

Plan for Sexual Assault Patient Care 24/7					
Staffing					
Section	Legislative Rule	Hospital Responsibility	Required	Recommended Best Practice	Hospital Plan Notes - Attach documents and reference those in this section
3.1.	By January 1, 2026, a hospital shall have available 24 hours a day, seven days a week:				
3.1.1.	a qualified healthcare provider performing medical forensic services	Hospitals must have 24/7 coverage for SANE examinations for both adult/adolescent and pediatric/adolescent. Qualified healthcare provider is defined as: • a registered professional nurse who has completed a sexual assault nurse examiner course and training requirements approved by the SAFE Commission • a registered professional nurse who has completed a modified sexual assault examiner course approved by the SAFE Commission and utilizes a teleSANE in performing forensic exams • a physician performing forensic exams within his or her scope of practice and with the availability of a teleSANE • a physician assistant performing forensic exams within his or her scope of practice and with the availability of a teleSANE • an advanced practice registered nurse performing forensic exams within his or her scope of practice and with the availability of a teleSANE	• 24/7 coverage by qualified healthcare provider as defined	• Published Call Schedules showing 24/7 coverage • Documentation of education of SANE/SAFE medical provider • Hospital orientation to SANE/SAFE	1. Call schedules or plan for 24/7 coverage 2. Certifications of examiners
3.2	In lieu of the requirements contained in subsection 3.1., a signed written agreement with a hospital that is in compliance with the requirements of subsection 3.1. is acceptable for compliance. A hospital is permitted to have a signed written agreement with another hospital to provide medical forensic services for an adult, a child, or both.	Should a facility not be able to perform the above, a written transfer agreement must be in place with a facility that can perform the SANE examination and has 24/7 coverage for adult/adolescent and/or pediatric/adolescent.	• For hospitals who CANNOT attain 24/7 coverage for SANE, written transfer agreements with hospitals which do have 24/7 SANE coverage	• Signed written agreements with facilities that have 24/7 response for victims.	1. Signed written transfer agreements with facilities that have a 24/7 response for the population that needs transferred.
Treatment					

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3.2.	A health care facility that provides sexual assault forensic exams shall provide the following services:				
3.2.1.	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 victim who presents within 96 hours after the offense, or who has disclosed past sexual assault by a specific individual and was in the care of that individual within the last 96 hours;	Hospitals must provide an appropriate space as defined.	•Dedicated space to care for SA patients •Space must be private, age-appropriate, developmentally appropriate •Access to SANE exam must not be delayed	•Defined room for sexual assault patients •Room has space to perform MFE •SANE cart with all supplies readily available for SANE to access quickly	
3.4.	Procedures to ensure the welfare and privacy of the victim shall be followed and shall include, but not be limited to, the following:				
3.4.1.	A member of the health care team shall respond immediately with the goal of placing a victim in a private area within 30 minutes of arrival to ensure privacy. Upon arrival the health care team shall initiate the hospital's plan for sexual assault victims. Health care personnel shall refer to victims by code to avoid embarrassment.	Patients presenting to the hospital after sexual assault are to be roomed as soon as reasonably possible. Acute sexual assault patients are considered ESI score 2. Hospitals should have policies/procedures to address the privacy and treatment of the patient.	•Door to room goal of 30 minutes •Facility plan/protocol that staff can initiate on arrival of patient •Code to refer to victim by to avoid embarrassment	•Policy/procedure detailing hospital plan including code to be used and timeframe to room	1. Hospital plan for treatment of the sexual assault victim (include the title of the policy/procedure for ease of review by SAFE Commission)
3.4.3.	When a victim 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 victim presents for the medical forensic exam, then if the qualified healthcare provider and the representative of the custodial agency, after consultation with the rape crisis center 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 victim using curtains and positioning.	Hospitals should have policy/procedure that address the treatment of patients in custody, including facilitation of privacy during examination.	•Process to address treatment of SA victim that is in custody •Process to ensure privacy of the victim in custody when custodial agents must remain bedside	•Policy/procedure for treatment of patients in custody of law enforcement presenting for treatment after sexual assault	

