**Section 545.65 Transfer of Sexual Assault Survivors**

a) The transfer hospital shall comply with the federal Emergency Medical Treatment and Active Labor Act and with Sections 545.50 and 545.55 of this Part.

b) Sexual assault survivors may be transferred to a treatment hospital or approved pediatric health care facility, in accordance with the requirements of this Section, as part of an areawide plan.

c) The hospital shall provide an appropriate medical screening examination and necessary stabilizing treatment prior to transfer of the sexual assault survivor. If a sexual assault survivor has an emergency medical condition that has not stabilized, the hospital shall comply with the requirements of the federal Emergency Medical Treatment and Active Labor Act.

d) When a sexual assault survivor is in custody, or has been arrested for or convicted of a violent crime or forcible felony and continues to be in custody when the sexual assault survivor presents for medical forensic services, then during the medical screening examination and necessary stabilization treatment prior to transfer, or if transfer is declined, during any medical care and treatment provided, if the medical provider and the representative of the custodial agency agree that it is a necessary safety precaution, the representative of the custodial agency may remain in the room. In these situations, hospital staff shall facilitate privacy for the sexual assault survivor using curtains and positioning.

e) The emergency department record shall not reflect any conclusions regarding whether a crime (e.g., criminal sexual assault, criminal sexual abuse) occurred.

f) The sexual assault survivor shall be given an appropriate explanation concerning the medical reason for the transfer to another hospital or approved pediatric health care facility, the importance of collecting evidence in a timely manner, and the financial benefits, including an explanation of the voucher system and Crime Victims Compensation. The explanation shall include the use of the "Medical Forensic Exam Brochure," and "Crime Victims Compensation: Frequently Asked Questions", both created by the Office of the Illinois Attorney General.

g) The hospital shall require each member of its emergency department who provides direct clinical services to receive training annually regarding its areawide treatment plan and the requirements of this Section, including but not limited to, the care of the sexual assault survivor, the transfer process, including when a patient declines transfer; chain of custody; treatment if the sexual assault survivor declines transfer; and trauma-informed approaches consistent with the Centers for Disease Control and Prevention guideline, "6 Guiding Principles to a Trauma Informed Approach." The hospital may include the local rape crisis center or treatment hospitals in its areawide treatment plan in presenting the training.

h) All hospitals shall comply with the notification procedures for sexual assault survivors required by Section 3.2 of the Criminal Identification Act, the Abused and Neglected Child Reporting Act, the Abused and Neglected Long Term Care Facility Residents Reporting Act, and the Adult Protective Services Act. The hospital shall not require the survivor to speak to law enforcement regarding the sexual assault.

i) The following requirements shall apply to sexual assault survivors who consent to be transferred.

1) The emergency department personnel of the transfer hospital shall notify the receiving hospital or approved pediatric health care facility of the transfer of the sexual assault survivor. The Department recommends that the hospital consult with a Qualified Medical Provider (QMP), when available, prior to transferring the survivor to ensure the transfer meets the clinical requirements defined in Section 1a of the Act.

2) The receiving hospital or approved pediatric health care facility shall comply with Sections 545.60, 545.62, and 545.63, as applicable. *A* receiving *hospital, approved pediatric health care facility, or health care professional furnishing medical forensic services shall furnish services or medications to that person without charge and shall seek payment* in accordance with Section 7 of the Act. (Section 7(a) of the Act)

3) An emergency department record shall be completed and a copy transported with the sexual assault survivor to the receiving hospital or approved pediatric health care facility. This record shall include:

A) A completed emergency department admission form;

B) Clinical findings, if any;

C) Clinicians' notes;

D) The name and relationship to the sexual assault survivor, if known, of any person present during an examination conducted pursuant to this Section;

E) Observations of signs and symptoms and thepresence of any trauma or injury (e.g., cuts, scratches, bruises, red marks, and broken bones), if any examination was conducted or treatment rendered pursuant to subsection (c); and

F) The results of any tests.

4) The hospital shall maintain a chain of custody in the handling of the sexual assault survivor as outlined in subsections (i)(4)(A) through (C), including the sexual assault survivor's clothing.

A) The hospital shall not attempt to obtain any specimens for evidentiary purposes (e.g., blood, saliva, hair samples, etc.) unless if necessary as described in subsection (i)(4)(C).

