

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:

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

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

7 (a) maintaining sexual offense evidence and the chain of custody as
8 provided in subdivision two of this section[-];

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

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

24 (d) ensuring sexual assault survivors are not billed for sexual
25 assault forensic exams and are notified orally and in writing of the
26 option to decline to provide private health insurance information and
27 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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1 pursuant to subdivision thirteen of section six hundred thirty-one of
2 the executive law.

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

5 13. Notwithstanding any other provision of law, rule, or regulation to
6 the contrary, when any New York state accredited hospital, accredited
7 sexual assault examiner program, or licensed health care provider
8 furnishes services to any sexual assault survivor, including but not
9 limited to a health care forensic examination in accordance with the sex
10 offense evidence collection protocol and standards established by the
11 department of health, such hospital, sexual assault examiner program, or
12 licensed healthcare provider shall provide such services to the person
13 without charge and shall bill the office directly. The office, in
14 consultation with the department of health, shall define the specific
15 services to be covered by the sexual assault forensic exam reimbursement
16 fee, which must include at a minimum forensic examiner services, hospi-
17 tal or healthcare facility services related to the exam, and related
18 laboratory tests and necessary pharmaceuticals; including but not limit-
19 ed to HIV post-exposure prophylaxis provided by a hospital emergency
20 room at the time of the forensic rape examination pursuant to paragraph
21 (c) of subdivision one of section twenty-eight hundred five-i of the
22 public health law. Follow-up HIV post-exposure prophylaxis costs shall
23 continue to be reimbursed according to established office procedure. The
24 office, in consultation with the department of health, shall also gener-
25 ate the necessary regulations and forms for the direct reimbursement
26 procedure. The rate for reimbursement shall be the amount of itemized
27 charges not exceeding eight hundred dollars, to be reviewed and adjusted
28 annually by the office in consultation with the department of health.
29 The hospital, sexual assault examiner program, or licensed health care
30 provider must accept this fee as payment in full for these specified
31 services. No additional billing of the survivor for said services is
32 permissible. A sexual assault survivor may voluntarily assign any
33 private insurance benefits to which she or he is entitled for the
34 healthcare forensic examination, in which case the hospital or health-
35 care provider may not charge the office; provided, however, in the event
36 the sexual assault survivor assigns any private health insurance bene-
37 fit, such coverage shall not be subject to annual deductibles or coinsu-
38 rance or balance billing by the hospital, sexual assault examiner
39 program or licensed health care provider. A hospital, sexual assault
40 examiner program or licensed health care provider shall, at the time of
41 the initial visit, request assignment of any private health insurance
42 benefits to which the sexual assault survivor is entitled on a form
43 prescribed by the office; provided, however, such sexual assault survi-
44 vor shall be advised orally and in writing that he or she may decline to
45 provide such information regarding private health insurance benefits if
46 he or she believes that the provision of such information would substan-
47 tially interfere with his or her personal privacy or safety and in such
48 event, the sexual assault forensic exam fee shall be paid by the office.
49 Such sexual assault survivor shall also be advised that providing such
50 information may provide additional resources to pay for services to
51 other sexual assault victims. If he or she declines to provide such
52 health insurance information, he or she shall indicate such decision on
53 the form provided by the hospital, sexual assault examiner program or
54 licensed health care provider, which form shall be prescribed by the
55 office.

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

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

6 § 4. Subsection (1) of section 3221 of the insurance law is amended by
7 adding a new paragraph 20 to read as follows:

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

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

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

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