

# Guidelines for Medical Professionals Responding to Patients of Sexual Assault

## INTRODUCTION

Sexual assault is one of the most serious violent crimes, surpassed only by murder. Medical personnel are an essential component of response to this crime on many levels. First, the manner in which the medical services are performed is of extreme importance to the well being of the victim, as it can contribute either to further distress or to progress in healing. Therefore, it is essential that the victim sense non-judgmental support from those who treat her/him in the medical setting. Furthermore, while rape is a legal term and not a medical diagnosis, medical findings are of extreme importance in rape and sexual assault cases. Using SBI Sexual Assault Evidence Collection Kits (SBI Kit), medical personnel provide essential data that is accurate, objective, and nonjudgmental.

Forensic Nurses are specially trained in evidence collection and working with victims of sexual assault. Thus, evidence collected by Forensic Nurses tends to be more thorough and useful. Therefore, sexual assault examinations should be conducted by Forensic Nurses whenever possible. Whether conducted by a doctor or a Forensic Nurse, the sexual assault examination serves a vital role in response to sexual assault victims. The purpose of the exam is to assess the extent of the victim's injuries, provide necessary treatment and information regarding follow-up, and collect evidence in an environment of safety, empathy, and confidentiality. These guidelines were designed to facilitate this purpose.

Development of cooperative relationships with sexual assault advocates also facilitates attempts to respond to sexual assault in the most appropriate manner. Medical personnel should explain the benefits of having a sexual assault advocate respond and provide direct services to the victim. UNC Emergency Department and Campus Health Services must maintain strict adherence to institutional policies on patient confidentiality and is required to obtain written consent from the victim prior to bringing a rape crisis advocate to meet with a victim. However, it will be the practice of the staff at UNC Emergency Department and UNC Chapel Hill Campus Health Services to fully explain and offer the services of the rape crisis advocate to each victim.

The value of cooperation between medical personnel, sexual assault advocates, law enforcement, and prosecutors is well understood. This guideline was developed to encourage such cooperation. It is intended to aid medical professionals in meeting the needs of the victim, effectively collecting objective data, and ultimately providing the optimum response to sexual assault victims.

## PRIMARY CARE CONCERNS

### 1. Priority:

The patient should be given high priority as an emergency case. As time elapses, evidence may deteriorate; for example, drugs used to facilitate rape may quickly metabolize. Furthermore, victims should not urinate, eat, drink, smoke, etc. before evidence is collected. Thus, extended waiting times may further traumatize the victim.

### 2. Options for Care:

Options for the medico-legal exam will be explained to the patient by the Forensic Nurse. The patient may choose which option to follow. The patient may change his/her mind at any point in the exam process. The options for care include to:

- a. Have a medical and evidentiary exam and turn all evidence over to the jurisdictional law enforcement agency.
- b. Have a medical and evidentiary exam and withhold turning over any evidence collected to the jurisdictional law enforcement agency pending further decision-making by the patient.
- c. Receive only medical care and decline or defer evidentiary collection.

**\*All patients are offered services regarding Sexually Transmitted Infections, HIV Post Exposure Prophylaxis (PEP), Hepatitis, Pregnancy PEP, Crisis, Dean of Students or psychologist (if a UNC-CH student), and or Social Work services if applicable.**

### **3. Privacy:**

A patient will be given as much privacy as possible and assurance of safety. A patient entering into the UNC Emergency Department are coded as a “7273.” The patient will receive confidential care as maintained in accordance with the UNC Healthcare Systems and UNC Chapel Hill Campus Health Services policy on patient confidentiality.

### **4. Examination Personnel:**

Sexual assault exams should be conducted by a Forensic Nurse whenever possible since this individual is specially trained in evidence collection and working with survivors of sexual assault.

### **5. Sexual Assault Advocates:**

Advocates provide support to the victim during the examination process. If the patient desires, the advocate or another supportive person may remain with the patient throughout the procedure.

### **6. Facilities:**

The UNC Emergency Department and UNC Chapel Hill Campus Health Services maintain a special room dedicated to the delivery of care for patients needing services for sexual assault. This room is equipped with specialized technology and supplies which are used in the medico-legal exam.

