

ATTACHMENT III

SEXUAL ASSAULT FORENSIC EXAMINER (SAFE) PROGRAM STANDARDS AND REQUIREMENTS

INTRODUCTION

The goals of the SAFE program are to:

1. Provide timely, compassionate, patient-centered care in a private setting that provides emotional support and reduces further trauma to the patient;
2. Provide quality medical care to the patient who reports sexual assault, including evaluation, treatment, referral and follow-up;
3. Ensure the quality of collection, documentation, preservation and custody of physical evidence by utilizing a trained and New York State Department of Health (DOH) certified sexual assault forensic examiner to perform the exam;
4. Utilize an interdisciplinary approach by working with rape crisis centers and other service providers, law enforcement and prosecutors' offices to effectively meet the needs of the sexual assault victim and the community;
5. Provide expert testimony when needed if the patient chooses to report the crime to law enforcement; and,
6. Improve and standardize data regarding the incidence of sexual assault victims seeking treatment in hospital emergency departments.

A comparison of general hospital and SAFE program responsibilities for the care and treatment of victims of sexual assault is included in Attachment I.

SAFE PROGRAM MODELS

The SAFE Program may be housed within the emergency department or in an easily accessible area nearby. Increasingly, hospitals provide a separate sexual assault medical/forensic unit, in an easily accessible area near, but not necessarily within, the emergency department.

Some hospitals may develop a self-contained SAFE program that utilizes hospital staff trained as sexual assault forensic examiners. A self-contained hospital SAFE program will retain responsibility for recruiting, ensuring training and clinical competence of and maintaining call rosters for SAFE staff. Hospitals may use a variety of methods to do this. For example, the hospital may elect to have emergency department staff trained as sexual assault forensic examiners available on each shift. The hospital may need to have another employee on-call to take over the usual duties of the examiner at the time the examiner assumes responsibility for the care of a sexual assault patient. Alternatively, the examiner may be an employee of the hospital, listed on an "on-call" schedule at times when s/he is not on duty. The sexual assault forensic examiner is called in to care exclusively for the sexual assault patient.

The Department will consider alternative program models that demonstrate clear accountability and oversight for the program and comply with relevant laws, regulations and program standards and requirements for SAFE programs. For example, hospitals with a low volume of sexual assault patients may wish to participate in a regional network system. Under the network program, regionally-based, trained examiners will be available to provide sexual assault exams at several hospitals in a region. The examiners are employees of an outside group

(e.g., another hospital, a Visiting Nurse Service (VNS) or a private practice). The group serves one or more hospitals and travels to the location of the sexual assault patient. In this model, the hospitals which apply for SAFE programs have examiners from this outside group on-call. The SAFE program must ensure that sexual assault forensic examiners who are on call from an outside group have been appropriately certified by the Department of Health and have been credentialed by the SAFE program hospital.

A hospital must agree to ensure that the following minimum requirements are met throughout its designation as a SAFE program:

