not a seizable offence punishable under the stipulated Chapters and Sections of the Penal Code. Therefore, strictly speaking, Section 22(1) of the CPC does not apply and the doctor may argue against obligatory reporting to the police in order to avoid breaching medical confidentiality. Nonetheless, if the doctor were to make a police report under the Women's Charter, based on concerns for the woman's best interests, it is unlikely that he would be held responsible legally or professionally.

Obligation to report maids' pregnancies

The Committee received several queries from doctors regarding the appropriate action to take if they found domestic helpers to be pregnant during medical examinations, in particular whether there is any statutory requirement to inform the domestic helpers' employers and/or the Ministry of Manpower (MOM).

We advised that:

- If a doctor detects a domestic helper's pregnancy in the course of a statutory examination, like a pre-employment or six-monthly examination, he will have to inform her employer and MOM.
- However, if the doctor detects the domestic helper's pregnancy in the context of a non-statutory examination, he is under no professional or legal obligations to notify either her employer or MOM.
- In a regular doctor-patient relationship, the doctor is obligated to advocate the domestic helper's right as a patient, which includes the right of confidentiality. She should be given due respect, as in any doctor-patient relationship. Any disclosure to third parties is permissible only if authorised by law, or supported by strong ethical justifications, generally to promote public interest. Legally, the employer is not a guardian to the domestic helper, and should not have any presumed right of access to the latter's medical information, unless the patient gives her expressed consent.

Nevertheless, the doctor should appropriately counsel the domestic helper, highlighting to her some of the potential problems which may arise with non-disclosure to her employer, especially if she decides to keep the pregnancy. If the domestic helper requests for a referral to a gynaecologist for an abortion, the doctor should oblige, without disclosing to her employer or MOM.

Ethical issues on artificial insemination

The Committee received a query regarding the ethical and legal position on the artificial insemination of a married woman without consent from her husband. We advised that under existing Ministry of Health guidelines regulating institutions providing assisted reproduction services, in vitro fertilisation and related artificial reproduction technologies shall only be carried out on a married woman and only with the consent of her husband, whether or not her husband's semen is used. **SMA**