

# Recognizing the Need for Pediatric Evidence Based Practice in Sexual Assault Laws

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Department of Emergency Medicine  
October, 2023



# SANE-P Advanced Practice Team

## Excellence

- 24/7 coverage for acute evaluations in the Lurie Children's Pediatric Emergency Department by nationally certified SANE-P Nurse Practitioners and additionally in the Lurie Pediatric Emergency Department at Central DuPage Hospital during hours of operation

## Compassionate Child Friendly Care

- Providing care for pediatric and adolescent patients in partnership with Licensed Clinical Social Workers and Child Life Specialists in a state-of-the-art child friendly facility

## Advocacy

- Consistently advocating for high quality evidence-based care for children and adolescents locally and nationally



# Objectives

- Review important evidence-based concepts related to the evaluation of a child who may have been sexually abused.
- Discuss how state mandates can interfere with the provision of high quality, trauma informed care.

# Sexual Assault Survivors Emergency Treatment Act (SASETA) 410 ILCS 70/1

- The Illinois state law that mandates the care that healthcare facilities are required to provide to those who present for evaluations related to concerns for sexual abuse or assault.
- Applies to persons of all ages



# 2019 Updates to SASETA

- **Qualified Medical Provider**
- **Medical Forensic Services (MFS)**
- **Revised Treatment and Transfer Plans**
- Photo documentation and storage
- Rape Crisis Advocates
- Ongoing training for staff

# Pediatric - Adolescent - Adult

- Pediatric

- Medicine = prepubescent
- SASETA < 13yrs of age

- Adolescent

- $\geq 13$ yr and  $< 18$ yr
- Medical care mostly like an adult (postpubescent)
- Legal decisions may be more pediatric or adult

- Adult

- $\geq 18$ yr
- Adult medical care and legal decision making unless does not have capacity to make decisions

## “Survivor”

- "Pediatric sexual assault survivor" means a person under the age of 13 who presents for medical forensic services in relation to injuries or trauma resulting from a sexual assault. (SASETA)
- "Prepubescent sexual assault survivor" means a female who is under the age of 18 years and has not had a first menstrual cycle or a male who is under the age of 18 years and has not started to develop secondary sex characteristics who presents for medical forensic services in relation to injuries or trauma resulting from a sexual assault. (SASETA)

# SASETA – Qualified Medical Provider (QMP)

Medical forensic services must be offered by a Qualified Medical Provider within 90 minutes of patient arrival at a treatment hospital.

- Qualified Medical Provider (Pediatric)
  - Board Certified or Board Eligible Child Abuse Pediatrician
  - Nationally certified Pediatric Sexual Assault Examiner (SANE-P)
  - Illinois verified pediatric sexual assault nurse examiner (nurse) or sexual assault forensic examiner (PA or physician)



# Sexual Assault Evidence Kit Collection

- Goal: Collect only DNA from the assailant and the patient as well as particles/items connecting the patient and/or perpetrator to the event.
- Used for prosecution of an offender.
- Considerations:
  - Timing of incident
  - Type of contact
  - Post assault activities
  - Patient's wishes
- Consider other sources of evidence (possible unwashed clothing or bedding).



# Pediatric Differences

- Timing of incident
  - Often delayed and unclear disclosures
- Type of contact
  - More likely to have contact outside of the body
- Post assault activities
- Patient choices
  - Often an adult is making choices

# Timeframe for Evidence Collection: SASETA

- **SASETA Mandates** “An offer to complete the Illinois Sexual Assault Evidence Collection Kit for any sexual assault survivor who presents within a minimum of the last 7 days of the assault or who has disclosed past sexual assault by a specific individual and was in the care of that individual within a minimum of the last 7 days.

**Problem: SASETA mandates offering SAECK outside of pediatric evidence-based time frames!**

# Timeframe for Evidence Collection: Science

- Scientific evidence has and continues to show that DNA recovery from pediatric/prepubescent patients is most possible when collection is within 24 hours of the incident. DNA may possibly occur up to 72 hours post incident.

