

**THE COUNCIL OF  
THE CITY OF NEW YORK**

**Hon. Gifford Miller  
Speaker**



**A STAFF REPORT TO**

**THE COMMITTEE ON  
OVERSIGHT AND  
INVESTIGATIONS**

**Hon. Eric Gioia  
Chair**

**THE COMMITTEE  
ON HEALTH**

**Hon. Christine Quinn  
Chair**

**Hon. Eva Moskowitz**

**APRIL 2004**

# **Emergency Contraception:**

**Available at a Hospital EMERGENCY ROOM  
near you?**

**↑ EMERGENCY**

**↗ AMBULANCES ONLY**



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**THE COUNCIL OF  
THE CITY OF NEW YORK**

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*SPEAKER*

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# **COUNCIL STAFF**

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Catherine Torres  
*Deputy Chief of Staff*

## **COUNCIL INVESTIGATION DIVISION**

Wayne Kawadler  
*Director*

*PREPARED BY:*

Vilma C. Perusina, *Legislative Investigator*  
Keri Sender, *Legislative Investigator*  
Triada Stampas, *Deputy Director*

*MAJOR CONTRIBUTOR:*

Cheree Buggs, *Counsel to Council Investigation Division*  
Judith MacFarlane, *Counsel to the Committee on Health*

*WITH THE ASSISTANCE OF:*

Cristina Mongillo

*COVER DESIGN BY:*

Anna Maclachlan  
*Member Services Division*

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This report can be found on the Council’s website at  
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## EXECUTIVE SUMMARY

Nearly a quarter of New York City hospital emergency rooms are failing women and breaking the law by not providing survivors of rape/sexual assault the medication necessary to prevent pregnancy, according to an investigation by the New York City Council Investigation Division (CID). Despite New York City and State laws that require every hospital to provide such patients with emergency contraception (EC), women across NYC are being denied access to this safe, effective and essential method to prevent pregnancy after unprotected intercourse or contraceptive failure.

It is estimated that more than 32,000 women become pregnant annually as a result of rape/sexual assault.<sup>i</sup> EC, a back-up birth control method that is the mandated medical standard of care for rape/sexual assault survivors in hospital emergency rooms, can help a survivor cope with the traumatic experience of rape/sexual assault by providing her with an opportunity to prevent an unwanted pregnancy.

EC is provided most often through the use of emergency contraceptive pills (ECPs).<sup>ii</sup> ECPs are physician-prescribed high-dose birth control pills that were approved by the United States Food and Drug Administration (FDA) in 1997 as a safe and effective method for preventing pregnancy.<sup>iii</sup> ECPs *do not* cause abortion; medical science and legal convention recognize that pregnancy begins only after a fertilized egg is implanted in the uterus.<sup>iv</sup> When administered

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<sup>i</sup> National Organization for Women. "Demand Emergency Contraception for Rape Victims." (August 5, 2003). Also on the Internet at [www.now.org](http://www.now.org)

<sup>ii</sup> National Abortion and Reproductive Rights Action League (NARAL), "Emergency Contraception: An Important and Underutilized Contraceptive Option." (December 18, 2001).

<sup>iii</sup> United States Food and Drug Administration (FDA), "Prescription Drug Products: Certain Combined Oral Contraceptives for Use as Postcoital Emergency Contraception," *Federal Register*, 62 (37), 8609-8612. (1997).

<sup>iv</sup> The Center for Reproductive Law and Policy, "The Facts: Emergency Contraceptive Pills (ECPs): A Safe and Effective Way to Prevent Unplanned Pregnancy." (April 2001).

within the first 72 hours after unprotected intercourse, ECPs can reduce the risk of pregnancy by as much as 89 percent.<sup>v</sup>

Studies estimate that ECPs could prevent as many as half of the three million unintended pregnancies that occur every year in the United States, and up to 700,000 abortions every year.<sup>vi</sup> There are currently two brands of dedicated ECPs on the United States market (Preven and Plan B). The FDA is currently considering whether to allow the sale of Plan B over the counter, while pending legislation in the New York State legislature would make it available without a physician's prescription.

NYS Public Health Law requires that every hospital providing emergency treatment to a rape/sexual assault survivor promptly offer EC. In NYC, Local Law 26 of 2003 requires that rape survivors who present themselves to a hospital emergency room in New York City be notified that EC is available and be provided it upon request.<sup>vii</sup> Hospitals with covered contracts or covered agreements with a City agency risk a civil penalty of at least \$5,000 if they are found to have failed either to notify rape survivors about the availability of EC, or to provide them with EC in a timely manner.

In order to determine the availability of EC at New York City hospital emergency rooms, female CID investigators conducted a telephone survey of the 57 hospitals that offer emergency room services in NYC. CID called each hospital during normal business hours (Monday through Friday, between the

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<sup>v</sup> National Family Planning & Reproductive Health Association. (2/12/2001). "Emergency Contraception is Just That, Contraception!"

<sup>vi</sup> FDA, "Prescription Drug Products: Certain Combined Oral Contraceptives for Use as Postcoital Emergency Contraception", *Federal Register*, 62 (37), 8609-8612. (1997). See also Henshaw, S.K., Unintended Pregnancy in the United States, *Family Planning Perspectives*, 30 (1) p. 24-29 & 46. (1998).

<sup>vii</sup> NYS Consolidated Laws. Public Health - Article 28; Hospitals §2805-p. Effective as of January 1, 2004. In New York City, Local Law 26 requires that rape survivors who present themselves to a hospital emergency room be notified that EC is available, and, provide it to them upon request.

hours of 9am and 5pm) and requested to be transferred to the emergency room. Investigators told emergency room staff members that they had been sexually assaulted the previous night and asked if EC could be provided to them.

## **Key Findings**

- 44 hospitals (77%) told investigators that EC could be provided to rape/sexual assault survivors.
- Seven (12%) said EC could not be provided, and almost as many (six, or 11%) told investigators that they did not know whether their hospital provided EC to rape/sexual assault survivors.
- The proportion of public hospitals providing EC (73% of 14 hospitals) was smaller than that of private hospitals (79% of 43 hospitals).<sup>viii</sup>
- Brooklyn had the lowest rate of compliance with the law, with only 53% of the hospitals affirming they would distribute EC to rape/sexual assault survivors.
- Staten Island had the highest compliance rate, with all three (100%) hospitals reporting that they provide EC to survivors of rape/sexual assault.

