

SMA ADVISORY NO. 02/2002*First issue: March 2002*

Maids Employment Medical Examination

INTRODUCTION AND OBJECTIVES

The aim of the advisory is to offer a guideline of good practice to medical practitioners in Singapore carrying out the Maids Employment Medical Examination, recognising the pitfalls and offering professional, practical and ethical advice on resolving the many issues involved. This advisory document is the outcome of deliberations at the Practice Management Seminar held on 3 November 2001 at the Tan Tock Seng Hospital. This Seminar was part of the SMA Annual Ethics Convention 2001. Please study this guideline carefully and keep it handy for reference.

BACKGROUND

The Maids Employment Medical Examination has taken a legal turn. Instances of maids certified negative in pregnancy screening and were later found to be in advanced state of pregnancy have resulted in doctors being reported to the Singapore Medical Council and disciplinary action taken.

In the Annual Report of the Singapore Medical Council 2000, there was a record of two doctors who had to answer disciplinary inquiries "for failure to detect pregnancy in a foreign domestic worker". The doctors were censured, ordered to give an undertaking not to repeat the conduct complained of and to pay the costs of the proceedings.

This unusual situation of maids wanting to conceal the truth that they are pregnant has arisen because of the terms of the Work Permit for employment in Singapore. The maids sign an undertaking that they would not be pregnant. If found pregnant, they will be repatriated and the employer will lose a \$5,000 guarantee.

There are mechanisms that maids attempt for concealment of their pregnancies, namely, the substitution of the maid to be certified by another person; dilution of urine sample or its substitution.

There are also situations where doctors had for some reason failed to examine the maids and thereby missed the opportunity to pick up a pregnancy.

The SMA was of the opinion this state of affairs could be improved, and initiated a series of discussions with the Ministry of Manpower and Ministry of Health on maid identification and the use of blood HCG.

In the dialogue with MOM, the officials were sympathetic and willing to adapt to the suggestion of ensuring a better identification of the maid such as asking the maid to sign a declaration that she is the true person. On the view of a blood HCG test for confirmation of pregnancy, the MOM will act in line with Ministry of Health's policy decision. The latter's view is that the physical examination followed by a urine test is good enough.

The due process of history taking and physical examination by themselves will help to detect pregnancy where the examinee gives an honest history and the pregnancy is advanced enough to be detected clinically. For the early pregnancy and the situation where there are attempts to avoid detection of pregnancy, other measures need to be considered.

Given the present circumstances, the SMA has formulated a guideline on the Maids Employment Medical Examination which hopes to help doctors minimise the risk of missing a pregnancy. This document is the definitive guideline that has incorporated the points raised at the Seminar where the draft guidelines were discussed.

PERTINENT ISSUES

Pertinent issues in relation to the medical examination are: legal issues, the doctor as the medical examiner, identity of the examinee, testing of urine specimens and details of the report form.

1. The Legal Basis For The Maids Employment Medical Examination

The 6-monthly medical examination of foreign maids is in itself not a statutory requirement. Legislations have given the Controller of Immigration and the Controller of Work Permits the power to impose conditions for the entry of foreigners into Singapore and for foreigners to undertake employment in Singapore.

Section 7(2) of the Employment of Foreign Workers Act (Chapter 91A) empowers the Controller of Work Permits to issue a work permit with conditions. The usual conditions imposed by the Controller of Work Permits include the 6-monthly medical examination of the foreign worker.

The Controller of Work Permits issues medical examination report forms which provide for different tests to be done during each 6-monthly medical examination:

- VDRL screening and pregnancy screening are required for every examination.
- HIV test is required for the first examination and subsequently every 18 months.
- Chest x-ray (to screen for TB) is required between 12 to 18 months from the date of issue of the work permit.

2. The Legal Consequences For The Examining Doctor

When an error is made or perceived to be made by the examining doctor in reference to the Maids Employment Medical Examination, the Controller of Work Permits makes a complaint to the Complaints Committee of the Singapore Medical Council. The Singapore Medical Council's position is that such an error in certification is considered an act of professional misconduct.

The Singapore Medical Council is empowered by the Medical Registration Act (1998) to take disciplinary action against a medical practitioner with regard to his misconduct in his professional capacity or his improper act or conduct which brings disrepute to the profession.

