

## *Provisions Within the Ohio Revised Code*

### *Dealing with Sexual Assault*

The Ohio Revised Code can be found on the Internet at: <http://codes.ohio.gov/>

Once there, scroll down the list on the left side of the page, click on Title 29, then click on Chapter 2907, then go down the list to the part of the law you need. Click on the section you want and it will appear in the right two-thirds of your screen. The same procedure should be followed to review Chapter 2921 or Title 21, Chapter 2151.

#### **Sexual Assaults:**

- 2907.01 Definitions
- 2907.02 Rape
- 2907.03 Sexual Battery
- 2907.04 Unlawful sexual conduct with minor
- 2907.05 Gross Sexual Imposition
- 2907.06 Sexual Imposition
- 2907.07 Importuning
- 2907.08 Voyeurism
- 2907.09 Public indecency
- 2907.10 Preliminary polygraph test of sex offense victim
- 2907.11 Suppression of names of victim and offender and details of the alleged offense
- 2907.21 Compelling prostitution

#### **Medical Assistance to Victims of Sexual Assault:**

- 2907.27 Testing of accused for venereal diseases and HIV
- 2907.28 Payment of cost of medical examination and test of victim or accused
- 2907.29 Hospital emergency services for victims. (information to be given to victim; consent of minor)
- 2907.30 Victim to be interviewed by crisis intervention trained officer
- 2921.22 Failure to report a crime or knowledge of a death or burn injury
- 2151.421 Duty to report child abuse or neglect; investigation and follow up procedures

Above statutes are based on revisions and amendments made through November 2010.



# Ohio Attorney General

## Sexual Assault Forensic Examination (Safe) Program

### Instructions for Reimbursement Form

All exams must be conducted using the 2011 Ohio Sexual Assault Protocol for Sexual Assault Forensic and Medical Examination.

- ✘ If a kit is conducted, it must be done so without omissions according to the directions supplied in the kit. Once a kit is opened and it is determined components are missing, either replace the missing items or open a new kit and retrieve the necessary items. You may return incomplete kits to the distributing company for reimbursement (see Kit tab). It is the responsibility of the medical provider to conduct all steps of the kit. *Repeated instances of improper kit collection could result in future ineligibility for reimbursement.* The Ohio Department of Health and the Ohio Attorney General's Office have approved the following kits: 1) Ohio Department of Health kit; and 2) the University of Cincinnati Hospital's designated kit.
- ✘ The Ohio Revised Code 2907.28 (B) states that "no costs incurred by a hospital or "emergency facility" for the collection of forensic evidence in sexual assault cases "shall be billed or charged directly or indirectly to the victim or the victim's insurer"
  - \* If an **adult** patient presenting in the emergency department as a victim of sexual assault is provided a pregnancy test and emergency contraception (STI prophylaxis is part of SAFE reimbursement and STI testing on adults is discouraged), etc., those costs are billable to the patient/insurer.
  - \* STI testing of **minors** is appropriate and is considered part of the evidence collection and reimbursable through the SAFE program.
- ✘ The medical facility is *not* permitted to charge the patient for the emergency room visit for these services as they are related to a standard of care during the SAFE. If the patient requires additional emergency services such as CT scan, MRI, suturing, etc., then the emergency room visit is billable to the patient/insurer.
- ✘ The SAFE Program will reimburse a hospital or medical facility according to Administrative Rule 109:7-1-02 that states "a hospital or emergency medical facility shall accept a flat fee payment of \$532.00 as payment in full for any cost incurred in conducting the examination of a victim of sexual assault for the purpose of gathering physical evidence for possible prosecution, including the cost of any antibiotics administered as part of the examination."
- ✘ A hospital or other emergency medical facility should bill the SAFE Program on a monthly basis by submitting a Reimbursement Request Form (enclosed/online) for each examination conducted. A reimbursement request form shall be submitted no later than six months after the examination date. Failure to do so may result in a denial. If a reimbursement form is returned for more information, the medical facility has four months in which to resubmit for payment.
- ✘ Physicians and other medical providers shall seek reimbursement for services provided as part of the SAFE (i.e., diagnosis, prescriptions, etc.) from the hospital or other medical facility where the exam is conducted and not bill the SAFE program, the patient, or their insurer. It is the responsibility of the medical facility to establish the process by which physicians will be reimbursed from the SAFE payment.