## Pediatric Forensic Analysis: The Benefits of DNA Collection Beyond 24 Hours

Gail Hornor, DNP, CPNP, SANE-P<sup>1</sup>, Elizabeth Benzinger, PhD<sup>2</sup>,  
Katherine Doughty, MSN, CPNP, SANE-P<sup>3</sup>, Jessica Hollar, MBA, MSN, RN, CPEN, SANE-P<sup>4</sup>,  
and Kathryn Wolf, PhD<sup>4</sup>

**Collection of Forensic Evidence From Pediatric Victims of Sexual Assault**  
Rebecca Girardet, Kelly Bolton, Sheela Lahoti, Hillary Mowbray, Angelo Giardino,  
Reena Isaac, William Arnold, Breanna Mead and Nicole Paes  
*Pediatrics* 2011;128;233; originally published online July 25, 2011;  
DOI: 10.1542/peds.2010-3037



### Mini-Review

#### Updated Guidelines for the Medical Assessment and Care of Children Who May Have Been Sexually Abused

Joyce A. Adams MD<sup>1,\*</sup>, Nancy D. Kellogg MD<sup>2</sup>, Karen J. Farst MD<sup>3</sup>, Nancy S. Harper MD<sup>4</sup>,  
Vincent J. Palusci MD, MS<sup>5</sup>, Lori D. Frasier MD<sup>6</sup>, Carolyn J. Levitt MD<sup>7</sup>, Robert A. Shapiro MD<sup>8</sup>,  
Rebecca L. Moles MD<sup>9</sup>, Suzanne P. Starling MD<sup>10</sup>



# Problem

- Inappropriately completing sexual assault evidence collection kits on children
- Inability of qualified medical providers to practice evidence-based medicine leading to moral injury and burn out
- Decreases patient access to child abuse experts


## Inappropriately completing sexual assault evidence collection kits on children

- NOT trauma-informed
- Ineffective use of resources; unnecessary costs
- Results may be confusing and frustrating

Inability of qualified medical providers unable to practice evidence-based medicine leading to moral injury and burn out.

- Nonmaleficence
- Required complicated consent/declination process

# Offering Medical Forensic Services

 Illinois State Police  
Division of Forensic Service

**Patient Consent: Collect and Test Evidence or Collect and Hold Evidence**

DO NOT COMPLETE THIS BOX WITHOUT PATIENT'S CONSENT

Patient's Name \_\_\_\_\_

DOB \_\_\_\_\_ Hospital Medical Record No. \_\_\_\_\_

Patient Label

DO NOT COMPLETE THIS BOX WITHOUT PATIENT'S CONSENT

**Medical Forensic Exam:** Patient of any age. If patient is unable to provide consent due to age or mental status, consent may be obtained from parent or guardian.  
**Initial one choice** \_\_\_\_\_ I consent to \_\_\_\_\_ I decline a medical forensic exam. I understand I can stop the exam at any time and can decline any portion of the exam. I understand that I will not be charged for any outpatient portion of the medical forensic exam. If declined, I understand that I can return to any facility for medical attention.

**Evidence Collection:** Patient of any age. If patient is unable to provide consent due to age or mental status, consent may be obtained from parent or guardian.  
**Initial one choice** \_\_\_\_\_ I consent to \_\_\_\_\_ I decline evidence collection. I understand I can stop the exam at any time and can decline collection of any sample. I understand that I will not be charged for any outpatient portion of the medical forensic exam. If declined, I understand that I can return to any treatment facility within 7 days of the assault and request that and evidence collection be completed

**Photographic Evidence:** (must be 13 years old or older. If under 13 years old, consent may be obtained from parent or guardian, please circle)  
**Initial one choice** \_\_\_\_\_ I consent to \_\_\_\_\_ I decline the collection of photographic evidence. I understand these photos may include injuries and photos of my genital area. I understand law enforcement may request photos independent of the medical forensic exam if I choose to make a report.

**Reporting Decision and Evidence Analysis:** **Initial one choice only from the 5 options below.**  
(must be 13 years old or older. If under 13 years old, consent may be obtained from parent, guardian, law enforcement or DCFS)

**Patient Report & Test: Option A Test**

\_\_\_\_\_ I am choosing to **provide information directly to a law enforcement officer.** I understand that I may decide how much information I provide and that I may stop the interview at any time. I give permission for evidence and information gathered during my medical forensic exam to be released to law enforcement and analyzed at the forensic lab. I understand law enforcement will submit the evidence to a lab no later than 10 days after receiving it. I understand if the evidence is analyzed, law enforcement will receive the results for the purposes of investigation(s) and prosecution(s).

