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FILE NO. S-1149
PUBLIC HEALTH:
Implementation of Rape
Victims Emergency
Treatment Act

Honorable William C. Harris
Senate Minority Leader
State of Illinois
Springfield, Illinois 62706

Honorable Jack Schaffer
Senate Minority Spokesman
Senate Committee on Public Health,
Welfare and Corrections
Springfield, Illinois 62706

Dear Senators:

This responds to your letter requesting my opinion with regard to the implementation of the Rape Victims Emergency Treatment Act (Ill. Rev. Stat. 1975, ch. 111 1/2, pars. 87-1 et seq.) by the Illinois Department of Public Health. As you note in your letter, the Act requires hospitals to provide medical services to rape victims and, under certain circumstances, requires the Illinois Department of Public Health to

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reimburse those hospitals for the cost of such services. You note further that pursuant to section 6.3 of the Act (Ill. Rev. Stat. 1975, ch. 111 1/2, par. 87-6.3), the Department is to establish minimum standards, rules and regulations with regard to the reimbursement to hospitals of these costs, but that the Department has not yet adopted these standards and regulations in their final form.

Based on the provisions of the Act and the facts as provided, you then pose the following questions:

- (1) When does the State of Illinois, through the Department of Public Health, assume responsibility for reimbursing hospitals under the provisions of the Act;
- (2) If hospitals are required to offer emergency medical treatment to rape victims as of the effective date of this Act, may the Illinois Department of Public Health arbitrarily refuse to reimburse hospitals for providing these services because of the Department's failure to adopt rules and regulations as required by section 6.3 of the Act; and
- (3) If an individual otherwise qualified to receive treatment at no charge offers to pay for services provided under the Act, is the hospital involved prohibited from accepting payment from any source other than the Department of Public Health?

In response to your first question, I am of the opinion that the Department of Public Health became responsible

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for reimbursing hospitals pursuant to the Rape Victims Emergency Treatment Act, on January 1, 1976, the effective date of the Act.

Section 7 of the Act (Ill. Rev. Stat. 1975, ch. 111 1/2, par. 87-7) provides that:

"When any hospital provides emergency services required under this Act to any rape victim, or to any alleged rape victim as defined by the Department of Public Health pursuant to Section 6.3 of this Act, who is neither eligible to receive such services under The Illinois Public Aid Code nor covered as to such services by a policy of insurance, the hospital shall furnish such service to that person without charge and shall be entitled to be reimbursed for its costs in providing such services by the Department of Public Health which shall include appropriate provisions for this reimbursement program in the rules and regulations promulgated by it under this Act."

The legislative mandate here is clear and unequivocal. The General Assembly intended to insure that every rape victim not covered by The Illinois Public Aid Code or an insurance policy should have free emergency medical treatment available to her should she request it. Nothing in the language of section 7 or the remainder of the Act indicates an intention on the part of the General Assembly that the responsibility of the Department of Public Health should be delayed until it formally adopts the rules required by section 6.3 of the Act.

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With regard to your second question, it is my opinion that the Department of Public Health could not arbitrarily refuse to reimburse hospitals because of the Department's failure to formally adopt rules pursuant to section 6.3. Once again I note that nothing in the language of the Act indicates an intention on the part of the legislature that the Department's duties under section 7 are contingent on the formal adoption of the rules required by section 6.3.

It should be pointed out with regard to your first two questions, however, that the Department of Public Health has advised this office that the Department is now, and has been since the effective date of the Act, reimbursing hospitals in appropriate cases for the costs of providing medical treatment to rape victims. Although it has not yet adopted the rules and regulations required by section 6.3 of the Act in their final form, it does have a series of working rules under which it is operating.

Your third question involves section 7 of the Rape Victims Emergency Treatment Act, quoted above. As in any case involving the construction of a statute, the primary goal is

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to ascertain and give effect to the intention of the General Assembly. People ex rel. Kucharski v. Adams, 48 Ill. 2d 540.

As noted above, the purpose of the General Assembly in enacting section 7 of the Rape Victims Emergency Treatment Act seems clearly to have been to insure that every rape victim not covered by either The Illinois Public Aid Code or an insurance policy should have free emergency medical treatment available to her should she desire it. If, however, such an individual desires to pay for this treatment, I find nothing in section 7 or the remainder of the Act indicating an intention on the part of the legislature that such a decision should not be honored.

It is, therefore, my opinion that should an individual who is fully informed of her right to receive free treatment under section 7 of the Rape Victims Emergency Treatment Act desire to pay for that treatment herself, the hospital involved is not prohibited by the Act from accepting payment from her.

Very truly yours,

A T T O R N E Y G E N E R A L