



Current Status: Active

PolicyStat ID: 4837858



Origination: 01/2018
Effective: 01/2018
Last Approved: 01/2018
Last Revised: 01/2018
Next Review: 12/2020
Owner: Christian Lawson: Dir Emerg Med Services-U
Policy Area: Patient Care
Policy Tag Groups:
Applicability: UNC Medical Center

Management of Victims of Alleged Rape or Sexual Offense

I. Description:

Procedures for managing care of and collection of potential evidence from a victim of alleged rape or sexual assault

II. Rationale

It is the policy of the University of North Carolina Health Care System (UNCHCS) to provide services to victims of alleged rape or sexual assault who present to the Emergency Department in a manner that protects the patient's physical, emotional and social welfare. Medical staff and UNC Hospitals staff caring for such patients must balance their own professional and ethical obligations with the interests of the patient, the parents of an unemancipated minor patient, law enforcement and the criminal justice system.

Medical examination and treatment, collection of a Sexual Assault Evidence Collection Kit ("SAECK"), documentation of the injuries by photographs, release of evidence to law enforcement officials, and notification of a spouse or the parents of an unemancipated minor of the occurrence of a rape or sexual assault are each a discrete decision for the victim of alleged rape or sexual offense. In cases where a victim of alleged rape or sexual offense declines to release evidence to law enforcement officials but there are concerns about parental, guardian or custodial abuse, contact the UNCHCS Legal Department.

III. Definitions

- A. Sexual Assault Evidence Collection Kit (SAECK), provided by the State Bureau of Investigation, contains instructions and packaging materials for 18 steps of sexual assault evidence collection.
- B. A Sexual Assault Nurse Examiner (SANE) is an individual who has successfully completed a North Carolina Board of Nursing approved education/training program.
- C. Forensic evidence means any samples or material collected as part of a SAECK, including any photographs taken for the purpose of documenting injuries to the patient, that are not intended for diagnostic or treatment purposes.

IV. Policy

A. Medical Examination and Treatment

The medical examination of a victim of rape or sexual offense who presents to the Emergency Department may proceed with the victim's or authorized representative's (as applicable) informed consent, unless the victim or authorized representative (as applicable) refuses. For a determination of the authorized representative in the case of a victim who is a minor or who lacks decision-making capacity, see [UNCHCS Policy, "Authorized Representatives of Patients:"](#) however, **see below** with regard to treatment of conditions for which a minor may consent.

Consent for treatment shall be obtained from the patient or authorized representative; however, in accordance with medical judgment and with [UNCHCS Policy, "Treatment of Minors,"](#) an unemancipated minor may give effective consent for the prevention, diagnosis, and treatment of sexually infectious diseases and other reportable infectious diseases, pregnancy, abuse of controlled substances or alcohol, and/or emotional disturbance. For those matters for which an unemancipated minor may give effective consent, the minor's refusal to consent to treatment will be accepted even if contrary to the wishes of the minor's authorized representative. For those matters for which an unemancipated minor may not give effective consent, the consent of the minor's authorized representative shall be determinative for provision of necessary medical treatment.

When adult or minor patients consent to their own medical examination and treatment, spouses or parents of unemancipated minors are notified only upon the authorization of the patient, unless, in the instance of unemancipated minor patients, the medical information is judged to be essential to the life or health of the minor. See [UNCHCS Policy, "Treatment of Minors."](#)

Release of protected health information (PHI) should occur only with the authorization of the patient or the patient's authorized representative or in compliance with [UNCHCS Policy, "Release of PHI to Law Enforcement Officers"](#) or other applicable policy or law. See also [UNCHCS Policy, "Suspected Child Abuse, Neglect or Dependency."](#) Please note that forensic evidence (discussed further below), including photographs taken for forensic purposes, is not considered part of the medical record and should not be released except to law enforcement, other appropriate government agencies, or for use in civil litigation.

B. Forensic Evidence Collection and Release

Forensic evidence collection (for potential release to law enforcement officials, release to other appropriate government agencies or for use in civil litigation) is not medical examination or treatment and may involve more invasive or additional procedures than medical examination and treatment. Forensic evidence collection may include physical examination, specimen collection, and photographs.

Consents to preparation and release of forensic evidence are separate from consent to treatment and should be documented on a forensic evidence consent form completed by the patient or the patient's authorized representative. ** However, an unemancipated minor's or his/her authorized representative's refusal to consent to the collection and/or release of forensic evidence may result in a cause to suspect child abuse or neglect and trigger reporting requirements. See [UNCHCS Policy, "Suspected Child Abuse, Neglect or Dependency."](#) Staff should exercise discretion and judgment in the patient's best interest when a disagreement exists between an unemancipated minor and his/her authorized representative as to whether to collect or release forensic evidence.

Forensic evidence, including photographs taken for forensic purposes only, is not part of the medical record,

and it is the policy of UNCHCS not to release forensic evidence directly to the patient or the patient's representative. Forensic evidence will be released only to law enforcement, to an appropriate government agency, or in response to a court order. Patients should be informed prior to the collection/taking of forensic evidence that they will not be able to obtain such forensic evidence or copies thereof directly from UNCHCS in the absence of a court order. Photographs taken for forensic purposes and other forensic evidence should not be placed in the medical record. In addition, photographs taken for forensic purposes should only be taken on a camera specifically designated for such purposes, and in no cases should they be taken on a personal device.

Staff may refuse to participate in evidence collection that violates the practitioner's professional ethics.

**Based upon the practices of the District Attorney's Office, if the patient is under the age of 16 and not emancipated, UNCHCS may complete the SAECK, take any related photographs, and release both to the law enforcement based upon the consent of the patient's authorized representative, with every effort being made to obtain the consent of the patient. If the patient is 16 or older, the SAECK should not be completed or released if the patient does not consent. If a patient 16 or older refuses to consent but there are concerns about parental, guardian or custodial abuse, contact the UNCHCS Legal Department.

C. Reporting Alleged Rape or Sexual Assault to the Police

Physicians and SANE nurses will assist patients who desire to report an alleged rape or sexual assault to the police.

At any time, a patient may report an alleged rape or sexual assault to the police without filing a formal complaint and without commencing a police investigation. This is called a "Blind Report." The patient must consent to speak to a law enforcement officer when filing a Blind Report.

At any time, a patient may choose not to report an alleged rape or sexual assault, but still have a SAECK performed. In this case, the patient files an "Anonymous Report." In the case of an Anonymous Report, UNC Hospitals Police will maintain chain of custody of the SAECK and mail the SAECK to the Law Enforcement Support Services ("LESS") facility, which will only notify law enforcement with jurisdiction over the matter upon notification by and consent of the patient. This is consistent with UNC Hospitals' Violence Against Women Act (VAWA) Forensic Compliance Memorandum of Understanding.

For questions or assistance, contact the Emergency Department's Sexual Assault Nurse Examiner program, or UNCHCS's Legal Department.

Attachments:

No Attachments

Applicability

UNC Medical Center