

1 AN ACT relating to sexual assault emergency response training.

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, the person shall not be denied admission by reason only of
6 his or her inability to pay for services to be rendered by the hospital.

7 (2) ~~A[Every] hospital~~ that~~[of this state which]~~ offers emergency services shall provide
8 that a physician, a sexual assault nurse examiner, who shall be a registered nurse
9 licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing
10 as provided under KRS 314.142, or another qualified medical professional, as
11 defined by administrative regulation promulgated by the Justice and Public Safety
12 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) (a) A hospital that offers emergency services shall provide mandatory training
18 for all emergency medical services staff on sexual assault emergency
19 response requirements, protocols, and resources.

20 (b) The training curriculum shall be developed in collaboration with the
21 members of the Sexual Assault Response Team Advisory Committee
22 appointed pursuant to Section 3 of this Act and shall include but not be
23 limited to the following:

24 1. Instruction on the provisions of:

25 a. KRS 49.270 to 49.490 relating to crime victims' compensation
26 coverage and reimbursement and any related administrative
27 regulations promulgated by the Public Protection Cabinet;

- 1 b. KRS 214.185 relating to the diagnosis and treatment of disease,
2 addictions, or other conditions of a minor;
3 c. KRS 216B.015 relating to the definition of a sexual assault
4 examination facility;
5 d. KRS 216B.140 relating to medical and diagnostic services for
6 minor victims of sexual violence;
7 e. This section relating to hospital duties to victims of sexual
8 violence and victims' rights and related administrative
9 regulations promulgated by the Cabinet for Health and Family
10 Services;
11 f. KRS 216B.401 relating to SANE-ready hospitals that have
12 sexual assault nurse examiner available on call twenty-four (24)
13 hours a day;
14 g. Administrative regulations promulgated by the Justice and
15 Public Safety Cabinet relating to protocols for sexual assault
16 forensic exams and storage of sexual assault forensic exam kits;
17 and
18 h. Administrative regulations promulgated by the Kentucky Board
19 of Nursing relating to sexual assault nurse examiner
20 credentialing and standards;

21 2. An overview of:

- 22 a. The Kentucky Medical Protocol for Child Sexual Assault/Abuse
23 Evaluation;
24 b. Resources related to sexual assault available from the Kentucky
25 Hospital Association; and
26 c. The Kentucky State Police sexual assault forensic examination
27 (SAFE) kit tracking portal; and

1 **3. Instruction on:**

2 **a. Forensic evidence collection provided by a credentialed sexual**

3 **assault nurse examiner; and**

4 **b. Services provided by a rape crisis center.**

5 **(4)** An examination provided in accordance with this section of a victim of a sexual
6 offense may be performed in a sexual assault examination facility as defined in
7 KRS 216B.015. An examination under this section shall apply only to an
8 examination of a victim.

9 ~~**(5)**~~ ~~**(4)**~~ The physician, sexual assault nurse examiner, or other qualified medical
10 professional, acting under a statewide medical forensic protocol which shall be
11 developed by the Justice and Public Safety Cabinet in consultation with the Sexual
12 Assault Response Team Advisory Committee as defined in KRS 403.707, and
13 promulgated by the secretary of justice and public safety pursuant to KRS Chapter
14 13A shall, upon the request of any peace officer or prosecuting attorney, and with
15 the consent of the victim, or upon the request of the victim, examine the victim for
16 the purposes of providing basic medical care relating to the incident and gathering
17 samples that may be used as physical evidence. This examination shall include but
18 not be limited to:

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

20 (b) Laboratory tests, as appropriate.

21 ~~**(6)**~~ ~~**(5)**~~ Each victim shall be informed of available services for treatment of sexually
22 transmitted infections, pregnancy, and other medical and psychiatric problems.
23 Pregnancy counseling shall not include abortion counseling or referral information.

24 ~~**(7)**~~ ~~**(6)**~~ Each victim shall be informed of available crisis intervention or other mental
25 health services provided by regional rape crisis centers providing services to
26 victims of sexual assault.

27 ~~**(8)**~~ ~~**(7)**~~ Notwithstanding any other provision of law, a minor may consent to

1 examination under this section. This consent is not subject to disaffirmance because
2 of minority, and consent of the parents or guardians of the minor is not required for
3 the examination.