3.4.4.	The health care facility shall call a rape crisis center advocate and shall offer to call a friend or family member to accompany the victim. Prior to the introduction to the advocate, the victim must express consent to advocacy to a qualified healthcare provider. With the consent of the sexual assault victim, a rape crisis center advocate shall remain in the exam room during the medical forensic examination.	Hospitals must contact the rape crisis center to have an on-call advocate sent to the facility. Hospitals must allow the advocate, at the consent and request of the patient, to remain present for the examination as a support person. Hospitals must allow the patient the choice to have a family member or friend present.	•Hospitals must notify the rape crisis center (RCC) of the patient presentation at the hospital so that advocates can respond. If the patient request, the advocate must be allowed to remain bedside during the exam •Hospitals must offer to notify patient's family or friend of the patient's choosing	•Policy/procedure detailing the process for notification of advocacy/friend/family.	-
3.4.5.	After a medical forensic or physical examination, access to a shower at no cost, unless showering facilities are unavailable.	Hospitals must have an area that patients can shower after their examination is complete, unless there are no showers on site at the facility.	•Hospitals must have shower available for patient to use once MFE completed		1. Showers for victims to use after examination
3.5.	A hospital that provides emergency medical services to sexual assault victims shall comply with the West Virginia Crime Victims Compensation Act, West Virginia Health Care Decisions Act, and any local ordinances, municipal codes, rules, or regulations that may apply to the treatment of sexual assault victims.	Health care facilities will abide by existing acts, local ordinances, municipal codes, rules, or regulations that apply to treatment of sexual assault victims.		•Provide patients with the information regarding the WV Crime Compensation Act	-
3.6.	Nothing in this rule creates a physician-patient relationship that extends beyond discharge from the hospital.	Physicians in the emergency department are not bound to physician-patient relationship beyond discharge from the health care facility by this rule.			
3.8.	Nothing in this rule prohibits a hospital from treating a sexual assault victim who presents more than 96 hours following the offense.	SAECK does not occur beyond 96 hours following sexual assault. Patients presenting for treatment after 96 hours are still to be treated per EMTALA.	•Hospitals should note that victims will present beyond the acute kit collection window, these patient are still to be treated as per EMTALA guidelines		
5.1.	The Sexual Assault Evidence Collection Kit shall be used in the manner prescribed by the information contained in that kit.	The SAECK shall be used as directed in the instructional guide contained in the kit.	•Hospitals may only use the SAECK as instructed	•Kits should only be performed by trained medical professionals as defined by the rule	

Oral and Written Information/Discharge Information

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3.2.2.	Appropriate oral and written information concerning evidence-based guidelines for the collection of evidence, depending on the sexual development of the sexual assault victim, the type of sexual offense, and the timing of the sexual offense. The qualified healthcare provider shall educate and request consent to evidence collection of sexual assault victims who present to a hospital with complaint of sexual offense within 96 hours after the sexual offense. Following the discussion regarding the evidence-based guidelines for evidence collection, evidence collection shall be completed after the sexual assault victim's consent. The information required under this subsection shall be provided in person by the qualified medical healthcare provider providing medical forensic services directly to the sexual assault victim.	Hospitals must have written education to provide to patients regarding evidence-based practice for collection of SAECK. Hospitals must be aware of and educate on the consent process for WVSAECK.	•Written documents to provide patients on evidence-based guidelines for collection of evidence	•Educational information that is provided to the patient as described	1. Document(s) that are provided to patient regarding the evidence-based guidelines for collection of evidence (include the title of the document for ease of review by the SAFE Commission).
3.2.3.	Appropriate oral and written information concerning the possibility of infection or sexually transmitted infection in accordance with CDC guidelines.	Educational materials must be provided to the patient regarding risk of STI and must be based off current CDC guidelines.	•Written documents to provide patients on STI transmission from sexual assault based off CDC guidelines	•Educational information that is provided to the patient as described	1. Document(s) that are provided to patient regarding the possibility of infection or sexually transmitted infection in accordance with CDC guidelines (include the title of the document for ease of review by the SAFE Commission).
3.2.4.	Medically accurate written and oral information about emergency contraception in accordance with CDC guidelines;	Educational materials must be provided to the patient regarding risk of pregnancy and EC use and must be based off current CDC guidelines.	•Written documents to provide patients regarding emergency contraception based off CDC guidelines	• Educational information that is provided to the patient as described	1. Document(s) that are provided to patient regarding emergency contraception in accordance with CDC guidelines (include the title of the document for ease of review by the SAFE Commission).
3.2.5.	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 offense;	Educational materials must be provided to the patient regarding any procedures, testing and medications that the patient is receiving during care.	•Written documents to provide patients regarding all of the following: •medical procedures •laboratory tests •medications •contraindications of medications for use to prevent or treat STI	• Educational information that is provided to the patient as described	1. Document(s) regarding the medical procedures, laboratory tests, medications, and contraindications of medications to provide to the patient (include the title of the document for ease of review by the SAFE Commission).
3.2.6.	Referral for appropriate counseling. Initial referral should be to a community-based rape crisis center;	Facilities must provide information on discharge instructions for the local community-based rape crisis center. Patients should be directed to follow up for counseling services.	•Providers must note referral to services on discharge •Initial referral should be to local RCC	•Create working relationships with local RCC and CAC	1. Referral information to provide to the patient on discharge (include the title of the document for ease of review by the SAFE Commission).

