

#2577



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA COMMISSION FOR WOMEN

EDWARD G. RENDELL
GOVERNOR

LESLIE STILES
EXECUTIVE DIRECTOR

EMBARGOED MATERIAL

October 16, 2007

Arthur Coccodrilli
Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Re: Sexual Assault Victim Emergency Services [#10-182 (#2577)]

Dear Mr. Coccodrilli:

On behalf of the Pennsylvania Commission for Women (PCW), I am submitting our comments recommending passage of the proposed rules for Sexual Assault Victim Emergency Services (28 Pa. Code §117.51-117.58, #10-182 (#2577)).

The Pennsylvania Commission for Women was established by Executive Order of Governor Milton J. Shapp in 1974 and has evolved since its initial responsibility of bringing the laws of the Commonwealth into compliance with the Equal Rights Amendment. Today, PCW is an ardent advocate for equal rights. Our mission is to identify and advance the diverse needs and interests of Pennsylvania women and girls; to inform, educate and advocate for them; and to provide opportunities to empower them to reach their highest potential. Governor Edward G. Rendell signed the most recent Executive Order on June 22, 2003 and has appointed 27 members to the Commission.

We would like to commend the Department of Health for addressing the concerns of sexual assault victims and for taking the time to understand the needs of those victims. We believe that the revisions made by the Department to the proposed rules will prove helpful to sexual assault victims and will allow them to receive a standard of care necessary to aid in alleviating some of the trauma and concerns they might have.

We commend the following revisions: replacing "rape" with "sexual assault" throughout the regulation; allowing only those hospitals with the "most limited range of services" to opt out of providing sexual assault victims emergency care (§117.58); requiring hospitals to utilize rape kits that comply with the minimum standard requirements developed by the Department pursuant to the Sexual Assault Testing and Evidence Collection Act (35 p.s.

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§10172.1-10172.4); eliminating the section on pregnancy testing; and clarifying the provisions to require hospitals that do not provide sexual assault victim services or who do not provide emergency contraception to notify all law enforcement agencies, ambulance services, and emergency medical care and transport services, in addition to the Department of Health. In this way, victims of sexual assault will *only* be referred to appropriate health care facilities that are in accord with the aforementioned Sexual Assault Victim Emergency Services regulations.

The Pennsylvania Commission for Women supports the Sexual Assault Victim Emergency Services regulation, because we feel that these rules are critical in meeting the needs of sexual assault victims. We would however, like to express our concerns about several aspects of the current draft (#10-182 (#2577)). We feel that said regulation could be improved if the following sections were slightly revised.

§117.53 (1) and §117.55 Emergency contraception information materials

PCW commends the Department for agreeing to prepare written information on emergency contraceptives in order to ensure factual, objective, and uniform information is distributed to sexual assault victims throughout the Commonwealth.

In addition to providing hospitals with this information in electronic format, PCW strongly recommends that the Department also create the same information in a format suitable for sexual assault victims who are blind, illiterate, or who may have any other disability which prevents them from effectively reading printed information. Providing information in Braille, audio CDs or tapes, and large print would ensure that all victims of sexual assault receive the same accurate information regarding emergency contraception.

§117.56 Information regarding payment for sexual assault emergency services

Section §117.56 clarifies the sources of financial assistance available to sexual assault victims. However, in addition to providing information on financial assistance, PCW feels that it is crucial for the hospital to inform sexual assault victims both orally and through written form that they are not liable for the cost incurred from receiving medical treatment, including prescriptions per P.L. 1056, Act of September 26, 1995, Special Session §1726.1.

If sexual assault victims do not clearly understand that they will not be charged for the services rendered by hospitals, they may refuse treatment due to fear of medical expenses. For the safety and well being of sexual assault victims, PCW recommends that victims be told that they will not be directly billed by the hospital for any medical treatment or medication related to the assault.