4 ~~(9)~~(8) (a) The examinations provided in accordance with this section and other
5 services provided to a victim pursuant to subsection (9) of this section shall be
6 paid for by the Crime Victims Compensation Board at a rate to be determined
7 by the administrative regulation promulgated by the board after consultation
8 with the Sexual Assault Response Team Advisory Committee as defined in
9 KRS 403.707. Payment for services rendered pursuant to subsection ~~(10)~~(9)
10 of this section shall be made at a rate not to exceed the Medicaid
11 reimbursement rate for the same or similar services.

12 (b) Upon receipt of a completed claim form supplied by the board and an
13 itemized billing for a forensic sexual assault examination or related services
14 that are within the scope of practice of the respective provider and were
15 performed no more than twelve (12) months prior to submission of the form,
16 the board shall reimburse the hospital or sexual assault examination facility,
17 pharmacist, health department, physician, sexual assault nurse examiner, or
18 other qualified medical professional as provided in administrative regulations
19 promulgated by the board pursuant to KRS Chapter 13A. Reimbursement
20 shall be made to an out-of-state nurse who is credentialed in the other state to
21 provide sexual assault examinations, an out-of-state hospital, or an out-of-
22 state physician if the sexual assault occurred in Kentucky.

23 (c) Independent investigation by the Crime Victims Compensation Board shall
24 not be required for payment of claims under this section; however, the board
25 may require additional documentation or proof that the forensic medical
26 examination was performed.

27 ~~(10)~~(9) When an examination of a victim of a sexual offense is provided in

1 accordance with this section, no charge shall be made to the victim by the hospital,
2 the sexual assault examination facility, the physician, the pharmacist, the health
3 department, the sexual assault nurse examiner, other qualified medical professional,
4 the victim's insurance carrier, or the Commonwealth for:

- 5 (a) Sexual assault examinations, whether or not the exam is completed;
- 6 (b) Prophylactic medical treatment;
- 7 (c) Strangulation assessments; or
- 8 (d) Other medical tests or services, including triage and ambulance expenses,
9 related to the incident, exam, or treatment which occur on the same date as the
10 original exam.

11 ~~(11)~~~~(10)~~ (a) Each victim shall have the right to determine whether a report or other
12 notification shall be made to law enforcement, except where reporting of
13 abuse and neglect of a child or a vulnerable adult is required, as set forth in
14 KRS 209.030 and 620.030. No victim shall be denied an examination, or
15 billed in violation of subsection ~~(10)~~~~(9)~~ of this section, because the victim
16 chooses not to file a police report, cooperate with law enforcement, or
17 otherwise participate in the criminal justice system.

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

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

26 2. Facilities collecting samples pursuant to this section may provide the
27 required secure storage, sample destruction, and related activities, or

1 may enter into agreements with other agencies qualified to do so,
2 pursuant to administrative regulation.

3 3. All samples collected pursuant to this section shall be stored for at least
4 one (1) year from the date of collection in accordance with the
5 administrative regulation promulgated pursuant to this subsection.

6 4. Notwithstanding KRS 524.140, samples collected during exams where
7 the victim chose not to report immediately or file a report within one (1)
8 year after collection may be destroyed as set forth in accordance with
9 the administrative regulation promulgated pursuant to this subsection.
10 The victim shall be informed of this process at the time of the
11 examination. No hospital, sexual assault examination facility, or
12 designated storage facility shall be liable for destruction of samples after
13 the required storage period has expired.

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

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

16 (1) "Board" means Kentucky Board of Nursing;

17 (2) "Delegation" means directing a competent person to perform a selected nursing
18 activity or task in a selected situation under the nurse's supervision and pursuant to
19 administrative regulations promulgated by the board in accordance with the
20 provisions of KRS Chapter 13A;

21 (3) "Nurse" means a person who is licensed or holds the privilege to practice under the
22 provisions of this chapter as a registered nurse or as a licensed practical nurse;

23 (4) "Nursing process" means the investigative approach to nursing practice utilizing a
24 method of problem-solving by means of:

25 (a) Nursing diagnosis, a systematic investigation of a health concern, and an
26 analysis of the data collected in order to arrive at an identifiable problem; and

