
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1172 Session of
2021

INTRODUCED BY KOSIEROWSKI, HILL-EVANS, HANBIDGE, SAPPEY, MADDEN,
MARKOSEK, KINSEY, A. DAVIS, HOHENSTEIN, SANCHEZ, McNEILL,
GALLOWAY, SCHLOSSBERG, HOWARD, ISAACSON, SIMS, BRADFORD,
DEASY, WEBSTER, O'MARA AND GILLEN, APRIL 14, 2021

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 14, 2021

AN ACT

1 Amending the act of November 29, 2006 (P.L.1471, No.165),
2 entitled "An act providing for a sexual assault evidence
3 collection program and for powers and duties of the
4 Department of Health and the Pennsylvania State Police;
5 establishing civil immunity; and providing for rights of
6 sexual assault victims," further providing for definitions,
7 for sexual assault evidence collection program and for rights
8 of survivors of sexual assault.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The definition of "victim of sexual assault" or
12 "victim" in section 2 of the act of November 29, 2006 (P.L.1471,
13 No.165), known as the Sexual Assault Testing and Evidence
14 Collection Act, is amended and the section is amended by adding
15 definitions to read:

16 Section 2. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 * * *

1 "Emergency department." The department of a hospital,
2 commonly referred to as an emergency room or ER, that is
3 responsible for the provision of medical services to patients
4 arriving at the hospital in need of immediate care. An emergency
5 department may or may not be owned or operated by the hospital
6 in which it is located.

7 * * *

8 "Health care practitioner." An individual who is authorized
9 to practice some component of the healing arts by a license,
10 permit, certificate or registration issued by a Commonwealth
11 licensing agency or board.

12 "Health care provider." Any of the following:

13 (1) A health care practitioner as defined in section 103
14 of the act of July 19, 1979 (P.L.130, No.48), known as the
15 Health Care Facilities Act.

16 (2) A federally qualified health center as defined in
17 section 1861(aa)(4) of the Social Security Act (49 Stat. 620,
18 42 U.S.C. § 1395x(aa)(4)).

19 (3) A rural health clinic as defined in section 1861(aa)
20 (2) of the Social Security Act (42 U.S.C. § 1395x(aa)(2)).

21 (4) A pharmacist who holds a valid license under the act
22 of September 27, 1961 (P.L.1700, No.699), known as the
23 Pharmacy Act.

24 (5) A social worker, clinical social worker, marriage
25 and family therapist or professional counselor who holds a
26 valid license under the act of July 9, 1987 (P.L.220, No.39),
27 known as the Social Workers, Marriage and Family Therapists
28 and Professional Counselors Act.

29 (6) A registered professional nurse who holds a valid
30 license under the act of May 22, 1951 (P.L.317, No.69), known

1 as The Professional Nursing Law.

2 (7) An out-of-state health care provider.

3 "Hospital." As defined in section 802.1 of the Health Care
4 Facilities Act.

5 "International Association of Forensic Nurses." An
6 international membership organization that is responsible for
7 the development of medical forensic examination guidelines and
8 is comprised of forensic nurses working to support and
9 complement the work of forensic medicine.

10 * * *

11 "Medical forensic examination." Examination of a victim of
12 sexual assault performed by a certified sexual assault nurse
13 examiner or a sexual assault forensic examiner for the purpose
14 of obtaining evidence through the use of a rape kit.

15 "Medical service." An activity that lies within the scope of
16 the practice of medicine and surgery.

17 * * *

18 "Provider network." The health care providers designated by
19 a managed care plan to provide health care services.

20 "Provider-to-provider consultation." The act of seeking
21 advice and recommendations from another health care provider for
22 diagnostic studies, therapeutic interventions or other services
23 that may benefit the patient of the initiating health care
24 provider.

25 * * *

26 "Registered professional nurse." A registered nurse,
27 clinical nurse specialist or certified nurse practitioner under
28 The Professional Nursing Law.

29 * * *

30 "Sexual assault forensic examiner." An eligible health care

1 practitioner who has completed training and successfully passed
2 an exam that meets or is substantially similar to the Sexual
3 Assault Nurse Examiner Education Guidelines established by the
4 International Association of Forensic Nurses and operates as a
5 member of the sexual assault response team.

6 "Sexual assault nurse examiner." A registered professional
7 nurse who has completed a sexual assault nurse examiner training
8 program and successfully passed an exam that meets the Sexual
9 Assault Nurse Examiner Education Guidelines established by the
10 International Association of Forensic Nurses and operates as a
11 member of the sexual assault response team.

12 "Sexual assault response team." A health care practitioner
13 who is certified as a sexual assault forensic examiner or sexual
14 assault nurse examiner, local law enforcement agency or public
15 or private agency responsible for coordinating or performing a
16 medical forensic examination or for the delivery of subsequent
17 medical services or legal services to the victim.

18 "Store-and-forward." As follows:

19 (1) Technology that stores and transmits or grants
20 access to a patient's clinical information for review by a
21 health care provider who is at a different physical location.

22 (2) The term does not include the storage, transmission
23 or use of electronic medical records without the concurrent
24 transmission of additional clinical information not already
25 present in the electronic medical records.

26 "Telehealth." As follows:

27 (1) The delivery of health care services provided
28 through telehealth technologies to a patient by a health care
29 provider who is at a different location.

30 (2) The term does not include a provider-to-provider

1 consultation.

2 "Telehealth technologies." As follows:

3 (1) Electronic information and telecommunications
4 technology, including interactive audio and video, remote
5 patient monitoring or store-and-forward that meets the
6 requirements of:

7 (i) The Health Insurance Portability and
8 Accountability Act of 1996 (Public Law 104-191, 110 Stat.
9 1936).