### **7. Sexual Assault Collection Kits (SAECK):**

SBI Kits include containers and materials necessary for collecting physical evidence from the patient during an examination. These kits are pre-packaged and available free of charge from the SBI’s Molecular Genetics Section. SBI Kits should be used for both male and female patients, using the instruction sheet included. The patient/legal guardian is given several options for

disposition of the kit. The kit is legal evidence and is turned over to investigating officers/UNC Hospitals Police/UNC Chapel Hill Public Safety who will sign it to ensure the chain of custody.

### **8. Timing Considerations for SBI Kit:**

The need to collect evidence will be determined by the timing of the assault. Evidence may be collected up to 5 days from the date and time of the assault. There may be circumstances where the kit may be collected beyond the 5 day period (i.e., incapacitated victim, uncertainty of timing of event).

### **9. Identity Considerations for SBI Kit:**

SBI Kits should be completed regardless of whether the perpetrators identity is known or unknown.

### **10. Always Conduct Physical Exam:**

Regardless of time elapsed since the assault, a physical exam should be offered in all cases of sexual assault. Even after 5 days, some evidence may be gathered through a physical examination by documentation of bruises, lacerations or other findings, photographs, and statements about the assault made by the survivor.

### **11. Reporting to Law Enforcement:**

Discuss law enforcement notification with the patient early in the examination process. If there is evidence of use of a lethal weapon or severe bodily harm (gunshot wound, etc.), law enforcement notification is mandated by state law. This should be explained to the patient. If there is no evidence of the above, the patient should be allowed to choose whether to file a report. Discuss full and blind reporting (where available).

Inform the patient of benefits for which they may qualify through the Rape Victims Assistance Program. They are not required to make a blind or full report to police in order to access this funding, and it may cover up to \$800 of costs when an evidence collection kit is completed. Anonymous kits are counted. Offer to contact law enforcement officials, but allow the patient to decide.

The patient may elect not to file a report, but file an Anonymous Report. The Sexual Assault Evidence Collection Kits (SAECKs) are collected by the Forensic Nurse. Chain of custody is maintained and evidence is turned over to the appropriate law enforcement agency or held by UNC Hospitals Police/UNC Chapel Hill Public Safety officers and then mailed to the Law Enforcement Supply Services (LESS) facility. The kits are maintained at this facility for up to a year pending notification by the patient to Law Enforcement.

### **12. Reporting to Department of Social Services:**

North Carolina law requires reporting of any known or suspected case of child abuse or neglect to the local Department of Social Services within 24 hours. Report any assault where the victim is under 18 years old and the assault was committed, facilitated, or allowed by a parent, guardian, custodian, or caretaker. Reporting is also required where there is “reasonable cause to believe that a disabled adult is in need of protection.” A disabled adult is any person 18 years of age or older who is physically or mentally handicapped for a number of reasons, including advanced age.

### **13. Consent**

As with all medical procedures, written consent must be obtained before beginning examination, bringing a Companion to meet with a patient, evidence collection, photography, or treatment, unless conditions warrant immediate medical care. If the patient does not wish to grant consent for a portion of the procedure, that portion is stricken and initialed by the person giving the consent. While written consent is obtained before beginning the process, informed consent should continue throughout the examination. If the patient expresses resistance at any point, discontinue that portion of the process and go back to it later, if the patient agrees. Remember that regaining control is an essential part of the healing process.

If the patient is under age 18, a parent or guardian must give written consent for medical care. However, a minor may give effective consent for services for the prevention, diagnosis, and treatment of sexually transmitted diseases, pregnancy, abuse of controlled substance or alcohol, and emotional disturbance (See NCGS § 90-21.5).<sup>1</sup>

Consent may be a particularly difficult issue if parents bring in their teenage daughter requesting a sexual assault examination to determine if she is sexually active. Talk to the parents and the daughter separately. Provide information about statutory rape laws and their purpose where appropriate. Keep in mind that the purpose of the sexual assault examination is to provide treatment and evidence collection after a crime. The determination of sexual activity is a separate issue; sexual assault examination is not appropriate solely for this purpose.