- ✂ Reimbursement for collection of evidence from a suspect is not covered under the SAFE Program. Reimbursement should be sought through the appropriate law enforcement agency.

Read the following instructions to insure the *2011 Ohio Sexual Assault Protocol for Sexual Assault Forensic and Medical Examination* is followed and the exam is reimbursable by the SAFE Program. If you have additional questions contact the SAFE Program at (800) 582-2877 or (614) 995-5415

The following steps correlate to the numbered boxes on the reimbursement form. In order to receive your reimbursement in a timely manner, please follow the directions for each question. Failure to answer all questions completely may result in a denial.

1. **Name and address of medical facility providing evaluation.**
2. **Facility SAFE Account/Vendor number.**
3. **Name of healthcare professional (s) conducting examination.**
4. **Indicate if the primary examiner named in box 3 is an expert in pediatric sexual abuse.** The Ohio Attorney General's Office (OAG), the Ohio American Academy of Pediatrics, and the Ohio Chapter of the Association of Forensic Nurses developed criteria (Appendix 5) for health care providers performing forensic medical exams on suspected pediatric sexual abuse cases where a genital exam is conducted, but no kit is collected due to disclosure occurring outside of the 72 hour timeframe. In order to receive reimbursement from the SAFE program, the individual performing the exam must submit a resume/CV detailing their expertise in pediatric sexual abuse and be approved by the OAG
5. **Patient name.** If the adult patient chooses not to report to law enforcement and asks that their identity be kept completely confidential, a reimbursement form submitted on behalf of "Jane Doe" is an acceptable submission.
6. **Patient Gender Identity– Please check one option** based on the response provided by the patient. See corresponding definitions below (from Human Rights Campaign, Sexual Orientation and Gender Identity: Terminology and Definitions. [http://www.hrc.org/issues/gender\\_identity\\_terms\\_definitions.asp](http://www.hrc.org/issues/gender_identity_terms_definitions.asp)):

The term "gender identity" refers to a person's innate, deeply felt psychological identification as male or female, which may or may not correspond to the person's body or designated sex at birth.

**Transgender** – A broad range of people who experience and/or express their gender differently from what most people expect — either in terms of expressing a gender that does not match the sex listed on their original birth certificate (i.e., designated sex at birth), or physically changing their sex. It is an umbrella term that includes people who are transsexual, cross-dressers or otherwise gender non-conforming.

7. **Patient date of birth.**

8. **The patient's identification number** must be provided. In cases where a medical record number is not used, provide the first six digits of the patient's social security number. The same identification number must appear on both the reimbursement form and itemized statement.
9. **Date/Time of Abuse/Assault** – If the exam occurs within 96 hours (four full days) post-assault for an adult and 72 hours (3 full days) for a child, evidence should always be collected. If a kit is collected, a specific date and time is required to confirm it was completed within the required timeframe. If an exact date is unknown, provide an estimated range of dates based upon the best information available (ex., December 2009, Summer 2008). Situations where this may be necessary would include cases with young children or adult patients who present with cognitive disabilities such as developmental delays or dementia and are unable to provide an exact date of assault. Any forms marked with “unknown” will be denied.

There are cases in which evidence should be collected beyond 96 hours. Examples include where the patient was unconscious or sedentary or where an exam may corroborate chronic injury or excessive force related to the sexual assault. Documentation must clearly justify the reasoning for the forensic collection as it relates to the sexual assault. Documentation does not guarantee payment by SAFE program.

