**Section 545.60 Treatment of Sexual Assault Survivors**

a) *Every hospital and approved pediatric health care facility providing medical forensic services to sexual assault survivors shall* comply with the federal Emergency Medical Treatment and Active Labor Act and, *as minimum requirements for such services, provide, with the consent of the sexual assault survivor, and as ordered by the attending physician, an APRN* who possesses clinical privileges recommended by the hospital or approved pediatric health care facility medical staff and granted by the hospital or approved pediatric health care facility, as authorized by the Nurse Practice Act, *or a physician assistant, the services set forth in Section 5(a-5)* *of the Act* and this Section. (Section 5(a) of the Act)

b) A *qualified medical provider shall provide the services set forth in Section 5(a-5) of the Act,* and this Section. (Section 5(a) of the Act)

c) Every *hospital with a treatment plan approved by the Department shall employ or contract with a qualified medical provider to initiate medical forensic services to a sexual assault survivor within 90 minutes after the patient presenting to the treatment hospital or treatment hospital with approved pediatric transfer. The provision of medical forensic services by a qualified medical provider shall not delay the provision of life-saving medical care*. (Section 5(a-7) of the Act)

d) *A treatment hospital, a treatment hospital with approved pediatric transfer or an approved pediatric health care facility shall provide the following services in accordance with Section 5(a)* *of the Act*:

1) *Appropriate medical forensic services without delay, in a private, age-appropriate or developmentally appropriate space, required to ensure the health, safety, and welfare of a sexual assault survivor and that may be used as evidence in a criminal proceeding against a person accused of the sexual assault, in a proceeding under the Juvenile Court Act of 1987, or in an investigation under the Abused and Neglected Child Reporting Act.* (Section 5(a-5) of the Act) Medical forensic services shall include, but are not limited to:

A) A general physical examination;

B) Evaluation and treatment for sexually transmitted infections in accordance with the guidelines of the Centers for Disease Control and Prevention titled Sexually Transmitted Diseases Treatment Guidelines, or the standards of the American College of Emergency Physicians titled Management of the Patient with the Complaint of Sexual Assault (see Section 545.25);

C) Evaluation and possible treatment for HIV exposure in accordance with the guidelines of the Centers for Disease Control and Prevention titled Sexually Transmitted Diseases Treatment Guidelines, or the recommendations titled Antiretroviral Postexposure Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccupational Exposure to HIV in the United States, or the standards of the American College of Emergency Physicians titled Management of the Patient with the Complaint of Sexual Assault. Testing for HIV shall be conducted in accordance with the AIDS Confidentiality Act; and

D) Pregnancy test for females of childbearing age;

2) *An offer to complete the Sexual Assault Evidence Collection Kit for any sexual assault survivor who presents within seven days after the assault*, *who has disclosed past sexual assault by a specific individual and was in the care of that individual within the last seven days*, or who has a clinical indication for medical forensic services beyond seven days. Nothing in the Act or this Part prevents a treatment hospital or a treatment hospital with approved pediatric transfer from offering to complete the Sexual Assault Evidence Collection Kit for any sexual assault survivor who presents more than seven days after the assault;

A) *Appropriate oral and written information concerning evidence-based guidelines for the appropriateness of evidence collection, depending on the sexual development of the sexual assault survivor, the type of sexual assault, and the timing of the sexual assault, shall be provided to the sexual assault survivor.* A qualified medical provider shall educate and encourage *prepubescent sexual assault survivors who present to a hospital or approved pediatric health care facility with a complaint of sexual assault within 96 hours after the sexual assault* to agree to evidence collection (however, the seven-day period in subsection (d)(2) still applies)*;*

B) The *information required under this* subsection (d) *shall be provided in person by the qualified medical provider providing medical forensic services directly to the sexual assault survivor* (Section 5(a-5) of the Act)*;*

C) *The written information provided shall be the information created in accordance with Section 10 of the Act* (Section 5(a-5) of the Act)*;*

D) *Following the discussion regarding the evidence-based guidelines for evidence collection in accordance with* subsection (d)(2)(A)*, evidence collection shall be completed at the sexual assault survivor's request. A sexual assault nurse examiner conducting an examination using the Sexual Assault Evidence Collection Kit may do so without the presence or participation of a physician.* (Section 5(a-5) of the Act)

3) *Appropriate oral and written information concerning the possibility of infection, sexually transmitted infection, including an evaluation of the sexual assault survivor's risk of contracting human immunodeficiency virus (HIV) from sexual assault, and pregnancy resulting from sexual assault* (Section 5(a-5) of the Act);

4) *Medically and factually accurate written and oral information about emergency contraception; the indications and contraindications and risks associated with the use of emergency contraception; and a description of how and when* sexual assault survivors *may be provided emergency contraception at no cost upon the written order of a physician, a licensed APRN, or a licensed physician assistant* (Section 2.2(b) of the Act);

