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DOH readies civil suit vs Sanofi over Dengvaxia

By SHEILA CRISOSTOMO

Saying that Dengvaxia is "defective," the Department of Health (DOH) will now pursue the filing initially of a civil case against the dengue vaccine's manufacturer Sanofi Pasteur.

In an interview, DOH Undersecretary Enrique Domingo said they will be working with the Office of the Solicitor General to strengthen the case against Sanofi.

"Initially, it will be a civil case on the basis that what they really sold us is a defective product. It's not the product that they promised it to be," Domingo noted.

The statement was made after Sanofi rejected anew yesterday. the demand of Health Secretary Francisco Duque III for the reimbursement of used vaccines and for financial support for an indeminification fund.

Domingo added that Duque is "very unhappy" with Sanofi's decision as the secretary wanted to speed up the process.

"This (development) leaves us with no recourse but to file a case. Our legal team is looking at all the lines in the contract. We feel we have a good case against them," Domingo maintained.

Aside from the contract, the DOH is also banking on provisions in the Civil Code concerning procured defective products.

The official said Sanofi could not deny responsibility by claiming that they never promised 100-percent effectivity.

"If you sell a car which turned out to be ineffective, it does not mean you are not at fault. It's your fault and you have to return the car," Domingo said, adding that if they find any further evidence, "it might lead to a criminal case because we believe there had been some misrepresentation on the side of Sanofi."

Sanofi's rejection

In a statement, Sanofi said it declined anew the two requests of the DOH for full refund and for the setting up of an indeminification fund. It echoed the reasons given when they rejected the first request last month.

"We stand firmly behind our product. Refunding the used doses of Dengvaxia would imply that the vaccine is ineffective, which is not the case," the company maintained.

Sanofi also reiterated that "at this time, there is also no known circumstance requiring indemnification."

"Our concern and empathy remains with any and all individuals and families that have been affected by these difficult circumstances. Dengue remains a major public health

* Vaccination
* Dept. of health (DOH)

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challenge," it added.

'Secure Dengvaxia records'

As these developed, the Department of Justice (DOJ) was asked yesterday to secure records of the controversial Dengavaxia vaccine amid reports of cover-up in investigation on the alleged anomaly in the P3.55-billion project of the previous administration.

In a three-page letter, the Volunteers Against Crime and Corruption (VACC) and Vanguard of the Philippine Constitution Inc. (VPCI) asked the DOJ to subpoena or require the submission of all documents on the immunization project from the DOH, the Department of Budget and Management (DBM) and other agencies.

VACC lawyer Nasser Marohomsalic said the records should be secured for purposes of preliminary investigation on criminal charges they filed against former president Benigno Aquino III and 19 others last week.

"Notably, the documents requested to be produced are material and relevant, and tended to establish the facts in the issue. Also, their production is a matter of precautionary measure," the letter addressed to Prosecutor General Jorge Catalan Jr. read.

The groups made the request even before the DOJ acted on their complaint and create a panel of prosecutors and summon the respondents to answer the charges.

The VACC earlier claimed that some senior DOH officials were trying to cover up the anomaly and allegedly started to "destroy evidence."

Among the documents sought by the complainants were the contracts with Sanofi Pasteur and Zuellig Pharma Corp., purchase order, delivery receipts and technical papers for the implementation of school-based immunization program – all from the Philippine Children's Medical Center (PCMC).

The DOJ was likewise asked to summon records for license and product registration of Dengvaxia issued by the Food and Drug Administration.

Complainants also wanted DBM documents, including the special allotment release order for the project, submitted to the DOJ.

They also sought the mandatory submission of records pertaining to the exemption of Dengvaxia from the national drug formulary by the DOH formulary executive council and the cost-effectiveness study conducted by Dr. Hilton Lam of the University of the Philippines National Institute of Health.

– With Edu Punay, Romina Cabrera