

CHAPTER 101

(HB 500)

AN ACT relating to crime victims.

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

➔ Section 1. 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 or her 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, **or another qualified medical professional, as defined by administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in Section 3 of this Act**, is available on call twenty-four (24) hours each day for the examinations of persons **seeking treatment as reported to any law enforcement agency to be** victims of sexual offenses as defined by KRS 510.010 to 510.140, 530.020, 530.064(1)(a), 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 KRS 216B.015. An examination under this section shall apply only to an examination of a victim.
- (4) The physician, ~~or~~ sexual assault nurse examiner, **or other qualified medical professional**, acting under a statewide medical **forensic** protocol which shall be developed by the **Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in Section 3 of this Act** ~~chief medical examiner~~, and promulgated by the secretary of justice and public safety 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 **purposes** ~~purpose~~ of **providing basic medical care relating to the incident and gathering samples that may be used as** physical evidence. This examination shall include but not be limited to:
 - (a) Basic treatment and **sample** ~~evidence~~ gathering services; and
 - (b) Laboratory tests, as appropriate.
- (5) Each ~~reported~~ victim shall be informed of available services for treatment of **sexually transmitted infections** ~~venereal disease~~, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.
- (6) 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) 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)
 - (a) The examinations provided in accordance with this section shall be paid for by the Crime Victims' Compensation Board at a rate to be determined by the administrative regulation promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.
 - (b) Upon receipt of a completed ~~original~~ claim form supplied by the board and itemized billing for a forensic sexual assault examination **or related services within the scope of practice of the respective provider**, the board shall reimburse the hospital or sexual assault examination facility, **pharmacist, health department,** ~~and the~~ physician, ~~or~~ sexual assault nurse examiner, **or other qualified medical professional** as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.

- (c) Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation or proof that the forensic medical examination was performed.
- (9) No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, *the pharmacist, the health department*, the sexual assault nurse examiner, *other qualified medical professional*, the victim's insurance carrier, or the Commonwealth.
- (10) (a) *Each victim shall have the right to determine whether a report or other notification shall be made to law enforcement, except where reporting of abuse and neglect of a child, spouse, and other vulnerable adult is required, as set forth in KRS 209.030, 209A.030, and 620.030. No victim shall be denied an examination because the victim chooses not to file a police report, cooperate with law enforcement, or otherwise participate in the criminal justice system.*
- (b) 1. *All samples collected during an exam where the victim has chosen not to immediately report to law enforcement shall be stored, released, and destroyed, if appropriate, in accordance with an administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in Section 3 of this Act.*
2. *Facilities collecting samples pursuant to this section may provide the required secure storage, sample destruction, and related activities, or may enter into agreements with other agencies qualified to do so, pursuant to administrative regulation.*
3. *All samples collected pursuant to this section shall be stored for at least ninety (90) days from the date of collection in accordance with the administrative regulation promulgated pursuant to this subsection.*
4. *Notwithstanding KRS 524.140, samples collected during exams where the victim chose not to report immediately or file a report within ninety (90) days after collection may be destroyed as set forth in accordance with the administrative regulation promulgated pursuant to this subsection. No hospital, sexual assault examination facility, or designated storage facility shall be liable for destruction of samples after the required storage period has expired.*

➔Section 2. KRS 314.011 is amended to read as follows:

As used in this chapter, unless the context thereof requires otherwise:

- (1) "Board" means 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" means a person who is licensed or holds the privilege to practice 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" means one who is licensed or holds the privilege under the provisions of this chapter to engage in registered nursing practice;
- (6) "Registered nursing practice" means 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, including dispensing medications only as defined in subsection (17)(b) of this section;
 - 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; and
 - (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" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;
- (8) "Advanced registered nursing practice" means 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 and dispense nonscheduled legend drugs as defined in KRS 217.905 and to issue prescriptions for but not to dispense Schedules II through V controlled substances as classified in KRS 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, and 218A.130, under the conditions set forth in KRS 314.042 and regulations promulgated by the Kentucky Board of Nursing on or before August 15, 2006.
- (a) Prescriptions issued by advanced registered nurse practitioners for Schedule II controlled substances classified under KRS 218A.060 shall be limited to a seventy-two (72) hour supply without any refill. Prescriptions issued under this subsection for psychostimulants may be written for a thirty (30) day supply only by an advanced registered nurse practitioner certified in psychiatric-mental health nursing who is providing services in a health facility as defined in KRS Chapter 216B or in a regional mental health-mental retardation services program as defined in KRS Chapter 210.
 - (b) Prescriptions issued by advanced registered nurse practitioners for Schedule III controlled substances classified under KRS 218A.080 shall be limited to a thirty (30) day supply without any refill. Prescriptions issued by advanced registered nurse practitioners for Schedules IV and V controlled substances classified under KRS 218A.100 and 218A.120 shall be limited to the original prescription and refills not to exceed a six (6) month supply.
 - (c) Limitations for specific controlled substances which are identified as having the greatest potential for abuse or diversion, based on the best available scientific and law enforcement evidence, shall be established in an administrative regulation promulgated by the Kentucky Board of Nursing. The regulation shall be based on recommendations from the Controlled Substances Formulary Development Committee, which is hereby created. The committee shall be composed of two (2) advanced registered nurse practitioners appointed by the Kentucky Board of Nursing, one (1) of whom shall be designated as