27 (b) Planning, implementation, and evaluation based on nationally accepted

1 standards of nursing practice;

2 (5) "Registered nurse" means one who is licensed or holds the privilege under the
3 provisions of this chapter to engage in registered nursing practice;

4 (6) "Registered nursing practice" means the performance of acts requiring substantial
5 specialized knowledge, judgment, and nursing skill based upon the principles of
6 psychological, biological, physical, and social sciences in the application of the
7 nursing process in:

8 (a) The care, counsel, and health teaching of the ill, injured, or infirm;

9 (b) The maintenance of health or prevention of illness of others;

10 (c) The administration of medication and treatment as prescribed by a physician,
11 physician assistant, dentist, or advanced practice registered nurse and as
12 further authorized or limited by the board, and which are consistent either
13 with American Nurses' Association Scope and Standards of Practice or with
14 standards of practice established by nationally accepted organizations of
15 registered nurses. Components of medication administration include but are
16 not limited to:

17 1. Preparing and giving medications in the prescribed dosage, route, and
18 frequency, including dispensing medications only as defined in
19 subsection (17)(b) of this section;

20 2. Observing, recording, and reporting desired effects, untoward reactions,
21 and side effects of drug therapy;

22 3. Intervening when emergency care is required as a result of drug therapy;

23 4. Recognizing accepted prescribing limits and reporting deviations to the
24 prescribing individual;

25 5. Recognizing drug incompatibilities and reporting interactions or
26 potential interactions to the prescribing individual; and

27 6. Instructing an individual regarding medications;

- 1 (d) The supervision, teaching of, and delegation to other personnel in the
2 performance of activities relating to nursing care; and
- 3 (e) The performance of other nursing acts which are authorized or limited by the
4 board, and which are consistent either with American Nurses' Association
5 Standards of Practice or with Standards of Practice established by nationally
6 accepted organizations of registered nurses;
- 7 (7) "Advanced practice registered nurse" or "APRN" means a certified nurse
8 practitioner, certified registered nurse anesthetist, certified nurse midwife, or
9 clinical nurse specialist, who is licensed to engage in advance practice registered
10 nursing pursuant to KRS 314.042 and certified in at least one (1) population focus;
- 11 (8) "Advanced practice registered nursing" means the performance of additional acts by
12 registered nurses who have gained advanced clinical knowledge and skills through
13 an accredited education program that prepares the registered nurse for one (1) of the
14 four (4) APRN roles; who are certified by the American Nurses' Association or
15 other nationally established organizations or agencies recognized by the board to
16 certify registered nurses for advanced practice registered nursing as a certified nurse
17 practitioner, certified registered nurse anesthetist, certified nurse midwife, or
18 clinical nurse specialist; and who certified in at least one (1) population focus. The
19 additional acts shall, subject to approval of the board, include but not be limited to
20 prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced
21 practice registered nurses who engage in these additional acts shall be authorized to
22 issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS
23 217.905 and to issue prescriptions for but not to dispense Schedules II through V
24 controlled substances described in or as classified pursuant to KRS 218A.020,
25 218A.060, 218A.080, 218A.100, and 218A.120 under the conditions set forth in
26 KRS 314.042 and regulations promulgated by the Kentucky Board of Nursing on or
27 before August 15, 2006.

- 1 (a) 1. Prescriptions issued by advanced practice registered nurses for Schedule
2 II controlled substances classified under KRS 218A.060, except
3 hydrocodone combination products as defined in KRS 218A.010, shall
4 be limited to a seventy-two (72) hour supply without any refill.
- 5 2. Prescriptions issued by advanced practice registered nurses for
6 hydrocodone combination products as defined in KRS 218A.010 shall
7 be limited to a thirty (30) day supply without any refill.
- 8 3. Prescriptions issued under this subsection for psychostimulants may be
9 written for a thirty (30) day supply only by an advanced practice
10 registered nurse certified in psychiatric-mental health nursing who is
11 providing services in a health facility as defined in KRS Chapter 216B
12 or in a regional services program for mental health or individuals with
13 an intellectual disability as defined in KRS Chapter 210.
- 14 (b) Prescriptions issued by advanced practice registered nurses for Schedule III
15 controlled substances classified under KRS 218A.080 shall be limited to a
16 thirty (30) day supply without any refill. Prescriptions issued by advanced
17 practice registered nurses for Schedules IV and V controlled substances
18 classified under KRS 218A.100 and 218A.120 shall be limited to the original
19 prescription and refills not to exceed a six (6) month supply.
- 20 Nothing in this chapter shall be construed as requiring an advanced practice
21 registered nurse designated by the board as a certified registered nurse anesthetist to
22 obtain prescriptive authority pursuant to this chapter or any other provision of law
23 in order to deliver anesthesia care. The performance of these additional acts shall be
24 consistent with the certifying organization or agencies' scopes and standards of
25 practice recognized by the board by administrative regulation;
- 26 (9) "Licensed practical nurse" means one who is licensed or holds the privilege under
27 the provisions of this chapter to engage in licensed practical nursing practice;

