Illinois Health and Hospital Association

The Illinois Dept. of Public Health (IDPH) published amendments to the Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545) implementing Public Act (PA) 102-1106 (October 11 Illinois Register, pages 14759-14778), the Sexual Assault Survivors Emergency Treatment Act (SASETA). The amendments are specific to Section 545.65 of the Administrative Code: Transfer of Sexual Assault Survivors.

General Amendments

IDPH finalized several amendments that apply to all sexual assault survivors (survivors) presenting at transfer hospitals. Specifically, transfer hospitals must explain to survivors the reason to transfer to a treatment hospital or approved pediatric healthcare facility; the importance of collecting evidence in a timely manner; and the potential financial benefits associated with a forensic exam, including the voucher system and Crime Victims Compensation. Providers should use the Medical Forensic Exam and the Crime Victims Compensation: Frequently Asked Questions brochures from the Office of the Illinois Attorney General during this explanation.

Transfer hospitals must also require each member of its emergency department providing direct clinical services to receive annual training on its areawide treatment plan and the requirements in Section 545.65, including but not limited to the care of the survivor; the transfer process, including when a survivor declines transfer; chain of custody; treatment if the survivor declines transfer; and trauma-informed approaches consistent with the Centers for Disease Control and Prevention (CDC) guidelines 6 Guiding Principles to a Trauma-Informed Approach. The transfer hospital may include the local rape crisis center or treatment hospitals in its areawide treatment plan in presenting the training.

All transfer hospitals must comply with notification procedures for survivors required by Section 3.2 of the Criminal Identification Act, the Abused and Neglected Child Reporting Act, the Abused and Neglected Long Term Care Facility Residents Reporting Act, and the Adult Protective Services Act, as applicable. The hospital cannot require a survivor to speak to law enforcement regarding the sexual assault.

Transfer hospitals must offer to call a friend or family member to support the survivor while they are at the hospital, and must also call the local rape crisis center to request medical advocacy, which may be provided in person or over the phone.

Transfer hospitals may not bill survivors for any outpatient services. Instead, hospitals must seek payment as directed in Section 7 of SASETA and Section 545.100 of the Illinois Administrative Code. The hospital may bill a survivor's private insurance, but the hospital must provide any survivor who is not the subscriber or primary policyholder an opportunity to opt out of billing their private insurance.

Finally, transfer hospitals must conduct an annual quality performance review of its transfers to ensure that their transfer plans and procedures, as filed with IDPH, are being followed; to review the number of survivors who complete transfer and receive treatment at the treatment hospital; and the number of survivors that decline transfer. The hospital should also consider changes to reduce barriers and increase support for survivors, including transportation, consultation opportunities, and referrals for follow-up care and support from the rape crisis center. The hospital may include the treatment hospital with which it has a memorandum of understanding in the review of the transfers. Documentation of this annual review must be provided to IDPH upon request.

Hospital Requirements Applicable when Survivors Consent to Transfer

Emergency department personnel at the transfer hospital must notify the receiving treatment hospital or approved pediatric healthcare facility that a survivor is being transferred to their facility. IDPH recommends that the transfer hospital consult with a qualified medical provider (QMP) prior to transferring the survivor to ensure the transfer meets the clinical requirements defined

under Section 1 of SASETA.

The transfer hospital must maintain a chain of custody in the handling of the sexual assault survivor as follows. The hospital must not attempt to obtain any specimens for evidentiary purposes unless a urine sample is collected to test for drug or alcohol-facilitated sexual assault. In such cases, the hospital must obtain the survivor's consent and the urine sample as well as any pre-void wipes utilized during collection must be submitted to the law enforcement agency having jurisdiction. The hospital must also handle the survivor and the survivor's clothing as minimally as possible and keep the survivor in their own clothing if possible.

Survivors with no life-threatening conditions who consent to transfer may transport themselves or be transported by the police, a friend, or a family member to a treatment hospital or approved pediatric healthcare facility. Transfer hospitals must also offer transfers by ambulance or other hospital-arranged transportation. If the survivor chooses to be transferred by ambulance, the hospital shall provide such transportation at no cost to the survivor. Ambulance providers must also furnish transportation services to survivors without charging them, instead seeking payment in accordance with Section 7 of SASETA.