### **14. Child Victim:**

Examinations of child victims should be conducted in accordance with Child Sexual Abuse Guidelines, available from the North Carolina Attorney General's Office and those outlined by the American Academy of Pediatrics.

If there is cause to suspect that abuse has occurred within a 72 hour time-frame, or the child is experiencing genital bleeding, pain, or discharge, the child should be transported to the UNC Emergency Department as soon as possible for care. Special attention should be directed at collecting the child's clothing, blankets, and bed linens, as these frequently will be the location where physical evidence is found.

If the time-frame of suspected abuse is > 72 hours, and the child has no genital bleeding, pain, or discharge, then the agency (Law Enforcement or DSS) may elect to arrange for the child to be seen in the UNC Child Medical Evaluation Clinic. An appointment may be arranged by calling the Beacon Program at 919-966-9314. For more information, visit the following website: <http://www.med.unc.edu/beacon/>. If it is not clear as to what action should be taken for securing an evaluation (<72 hours or > 72 hours), the Beacon Child Protection Team member may be consulted by calling the Beacon Program, 919-966-9314, during the hours of 0800-1700 or by calling the hospital operator at 919-966-4131 and asking for the on-call Beacon Child Protection Team member to be paged.

### **15. Initial EMS Contact:**

The initial response of EMS personnel is vitally important. It is essential that the patient senses non-judgmental support and receives appropriate medical care. Only ask questions necessary for medical treatment. Do not remove the patient's clothing, unless medically necessary. Clothing should be removed only by the Forensic Nurse or doctor performing the sexual assault exam.

#### **16. Initial Telephone Contact:**

When responding to a call from a victim of sexual assault, it is very important to express a supportive attitude. Because the victim is in crisis, she may still be in a dangerous place. First, ask if she is in a safe place and arrange for assistance if necessary. Explain the purpose of the sexual assault examination. Caution the victim not to bath, brush her teeth, urinate, douche, change clothes, gargle, clean up, or touch anything from which evidence might be collected. Explain that the clothes she is wearing may contain evidence and will be collected. Ask her to bring additional clothing; a limited change of clothes is available at UNC Emergency Department and at UNC Chapel Hill Campus Health Services. Where appropriate, discuss reporting options, mandatory reporting, advocacy services, the Rape Victims Assistance Program, and Crime Victims Compensation.

If possible, keep the victim on the line until help arrives, as an open line may provide her a valuable feeling of security. If the caller requests professional advice but seems unwilling to go to the UNC emergency room or UNC Chapel Hill Campus Health Services, recommend that she immediately see her physician or other appropriate resource. However, sometimes reluctant victims seek medical care after receiving sensitive support and understanding from the individuals who help him or her through the process.

#### **17. Assistance and Compensation Funds:**

In order to access Rape Victims Assistance Funds or Crime Victims Compensation funds, the victim does not have to make a full or blind report of the crime to law enforcement. Anonymous kits can be counted for this form of reimbursement. Rape Victims Assistance Funds can pay up to \$800 of physician/SANE nurse fees, hospital/facility fees, and other medical expenses deemed eligible by the Rape Victims Assistance Program (RVAP). To access Crime Victims Compensation Funds, a victim must file a full report within 72 hours of the assault and cooperate with investigative and prosecutorial efforts. The Crime Victims Compensation Fund makes awards up to \$30,000 for medical care, therapy, lost wages, or other expenses. UNC Chapel Hill has a designated special student supported fund governed by Student Government to offset medical expenses for eligible students. More information on the RVAP can be found here: <http://www.nccrimecontrol.org/Index2.cfm?a=000003,000016,000169>. More information on Crime Victims Compensation can be found here: <http://www.nccrimecontrol.org/index2.cfm?a=000003,000016>.

#### **18. Minimizing Cost to Victim:**

Medical facilities should conduct procedures with the goal of minimizing costs to patients. Evaluate charges for services provided to patients. Provide sample medications when possible. Develop systems to directly bill insurance companies and Rape Victims Assistance Funds where appropriate.

