Department Generating Policy: EMERGENCY DEPT.		**Effective Date:**	**6/94**
Affected Departments: NURSING		**Manual Location:**	**ED**
Dept / Committee Approval	**MTQIC/ED Committee**	**Date:**	**3/22/16**
Medical Staff Approval*	**Medical Executive Committee**	**Date:**	**4/12/16**
Board Approval*	**Board of Trustees**	**Date:**	**4/19/16**

DEFINITION:
Sexual assault is the act of sexual intimacy performed by one person upon another without mutual consent, either by force, or by threat of force, or by the inability of the victim to give adequate informed consent due to age, intellectual or physical incapacity (RCW 9A.44.010).

PURPOSE:

Medical: To identify and treat injuries, assess the risk of pregnancy and sexually transmitted diseases, document the history, document medical findings, provide prophylaxis for sexually transmitted diseases and emergency contraception when indicated.

Social/Psychological: To respond to the patient's immediate emotional needs and concerns, assess patient safety and assist with interventions, provide information about typical reactions, fear reduction and coping strategies, and explain the reporting process and Crime Victims Compensation.

Forensic/Legal: To collect forensic evidence, preserve evidence integrity and maintain the chain of custody, transfer evidence to law enforcement with appropriate consent.

Refer/Report: To refer for follow up medical care, advocacy or counseling, assist with report to law enforcement as requested by the patient, in cases of minors or vulnerable adults, report to appropriate authorities as required by law.

PROCEDURE:
In general, the medical/forensic exam is indicated on an urgent basis when the assault or suspected assault occurred within the prior 96 hours. The time frame is not rigid and in some circumstances the time frame may be longer.

1. **If the department receives a telephone triage, advise the patient:**
   - Not to bathe before the exam
   - Bring in the clothes worn at the time of the assault and to bring in a change of clothing
   - The exam and wait time may be several hours
   - Bring a support person (family, friend, advocate) if possible. If the assault was more than 96 hours prior to the medical/forensic exam it is generally not indicated on an emergency basis. In certain circumstances a forensic exam may be appropriate even after 96 hours.

Examples include:

- Cases of abduction
- Cases of suspected abuse of vulnerable adults
- To document body injury or severe genital or anal injury
- The decision should be made by the provider in consultation with the patient, sexual assault advocate and law enforcement when needed.
- Psychological support - Sexual Assault Advocate should be contacted in all cases
- Patient may need a referral to primary care for needed medical care or receive treatment in the Emergency Department
- Inform the patient that emergency contraception may be affected in decreasing the risk of pregnancy up to 5 days (120 hours) after unprotected intercourse
- Advise or assist the patient in making a police report in accordance with the patient's wishes
- Assist in making mandatory report regarding vulnerable adults or minors

2. **Patient Centered Care – The medical/forensic exam is done by the healthcare provider for the benefit of the patient:**
   - These are priority patients and should be triaged for care immediately after those with life threatening illness or trauma
   - Patients should be moved to a private setting as soon as possible
   - Each step in the process should be explained to the patient
   - The patient may decline any aspect of the exam or evidence collection
   - The healthcare provider must adhere to laws governing healthcare such as HIPPA regulations, as well as to ethics and standards of the medical and nursing profession
   - The patient may have difficulty deciding immediately if he/she wants to make a police report
   - If a kit is collected and the patient cannot decide about reporting, the Police Department will store the kit without a case number.

