

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 119

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO HEALTH CARE; ENACTING THE SEXUAL ASSAULT SURVIVORS
EMERGENCY CARE ACT; PROVIDING PENALTIES; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Sexual Assault Survivors Emergency Care Act".

Section 2. DEFINITIONS.--As used in the Sexual Assault
Survivors Emergency Care Act:

A. "department" means the department of health;

B. "emergency care for sexual assault survivors"
means medical examinations, procedures and services provided by
a hospital to a sexual assault survivor following an alleged
sexual assault;

C. "emergency contraception" means a drug approved

1 by the federal food and drug administration that prevents
2 pregnancy after sexual intercourse;

3 D. "hospital" means a facility providing emergency
4 or urgent health care;

5 E. "medically and factually accurate and objective"
6 means verified or supported by the weight of research conducted
7 in compliance with accepted scientific methods and standards;
8 published in peer-reviewed journals; and recognized as accurate
9 and objective by leading professional organizations and
10 agencies with relevant expertise in the field of obstetrics and
11 gynecology, such as the American college of obstetricians and
12 gynecologists;

13 F. "sexual assault" means the crime of criminal
14 sexual penetration; and

15 G. "sexual assault survivor" means a female who
16 alleges or is alleged to have been sexually assaulted and who
17 presents as a patient to a hospital.

18 Section 3. EMERGENCY CARE FOR SEXUAL ASSAULT SURVIVORS--
19 STANDARD OF CARE. --

20 A. A hospital that provides emergency care for
21 sexual assault survivors shall:

22 (1) provide each sexual assault survivor with
23 medically and factually accurate and objective written and oral
24 information about emergency contraception;

25 (2) orally and in writing inform each sexual

1 assault survivor of her option to be provided emergency
2 contraception at the hospital; and

3 (3) provide emergency contraception at the
4 hospital to each sexual assault survivor who requests it.

5 B. The provision of emergency contraception pills
6 shall include the initial dose that the sexual assault survivor
7 can take at the hospital as well as the subsequent dose that
8 the sexual assault survivor may self-administer twelve hours
9 following the initial dose.

10 Section 4. TRAINING.--No later than September 30, 2003:

11 A. a hospital shall ensure that all personnel who
12 provide care to sexual assault survivors are trained to provide
13 medically and factually accurate and objective information about
14 emergency contraception; and

15 B. the department shall adopt rules regulating the
16 training to be provided by hospitals pursuant to the Sexual
17 Assault Survivors Emergency Care Act to personnel who provide
18 emergency care for sexual assault survivors.

19 Section 5. ENFORCEMENT--ADMINISTRATIVE FINES.--

20 A. Complaints of failure to provide services
21 required by the Sexual Assault Survivors Emergency Care Act may
22 be filed with the department.

23 B. The department shall immediately investigate
24 every complaint it receives regarding failure of a hospital to
25 provide services required by the Sexual Assault Survivors

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1 Emergency Care Act to determine the action to be taken to
2 satisfy the complaint.

3 C. The department shall compile all complaints it
4 receives regarding failure to provide services required by the
5 Sexual Assault Survivors Emergency Care Act and shall retain
6 the complaints for at least ten years so that they can be
7 analyzed for patterns of failure to provide services pursuant
8 to that act.

9 D. If the department determines that a hospital has
10 failed to provide the services required in the Sexual Assault
11 Survivors Emergency Care Act, the department shall:

12 (1) issue a written warning to the hospital
13 upon receipt of a complaint that the hospital is not providing
14 the services required by the Sexual Assault Survivors Emergency
15 Care Act; and

16 (2) based on the department's investigation of
17 the first complaint, require the hospital to correct the
18 deficiency leading to the complaint.

19 E. If after the issuance of a written warning to
20 the hospital pursuant to Subsection D of this section, the
21 department finds that the hospital has failed to provide
22 services required by the Sexual Assault Survivors Emergency
23 Care Act, the department shall, for a second through fifth
24 complaint, impose on the hospital a fine of one thousand
25 dollars (\$1,000):

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1 (1) per sexual assault survivor who is found
2 by the department to have been denied medically and factually
3 accurate and objective information about emergency
4 contraception or who is not offered or provided emergency
5 contraception; or

6 (2) per month from the date of the complaint
7 alleging noncompliance until the hospital provides training
8 pursuant to the rules of the department.

9 F. For the sixth and subsequent complaint against
10 the same hospital if the department finds the hospital has
11 failed to provide services required by the Sexual Assault
12 Survivors Emergency Care Act, the department shall impose an
13 intermediate sanction pursuant to Section 24-1-5.2 NMSA 1978 or
14 suspend or revoke the license of the hospital issued pursuant
15 to the Public Health Act.

16 Section 6. SEVERABILITY.--If any part or application of
17 the Sexual Assault Survivors Emergency Care Act is held
18 invalid, the remainder of its application to other situations
19 or persons shall not be affected.

20 Section 7. EMERGENCY.--It is necessary for the public
21 peace, health and safety that this act take effect immediately.

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