5) *Appropriate oral and written information concerning accepted medical procedures, laboratory tests, medication, and possible contraindications of that medication available for the prevention or treatment of infection or disease resulting from sexual assault* (Section 5(a-5) of the Act);

6) *After a medical* forensic *or physical examination, access to a shower at no cost, unless showering facilities are unavailable* (Section 5(a-5) of the Act);

7) *An amount of medication, including HIV prophylaxis, for treatment at the hospital or approved pediatric health care facility and after discharge as is deemed appropriate by the attending physician, an APRN, or a physician assistant in accordance with the Centers for Disease Control and Prevention guidelines* in Section 545.25(b)(1) and (2), *and consistent with the hospital's or approved pediatric health care facility's current approved protocol for sexual assault survivors.* (Section 5(a-5) of the Act) When HIV prophylaxis is deemed appropriate, an initial dose or doses of HIV prophylaxis, along with written and oral instructions indicating the importance of timely follow-up health care, shall be given to the survivor;

8) *Photo documentation of the sexual assault survivor's injuries, anatomy involved in the assault, or other visible evidence on the sexual assault survivor's body to supplement the medical forensic history and written documentation of physical findings and evidence. Photo documentation does not replace written documentation of the injury.* (Section 5(a-5) of the Act);

9) *Written and oral instructions indicating the need for follow-up examinations and laboratory tests* one to two weeks *after the sexual assault* *to determine the presence or absence of sexually transmitted infection* (Section 5(a-5) of the Act);

10) Appropriate referral to a physician. The survivor shall be referred for follow-up health care and monitoring of medication given or prescribed at the time of the initial hospital or approved pediatric health care facility medical forensic services visit as may be deemed appropriate by the attending physician, APRN, or physician assistant;

11) *Referral by hospital or approved pediatric health care facility personnel for appropriate counseling*. (Section 5(a-5) of the Act) Initial referral should be to a community-based rape crisis center, if a center is available, or referral to other counseling shall be provided;

12) *Medical advocacy services provided by a rape crisis counselor whose communications are protected under Section 8-802.1 of the Code of Civil Procedure, if there is a memorandum of understanding between the hospital or approved pediatric health care facility and a rape crisis center. With the consent of the sexual assault survivor, a rape crisis counselor shall remain in the exam room during the medical forensic examination* (Section 5(a-5) of the Act)*;*

13) *Written information regarding services provided by a children's advocacy center and rape crisis center, if applicable* (Section 5(a-5) of the Act)*;*

14) The brochure "After Sexual Assault", published by the Illinois Coalition Against Sexual Assault and the Illinois Department of Public Health, and the pamphlet "Crime Victim Compensation – Frequently Asked Questions by Sexual Assault Victims", published by the Illinois Office of the Attorney General;

15) Information on drug- or alcohol-facilitated sexual assault testing, including an explanation of the comprehensive scope of a drug test or blood alcohol test, and the limited time frame within which evidence can be collected; and

16) *Written information regarding the Illinois State Police sexual assault evidence tracking* system, as provided in Section 545.61. (Section 5(a-5) of the Act)

e) *Records of medical forensic services, including results of examinations and tests, the Illinois State Police Medical Forensic Documentation Forms, the Illinois State Police Patient Discharge Materials, and the Illinois State Police Patient Consent: Collect and Test Evidence or Collect and Hold Evidence Form, shall be maintained by the hospital or approved pediatric health care facility as part of the patient's electronic medical record.*

1) *Records of medical forensic services for sexual assault survivors under the age of 18 shall be retained by the hospital or* approved pediatric health care facility *for a period of 60 years after the sexual assault survivor reaches the age of 18. Records of medical forensic services of sexual assault survivors 18 years of age or older shall be retained by the hospital for a period of 20 years after the date the record was created.*

2) *Records of medical forensic services may only be disseminated in accordance with Section 6.5 of the Act*, Section 545.61 of this Part, *and other State and federal law.* (Section 5(a-5) of the Act)

f) *Any person who is a sexual assault survivor who seeks medical forensic services or follow-up healthcare under* *the* *Act shall be provided those services without the consent of any parent, guardian, custodian, surrogate, or agent.* *If a sexual assault survivor is unable to consent to medical forensic services, the services may be provided under the Consent by Minors to Health Care Services Act, the Health Care Surrogate Act, or other applicable State and federal laws.* (Section 5(b) of the Act)

g) The hospital or approved pediatric health care facility shall develop a *uniform system for recording results of medical examinations and all diagnostic tests performed in connection* with the examination *to determine the condition and necessary treatment of sexual assault survivors.* The *results shall be preserved in a confidential manner as part of the hospital's or approved pediatric health care facility's record of the sexual assault survivor.* (Section 6.1 of the Act) The medical record shall include the information required in this subsection (g):

1) The medical record shall indicate if the sexual assault survivor changed clothes, bathed or douched, defecated, urinated, ate, smoked, or performed oral hygiene between the time of the sexual assault and the time of the examination.