1. Appropriate administrative and clinical oversight is provided to the program;
2. SAFE programs are affiliated with and integrated into the policies and procedures and operations of the hospital, particularly the emergency department;
3. Initial and ongoing assessment of competency and credentialing of SAFE staff, including certification of sexual assault forensic examiners by the Department (see Specialized Staff Training and Availability, page 12 of these standards);
4. A well-functioning system to provide triage and assessment;
5. A well-functioning on-call and back-up call schedule has been developed so that the patient is met by an examiner within 60 minutes of the patient's arrival in the hospital, except when the patient does not disclose a sexual assault at the time of triage, or under exigent circumstances;
6. The rape crisis center is contacted immediately to ensure that a rape crisis advocate is available to offer services to the patient;
7. Medical/surgical backup is readily available to the sexual assault forensic examiner;
8. An appropriately equipped, private, designated room that can accommodate disabled patients and with access to a shower is available when needed for sexual assault exams;
9. Medical treatment and forensic examination of sexual assault survivors is provided in compliance with all relevant laws and regulations and consistent with generally accepted standards of care, including the Department's *Protocol for the Acute Care of the Adult Patient Reporting Sexual Assault*;
10. Prophylaxis for sexually transmitted diseases, HIV and hepatitis B, and prophylaxis against pregnancy resulting from a sexual assault (emergency contraception) is provided on site;
11. The New York State Sexual Offense Evidence Collection Kit is used unless a patient refuses to have evidence collected and evidence is maintained and collected as required by PHL 2805-i;
12. The Drug Facilitated Sexual Assault kit is used when applicable;
13. Replacement clothing is provided to the patient before leaving the hospital;
14. Referral and follow-up regarding medical treatment is provided;
15. Patient is referred to counseling and support and other needed services;
16. Safe discharge is assured for the patient;
17. Medical and forensic SAFE services are appropriately documented;
18. Information is collected related to the provision of services to victims of sexual assault and confidentiality of the data is ensured; and,
19. An effective system of continuous quality improvement is established to ensure SAFE medical and forensic services are in compliance with generally accepted standards of care.

In all models, the hospital's obligation to provide medical screening and emergency treatment or transfer per the US Emergency Medical Treatment and Labor Act (EMTALA) 42 USC 1395 (dd) remains the same. For all sexual assault patients who require medical transfer, forensic evidence collection should be done at the hospital accepting the transferred patient.

SAFE services do not replace the care that would normally be provided to patients in an emergency department. Sexual assault patients will receive the same intake and screening that any patient would receive in any emergency department. However, under the SAFE Program, sexual assault patients will be accorded a high priority in the emergency department and can be transferred to the SAFE program as soon as is medically feasible.

Hospital emergency staff should immediately implement the following protocol upon arrival of the patient in the emergency department:

- Provide triage and assessment in a timely manner (See Attachment V for an example of a standardized assessment tool for sexual assault patients. SAFE Programs should take into account local protocols and interdisciplinary requirements when developing a standardized assessment tool);
- Contact the sexual assault forensic examiner when the patient discloses that s/he has been sexually assaulted;
- Contact a rape crisis advocate at the same time that contact is made to the sexual assault forensic examiner;
- Be available for consultation and support of the SAFE program and sexual assault forensic examiner;
- Assist in obtaining necessary tests and medications; and,
- Assist in arranging referrals and follow-up services.

In addition, the SAFE program and the examiner must have readily available access to medical/surgical back-up as needed, which, in addition to the emergency department, may include: general surgery, obstetrics/gynecology, pediatrics, urology and psychiatry.

INTERDISCIPLINARY MODEL

SAFE programs are required to participate in an interdisciplinary/community task force. The task force should be formalized through a Memorandum of Understanding. The task force should include representation from the following: the hospital SAFE program, the emergency department, hospital administration, the local Rape Crisis Center, law enforcement, prosecuting attorneys (including a special sex crimes unit, where available), emergency medical services, local colleges (including security and health services) and other health and human service agencies that may provide follow-up services to victims of sexual assault. This task force should be actively engaged in assessing community need and in developing new SAFE programs and should convene on an ongoing basis to ensure coordination and resolution of issues related to existing programs. The task force can also assist with outreach and education efforts and can provide follow-up services for victims of sexual assault.

Hospitals already participating in a sexual assault task force whose mission or goal is consistent with the above will be considered to meet this requirement. If there is a sexual assault task force already serving the community, it is not recommended that hospitals establish a new task force. In areas where there is a regional network system, a single task force involving several hospitals, the provider of sexual assault examiner services, the rape crisis center(s), as well as other appropriate organizations, may be sufficient for program development and ongoing coordination.