10 (ii) The Health Information Technology for Economic
11 and Clinical Health Act (Public Law 111-5, 123 Stat. 226-
12 279 and 467-496).

13 (ii) Other applicable Federal or State law.

14 (2) The term does not include the use of:

15 (i) Audio-only medium, voicemail, facsimile, email,
16 instant messaging, text messaging or online questionnaire
17 or any combination thereof.

18 (ii) A telephone call, except in circumstances where
19 the health care provider may utilize interactive audio
20 without the requirement of interactive video if used in
21 conjunction with store-and-forward and, after access and
22 review of the patient's medical records, the provider
23 determines that the provider is able to meet the same
24 standards of care as if the health care services were
25 provided in person. When the health care provider
26 utilizes interactive audio without interactive video, the
27 health care provider shall inform the patient that the
28 patient has the option to request interactive audio and
29 video.

30 "Victim of sexual assault" or "victim." A person who

1 [represents] presents to a health care [professional]
2 practitioner, hospital or other health care facility that the
3 person has experienced a sexual assault.

4 Section 2. Section 3(a) of the act is amended by adding
5 paragraphs to read:

6 Section 3. Sexual assault evidence collection program.

7 (a) Establishment.--There is hereby established a Statewide
8 sexual assault evidence collection program to promote the health
9 and safety of victims of sexual assault and to facilitate the
10 prosecution of persons accused of sexual assault. This program
11 shall be administered by the department. Under this program the
12 department shall:

13 * * *

14 (4.1) Make grant funding available for the purpose of:

15 (i) Providing financial assistance to registered
16 professional nurses, qualified hospitals and individual
17 health care practitioners seeking completion of training
18 in the Sexual Assault Nurse Examiner Education Guidelines
19 established by the International Association of Forensic
20 Nurses or similar training available to those seeking to
21 become a sexual assault forensic examiner. Grant money
22 shall be used for the costs associated with enrolling in
23 the training curriculum and the payment of the curriculum
24 instructor as applicable.

25 (ii) Supporting telehealth services and
26 infrastructure to facilitate the delivery of sexual
27 assault nurse examiner services.

28 (4.2) Require all hospitals or their respective
29 emergency departments to maintain at least one sexual assault
30 forensic examiner or sexual assault nurse examiner on staff

1 for each available work shift. The following apply:

2 (i) The hospital may enter a contractual agreement
3 with a sexual assault forensic examiner or sexual assault
4 nurse examiner who is not directly employed by the
5 hospital or emergency department to fulfill the
6 requirements of this paragraph.

7 (ii) If a hospital or an emergency department is
8 unable to secure at least one sexual assault forensic
9 examiner or sexual assault nurse examiner to be on-site
10 at the hospital or the emergency department of the
11 hospital during all available work shifts, the hospital
12 or emergency department must place a sexual assault
13 forensic examiner or sexual assault nurse examiner on-
14 call. If necessary, the sexual assault forensic examiner
15 or sexual assault nurse examiner must report to the
16 designated hospital within one hour of receiving a
17 request to report to the hospital or emergency department
18 of a hospital to conduct a medical forensic examination.

19 (iii) The department shall promulgate regulations to
20 govern the conduction of performance audits to ensure
21 each hospital or the emergency department of a hospital
22 adheres to the requirements of this paragraph. The
23 regulations may include provisions that establish and
24 impose sanctions on a hospital or an emergency department
25 of a hospital that fail to comply with the requirement of
26 this paragraph.

27 (4.3) The department shall promulgate regulations to
28 govern the use of telehealth services in facilitating the
29 provisions of this section. The following apply:

30 (i) The regulations shall provide for the delivery

1 of medical services, including counseling services,
2 related to sexual assault to victims of sexual assault by
3 means of telehealth as determined by a certified sexual
4 assault forensic examiner.

5 (ii) The regulations shall provide for provider-to-
6 provider consultation whereby telehealth may facilitate
7 the communication of clinical expertise from a health
8 care provider certified as a sexual assault forensic
9 examiner to another health care provider to deliver
10 necessary health care.

11 (iii) A health care provider, hospital or provider
12 network may enter into a partnership with Federal-level
13 or State-level entities, including from other states, to
14 support carrying out the provisions of this section.

15 * * *

16 Section 3. Section 5(a)(4) of the act, added June 28, 2019
17 (P.L.223, No.29), is amended to read:

18 Section 5. Rights of sexual assault victims.

19 (a) General rule.--In addition to the rights provided under
20 the act of November 24, 1998 (P.L.882, No.111), known as the
21 Crime Victims Act, a sexual assault victim, guardian of a sexual
22 assault victim or close relative of a deceased sexual assault
23 victim shall have all of the following rights, if requested by
24 the victim, guardian or relative:

25 * * *

26 (4) The right to not be prevented from, or charged a fee
27 for, receiving a medical forensic examination[.] and all
28 subsequent medical services related to the sexual assault,
29 which may be provided to the victim at a hospital or
30 emergency department of a hospital by a health care

1 practitioner or registered professional nurse up to 90 days
2 following the initial medical forensic examination,
3 including:

4 (i) Laboratory services.

5 (ii) Pharmacy services.

6 (iii) Emergency contraception.

7 (iv) Diagnostic imaging and testing.

8 (v) Inpatient and outpatient procedures and
9 surgeries.

10 (vi) Mental health care and counseling.

11 (vii) Telehealth services.

12 * * *

13 Section 4. This act shall take effect in 60 days.