## **Recommendations**

- **Hospitals must adhere to City and State law in the distribution of ECPs to rape/sexual assault survivors.**

Local Law 26 requires that each hospital develop a protocol for the treatment of rape/sexual assault survivors that includes informing patients of the availability of ECPs and providing them upon request.<sup>ix</sup> It is imperative that each hospital communicate its protocol to emergency

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<sup>viii</sup> Of HHC Hospitals, ten hospitals (91%) said that they provide EC to rape/sexual assault survivors, and one hospital (9%) told investigators that it did not know whether the hospital provides EC to rape/sexual assault survivors.

department personnel so that the procedures are understood and properly implemented.

- **Pass resolution supporting the Compassionate Assistance for Rape Emergency (CARE) Act (S. 1564/H.R. 2527).**

The CARE Act would require that all hospital emergency rooms distribute EC to raped/sexually assaulted women. The New York City Council should urge Congress to enact this legislation as soon as possible.

- **FDA should approve Plan B for over-the-counter sale.**

Over-the-counter access to EC would be especially important to rape/sexual assault survivors who do not seek medical attention.

- **The NYS Senate should immediately pass its bill to allow nurses and pharmacists to dispense EC (S. 3339).**

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<sup>ix</sup> §405.19 of Title 10 of the codes, rules and regulations of the State of New York.



## BACKGROUND

Emergency contraception (EC) is a back-up birth control method that can prevent pregnancy after unprotected intercourse or contraceptive failure. It is often used by survivors of rape/sexual assault to prevent unwanted pregnancy. EC is provided most often through the use of emergency contraceptive pills (ECPs).<sup>1</sup> ECPs were approved by the Food and Drug Administration (FDA) in 1997 as a safe and effective method for preventing pregnancy.<sup>2</sup>

ECPs are physician-prescribed high-dose birth control pills that are administered in two doses: the first as soon as possible within 72 hours following unprotected intercourse or contraceptive failure, the second 12 hours later. If taken within the recommended 72 hours, this regimen reduces the risk of pregnancy by as much as 89 percent,<sup>3</sup> and is more effective the earlier it is initiated.<sup>4</sup> ECPs prevent pregnancy by delaying or inhibiting ovulation, interfering with fertilization, or preventing implantation.<sup>5</sup> ECPs *do not* cause abortion; medical science and legal convention recognize that pregnancy begins only after a fertilized egg is implanted in the uterus.<sup>6</sup> Furthermore, ECPs have no effect on an established pregnancy.<sup>7</sup> The FDA has reported that “combined oral contraceptives inadvertently taken early in pregnancy have not shown that the drugs have an adverse effect on the fetus.”<sup>8</sup>

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<sup>1</sup> National Abortion and Reproductive Rights Action League (NARAL), “Emergency Contraception: An Important and Underutilized Contraceptive Option.” (December 18, 2001).

<sup>2</sup> United States Food and Drug Administration (FDA), “Prescription Drug Products: Certain Combined Oral Contraceptives for Use as Postcoital Emergency Contraception,” *Federal Register*, 62 (37), 8609-8612. (1997).

<sup>3</sup> National Family Planning & Reproductive Health Association [hereinafter NFPRHA], “Emergency Contraception is Just That, Contraception!” (February 12, 2001).

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> The Center for Reproductive Law and Policy, “The Facts: Emergency Contraceptive Pills (ECPs): A Safe and Effective Way to Prevent Unplanned Pregnancy.” (April 2001).

<sup>7</sup> NFPRHA.

<sup>8</sup> FDA, “Prescription Drug Products: Certain Combined Oral Contraceptives for Use as Postcoital Emergency Contraception,” *Federal Register*, 62 (37), 8609-8612. (1997).

Experts estimate that approximately 3 million unintended pregnancies occur each year in the United States.<sup>9</sup> Of those, more than half end in abortion.<sup>10</sup> ECPs could prevent as many as 1.5 million of those unintended pregnancies and up to 700,000 abortions every year.<sup>11</sup> In New York State, EC could prevent as many as 122,000 unintended pregnancies and 82,000 abortions every year.<sup>12</sup>

There are currently two dedicated ECP products on the U.S. market: Preven and Plan B. Preven contains the hormones estrogen and progestin, where Plan B is a progestin-only regimen with a slightly higher rate of pregnancy prevention.<sup>13</sup> There are no known serious side effects associated with either method, though a small number of women report some nausea and vomiting.<sup>14</sup> Both drugs currently require a prescription. However, California and Washington State have adopted laws allowing pharmacists and physicians to enter into agreements under which a physician can grant a pharmacist the authority to write prescriptions for ECPs based on a set of prescribing protocols. Preliminary results from Washington State indicate that the program has been a success.<sup>15</sup>

Trends at the federal, state and local level seem to reflect a growing consensus that ECPs should be more readily available. Two advisory committees to the FDA recently voted to recommend that Plan B be made available over the

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<sup>9</sup> Henshaw, S.K., Unintended Pregnancy in the United States, *Family Planning Perspectives*, 30 (1) p. 24-29 & 46. (1998).

<sup>10</sup> *Ibid*, p. 24-29, 46.

<sup>11</sup> Trussel, J., *et al.*, "Emergency Contraceptive Pills: A Simple Proposal to Reduce Unintended Pregnancies," *Family Planning Perspectives*, (24) p. 269-273. (1992).

<sup>12</sup> New York State Office Of the State Comptroller Report. "Emergency Contraception in New York State: Fewer Unintended Pregnancies and Lower Health Care Costs". November 2003.

<sup>13</sup> Henry J. Kaiser Family Foundation (hereinafter Kaiser), "Emergency Contraception." (November 2000).

<sup>14</sup> *Ibid*.

<sup>15</sup> Downing, D., *et al.*, "Using Pharmacies in Washington State to Expand Access to Emergency Contraception," *Family Planning Perspectives*, 30 (6). (1998).

counter rather than by prescription only.<sup>16</sup> The FDA was expected to declare its position on the matter on February 20, 2004, but the ruling has been postponed for another three months. On February 26, 2004, the New York City Council overwhelmingly approved Resolution 92A, which urges the FDA to allow Plan B to be sold over the counter.<sup>17</sup> Meanwhile, the New York State (NYS) Assembly has passed a bill to allow nurses and pharmacists to dispense EC.<sup>18</sup> A companion bill (S. 3339) is pending in the NYS Senate.

