Protection of rescuers in emergency care: where does Hong Kong stand?

Abraham KC Wai *, MB, ChB, FHKAM (Emergency Medicine)

Emergency Medicine Unit, Li Ka Shing Faculty of Medicine, The University of Hong Kong, Pokfulam, Hong Kong

* Corresponding author: awai@hku.hk

It is known that in cardiac arrest the chance of survival drops with time. Bystander cardiopulmonary resuscitation (CPR) should be initiated as soon as possible, preferably when the patient collapses.1 Fan et al2 recently reported 5154 cases of out-of-hospital cardiac arrest (OHCA) among which bystander CPR and automated external defibrillator (AED) use were performed in 28.8% and 1.4% of cases, respectively. Another Hong Kong study at a teaching hospital in 2005 showed that bystander CPR was offered in 15% of OHCA patients.3

Fear of legal liability contributes to the reluctance of trained bystanders to help.4-6 Good Samaritan law, which is based on biblical teaching of the virtue of helping someone in need,7 is available in a number of jurisdictions globally, including China, but not Hong Kong.

In most common law jurisdictions, if a person initiates a rescue, he/she may assume an obligation to carry it out with reasonable competence. The rescuer will only be liable to the extent that his/her own act caused additional damage. The position of doctors in rescues is unclear. They must adhere to the Code of Conduct and may be in breach of this if they fail to act. The International Code of Medical Ethics has been incorporated into the Code of Professional Conduct of the Medical Council of Hong Kong (MCHK) and provides that:

A PHYSICIAN SHALL give emergency care as a humanitarian duty unless he/she is assured that others are willing and able to give such care.8

While the MCHK, in the process of a disciplinary hearing, refers to the International Code to adjudicate, it is not known if MCHK would penalise a doctor if he/she actively denied being a doctor, failed to offer himself/herself as a doctor, or refused to assist in an emergency situation.

A Good Samaritan law would not protect those who were guilty of gross negligence, but would protect those who had responded in good faith and made a good-faith error in judgement. A doctor does what he/she has been taught to do in a Basic Life Support course. He/she will not be deemed to have been grossly negligent if an attempt to give care to a person in distress fails.

References

1. Eisenberg MS, Bergner L, Hallstrom A. Cardiac
Protection of rescuers in emergency care

657

Hong Kong Med J 6

December 2017

www.hkmj.org

1. Importance of rapid provision and implications for program planning. JAMA 1979;241:1905-7.


13. Howard County Library Note: SARAH Bill, SN/HA/6997. 28 January 2015.