B) The hospital shall handle the sexual assault survivor and the sexual assault survivor's clothing as minimally as possible and keep the sexual assault survivor in their own clothing if possible.

i) If removal of any clothing is necessary to render emergency services as described in subsection (c), removal should be attempted without cutting, tearing or shaking the garments.

ii) All loose or removed articles of clothing or other possessions of the sexual assault survivor shall be left to dry if possible, placed in separate paper bags, and then placed in one larger paper bag. The bag shall be sealed and labeled with the sexual assault survivor's name, the names of the health care personnel in attendance, the contents, the date, and the time collected.

iii) Except as otherwise provided in subsection (i)(4)(B)(v), the sealed bag shall not be transported with the sexual assault survivor to the receiving hospital or approved pediatric health care facility.

iv) If the sexual assault survivor is not transferred by ambulance or other hospital-provided transportation, but by a friend or family member, the hospital shall notify the law enforcement agency having jurisdiction that a sexual assault survivor sought medical forensic services related to a sexual assault. The hospital shall maintain and secure the sealed bag with the law enforcement report number until, after obtaining the sexual assault survivor's written consent, the sealed bag is released to the law enforcement agency having jurisdiction (see Section 545.61).

v) If the sexual assault survivor is transported by ambulance, the sealed bag, after obtaining the sexual assault survivor's written consent, shall be released to the law enforcement agency having jurisdiction or transported with EMS personnel only upon completion of a chain of custody form. The chain of custody form shall be signed by the transfer hospital relinquishing custody of the sealed bag, the EMS personnel with custody of the sealed bag during transport, and the receiving hospital or approved pediatric health care facility taking custody of the sealed bag. Each signature shall include the times and dates the sealed bag was handled.

C) If the transfer hospital collects a urine sample from the sexual assault survivor for testing for a drug-facilitated or alcohol-facilitated sexual assault, the hospital shall comply with Section 11-1.10(g) of the Criminal Code of 2012 for collection. Pursuant to obtaining the sexual assault survivor's written consent, the urine sample and any pre-void wipes utilized during collection for adolescent and adult survivors shall be submitted to the local law enforcement agency having jurisdiction (see Section 545.61).

5) If the sexual assault survivor has no life-threatening conditions and consents to the transfer, the sexual assault survivor may transport themself or be transported by the police or by a friend or family member to a treatment hospital or approved pediatric health care facility. The hospital shall offer transfers by ambulance or other hospital-arranged transportation. If the sexual assault survivor chooses to be transferred by ambulance or other hospital-arranged transportation, the hospital or ambulance provider shall provide the transportation at no cost to the sexual assault survivor. *An ambulance provider furnishing transportation to a sexual assault survivor shall furnish services to that person without charge and shall seek payment* in accordance with Section 7 of the Act. (Section 7(a) of the Act).

6) If an adult plans to transport a sexual assault survivor under 18 years of age, the hospital shall conduct an assessment to ensure that the sexual assault survivor is not transported by or with the alleged perpetrator and to determine the need for action based on an immediate threat of harm (e.g., present or impending danger). If the hospital finds an immediate threat of harm exists, the hospital must notify the Department of Children and Family Services prior to the transfer.

7) If the sexual assault survivor is an adult who has a guardian of the person, a health care surrogate, or an agent acting under a health care power of attorney, the hospital shall conduct an assessment to ensure that the sexual assault survivor is not transported by or with the alleged perpetrator and to determine the need for action based on an immediate threat of harm (e.g., present or impending danger). If the hospital finds an immediate threat of harm exists, the hospital must notify the Department on Aging prior to the transfer.

8) The hospital may offer a gas card or transportation voucher as an option when it would be effective to facilitate the transfer.

9) Regardless of the transportation arrangement, all transferred patients shall be treated as transfers according to the hospital's areawide treatment plan.

10) A transfer hospital shall transfer a sexual assault survivor to a treatment hospital or approved pediatric health care facility designated in its approved transfer plan.

11) The hospital shall offer to call a friend or family member to accompany the sexual assault survivor and to call a rape crisis advocate for telephone crisis counseling before or during transfer.

12) The hospital shall take all reasonable steps to secure the sexual assault survivor's written informed consent to a transfer to another hospital.

j) The sexual assault survivor may decline to be transferred. The hospital shall offer a consultation for the sexual assault survivor considering declining transfer with a qualified medical provider identified in the hospital's areawide treatment plan. The consultation may be virtual or by telephone.

k) If a sexual assault survivor under 13 years of age declines transfer, the transfer hospital shall contact a qualified medical provider for consultation for sexual assault survivors prior to any evaluation or treatment related to the alleged sexual assault.

l) If a sexual assault survivor under age 18 declines transfer, the transfer hospital shall ensure that a sexual assault survivor under the age of 18 is referred to an outpatient pediatric facility with a qualified medical provider for specialized follow-up care if a facility is available.

m) For all sexual assault survivors who decline transfer, the hospital shall offer medical care and treatment when appropriate based on the consultation with the qualified medical provider, if applicable, which may include but is not limited to the following:

1) A general physical examination;