3.2.7.	Written information regarding services provided by a rape crisis center and children's advocacy center, if applicable;	Educational materials must be provided regarding services offered by the rape crisis center and children's advocacy center as applicable to the patient.	•Written document that details services offered by the local RCC or CAC to provide to the patient		1. Written document regarding services provided by the local rape crisis center and/or children's advocacy center (include the title of the document for ease of review by the SAFE Commission).
3.2.8.	Information on drug- or alcohol-facilitated sexual offense 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	Educational materials must be provided regarding testing for drug or alcohol facilitated sexual offense testing. This information must include the testing limitations.	•Written documents that details drug or alcohol facilitated sexual offense testing that includes the abilities and limitations of testing		1. Written document about drug or alcohol facilitated sexual offense testing including an explanation of the scope and time frame that testing can be performed. This will be supplied by the West Virginia State Police Forensic Laboratory.
3.4.2.	If, for any reason, the victim is incapable of receiving oral and written information required in paragraph 3.2.2.a., the information shall be given to the caregiver/guardian.	Hospitals must provide information listed to a caregiver or guardian if the victim is unable to receive the oral and written information.	•In cases where the patient is unable to receive oral/written information, information must be provided to the caregiver or guardian of the patient	•Policy/protocol for care of incapacitated/minor patients	
5.3.2.	The hospital shall provide the sexual assault victim with the kit tracking number and inform the victim that the kit may be tracked using the tracking kit number at www.go.wv.gov/kit .	The examiner shall provide the patient with the informational card regarding kit tracking, including providing the kit tracking card to the patient.	•Hospitals must provide patients with the kit tracking number	•Using the contained kit card to provide patients with the kit tracking and website to track kit	1. Kit tracking cards are included in the SAECK. The examiner must provide the patient with this card with the kit tracking number attached.

Consent

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3.3.	If a sexual assault victim is unable to consent to medical forensic services, the services may be provided under the West Virginia Health Care Decisions Act, the Health Care Surrogate Act, or other applicable State and federal laws;	Facilities must have policy/procedure for obtaining consent on patients who cannot consent due to incapacity.	•Hospitals must have plan to perform kit collection on the incapacitated victim	•Policy/procedure for consent for medical forensic services in the incapacitated patient.	
3.7.	The hospital shall take all reasonable steps to document the patient's informed decision to consent to or decline examination and treatment.	Hospitals must have a process to document the consent or declination to examination and treatment.	•Hospitals must document informed decision to consent or decline exam	•Policy/process for the retention and securement of patient records and decisions to consent or decline exam	1. Plan of how/where to secure written consent (include title of policy/procedure for ease of review by SAFE Commission). 2. Procedure for documenting consent or declination
5.2.	With the victim's consent, as prescribed by subsection 5.3., the kit shall be completed in acute cases if the victim presents themselves for medical forensic services within 96 hours after the sexual offense or has disclosed past sexual offense by a specific individual and was in the care of that individual within the last 96 hours.	When presenting to a facility within 96 hours of sexual assault and requested by the patient, a SAECK will be performed by a qualified medical provider.	•Hospitals must offer acute sexual assault (96 hours since assault) access to SAECK •Hospitals must offer SAECK to victims who detail past assault and were in the care of the individual within the last 96 hours	•Policy/procedure detailing when SAECK will be performed	-