Public Health Law requires hospitals to inform survivors of rape crisis services available within the geographic area and to contact the Rape Crisis Center to provide the services of a rape

crisis advocate. This works most effectively when the advocate is called at the same time the sexual assault examiner is contacted and offers to provide services directly to the patient. Hospitals applying for SAFE program status must have a cooperative agreement(s) with a local Rape Crisis Center(s) to ensure that all survivors are offered the assistance of a rape crisis advocate. The New York State Department of Health Rape Crisis Program funds over 50 Rape Crisis Centers providing services at over 75 sites. A list of these programs is appended (Attachment VI).

The Department has established standards for Rape Crisis Centers in training rape victim advocates. Advocates who complete the training can, by law, provide confidential services to victims of sexual assault. Rape Crisis Center victim advocates' primary focus is to provide calm, consistent support to the patient. While advocates do not provide health care or collect evidence, they enhance the efforts of health care staff through the provision of information regarding medical and legal options. They can provide the intervention necessary when patients first arrive for treatment; assist patients in understanding the health care and evidence collection procedures; and, counsel family members or friends who may accompany the patient. Advocates are the bridge to the care and services required following the hospital visit.

ORGANIZATION/STAFFING

The hospital must ensure administrative as well as clinical oversight for the SAFE program to ensure that care provided to rape victims is consistent with generally accepted standards of care. SAFE programs must have a Program Director designated to provide oversight and coordination related to the program. If the Program Director is a clinician, s/he may also directly provide SAFE examination services, however the Director's role in directly providing care should be limited in light of other duties.

The Program Director's position must be integrated within the hospital administrative structure, reporting to the director of the emergency department, the director of nursing, or other appropriate area. The Program Director will be the liaison with other areas of the hospital and with members of the interdisciplinary/community task force.

For some existing SAFE programs, a Program Director has been designated who has been hired through some other community-based agency, such as a Rape Crisis Center. In those cases, an individual employed by or affiliated with the hospital(s) where SAFE services are provided must be designated to coordinate SAFE activities in the hospital setting in conjunction with the community-based program.

The Program Director coordinates SAFE staffing, either directly, in a self-contained hospital model, or indirectly through another agency, such as the Visiting Nurse Service in a regional network model. This includes recruiting, education and continuing education, preceptorships, certification and re-certification, and establishing on-call and back-up schedules for examiners. The Program Director works with the interdisciplinary/community task force in developing a community outreach and education plan for the SAFE program.

A medical director for the program is recommended but not required. If there is no medical director for the program, the hospital must ensure that the SAFE program is integrated within the hospital's clinical oversight and quality improvement structure. The hospital must also ensure that physicians and other qualified staff in the hospital emergency department are

readily available to write prescriptions, order tests, and perform other functions appropriate as defined within their professional scope of practice.

SPECIALIZED STAFF TRAINING AND QUALIFICATIONS

The key component of the SAFE program is a cohort of specially trained individuals who have been prepared through an intensive classroom and preceptor training program to conduct complete sexual assault medical-forensic examinations, collect and preserve evidence and present testimony in the prosecution of sexual assault cases. Every DOH-approved SAFE program is required to have specially trained examiners who are certified by the Department of Health and credentialed according to the individual institution's procedures to provide forensic examinations to sexual assault victims.

Qualifications

The Department of Health has developed standards for sexual assault forensic examiners (Attachment VII). The Department will certify individual sexual assault forensic examiners who meet these standards (see Attachment VIII for certification application). These standards apply to registered nurses, nurse practitioners, physician assistants, and physicians who complete special training in the areas of sexual assault and forensic evidence collection

An individual requesting certification by the NYS Department of Health as a sexual assault forensic examiner must perform within the scope of practice of the discipline in which s/he holds a license and certify on the required form and provide evidence to the NYS Department of Health that s/he:

