Health Facility Compliance Guidance Letter

<table>
<thead>
<tr>
<th>Number: GL 20-2014</th>
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</thead>
<tbody>
<tr>
<td>Title: Sexual Assault Forensic Exam Records &amp; Evidence (HB 8-86R)</td>
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<tr>
<td>Provider Types: Freestanding Emergency Medical Care Facilities, Hospitals – General, Hospitals – Special</td>
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<tr>
<td>Date Issued: July 6, 2020</td>
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</tbody>
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1.0 Subject and Purpose

The Texas Health and Human Services Commission (HHSC) provides guidance to licensed providers on legislation passed during the most recent Texas legislative session. House Bill (HB) 8, 86th Legislature, Regular Session, relating to the criminal statute of limitations for certain sex offenses and the collection, analysis, and preservation of evidence of sexual assault and other sex offenses, took effect September 1, 2019.

HB 8 amended Texas Health and Safety Code (HSC), Chapter 323 to add additional requirements for payment and reimbursement for sexual assault forensic exams, verbal communication with survivors of necessary information, standardized information for survivors, and storage of evidence of a sexual assault or other sex offenses.

This letter outlines provider responsibilities and expectations.

2.0 Policy Details & Provider Responsibilities

HHSC requires hospitals\(^1\) and freestanding emergency medical care facilities\(^2\) to comply with all statutes and rules regarding these facilities. Accordingly, facilities are responsible for complying with the provisions of HSC Chapter 323, including those added by HB 8.

\(^1\) 25 TAC §133.41(e)(6)  
\(^2\) 25 TAC §131.46(h)
2.1 Required Communication with Survivors

HB 8 revised HSC Chapter 323 by amending Section 323.005 to require facilities to provide a survivor of sexual assault with a statement explaining that public agencies are responsible for paying for the forensic portion of an examination and for the evidence collection kit and to ensure this information is orally communicated to the survivor.

2.2 Information Form for Survivors Who Have Not Reported Assault

HB 8 revised HSC Chapter 323 by adding Section 323.0052 to require facilities to provide a standard information form providing survivors who have not consented to release evidence the following:

- the Department of Public Safety’s policy regarding storage of evidence of a sexual assault or other sex offense, including:
  - a statement that the evidence will be stored until the fifth anniversary of the date on which the evidence was collected before the evidence becomes eligible for destruction; and
  - the department’s procedures regarding the notification of the survivor before a planned destruction of the evidence.
- a statement that the survivor may request the release of the evidence to a law enforcement agency and report a sexual assault or other sex offense to the agency at any time;
- the name, phone number, and e-mail address of the law enforcement agency with jurisdiction over the offense; and
- the name and phone number of a local rape crisis center.

A health care facility that provides treatment to a survivor who has not consented to release evidence shall provide this form to the survivor before they are released from the facility.

3.0 Background/History

HB 8 established the Lavinia Masters Act, which revises timelines for the possession and analysis of sexual assault examination kits, requires an audit and deadlines for the analysis of untested kits, amends preservation guidelines in certain circumstances, and extends the statute of limitations for certain sexual assault offenses.
4.0 Resources


HB 8 is available to view in its entirety here: https://capitol.texas.gov/tlodocs/86R/billtext/pdf/HB00008F.pdf.

View information on the Texas Department of Public Safety (DPS)’s Non-Reported Sexual Assault Evidence Program here: https://www.dps.texas.gov/CrimeLaboratory/NRSA.htm.

View details on DPS’s implementation of HB 8 and their Sexual Assault Kit (SAK) Audit and Reporting program here: https://www.dps.texas.gov/CrimeLaboratory/SAEreporting.htm.


5.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules, and Training Section by email at: HCQ_PRT@hhsc.state.tx.us.