10. **Treatment Date/Time** – The date/time when the treatment of the patient began.
11. **Indicators of sexual assault** - Document which indicators/history the patient (or guardian) presented with and why sexual assault/abuse was suspected and an exam conducted. In cases of suspected drug facilitated sexual assault in which the victim's memory may be impaired, document why the patient believes they were assaulted.
12. **Age of perpetrator** – If known, document the age of the perpetrator.
13. **Drug facilitated sexual assault** –If Drug Facilitated Sexual Assault (DFSA) is suspected, it is strongly recommended that a urine sample is collected per the DFSA Protocol (Appendix 9).
14. **Indicate if a DFSA sample was collected.** If known, indicate where it was sent for testing. If not tested, write “none”.
15. **Indicate which exam components were provided.** – All exams must be conducted using the *2011 Ohio Sexual Assault Protocol for Sexual Assault Forensic and Medical Examinations*. If an exam is conducted out of state using a different protocol and kit, document name of the kit used to collect evidence.

The Ohio Department of Health and the Ohio Attorney General's Office have approved the following kits:

- 1) Ohio Department of Health kit; and
- 2) the University of Cincinnati Hospital's designated kit.

Use the chart on the last page of the instructions to determine which forensic exam components are mandated in order to qualify for reimbursement under the *2011 Ohio Sexual Assault Protocol for Sexual Assault Forensic and Medical Examination*.

**16. Document the reasoning for a kit not being collected within the timeframes as suggested in the chart referenced in Question 15** - The documentation provided must address the specific unique details of the case, and be consistent with the protocol. Failure to provide this information may result in a denial. Examples of general documentation that is NOT acceptable include (but are not limited to) – “law enforcement did not request kit”; kit not in the best interest of the child.”

**17. Kit Retrieval** – Law enforcement is expected to retrieve all kits in order to maintain a safe storage location. If law enforcement did not retrieve the kit, document the agency contacted and their explanation for failing to pick up the evidence.

**18. Law enforcement reporting** – Ohio Revised Code (ORC) 2921.22 (A) & (B) (see page 7) requires that health care providers report a sexual assault to law enforcement whether a patient chooses to speak with law enforcement or not. If the adult patient chooses to remain anonymous, the provider is mandated to provide the date, time, and general location the assault took place, but not the patient’s name or other identifiers. The sexual assault forensic exam and reimbursement is not dependent on the patient cooperating with law enforcement.

**Law enforcement reporting or public children services agency** - ORC 2151.421 (A)(1)(a) & (b) (see page 5) mandates that all health care providers report child abuse or neglect; investigation and follow-up procedures are the responsibility of either law enforcement or child protective services. Patients 17 years of age and younger are ineligible to file an anonymous report. Any submitted reimbursements in which a report is not made to law enforcement and/or child protective services by the medical provider may result in a denial.

**19. Incarcerated patients** – All patients confined in a county, city, or federal jail or prison, or in any other institution maintained and operated by the Dept. of Rehabilitation and Corrections or Youth Services.

**20. Signature** – Each medical facility is required to assign a Facility Protocol Coordinator(s) (see page 9) who meets the requirements established in the *2011 Ohio Sexual Assault Protocol for Sexual Assault Forensic and Medical Examination* (in order to reduce a potential hardship on smaller sites this duty may be assigned to no more than 3 staff.) Each Coordinator will be assigned a unique login identifier on the Ohio Attorney General’s website for their facility to submit for payment electronically (hard copies are still accepted.) They are responsible for signing and submitting all reimbursement forms on the SAFE program. Failure to do so may result in a denial.

**21. Itemized statement Submissions** – The itemized statement is required to display a dollar amount charge for services detailed as:

- ✘ Sexual assault forensic examination; or
- ✘ Sexual assault evidence collection kit; or
- ✘ SANE exam; or
- ✘ Genital/anal examination and photo documentation; and
- ✘ Antibiotic prescription or any prophylaxis given to the patient to prevent sexually transmitted infections.

Language such as “emergency room department” or “emergency room visit” or “clinic” do sufficiently detail that the services were provided during the sexual assault examination and may result in a denial.

