



## Legislation Text

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### Int. No. 281-A

By Council Member Moskowitz, Gioia, Quinn, The Speaker (CM Miller), Reyna, Clarke, Baez, Comrie, Davis, Gerson, Jackson, Koppell, Lopez, Monserrate, Nelson, Perkins, Recchia, Reed, Sanders, DeBlasio, Brewer, Yassky, Katz, Sears, Weprin and The Public Advocate (Ms. Gotbaum); also Council Members Seabrook and Stewart.

A Local Law to amend the administrative code of the city of New York, in relation to the administration of emergency contraception to rape victims in emergency departments.

Be it enacted by the Council as follows:

Section 1. Legislative history and intent. In 2002, 2,013 rapes were reported to the New York City Police Department. Public health and public safety advocates alike acknowledge that the number of rapes reported to authorities constitute only a fraction of the number of rapes that actually occur. Alarming, between one and five percent of all rapes end in pregnancy (Holmes, et al., Rape-related Pregnancy: Estimates and Descriptive Characteristics from a National Sample of Women, American Journal of Obstetrics and Gynecology, 175:2, 1996). Over half of these pregnancies will end in abortion.

Emergency contraception (EC) is a safe and effective way to prevent unintended pregnancy. Approved by the United States Food and Drug Administration in 1997, EC works to prevent pregnancy by delaying ovulation or preventing fertilization. If taken within 72 hours of unprotected intercourse, EC reduces the risk of unintended pregnancy by as much as 89 percent. EC is frequently and erroneously confused with mifepristone and methotrexate, drugs used in medical abortion. EC differs from these drugs by working to prevent pregnancy from occurring instead of terminating an established pregnancy. The provision of EC to rape victims is considered to be the accepted standard of care for treatment of rape victims by the New York State Department of Health, as well as health professional organizations, including the American College of

Obstetricians and Gynecologists, the American Medical Association and the American College of Emergency Physicians.

Surveys on the provision of EC in emergency departments in New York City hospitals reveal that approximately half of New York City emergency departments do not provide rape victims with EC.

Significantly, these surveys also reveal that emergency departments operated by the New York City Health and Hospitals Corporation do in fact provide EC.

The Council finds that the provision of EC to a rape victim when medically appropriate aids to reduce the trauma already inflicted on the victim by preventing an unwanted pregnancy from resulting from that rape. The City Council further finds that the prevention of unintended pregnancies resulting from rape avoids costs associated with unwanted pregnancy, including medical care and foster care, some of which are ultimately borne by the City. Therefore, the Council declares that New York City should contract only with hospitals which provide rape victims with the accepted standard of care for treatment of such patients, including the administration of emergency contraception.

Section 2. The administrative code of the city of New York is amended by adding a new section 6-125 to read as follows:

§6-125. a. For the purposes of this section only, the following terms shall have the following meanings:

(1) "City agency" means a city, county, borough, administration, department, division bureau, board or commission, or a corporation, institution or agency of government the expenses of which are paid in whole or in part from the city treasury, but shall not include the health and hospitals corporation.

(2) "Covered agreement" means any agreement, including but not limited to, memoranda of understanding, and excluding contracts, entered into on or after the effective date of the local law that added this section, between a hospital and a city agency.

(3) "Covered contract" means any contract entered into on or after the effective date of the local law that added this section, between a hospital and a city agency.

(4) "Emergency contraception" shall mean one or more prescription drugs, used separately or in combination, to be administered to or self-administered by a patient in a dosage and manner intended to prevent pregnancy when used within a medically recommended amount of time following sexual intercourse and dispensed for that purpose in accordance with professional standards of practice, and which has been found safe and effective for such use by the United States food and drug administration.

(5) "Hospital" means any facility operating pursuant to article 28 of the public health law which provides emergency medical care.

(6) "Rape victim" means any female person who alleges or is alleged to have been raped and presents to a hospital.

b. No city agency shall enter into a covered agreement or covered contract with any hospital that does not contain a provision whereby such hospital agrees to inform rape victims presenting to its emergency department of the availability of emergency contraception and, if requested, to administer, if medically appropriate, such contraception in a timely manner.

c. No city agency shall enter into a covered agreement or covered contract with any hospital that does not contain a provision whereby such hospital agrees to provide the department of health and mental hygiene, on an annual basis, a report indicating the following information with respect to each reporting period: i) the number of rape victims treated in such hospital's emergency department; ii) the number of rape victims treated in such hospital's emergency department which were offered emergency contraception; iii) the number of rape victims treated in such hospital's emergency department for whom the administration of emergency contraception was not medically indicated and a brief explanation of the contraindication; and iv) the number of times emergency contraception was accepted or declined by a rape victim treated in such hospital's emergency department.

d. No city agency shall enter into a covered agreement or covered contract with any hospital that does not contain a provision whereby such hospital agrees to provide the department of health and mental hygiene

with a copy of its protocol for treatment of victims of sexual assault, which hospitals are required to establish pursuant to section 405.19 of title 10 of the codes, rules and regulations of the state of New York; provided however, that such hospital shall be required to provide such protocol upon amendment or renewal of a covered agreement or covered contract only if such protocol has been amended since the date such hospital initially entered into such covered agreement or covered contract.

e. A hospital shall be liable for a civil penalty of not less than five thousand dollars upon a determination that such hospital has been found, through litigation or arbitration, to have made a false claim with respect to its provision of information to rape victims regarding the availability of emergency contraception or its provision of emergency contraception, if medically indicated, to rape victims in a timely manner.

§3. Severability. If any subsection, sentence, clause, phrase or other portion of the local law that added this section is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect.

§4. Effective date. This section shall take effect forty five days after its enactment; provided, however, that any rules consistent with this local law and necessary to its implementation may be promulgated prior to such effective date.

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