2) The medical record shall indicate presence of all indications of trauma, major or minor, that may be used in a criminal proceeding (e.g., cuts, scratches, bruises, red marks, any minor signs of trauma). Photographs of indications of trauma may be taken for evidentiary purposes with the written consent of the sexual assault survivor or the survivor's parent or guardian if the survivor is under 13 years of age. If the survivor is under 13 years of age and the parent or guardian is not immediately available, photographs may be taken and shall be released to law enforcement personnel and state's attorney staff with written consent of a parent, guardian, or law enforcement officer, or the Department of Children and Family Services.

3) The medical record shall not reflect any conclusions regarding whether a crime (e.g., criminal sexual assault, criminal sexual abuse) occurred.

4) Medical history shall include brief, general information concerning possible injury; drug allergies; and, for female patients, a detailed gynecological history, including whether the patient knows or believes that she is pregnant, history of prior gynecological surgery such as hysterectomy or tubal ligation, history of contraceptive use, history of cancer, and any prior genital injury or trauma.

5) The medical record shall indicate the presence of any and all persons during the examination process. If a medical advocate from a rape crisis center is present, the medical advocate may be listed by first name only, so long as the full name of the rape crisis center is listed in the record.

6) The medical record shall document the compliance with each procedure required by subsection (i).

7) The medical record shall indicate whether a report was filed with the Department of Children and Family Services, or whether the Department on Aging or the Department of Public Health was contacted.

8) The medical record shall include a completed emergency department record.

9) The medical record shall indicate whether the Sexual Assault Evidence Collection Kit was completed.

h) All medical records for sexual assault survivors shall be maintained through a filing system that allows for immediate accessibility during Department surveys. This filing system may be maintained electronically.

i) Procedures to ensure the welfare and privacy of the survivor shall be followed and shall include, but not be limited to, the following:

1) A member of the health care team shall respond within minutes to move the survivor to a closed environment to ensure privacy. Health care personnel shall refer to survivors by code to avoid embarrassment.

2) If, for any reason, the survivor is incapable of receiving oral and written information required in subsection (a), the information shall be given to the caregiver/guardian.

3) When a survivor is in custody, or has been arrested for or convicted of a violent crime or forcible felony and continues to be in custody when the survivor presents for the medical forensic exam, then if the qualified medical provider and the representative of the custodial agency, after consultation with the rape crisis advocate, agree that it is a necessary safety precaution, the representative of the custodial agency may remain in the room. In these situations, hospital staff shall facilitate privacy for the survivor using curtains and positioning.

4) The hospital or approved pediatric health care facility shall call a sexual assault crisis advocate, where available, and shall offer to call a friend or family member to accompany the survivor.

j) *When a minor is the victim of a predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse or criminal sexual abuse, as provided in Sections 11-1.20 through 11-1.60 of the Criminal Code of 2012, the consent of the minor's parent or legal guardian need not be obtained to authorize a hospital*, approved pediatric health care facility*, physician, chiropractic physician, optometrist, APRN, physician assistant, or other medical personnel to furnish medical care or counseling related to the diagnosis or treatment of any disease or injury arising from the offense. The minor may consent to counseling, diagnosis or treatment as if the minor had reached his or her age of majority. This consent shall not be voidable, nor subject to later disaffirmance, because of minority.* (Section 3(b) of the Consent by Minors to Health Care Services Act)

k) All hospitals or approved pediatric health care facilities that provide emergency medical services to sexual assault survivors shall comply with the Crime Victims Compensation Act, the Consent by Minors to Health Care Services Act and any local ordinances, municipal codes, rules, or regulations that may apply to the treatment of sexual assault survivors.

l) All hospitals or approved pediatric health care facilities shall comply with the reporting procedures for sexual assault survivors required by Section 3.2 of the Criminal Identification Act.

m) *Nothing in this Section creates a physician-patient relationship that extends beyond discharge from the hospital or approved pediatric health care facility.* (Section 5(c) of the Act)

n) The hospital or approved pediatric health care facility shall take all reasonable steps to secure the patient's informed written decision to consent to or decline examination and treatment.

o) Nothing in the Act or this Part prohibits a treatment hospital, a treatment hospital with approved pediatric transfer, or an approved pediatric health care facility from treating a sexual assault survivor who presents more than seven days following the assault.

(Source: Amended at 47 Ill. Reg. 18705, effective January 1, 2024)