

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

September 2012

Dear Chief Executive Officer:

The purpose of this letter is to make you aware of a change in hospital requirements for the treatment of victims of sexual assault enacted under Chapter 39 of the Laws of 2012 amending Section 2805-i of Public Health Law.

Effective November 27th, 2012, hospitals providing treatment to victims of sexual assault will be required to:

- provide a seven day starter pack of HIV post-exposure prophylaxis to victims of sexual assault, and;
- provide or arrange for an appointment for medical follow-up related to HIV post exposure prophylaxis and other care as appropriate.

The amendments to the laws are intended to enable survivors of sexual assault who have undergone a forensic rape exam to receive a seven day starter pack of HIV post exposure prophylaxis (PEP) treatment and necessary pharmaceuticals, and, with their consent, medical follow up related to PEP treatment. Upon the request of the victim, the hospital at which the treating emergency department is located will bill and may then be reimbursed by the Office of Victim Services (OVS) as they are currently under the OVS' Forensic Rape Examination (FRE) Direct Reimbursement Program.

As outlined in the Chapter's Section 1, Paragraph (c) of subdivision 1 of section 2805-i of the Public Health Law, Hospital Emergency Departments will be required to:

- Offer and make available appropriate treatment therapies, including HIV post exposure prophylaxis to patients that state they have been sexually assaulted and meet the medical definition of sexual exposure.
 - **“Clinicians should recommend HIV PEP to survivors when significant exposure may have occurred, as defined by direct contact of the vagina, anus, or mouth with the semen or blood of the alleged assailant, with or without physical injury, tissue damage, or presence of blood at the site of the assault.”**
(www.hivguidelines.org)
 - Guidelines for Post-Exposure Prophylaxis following sexual assault (nPEP) may be found at: www.hivguidelines.org
- Offer and make available to patients seven day starter packs of HIV post-exposure medications.
- Provide information on assistance from the Office of Victim Services.
 - A brochure to share with patients can be obtained at:
<http://www.ovs.ny.gov/HelpforCrimeVictims/CrimeVictimsBrochure.aspx>
- Provide or arrange for an appointment for the medical follow-up related to HIV post-exposure prophylaxis and other care as appropriate utilizing the Provider Resource Directory.
 - <http://www.health.ny.gov/diseases/aids/resources/index.htm>

Hospitals are required to advise the survivor of a sexual assault orally and in writing that he or she may decline to provide information regarding private health insurance benefits if he or she believes the provision of that information would substantially interfere with his or her personal privacy or safety. If the victim so declines, the provider will then bill the OVS directly with the consent of the victim.

Hospitals are also encouraged to review the responsibilities currently required under Public Health Law 2805- i and 2805-p when a victim of sexual assault presents to the hospital for services. Every hospital providing treatment to a victim of sexual assault shall:

- Contact a rape crisis or victim's assistance organization to coordinate non-medical services for the patient upon request;
- Obtain patient consent to contact law enforcement (except for gun, stab or burn injuries);
- Obtain consent to collect or to not collect sexual offense evidence;
- Maintain sexual offense evidence and the chain of custody in locked, separate, secure refrigerated space for no less than 30 days, if consent to immediately release evidence to law enforcement is not obtained;
- Notify the victim that after 30 days evidence will be discarded if the victim chooses not to report to law enforcement;
- Provide oral and written information about emergency contraception (ec), its use and efficacy and provide EC, unless contraindicated, upon request;
- Offer a shower after evidence collection;
- Provide a change of clothing if these items are collected as evidence; and
- Provide medical treatment including STI prophylaxis, follow-up information, and appropriate referrals.

There are additional requirements for SAFE designated hospitals which can be found at: www.nyhealth.gov/nysdoh/provider/provider.htm.

Please contact Lyn Stevens, NP, MS, ACRN, Deputy Director, Office of the Medical Director, NYS DOH AIDS Institute at 518-473-8815 or lcs02@health.state.ny.us for any questions regarding HIV prophylaxis and Elizabeth Berberian at 518-473-6919 or elb02@health.state.ny.us for any questions related to rape crisis and sexual assault. Please contact Senior Attorney Shelby Foster, Office of Victim Services at 518-457-8068 or shelby.foster@ovs.ny.gov for any questions, or to request training, related to the OVS' FRE Direct Reimbursement Program.

Thank you for your prompt attention to this very important issue and your continued commitment to high quality care for sexual assault victims.

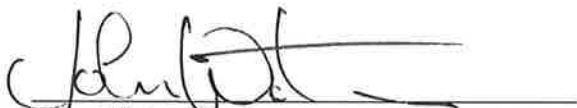
Signed by:



Gunnie S. Birkhead, M.D., M.P.H.
Deputy Commissioner
Office of Public Health



Karen Westervelt
Interim Deputy Commissioner
Office of Health Systems Management



John Watson
General Counsel
Office of Victim Services

Attachment

cc: Chief of Emergency Departments

Resources:

Guidelines for Post-Exposure Prophylaxis following sexual assault (PEP) may be found at www.hivguidelines.org

Provider Resource Directory:

<http://www.health.ny.gov/diseases/aids/resources/index.htm>

Rape Crisis Program

http://www.health.ny.gov/community/adults/women/violence/rape_crisis/

The Office of Victim Services (OVS) formerly known as Crime Victims Board – Forensic Rape Examination (FRE) Direct Reimbursement Program:

<http://www.ovs.ny.gov/Services/FRE.aspx>

Help for crime victims:

<http://www.ovs.ny.gov/HelpforCrimeVictims/HelpforCrimeVictims.aspx>

Brochure to share with patients:

<http://www.ovs.ny.gov/HelpforCrimeVictims/CrimeVictimsBrochure.aspx>