1. Holds a current license to practice as a registered nurse, nurse practitioner, physician assistant or physician in the State of New York; and,
2. Has a minimum of one year, full-time clinical post-graduate experience; and,
3. Has successfully completed at least a 40 hour didactic and clinical training course approved by the New York State Department of Health. Individuals who can demonstrate competence in some or all of the course objectives required for DOH approval may be eligible for exemption from those components of the course; (See Training Requirements) and,
4. Has completed a competency-based post-course preceptorship; and,
5. Has successfully demonstrated all key didactic and clinical competencies to a NYSDOH-approved training program; and,
6. Has a signed letter from the SAFE Program or other provider or institution ensuring qualified medical oversight of the sexual assault forensic examiner; or,
7. Has certification as a sexual assault nurse examiner-adult/adolescent (SANE-A) from the International Association of Forensic Nurses (IAFN) and has a signed letter from the SAFE Program or other provider or institution ensuring qualified medical oversight of the sexual assault forensic examiner.

The Department will also re-certify a sexual assault forensic examiner every three years. An individual who is requesting re-certification by the NYS Department of Health as a sexual assault forensic examiner must certify on the required form and provide evidence to the NYS Department of Health that s/he:

1. Completed a minimum of fifteen (15) hours of continuing education in the field of forensic science in the past three years;
2. Maintained competency in providing sexual assault examinations. Based upon the examiner's performance of sexual assault examinations during the preceding year, the medical director of the SAFE program or other appropriate institution shall attest to the examiner's continuing competency. If the examiner has had more than a one year lapse in service during the three year period, the medical director should explain how competency was maintained or updated, i.e., via repeating training or by other means;
3. Will be provided with qualified clinical oversight as a sexual assault forensic examiner. A signed letter from the SAFE Program or other provider or institution will satisfy this requirement.

Didactic training must be provided through a training program that has been approved by the NYS Department of Health. Only training programs which demonstrate to the Department the ability to provide training that meets the minimum standards and requirements and enter into a formal agreement with the Department can provide training related to the Department's issuance of certificates of qualification. (See Attachment IX for Training Program Agreement, Attachment X for Training Program Standards, and Attachment XI for Training Program Application.)

TREATMENT PROTOCOL/STANDARD OF CARE

The Sexual Assault Reform Act (SARA) requires that, absent exigent circumstances, or unless the patient does not disclose a sexual assault at the time of triage, the sexual assault forensic examiner must meet the patient within 60 minutes of arriving at the hospital. In those rare circumstances when a SAFE program does not have a sexual assault examiner available to perform the examination of the sexual assault patient, the hospital must ensure that the examination and associated treatment is provided in a manner that is consistent with Department standards as described below. An on-call schedule consistent with services available should be established. The Department may review a hospital's compliance with SAFE Program standards and rescind a hospital's designation when standards are not being met, e.g., if on-call coverage in a SAFE program falls below an acceptable limit.

Services must comply with all applicable state and federal laws, regulations and standards, including, but not limited to:

- NYS Public Health Law Section 2805-i, Treatment of sexual offense patients and maintenance of evidence in a sexual offense;
- NYS Public Health Law Section 2805-p, Emergency treatment of rape survivors;
- Regulations Title 10 NYCRR 405.9(c) and 405.19(c)(4), Establishment of hospital protocols and maintenance of sexual offense evidence;
- The Department of Health *HIV Prophylaxis Following Sexual Assault: Guidelines for Adults and Adolescents*;

- The Department of Health *Protocol for the Acute Care of the Adult Patient Reporting Sexual Assault*; and
- The Sexual Assault Reform Act (SARA), Chapter 1 of the Laws of 2000.

The New York State Department of Health has issued the *Protocol for the Acute Care of the Adult Patient Reporting Sexual Assault*, to provide a standard of care to ensure appropriate, consistent and compassionate medical care and forensic evidence collection. SAFE programs, as well as other hospital providers of services to victims of sexual assault, must follow the protocol for treatment and evidence collection as described in the *Protocol*. The *Protocol* correlates with the New York State Sexual Offense Evidence Collection Kit. Hospitals designated as SAFE programs must use the New York State standardized evidence collection kit and instructions. For information regarding treatment of suspected child sexual abuse victims, see Attachment XII.