Despite the potential of ECPs to drastically reduce the rate of unintended pregnancy and abortion, they are not widely used in the United States, and remain underutilized in most countries outside Europe.<sup>19</sup> Barriers to the use of ECPs include ignorance of their existence—among women<sup>20</sup> and pharmacists<sup>21</sup> alike—as well as a failure by health care providers to discuss ECPs with their female patients.<sup>22</sup>

In December 1999, the New York affiliate of the National Abortion and Reproductive Rights Action League (NARAL/NY) conducted a study to determine the availability of EC in hospitals that offered emergency room (ER) services. Volunteers made two phone calls to each facility's ER. In the first phone call, the caller informed the ER personnel she was conducting a survey and asked whether the hospital provided emergency contraception to rape/sexual assault survivors. The second call was made by a licensed social

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<sup>16</sup> Kolata, Gina. "A Contraceptive Clears a Hurdle to Wider Access." *The New York Times*. 17 Dec 2003, A1.

<sup>17</sup> Resolution 92A was adopted by a voice vote; four Council Members expressed objections. For the full text of the resolution, see Appendix A.

<sup>18</sup> Santora, Marc, "Morning-After Pill May Be Sold Over the Counter, Assembly Says." *The New York Times*. 3 Feb 2004, B5. (A federal rule change would obviate the need for State legislation.)

<sup>19</sup> Westley, E., "Emergency Contraception: A Global Overview," *Journal of the American Medical Women's Association*, vol. 53, no. 5. (Fall 1998).

<sup>20</sup> Henry J. Kaiser Family Foundation, "National Surveys of Americans and Health Care Providers on Emergency Contraception." (1997).

<sup>21</sup> Planned Parenthood of New York City, Inc, "Emergency Contraception: Do Pharmacists Know About This Important Method to Prevent Pregnancy?" (1999).

<sup>22</sup> Kaiser 1997.

worker seeking information regarding a client who had been raped, including the hospital's services to rape survivors. The study found that of the 177 surveyed non-Catholic hospitals in NYS:

- 85 (48%) of the hospitals maintained a clear policy of offering and providing EC to rape/sexual assault survivors;
- 43 (24%) of the hospitals would not offer or provide survivors of rape/sexual assault with EC;
- 44 (25%) of the hospitals did not have a clear policy on providing rape/sexual assault survivors with EC; and
- Four (2%) of the hospitals would provide EC to rape/sexual assault survivors at the physician's discretion.

Of the 38 Catholic hospitals in NYS that provide emergency room services, the results were as follow:

- Eight (21%) of the hospitals maintained a clear policy of offering and providing EC to rape/sexual assault survivors;
- 23 (61%) of the hospitals would not offer or provide the survivors of rape/sexual assault with EC;
- Five (13%) of the hospitals did not have a clear policy on providing rape/sexual assault survivors with EC; and
- Two (5%) of the hospitals would provide EC to rape/sexual assault survivors at the physician's discretion.

Overall, the survey results showed the overwhelming need for clear, enforced guidelines, in accordance to established protocols for the treatment of rape/sexual assault survivors in NYS emergency rooms. The provision of EC is considered to be the accepted standard of care for treatment of rape/sexual assault survivors by the NYS Department of Health, as well as by health professionals' organizations, including the American College of Obstetricians and Gynecologists, the American Medical Association, and the American College of Emergency Physicians.

## Legislation to Increase EC Provision in ERs

While no federal laws currently exist on the provision of EC to survivors of rape/sexual assault, Senator Jon Corzine of New Jersey introduced the Compassionate Assistance for Rape Emergency Act (S. 1564) in the U.S. Senate on August 1, 2003. It would require that all hospital emergency rooms distribute EC to raped/sexually assaulted women. It was assigned to the Committee on Health, Education, Labor and Pensions, where it has yet to receive a hearing.<sup>23</sup> A companion bill (H.R. 2527) was introduced in the U.S. House of Representatives on June 19, 2003 and was assigned to the Committee on Ways and Means, as well as to the Subcommittee on Health of the Committee on Energy and Commerce. Neither committee has heard this bill to date.<sup>24</sup>

The **NYS Public Health Law** was amended in 2003, and went into effect January 2004. It requires that every hospital providing emergency treatment to a rape/sexual assault survivor promptly:

- Provide such survivor with written information relating to EC;
- Give verbal information to such survivor of the availability of EC, its use and efficacy; and
- Provide EC to such survivor, unless contradicted, upon her request.

**Local Law 26 of 2003** requires that rape/sexual assault victims who present themselves to a hospital emergency room in New York City be notified that EC is available and provided upon request. Hospitals with covered contracts or covered agreements with a City agency risk a civil penalty of not less than \$5,000 if they are found to have failed either to notify rape/sexual assault victims about the availability of EC, or to provide them with EC in a timely manner.

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<sup>23</sup> Information from [thomas.loc.gov](http://thomas.loc.gov) current as of 26 Mar 2004.

<sup>24</sup> *Ibid.*

## METHODOLOGY

From February 27 through March 3, 2004, female investigators from CID conducted a telephone survey of the 57 hospitals that offer emergency room services in NYC. Of the 57 hospitals contacted, 43 are private and the remaining 14 are public hospitals.

The list of hospitals with Emergency departments was obtained from the American Hospital Directory, which indicates that there are 74 hospitals in NYC.<sup>25</sup> Of the 74 hospitals, 17 do not offer emergency room services and were not included in this investigation.

CID called the main number of each hospital during normal business hours (Monday through Friday, between the hours of 9am and 5pm) and requested to be transferred to the emergency room. Investigators told emergency room staff members that they had been sexually assaulted the previous night and wanted to know if EC could be provided to them. If emergency room staff told investigators that EC could not be provided to them, they then asked the emergency room staff member if they knew of any other hospital in the area that could provide them with EC.

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<sup>25</sup> The American Hospital Directory. Available on the Internet at [www.ahd.com](http://www.ahd.com); last accessed on 26 February 2004.

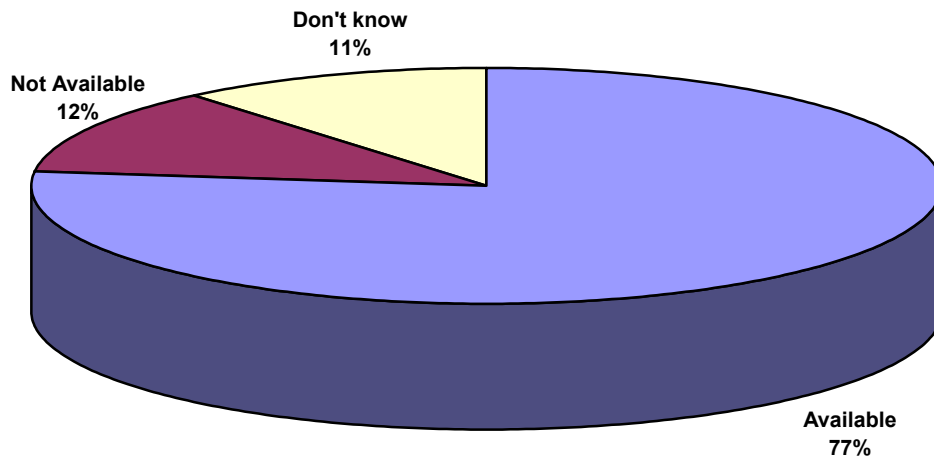
# FINDINGS

Based on the investigation, the following results were obtained:

## Total Availability of EC in NYC Hospitals

Of the 57 hospitals that were contacted via telephone, 44 (77%) told investigators that EC could be provided to rape/sexual assault survivors, seven (12%) said EC could not be provided, and six (11%) hospitals told investigators that they did not know whether their hospitals provided EC to rape/sexual assault survivors.

