

HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE G. PROVISION OF SERVICES IN CERTAIN FACILITIES

CHAPTER 323. EMERGENCY SERVICES FOR SURVIVORS

OF SEXUAL ASSAULT

Sec. 323.001. DEFINITIONS. In this chapter:

(1) "Community-wide plan" means an agreement entered into between one or more health care facilities, entities administering a sexual assault program, district attorney's offices, or law enforcement agencies that designates one or more health care facilities in the community as a primary health care facility to furnish emergency medical services and evidence collection to sexual assault survivors on a community or area-wide basis.

(2) "Department" means the Department of State Health Services.

(3) "Health care facility" means a general or special hospital licensed under Chapter 241 or a general or special hospital owned by this state.

(4) "Sexual assault" means any act as described by Section 22.011 or 22.021, Penal Code.

(5) "Sexual assault survivor" means an individual who is a victim of a sexual assault, regardless of whether a report is made or a conviction is obtained in the incident.

Added by Acts 2005, 79th Leg., Ch. 934, Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.001 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 17.001(47), eff. September 1, 2007.

Sec. 323.002. PLAN FOR EMERGENCY SERVICES. (a) At the request of the department, a health care facility shall submit to the department for approval a plan for providing the services required by Section 323.004 to sexual assault survivors who arrive for treatment at the emergency department of the health care

facility.

(b) The department shall adopt procedures for submission, approval, and modification of a plan required under this section.

(c) A health care facility shall submit the plan required by this section not later than the 60th day after the date the department requests the plan.

(d) The department shall approve or reject the plan not later than the 120th day after the date the plan is submitted.

Added by Acts 2005, 79th Leg., Ch. 934, Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.002 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 17.002(10), eff. September 1, 2007.

Sec. 323.003. REJECTION OF PLAN. (a) If a plan required under Section 323.002 is not approved, the department shall:

(1) return the plan to the health care facility; and

(2) identify the specific provisions under Section 323.004 with which the plan conflicts or does not comply.

(b) Not later than the 90th day after the date the department returns a plan to a health care facility under Subsection (a), the facility shall correct and resubmit the plan to the department for approval.

Added by Acts 2005, 79th Leg., Ch. 934, Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.003 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 17.002(11), eff. September 1, 2007.

Sec. 323.004. MINIMUM STANDARDS FOR EMERGENCY SERVICES.

(a) After a sexual assault survivor arrives at a health care

facility following an alleged sexual assault, the facility shall:

(1) provide care to the survivor in accordance with Subsection (b); or

(2) stabilize and transfer the survivor to a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors, which shall provide care to the survivor in accordance with Subsection (b).

(b) A health care facility providing care to a sexual assault survivor shall provide the survivor with:

(1) a forensic medical examination in accordance with Subchapter B, Chapter 420, Government Code, if the examination has been approved by a law enforcement agency;

(2) a private area, if available, to wait or speak with the appropriate medical, legal, or sexual assault crisis center staff or volunteer until a physician, nurse, or physician assistant is able to treat the survivor;

(3) access to a sexual assault program advocate, if available, as provided by Article 56.045, Code of Criminal Procedure;

(4) the information form required by Section 323.005;

(5) a private treatment room, if available;

(6) if indicated by the history of contact, access to appropriate prophylaxis for exposure to sexually transmitted infections; and

(7) the name and telephone number of the nearest sexual assault crisis center.

(c) A health care facility must obtain documented consent before providing the forensic medical examination and treatment.

Added by Acts 2005, 79th Leg., Ch. 934, Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.004 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 17.002(12), eff. September 1, 2007.

Sec. 323.005. INFORMATION FORM. (a) The department shall develop a standard information form for sexual assault survivors that must include:

(1) a detailed explanation of the forensic medical examination required to be provided by law, including a statement that photographs may be taken of the genitalia;

(2) information regarding treatment of sexually transmitted infections and pregnancy, including:

(A) generally accepted medical procedures;

(B) appropriate medications; and

(C) any contraindications of the medications prescribed for treating sexually transmitted infections and preventing pregnancy;

(3) information regarding drug-facilitated sexual assault, including the necessity for an immediate urine test for sexual assault survivors who may have been involuntarily drugged;

(4) information regarding crime victims compensation, including:

(A) a statement that a law enforcement agency will pay for the forensic portion of the examination; and

(B) reimbursement information for the medical portion of the examination;

(5) an explanation that consent for the forensic medical examination may be withdrawn at any time during the examination;

(6) the name and telephone number of sexual assault crisis centers statewide; and

(7) information regarding postexposure prophylaxis for HIV infection.

(b) A health care facility shall use the standard form developed under this section.

(c) An individual employed by or under contract with a health care facility may refuse to provide the information form required by this section for ethical or religious reasons. If an individual employed by or under contract with a health care facility refuses to provide the survivor with the information form,

the health care facility must ensure that the information form is provided without delay to the survivor by another individual employed by or under contract with the facility.

Added by Acts 2005, 79th Leg., Ch. 934, Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.005 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 17.001(47), eff. September 1, 2007.

Sec. 323.006. INSPECTION. The department may conduct an inspection of a health care facility to ensure compliance with this chapter.

Added by Acts 2005, 79th Leg., Ch. 934, Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.006 by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 17.001(47), eff. September 1, 2007.