

## CASE SUMMARY

Complaint against the Hospital Authority for failure to give proper medical treatment and improperly requesting the complainant to sign a “Discharge Against Medical Advice” form

### The Complaint

The complainant complained against the doctors of a hospital under the Hospital Authority (HA) for -

- (a) failing to give him proper medical treatment; and
- (b) improperly requesting him to sign a “Discharge Against Medical Advice” (DAMA) form.

### Opinions and Conclusion

2. The complainant was admitted into the hospital in the evening of 8 March 1998. He alleged that after having been tested and diagnosed, he was asked by doctor A to sign a DAMA form which he considered to be a dishonest statement. He also alleged that on 12 March 1998, he was admitted into the hospital again but was not given any examination or treatment for his hypertensive condition. In this regard, he was admitted into the hospital again on the same night for excessively high blood pressure.

3. According to the HA, the complainant complained of neck pain and limb weakness when he attended the Accident & Emergency Department (AED) of the hospital on 8 March 1998. Physical examination showed tenderness and rigidity of the neck, and X-ray examination revealed deformed lower cervical spine. He was then admitted into the Orthopaedics & Traumatology (O&T) ward. During

hospitalisation, his blood pressure was taken twice and found to be within the normal range. Since he was not a Hong Kong citizen and his medical problem did not require immediate intervention, the doctor suggested that he could seek medical treatment upon return to his home country and he agreed to the suggestion. As the investigation and treatment of his condition had not been completed, he was asked to sign a DAMA form before discharge on 9 March 1998. The doctor had also provided him with a letter certifying his condition to enable him to seek treatment when he returned home.

4. The HA stated that there was no doctor A in the O&T Department. The complainant signed the DAMA form after doctor B had explained that his cervical spine problem did not require immediate intervention and that he could seek treatment upon return to his home country.

5. On 12 March 1998, the complainant attended the AED of the hospital at about 9 p.m. for headache. Physical examination showed that he had elevated blood pressure. The doctor gave him analgesic and anti-hypertensive drugs. He was arranged to stay in the observation ward and his blood pressure and headache condition subsequently improved. He was discharged at about 2:30 a.m. on 13 March 1998 with analgesic and anti-hypertensive drugs. However, there was no record of his alleged earlier visit on 12 March 1998.

6. According to para. 3 and 4, the doctor suggested that the complainant could seek medical treatment upon return to his home country. It would appear that the complainant was discharged "on" rather than "against" medical advice. This Office therefore requested the HA to further clarify why the complainant was required to sign the DAMA form.

7. The HA replied that the doctor had merely explained to the complainant that his cervical spine problem was not an urgent one. Such information would offer the complainant a choice as to where he would prefer to receive treatment. According to the doctor, he had not asked or advised the complainant to seek treatment back in his home country. The HA further explained that when a patient requests to leave the hospital in a situation where the doctor considers

that it is in the patient's interest for him to remain hospitalised, the patient will be asked to sign a DAMA form.

8. In connection with para. 3, the HA confirmed that the doctor had made a copy of the medical certificate provided to the complainant, but the copy could not be located for the time being.

9. As the information given by the HA in para. 7 is at odds with that in para. 3 and 4, this Office asked the HA to provide further information and account for the discrepancy. The HA was also requested to explain why the copy of the medical certificate could not be located, and to ask the doctor to give a written statement regarding the contents of the certificate provided to the complainant.

10. In response, the HA said that the doctor did not ask the complainant to seek treatment back in his home country but had only advised him to do so. Therefore, the final decision of whether or not to seek immediate medical attention at that time rested with the complainant. The HA explained that the copy of the medical certificate could likely be misplaced, and provided a statement written by one of the attending doctors. It is noted from the statement that "the doctor explained to the complainant that he could go back to his home country for further intervention. The doctor ordered DAMA form because the complainant did not complete the investigation and treatment."

#### Complaint point (a)

11. When the complainant attended the A&E of the hospital on 8 and 12 March 1998, physical and X-ray examinations were conducted, his blood pressure was taken, and analgesic and anti-hypertensive drugs were prescribed. Whether these treatments were proper was a matter of professional medical judgement and this Office is not in a position to comment. The Ombudsman therefore considers that complaint point (a) is unsubstantiated.

## Complaint point (b)

12. The HA first admitted that the doctor suggested that the complainant could seek treatment upon return to his home country, but later claimed that the doctor had not asked or advised the complainant to seek treatment in his home country. When further queried by this Office, the HA said that the doctor did not ask but had only advised the complainant to seek treatment in his home country. On the other hand, the statement written by one of the attending doctors mentioned that the doctor explained to the complainant that he could go back to his home country for further treatment. These pieces of information are, at best, inconsistent and unconvincing. Based on such information, it would be fairer to say that the complainant was discharged “on” rather than “against” medical advice. While this Office could find no definitive evidence to prove what had actually happened, there is reason to doubt that the doctor had, more likely than not, failed to fully explain the situation to the complainant and why he was asked to sign the DAMA form. On balance, The Ombudsman considers that complaint point (b) is partially substantiated.

13. Overall, The Ombudsman concludes that the complaint is partially substantiated.

## Recommendations

14. The Ombudsman recommends the HA to consider -

- (a) to remind the medical staff of the need to give clear explanations to patients on their medical conditions;
- (b) the need to review the guidelines on the use of the DAMA form or to introduce another more appropriate form for circumstances like those in the present case; and

- (c) to take appropriate measures to ensure the safekeeping of records.

## Response from the HA

15. The HA comments that there is no inconsistency in its explanations and that the words used in different stages of its replies were but attempts to offer its explanations in slightly different ways. The HA maintains that the doctor was merely providing the complainant with an option on when and where treatment was to be received, and the final decision of whether or not to seek immediate medical attention at the hospital rested with the complainant. It was the complainant who requested to be discharged and he was therefore asked to sign the DAMA form. The HA considers that the conclusion that the complainant was discharged on rather than against medical advice is incorrect, and questions why doubts were cast on the doctor and not the complainant who had given inaccurate or inconsistent information.

## Final Remarks

16. While not wishing to enter into a lexical debate, this Office could not subscribe to the HA' s contention that the words "suggested" , "had not asked or advised" , "did not ask but had only advised" and "explained" convey the same meaning in slightly different ways. This Office remains unconvinced that the doctor was merely providing the complainant with an option on when and where treatment was to be received. The medical certificate provided by the doctor to the complainant could have shed some light on the matter, but unfortunately the HA indicated that the copy kept in the hospital could not be located and this Office was also unable to obtain a copy from the complainant. It is not true that this Office has cast doubts on the doctor' s explanations but not the complainant' s claims. It is the inconsistent and unconvincing information given by the HA which leads this Office to opine that,

more likely than not, the doctor had failed to fully explain the situation to the complainant and why he was asked to sign the DAMA form.

17. Having reviewed the matter, The Ombudsman considers that there is no valid reason to change the conclusion of this report.

Office of The Ombudsman

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