5.3.	Written Consent to the Release of Sexual Assault Evidence for Testing.				
5.3.1.	Prior to the medical forensic exam, the qualified healthcare provider providing the medical forensic services shall provide the patient the opportunity to sign a written consent to allow the transmission of sexual assault evidence for testing or to be stored as a nonreported kit. The written consent shall be on a form included in the Sexual Assault Evidence Collection Kit.	Hospitals must utilize the report to law enforcement consent contained within the WV SAECK when the patient is requesting to report the offense to law enforcement. Hospitals must utilize the non-report to law enforcement consent contained within the WV SAECK when the patient is requesting to have a kit performed, but wishes not to report the offense to law enforcement at the time of treatment.	•Hospitals must allow patients the opportunity to choose to consent for releasing the kit to law enforcement or not reporting the kit to law enforcement at the time of collection •Hospitals must utilize the consent contained in the SAECK for either consent to report or non-report		
5.3.1.a.	If the victim is an adult who has a guardian, a health care surrogate, or an agent acting under a health care power of attorney, the consent of the guardian, surrogate, or agent is not required to release evidence and information concerning the sexual assault or sexual abuse. If the adult is unable to provide consent for the release of evidence and information and a guardian, surrogate, or agent under a health care power of attorney is unavailable or unwilling to release the information, then an investigating law enforcement officer may authorize the release.	In cases where the victim is an incapacitated adult, law enforcement may subpoena for release of the kit to the WV State Police Crime Lab. Cases where the incapacitated adult patient is sexually assaulted should be reported to Adult Protective Services as appropriate.	•Hospitals must acknowledge that in cases where the victim cannot grant consent to perform the exam, consent is not required by the guardian/healthcare surrogate/agent •Should the guardian/healthcare surrogate/agent be unwilling to consent to releasing the evidence, law enforcement can be contacted to authorize the release		
5.3.1.b.	After the qualified healthcare provider makes a mandatory report to law enforcement, all Sexual Assault Evidence Collection Kits collected on minors under the age of 18 shall be transmitted to the West Virginia State Police Lab for testing with no consent required.	In cases where the patient is under 18, Child Protective Services and Law Enforcement must be contacted. No consent is required to release the kit to the WV State Crime Lab, and no kit performed on a patient under 18 years of age should ever be sent to Marshall University Forensic Science Center as a non-report.	•For patients under age 18, CPS must be notified •After kit collection, kits on patients under 18 must be sent to WVSP lab for testing		
5.3.3.	The hospital shall keep a copy of the written consent form in the patient's forensic medical record.	Hospitals must have a secure location to store patient records, including consents.	•Hospitals must retain a copy of the written consent for the SAECK	•Policy for the retention and securement of patient records	1. Plan/policy/procedure for where to store written consent/forensic medical record (include title of policy/procedure for ease of review by SAFE Commission).