The itemized statement must also include the patient name and medical record number and/or first six digits of the social security number. If the itemized statement does not match the information submitted on the reimbursement form, it may result in a denial (ex., incorrect patient name, DOB, or treatment dates noted on reimbursement form and invoice that are different.)

Periodically, chart audits will be performed to determine compliance with the *2011 Ohio Sexual Assault Protocol for Sexual Assault Forensic and Medical Examination* and the OAG reimbursement policy.

Any medical services provided outside of what is eligible for SAFE reimbursement are billable to the patient/insurer. This includes but is not limited to:

- ✘ Plan B (emergency contraceptive)
- ✘ Pregnancy testing
- ✘ HIV prophylaxis
- ✘ Pain relievers
- ✘ Blood work
- ✘ X-rays
- ✘ Any testing related to injuries from the assault
- ✘ See bullet 2 regarding billing for emergency department visit

The patient should be encouraged to fill out an application for the Crime Victims Compensation Fund to determine eligibility for reimbursement of medical and other expenses. Provide patient with enclosed Crime Victims Compensation card.

**22. Submit to SAFE** – Submit the reimbursement form either online at the Ohio Attorney General’s Office web site and upload the patient itemized statement or submit hard copies to the following address:

Ohio Attorney General SAFE Program  
Attn: SAFE Account Clerk  
150 E. Gay St., 25th Floor  
Columbus, Ohio 43215

If you have questions regarding submission contact the SAFE program at (614) 995-5415.



# 2011 Ohio Sexual Assault Protocol

for Sexual Assault Forensic and Medical Examination Mandated Examination Components.

## 15 or under

No suspicion of sexual contact or penetration,\* ejaculation, or the presence of other bodily substances (ex. saliva, urine, blood, emesis, etc.)

Procedures billable to patient.

Suspicion of sexual contact\*\* but no penetration, ejaculation, or the presence of other bodily substances (ex. saliva, urine, blood, emesis, etc) *and*

Last incident *less than* 72 hours - Kit billable to SAFE; -or-

Last incident *greater than* 72 hours – Genital exam\*\*\* is billable to SAFE.

Suspicion of penetration, ejaculation, or the presence of other bodily substances (ex. saliva, urine, blood, emesis, etc) *and*

Last incident *less than* 72 hours – Kit billable to SAFE; -or-

Last incident *between* 72 and 96 hours – Kit or genital exam\*\*\* is billable to SAFE. -or-

Last incident *greater than* 96 hours - genital exam\*\*\* is billable to SAFE.

## 16 or 17

No suspicion of sexual contact or penetration, ejaculation, or the presence of other bodily substances (ex. saliva, urine, blood, emesis, etc.)

Procedures billable to patient.

Suspicion of sexual contact or penetration, ejaculation, or the presence of other bodily substances (ex. saliva, urine, blood, emesis, etc) *and*

Last incident *less than* 96 hours - Kit billable to SAFE; -or-

Multiple incidents *greater than* 96 hours - genital exam\*\*\* is billable to SAFE; -or-

Single incident *greater than* 96\*\*\*\* - procedures billable to patient.

## 18 and over

Last incident *less than* 96 hours – kit billable to SAFE

Last incident(s) *greater than* 96 hours\*\*\*\* - procedures billable to patient

\* "Penetration" means vaginal intercourse; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another.

\*\* "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexual arousal or gratification, without privilege to do so. An exam is billable to the SAFE program if the exam occurred for the purpose of gathering physical evidence for a possible prosecution. Physical evidence may include semen, saliva, blood, sweat, hairs, vaginal secretions or other materials potentially transferred during a sexual contact.

\*\*\* All genital exams must be performed by an approved physician, advanced practice nurse, or registered nurse who is an expert in pediatric sexual abuse (see Ohio American Academy of Pediatrics and International Sexual Assault Nurse Examiners established criteria in Appendix 5).

\*\*\*\* See page 1 of the Protocol for extenuating circumstances allowing evidence collection greater than 96 hours for adults and older adolescents.