3. **Special Populations – Special populations such as the elderly, pediatric, non-English speaking individuals, male victims or the psychiatrically or cognitively impaired patients require special sensitivity and skills to provide optimal care. Interpreters should be used for non-English speaking patients. Coordination with law enforcement:**
   - Medical staff must obtain patient consent before discussing the case with law enforcement, advocates or others
   - Patient consent makes coordination of services more efficient such as the photographs of bodily injuries and safety planning by the advocate
   - Photographs of genitalia are NOT to be done by law enforcement
   - The exam may be done before or after a policy report is made, or when a report is not made
   - When sedation is required to obtain specimens on pediatric patients, the on-call pediatrician is notified and involved in care if indicated.
   - Reporting to law enforcement is the patient's choice unless the patient is a vulnerable adult or minor
   - It is inadvisable for the medical provider/SANE and law enforcement to take the history from the patient together

- The law enforcement officer is NOT to remain in the room during the medical or forensic exam
- The advocate will coordinate safety planning, psychosocial assessment and assist with coordination of follow-up care and services

4. **Registration and Billing –**
   - The patient should be informed of Crime Victims Compensation
   - The initial forensic exam for sexual assault for the purpose of gathering evidence for possible prosecution must be billed to Washington State Crime Victim's Compensation
   - The patient should be provided bedside registration

5. **Consent for Care – Adults: The forensic exam is not a medical emergency**
   - The patient should provide informed consent for the collection of evidence and understand the consequences of consent and refusal of forensic evidence collection
   - The patient should specifically be informed of the consequences of declining
   - evidence collection procedures specifically that it may impede criminal prosecution

6. **Refusal of Care –**
   - The patient may choose to refuse all or part of the examination and evidence collection

7. **When the Patient is Not Able to Consent –**
   - If the patient is not able to consent due to a transient condition (i.e. intoxication), the sexual assault exam should be delayed until the patient is capable of consent. This judgement should be made by the healthcare provider/SANE
   - If the patient is not able to consent due to a long-term medical condition, or if evidence will be lost (going to surgery), the healthcare provider/SANE will determine whether, in his/her opinion, evidence collection is in the best interest of the patient
   - With this assessment it is legally permissible to collect forensic evidence including clothing, hair and swabs from skin and orifices
   - This evidence will be stored until appropriate consent from the patient or legally authorized representative is obtained
   - Evidence kit and clothing must be stored in a locked cabinet at room temperature

8. **Consent for Care – Minors:**
   - In general, the parent or legal guardian must sign consent for care for patients under the age of 18
   - *There are special exceptions for reproductive health care and these exceptions apply in part to medical care after sexual assault*
     - A female may obtain confidential care for pregnancy or birth control regardless of age (RCW 9.02)
     - A person 14 or older may obtain confidential care of sexually transmitted diseases (RCW 70.24.110)
     - The patient must be able to give informed consent that they understand the risks and benefits of the medical treatment and treatment alternatives

9. **Other Exceptions May Apply –**

- A minor may be legally emancipated by the court and has the same rights as an adult regarding medical care
- A minor may be emancipated for the purposes of specific medical care without a court decree; this decision may be made by the healthcare provider
- The decision should be made based on the following factors:
    - The patient's maturity and decision making capacity
    - Independence from parents in residence and financial support
- If a minor signs for his/her own care, document the patient's maturity, independence, decision making capacity, understanding of treatment and plans for safety

10. Mandatory Reporting –

- Healthcare workers, law enforcement personnel and other mandated reporters must report within 48 hours when they have reasonable cause to believe that a child under the age of 18 years of age has suffered sexual abuse or sexual exploitation (RCW 26.44.030)
- Sexual abuse includes consensual sexual contact when there is a significant difference in age"

Age of victim	**Age of offender**
Less than 12	**24 months or more older**
12 or 13	**36 months or more older**
14 or 15	**48 months or more older**

- A report of suspected child abuse or neglect must be made to CPS or law enforcement
- Upon receiving a report, DSHS or law enforcement shall have access to all relevant records of the child in possession of mandated reporters and the employees

11. Confidentiality of Minors –

- The patient should be clearly informed of the limitations of confidentiality and the requirements of CPS or policy reporting
- The medical provider/SANE should emphasize that privacy is not assured after a police report is made
- The medical provider/SANE should talk with the patient, discuss how to tell parents or guardian of the event and offer to assist the patient with this communication

