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CIRCULAR LETTER: DHCQ 08-01-481

TO: Chief Executive Officers
Acute Care Hospitals

FROM: Paul I. Dreyer, Ph.D., Bureau Director

DATE: January 18, 2008

RE: Updates regarding payment options and treatment of patients following a sexual assault

The purpose of this memo is to provide an update to Massachusetts hospitals regarding treatment of patients following a sexual assault. This update includes recently approved changes regarding:

1. Expanded payment options for treatment of patients following a sexual assault.
2. MA Sexual Assault Evidence Collection Kit protocols to eliminate the “pulling” and “plucking” of head and pubic hair from patients

1. Expanded payment options for treatment of patients following a sexual assault

The Massachusetts Attorney General’s Office, in partnership with the Executive Office of Public Safety and Department of Public Health, has expanded Victim Compensation eligibility for coverage of sexual assault-related medical expenses. All patients who receive a forensic sexual assault examination at a Massachusetts hospital may now submit an application to the Attorney General’s office for compensation of related hospital expenses and medical treatment. This expanded protocol under M.G.L. c. 258C, The Massachusetts Victims of Violent Crime Compensation Act, ensures the Commonwealth’s continued compliance with federal regulations 28 CFR Part 90 implementing the Violence Against Women Act.

Please provide the enclosed “Massachusetts Forensic Sexual Assault Exam Expense Application” to all sexual assault victims treated in your hospital. For questions about this form or the Victim Compensation application process, please contact the Victim Compensation and Assistance Division of the Office of the Attorney General at 617-727-2200.

In order to process victims’ applications for payment of hospital and medical bills not covered by insurance (or in cases where patients do not wish to use their insurance), when a regular police report has not been filed, the Attorney General’s office will generally require the following documentation:

- a) From the patient: The completed “Massachusetts Forensic Sexual Assault Exam Expense Application”, containing the Massachusetts Sexual Assault Evidence Collection Kit (MSAECK) number for this patient, or if no kit was completed, the alternative Provider Sexual Assault Crime Report (PSCR) number. The Application should be mailed or faxed to the Attorney General’s Victim Compensation office, along with a copy of the patient’s “Treatment and Discharge Form”, to fax: 617-742-6262. The “Treatment and Discharge Form” is Form 6 in the MSAECK. It is essential that hospital staff enter the patient’s MSAECK or PSCR number on this form where indicated. Copies of the “Massachusetts Forensic Sexual Assault Exam Expense Application” and “Form 6: Treatment and Discharge Form” are enclosed with this letter, and also in the MSAECKs.
- b) From the hospital record, upon patient authorization on the “Massachusetts Forensic Sexual Assault Exam Expense Application”: A copy of the Provider Sexual Crime Report (PSCR). Hospitals are required by M.G.L. c. 112, S 12A ½ to complete a PSCR every time they treat a sexual assault victim. The PSCR is Form 2A in the MSAECKs. The Executive Office of Public Safety (EOPS) has instructed that this form be: i) placed in the hospital record; ii) faxed to EOPS at 617-725-0260; and iii) faxed to the local public safety authority where the incident occurred. This EOPS PSCR form is enclosed with this letter and can also be accessed in MSAECKs, on pads provided by EOPS to hospitals, and on-line at:
http://www.mass.gov/Eocps/docs/programs/fjj/provider_sexual_crime_report.pdf
Update added 1/19/1020: The current PSCR is located at [Provider Sexual Crime Report](#). Please contact EOPS at 617-725-3301 with PSCR questions.

As a reminder, hospitals may not assess any fees for the MSAECK itself, as these kits are provided free of charge to hospitals by EOPS. All the forms described in this letter which are needed to complete this protocol will also be contained in:

- a) The MSAECK developed for the next EOPS shipment to Massachusetts hospitals,
- b) an accompanying set of “packets” for use with sexual assault victims seeking forensic examination and treatment at Massachusetts hospital emergency departments, for cases in which a MSAECK is not completed.

2. MA Sexual Assault Evidence Collection Kit protocols to eliminate the “pulling” and “plucking” of head and pubic hair from patients

On December 6, 2007 the Massachusetts Sexual Assault Evidence Collection Kit (MSAECK) Advisory Committee, which includes DPH, was convened by the Executive Office of Public Safety (EOPS) to discuss trends and advances in forensics and recommend changes to the MSAECK kit in preparation for the spring 2008 EOPS distribution to all hospitals.

One of the recommended changes to the MSAECK resulting from this meeting was the elimination of MSAECK STEP 11 *Head Hair Standard* and STEP 13 *Pubic Hair Standard* which instruct the medical provider to “pull” and “pluck” head and pubic hair in an effort to obtain adequate hair standards for forensic analysis. The elimination in obtaining DNA samples through pulled/plucked head and pubic hair standards is as a result of advancements in forensic analysis technology and the current practice of obtaining DNA from the sexual assault victim in MSAECK Step 4 *Known Blood Sample*. Please note that loose debris and foreign head and pubic hair will still be collected as indicated in MSAECK Steps 10 *Head Hair Combing* and 12 *Pubic Hair Combing*.

Hair samples collected from the victim are used to screen for any foreign hairs that were collected as a result of the assault or incident (combings, bedding, clothing, etc.). Evidentiary loose or foreign hair will still be collected during the forensic examination by the qualified medical provider (SANE or other medical personnel). **The change in collection protocol is to eliminate the collection of "Standard Hair" samples which are pulled or plucked from the victim.** Reasons for the amended protocol include:

- Hair evidence has a vital forensic/prosecutorial role in a small percentage of criminal investigations, including sexual assault investigations.
- Current technology uses DNA testing to individualize or to provide source attribution information about evidentiary hair samples (foreign hair collected from the crime scene or victim).
- Standard hair samples collected from the victim can be obtained reliably **after** the SANE Examination (generally up to a year after the incident) if it is determined that the hair evidence is vital to the investigation of the incident.
- A small percentage (less than 5%) of criminal investigations may require the victim to provide a standard hair sample to the forensic laboratory.
- In many instances a standard DNA sample (generally blood from MSAECK), will be suitable for any DNA comparisons.

Please note that the elimination of MSAECK Steps 11 and 13 (*Head Hair Standard and Pubic Hair Standard*) from the written exam instructions will be reflected in kits produced and distributed to Massachusetts hospitals in the spring 2008. For questions regarding the MSAECK and PSCR programs, please contact Diane DeAngelis at the Executive Office of Public Safety: 617-725-3362.

Please also note that the Massachusetts Department of Public Health supports the availability of sexual assault counselor/advocates at local rape crisis centers (see attached list). Hospital staff may contact the local rape crisis center hotline to request that a counselor/advocate respond on-site to support survivors and family members during the hospital visit, and to help them directly access community-based services. For questions regarding these services, please contact your local rape crisis center, or Marci Diamond at the Department of Public Health: 617-624-5457.

Enclosures:

- Massachusetts Forensic Sexual Assault Exam Expense Application
- Massachusetts Sexual Assault Evidence Collection Kit Form 6: Treatment and Discharge Form
- Provider Sexual Crime Report (PSCR)
- List of Massachusetts Comprehensive Rape Crisis Centers