3. The Doctor As A Medical Examiner – The Legal And Ethical Issues

When a medical practitioner undertakes to do a Maids Employment Medical Examination, he is deemed to be acting as a medical examiner for the Controller of Work Permit, Ministry of Manpower.

A medical examiner is defined as a medical practitioner tasked with examining his patient/examinee for reasons other than for diagnosis and treatment, usually for statutory, regulatory or forensic reasons. The doctor does not only owe a duty of care to the examinee but also the authority requiring the examination. Other common situations when a medical practitioner acts as a medical examiner includes pre-employment medical examination, application of visas, for insurance policy, etc.

The ethical principle of autonomy requires the examining doctor to take a written consent from the examinee, not only with regard to ensuring that the examinee freely submits himself to the examination and is willing to supply the necessary specimens of blood and urine but also with regard to the disposal and consequences of the results of the examination and test results. The ethical principle of confidentiality requires that the examinee gives consent to the medical examiner to allow other persons and in this situation the employer and the Controller of Work Permit to have access to the results of the medical examination and tests results.

If the examinee refuses to consent to the medical examination, the medical examiner is advised not to proceed.

The legal requirements as a medical examiner requires the doctor to correctly identify the person presented for the statutory medical examination as the person whose name and particulars are on the medical examination form. He should also ensure that the blood and urine specimens collected belong to the person examined. In the situation of the Maids Employment Medical Examination, the examining doctor must do his utmost to ensure that the examinee, the work permit presented and the particulars on the medical

examination report form are of and belong to the same person.

The medical examiner must familiarise himself with the medical examination report form and take appropriate care in filling all parts of the form himself.

4. Pregnancy Testing – Sensitivity and Specificity

Detecting pregnancy in a person intent on hiding the pregnancy is fraught with difficulties. The clinical history of delayed periods and symptoms of pregnancy may not be forthcoming. Laboratory testing for pregnancy detection depends on the detection of the hormone Human Chorionic Gonadotrophin (HCG) in body fluids such as urine and blood.

Blood HCG tests are highly sensitive in detecting pregnancy at any stage without any practical prospect of a false negative test. In addition, with the blood tests, it is definitely easier for the examining doctor to ensure that the specimen collected is from the person examined.

Unlike the blood HCG test, the sensitivity of the urine test depends on the concentration of the hormone in the urine. The ideal sample is the first specimen in the morning but for practical purposes, a specimen of freshly voided urine obtained 4 hours after the last micturition would suffice. Artificial dilution of the urine sample may be suspected from its colour or by testing its specific gravity. Unlike the blood specimen, it is more difficult for the examining doctor to determine whether the urine specimen provided actually belongs to the examinee.

False positive pregnancy tests may occur in situations of trophoblastic disease such as hydatiform mole and chorio-carcinoma; terato-choriocarcinomas of ovaries and testes; prior injection of HCG preparations and other rare situations such as prostatic, breast and lung cancer.

5. Standard of Practice

The instructions from the work permit office to the examining doctor are to certify:

- that the person examined is the holder of the work permit, and
- the results of the required medical tests are as filled in.

The standard of medical practice expected of registered medical

practitioners (RMPs) by the Singapore Medical Council (SMC) in completing the evaluation form is reflected in the judgment of two cases in which the RMPs failed to detect pregnancy (page 15 of SMC Annual report 2000).

The judgment was that in

Case 1

"Medical reports must be true & accurate in all material particulars. A Medical Practitioner could not evade responsibility by claiming to have been deceived into examining the wrong person."

Case 2

"dereliction of his professional obligation to ensure that what he certified to the WPD was accurate."

It further ruled that "a Medical Practitioner could not evade responsibility by claiming to have been deceived into examining the wrong person."

The standard of the RMP expected by the SMC is thus not the usual clinical standard applied in a clinical examination of a patient by a doctor.

The SMC has set a higher standard in the sense that due diligence must be paid to the positive identification of the person being examined and of the manner in which the tests are done and recorded, more so than in a clinical examination.

