

111TH CONGRESS
1ST SESSION

H. R. 1236

To provide for the provision by hospitals receiving Federal funds through the Medicare Program or Medicaid Program of emergency contraceptives to women who are survivors of sexual assault.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2009

Mr. ROTHMAN of New Jersey (for himself, Mr. HINCHEY, Mrs. CAPPS, Mrs. MALONEY, Mrs. DAVIS of California, Mr. MOORE of Kansas, Mr. GEORGE MILLER of California, Ms. DELAURO, Mr. MCGOVERN, Mr. HASTINGS of Florida, Ms. HIRONO, Mr. TIERNEY, Mr. SIRES, Mr. NADLER of New York, Mr. KIND, Mr. ABERCROMBIE, Mr. McDERMOTT, Mrs. NAPOLITANO, Mr. HONDA, Mr. CARSON of Indiana, Ms. MCCOLLUM, Mr. BERMAN, Mr. ISRAEL, Mrs. TAUSCHER, Mr. SERRANO, Ms. WOOLSEY, Mr. KENNEDY, Mr. OLVER, Mr. MARKEY of Massachusetts, Mr. WEXLER, Ms. ZOE LOFGREN of California, Mr. HOLT, Mr. FARR, Mr. INSLEE, Mr. BRADY of Pennsylvania, Mr. PATRICK J. MURPHY of Pennsylvania, and Mr. STARK) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the provision by hospitals receiving Federal funds through the Medicare Program or Medicaid Program of emergency contraceptives to women who are survivors of sexual assault.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Compassionate Assist-
3 ance for Rape Emergencies Act of 2009”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds as follows:

6 (1) One out of every 6 American women will be-
7 come a victim of rape or sexual assault in their life-
8 time. It is estimated that 12,700,000 American
9 women today are survivors of these violent crimes.

10 (2) The Federal Bureau of Investigation re-
11 ports that 90,427 women were raped in 2006. This
12 statistic is derived from records of crimes reported
13 to law enforcement and does not include reports of
14 other actions falling under the broader term of “sex-
15 ual assault”.

16 (3) The 2006 violent crime report issued by the
17 Bureau of Justice Statistics indicates that only a
18 minority, 41.4 percent, of rapes and sexual assaults
19 perpetrated against women and girls in the United
20 States were reported to law enforcement. For this
21 reason, the total number of these violent crimes
22 committed in a given year is likely to be much high-
23 er.

24 (4) According to a 2003 analysis of data col-
25 lected by the National Violence Against Women Sur-
26 vey, the risk of pregnancy resulting from rape is es-

1 timated to be 7.98 percent for victims who were not
2 protected by some form of contraception at the time
3 of the attack.

4 (5) It is estimated that approximately 7,216
5 rape-related pregnancies occurred in 2006, based on
6 such data.

7 (6) Timely access to emergency contraception
8 could help many of these rape survivors avoid the
9 additional trauma of facing an unintended preg-
10 nancy.

11 (7) In light of the safety and effectiveness of
12 emergency contraception pills, both the American
13 Medical Association and the American College of
14 Obstetricians and Gynecologists have endorsed more
15 widespread availability of such pills to women of all
16 ages.

17 (8) The American College of Emergency Physi-
18 cians and the American College of Obstetricians and
19 Gynecologists agree that offering emergency contra-
20 ception to female patients after a sexual assault
21 should be considered the standard of care.

22 (9) The Food and Drug Administration has de-
23 clared emergency contraception to be safe and effec-
24 tive in preventing unintended pregnancy if taken in
25 the first 72 hours of sex.

1 (10) Approximately one-third of women of re-
2 productive age remain unaware of emergency contra-
3 ception. Therefore, women who have been sexually
4 assaulted are unlikely to ask for emergency contra-
5 ception.

6 (11) It is essential that all hospitals that pro-
7 vide emergency medical care provide emergency con-
8 traception as a treatment option to any woman who
9 has been raped, so that she may have the option of
10 preventing an unintended pregnancy.