**Total Availability of EC in NYC Hospital Emergency Room Departments**



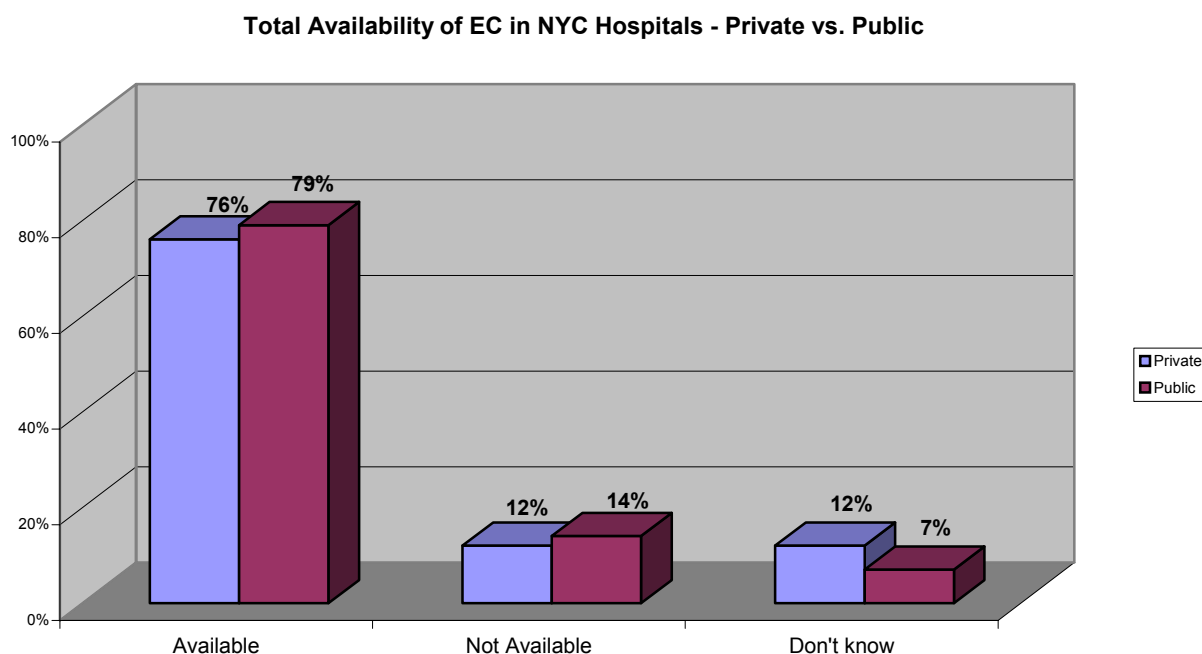
## Private vs. Public Hospitals

Of the 43 private hospitals contacted:

- Thirty-three (76%) hospitals said that they provide EC to rape/sexual assault survivors, five (12%) said they could not, and five (12%) said that they did not know whether their hospitals could provide EC to rape/sexual assault survivors.

Of the 14 public hospitals that were contacted:

- Eleven (79%) hospitals said that they provide EC to rape/sexual assault survivors, two (14%) said they could not, and one (7%) said that they did not know whether their hospitals could provide EC to victims of rape/sexual assault.



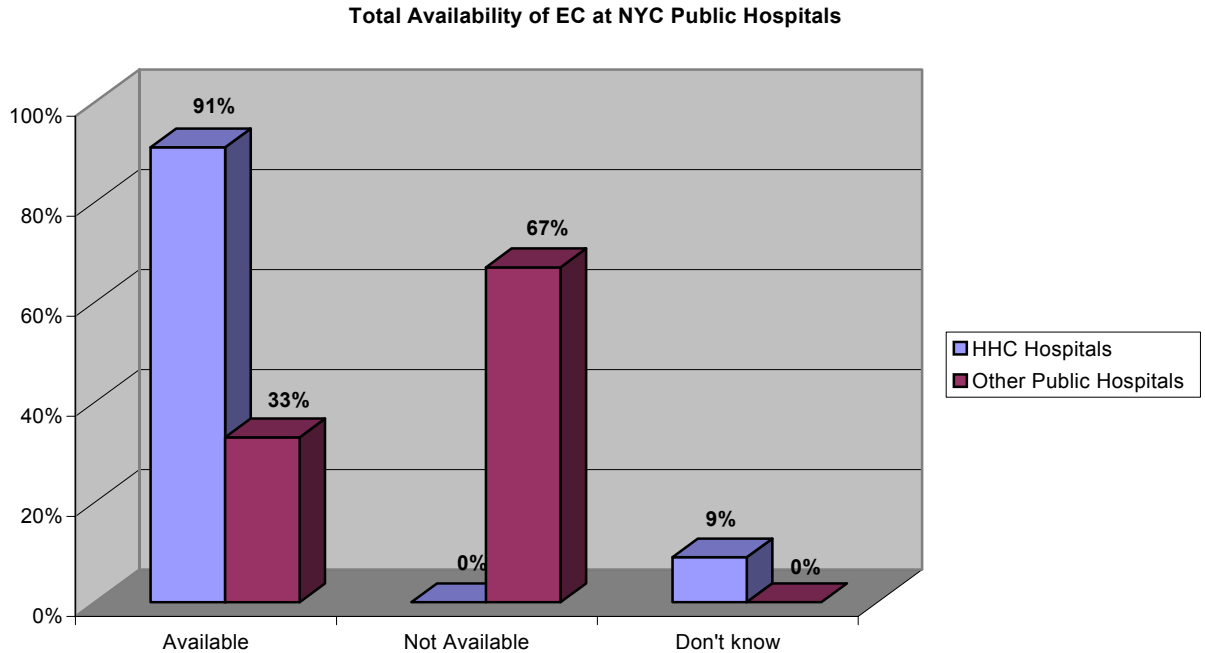
Of the 14 public hospitals that were surveyed, 11 hospitals are operated by the NYC Health and Hospitals Corporation (HHC) and the remaining three are public hospitals administered by other agencies.<sup>26</sup> When comparing the results obtained from these two groups, the following was observed:

- **HHC Hospitals:** Ten (91%) hospitals said that they do provide EC to rape/sexual assault survivors, and one (9%) hospital told investigators that it did not know whether the hospital provides EC to rape/sexual assault survivors.