## **EXAMINATION PROCEDURES**

### **1. Components:**

A complete sexual assault examination includes five components:

- Care and documentation (written, photography) of injuries
- Collection of evidence utilizing the SBI Sexual Assault Evidence Collection Kit.
- Sexually Transmitted Infections, HIV, Hepatitis risk evaluation and prophylactic treatment
- Pregnancy risk evaluation and prophylactic treatment
- Crisis intervention and follow-up referrals

### **2. Assess victim's priorities:**

It is incumbent upon the Forensic Nurse to help the patient to feel reasonably comfortable during the exam. Reassure him/her of your concern for him/her; always be non-judgmental and objective. Though a great deal of information is provided about evidence collection, many patients are only interested in treatment for injuries and prevention of pregnancy or disease. While evidence collection may be encouraged, medical personnel should provide information about all options of care and the patient will determine what options to pursue.

### **3. Integrate procedures:**

Physical assessment and evidence collection procedures should be completely integrated to maximize efficiency and minimize trauma to the victim such as, drawing blood for medical and evidentiary purposes at the same time.

### **4. Explain the procedures:**

Before beginning medical procedures, clearly describe each procedure and its purpose. Remember that some of the procedures are uncomfortable and painful, especially considering the nature of the trauma the patient has just experienced. The time and courtesy extended will help the patient to relax, making the process easier for all.

### **5. Collaborative interviewing:** (This should be carefully considered).

Though various professionals responding to sexual assault will need different information, collaborative interviewing may occur upon the request of the patient. Law enforcement interviews and the interview provided by the Forensic Nurse should be separate whenever feasible. Discuss collaborative interviewing with the patient, and determine the interview team size based on his/her comfort with multiple parties.

### **6. Collection and Handling of Evidence:**

- a. SBI Kits should be used for both male and female victims. Do not leave any open SBI kit unattended until it is completed and sealed.
- b. Follow instructions included with the SBI Kit. Change gloves between each evidence step.

- c. All evidence must be individually packaged, sealed, and labeled with the date and time of collection and the initials of all clinicians that collected or handled the evidence.
- d. Though most containers are provided, evidence may be secured in additional, containers as necessary.
- e. Each item in the kit should be submitted to the SBI for analysis and none should be retained by the UNC hospital or UNC Chapel Hill Campus Health Services.
- f. Place items in the kit and seal with evidence seal. Include additional items in the kit if size permits. Outer clothing, other large items in paper bags, and urine samples should not be placed in the kit, but properly sealed, labeled, and returned along with the kit.
- g. Kits should be turned over to a law enforcement officer, who will sign to ensure chain of custody. Do not mail kits directly to the SBI Lab.

## **POST EXAMINATION CONCERNS**

### **1. Court Appearances:**

Documentation provided in medical records may be essential for prosecution of sexual assault cases. If subpoenaed to appear in court, ensure that your Risk Management Team is aware and that HIPAA is maintained. Contact the District Attorney in advance to discuss the time and purpose of the court appearance.

### **2. Public Education:**

It is important for medical personnel to participate in the training of rape crisis volunteers and law enforcement officers, to give presentations to school students, and to participate in community programs about rape. An informed community is an essential ingredient in the improved treatment of victims and the prevention of rape.

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#### **<sup>i</sup> § 90-21.5. Minor's consent sufficient for certain medical health services.**

(a) Any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under G.S. 130A-135, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional disturbance. This section does not authorize the inducing of an abortion, performance of a sterilization operation, or admission to a 24-hour facility licensed under Article 2 of Chapter 122C of the General Statutes except as provided in G.S. 122C-223. This section does not prohibit the admission of a minor to a treatment facility upon his own written application in an emergency situation as authorized by G.S. 122C-223.

(b) Any minor who is emancipated may consent to any medical treatment, dental and health services for himself or for his child. (1971, c. 35; 1977, c. 582, s. 2; 1983, c. 302, s. 2; 1985, c. 589, s. 31; 1985 (Reg. Sess., 1986), c. 863, s. 4; 2009-570, s. 10.)