

MASSACHUSETTS SEXUAL ASSAULT NURSE EXAMINER PROGRAM  
PROTOCOL FOR ADULT/ADOLESCENT SANEs and EMERGENCY  
DEPARTMENT CLINICIANS

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**SECTION V**

**CARING FOR PATIENTS IN THE INTENSIVE CARE UNIT/OPERATING ROOM**

**Special Considerations for Consent in the Intensive Care Unit (ICU) or Operating Room (OR)**

Although the SANE Exam is not considered emergency treatment, it is important to consider the collection of time-sensitive forensic evidence for all appropriate patients. Patients whose history or clinical presentation supports a reasonable suspicion that a sexual assault may have occurred but are unable to give their consent, should not be excluded from the potential benefits that evidence collection may offer. It is incumbent upon the MDPH-designated SANE hospitals to have a mechanism in place to obtain consent for a patient to receive a SANE exam, if a patient has serious or life-threatening injuries that render them unable to indicate their consent.

For a patient who is unresponsive and cannot directly provide informed consent, a SANE may **not** provide SANE services or collect evidence for the kit until **the hospital obtains and documents** in the patient's medical chart an alternative form of authorization (in lieu of a patient consent). After authorization has been obtained and documented, a SANE may intervene to provide care and SANE services. As a general rule, hospital staff will have completed these pre-requisites **prior** to the SANE's arrival at the hospital.

**Options for Hospital Authorization for SANE Exam**

The following are options for hospitals to obtain consent **prior** to SANE arrival for patients who are in the Operating Room (OR) or Intensive Care Units (ICU). These types of consent are not implied outside of the OR/ICU setting, for patients with intellectual disabilities, and/or adolescent patients.

The name for such alternative form of authorization may vary from institution to institution but may include one or more of the following:

1. **Family Consent:** The next of kin may consent to a SANE exam for the patient if the patient is unable due to unconsciousness. The SANE exam and its purpose should be fully explained to the family member before obtaining consent. The consent provided by this person should be documented by hospital staff and the family member should sign the Form 1 Consent if present at the time of the SANE exam.
2. **Administrator Consent:** The Administrator's written authorization must be obtained and documented in the patient's medical chart according to hospital policy prior to SANE's arrival at the hospital. Where the hospital does not have a policy, or the hospital's policy does not authorize an Administrator acting alone to provide authorization for the SANE examination, some form of Medical/Legal consent may be needed.
3. **Medical Consent:** A written order of the attending physician, trauma physician, or medical officer duly appointed by the institution must be obtained and documented in the patient's medical chart according to hospital policy prior to SANE's arrival at the hospital.
4. **Legal Consent/Hospital as Legal Guardian:** In some circumstances/institutions, the hospital medical officer may involve in-house counsel or outside counsel to obtain a court decree appointing the hospital as temporary guardian for a patient unable to make or communicate informed decisions due to physical incapacity or illness. In this circumstance, a court Decree or Order of Appointment of the hospital as guardian must be obtained and documented in the patient's medical record prior to the SANE's arrival at the hospital.

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## **Role of the SANE in the ICU/OR Setting**

Medical care must always be the first priority for patients who present to the Emergency Department post-sexual assault. Patients who are sexually assaulted may also be seriously injured requiring care in the Operating Room or in the Intensive Care Unit. These patients may or may not be unresponsive or unconscious. SANES provide services in the OR and ICU with appropriate hospital staff and equipment to meet SANE standards of care.

The MDPH SANE Program is committed to offering and providing evidence collection for these patients when called to respond to designated SANE sites. There are unique considerations that go into managing the complexity of care for sexual assault patients in the OR/ ICU setting. The SANE will work at all times in tandem with the physician and primary care nurse responsible for the medical care of the patient.

When SANE services are provided in the OR/ICU setting, the following protocol will be implemented:

1. There is a physician order in the patient's medical record indicating that the patient is cleared for SANE examination and forensic evidence collection.
2. Consent for the SANE exam and forensic evidence collection has been established per hospital protocol. Hospitals should have established protocol and policies for unresponsive patients.
3. The SANE will work at all times with the patient's primary OR/ICU nurse when providing care and evidence collection. The SANE must recognize that the primary nurse's role is to provide constant monitoring of the patient's physiological status and provide critical care interventions to ensure the patient's well-being when necessary.
4. The SANE can collect evidence under the direction of hospital OR staff and the Chief Surgeon. The Chief Surgeon or Operating Room Nurse will work collaboratively in collecting evidence. The SANE will facilitate chain of custody procedures according to SANE protocol.
5. Any evidence collection steps requiring the positioning of an OR/ICU patient's body will be directed by patient's primary nurse or physician.
6. The SANE will collaborate with the patient's Attending Physician/Surgeon regarding SANE protocols for STI/HIV testing and prophylaxis, as well as pregnancy testing and the administration of Emergency Contraception.
7. The SANE will provide all discharge and referral information on MSAECK Form 7 to the OR/ICU medical and nursing staff. It is incumbent on medical and nursing staff to review this information with the patient upon discharge.
8. The SANE will be responsible for the following:
  - a. Collecting and preserving evidence within the medical setting while maintaining the patient's safety and confidentiality without compromising medical care.
  - b. Maintaining custody of the evidence until it is signed over to the appropriate law enforcement agency or secured in the locked evidence refrigerator located in the Emergency Department.
  - c. Providing appropriate information to a hospital staff member to facilitate entry of the MSAECK into the MA TRACK Kit System.
  - d. Completing all MSAECK documentation per protocol. All original MSAECK documentation forms and Secure Digital (SD) cards containing exam images will be sealed in an envelope for storage in the hospital medical record department.
  - e. Evidence collected should be packaged, documented, and transported to the crime lab by law enforcement officials as an unreported case (without the patient's name on the kit) until the patient is able to consent for its release, or a court order is executed. It is under the purview of law enforcement to determine the need for expedient lab analysis based on other mitigating factors of the crime. (In other words, law enforcement may choose to have evidence analyzed without patient's consent).