However, even with such due diligence, if a maid (domestic worker) came with an intent to deceive the RMP into believing when it is not so:

- that she is the person of the work permit holder, and/or
- that the specimen of urine tendered for the pregnancy test is freshly voided by her,

the RMP certification could still be inaccurate. This is because the following measures and their given reasons could not be included in this advisory as SMA's recommended system of examination:

- More conclusive positive identification of the person examined by methods such as comparing the thumb-print of the examinee with that on the work permit card, should not be expected of the RMP as these are outside their training and ambit;

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- SMA's proposal to the authorities that the form should instruct that the pregnancy test be done only on the blood specimen (concurrently taken by the doctor for other tests) was not accepted; and
- Directly observing that the specimen of urine tendered is freshly voided from the examined person's urethral orifice was considered to be impractical to implement and against the privacy and dignity of the examinee.

The advisory can therefore only recommend acceptable standards of practice which if diligently followed, would stand the RMP in good stead if he were to be charged by SMC to be in "dereliction of his professional obligation to ensure that what he certified to the WPD was accurate". This is because by the Bolam's principle, the doctor cannot be deemed to be in dereliction of his professional duties if what he is doing has his peers' professional support even if there is another body of opinion that the certification and examination could be done in another manner.

RECOMMENDED SYSTEM OF EXAMINATION

Key points:

- The Maids Employment Medical Examination deals with a person who may have a reason to conceal the truth. The attending doctor needs to take extra steps to deal with this possibility.
- The pitfalls in the Maids Employment Medical Examination need to be recognised and steps taken to avoid them.
- In adopting the system of examination described in this guideline, we believe the risk of missing a pregnancy will be very much reduced. Also, the pursuance of a due process of examination will be a valid defence against the odd chance of missing a pregnancy.

Usual Evaluation

The routine evaluation requires the completion of the following usual steps

in conducting the examination. They are as follows:

1. Positive identification of the maid
2. History in assessing probability of pregnancy
3. Examination for signs of pregnancy
4. Perform "required medical tests"
5. Certification, and
6. Further management

Please refer to Table 1, second column for details.

Additional Evaluation

There are two reasons for going beyond the usual evaluation to include additional evaluation in the course of the examination. They are:

- When the examining doctor has "a higher clinical index of suspicion" if the findings from the history, physical examination and laboratory test results are not totally consistent; and
- As a proactive measure, the doctor may wish to record extra data beyond the usual medical record-keeping for clinical practice. This is necessary so that one is prepared for any inquiry and/or negligence allegation.

Please refer to Table 1, third column for details.

FREQUENTLY ASKED QUESTIONS

Q: Would the doctor be faulted by the SMC for recording the results from say the laboratory that turned out to be wrong?

A: If the SMC takes action against the doctor, they are looking for professional misconduct. You are entitled to rely on the results of the laboratory. If you just record their findings properly, and it turns out to be wrong for some reason, you really cannot be faulted on the grounds of professional misconduct. In our view, this should not be a strict liability situation. They should have to look at what you actually did wrong.

Q: Is missing a pregnancy a strict liability as far as SMC is concerned?

A: From what has occurred in the cases heard so far, it does appear to be a strict liability situation. If the maid examined is the maid whose name appears on the Form (that is, there is no issue of wrong identification), and the doctor can prove to the satisfaction of the SMC that he has gone through the process of history

taking, physical examination and doing a urine pregnancy test, and that all was done properly, it is likely that he will not be found liable.

Q: What is the view of the maid coming to the doctor with a lab test result and she asks you to sign the form? Would the test be acceptable?

A: The Work Permit Form is not a legislated form. Hence, there are many parts that are not clear. The doctor's defence may not succeed before the SMC if the doctor is not the person who took the specimen for testing. It is not worth taking the risk. We should proceed on the basis that the examining doctor was the one who took the specimen. Ask the laboratory if they can confirm the urine sample came from the maid in question. If the laboratory cannot verify, the test cannot be accepted.

