



Greater New York Hospital Association

555 West 57th Street / New York, N.Y. 10019 / (212) 246-7100 / FAX (212) 262-6350
Kenneth E. Raske, President

April
Thirteen
2006

ML-110

TO: Chief Executive Officers (New York State)

FROM: Kenneth E. Raske, President

RE: New York State Department of Health "Dear Administrator" Letter Regarding
Emergency Contraception

The attached "Dear Administrator" letter from the New York State Department of Health (NYS DOH) reminds hospitals of the requirements to provide female sexual assault victims who are of reproductive age with information regarding emergency contraception. As indicated in a previous GNYHA member letter bulletin (ML-92, dated March 28, 2006), NYS DOH has also indicated that it plans to undertake surveillance activities with regard to emergency contraception practices in emergency departments in order to determine whether emergency departments are complying with the relevant provisions of New York State law.

The New York State legislation, which is also attached, became effective in 2004. It requires hospitals in New York State to inform sexual assault survivors of the availability of emergency contraception and to provide it upon request. GNYHA has previously provided information regarding the New York State legislation via several GNYHA member letter bulletins. The attached "Dear Administrator" letter includes a "Question and Answer" document that provides additional details regarding the legislation.

If you have any questions, please contact Doris R. Varlese at GNYHA.

cc (via e-mail): Legal Affairs Committee
 Compliance Workgroup
 Chairs, Emergency Medicine
 Administrators, Emergency Departments
 Government Affairs Forum
 Community Affairs Forum



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

April 7, 2006

Dear Chief Executive Officer:

This letter is written to clarify the Department's expectations with respect to the provision of Emergency Contraception (EC) to the victims of sexual assault in accordance with §2805-P of the Public Health Law.

New York State hospitals are mandated by law to include the following actions as part of their overall plan to address the needs of female sexual assault victims who are of reproductive age:

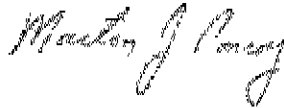
- The Department's brochure "Emergency Contraception for Rape Survivors" or a Department approved substitute must be given to all victims of sexual assault. This brochure contains information regarding the availability of emergency contraception, its efficacy and use, side effects, and post administration follow up.
- Hospital staff must inform the patient of the availability of emergency contraception, its use and effectiveness. While the "Emergency Contraception for Rape Survivors" brochure contains some of this information, it is not intended to replace the thoughtful explanation of treatment options to a sexual assault survivor.
- The hospital must offer emergency contraception and provide it to the sexual assault victim upon her request, unless the victim has a pre-existing pregnancy.

To further clarify requirements and expectations, the Department has attached to this letter a Question and Answer document, a copy of the law, a Department of Health Publications catalog, and the "Emergency Contraception for Rape Survivors" brochure. This brochure has been translated into Spanish, Creole, Hindi, Chinese, Korean, Arabic and Russian.

It is the Department's expectation that all New York State hospitals are, and will remain, in full compliance with the law requiring the provision of emergency contraception. The Department stands ready to investigate any allegation of non-compliance, which could result in citation, enforcement, and delays in the Certificate of Need review process.

Should you have any questions regarding the provision of emergency contraception, you may call the Bureau of Hospital and Primary Care Services at (518) 402-1003.

Sincerely,

A handwritten signature in cursive script that reads "Martin J. Conroy".

Martin J. Conroy
Director
Bureau of Hospital & Primary Care Services

Attachments

**New York State Department of Health
Emergency Contraception
Question and Answer Document**

Q: What is Emergency Contraception (EC)?

A: Emergency contraception is simply a higher dose of the same hormones used in common birth control pills. It is most effective if it is taken within 12 hours of the rape. But, it can still work if it is used within three days (72 hours) after the rape, and can even be taken up to five days (120 hours) after the rape. The longer you wait, however, the less likely it is that emergency contraception will keep you from getting pregnant.

Q: What are the medical contraindications of emergency contraception?

A: Of the millions of women worldwide who have taken EC, there have been no serious contraindications noted that would endanger a woman's health.

Q: If EC were administered to a woman who is found to be pregnant, would EC affect the pregnancy?

A: No. EC would have no effect on an existing pregnancy. Hospitals are not required to offer EC to a woman who has a pre-existing pregnancy.

Q: Are allergies to EC common?

A: No. Allergies to EC would be considered extremely rare.

Q: Is a sexual assault exam a prerequisite to obtaining EC?

A: No. A sexual assault victim need not have a sexual assault exam prior to obtaining EC.

Q. Can I require patients to report the sexual assault to police as a condition of receiving EC?

A. No. Hospitals may not put any conditions on receipt of EC or pressure victims to report the assault to police.

Q. Some physicians do not wish to offer EC, or would like the provision of EC left to their discretion. Is that acceptable?

A. Provision of EC to rape victims is mandated by law and is the standard of care for victims of sexual assault. Non compliance with the law can leave a hospital vulnerable to legal liability and citation/enforcement by the Department of Health.

Q. Is it acceptable to offer a prescription for EC, instead of providing EC?

A. It is not acceptable to offer a prescription for EC for several reasons. Timeliness of receipt is a significant factor in effectiveness, and any delay introduced by having EC unavailable will increase the likelihood that pregnancy will result. Also, it is unacceptable to require sexual assault victims to undertake a search for an open pharmacy in their traumatized condition. Further, the law mandates that EC be offered to the woman, not that a prescription for EC is offered.

Q. We haven't been instructing all of our support staff about how to respond to EC questions. Should we do so?

A. All individuals who might be points of first contact for patients should be uniformly aware of not only the law, but also, their facility's protocol for dealing with sexual assault patients. This includes people answering the phones, both for the hospital as a whole and for the ED, the triage staff, the clerks, and other potential points of contact. Staff should also be educated about the difference between EC (preventing a pregnancy) and medications that cause abortions, since they are so often confused.

Q: Providing copies of the Department's brochure, "Emergency Contraception for Rape Survivors" to sexual assault survivors is mandated by law. Where can I obtain copies of the brochure?

A: The brochure can be downloaded and reproduced directly from the Department's website at the following link:
http://www.health.state.ny.us/nysdoh/consumer/women/emergency_contr.htm. It is available in eight languages including English, Spanish, Chinese, Korean, Creole, Hindi, Arabic, and Russian.

Alternatively, the brochures can be ordered in bulk from the Department. Both the publication's catalog and order form can be accessed on the Department's website at the following link: http://www.health.state.ny.us/nysdoh/publication_catalog/index.htm.