



Legal Resources

For programs housed within hospitals or **some off-campus clinics**, the Emergency Medical Treatment and Active Labor Act (EMTALA) applies and must be rigorously followed. This means that all sexual assault patients must have a medical screening exam (MSE) upon presentation. Registered nurses can perform the MSE – labor and delivery nurses have been performing them for years in many institutions. However, in order for SANEs to conduct the MSE, a hospital bylaws change and institution of appropriate policies must occur. It is not sufficient to simply garner permission to conduct the MSE without such a change being in effect.

The Health Insurance Portability and Accountability Act (HIPAA), of course, applies to all SANE programs regardless of location. And while most clinicians have a rudimentary understanding of the law, there may be nuanced issues that elude programs – such as **not obtaining appropriate authorization for sharing protected health information**, using a personal cell phone to take patient photos, or transmitting patient information on unencrypted devices. Managers should work with organizational risk management and Health Information Management (HIM) to ensure that all program procedures are HIPAA compliant.

One way that clinicians can inadvertently find themselves breaching HIPAA is through social media. Social media use is ubiquitous, and can be an excellent tool for networking and education. However, all SANEs need to understand the organization's policy regarding social media use, and the consequences for not adhering to the policy, which might include action against an individual's license. If the organization does not have a social media policy, the SANE program needs to have one as part of its policies and procedures. See resources for policy development below.

Legal and Regulatory Resources

EMTALA

Do SANE examinations satisfy the EMTALA requirement for “medical screening”? Sexual assault nurse examiners. Emergency Medical Treatment and Active Labor Act.

<http://www.ncbi.nlm.nih.gov/pubmed/12509747>

Emergency Medical Screening in Critical Access Hospitals (RNs Conducting MSE)

<http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/downloads/SCLetter07-27.pdf>



Forensic evidence collection: what are your legal obligations?

http://www.dgslaw.com/images/materials/Eiselein_ForensicEvidenceCollection.pdf

HIPAA

AHA guidelines for releasing information to law enforcement

<http://www.aha.org/content/00-10/guidelinesreleasinginfo.pdf>

HIPAA Privacy Guidelines

<http://ovc.ncjrs.gov/sartkit/develop/issues-hipaa.html>

Privacy (or Piracy) or Medical Records: HIPAA and Its Enforcement

<http://www.nmanet.org/publications/August%202010/MLS745.pdf>

Child Abuse, Confidentiality, and the Health Insurance Portability and Accountability Act

<http://pediatrics.aappublications.org/content/125/1/197.full>

Avoid These HIPAA Land Mines Involving Your Practitioners' Cell Phones

<http://smithmoorelaw.com/files/201109-partbinsider-markus.pdf>

Negative Exposure

<http://www.fortherecordmag.com/archives/060710p10.shtml>

Cell Phone Camera Use in Healthcare Facilities: Shutter It

<http://www.smithmoorelaw.com/files/20090129-hitnews-markuszuiker.pdf>

From Hippocrates to HIPAA: Privacy and Confidentiality in Emergency Medicine: Part II: Challenges in the Emergency Department

<http://www.annemergmed.com/article/S0196-0644%2804%2901279-X/abstract>

Can an Advocate Be Called to the Emergency Room to Assist a Victim Without Prior Victim Consent?

<http://www.wcsap.org/can-advocate-be-called-emergency-room-assist-victim-without-prior-victim-consent>



When Is It Okay Under HIPAA to Report Domestic Violence?

<http://www.ncdsv.org/images/When%20Is%20It%20Okay%20Under%20HIPAA%20to%20Report%20Domestic%20Violence.pdf>

State Nurse Practice Acts

Nurse Practice Acts Guide and Govern Nursing Practice

https://www.ncsbn.org/2012_JNR_NPA_Guide.pdf

Find Your Nurse Practice Act

<https://www.ncsbn.org/4319.htm>

Social Media Use

Social Media and the Health System

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3048641/pdf/i1552-5775-15-1-71.pdf>

Social Media Guidelines: National Council of State Boards of Nursing

<https://www.ncsbn.org/2930.htm>

Social Networking by Emergency Nurses

<http://www.ena.org/SiteCollectionDocuments/Position%20Statements/SocialNetworkingByERNurses.pdf>

6 Tips for Nurses Using Social Media

<http://www.nursingworld.org/FunctionalMenuCategories/AboutANA/Social-Media/Social-Networking-Principles-Toolkit/6-Tips-for-Nurses-Using-Social-Media-Poster.pdf>

The Joint Commission

Comply with the Joint Commission Standard PC.01.02.09 on Victims of Abuse

http://www.futureswithoutviolence.org/section/our_work/health/_health_material/_jcaho

Obligation to serve patients

<http://www.safeta.org/displaycommon.cfm?an=1&subarticlenbr=153>



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