

2007 Assembly Bill 377

Date of enactment: **March 13, 2008**Date of publication*: **March 27, 2008**

2007 WISCONSIN ACT 102

AN ACT *to create* 50.375 and 50.389 of the statutes; **relating to:** requiring a hospital to provide to a sexual assault victim information and, upon her request, emergency contraception and providing a penalty.

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

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

50.375 Emergency contraception for sexual assault victims. (1) In this section:

(a) "Emergency contraception" means 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. "Emergency contraception" does not include a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device of any nature that is prescribed to terminate the pregnancy of a female.

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

(c) "Victim" means a female who alleges or for whom it is alleged that she suffered sexual assault and who, as a result of the sexual assault, presents as a patient at a hospital that provides emergency services.

(2) A hospital that provides emergency services to a victim shall do all of the following:

(a) Provide to the victim medically and factually accurate and unbiased written and oral information about emergency contraception and its use and efficacy.

(b) Orally inform the victim of all of the following:

1. Her option to receive emergency contraception at the hospital.

2. Her option to report the sexual assault to a law enforcement agency.

3. Any available options for her to receive an examination to gather evidence regarding the sexual assault.

(c) Except as specified in sub. (4), immediately provide to the victim upon her request emergency contraception, in accordance with instructions approved by the federal food and drug administration. If the medication is taken in more than one dosage, the hospital shall provide all subsequent dosages to the victim for later self administration.

(3) A hospital that provides emergency care shall ensure that each hospital employee who provides care to a victim has available medically and factually accurate and unbiased information about emergency contraception.

(4) No hospital may be required to provide emergency contraception to a victim who is pregnant, as indicated by a test for pregnancy.

(5) The department shall respond to any complaint received by the department concerning noncompliance by a hospital with the requirements of subs. (2) and (3) and shall periodically review hospital procedures to

* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

determine whether a hospital is in compliance with the requirements.

SECTION 2. 50.389 of the statutes is created to read:

50.389 Forfeiture. (1) Whoever violates a requirement under s. 50.375 (2) or (3) may be required to forfeit not less than \$2,500 nor more than \$5,000 for each violation.

(2) The department may directly assess forfeitures provided for under sub. (1). If the department determines that a forfeiture should be assessed for a particular violation, the department shall send a notice of assessment to the hospital. The notice shall specify the amount of the forfeiture assessed, the violation and the statute or rule alleged to have been violated, and shall inform the hospital of the right to a hearing under sub. (3).

(3) A hospital may contest an assessment of a forfeiture by sending, within 10 days after receipt of notice under sub. (2), a written request for a hearing under s. 227.44 to the division of hearings and appeals created under s. 15.103 (1). The administrator of the division may designate a hearing examiner to preside over the case and recommend a decision to the administrator under s. 227.46. The decision of the administrator of the

division shall be the final administrative decision. The division shall commence the hearing within 30 days after receipt of the request for a hearing and shall issue a final decision within 15 days after the close of the hearing. Proceedings before the division are governed by ch. 227. In any petition for judicial review of a decision by the division, the party, other than the petitioner, who was in the proceeding before the division shall be the named respondent.

(4) All forfeitures shall be paid to the department within 10 days after receipt of notice of assessment or, if the forfeiture is contested under sub. (3), within 10 days after receipt of the final decision after exhaustion of administrative review, unless the final decision is appealed and the order is stayed by court order. The department shall remit all forfeitures paid to the secretary of administration for deposit in the school fund.

(5) The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this section if the forfeiture has not been paid following the exhaustion of all administrative and judicial reviews. The only issue to be contested in any such action shall be whether the forfeiture has been paid.