**Health Care Provider Report & Test: Option B Test**

\_\_\_\_\_ I am choosing to **allow health care providers** to provide information to law enforcement regarding the sexual assault. I acknowledge that I do not have to speak with law enforcement at this time. I give permission for evidence and information gathered during my sexual assault exam to be released to law enforcement and analyzed at the forensic lab. I understand law enforcement will submit the evidence to a lab no later than 10 days after receiving it. I understand if the evidence is analyzed, law enforcement will receive the results for the purposes of investigation(s) and prosecution(s).

☐ I will call law enforcement  
☐ Law enforcement can call me after \_\_\_\_\_ day(s)

**Patient Report & Hold: Option A Hold**

\_\_\_\_\_ I am choosing to **provide information directly to a law enforcement officer.** I understand that I may decide how much information I provide and that I may stop the interview at any time. I consent only to the **collection and storage** of evidence at a law enforcement agency. I understand this means the evidence will **NOT** be submitted to a forensic lab for analysis. I understand I can change my mind, release the evidence and possibly have evidence analyzed at a forensic lab by contacting law enforcement or a rape crisis center at a later time. I understand law enforcement is only required to hold the evidence for a minimum of 10 years or until the 28th birthday of a patient under the age of 18.

**Health Care Provider Report & Hold: Option B Hold**

\_\_\_\_\_ I am choosing to **allow health care providers** to provide information to law enforcement regarding the sexual assault. I acknowledge that I do not have to speak with law enforcement at this time. I consent only to the **collection and storage** of evidence at a law enforcement agency. I understand this means the evidence will **NOT** be submitted to a forensic lab for analysis. I understand I can change my mind, release the evidence and possibly have evidence analyzed at a forensic lab by contacting law enforcement or a rape crisis center at a later time. I understand law enforcement is only required to hold the evidence for a minimum of 10 years or until the 28th birthday of a patient under the age of 18.

☐ I will call law enforcement  
☐ Law enforcement can call me after \_\_\_\_\_ day(s)

**Non-Report & Hold: Option C Hold**

\_\_\_\_\_ At this time I am choosing **NOT TO REPORT TO LAW ENFORCEMENT OR PARTICIPATE** in any investigation. I consent only to the **collection and storage** of evidence at a law enforcement agency. I understand this means the evidence will **NOT** be submitted to a forensic lab for analysis. I understand I can change my mind, make a report to law enforcement and possibly have evidence analyzed at a forensic lab by contacting law enforcement or a rape crisis center at a later time. I understand law enforcement is only required to hold the evidence for a minimum of 10 years or until the 28th birthday of a patient under the age of 18. (See page 2 mandated reporter clause)

Sign here if patient or health care provider **report** selected

Initial here if **non-report** and hold selected

Original to law enforcement case file, copy to hospital medical record, copy to patient.

**DO NOT SEAL THIS PAGE IN THE EVIDENCE COLLECTION KIT**

ISP 6-003 (06/23)

**Medical Forensic Exam:** Patient of any age. If patient is unable to provide consent due to age or mental status, consent may be obtained from parent or guardian.  
**Initial one choice** \_\_\_\_\_ I consent to \_\_\_\_\_ I decline a medical forensic exam. I understand I can stop the exam at any time and can decline any portion of the exam. I understand that I will not be charged for any outpatient portion of the medical forensic exam. If declined, I understand that I can return to any facility for medical attention.

**Evidence Collection:** Patient of any age. If patient is unable to provide consent due to age or mental status, consent may be obtained from parent or guardian.  
**Initial one choice** \_\_\_\_\_ I consent to \_\_\_\_\_ I decline evidence collection. I understand I can stop the exam at any time and can decline collection of any sample. I understand that I will not be charged for any outpatient portion of the medical forensic exam. If declined, I understand that I can return to any treatment facility within 7 days of the assault and request that and evidence collection be completed


A person of any age can consent for exam and evidence collection.

A person must be 13yr or older to consent for forensic photography and reporting decision and evidence analysis.

Declination can cause undue stress on patients and families.



