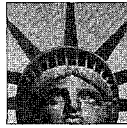


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ACLU

**AMERICAN CIVIL LIBERTIES UNION
of PENNSYLVANIA**

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INDEPENDENT REGULATORY
REVIEW COMMISSION

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October 12, 2007

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**RE: FINAL FORM REGULATIONS #10-182 (#2577)
RELATING TO SEXUAL ASSAULT VICTIM
EMERGENCY SERVICES**

Dear Commissioner Coccodrilli:

I write on behalf of the more than 19,000 members of the American Civil Liberties Union of Pennsylvania in response to Final-Form Regulation #10-182(#2577) relating to sexual assault victim emergency services.

At the outset, let me make it abundantly clear that the ACLU believes that House Bill 288, which deals with the same subject, should be enacted by the legislature. We think that these protections for rape victims need to be in statute and not merely in regulation. Furthermore, we believe that the House Bill 288, which would cover all victims, regardless of which hospital they are taken to, represents far better public policy than these regulations which contain exemptions that will inevitably result in some victims receiving substandard care.

The Commonwealth of Pennsylvania has a compelling state interest in making sure that all rape victims are treated with compassion and receive the nationally recognized standard of care. The Commonwealth of Pennsylvania also has a compelling state interest in making sure that all rape victims have timely access to emergency contraception should the victim wish to take that medication.

We respectfully disagree with those hospitals that claim that HB 288 must include a provision allowing an institution to refuse to provide emergency contraception for religious reasons. The ACLU believes that when it comes to emergency contraception for rape victims, the primary question for the Commonwealth should be whether an institution's refusal burdens victims who do not share and should not bear the burden of the refusal to provide emergency contraception. A religiously affiliated hospital is operating for the general public and its refusal to provide access to this kind of emergency medical care directly and adversely impacts on patients of diverse backgrounds and faiths. The refusal impacts on victims who do not even get a choice as to which hospital they are taken to for immediate medical care.

House Bill 288 as currently drafted represents better public policy because it provides protection for all victims regardless of which hospital they are initially transported to. It allows the victim to choose whether to take emergency contraception. It will promote the interest of all victims if properly complied with and enforced.

The ACLU recognizes, however, that because these regulations are being promulgated under the Health Care Facilities Act, some accommodation must be made for religious and moral exemptions. We believe, however, that the proposed accommodation, as set forth under Section 117.57, which allows for the transport of a victim, is an unreasonable and medically unsound accommodation and that alternatives must be considered.

In many rural counties in Pennsylvania, there may be only one hospital serving a large area. The hours of delay in providing the full range of treatment to a victim could be delayed hours. Even in urban areas, the victim may be incapable of being transported.

Rape is a crime of violence. All too often a rape victim suffers multiple injuries that require immediate care and she is not in a condition to be transported to another hospital. Doctors at the emergency room at Thomas Jefferson Hospital in Philadelphia have reported that they have had a female victim who was raped and brutally assaulted. She had a head injury, stab wounds to the chest, and other injuries. She was treated in the emergency room as a trauma patient and as a rape victim. She was provided with the full range of care for a rape victim, including emergency contraception. She could not have been transported to another hospital for that care.

In another instance, a woman was violently attacked in the street. She was beaten in the head and face. She came to the Emergency Room at Jefferson Hospital for care. She required CT scans to rule out facial fractures, head trauma and/or brain injury. She was

Commissioner Arthur Coccodrilli

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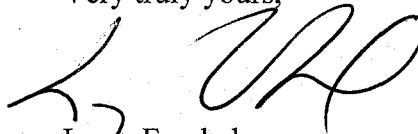
also provided with emergency contraception. It would have been inappropriate to transport her elsewhere.

The ACLU believes that there is a better means of accommodating those hospitals that claim a religious basis for refusing to dispense emergency contraception. Connecticut recently enacted a law regarding emergency contraception in emergency rooms. That law contains a provision that permits the hospital to contract with an independent entity to provide the services which the hospital refuses to provide. There is, in fact, an amendment that has been filed to House Bill 288 that would create such an alternative here in Pennsylvania. That alternative accommodates the religious objections of institutions without unduly sacrificing the rights and needs of the victim. We believe that this is a far more reasonable and sound means for accommodating a religious or moral objection.

The ACLU is also concerned about Section 117.58 which allows a hospital to elect not to provide sexual assault emergency services. Hospitals that offer emergency care should be required to provide emergency care.

The policy of this Commonwealth should not condone second class treatment of sexual assault victims. These regulations should reflect that policy.

Very truly yours,



Larry Frankel
Legislative Director

cc: Members, Senate Public health and Welfare Committee
Members, House Health and Human Services Committee