

Hospitals and Forensic Medical Exams
SART Listserv
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Issue: Do any states have statutes that require Emergency Department personnel to perform medical forensic exams if a trained examiner is unavailable?

Florida

- Florida statutes do not say anything about whether a SANE or forensic examiner must perform the exam.
- The law simply says the hospital must provide them.
- Title 29 - Ch. 395 - Sec. 395.1021: Treatment of Sexual Assault Victims
Any licensed facility, which provides emergency room services, shall arrange for the rendering of appropriate medical attention and treatment of victims of sexual assault through:
 - (1) Such gynecological, psychological, and medical services as are needed by the victim.
 - (2) The administration of medical examinations, tests, and analyses required by law enforcement personnel in the gathering of evidence required for investigation and prosecution.
 - (3) The training of medical support personnel competent to provide the medical services and treatment as described in subsections (1) and (2). Such licensed facility shall also arrange for the protection of the victim's anonymity while complying with the laws of this state and may encourage the victim to notify law enforcement personnel and to cooperate with them in apprehending the suspect.

New York

- New York State says evidence collection is a requirement,
- Section 2805-i of the Public Health Law states:

Sexual assault evidence shall be collected, unless the patient signs a statement directing the hospital not to collect it (for a sample form to be used when the patient directs the hospital not to collect evidence, see *The Protocol for the Acute Care of the Adult Patient Reporting Sexual Assault* Appendix B). **However, reporting sexual assault to a health care provider and consenting to evidence collection does not imply or assume that the patient will report to law enforcement officials.** It simply means that all patients who report sexual assault to a health care provider should receive specific treatment. The person providing care is referred to as “the examiner.” An examiner may be a currently licensed or credentialed physician, physician assistant (PA), registered professional nurse, or a nurse practitioner, and may or may not be a sexual assault forensic examiner (a health care professional with

extensive specialized training, knowledge, and experience regarding sexual assault care).

http://www.health.state.ny.us/professionals/protocols_and_guidelines/sexual_assault/docs/adult_protocol.pdf

Rhode Island

- There is not yet an official SANE program
- When a sexual assault victim presents at an Emergency Department (ED), Emergency Medical Treatment and Active Labor Act (EMTALA) requires the ED to treat patients, which can include performing sexual assault exam collection kit (SAECK).
- In these cases, an Emergency Department medical doctor or a resident with attending supervision does the SAECK.

Supplemental Resources

A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents

<http://www.ncjrs.org/pdffiles1/ovw/206554.pdf>

A guide to forensic examination protocol for victims of sexual assault. Page 59 contains recommendations for transferring patients

American College of Emergency Physicians- EMTALA Fact Sheet

<http://www.acep.org/patients.aspx?LinkIdentifier=id&id=25936&fid=1754&Mo=No&acEpTitle=EMTALA>

The fact sheet defines the major provisions under EMTALA and frequently asked questions and answers.

EMTALA.com

<http://www.emtala.com/law/index.html>

<http://www.emtala.com/faq.htm>

EMTALA.com contains information about the history of EMTALA, EMTALA regulations, case law, frequently asked questions as well as revisions of EMTALA.

EMTALA Overview

<http://www.cms.hhs.gov/EMTALA/>

An overview of EMTALA as well as a listing of EMTALA-related resources.