Emergency Contraception

for Sexual Assault Victims

The American College of Emergency Physicians and the American College of Obstetricians and Gynecologists agree that emergency contraception should be offered to all victims of sexual assault. Yet many hospitals fail to provide emergency contraception.

★ 2004 POLICY SUMMARY ★

Emergency Contraception for Sexual Assault Victims

Summary

- **Every year, approximately 300,000 women are raped and about 25,000 become pregnant as the result of a sexual assault.**
- **Emergency contraception provides women with a safe and effective method to prevent unintended pregnancies soon after intercourse.**
- **Despite its benefits, a large percentage of women do not know that emergency contraception is available.**
- **Most hospitals do not provide emergency contraception—even to victims of sexual assault.**
- **The public supports increased availability of emergency contraception.**
- **In 2003, New Mexico, New York and Oregon enacted laws to provide access to emergency contraception for sexual assault victims.**

Every year, approximately 300,000 women are raped and about 25,000 women become pregnant as the result of a sexual assault.[1]

About one in six American women will be raped at some point in their lives. Adding to the trauma of the assault, each year about 25,000 women who are raped will become pregnant by an attacker. As with other unintended pregnancies, about half of the pregnancies resulting from rape end in abortion.[2]

Emergency contraception provides women with a method to prevent unintended pregnancies soon after intercourse.

Among the types of emergency contraception currently available are special doses of regular birth control pills, commonly known as "morning after pills," and the use of a copper-T intrauterine device (IUD). Unlike Mifeprex, commonly called the "abortion pill," emergency contraception does not induce abortion. Instead, it inhibits ovulation, fertilization or implantation *before* a pregnancy occurs.

Emergency contraception is safe and effective.

Emergency contraceptive options have been available for more than 25 years, and emergency contraceptive pills can be used safely by most women, even those who cannot use oral contraceptives for the long term. If taken within 120 hours after intercourse, emergency contraceptive pills substantially reduce the risk of pregnancy. Copper-bearing IUDs used as emergency contraception have an even higher success rate.

Despite its benefits, a large percentage of women do not know that emergency contraception is available.

In a recent nationwide survey, fully one-third of women aged 18-44 said they did not know there is something a woman can do to prevent pregnancy after unprotected sex.[3] And because many women confuse it with Mifeprex, it is likely that substantially more than one-third do not know enough about emergency contraception to request it.[4] Further, women who may need emergency contraception the most know the least. A survey in New York City found that 95 percent of inner-city youth aged 14-18 had never heard of emergency contraception.[5]

Most hospitals do not provide emergency contraception—even to victims of sexual assault.

According to seven years of data from the Centers for Disease Control, less than half of all women who visited an emergency room after a sexual assault, and were not otherwise protected from pregnancy, received emergency contraception.[6] In a recent investigation, 66 percent of Catholic hospital emergency rooms did not provide emergency contraception to rape victims—despite the fact that the church does not prohibit its use.[7]

The American College of Emergency Physicians and the American College of Obstetricians and Gynecologists agree that emergency contraception should be offered to all victims of sexual assault.[8]

In fact, a California court ruled that a hospital could be held liable for failing to give a sexual assault victim information about, and access to, emergency contraception.[9]

The public supports increased availability of emergency contraception.

According to a national survey, over 80 percent of Americans believe that hospitals should not be allowed to deny emergency contraception to rape victims.[10] A January 2000 Peter Hart Research poll of New Jersey and Oregon voters found strong support for access to emergency contraception—62 percent in New Jersey and 64 percent in Oregon. Additionally, voters overwhelmingly oppose so-called "conscience clauses" that permit pharmacists to refuse to fill prescriptions—79 percent in New Jersey and 69 percent in Oregon.

In 2003, New Mexico, New York and Oregon enacted laws to provide access to emergency contraception for sexual assault victims.

The New Mexico and New York laws require hospital emergency rooms to provide sexual assault victims with both information about and access to emergency contraception. Oregon's statute establishes a Sexual Assault Victim's Emergency Medical Response Fund, which will pay the costs of emergency contraception to the extent monies are available. California, Illinois and Washington also have laws that facilitate the availability of emergency contraception to women who have been sexually assaulted.

This policy summary relies in large part on information from NARAL Pro-Choice America.

Endnotes

[1] Felicia Stewart and James Trussell, "Prevention of Pregnancy Resulting from Rape: A Neglected Preventive Health Measure," *American Journal of Preventive Medicine*, Vol. 19, No. 4, November 2000.

[2] Stanley Henshaw, "Unintended Pregnancy in the United States," *Family Planning Perspectives*, Vol. 30, No. 1, January-February 1998.

[3] Kaiser Family Foundation and SELF Magazine, "A National Survey of Women About Their Sexual Health," 2003.

[4] See e.g., Kaiser Family Foundation and Lifetime Television, "Vital Sign Index No. 2: Emergency Contraception," 2000.

[5] "Adolescents Unaware of Emergency Contraception, According to Survey," Kaiser Daily Reproductive Health Report, November 19, 2003.

