# STATE OF NEW YORK

9926

# IN ASSEMBLY

February 23, 2018

Introduced by M. of A. GOTTFRIED -- read once and referred to the Committee on Health

AN ACT to amend the public health law, the executive law and the insurance law, in relation to sexual assault forensic exams

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Subdivision 1 of section 2805-i of the public health law, as amended by chapter 504 of the laws of 1994 and paragraph (c) as amended by chapter 39 of the laws of 2012, is amended to read as follows:

1. Every hospital providing treatment to alleged victims of a sexual offense shall be responsible for:

(a) maintaining sexual offense evidence and the chain of custody as provided in subdivision two of this section[~~.~~]**;**

(b) contacting a rape crisis or victim assistance organization, if any, providing victim assistance to the geographic area served by that hospital to establish the coordination of non-medical services to sexual offense victims who request such coordination and services[~~.~~]**;**

(c) offering and making available appropriate HIV post-exposure treatment therapies; including a seven day starter pack of HIV post-exposure prophylaxis, in cases where it has been determined, in accordance with guidelines issued by the commissioner, that a significant exposure to HIV has occurred, and informing the victim that payment assistance for such therapies may be available from the office of victim services pursuant to the provisions of article twenty-two of the executive law. With the consent of the victim of a sexual assault, the hospital emergency room department shall provide or arrange for an appointment for medical follow-up related to HIV post-exposure prophylaxis and other care as appropriate**; and**

**(d) ensuring sexual assault survivors are not billed for sexual assault forensic exams and are notified orally and in writing of the option to decline to provide private health insurance information and have the office of victim services reimburse the hospital for the exam**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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**pursuant to subdivision thirteen of section six hundred thirty-one of the executive law**.

§ 2. Subdivision 13 of section 631 of the executive law, as amended by chapter 39 of the laws of 2012, is amended to read as follows:

13. Notwithstanding any other provision of law, rule, or regulation to the contrary, when any New York state accredited hospital, accredited sexual assault examiner program, or licensed health care provider furnishes services to any sexual assault survivor, including but not limited to a health care forensic examination in accordance with the sex offense evidence collection protocol and standards established by the department of health, such hospital, sexual assault examiner program, or licensed healthcare provider shall provide such services to the person without charge and shall bill the office directly. The office, in consultation with the department of health, shall define the specific services to be covered by the sexual assault forensic exam reimbursement fee, which must include at a minimum forensic examiner services, hospital or healthcare facility services related to the exam, and related laboratory tests and necessary pharmaceuticals; including but not limited to HIV post-exposure prophylaxis provided by a hospital emergency room at the time of the forensic rape examination pursuant to paragraph (c) of subdivision one of section twenty-eight hundred five-i of the public health law. Follow-up HIV post-exposure prophylaxis costs shall continue to be reimbursed according to established office procedure. The office, in consultation with the department of health, shall also generate the necessary regulations and forms for the direct reimbursement procedure. The rate for reimbursement shall be the amount of itemized charges not exceeding eight hundred dollars, to be reviewed and adjusted annually by the office in consultation with the department of health. The hospital, sexual assault examiner program, or licensed health care provider must accept this fee as payment in full for these specified services. No additional billing of the survivor for said services is permissible. A sexual assault survivor may voluntarily assign any private insurance benefits to which she or he is entitled for the healthcare forensic examination, in which case the hospital or healthcare provider may not charge the office**; provided, however, in the event the sexual assault survivor assigns any private health insurance benefit, such coverage shall not be subject to annual deductibles or coinsurance or balance billing by the hospital, sexual assault examiner program or licensed health care provider**. A hospital, sexual assault examiner program or licensed health care provider shall, at the time of the initial visit, request assignment of any private health insurance benefits to which the sexual assault survivor is entitled on a form prescribed by the office; provided, however, such sexual assault survivor shall be advised orally and in writing that he or she may decline to provide such information regarding private health insurance benefits if he or she believes that the provision of such information would substantially interfere with his or her personal privacy or safety and in such event, the sexual assault forensic exam fee shall be paid by the office. Such sexual assault survivor shall also be advised that providing such information may provide additional resources to pay for services to other sexual assault victims. If he or she declines to provide such health insurance information, he or she shall indicate such decision on the form provided by the hospital, sexual assault examiner program or licensed health care provider, which form shall be prescribed by the office.

§ 3. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 34 to read as follows:

**(34) Health care forensic examinations performed pursuant to section twenty-eight hundred five-i of the public health law covered under the policy shall not be subject to annual deductibles or coinsurance.**

§ 4. Subsection (l) of section 3221 of the insurance law is amended by adding a new paragraph 20 to read as follows:

**(20) Health care forensic examinations performed pursuant to section twenty-eight hundred five-i of the public health law covered under the policy shall not be subject to annual deductibles or coinsurance.**

§ 5. Section 4303 of the insurance law is amended by adding a new subsection (rr) to read as follows:

**(rr) Health care forensic examinations performed pursuant to section twenty-eight hundred five-i of the public health law covered under the contract shall not be subject to annual deductibles or coinsurance.**

§ 6. This act shall take effect immediately, and shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after the first of January next succeeding such effective date.