

## CHAPTER 50

AN ACT concerning emergency contraception for sexual assault victims, supplementing Title 26 of the Revised Statutes and amending P.L.1985, c.404.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.26:2H-12.6b Definitions relative to emergency contraception for sexual assault victims.

1. As used in this act:

"Commissioner" means the Commissioner of Health and Senior Services.

"Division on Women" means the Division on Women in the Department of Community Affairs.

"Emergency care to sexual assault victims" means a medical examination, procedure or service provided by an emergency health care facility to a sexual assault victim following an alleged sexual offense.

"Emergency contraception" means one or more prescription drugs to prevent pregnancy, used separately or in combination, administered to or self-administered by a patient within a medically recommended time after sexual intercourse, dispensed for that purpose in accordance with professional standards of practice and determined to be safe by the United States Food and Drug Administration.

"Emergency health care facility" means a general hospital or satellite emergency department licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Medically and factually accurate and objective" means verified or supported by the weight of research conducted in compliance with accepted scientific methods and standards, published in peer-reviewed journals and recognized as accurate and objective by leading professional organizations and agencies with relevant expertise in the field of obstetrics and gynecology.

"Sexual Assault Nurse Examiner program" means the Statewide Sexual Assault Nurse Examiner program in the Division of Criminal Justice in the Department of Law and Public Safety, established pursuant to P.L.2001, c.81 (C.52:4B-50 et seq.).

"Sexual assault victim" means a female who alleges or is alleged to have suffered a personal, physical or psychological injury as a result of a sexual offense.

"Sexual offense" means sexual assault and aggravated sexual assault as set forth in N.J.S.2C:14-2, criminal sexual contact and aggravated criminal sexual contact as set forth in N.J.S.2C:14-3, fourth degree lewdness as set forth in subsection b. of N.J.S.2C:14-4 and endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child as set forth in N.J.S.2C:24-4.

C.26:2H-12.6c Provision of emergency care to sexual assault victim.

2. An emergency health care facility shall provide emergency care to a sexual assault victim. It shall be the standard of care for an emergency health care facility to:

a. provide each sexual assault victim with medically and factually accurate and objective oral and written information about emergency contraception and sexually transmitted diseases, as provided for in section 4 of this act;

b. orally inform each sexual assault victim of her option to be provided emergency contraception at the health care facility; and

c. provide emergency contraception to the sexual assault victim, upon her request, unless contraindicated. If the emergency contraceptive is in the form of pills, the provision of the emergency contraception shall include the initial dose that the victim may take at the emergency health care facility, as well as the follow-up dose that the victim can self-administer later.

An emergency health care facility shall not be required to provide emergency contraception to a sexual assault victim who is pregnant.

C.26:2H-12.6d Policies, procedures concerning personnel training.

3. An emergency health care facility shall have written policies and procedures to ensure that all personnel who provide care or information to a sexual assault victim:

a. are trained to provide medically and factually accurate and objective information about emergency contraception and sexually transmitted diseases to a sexual assault victim; and

b. provide that information to a sexual assault victim.

C.26:2H-12.6e Written information relative to emergency contraception for sexual assault victims.

4. a. The commissioner, in collaboration with the Director of the Division on Women, the New Jersey Coalition Against Sexual Assault and the Sexual Assault Nurse Examiner program, shall develop, prepare and produce, in quantities sufficient to comply with the purposes of this act, written information relating to: emergency contraception for the prevention of pregnancy in sexual assault victims; and sexually transmitted diseases.

b. The information shall be clearly written and readily comprehensible in a culturally competent manner, as the commissioner, in collaboration with the Division on Women, the New Jersey Coalition Against Sexual Assault and the Sexual Assault Nurse Examiner program, deems necessary to inform a sexual assault victim. The information shall explain:

(1) the nature of emergency contraception, the effectiveness of emergency contraception in preventing pregnancy, where emergency contraception can be obtained, and treatment options; and

(2) the symptoms and effects of sexually transmitted diseases, and treatment options.

c. The information shall be distributed to all hospital and satellite emergency departments in the State for use in those facilities pursuant to this act.

C.26:2H-12.6f Responsibilities of commissioner concerning compliance.

5. a. The commissioner shall:

(1) investigate every complaint of noncompliance with the provisions of this act by an emergency health care facility, including the failure of a facility to provide the services required by this act;

(2) determine whether the complaint is substantiated, and if so, what action shall be taken by the emergency health care facility or commissioner to address the complaint;

(3) notify the Sexual Assault Nurse Examiner program of all substantiated complaints;

(4) compile the substantiated complaints;

(5) analyze the substantiated complaints, at least annually, to determine if there is any pattern of failure to provide services pursuant to this act; and

(6) determine, at least annually, whether an emergency health care facility is complying with the provisions of this act. The commissioner may utilize all means within his regulatory authority concerning health care facilities to verify a facility's compliance with this act.

b. If the commissioner determines that an emergency health care facility is not in compliance with the provisions of this act, the commissioner may assess such penalties and take other actions against the facility, as provided in P.L.1971, c.136 (C.26:2H-1 et seq.). Any such penalties assessed for noncompliance shall be paid to the Department of the Treasury and allocated, on a quarterly basis, to the Division on Women for supplemental funding for designated rape crisis centers.

c. The commissioner shall prepare an annual report, which shall be available to the public, summarizing the substantiated complaints, the actions taken by an emergency health care facility or the commissioner to address the complaints, and the commissioner's findings concerning any pattern of failure to provide services under, or noncompliance with, the provisions of this act.

6. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read as follows:

C.52:4B-44 Standards for law enforcement agencies to ensure rights of crime victims.

6. a. The Attorney General shall, through the Office of Victim-Witness Advocacy in the Division of Criminal Justice in the Department of Law and Public Safety and in consultation with the county prosecutors, promulgate standards for law enforcement agencies to ensure that the rights of crime victims are enforced.

b. The standards shall require that the Office of Victim-Witness Advocacy in the Division of Criminal Justice and each county prosecutor's office provide the following services upon request for victims and witnesses involved in the prosecution of a case:

(1) Orientation information about the criminal justice system and the victim's and

witness's role in the criminal justice process;

- (2) Notification of any change in the case status and of final disposition;
- (3) Information on crime prevention and on available responses to witness intimidation;
- (4) Information about available services to meet needs resulting from the crime and referrals to service agencies, where appropriate;
- (5) Advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of any plea agreement, the trial and sentencing;
- (6) Advance notice of when presence in court is not needed;
- (7) Advice about available compensation, restitution and other forms of recovery and assistance in applying for government compensation;
- (8) A waiting or reception area separate from the defendant for use during court proceedings;
- (9) An escort or accompaniment for intimidated victims or witnesses during court appearances;
- (10) Information about directions, parking, courthouse and courtroom locations, transportation services and witness fees, in advance of court appearances;
- (11) Assistance for victims and witnesses in meeting special needs when required to make court appearances, such as transportation and child care arrangements;
- (12) Assistance in making travel and lodging arrangements for out-of-State witnesses;
- (13) Notification to employers of victims and witnesses, if cooperation in the investigation or prosecution causes absence from work;
- (14) Notification of the case disposition, including the trial and sentencing;
- (15) Assistance to victims in submitting a written statement to a representative of the county prosecutor's office about the impact of the crime prior to the prosecutor's final decision concerning whether formal charges will be filed;
- (16) Advice to victims about their right to make a statement about the impact of the crime for inclusion in the presentence report or at time of parole consideration, if applicable;
- (17) Notification to victims of the right to make an in-person statement, prior to sentencing, directly to the sentencing court concerning the impact of the crime;
- (18) Expediting the return of property when no longer needed as evidence;
- (19) Advise and counsel, or refer for advice or counseling, victims of sexual assault, or other criminal acts involving a risk of transmission of disease, concerning available medical testing and assist such victims, or refer such victims for assistance, in obtaining appropriate testing, counseling and medical care and in making application to the Victims of Crime Compensation Board for compensation for the costs of such testing, counseling and care;
- (20) Assistance to victims in submitting a written impact statement to a representative of the county prosecutor's office concerning the impact of the crime which shall be considered prior to the prosecutor's accepting a negotiated plea agreement containing recommendations as to sentence and assistance to victims in securing an explanation of the terms of any such agreement and the reasons for the agreement;
- (21) Notification to the victim of the defendant's release from custody which shall include:
  - (a) notice of the defendant's escape from custody and return to custody following escape;
  - (b) notice of any other release from custody, including placement in an Intensive Supervision Program or other alternative disposition, and any associated conditions of release;
  - (c) notice of the filing by an inmate of an application for commutation of sentence pursuant to N.J.S.2A:167-4 and its disposition;
  - (d) notice of parole consideration pursuant to provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.); and
  - (e) notice of the pending release of an inmate due to expiration of sentence; and
- (22) Interpreting services for victims and witnesses when necessary to assist a victim or witness who is hearing impaired or developmentally disabled as defined in section 3 of P.L.1977, c.82 (C.30:6D-3) to understand questions and frame answers.

c. In a case involving a victim of aggravated sexual assault or sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the Office of Victim-Witness Advocacy or the county

prosecutor's office involved in the case shall:

(1) Notify the victim of the victim's right to obtain an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS, and assist the victim, or refer the victim for assistance, in obtaining a test and appropriate counseling and medical care;

(2) Notify the victim of the victim's right to obtain a court order pursuant to subsection a. of section 4 of P.L.1993, c.364 (C.2C:43-2.2) requiring the offender to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS in the event that the offender is indicted, formally charged, convicted or adjudicated delinquent;

(3) Communicate the request of a victim who agrees to seek an order pursuant to subsection a. of section 4 of P.L.1993, c.364 (C.2C:43-2.2) to the prosecutor handling the case and notify the victim or arrange for the victim to be notified of the test result; and

(4) Assist the victim in applying to the Victims of Crime Compensation Board for compensation for the costs of testing, counseling and medical care.

d. The Attorney General shall, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of Health and Senior Services, the Superintendent of State Police and representatives of providers of sexual assault services, to be designated by the Director of the Office of Victim-Witness Advocacy, coordinate the establishment of standard protocols for the provision of information and services to victims of sexual assault, and shall make such protocols available to victims upon request, except that the provision of information and services with regard to emergency contraception and sexually transmitted diseases shall be in accordance with P.L.2005, c.50 (C.26:2H-12.6b et al.).

C.26:2H-12.6g Rules, regulations.

7. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner, in consultation with the Director of the Division on Women and the Sexual Assault Nurse Examiner program, shall adopt rules and regulations to effectuate the purposes of this act; except that, notwithstanding any provision of P.L.1968, c.410 to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410.

8. This act shall take effect on the 30th day after enactment, but the commissioner, in consultation with the Director of the Division on Women and the Sexual Assault Nurse Examiner program, may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved March 21, 2005.