- 1 (10) "Licensed practical nursing practice" means the performance of acts requiring
2 knowledge and skill such as are taught or acquired in approved schools for practical
3 nursing in:
- 4 (a) The observing and caring for the ill, injured, or infirm under the direction of a
5 registered nurse, advanced practice registered nurse, physician assistant,
6 licensed physician, or dentist;
- 7 (b) The giving of counsel and applying procedures to safeguard life and health, as
8 defined and authorized by the board;
- 9 (c) The administration of medication or treatment as authorized by a physician,
10 physician assistant, dentist, or advanced practice registered nurse and as
11 further authorized or limited by the board which is consistent with the
12 National Federation of Licensed Practical Nurses or with Standards of
13 Practice established by nationally accepted organizations of licensed practical
14 nurses;
- 15 (d) Teaching, supervising, and delegating except as limited by the board; and
- 16 (e) The performance of other nursing acts which are authorized or limited by the
17 board and which are consistent with the National Federation of Practical
18 Nurses' Standards of Practice or with Standards of Practice established by
19 nationally accepted organizations of licensed practical nurses;
- 20 (11) "School of nursing" means a nursing education program preparing persons for
21 licensure as a registered nurse or a practical nurse;
- 22 (12) "Continuing education" means offerings beyond the basic nursing program that
23 present specific content planned and evaluated to meet competency based
24 behavioral objectives which develop new skills and upgrade knowledge;
- 25 (13) "Nursing assistance" means the performance of delegated nursing acts by
26 unlicensed nursing personnel for compensation under supervision of a nurse;
- 27 (14) "Sexual assault nurse examiner" means a registered nurse who has completed the

1 required education and clinical experience and maintains a current credential from
2 the board as provided under KRS 314.142 to conduct forensic examinations of
3 victims of sexual offenses under the medical protocol issued by the Justice and
4 Public Safety Cabinet in consultation with the Sexual Assault Response Team
5 Advisory Committee pursuant to KRS 216B.400~~(5)~~~~(4)~~;

6 (15) "Competency" means the application of knowledge and skills in the utilization of
7 critical thinking, effective communication, interventions, and caring behaviors
8 consistent with the nurse's practice role within the context of the public's health,
9 safety, and welfare;

10 (16) "Credential" means a current license, registration, certificate, or other similar
11 authorization that is issued by the board;

12 (17) "Dispense" means:

13 (a) To receive and distribute nonscheduled legend drug samples from
14 pharmaceutical manufacturers to patients at no charge to the patient or any
15 other party; or

16 (b) To distribute nonscheduled legend drugs from a local, district, and
17 independent health department, subject to the direction of the appropriate
18 governing board of the individual health department;

19 (18) "Dialysis care" means a process by which dissolved substances are removed from a
20 patient's body by diffusion, osmosis, and convection from one (1) fluid
21 compartment to another across a semipermeable membrane;

22 (19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a
23 physician and who provides dialysis care in a licensed renal dialysis facility under
24 the direct, on-site supervision of a registered nurse or a physician;

25 (20) "Population focus" means the section of the population within which the advanced
26 practice registered nurse has targeted to practice. The categories of population foci
27 are:

- 1 (a) Family and individual across the lifespan;
- 2 (b) Adult gerontology;
- 3 (c) Neonatal;
- 4 (d) Pediatrics;
- 5 (e) Women's health and gender-related health; and
- 6 (f) Psychiatric mental health; and

7 (21) "Conviction" means but is not limited to:

- 8 (a) An unvacated adjudication of guilt;
 - 9 (b) Pleading no contest or nolo contendere or entering an Alford plea; or
 - 10 (c) Entering a guilty plea pursuant to a pretrial diversion order;
- 11 Regardless of whether the penalty is rebated, suspended, or probated.