<sup>26</sup> The three public hospitals that are administered by other agencies are: Veterans Affairs Medical Center, University Hospital of Brooklyn, and VA NY Harbor Healthcare.



- **Remaining three public hospitals:** one (33%) hospital said that it does provide EC to rape/sexual assault survivors and two (67%) hospitals said they do not.



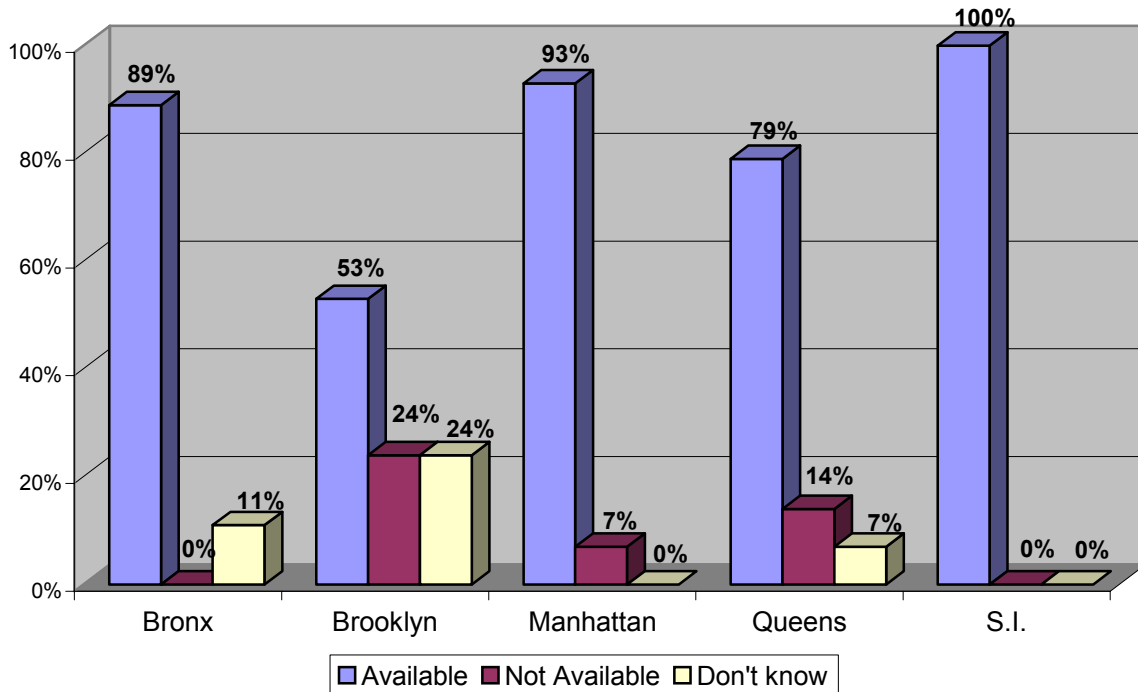
### **Availability of EC in NYC Hospitals – by Boroughs**

The results obtained from the telephone survey were also sorted out by borough as follows:

- Of the nine hospitals that were contacted in the Bronx, eight (89%) said that they provide EC to survivors of rape/sexual assault, and one (11%) hospital told investigators that it did not know whether the hospital provides EC to rape/sexual assault survivors.
- Of the 17 hospitals located in Brooklyn, nine (53%) said that they provide EC to survivors of rape/sexual assault, six (35%) said they do not, and two (12%) hospitals told investigators that they did not know whether the hospitals provide EC to rape/sexual assault survivors.

- Of the 14 hospitals located in Manhattan, 13 (93%) said that they provide EC to survivors of rape/sexual assault, and one (7%) hospital said that it does not provide EC to survivors of rape/sexual assault.
- Of the 14 hospitals located in Queens, 11 (79%) said that they provide EC to survivors of rape/sexual assault, two (14%) hospitals said that they do not provide EC, and one (7%) hospital told investigators that it did not know whether the hospital provides EC to rape/sexual assault survivors.
- Of the three hospitals located in Staten Island, all three (100%) said that they provide EC to survivors of rape/sexual assault.

**Availability of EC in NYC Hospitals - By Borough**



## **CONCLUSION**

A survivor of rape/sexual assault who arrives at an emergency room in Brooklyn has about half the chance of a woman in Staten Island of being provided with the medication needed to prevent an unintended pregnancy. A woman's ability to exercise her reproductive rights should not depend on what side of the Verrazano Bridge she is on.

This investigation shows that 13 (23%) hospitals either didn't provide EC or didn't have a clear policy with regard to the distribution of EC to rape/sexual assault survivors. Some of the reasons given for not providing EC to rape/sexual assault survivors were that either the emergency room was not allowed to provide such service, couldn't disclose information over the telephone, or simply that the hospital was Catholic. NYS Public Health Law clearly states that every hospital providing emergency treatment to a rape survivor should provide her with EC, and with information about EC, both orally and in writing.

NYC hospitals need follow the law. Hospitals should not only have a uniform and clear policy with regard to the distribution of EC to rape/sexual assault survivors, but they also need to implement the policy in a successful manner. Successful implementation of this law is crucial; when EC is taken within the recommended 72 hours, the risk of pregnancy is reduced by as much as 89%, and is more effective the earlier it is initiated.

The trauma of being raped/sexually assaulted shouldn't be exacerbated by an inability to quickly obtain EC. If a rape/sexual assault survivor presents herself to a hospital emergency room in New York, it is her right to be provided with the appropriate treatment, which includes EC to ensure that an unintended pregnancy is prevented.