§117.57 Religious and moral exemptions

We understand the need to provide exemptions under the Religious Freedom Protection Act as stated in section 902(a) of the act (35 P.S. §448.902(a) for religiously affiliated hospitals in Pennsylvania. However, PCW believes that the inclusion of "moral beliefs" is too broad and strongly recommends that the term "moral" be removed from the exemption section. We feel that "moral exemption" would allow any hospital to opt out of providing emergency contraception. This creates a dangerous slippery slope, considering

Pennsylvania is a predominately rural state. In rural areas of the state, there is none or only one hospital in a given county, (27 of the 67 counties in PA according to the Duval Emergency Contraception Survey). If that one hospital in a county opts out, because of their "moral beliefs", this would be problematic for a victim of sexual assault. Given this information and the objectives of these rules - to provide quality health care services and relieve some of the trauma for sexual assault victims in Pennsylvania- "moral exemption" language should be removed.

PCW would also like to see language added to this section, to clarify that a hospital's decision to provide emergency contraception supersedes the religious or moral beliefs of all hospital personnel. We fear that if language to this effect is not added, that attending physicians may refuse emergency contraception, based on their personal beliefs.

§117.57 (6) Religious and moral exemptions

Section 6 of §117.57 addresses the transportation responsibilities of a hospital who opts out of providing emergency contraception for a victim who would like to obtain emergency contraception, but does not require further inpatient hospital services. Due to the lack of proximity of hospitals in rural areas in Pennsylvania, the regulation was revised so that hospitals are able to transfer victims who would like to obtain emergency contraception to a "Rural Health Clinic, Federally Qualified Health Center, Pharmacy, or other similar location where a victim could obtain emergency contraception", because the nearest hospital could be at a great distance or outside of Pennsylvania. This presents the same issue, as our argument in section §117.56 (Information regarding payment for sexual assault emergency services). We feel that payment for the emergency contraception needs to be addressed, per P.L. 1056, Act of September 26, 1995, Special Session §1726.1, the cost of medications should never be charged to the victim. Therefore the rules should require the hospital to provide the victim with a purchase order, or a similar process should be established for the payment of emergency contraception. Forcing a victim of sexual assault to pay for the emergency contraception may deter them from obtaining it.

We also feel that language should be added to section 6 of §117.57 addressing the timeframe in which the hospital arranges transportation for the victim to obtain emergency contraception. The PCW realizes that isolation in rural areas and/or other factors, such as the time of day/day of the week the victim presents for treatment, may affect the time duration of transportation. We feel that language should be added to this section and in other appropriate sections that a hospital make every effort to arrange for the transportation of a victim within a *reasonable* timeframe. The PCW feels that 30 minutes is a reasonable timeframe for the hospital to arrange for transportation, from the time that a victim requests emergency contraception. We understand that the transportation may not necessarily occur within this timeframe, but the hospital should be responsible for arranging it within 30 minutes from the victim's request. The time lapse between the request for emergency contraception and obtaining it is critical, according to the U.S. Department of Health and Human Services, "the sooner you take emergency contraception after sex, the better your chances it will work."¹

¹ <http://www.4women.gov/faq/econtracep.htm#a>

In conclusion, the Pennsylvania Commission for Women is grateful for and supports these proposed rules for Sexual Assault Victim Emergency Services. We would like to see our concerns clarified as we move foreword in this process, to ensure that all victims have equal access to quality medical treatment. If you have any questions regarding our comments, please don't hesitate to contact me. Thank you for your commitment to providing equal access and quality care to victims of sexual assault in Pennsylvania.

Sincerely,



Leslie Stiles
Executive Director

Cc: Sandra Knoble, Acting Director, Bureau of Facility Licensure and Certification, PA
Department of Health
Frank Oliver, Chair, House Health and Human Services Committee
George T. Kenney, Jr., Minority Chair, House Health and Human Services Committee
Edwin B. Erickson, Chair, Senate Public Health and Welfare Committee
Vincent J. Hughes, Minority Chair, Senate Public Health and Welfare Committee