Transfer hospitals must conduct an assessment to ensure the safety of survivors when transfer is being facilitated by (1) an adult for a survivor under 18 years of age, or (2) by an adult that acts as the guardian, healthcare surrogate or an agent acting under a healthcare power of attorney for the survivor. This hospital must determine the need for action based on an immediate threat of harm (e.g. present or impending danger). If the hospital finds an immediate threat of harm exists, it must notify the Illinois Dept. of Children and Family Services prior to transferring a survivor under 18 years of age, and the Illinois Dept. on Aging prior to transferring an individual with a guardian, healthcare surrogate, or healthcare power of attorney.

Transfer hospitals may offer gas cards or transportation vouchers when such resources would be effective in facilitating survivor transfer, and all transferred survivors must be treated as transfers according to the hospital's areawide treatment plan regardless of the transportation arrangement.

Amendments Specific to Survivors Who Decline Transfer
Transfer hospitals must offer a phone or virtual consultation for survivors considering declining transfer with a QMP at a treatment hospital in the transfer hospital's areawide treatment plan. If the survivor is under 13 years of age, the transfer hospital must contact a QMP for consultation for survivors prior to an evaluation or treatment related to sexual assault. Additionally, if the survivor is under age 18, the transfer hospital shall offer the survivor a referral to an outpatient pediatric facility with a QMP for specialized follow-up care if such a facility is available.

For all survivors who decline transfer, the hospital must offer medical care and treatment, when appropriate, based on consultation with a QMP. This may include, but is not limited to:

- A general physical examination;
- Evaluation and treatment for sexually transmitted infections (STI) in accordance with the CDC's Sexually Transmitted Infection Treatment Guidelines;
- Evaluation and possible treatment for HIV exposure in accordance with the CDC's Sexually Transmitted Infections Treatment Guidelines or Antiretroviral Postexposure Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccuptional Exposure to HIV – United States 2016. Testing for HIV shall be conducted in accordance with the AIDS Confidentiality Act;
- An amount of medication, including HIV prophylaxis, for treatment at the hospital and after discharge as deemed appropriate by the attending physician, advanced practice registered nurse (APRN) or physician assistant in accordance with the CDC's Sexually Transmitted Infection Treatment Guidelines. When HIV prophylaxis is deemed appropriate, an initial dose or doses of HIV prophylaxis, along with oral and written instructions indicating the importance of timely follow-up healthcare, shall be given to the survivor;
- 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 assault and the possibility of infection, sexually transmitted infection, including an evaluation of the survivor's risk of contracting HIV from sexual assault, and pregnancy resulting from sexual assault;

- Evaluation and treatment for possible pregnancy for females of childbearing age, including but not limited to a pregnancy test, emergency contraception, and medically and factually accurate oral and written information about emergency contraception, the indications and contraindications and risks associated with the use of emergency contraception, and a description of how and when survivors may be provided emergency contraception at no cost upon the written order of a physician, APRN, or physician assistant;
- Evaluation for a drug-facilitated sexual assault when there is reasonable cause to believe that a survivor has been administered or taken any intoxicating, anesthetic or controlled substance, regardless of who provided the substance. This includes an explanation to the survivor about the nature and effects of commonly used substances and how they are administered; an offer to the survivor of testing for the presence of these substances; disclosure to the survivor that all substances or alcohol ingested by the survivor will be disclosed by the test; a statement that the test is voluntary; and a form for written authorization for sample analysis of all substances and alcohol ingested by the survivor;
- A safety assessment prior to discharge, including a suicide screening, assessing any relationship between the survivor and the alleged assailant, assessing whether the survivor has any concerns about their safety, and referral to a community-based rape crisis center for safety planning;
- Oral and written instructions indicating the need for follow-up examinations and laboratory tests one to two weeks after the sexual assault to determine the presence or absence of a sexually transmitted infections;
- Appropriate referral to a healthcare provider for follow-up care and monitoring of medication given or prescribed at the time of the initial hospital visit as deemed appropriate by the attending physician, APRN, or physician assistant; and
- Referral for appropriate counseling, with initial referral made to a community-based rape crisis center if available, or to other counseling if not available.

Please Contact Us with questions.