## RECOMMENDATIONS

In order to ensure broad access to emergency contraception in hospital emergency rooms citywide, CID recommends the following:

- **Hospitals must adhere to City and State law in the distribution of ECPs to rape/sexual assault survivors.**

Of the 57 hospitals that were surveyed, 13 (23%) of them were not following the law—either because staff claimed the hospital would not distribute EC to rape/sexual assault survivors, that they did not know whether the hospital could provide EC to rape/sexual assault survivors, or that they could not provide that type of information over the phone. Local Law 26 requires that each hospital provide the Department of Health and Mental Hygiene with a copy of its protocol for the treatment of rape/sexual assault survivors.<sup>27</sup> It is imperative that this protocol is reviewed and implemented by hospital staff. Furthermore, Local Law 26 establishes civil penalties of not less than \$5,000 for hospitals that do not follow the provision of disseminating the correct information to rape/sexual assault survivors regarding the availability of EC or providing EC in a timely manner.<sup>28</sup>

- **Pass a resolution supporting the Compassionate Assistance for Rape Emergency Act (S. 1564/H.R. 2527).**

Both the House and Senate bills have been languishing in their respective committees for nearly a year. The New York City Council should pass a resolution in support of this act and should also urge Congress to enact this legislation and ensure that rape/sexual assault survivors are given the full range of options they deserve.

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<sup>27</sup> §405.19 of Title 10 of the codes, rules and regulations of the State of New York.

<sup>28</sup> New York City Administrative Code §6-125(6e) (2003).

- **FDA should approve Plan B for over-the-counter sale.**

The FDA was expected to declare its position on the matter on February 20, 2004, but the ruling has been postponed for another three months. On February 26, 2004, the NYC Council passed Resolution 92A urging the FDA to approve Plan B for over-the-counter sale without delay. Over-the-counter access to EC would be especially important to rape/sexual assault survivors who do not seek medical attention.

- **The NYS Senate should immediately pass its bill to allow nurses and pharmacists to dispense EC (S. 3339).**

On February 26, 2004, the NYC Council passed Resolution 66A urging the Senate to pass this bill immediately. The Assembly has already passed its version of this bill. Action by the State Legislature will become particularly important if the FDA decides not to approve Plan B for over-the-counter sale nationwide.

## **APPENDIX A:**

### **List of New York City Hospital Emergency Rooms**

	Hospital Name	Address	Borough	Phone #	Private	Public	EC Available?		
							Yes	No	Don't know
1	Bronx-Lebanon Hospital Center	1276 Fulton Avenue	Bronx	(718) 590-1800	Private		x		
2	Jacobi Medical Center	1400 Pelham Parkway South	Bronx	(718) 918-5000		Public	x		
3	Lincoln Medical & Mental Center	234 East 149th Street	Bronx	(718) 579-5000		Public	x		
4	Montefiore Medical Center	111 East 210th Street	Bronx	(718) 920-4321	Private		x		
5	New York Westchester Square Med Ctr	2475 St Raymond Avenue	Bronx	(718)430-7300	Private				x
6	North Central Bronx Hospital	3424 Kossuth Avenue	Bronx	(718) 519-5000		Public	x		
7	Our Lady of Mercy Med Center	600 East 233rd Street	Bronx	(718) 920-9000	Private		x		
8	St. Barnabas Hospital	183rd Street & Third Avenue	Bronx	(718) 960-9000	Private		x		
9	Veterans Affairs Med Center	130 West Kingsbridge Road	Bronx	(718) 584-9000		Public	x		
						<b>Sub-Total</b>	<b>8</b>	<b>0</b>	<b>1</b>
							<b>89%</b>	<b>0%</b>	<b>11%</b>
	Hospital Name	Address	Borough	Phone #	Private	Public	EC Available?		
							Yes	No	Don't know
10	Brookdale Hospital Medical Ctr	Linden Blvd at Brookdale Plz	Brooklyn	(718) 240-5000	Private				x
11	Brooklyn Hospital Center	121 DeKalb Avenue	Brooklyn	(718) 250-8000	Private			x	
12	Coney Island Hospital	2601 Ocean Parkway	Brooklyn	(718) 616-3000		Public	x		
13	Interfaith Medical Center	555 Prospect Place	Brooklyn	(718) 613-4000	Private				x
14	Kings County Hospital Center	451 Clarkson Avenue	Brooklyn	(718) 245-3131		Public			x
15	Kingsbrook Jewish Medical Ctr	585 Schenectady Avenue	Brooklyn	(718) 604-5000	Private		x		
16	Long Island College Hospital	339 Hicks Street	Brooklyn	(718) 780-1000	Private		x		
17	Lutheran Medical Center	150 55th Street	Brooklyn	(718) 630-7000	Private		x		
18	Maimonides Medical Center	4802 Tenth Avenue	Brooklyn	(718) 283-6000	Private		x		
19	New York Community Hospital	2525 Kings Highway	Brooklyn	(718) 692-5300	Private				x
20	New York Methodist Hospital	506 Sixth Street	Brooklyn	(718) 780-3000	Private		x		
21	St. Mary's Hospital	170 Buffalo Avenue	Brooklyn	(718) 221-3000	Private		x		
22	University Hospital of Brooklyn	445 Lenox Road	Brooklyn	(718) 270-4762		Public		x	
23	VA New York Harbor Healthcare	800 Poly Place	Brooklyn	(718) 630-3500		Public		x	
24	Victory Memorial Hospital	9036 Seventh Avenue	Brooklyn	(718) 567-1234	Private			x	
25	Woodhull Medical and Mental Health Ctr	760 Broadway	Brooklyn	(718) 963-8000		Public	x		
26	Wyckoff Heights Medical Center	374 Stockholm Street	Brooklyn	(718) 963-7272	Private		x		
						<b>Sub-Total</b>	<b>9</b>	<b>4</b>	<b>4</b>
							<b>53%</b>	<b>24%</b>	<b>24%</b>

	Hospital Name	Address	Borough	Phone #	Private	Public	EC Available?		
							Yes	No	Don't know
27	Bellevue Hospital Center	462 First Avenue	New York	(212) 562-4141		Public	x		
28	Beth Israel Medical Center	First Avenue and 16th Street	New York	(212) 420-2000	Private		x		
29	Cabrini Medical Center	227 East 19th Street	New York	(212) 995-6000	Private		x		
30	Harlem Hospital Center	506 Lenox Avenue	New York	(212) 939-1000		Public	x		
31	Lenox Hill Hospital	100 East 77th Street	New York	(212) 434-2000	Private			x	
32	Metropolitan Hospital Center	1901 First Avenue	New York	(212) 423-6262		Public	x		
33	Mount Sinai Medical Center	One Gustave L Levy Place	New York	(212) 241-6500	Private		x		
34	New York Univ Downtown Hosp	170 William Street	New York	(212) 312-5000	Private		x		
35	New York Univ Medical Center	550 First Avenue	New York	(212) 263-7300	Private		x		
36	New York - Presbyterian Hospital	525 East 68th Street	New York	(212) 746-5454	Private		x		
37	North General Hospital	1879 Madison Avenue	New York	(212) 423-4000	Private		x		
38	St. Clare's Hosp & Hlth Center	415 West 51st Street	New York	(212) 459-8000	Private		x		
39	St. Luke's-Roosevelt Hosp Ctr	1111 Amsterdam Avenue	New York	(212) 523-4000	Private		x		
40	St. Vincent's Hospital Manhattan	170 West 12th Street	New York	(212) 604-7000	Private		x		
						<b>Sub-Total</b>	<b>13</b>	<b>1</b>	<b>0</b>
							<b>93%</b>	<b>7%</b>	<b>0%</b>