# Consent for MFS

 Illinois State Police Division of Forensic Service <b>Patient Consent: Collect and Test Evidence or Collect and Hold Evidence</b>	
DO NOT COMPLETE THIS BOX WITHOUT PATIENT'S CONSENT	
Patient's Name _____ DOB _____ Hospital Medical Record No. _____	Patient Label  DO NOT COMPLETE THIS BOX WITHOUT PATIENT'S CONSENT.
<b>Medical Forensic Exam:</b> Patient of any age. If patient is unable to provide consent due to age or mental status, consent may be obtained from parent or guardian. <b>Initial one choice</b> _____ I consent to _____ I decline a medical forensic exam. I understand I can stop the exam at any time and can decline any portion of the exam. I understand that I will not be charged for any outpatient portion of the medical forensic exam. If declined, I understand that I can return to any facility for medical attention.	
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<b>Reporting Decision and Evidence Analysis:</b> <b>Initial one choice only from the 5 options below.</b> (must be 13 years old or older. If under 13 years old, consent may be obtained from parent, guardian, law enforcement or DCFS)	
<b>Patient Report &amp; Test: Option A Test</b>	<input type="checkbox"/> I am choosing to <b>provide information directly to a law enforcement officer.</b> I understand that I may decide how much information I provide and that I may stop the interview at any time. I give permission for evidence and information gathered during my medical forensic exam to be released to law enforcement and analyzed at the forensic lab. I understand law enforcement will submit the evidence to a lab no later than 10 days after receiving it. I understand if the evidence is analyzed, law enforcement will receive the results for the purposes of investigation(s) and prosecution(s).
<b>Health Care Provider Report &amp; Test: Option B Test</b>	<input type="checkbox"/> I am choosing to <b>allow health care providers</b> to provide information to law enforcement regarding the sexual assault. I acknowledge that I do not have to speak with law enforcement at this time. I give permission for evidence and information gathered during my sexual assault exam to be released to law enforcement and analyzed at the forensic lab. I understand law enforcement will submit the evidence to a lab no later than 10 days after receiving it. I understand if the evidence is analyzed, law enforcement will receive the results for the purposes of investigation(s) and prosecution(s). <input type="radio"/> I will call law enforcement <input type="radio"/> Law enforcement can call me after _____ day(s)
<b>Patient Report &amp; Hold: Option A Hold</b>	<input type="checkbox"/> I am choosing to <b>provide information directly to a law enforcement officer.</b> I understand that I may decide how much information I provide and that I may stop the interview at any time. I consent only to the <b>collection and storage</b> of evidence at a law enforcement agency. I understand this means the evidence will <b>NOT</b> be submitted to a forensic lab for analysis. I understand I can change my mind, release the evidence and possibly have evidence analyzed at a forensic lab by contacting law enforcement or a rape crisis center at a later time. I understand law enforcement is only required to hold the evidence for a minimum of 10 years or until the 28th birthday of a patient under the age of 18.
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Sign here if patient or health care provider **report** select  
Original to law enforcement  
**DO NOT SEAL THIS**

A person of any age can consent for exam and evidence collection.

A person must be 13yr or older to consent for forensic photography and reporting decision and evidence analysis.

## Decreases access to child abuse experts

- Children who may be triaged to child abuse experts in clinic/CAC settings are being evaluated in EDs
- EDs unable to meet QMP mandate are not providing services and transferring children

# SASETA – Hospital Designation

- All hospitals are required to submit a sexual assault treatment plan to IDPH indicating which sexual assault services are to be provided.
  - **Treatment Hospital**
    - Treats patients of all ages
  - **Treatment Hospital with Approved Pediatric Transfer**
    - Treats patients  $\geq$  age 13 years
    - Transfers patients  $<$  age 13 years
  - **Transfer Hospital**
    - Transfers all patients
  - **Approved Pediatric Healthcare Facility**
    - Clinic setting (CAC, Child abuse clinic, etc.) with an IDPH approved plan
  - **Out of State Hospital**
    - Approved by IDPH but outside the borders of IL

# Timeframes and Access

- Timeframe > 72hr and <7days despite disclosure are being seen in EDs
- ED environment can be scary for children
- ED may lack child sexual abuse expertise

# Statewide Needs Assessment Survey

- Staffing issues driving more hospitals to become transferring facilities as many will not meet staffing mandate.
  - Post pandemic staffing issues
  - High staff burn out and turn over
  - Training
  - Cost
  - Volumes

Based on most recent SASETA data 67% of Illinois hospitals plan to transfer some or all of their sexual assault patients due to inability to meet mandates.

# Advocacy Efforts and Future Focus

- Modernizing state law (SASETA) to be evidence based and trauma-informed for children
  - Timeframes for evidence collection (SAECK) appropriate for children
  - Improve access to child abuse experts to provide equitable pediatric care across the state
    - Permissibility of telehealth
    - Improve access to CACs
  - Collect data that will be used to inform legal mandates moving forward

# Questions?

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