

## CHAPTER 142

(HB 448)

AN ACT relating to rape crisis centers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The Cabinet for Health Services shall designate one (1) nonprofit corporation in each area development district to serve as the regional rape crisis center. The designated agency shall serve as the regional planning authority for crisis and advocacy services for victims of sexual assault in the district in which the center is located.*
- (2) *The rape crisis center shall retain the designation unless it has been rescinded by the cabinet based on an annual review of the center's performance or the annual plan and budget submitted by the center to the cabinet for funding for the next fiscal year.*
- (3) *A rape crisis center designated by the cabinet shall provide services that include, but are not limited to:*
  - (a) *Crisis counseling;*
  - (b) *Mental health and related support services;*
  - (c) *Advocacy;*
  - (d) *Consultation;*
  - (e) *Public education; and*
  - (f) *The provision of training programs for professionals.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding the provisions of KRS 210.410, the secretary of the Cabinet for Health Services or any other state or local government entity is hereby authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional rape crisis centers.*
- (2) *To be eligible for grants from any state government entity, a rape crisis center shall provide the services listed in subsection (3) of Section 1 of this Act and shall operate in a manner consistent with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *A rape crisis center designated by the cabinet shall establish a board consisting of at least fifteen (15) members. At least one (1) member shall represent each county located in the area development district served by the center.*
- (2) *Each rape crisis center shall:*
  - (a) *Act as the administering authority for the regional rape crisis center;*

- (b) *Assess the availability and quality of services to victims of sexual assault within the district;*
- (c) *Facilitate working relationships with other criminal justice, mental health, and other agencies that will improve the delivery of services to victims of sexual assault;*
- (d) *Submit to the cabinet annually a plan and budget for services to be provided in the next fiscal year;*
- (e) *Recruit and promote local financial support for the center from private and public sources; and*
- (f) *Oversee and be responsible for the management of the rape crisis center in accordance with the plan and budget adopted by the board and administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

*All client records, requests for services, and reports that directly or indirectly identify a client or former client of a rape crisis center are confidential and shall not be disclosed by any person except as provided by law. The cabinet shall have access to client records, requests for services, and reports relating to any rape crisis center for the limited purpose of monitoring the center, and the cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A that will set forth the process by which access to these documents will be gained, the nature of the monitoring that will take place, and the measures to be used to ensure confidentiality of the people identified in the records.*

Section 5. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

- (1) "Abortion facility" means any place in which an abortion is performed;
- (2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;
- (3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;
- (4) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars (\$1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license;
- (5) "Cabinet" means the Cabinet for Health Services;
- (6) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

- (a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or
  - (b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;
- (7) "Capital expenditure minimum" means one million five hundred thousand dollars (\$1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;
- (8) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;
- (9) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;
- (10) "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature;
- (11) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;
- (12) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars (\$1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;

- (13) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;
- (14) "Nonclinically-related expenditures" means expenditures for:
- (a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or
  - (b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:
    - 1. Parking facilities;
    - 2. Telecommunications or telephone systems;
    - 3. Management information systems;
    - 4. Ventilation systems;
    - 5. Heating or air conditioning, or both;
    - 6. Energy conservation; or
    - 7. Administrative offices;
- (15) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;
- (16) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state;
- (17) "Record" means, as applicable in a particular proceeding:
- (a) The application and any information provided by the applicant at the request of the cabinet;
  - (b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;
  - (c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;
  - (d) Any staff reports or recommendations prepared by or for the cabinet;
  - (e) Any recommendation or decision of the cabinet;
  - (f) Any testimony or documentary evidence adduced at a hearing;
  - (g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and
  - (h) Any other items required by administrative regulations promulgated by the cabinet;
- (18) "Secretary" means the secretary of the Cabinet for Health Services;
- (19) ***"Sexual assault examination facility" means a licensed health facility, emergency medical facility, primary care center, or a children's advocacy center or rape crisis center that is***

***regulated by the Cabinet for Health Services or the Cabinet for Families and Children, and that provides sexual assault examinations under Section 6 of this Act;***