a committee co-chair; two (2) physicians appointed by the Kentucky Board of Medical Licensure, one (1) of whom shall be designated as a committee co-chair; and one (1) pharmacist appointed by the Kentucky Board of Pharmacy. The initial regulation shall be promulgated on or before August 15, 2006, and shall be reviewed at least annually thereafter by the committee.

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" means one who is licensed or holds the privilege under the provisions of this chapter to engage in licensed practical nursing practice;
- (10) "Licensed practical nursing practice" means 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; and
 - (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" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;
- (12) "Continuing education" means 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" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;
- (14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the ***Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee*** ~~Office of the Kentucky State Medical Examiner~~ pursuant to KRS 216B.400(4);
- (15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;
- (16) "Credential" means a current license, registration, certificate, or other similar authorization that is issued by the board;
- (17) "Dispense" means:
 - (a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or
 - (b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;
- (18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;

- (19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician; and
- (20) "Clinical internship" means a supervised nursing practice experience which involves any component of direct patient care.

➔Section 3. KRS 403.707 is amended to read as follows:

- (1) The Council on Domestic Violence and Sexual Assault shall create a Sexual Assault Response Team Advisory Committee.
- (2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the executive director of the Kentucky Association of Sexual Assault Programs and the commissioner of the Department of Kentucky State Police or the commissioner's designee.
- (3) The membership of the Sexual Assault Response Team Advisory Committee shall consist of the following:
 - (a) The executive director of the Kentucky Board of Nursing or the executive director's designee;
 - (b) The executive director of the Kentucky Nurses Association or the executive director's designee;
 - (c) The executive director of the Kentucky Hospital Association or the executive director's designee;
 - (d) The director of the Department of Kentucky State Police Crime Lab;
 - (e) The chief medical examiner or the chief medical examiner's designee;
 - (f) The executive director of the Division of Child Abuse and Domestic Violence Services or the executive director's designee;
 - (g) The director of the Victims' Advocacy Division of the Office of the Attorney General or the director's designee;
 - (h) A sexual assault nurse examiner serving on the Governor's Council on Domestic Violence and Sexual Assault;
 - (i) A representative from a sexual assault response team serving on the Council on Domestic Violence and Sexual Assault;
 - (j) A physician appointed by the co-chairs of the Council on Domestic Violence and Sexual Assault; and
 - (k) A Commonwealth's attorney or an assistant Commonwealth's attorney appointed by the co-chairs of the Council on Domestic Violence and Sexual Assault.
- (4) Members appointed under subsection (3)(h) to (k) of this section shall serve at the pleasure of the appointing authority and shall not serve longer than four (4) years without reappointment.
- (5) The Sexual Assault Response Team Advisory Committee shall:
 - (a) Serve in an advisory capacity to the Kentucky Board of Nursing in accomplishing the duties set forth under KRS 314.142;
 - (b) Serve in an advisory capacity to the **Justice and Public Safety Cabinet**~~[chief medical examiner]~~ in the development of the statewide sexual assault protocol required under KRS 216B.400(4);
 - (c) Develop a model protocol for the operation of sexual assault response teams which shall include the roles of sexual assault nurse examiners, physicians, law enforcement, prosecutors, and victim advocates;
 - (d) Provide information and recommendations concerning the activities of the agency or organization represented by each individual committee member as related to sexual assault issues and programs within the purview of the agency or organization; and
 - (e) Recommend to the Council on Domestic Violence and Sexual Assault any changes in statute, administrative regulation, training, policy, and budget to promote a multidisciplinary response to sexual assault.

Signed by Governor April 8, 2010.