Hospital Name	Address	Borough	Phone #	Private	Public	EC Available?			
						Yes	No	Don't know	
41 St. John's Queens	90-02 Queens Blvd.	Queens	(718) 558-1000	Private			x		
42 St. John's Episcopal Hospital	327 Beach 19th Street	Queens	(718) 869-7000	Private		x			
43 Peninsula Hospital Center	51-15 Beach Channel Drive	Queens	(718) 734-2000	Private				x	
44 Elmhurst Hospital Center	79-01 Broadway	Queens	(718) 334-4000		Public	x			
45 Flushing Hospital Medical Ctr	45th Ave at Parsons Blvd	Queens	(718) 670-5000	Private		x			
46 New York Hosp Medical Center	56-45 Main Street	Queens	(718) 670-1231	Private		x			
47 North Shore Univ Hospital	102-01 66th Road	Queens	(718) 830-4000	Private		x			
48 Parkway Hospital	70-35 113th Street	Queens	(718) 990-4100	Private		x			
49 St. Joseph's Hospital	158-40 79th Avenue	Queens	(718) 558-6200	Private			x		
50 Jamaica Hospital Med Center	8900 Van Wyck Expwy.	Queens	(718) 206-6000	Private		x			
51 Mary Immaculate Hospital	152-11 89th Avenue	Queens	(718) 558-2115	Private		x			
52 Queens Hospital Center	82-70 164th Street	Queens	(718) 883-3000		Public	x			
53 Mount Sinai Hospital of Queens	25-10 30th Avenue	Queens	(718) 932-1000	Private		x			
54 Long Island Jewish Medical Ctr	270-05 76th Avenue	Queens	(718) 470-7000	Private		x			
						<b>Sub-Total</b>	<b>11</b>	<b>2</b>	<b>1</b>
							<b>79%</b>	<b>14%</b>	<b>7%</b>
Hospital Name	Address	Borough	Phone #	Private	Public	EC Available?			
						Yes	No	Don't know	
55 St. Vincent's Staten Island	355 Bard Avenue	SI	(718) 818-1234	Private		x			
56 Staten Island Univ Hsp-Concord	1050 Targee Street	SI	(718) 226-9000	Private		x			
57 Staten Island University Hosp	475 Seaview Avenue	SI	(718) 226-9000	Private		x			
						<b>Sub-Total</b>	<b>3</b>	<b>0</b>	<b>0</b>
							<b>100%</b>	<b>0%</b>	<b>0%</b>
						<b>GRAND TOTAL</b>	<b>44</b>	<b>7</b>	<b>6</b>
							<b>77%</b>	<b>12%</b>	<b>11%</b>

**APPENDIX B:**

**Local Law No. 26 of 2003**

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2003**

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**No. 26**

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Introduced by Council Members Moskowitz, Gioia, Quinn, The Speaker (Council Member Miller), Reyna, Clarke, Baez, Comrie, Davis, Gerson, Jackson, Koppell, Lopez, Monserrate, Nelson, Perkins, Recchia Jr., Reed, Sanders Jr., DeBlasio, Brewer, Yassky, Katz, Sears, Weprin and The Public Advocate (Ms. Gotbaum); also Council Members Seabrook and Stewart.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to the administration of emergency contraception to rape victims in emergency departments.**

*Be it enacted by the Council as follows:*

Section 1. Legislative history and intent. In 2002, 2,013 rapes were reported to the New York City Police Department. Public health and public safety advocates alike acknowledge that the number of rapes reported to authorities constitute only a fraction of the number of rapes that actually occur. Alarming, between one and five percent of all rapes end in pregnancy (Holmes, et al., *Rape-related Pregnancy: Estimates and Descriptive Characteristics from a National Sample of Women*, American Journal of Obstetrics and Gynecology, 175:2, 1996). Over half of these pregnancies will end in abortion.

Emergency contraception (EC) is a safe and effective way to prevent unintended pregnancy. Approved by the United States Food and Drug Administration in 1997, EC works to prevent pregnancy by delaying ovulation or preventing fertilization. If taken within 72 hours of unprotected intercourse, EC reduces the risk of unintended pregnancy by as much as 89 percent. EC is frequently and erroneously confused with mifepristone and methotrexate, drugs used in medical abortion. EC differs from these drugs by working to prevent pregnancy from occurring instead of terminating an established pregnancy. The provision of EC to rape victims is considered to be the accepted standard of care for treatment of rape victims by the New York State Department of Health, as well as health professional organizations, including the American College of Obstetricians and Gynecologists, the American Medical Association and the American College of Emergency Physicians.

Surveys on the provision of EC in emergency departments in New York City hospitals reveal that approximately half of New York City emergency departments do not provide rape victims with EC. Significantly, these surveys also reveal that emergency departments operated by the New York City Health and Hospitals Corporation do in fact provide EC.

The Council finds that the provision of EC to a rape victim when medically appropriate aids to reduce the trauma already inflicted on the victim by preventing an unwanted pregnancy from resulting from that rape. The City Council further finds that the prevention of unintended pregnancies resulting from rape avoids costs associated with unwanted pregnancy, including medical care and foster care, some of which are ultimately borne by the City. Therefore, the Council declares that New York City should contract only with hospitals which provide rape victims with the accepted standard of care for treatment of such patients, including the administration of emergency contraception.

Section 2. The administrative code of the city of New York is amended by adding a new section 6-125 to read as follows:

§6-125. a. For the purposes of this section only, the following terms shall have the following meanings:

(1) "City agency" means a city, county, borough, administration, department, division bureau, board or commission, or a corporation, institution or agency of government the expenses of which are paid in whole or in part from the city treasury, but shall not include the health and hospitals corporation.

(2) "Covered agreement" means any agreement, including but not limited to, memoranda of understanding, and excluding contracts, entered into on or after the effective date of the local law that added this section, between a hospital and a city agency.

(3) "Covered contract" means any contract entered into on or after the effective date of the local law that added this section, between a hospital and a city agency.