- (20) "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;
- ~~(21)~~~~(20)~~ "Substantial change in a health service" means:
- (a) The addition of a health service for which there are review criteria and standards in the state health plan;
  - (b) The addition of a health service subject to licensure under this chapter; or
  - (c) The reduction or termination of a health service which had previously been provided in the health facility;
- ~~(22)~~~~(21)~~ "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility;
- ~~(23)~~~~(22)~~ "Substantial change in a project" means a change made to a pending or approved project which results in:
- (a) A substantial change in a health service, except a reduction or termination of a health service;
  - (b) A substantial change in bed capacity, except for reductions;
  - (c) A change of location; or
  - (d) An increase in costs greater than the allowable amount as prescribed by regulation;
- ~~(24)~~~~(23)~~ "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person;
- ~~(25)~~~~(24)~~ "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;
- ~~(26)~~~~(25)~~ "To establish" means to construct, develop, or initiate a health facility;
- ~~(27)~~~~(26)~~ "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and
- ~~(28)~~~~(27)~~ "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 6. KRS 216B.400 is amended to read as follows:

- (1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his inability to pay for services to be rendered by the hospital.

- (2) Every hospital of this state which offers emergency services shall provide that a physician or a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS 510.010 to 510.140, ~~and~~ KRS 530.020, **530.064, and 531.310.**
- (3) ***An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in Section 5 of this Act. An examination under this section shall apply only to an examination of a victim.***
- (4) The physician or sexual assault nurse examiner, acting under a statewide medical protocol which shall be developed by the chief medical examiner, and promulgated by the secretary of justice pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence. This examination shall include, but not be limited to:
- (a) Basic emergency room treatment and evidence gathering services; and
  - (b) Laboratory cultures and tests, as appropriate, to test for venereal disease of the victim.
- ~~(5)(3)~~ Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems. Pregnancy counseling will not include abortion counseling or referral information.
- ~~(6)(4)~~ Each reported victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.
- ~~(7)(5)~~ Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.
- ~~(8)(6)~~ The examinations ***provided in accordance with*** ~~required under~~ this section shall be paid for by the Office of the Attorney General at a rate to be determined by the Attorney General by administrative regulation. The state shall reimburse the hospital ***or sexual assault examination facility***, and the physician or sexual assault nurse examiner as provided in administrative regulations promulgated by the Office of the Attorney General pursuant to KRS Chapter 13A. No charge shall be made to the victim for these examinations, either by the hospital, ***the sexual assault examination facility***, the physician, the sexual assault nurse examiner, the victim's insurance carrier, or the Commonwealth.

Section 7. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

- (1) "Board" shall mean Kentucky Board of Nursing.
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A.

- (3) "Nurse" shall mean a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse.
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
  - (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
  - (b) Planning, implementation, and evaluation based on nationally-accepted standards of nursing practice.
- (5) "Registered nurse" shall mean one who is licensed under the provisions of this chapter to engage in registered nursing practice.
- (6) "Registered nursing practice" shall mean the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
  - (a) The care, counsel, and health teaching of the ill, injured, or infirm.
  - (b) The maintenance of health or prevention of illness of others.
  - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses. Components of medication administration include, but are not limited to:
    - 1. Preparing and giving medications in the prescribed dosage, route, and frequency;
    - 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
    - 3. Intervening when emergency care is required as a result of drug therapy;
    - 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
    - 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
    - 6. Instructing an individual regarding medications.
  - (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care.
  - (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses.
- (7) "Advanced registered nurse practitioner" shall mean one who is registered and designated to engage in advanced registered nursing practice including, but not limited to, the nurse anesthetist, nurse midwife, and nurse practitioner pursuant to KRS 314.042.

- (8) "Advanced registered nursing practice" shall mean the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally-established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include, but not be limited to, prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation.
- (9) "Licensed practical nurse" shall mean one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice.
- (10) "Licensed practical nursing practice" shall mean the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
- (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist.
  - (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.
  - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.
  - (d) Teaching, supervising, and delegating except as limited by the board.
  - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.
- (11) "School of nursing" shall mean a nursing education program preparing persons for licensure as a registered nurse or a practical nurse.
- (12) "Continuing education" shall mean offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.
- (13) "Nursing assistance" shall mean the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.
- (14) "Sexual assault nurse examiner" shall mean a registered nurse who has completed the required education and clinical experience and been credentialed by the board as provided under KRS



314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4)~~((2))~~.

**Approved March 20, 2000**