2) Evaluation and treatment for sexually transmitted infections in accordance with the Centers for Disease Control and Prevention guidelines titled Sexually Transmitted Infections Treatment Guidelines;

3) Evaluation and possible treatment for HIV exposure in accordance with the Centers for Disease Control and Prevention guidelines titled Sexually Transmitted Infections Treatment Guidelines, or the recommendations titled Antiretroviral Postexposure Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccupational Exposure to HIV – United States, 2016. Testing for HIV shall be conducted in accordance with the AIDS Confidentiality Act;

4) An amount of medication, including HIV prophylaxis, for treatment at the hospital and after discharge as deemed appropriate by the attending physician, APRN, or physician assistant in accordance with the Centers for Disease Control and Prevention guidelines named in subsection (m). When HIV prophylaxis is deemed appropriate, an initial dose or doses of HIV prophylaxis, along with oral and written instructions indicating the importance of timely follow-up health care, shall be given to the sexual assault survivor;

5) Appropriate oral and written information concerning:

A) Accepted medical procedures, laboratory tests, medication, and possible contraindications of that medication available for the prevention or treatment of infection or disease resulting from sexual assault, and

B) The possibility of infection, sexually transmitted infection, including an evaluation of the sexual assault survivor's risk of contracting HIV from sexual assault, and pregnancy resulting from sexual assault.

6) Evaluation and treatment for possible pregnancy for females of childbearing age, including but not limited to a pregnancy test, emergency contraception, and medically and factually accurate oral and written information about emergency contraception, the indications and contraindications and risks associated with the use of emergency contraception, and a description of how and when sexual assault survivors may be provided emergency contraception at no cost upon the written order of a physician, a APRN, or a physician assistant. For further guidance, see Section 545.APPENDIX C;

7) Evaluation for a drug-facilitated sexual assault when there is reasonable cause to believe that a sexual assault survivor has been administered or has taken any intoxicating, anesthetic, or controlled substance, regardless of who provided the substance (see Section 11-1.10(g) of the Criminal Code of 2012), including:

A) An explanation to the sexual assault survivor about the nature and effects of commonly used substances and how these substances are administered;

B) An offer to the sexual assault survivor of testing for the presence of these substances;

C) A disclosure to the sexual assault survivor that all substances or alcohol ingested by the survivor will be disclosed by the test;

D) A statement that the test is voluntary, and

E) A form for written authorization for sample analysis of all substances and alcohol ingested by the sexual assault survivor, which may be found at https://isp.illinois.gov/StaticFiles/docs/ForensicServices/6-713.pdf;

8) A safety assessment prior to discharge, which may include but is not limited to: suicide screening; assessing the relationship, if any, between the sexual assault survivor and the alleged assailant; assessing whether the sexual assault survivor has any concerns about their safety; and referral to a community-based rape crisis center for safety planning;

9) Oral and written instructions indicating the need for follow-up examinations and laboratory tests one to two weeks after the sexual assault to determine the presence or absence of a sexually transmitted infection;

10) Appropriate referral to a health care provider. The sexual assault survivor shall be referred for follow-up health care and monitoring of medication given or prescribed at the time of the initial hospital visit as may be deemed appropriate by the attending physician, APRN, or physician assistant; and

11) Referral for appropriate counseling. Initial referral should be to a community-based rape crisis center, if a center is available, or referral to other counseling shall be provided.

12) The transfer hospital shall offer to call a friend or family member to support the sexual assault survivor while they are at the hospital. The hospital shall also call the local rape crisis center, if available, to request medical advocacy, which may be provided in person or over the phone.

n) The transfer hospital shall not bill the sexual assault survivor for these outpatient services. The hospital shall seek payment as directed in Section 7 of the Act and Section 545.100 of this Part. The hospital may bill a sexual assault survivor's private insurance, but the hospital shall provide any sexual assault survivor who is not the subscriber or primary policyholder of the sexual assault survivor's insurance policy an opportunity to opt out of billing their private insurance provider.

o) The transfer hospital shall conduct an annual quality performance review of its transfers of sexual assault survivors to ensure that the plan and procedures are being followed, including a review of the number of sexual assault survivors who complete transfer and receive treatment at the treatment hospital, and the number of sexual assault survivors who decline transfer and consideration. The review shall consider any necessary changes to reduce barriers and increase support for sexual assault survivors, including, but not limited to, transportation, consultation opportunities, and referrals for follow-up care and support from the rape crisis center. The hospital may include the treatment hospital with which it has a memorandum of understanding in the review of the transfers. Documentation of the annual quality performance review shall be provided to the Department upon request.

(Source: Amended at 48 Ill. Reg. 14759, effective September 25, 2024; expedited correction at 49 Ill. Reg. 2224, effective September 25, 2024)