

1 AN ACT relating to sexual assault nurse examiners.

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

3 ➔Section 1. KRS 216B.400 is amended to read as follows:

- 4 (1) Where a person has been determined to be in need of emergency care by any person
5 with admitting authority, no such person shall be denied admission by reason only
6 of his or her inability to pay for services to be rendered by the hospital.
- 7 (2) Every hospital of this state which offers emergency services shall provide that ~~fa~~
8 ~~physician,~~ a sexual assault nurse examiner, who shall be a registered nurse licensed
9 in the Commonwealth and credentialed by the Kentucky Board of Nursing as
10 provided under KRS 314.142, is on duty~~for another qualified medical professional,~~
11 ~~as defined by administrative regulation promulgated by the Justice and Public~~
12 ~~Safety Cabinet in consultation with the Sexual Assault Response Team Advisory~~
13 ~~Committee as defined in KRS 403.707, is available on call] twenty-four (24) hours~~
14 each day for the examinations of persons seeking treatment as victims of sexual
15 offenses as defined by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090,
16 510.110, 510.120, 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.
- 17 (3) An examination provided in accordance with this section of a victim of a sexual
18 offense may be performed in a sexual assault examination facility as defined in
19 KRS 216B.015. An examination under this section shall apply only to an
20 examination of a victim.
- 21 (4) The physician, sexual assault nurse examiner, or other qualified medical
22 professional, acting under a statewide medical forensic protocol which shall be
23 developed by the Justice and Public Safety Cabinet in consultation with the Sexual
24 Assault Response Team Advisory Committee as defined in KRS 403.707, and
25 promulgated by the secretary of justice and public safety pursuant to KRS Chapter
26 13A shall, upon the request of any peace officer or prosecuting attorney, and with
27 the consent of the victim, or upon the request of the victim, examine such person for

1 the purposes of providing basic medical care relating to the incident and gathering
2 samples that may be used as physical evidence. This examination shall include but
3 not be limited to:

4 (a) Basic treatment and sample gathering services; and

5 (b) Laboratory tests, as appropriate.

6 (5) Each victim shall be informed of available services for treatment of sexually
7 transmitted infections, pregnancy, and other medical and psychiatric problems.
8 Pregnancy counseling shall not include abortion counseling or referral information.

9 (6) Each victim shall be informed of available crisis intervention or other mental health
10 services provided by regional rape crisis centers providing services to victims of
11 sexual assault.

12 (7) Notwithstanding any other provision of law, a minor may consent to examination
13 under this section. This consent is not subject to disaffirmance because of minority,
14 and consent of the parents or guardians of the minor is not required for the
15 examination.

16 (8) (a) The examinations provided in accordance with this section shall be paid for by
17 the Kentucky Claims Commission at a rate to be determined by the
18 administrative regulation promulgated by the board after consultation with the
19 Sexual Assault Response Team Advisory Committee as defined in KRS
20 403.707.

21 (b) Upon receipt of a completed claim form supplied by the board and an
22 itemized billing for a forensic sexual assault examination or related services
23 that are within the scope of practice of the respective provider and were
24 performed no more than twelve (12) months prior to submission of the form,
25 the board shall reimburse the hospital or sexual assault examination facility,
26 pharmacist, health department, physician, sexual assault nurse examiner, or
27 other qualified medical professional as provided in administrative regulations

1 promulgated by the board pursuant to KRS Chapter 13A. Reimbursement
2 shall be made to an out-of-state nurse who is credentialed in the other state to
3 provide sexual assault examinations, an out-of-state hospital, or an out-of-
4 state physician if the sexual assault occurred in Kentucky.

5 (c) Independent investigation by the Kentucky Claims Commission shall not be
6 required for payment of claims under this section; however, the board may
7 require additional documentation or proof that the forensic medical
8 examination was performed.

9 (9) No charge shall be made to the victim for sexual assault examinations by the
10 hospital, the sexual assault examination facility, the physician, the pharmacist, the
11 health department, the sexual assault nurse examiner, other qualified medical
12 professional, the victim's insurance carrier, or the Commonwealth.

13 (10) (a) Each victim shall have the right to determine whether a report or other
14 notification shall be made to law enforcement, except where reporting of
15 abuse and neglect of a child or a vulnerable adult is required, as set forth in
16 KRS 209.030 and 620.030. No victim shall be denied an examination because
17 the victim chooses not to file a police report, cooperate with law enforcement,
18 or otherwise participate in the criminal justice system.

19 (b) If the victim chooses to report to law enforcement, the hospital shall notify
20 law enforcement within twenty-four (24) hours.

21 (c) 1. All samples collected during an exam where the victim has chosen not
22 to immediately report to law enforcement shall be stored, released, and
23 destroyed, if appropriate, in accordance with an administrative
24 regulation promulgated by the Justice and Public Safety Cabinet in
25 consultation with the Sexual Assault Response Team Advisory
26 Committee as defined in KRS 403.707.

27 2. Facilities collecting samples pursuant to this section may provide the

- 1 required secure storage, sample destruction, and related activities, or
2 may enter into agreements with other agencies qualified to do so,
3 pursuant to administrative regulation.
- 4 3. All samples collected pursuant to this section shall be stored for at least
5 one (1) year from the date of collection in accordance with the
6 administrative regulation promulgated pursuant to this subsection.
- 7 4. Notwithstanding KRS 524.140, samples collected during exams where
8 the victim chose not to report immediately or file a report within one (1)
9 year after collection may be destroyed as set forth in accordance with the
10 administrative regulation promulgated pursuant to this subsection. The
11 victim shall be informed of this process at the time of the examination.
12 No hospital, sexual assault examination facility, or designated storage
13 facility shall be liable for destruction of samples after the required
14 storage period has expired.