[6] Annettee Amey and David Bishel, "Measuring the Quality of Medical Care for Women Who Experience Sexual Assault With Data from the National Hospital Ambulatory Medical Care Survey," *Annals of Emergency Medicine*, June 2002.

[7] Catholics for a Free Choice, "The Impact on Emergency Contraception," 2002. See http://www.cath4choice.org/indexhealth.htm.

[8] American College of Emergency Physicians Policy Statements, "Management of the Patient with the Complaint of Sexual Assault," October 2002; American College of Obstetricians and Gynecologists, "Violence Against Women, Acute Care of Sexual Assault Victims."

[9] *Brownfield v. Daniel Freeman Marina Hospital*, 208 Cal.App.3d 405 (Ct.App. 1989).

[10] American Civil Liberties Union Reproductive Freedom Project, "Religious and Reproductive Rights," 2002.

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For more information...

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www.cath4choice.org/indexhealth.htm

Center for Reproductive Law and Policy
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Feminist Majority Foundation
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Emergency Contraception for Sexual Assault Victims Act

SECTION 1. SHORT TITLE

This Act shall be called the "Emergency Contraception for Sexual Assault Victims Act."

SECTION 2. FINDINGS—The legislature finds that:

1. Each year, approximately 300,000 women are raped in the United States, and in [most recent year], [number] women were raped in [state].

2. Each year, approximately 25,000 women become pregnant as a result of rape and approximately 50 percent of these pregnancies end in abortion.

3. An estimated 22,000 of these pregnancies—88 percent—could be prevented if sexual assault victims had timely access to emergency contraception.

4. Approved for use by the Food and Drug Administration, emergency contraception prevents pregnancy after sexual intercourse.

5. Emergency contraception cannot and does not cause abortion.

6. While standards of emergency care established by the American Medical Association require that sexual assault victims be counseled about their risk of pregnancy and offered emergency contraception, most hospitals fail to provide emergency contraception to rape victims.

SECTION 3. EMERGENCY CONTRACEPTION FOR SEXUAL ASSAULT VICTIMS

After section XXX, the following new section XXX shall be inserted:

(A) DEFINITIONS—in this section:

1. "Emergency contraception" means any drug or device approved by the U.S. Food and Drug Administration that prevents pregnancy after sexual intercourse.

2. "Emergency care to sexual assault victims" means medical examinations, procedures, and services provided by a healthcare facility to a sexual assault victim following an alleged rape.

3. "Healthcare facility" means a hospital, emergency care facility, health clinic, or other healthcare center.

4. "Rape" means [as defined by state statute].

5. "Sexual assault victim" means a female who alleges or is alleged to have been raped.

Emergency Contraception for Sexual Assault Victims

(B) EMERGENCY CARE TO SEXUAL ASSAULT VICTIMS—It shall be the standard of care for healthcare facilities that provide emergency care to sexual assault victims to:

1. Provide each sexual assault victim with medically and factually accurate and unbiased written and oral information about emergency contraception.

2. Verbally inform each sexual assault victim of her option to be provided emergency contraception at the healthcare facility.

3. Provide emergency contraception immediately at the healthcare facility to each sexual assault victim who requests it. If the emergency contraception is in the form of pills, the provision must include the initial dose, which the sexual assault victim can take at the hospital, as well as any follow-up doses for the sexual assault victim to self-administer later.

(C) TRAINING—Every healthcare facility shall ensure that each person who provides care to sexual assault victims has medically and factually accurate and unbiased information about emergency contraception.

(D) PATIENT INFORMATION MATERIALS—The [Department of Health] shall develop and produce informational materials about emergency contraception for distribution in all emergency health facilities in the state. The informational materials must, in a medically and factually accurate and unbiased manner, describe the use, safety, efficacy and availability of emergency contraception, and the fact that it does not cause abortion.

(D) ENFORCEMENT—In addition to any remedies at common law, the [Department of Health] shall respond to complaints and shall periodically determine whether healthcare facilities are complying with this section. The [Department of Health] may use all investigative tools available to verify compliance with this section. If the [Department of Health] determines that a healthcare facility is not in compliance, the Department shall:

1. Impose a fine of $5,000 per sexual assault victim denied medically and factually accurate and unbiased information about emergency contraception, or who is not offered or provided emergency contraception.

2. Impose a fine of $5,000 for failure to comply with subsection C of this section. For every 30 days that the healthcare facility is not in compliance with subsection C, an additional fine of $5,000 shall be imposed.

3. After two violations, suspend or revoke the certificate of authority or deny the healthcare facility's application for certificate of authority.

SECTION 4. SEVERABILITY— If any provision, word, phrase or clause of this Act, or the application thereof, to any person, entity or circumstance should be held invalid, such invalidity shall not affect the remaining provisions, words, phrases or clauses of this Act which can be given effect without the invalid provision, word, phrase, clause or application, and to this end, the provisions, words, phrases or clauses of this Act are declared severable.

SECTION 5. EFFECTIVE DATE—This Act shall take effect on July 1, 2004.

This model is based on legislation developed by NARAL Pro-Choice America.