ENDORISING ORGANISATIONS

The organisations endorsing this advisory are:

College of Family Physicians, Singapore
Medico-Legal Society, Singapore
Medical Protection Society, United Kingdom
United Medical Protection, Australia

RESOURCE PANEL

Speakers at the Practice Management Seminar "Maids Employment Medical Examination" organised by the SMA Centre for Medical Ethics and Professionalism on 3 November 2001 were members of the drafting party of this advisory plus the following three persons listed below:

- Dr Wee Keng Poh, President, Medico-Legal Society, Singapore
- Mr Lek Siang Pheng, Partner, Helen Yeo & Partners; SMA Honorary Legal Adviser
- Dr Lim Teck Beng, 1st Vice President, Singapore Medical Association; Gynaecologist in Private Practice

DRAFTING PARTY

- Dr T Thirumoorthy, Director, SMA Centre for Medical Ethics and Professionalism
- A/Prof Goh Lee Gan, Immediate Past President, Singapore Medical Association
- A/Prof Cheong Pak Yean, President, College of Family Physicians, Singapore ■


TABLE 1. USUAL AND ADDITIONAL STEPS IN THE MAID EXAMINATION.

Usual Steps		Additional Steps
1	<ul style="list-style-type: none"> Take written consent from the examinee. (See declaration form in Form 1.) Verify the Name in ID with that in the Report Form. Verify the resemblance of the examinee with the photo in ID as far as is reasonably possible. Photocopy ID for medical records & initial with date on document that the above process was complied with. 	<ul style="list-style-type: none"> Ask examinee for the birth date and verify it with the ID. Ask employer listed in the ID to certify in writing that the examinee is the holder of the ID.
2	<ul style="list-style-type: none"> Menstrual history: If period is delayed, there is a higher index of suspicion. Note the date of 1st application and the expiry date in the ID. (1st 6 months & after home leave are usually at high risk.) 	<ul style="list-style-type: none"> "Sexual/Gynaecological history" <ul style="list-style-type: none"> > "Possibility of pregnancy" > Contraception history-Norplant > Oral contraceptive
3	<ul style="list-style-type: none"> Uterus palpated, supine with abdomen exposed. If obese patient, take special care. 	<ul style="list-style-type: none"> Referral if in doubt of uterine size for documentation by vaginal examination or ultrasound. Document non-uterine signs, if any, of pregnancy, nipple changes; pigmentary/ skin changes.
4	<ul style="list-style-type: none"> Collect urine freshly voided in clinic, using disposable cup. A reliable dipstick immunological method of pregnancy test result should be used. If the application of the urine on the test media is done by the nurse in clinic, the result must also be verified by the doctor. Blood taken by the doctor himself and properly labelled. 	<ul style="list-style-type: none"> Collect urine after ensuring that <ul style="list-style-type: none"> > No bags in worker's possession on entering toilet. > No urine in toilet and in bowl. > Temperature & SG taken to ensure specimen is indeed urine. More accurate urine pregnancy test performed & repeated. Blood also sent for HCG.
5	<ul style="list-style-type: none"> After all results are available, the examining doctor must personally certify it. Not to pre-sign form before results, especially locum doctors. Verification of identity and the test results must be done by the same doctor. 	<ul style="list-style-type: none"> If positive results: VDRL positive - history (scar); s/s syphilis; do VDRL titre & TPHA. If uterus palpable not due to pregnancy, determine medical cause.
6	<ul style="list-style-type: none"> Complete form when all results are back, seal form and give to employer for MOM; employer to sign receipt; or send to MOM on employer's behalf if requested. 	<ul style="list-style-type: none"> If positive tests, to inform maid of results & implications. Advise her to inform the employer or bring employer with her for consultation to discuss implications.


FORM 1. (Note: Specimen forms in English and Bahasa Indonesia can also be found in this month's mailbag.)

MAIDS EMPLOYMENT MEDICAL EXAMINATION DECLARATION FORM

Endorsed by:



Singapore Medical Association



College of Family Physicians, Singapore

I, _____,

Passport No. _____, Work Permit Ref No. _____,

residing at _____,

_____ hereby declare that

- (1) I am the intended party for this medical examination;
- (2) I have no reason whatsoever to believe that I am pregnant;
- (3) my last menstrual period was _____ (DD/MM/YY);
- (4) the urine specimen belongs to me;
- (5) I give consent to the examining doctor to examine me in respect of the examination/tests required by the Ministry of Manpower, and for the results of the examination/tests to be released to my employer and the Ministry of Manpower.

<p>Explained and witnessed by:</p>	<p>To be completed by the examinee:</p> <p>Signature: _____ Right Hand Thumb Print: _____</p> <p>Date: _____</p>
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