

2003 SENATE BILL 99

April 9, 2003 – Introduced by Senators RISSER, CARPENTER, CHVALA, ERPENBACH, JAUCH, MOORE and ROBSON, cosponsored by Representatives POCAN, BERCEAU, BLACK, BOYLE, HEBL, KRUG, J. LEHMAN, MILLER, PLOUFF, POPE-ROBERTS, RICHARDS, SHILLING, SINICKI, TRAVIS, WASSERMAN, YOUNG and ZEPNICK. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1 **AN ACT** *to renumber* 50.38 (1); *to amend* 50.38 (2); and *to create* 50.375 and
2 50.38 (1) (b) of the statutes; **relating to:** requiring a hospital to provide to an
3 alleged victim of sexual assault, with consent, information and emergency
4 contraception and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) issues certificates of approval to hospitals that meet DHFS requirements and otherwise regulates approved hospitals.

This bill requires a hospital to do all of the following if it provides emergency services to an alleged victim of sexual assault and has obtained the victim's consent: 1) provide her with medically and factually accurate and unbiased written and oral information about emergency contraception; 2) orally inform her of her option to receive emergency contraception; and 3) provide emergency contraception immediately to her if she requests it. "Emergency contraception" is defined in the bill to be a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device that is approved by the federal Food and Drug Administration and that prevents a pregnancy after sexual intercourse. The definition of "emergency contraception" specifically excludes a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device of any nature that is prescribed to terminate the pregnancy of a woman who is known by the prescribing health care provider to be pregnant.

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The bill also requires that a hospital that provides emergency care ensure that each hospital employee who provides care to an alleged victim of sexual assault have available medically and factually accurate and unbiased information about emergency contraception. DHFS must respond to complaints about violations of these requirements and must periodically review procedures of hospitals to determine whether they are in compliance. Violators of the requirements are subject to forfeitures. DHFS may, after providing notice to a hospital that has violated the requirements twice, suspend or revoke the hospital's certificate of approval and deny application for a new certificate of approval.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 50.375 of the statutes is created to read:

2 **50.375 Emergency contraception for alleged victims of sexual assault.**

3 **(1)** In this section:

4 (a) “Emergency contraception” means a drug, medicine, oral hormonal
5 compound, mixture, preparation, instrument, article, or device that is approved by
6 the federal food and drug administration and that prevents a pregnancy after sexual
7 intercourse. “Emergency contraception” does not include a drug, medicine, oral
8 hormonal compound, mixture, preparation, instrument, article, or device of any
9 nature that is prescribed to terminate the pregnancy of a woman who is known by
10 the prescribing licensed health care provider to be pregnant.

11 (b) “Sexual assault” means a violation of s. 940.225 (1), (2), or (3).

12 **(2)** A hospital that provides emergency services to an alleged victim of sexual
13 assault shall, after obtaining the consent of the victim, do all of the following:

14 (a) Provide to the victim medically and factually accurate and unbiased written
15 and oral information about emergency contraception.

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1 (b) Orally inform the victim of her option to receive emergency contraception
2 at the hospital.

3 (c) Provide emergency contraception immediately at the hospital to the victim
4 if she requests it.

5 **(3)** A hospital that provides emergency care shall ensure that each hospital
6 employee who provides care to an alleged victim of sexual assault has available
7 medically and factually accurate and unbiased information about emergency
8 contraception.

9 **(4)** The department shall respond to any complaint received by the department
10 concerning noncompliance by a hospital with the requirements of subs. (2) and (3)
11 and shall periodically review hospital procedures to determine whether a hospital
12 is in compliance with the requirements.

13 **SECTION 2.** 50.38 (1) of the statutes is renumbered 50.38 (1) (a).

14 **SECTION 3.** 50.38 (1) (b) of the statutes is created to read:

15 50.38 **(1)** (b) Whoever violates a requirement under s. 50.375 (2) or (3) may be
16 required to forfeit not less than \$2,500 nor more than \$5,000 for each violation. If
17 a hospital violates s. 50.375 (2) twice, the department may, after providing notice to
18 the hospital, suspend or revoke the hospital's certificate of approval and may deny
19 application for a new certificate of approval.

20 **SECTION 4.** 50.38 (2) of the statutes is amended to read:

21 50.38 **(2)** The department may directly assess forfeitures provided for under
22 sub. (1) (a) or (b). If the department determines that a forfeiture should be assessed
23 for a particular violation, the department shall send a notice of assessment to the
24 hospital. The notice shall specify the amount of the forfeiture assessed, the violation

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1 and the statute or rule alleged to have been violated, and shall inform the hospital
2 of the right to a hearing under sub. (3).

3 (END)