11 (12) In 2004, the Bureau of Justice Statistics
12 reported that legal reforms and the growth in serv-
13 ices available to rape victims have been influential in
14 increasing the likelihood that women will report a
15 rape to police, resulting in more perpetrators being
16 identified and brought to justice.

17 (13) On December 19, 2008, the Department of
18 Health and Human Services promulgated a final
19 rule that expanded the ability of federally funded
20 health care providers or employees to refuse to pro-
21 vide services, including emergency contraception.
22 This rule has the potential to jeopardize women's ac-
23 cess to emergency contraception.

24 (14) Polls show that nearly 80 percent of Amer-
25 ican women want their hospitals, whether or not reli-

1 giously affiliated, to offer emergency contraception
2 to rape survivors.

3 **SEC. 3. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY**
4 **HOSPITALS OF EMERGENCY CONTRACEP-**
5 **TIVES WITHOUT CHARGE.**

6 (a) IN GENERAL.—Federal funds may not be pro-
7 vided to a hospital under title XVIII of the Social Security
8 Act or to a State, with respect to services of a hospital,
9 under title XIX of such Act, unless the hospital meets the
10 conditions specified in subsection (b) in the case of—

11 (1) any woman who presents at the hospital
12 and states that she is a victim of sexual assault, or
13 is accompanied by someone who states she is a vic-
14 tim of sexual assault; and

15 (2) any woman who presents at the hospital
16 whom hospital personnel have reason to believe is a
17 victim of sexual assault.

18 (b) ASSISTANCE FOR VICTIMS.—The conditions spec-
19 ified in this subsection regarding a hospital and a woman
20 described in subsection (a) are as follows:

21 (1) The hospital promptly provides the woman
22 with medically and factually accurate and unbiased
23 written and oral information about emergency con-
24 traception, including information explaining that—

1 (A) emergency contraception has been ap-
2 proved by the Food and Drug Administration
3 as an over-the-counter medication for women
4 ages 18 and over and is a safe and effective
5 way to prevent pregnancy after unprotected
6 intercourse or contraceptive failure if taken in
7 a timely manner;

8 (B) emergency contraception is more effec-
9 tive the sooner it is taken; and

10 (C) emergency contraception does not
11 cause an abortion and cannot interrupt an es-
12 tablished pregnancy.

13 (2) The hospital promptly offers emergency
14 contraception to the woman, and promptly provides
15 such contraception to her at the hospital on her re-
16 quest.

17 (3) The information provided pursuant to para-
18 graph (1) is in clear and concise language, is readily
19 comprehensible, and meets such conditions regarding
20 the provision of the information in languages other
21 than English as the Secretary may establish.

22 (4) The services described in paragraphs (1)
23 through (3) are not denied because of the inability
24 of the woman or her family to pay for the services.

25 (c) DEFINITIONS.—For purposes of this section:

1 (1) The term “emergency contraception” means
2 a drug, drug regimen, or device that—

3 (A) is approved by the Food and Drug Ad-
4 ministration to prevent pregnancy; and

5 (B) is used postcoitally.

6 (2) The term “hospital” has the meaning given
7 such term in section 1861(e) of the Social Security
8 Act (42 U.S.C. 1395x(e)), and includes a critical ac-
9 cess hospital, as defined in section 1861(mm)(1) of
10 such Act (42 U.S.C. 1395x(mm)(1)).

11 (3) The term “Secretary” means the Secretary
12 of Health and Human Services.

13 (4) The term “sexual assault” means coitus in
14 which the woman involved does not consent or lacks
15 the legal capacity to consent.

16 (d) EFFECTIVE DATE; AGENCY CRITERIA.—This sec-
17 tion takes effect upon the expiration of the 180-day period
18 beginning on the date of the enactment of this Act. Not
19 later than 30 days prior to the expiration of such period,
20 the Secretary shall publish in the Federal Register criteria
21 for carrying out this section.

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