(4) "Emergency contraception" shall mean one or more prescription drugs, used separately or in combination, to be administered to or self-administered by a patient in a dosage and manner intended to prevent pregnancy when used within a medically recommended amount of time following sexual intercourse and dispensed for that purpose in accordance with professional standards of practice, and which has been found safe and effective for such use by the United States food and drug administration.

(5) "Hospital" means any facility operating pursuant to article 28 of the public health law which provides emergency medical care.

(6) "Rape victim" means any female person who alleges or is alleged to have been raped and presents to a hospital.

b. No city agency shall enter into a covered agreement or covered contract with any hospital that does not contain a provision whereby such hospital agrees to inform rape victims presenting to its emergency department of the availability of emergency contraception and, if requested, to administer, if medically appropriate, such contraception in a timely manner.

c. No city agency shall enter into a covered agreement or covered contract with any hospital that does not contain a provision whereby such hospital agrees to provide the department of health and mental hygiene, on an annual basis, a report indicating the following information with respect to each reporting period: i) the number of rape victims treated in such hospital's emergency department; ii) the number of rape victims treated in such hospital's emergency department which were offered emergency contraception; iii) the number of rape victims treated in such hospital's emergency department for whom the administration of emergency contraception was not medically indicated and a brief explanation of the contraindication; and iv) the number of times emergency contraception was accepted or declined by a rape victim treated in such hospital's emergency department.

d. No city agency shall enter into a covered agreement or covered contract with any hospital that does not contain a provision whereby such hospital agrees to provide the department of health and mental hygiene with a copy of its protocol for treatment of victims of sexual assault, which hospitals are required to establish pursuant to section 405.19 of title 10 of the codes, rules and regulations of the state of New York; provided however, that such hospital shall be required to provide such protocol upon amendment or renewal of a covered agreement or covered contract only if such protocol has been amended since the date such hospital initially entered into such covered agreement or covered contract.

e. A hospital shall be liable for a civil penalty of not less than five thousand dollars upon a determination that such hospital has been found, through litigation or arbitration, to have made a false claim with respect to its provision of information to rape victims regarding the availability of emergency contraception or its provision of emergency contraception, if medically indicated, to rape victims in a timely manner.

§3. Severability. If any subsection, sentence, clause, phrase or other portion of the local law that added this section is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect.

§4. Effective date. This section shall take effect forty five days after its enactment; provided, however, that any rules consistent with this local law and necessary to its implementation may be promulgated prior to such effective date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of the City of New York, passed by the Council on February 26, 2003, disapproved by the Mayor on March 21, 2003 and repassed by the Council Members on April 9, 2003 and said law is adopted notwithstanding the objection of the Mayor.

VICTOR L. ROBLES, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 26 of 2003, Council Int. No. 281-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on February 26, 2003: 40 for, 4 against, 0 not voting.

Was disapproved by the Mayor on March 21, 2003.

Was returned to the City Clerk on March 21, 2003.

Was reconsidered by the Council on April 9, 2003 and received the following vote of the Council Members at a meeting of the Council on April 9, 2003: 47 for, 4 against, 0 not voting. The validity of this local law is currently a subject of disagreement between the Mayor and the City Council. This certification is not intended as to the validity of the local law, other than certifying the truth of the facts presented herein.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel

**APPENDIX C:**  
**New York State Public Health Law §2805**

NEW YORK CONSOLIDATED LAW SERVICE  
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\*\*\* THIS SECTION IS CURRENT THROUGH CH. 17, 03/23/2004 \*\*\*  
\*\*\* WITH THE EXCEPTION OF CHS. 1-3, 12, 15 and 16 \*\*\*

PUBLIC HEALTH LAW  
ARTICLE 28. **HOSPITALS**

**GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

*NY CLS Pub Health § 2805-p (2004)*

§ 2805-p. [Eff Jan 28, 2004] Emergency treatment of rape survivors

1. As used in this section:

(a) "**Emergency contraception**" shall mean one or more prescription drugs used separately or in combination to be administered or self-administered by a patient to prevent pregnancy within a medically recommended amount of time after sexual intercourse and dispensed for that purpose in accordance with professional standards of practice and determined by the United States Food and Drug Administration to be safe.

(b) "Emergency treatment" shall mean any medical examination or treatment provided by a **hospital** to a rape survivor following an alleged rape.

(c) "Rape" shall mean any act defined in section 130.25, 130.30 or 130.35 of the penal law.

(d) "Rape survivor" or "survivor" shall mean any female person who alleges or is alleged to have been raped and who presents as a patient.

2. Every **hospital** providing emergency treatment to a rape survivor shall promptly:

(a) provide such survivor with written information prepared or approved, pursuant to subdivision three of this section, relating to **emergency contraception**;

(b) orally inform such survivor of the availability of **emergency contraception**, its use and efficacy; and

(c) provide **emergency contraception** to such survivor, unless contraindicated, upon her request. No **hospital** may be required to provide **emergency contraception** to a rape survivor who is pregnant.

3. The commissioner shall develop, prepare and produce informational materials relating to **emergency contraception** for distribution to and use in all **hospitals** in the state, in quantities sufficient to comply with the requirements of this section. The commissioner may also approve informational materials from medically recognized sources for the purposes of this section. Such informational material shall be in clear and concise language, readily comprehensible, in such varieties and forms as the commissioner shall deem necessary to inform survivors in English and languages other than English. Such materials shall explain the nature of **emergency contraception** including its use and efficacy.

4. The commissioner shall promulgate all such rules and regulations as may be necessary and proper to implement the provisions of this section.

**HISTORY:** Add, L 2003, ch 625, § 1, eff Jan 28, 2004.

**NOTES:**

**EDITOR'S NOTES:**

Laws 2003, ch 625, § § 1 and 3, eff Jan 28, 2004, provide as follows:

Section 1. Legislative findings and intent. The legislature finds that the victimization of women through rape is compounded by the possibility that the rape survivor may suffer an unwanted pregnancy by the rapist. The legislature further finds that access to **emergency contraception** and timely counseling are simple, basic measures that can prevent this additional victimization. The federal Food and Drug Administration has approved the use of **emergency contraception** as safe and effective in the prevention of pregnancy. Medical research strongly indicates that the sooner **emergency contraception** is administered, the better the chance of preventing unintended pregnancy.

Therefore, the legislature deems it essential that all **hospitals** that provide emergency medical treatment provide **emergency contraception** as a treatment option to any woman who seeks treatment as a result of an alleged rape.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided that the commissioner of health is authorized and directed to promulgate any rules and regulations, and develop, produce and distribute any materials necessary to implement the provisions of this act on or before such date.