FACILITIES/ EQUIPMENT

SAFE programs are required to have a private, designated room for the performance of exams. The exam room must have access to a shower and must be accessible to the disabled. If possible, there should be a separate waiting area available to the family or friends of the survivor. Required equipment and supplies include the following:

- A universally accessible exam table;
- A dedicated colposcope, with the ability to photo document;
- An anoscope;
- A camera and film;
- An ultraviolet light source and bulbs;
- A swab dryer;
- Specula in different sizes, preferably with light illumination;
- A supply cart and all necessary supplies;
- Portable stand for setting up equipment and supplies;
- Locked storage, if needed;
- Beepers and/or cell phones as needed;
- Phlebotomy equipment;
- Other necessary medical supplies;
- Other necessary forensic supplies, including brown paper bags, plain labels and envelopes, toluidine blue stain, tape, white paper for collecting trace evidence, forensic urine collection containers;
- Office supplies for the SAFE Program Director;
- Replacement clothing for patients to leave the hospital;
- New York State Sexual Offense Evidence Collection Kits;
- Drug Facilitated Sexual Assault Kits (available through DCJS);
- Sexual assault patient literature for patient information and resources;
- Comprehensive sexual assault assessment forms (see Appendix V for sample assessment form);
- Crime Victim's Board (CVB) claim forms and information;
- Copy(ies) of the *Protocol for the Acute Care of the Adult Patient Reporting Sexual Assault*; and,
- Emergency contraception brochures for patients either from DOH or approved by DOH.

DATA/EVALUATION

SAFE programs are required to keep data related to their activities. These data will enable the SAFE program and the hospital to document the extent of the problem, the level of service, determine the cost of the service and provide information for program planning, quality improvement and evaluation purposes. These data must be provided to the Department of Health and the Division of Criminal Justice Services (if funded by them) on a quarterly and annual basis for use in program monitoring and public health and criminal justice planning. Only aggregate, deidentified data will be provided to these state agencies. The Department may require additional information for program monitoring or statutory or other reporting purposes. At a minimum, hospital SAFE programs approved by the Department will be required to collect the following data on a quarterly and annual basis:

- The number of personnel who are certified as sexual assault forensic examiners;
- The number of sexual assault victims who present at the hospital for services;
- The response time of the sexual assault examiner from the time the call was made to the time the examiner arrived;
- The number of sexual assault exams performed by DOH certified sexual assault forensic examiners;
- The number of sexual assault exams performed by personnel other than DOH certified sexual assault forensic examiners;
- The number of victims seeking services who could not be served;
- The number of inpatient admissions resulting from sexual assaults;
- The number of patients served by age, racial/ethnic status and gender;
- Insurance payer status of victims;
- The number of patients accompanied by a rape crisis advocate;
- The number of patients who refused the services of a rape crisis advocate;
- The number of patients who took HIV prophylaxis;
- The number of patients who refused or were ineligible for HIV prophylaxis;
- The number of patients who took prophylaxis against pregnancy related to a sexual assault (emergency contraception);
- The number of examinations where the patient chose to report sexual assault to law enforcement;
- The number of examinations where the patient declined to report sexual assault to law enforcement;
- The number of sexual assault evidence collection kits completed for sexual assault forensic examinations;
- The number of drug facilitated sexual assault kits completed;
- The number of those kits released to law enforcement at the time of the exam;
- The number of those kits released to law enforcement after the exam was completed;
- The number of victims who refuse to have evidence collected; and
- In collaboration with the interdisciplinary task force, the number of sexual assault case dispositions by SAFE and non-SAFE staff to the extent possible, including:
 - the number of arrests;
 - number of cases referred to prosecution;

- number of convictions by plea bargaining;
- number of convictions by trial; and,
- number of cases dropped.

Additional data requirements may be identified by the Department.