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

- 13 (1) The Sexual Assault Response Team Advisory Committee is established.
- 14 (2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the
15 executive director of the Kentucky Association of Sexual Assault Programs and the
16 commissioner of the Department of Kentucky State Police or the commissioner's
17 designee.
- 18 (3) The membership of the Sexual Assault Response Team Advisory Committee shall
19 consist of the following:
 - 20 (a) The executive director of the Kentucky Board of Nursing or the executive
21 director's designee;
 - 22 (b) The executive director of the Kentucky Nurses Association or the executive
23 director's designee;
 - 24 (c) The executive director of the Kentucky Hospital Association or the executive
25 director's designee;
 - 26 (d) The executive director of the Kentucky Association of Children's Advocacy
27 Centers;

- 1 (e) The director of the Department of Kentucky State Police Crime Lab;
- 2 (f) The commissioner of the Department for Community Based Services or the
3 commissioner's designee;
- 4 (g) The director of the Office of Victims Advocacy in the Office of the Attorney
5 General or the director's designee;
- 6 (h) A sexual assault nurse examiner appointed by the secretary of the Cabinet for
7 Health and Family Services;
- 8 (i) A representative from a sexual assault response team appointed by the
9 executive director of the Kentucky Association of Sexual Assault Programs;
- 10 (j) A physician appointed by the secretary of the Cabinet for Health and Family
11 Services; and
- 12 (k) A Commonwealth's attorney or an assistant Commonwealth's attorney
13 appointed by the Attorney General.
- 14 (4) Members appointed under subsection (3)(h) to (k) of this section shall serve at the
15 pleasure of the appointing authority and shall not serve longer than four (4) years
16 without reappointment.
- 17 (5) The Sexual Assault Response Team Advisory Committee shall:
- 18 (a) Serve in an advisory capacity to the Kentucky Board of Nursing in
19 accomplishing the duties set forth under KRS 314.142;
- 20 (b) Serve in an advisory capacity to the Justice and Public Safety Cabinet in the
21 development of the statewide sexual assault protocol required under KRS
22 216B.400(5)(4);
- 23 (c) Develop a model protocol for the operation of sexual assault response teams
24 which shall include the roles of sexual assault nurse examiners, physicians,
25 law enforcement, prosecutors, and victim advocates;
- 26 (d) Provide assistance to each regional rape crisis center, as designated by the
27 Cabinet for Health and Family Services, in establishing a regional sexual

- 1 assault response team;
- 2 (e) Develop model policies for law enforcement agencies related to handling
3 sexual assault examination kits and investigating sexual assaults with a
4 victim-centered, evidence-based approach;
- 5 (f) By January 1, 2018, report to the General Assembly on the results of the
6 analysis of previously untested sexual assault examination kits submitted to
7 the Department of Kentucky State Police forensic laboratory pursuant to 2016
8 Ky. Acts ch. 58, sec. 1, including whether analysis of those kits led to the
9 identification and prosecution of suspects and the cost to society of the
10 offenses committed by the suspects identified;
- 11 (g) By July 1, 2018, and by each July 1 thereafter, report to the General Assembly
12 and to the secretary of the Justice and Public Safety Cabinet on the number of
13 sexual assaults reported, the number of sexual assault examination kits
14 submitted to the Department of Kentucky State Police forensic laboratory, the
15 number of kits tested, and the number of charges filed and convictions
16 obtained in sexual assault cases in the previous calendar year;
- 17 (h) Provide information and recommendations concerning the activities of the
18 agency or organization represented by each individual committee member as
19 related to sexual assault issues and programs within the purview of the agency
20 or organization; and
- 21 (i) Recommend to the appropriate state agency any changes in statute,
22 administrative regulation, training, policy, and budget to promote a
23 multidisciplinary response to sexual assault.