5.4.	If an adult sexual assault victim does not consent to law enforcement involvement, the victim shall be given the opportunity to sign a written request that the kit shall be designated a nonreported kit and transmitted to the Marshall University Forensic Science Center. Sexual assault victims shall be informed in writing at the time their nonreported kit is collected that the kit shall be stored and maintained for a period of 20 years from the date the kit was collected.	When an adult patient requests to have kit collection performed, but wishes not to report the offense to law enforcement, the patient must be presented with the consent for non-report. SAECK will occur, with the examiner then submitting the kit to the Marshall University Forensic Science Center. The examiner must provide the patient with a copy of the non-report consent and inform the patient that the kit will be maintained for 20 years.	•Adult patients with capacity shall be allowed to elect for a nonreport kit •Nonreport kits shall be mailed to MUFSC •Patients shall receive written document regarding kit storage for 20 years at MUFSC	•Written directions to provide to patients of how to report kit should patient decide to proceed with law enforcement investigation	
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Photo Documentation					
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4.1.	Photo documentation, with permission of the sexual assault victim, of the victim's injuries, anatomy involved in the offense, or other visible evidence on the sexual assault victim's body to supplement the medical forensic history and written documentation of physical findings and evidence. Photo documentation taken during a medical forensic examination shall be maintained in a confidential manner.	Photo documentation should occur in cases where the patient has visible injury or evidence that supplement the history and documentation in the examination. Hospitals should have written policy/procedure about photo documentation in sexual assault cases. Hospitals should have policy/procedure detailing the confidential storage and securing of photos performed during the SAECK.	•Photo documentation shall occur during SAECK process with the patients consent to photograph injuries, anatomy involved in the offense, or other visible evidence on the victim's body •Examiners must also utilize the SAECK paperwork to document the injuries in conjunction with photo documentation •Process to confidentially store photographs taken during SAECK process	•Policy/procedure for photo documentation in sexual assault, including storage of photos •Best practice to have an individual SD card for each patient case, and not on one general SD card	1. Plan for storage of photo documentation that remains confidential (include title of policy/procedure for ease of review by SAFE Commission).
4.2.	Photo documentation shall be stored and backed up securely in its original file format in accordance with written facility protocol.	Hospitals should have policy/procedure detailing the storage and securing of photos performed during the SAECK.	•Policy/protocol detailing the storage of photos	•Policy/procedure for photo documentation in sexual assault, including storage of photos •Best practice to have an individual SD card for each patient case, and not on one general SD card	1. Policy/protocol for photo documentation and storage of photos (include title of policy/procedure for ease of review by SAFE Commission).

4.3.	Photo documentation of the sexual assault victim's injuries, anatomy involved in the offense, or other visible evidence on the sexual assault victim's body may be used in connection with peer review; expert second opinion; or in a criminal proceeding against a person accused of sexual offense, a juvenile delinquency proceeding pursuant to W. Va. Code §49-4-701et seq., or an abuse and neglect investigation. Any dissemination under this subsection shall be in accordance with State and federal law.	Photos taken during the SAECK process can be used for peer review, consultation with an expert for opinion, or in criminal trials. Hospitals should have policy/procedure detailing the use of photos from the SAECK.	•Hospitals may use photo documentation to aid in peer review of the case, for expert second opinions, or in criminal proceedings against the accused		
		Direct Submission of SAECK			
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5.5.	If the sexual assault victim has consented to the transmission of sexual assault evidence for testing, upon collection a Sexual Assault Evidence Collection Kit shall be transmitted for testing by the hospital to the West Virginia State Police Forensic Laboratory within 30 days of collection or as soon thereafter as practicable. All packaging kits for transmittal and transmittal protocols shall be designed to meet applicable standards for maintaining the efficacy of the sample and chain of custody.	When the patient has consented to kit collection and reporting to law enforcement, the facility must directly mail the SAECK within 30 days of collection or as soon as possible thereafter. All kits come with pre-paid FedEx labels and must be packaged in a cardboard box.	•SAECK must be directly mailed to the WVSP Lab within 30 days of collection in cases of reported sexual assault •Policy/protocol for packaging and transmitting kits that meets standards of chain of custody and maintains integrity of the kit and evidence collected.	•Policy/Procedure detailing process for staff to directly mail SAECK	1. Protocol that ensures that reported kits are mailed appropriately to the WVSP Lab within 30 days of collection (include title of policy/protocol for ease of review by SAFE Commission).
5.6.	If the sexual assault victim does not consent to law enforcement involvement, upon collection the kit shall be designated a nonreported kit and submitted by the hospital to the Marshall University Forensic Science Center for storage.	When a patient does not wish to report the assault to law enforcement, the examiner must package the kit and utilize the pre-paid FedEx label for Marshall University Forensic Science Center. The kit shall be directly mailed to MUFSC where it will be stored for 20 years.	•In cases of non-report kit collection the hospital must directly mail the kit to the MUFSC	•Policy/Procedure detailing process for staff to directly mail SAECK	1. Protocol that ensures that nonreported kits are mailed appropriately to the MUFSC for storage (include title of policy/protocol for ease of review by SAFE Commission).