NOTE: All hospitals will be required to fill out ICD-CM E-codes (external cause of injury codes) or HCPC codes for emergency room patients reporting rape or sexual assault (E960.1) when the SPARCS system is initiated for emergency rooms. This will permit the Department to compare SAFE program hospitals to other institutions in terms of the numbers of these patients treated in SAFE programs compared to hospitals without SAFE programs.

CONTINUOUS QUALITY IMPROVEMENT

Pursuant to 10 NYCRR 405.9 and 405.19, hospitals are required to establish protocols regarding the care of patients reporting sexual assault, and to maintain evidence. These protocols apply to all units in which sexual assault victims are treated; including but not limited to medicine, surgery, emergency, obstetric and gynecology, pediatric, mental health, outpatient and inpatient services, and the range of subspecialty services appropriate for victims of sexual assault.

Each hospital must develop and implement written policies and procedures establishing an internal quality improvement program to identify, evaluate, resolve and monitor actual and potential problems in patient care. SAFE programs should be integrated within the hospital's overall quality improvement plan. For SAFE programs, quality improvement components shall include, but not be limited to the following:

1. Chart audit performed periodically on a statistically significant number of sexual assault patient records. The hospital must designate an individual(s) to periodically review sexual assault patient records, along with other appropriate information, to determine the following:
 - How long did the patient wait from arrival to exam commencement?
 - Were appropriately trained staff available to examine the patient?
 - Was all of the necessary equipment available?
 - Was a rape crisis program advocate called to accompany the patient?
 - Was consent appropriately obtained from the patient?
 - Did the patient receive appropriate medical treatment?
 - Was HIV prophylaxis recommended in all cases, where appropriate, per DOH protocol?
 - Was HIV prophylaxis made available on-site to all clients requesting this preventive measure?
 - Did the patient receive appropriate counseling related to pregnancy prophylaxis?
 - Did the patient receive on-site pregnancy prophylaxis, if requested?
 - Did the patient receive treatment for STDs?
 - Was forensic evidence collected in a manner that was consistent with law, regulations and standards, including maintenance of the chain of custody?
 - Was an appropriate medical and psychosocial referral and follow-up plan developed for the patient?
 - Was safe discharge assured for the patient?
 - Was confidentiality maintained?

2. A system for developing and recommending corrective actions to resolve identified problems; and
3. A follow-up process to assure that recommendations and plans of correction are implemented and are effective.

Hospitals designated as SAFE programs are encouraged to work with other area hospitals that have not established SAFE programs to improve the quality of their response to sexual assault patients.

RESOURCE INFORMATION

The following resources are available for hospitals wishing to develop SAFE programs:

- The New York State Department of Health has issued a *Protocol for the Acute Care of the Adult Patient Reporting Sexual Assault*. The *Protocol* has been revised to provide a standard of care that ensures appropriate, consistent and compassionate medical care and forensic evidence collection. Copies of the *Protocol* have been provided to all hospital emergency departments. Additional copies of the *Protocol* can be obtained by contacting the New York State Department of Health, Bureau of Women's Health Rape Crisis Program at (518) 474-3664.
- The federal Office for Victims of Crime has developed a "SANE Development and Operation Guide" through the national Sexual Assault Resource Service in Minneapolis, Minnesota. Copies of the guide can be obtained by calling or through the website, www.SANE-SART.com.
- The New York State Coalition Against Sexual Assault (NYSCASA) provides technical assistance to individual programs and coordinates trainings that include sexual assault examiners as well as criminal justice personnel, college security personnel, and Rape Crisis Center advocates. For more information, call NYSCASA at (518) 482-4222.
- The New York City Alliance Against Sexual Assault's Forensic Healthcare Program (FHP) supports the development of sexual assault examiner programs in New York City by offering ongoing forums for service providers to share information, by organizing an interdisciplinary committee for healthcare providers, rape crisis programs, law enforcement and criminal justice personnel, and through provision of technical assistance to individual programs. For additional information or copies of publications, please call the FHP at (212) 523-4344.