12. Vulnerable Adults – Mandatory Reporting:

- When there is a suspicion of sexual abuse or assault of a vulnerable adult, a report must be made immediately to law enforcement and to the appropriate agency (RCW74.34.035)
- A vulnerable adult is any person over 60:
    a. Who has the functional, mental or physical inability to care for himself or herself
    b. An adult living in a nursing home, boarding home or adult family home
    c. An adult of any age with a developmental disability
    d. An adult with a legal guardian
    e. An adult receiving care services in his or her own home

- For residents of long-term care facilities including nursing homes, boarding homes or adult family homes, a report must be made to law enforcement AND the DSHS Complaint Resolution Unit (1-800-562-6078)
- For vulnerable adults who live in their own homes, a report must be made to law enforcement AND Adult Protective Services (1-800-363-4276)

13. Diagnosis –

- Rape is a legal term not a medical diagnosis
- Assessment throughout the chart should be "report of sexual assault" or "concern of sexual assault"

14. Authorization for Release of Confidential Health Information – Information, medical records, photographs obtained by medical personnel and evidence including clothing and forensic evidence are protected health information and are subject to HIPAA regulations.

- Records and evidence cannot be transferred to law enforcement until authorization for release is obtained (exceptions for minors and vulnerable adults)
- Authorization may be made by:
    a. The patient
    b. Legally authorized surrogate decision maker
    c. Court order or warrant
- Even if the patient is brought in by law enforcement, consent from the patient or legally authorized surrogate decision maker must be obtained before releasing information to law enforcement
- Without this consent, only the following information can be released:
    a. Name
    b. Age
    c. Address
    d. Gender
    e. Type of injury
- To disclose further information, another exception – the exceptions are children under 18, vulnerable adults or to minimize an imminent and serious threat to health and safety

15. Documentation –

- The medical chart is likely to be legal evidence
- It is important to indicate the source of information as documented in the chart
- On each page of the report, clearly indicate the name of the patient and hospital number
- Print the name of the staff member who completed the report
- Sign and date each page

PROCEDURE –

Triage

1. Medical stabilization always precedes forensic exam. The following history or conditions should be evaluated medically prior to the sexual assault exam:
    a. History of loss of consciousness
    b. Altered consciousness or mental status

c. Head injury
d. Significant facial injury
e. Possible fractures
f. Blunt trauma to abdomen or back
g. Active bleeding
h. Pregnancy
i. Psychiatric illness
j. Strangulation or choking

2. If apparent psychiatric illness complicated assessment of the report of sexual assault, both psychiatric assessment and medical forensic exam often will be necessary. Proceed according to patient needs and tolerance
3. The triage process should be completed in a private environment. If there are physical injuries consider completing triage and registration at the bedside. Do not leave the patient in the waiting area

Rationale

The forensic evidence collection cannot proceed until the patient is medically stable and acute care needs are met. Sexual assault evidence collection is not an emergency

Medical Screening Exam

1. Any acute medical care must occur before the forensic exam. Acute injury is always the priority. The physician must screen for injury. Do not delay medical care for evidence collection
2. Staff RN to collect and send urine for pregnancy test and urine drug screen if indicated

Rationale

- *Delay of medical care may be harmful to patient*
- *Obtaining the urine tests at this time will decrease time in the ED for the patient*

Informed Consent

1. SANE or primary RN will obtain HIPAA compliant consent for collection and release of information

Rationale

- *The forensic exam is not an emergency and requires that a separate consent be signed. The HIPPA compliant consent is also specific for what information may be released to which agency*

History

1. History of the event will be taken using the Sexual Assault form following recommended state guidelines
2. The medical history is not a forensic interview. It is not necessary for the medical provider/SANE/primary RN to obtain forensic details such as the description of the assailant, exact location of the assault, etc. This information should be obtained by law enforcement

Rationale

- *Formalizes the process, collect accurate patient information, history of the event, medical history and social history*

Physical Exam

1. A complete head to toe exam is performed with particular attention to findings that may indicate injury, bite marks, bruises or suction wounds

