



New York Attorney General Enforcement of Hospital Billing Prohibitions for Forensic Rape Examinations

On November 28, 2017, Attorney General Eric T. Schniederman announced a settlement with a hospital based on an investigation that concluded the hospital illegally billed sexual assault survivors for forensic rape examinations (“FREs”).

Under the settlement, the hospital must provide improperly billed sexual assault survivors full restitution with 12 percent interest and adjust any accounts with outstanding balances for FREs. The hospital is required to engage an independent auditor to confirm that this relief has been provided. In addition, the hospital must maintain a Sexual Assault Victim Policy, train all relevant employees, provide periodic compliance reports, and pay \$15,000 in costs to the Office of the Attorney General.

The Attorney General announced that he has sent letters to 10 additional hospitals across New York State seeking information on their policies.

This enforcement activity is based on New York Executive Law § 631(13), which prohibits hospitals from billing sexual assault survivors for services, including FREs. The statute provides that hospitals shall instead bill the State’s Office of Victim Services (“OVS”) directly, unless a sexual assault survivor voluntarily assigns any private insurance benefits to which she or he is entitled.

Jim Dering is a Partner in Garfunkel Wild P.C.’s Albany, New York office. Prior to joining the firm in 2015, he was the General Counsel of the New York State Department of Health, and before that served as Bureau Chief of the New York State Attorney General’s Health Care Bureau – the part of the Attorney General’s office handling this enforcement issue.

If you have any questions, please contact Jim Dering of Garfunkel Wild’s Albany, NY office at (518) 560-4021, or Eve Green Koopersmith of Garfunkel Wild’s Great Neck, NY office at (516) 393-2282.

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