Rationale

- *Starting the forensic exam with a gentle physical exam will help the patient in feeling safe and supported*
- *Documentation of injuries on the tomogram or with photographs will assist in the legal arena*
- *Observation of injuries will also guide specimen collection as those areas will be swabbed*

Forensic Exam

1. Using the Tri-Tech Kit, forensic evidence will be collected as detailed in the Recommended State Guidelines – Sexual Abuse Emergency Medical Evaluation of the Adult/Adolescent

Rationale

- *To meet state standards of care and standardize evidence collection while meeting the needs of the patient*

Pregnancy Test

1. Obtain a urine pregnancy test of all females age 10 and older (Tanner 3 and above) unless there is a history of hysterectomy or tubal ligation

Rationale

- *To determine if the patient is pregnant*

STD Testing

1. STD testing is not forensically useful and positive tests usually indicate pre-existing infection
2. STD testing will not be done in the ED unless the patient specifically requests specific testing
3. HIV testing is not done in the ER and can be facilitated by the SA advocate if the patient desires testing
4. The exceptions are vulnerable adults and young adolescents. In these cases, if there has been no prior consensual activity, STD testing may be legally important

Rationale

- *Risk of STDs is very low after a one time encounter with a single assailant*
- *A positive STD result cannot be linked in most cases to the assault*
- *HIV testing requires pre and posttest counseling that is appropriate for an outpatient setting*
- *A positive HIV test will not reflect acquisition from the assault but relate to possible exposure 2 months prior or more*

Toxicology Testing

1. Urine drug screen or blood alcohol may be obtained if the patient appears impaired, intoxicated or has altered mental status
2. If the patient reports blackout, memory loss, or has partial to total amnesia of the Event

3. If the patient has a concern that he or she may have been drugged
4. Tests for legal evidence will be performed at the Washington State Toxicology Lab
5. If there is a concern of drug facilitated assault, an alcohol level obtained within 8 hours may be useful

Rationale

- *Drug and alcohol screening may assist in the legal arena*
- *Chemical impairment does not excuse or rationalize the assault*

Patient Comfort

1. Patient comfort is not compromised for evidence collection
2. The patient may decline any aspect of the exam

Rationale

- *To allow the patient to regain control*

Emergency Contraception

1. By Washington State (RCW 70.41.350) law, every hospital providing emergency care of the victim of sexual assault must provide information about emergency contraception.
2. Inform each victim of her option to be provided with this medication and
3. If not medically contraindicated provide emergency contraception immediately
4. Offer emergency contraception when:
   a. Assault occurred within the prior 3 days and
   b. Patient is at risk of pregnancy and
   c. Patient is not using a highly reliable form of birth control and
   d. The patient feels any pregnancy conceived in the last 5 days would be undesirable and
   e. The pregnancy test is negative

STD Prophylaxis

1. STD prophylaxis will be offered without testing

Rationale

- *Protection for the patient*

Hepatitis B Vaccine

1. Hepatitis B vaccine will be offered if the patient has not been fully immunized and the patient has a negative history of hepatitis B
2. The patient will be informed that repeat vaccine doses are necessary at one and four months after the initial vaccine

Rationale

- *Protection for the patient*

Tetanus Prophylaxis

1. Tetanus will be offered when there are open skin wounds and the patient is not up to date for tetanus immunizations

HIV Post-Exposure Prophylaxis

1. HIV prophylaxis will not be provided in the ED

Rationale

- *Risk of contracting HIV from a single exposure from an infected person is extremely low*
- *Options exist in the community for HIV testing and prophylaxis*

Discharge

1. Explain to the patient what tests were obtained
2. Explain follow-up for further care if needed
3. Explain that if a police report was made, a detective will contact the patient within several days
4. Assess support systems
5. Offer written discharge materials
6. Confirm plans for follow-up

Review/Revisions:					
Date:	**12/2015**				
By:	**RJW**				