

House Bill 2375

Sponsored by Representative SMITH DB (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires hospitals and pediatric health care facilities to have plans, approved by Oregon Health Authority, for treating sexual assault survivors who present in need of medical forensic services or for transferring sexual assault survivors to hospital or approved pediatric health care facility for medical forensic services. Requires authority to adopt rules for treatment and transfer plans.

Requires facilities that provide medical forensic services to provide sexual assault survivors with vouchers to pay for services related to sexual assault that are not paid from Sexual Assault Victims' Emergency Medical Response Fund. Prohibits health care providers from billing sexual assault survivors for specified services related to sexual assault.

Authorizes authority to impose civil penalties of up to \$500 for each violation.

A BILL FOR AN ACT

1
2 Relating to survivors of sexual assault; creating new provisions; and amending ORS 147.397, 147.403,
3 181A.323 and 181A.326.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. As used in sections 1 to 10 of this 2019 Act:**

6 (1) **"Approved pediatric health care facility" means a:**

7 (a) **Pediatric health care facility with a sexual assault treatment plan approved by the**
8 **Oregon Health Authority to provide medical forensic services to pediatric sexual assault**
9 **survivors; and**

10 (b) **Community assessment center as defined in ORS 418.782.**

11 (2) **"Area-wide sexual assault treatment plan" means a plan for providing medical**
12 **forensic services to sexual assault survivors that is developed by hospitals, pediatric health**
13 **care facilities or approved pediatric health care facilities located within a community or ge-**
14 **ographic region that specifies the services that will be made available by each of the partic-**
15 **ipating hospitals, pediatric health care facilities and approved pediatric health care facilities.**

16 (3) **"Board-eligible child abuse pediatrician" means a physician who has met the prereq-**
17 **uisites established by the American Board of Pediatrics for taking the examination to be**
18 **certified in child abuse pediatrics.**

19 (4) **"Follow-up health care" means the following health care services provided no later**
20 **than 90 days after a sexual assault:**

21 (a) **A physical examination;**

22 (b) **Laboratory tests to determine the presence or absence of sexually transmitted in-**
23 **fection; and**

24 (c) **Appropriate medications, including prophylaxis for human immunodeficiency virus, in**
25 **accordance with the guidelines of the Centers for Disease Control and Prevention.**

26 (5) **"Hospital" has the meaning given that term in ORS 442.015.**

27 (6) **"Medical forensic services" means the following health care services provided to a**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **sexual assault survivor:**

2 (a) **Taking a medical history;**

3 (b) **Obtaining photo documentation;**

4 (c) **Performing a physical examination, including an anogenital examination;**

5 (d) **Assessing the patient for evidence collection;**

6 (e) **If appropriate, collecting evidence using a sexual assault forensic evidence kit;**

7 (f) **Assessing the sexual assault survivor for drug-facilitated or alcohol-facilitated sexual**
8 **assault;**

9 (g) **Providing an evaluation of and medications for sexually transmitted infection, in-**
10 **cluding human immunodeficiency virus and pregnancy risk; and**

11 (h) **Discharge and follow-up health care planning.**

12 (7) **“Pediatric health care facility” means a clinic or a physician’s office that serves**
13 **pediatric patients.**

14 (8) **“Pediatric sexual assault survivor” means a sexual assault survivor who is younger**
15 **than 13 years of age.**

16 (9) **“Photo documentation” means digital photographs or colposcope videos stored and**
17 **backed up securely in the original file format.**

18 (10) **“Qualified medical provider” means a:**

19 (a) **Board-certified child abuse pediatrician;**

20 (b) **Board-eligible child abuse pediatrician;**

21 (c) **Sexual Assault Forensic Examiner; and**

22 (d) **Sexual Assault Nurse Examiner who has access to photo documentation tools and**
23 **who participates in peer review.**

24 (11) **“Sexual assault” has the meaning given that term in ORS 181A.323.**

25 (12) **“Sexual assault forensic evidence kit” has the meaning given that term in ORS**
26 **181A.323.**

27 (13) **“Sexual Assault Forensic Examiner” means a physician or physician assistant who**
28 **has completed training that meets or is substantially similar to the Sexual Assault Nurse**
29 **Examiner Education Guidelines established by the International Association of Forensic**
30 **Nurses.**

31 (14) **“Sexual Assault Nurse Examiner” means an advanced practice registered nurse or**
32 **certified nurse practitioner who has completed a Sexual Assault Nurse Examiner training**
33 **program that meets the Sexual Assault Nurse Examiner Education Guidelines established**
34 **by the International Association of Forensic Nurses.**

35 (15) **“Sexual assault services voucher” means a document provided to a sexual assault**
36 **survivor by a hospital or an approved pediatric health care facility, at the time that the**
37 **sexual assault survivor receives medical forensic services, that the sexual assault survivor**
38 **may use to pay for services provided as a result of the sexual assault.**

39 (16) **“Sexual assault survivor” means an individual who presents for forensic medical**
40 **services relating to injuries or trauma resulting from a sexual assault.**

41 (17) **“Sexual assault transfer plan” means a written plan for providing transfer services**
42 **that is developed by a hospital or a pediatric health care facility and approved by the au-**
43 **thority.**

44 (18) **“Sexual assault treatment plan” means a written plan that describes the procedures**
45 **and protocols for providing medical forensic services to a sexual assault survivor.**

1 (19) "Transfer hospital" means a hospital with a sexual assault transfer plan approved
2 by the authority.

3 (20) "Transfer services" means appropriate medical screening and necessary stabilizing
4 treatment followed by the transfer of a sexual assault survivor to a treatment hospital or
5 approved pediatric health care facility.

6 (21) "Treatment hospital" means a hospital with a sexual assault treatment plan ap-
7 proved by the authority.

8 **SECTION 2.** (1)(a) A transfer hospital or a pediatric health care facility that is not an
9 approved pediatric health care facility shall provide an appropriate medical screening and
10 provide necessary stabilizing treatment to a sexual assault survivor:

11 (A) Who presents at the hospital or facility no more than seven days after the sexual
12 assault; or

13 (B) Who discloses past sexual assault by a specific individual and was in the care of the
14 individual within a minimum of the past seven days.

15 (b) Following the medical screening and stabilizing treatment, a transfer hospital or
16 pediatric health care facility shall transfer:

17 (A) A pediatric sexual assault survivor to an approved pediatric health care facility, in
18 accordance with subsections (3) to (5) of this section, if the transfer hospital or pediatric
19 health care facility has an area-wide sexual assault treatment plan with an approved
20 pediatric health care facility; or

21 (B) A sexual assault survivor who is 13 years of age or older, or a pediatric sexual assault
22 survivor, to a treatment hospital, if the treatment hospital or pediatric health care facility
23 does not have an area-wide sexual assault treatment plan with an approved pediatric health
24 care facility.

25 (2) In accordance with a sexual assault treatment plan approved by the Oregon Health
26 Authority, a treatment hospital or an approved pediatric health care facility shall provide
27 medical forensic services to a sexual assault survivor:

28 (a) Who presents at the hospital or facility within a minimum of seven days after the
29 sexual assault; or

30 (b) Who discloses past sexual assault by a specific individual and was in the care of the
31 individual within a minimum of the past seven days.

32 (3) A treatment hospital or an approved pediatric health care facility must enter into a
33 memorandum of understanding with a rape crisis center for medical advocacy services, if
34 such services are available to the treatment hospital or approved pediatric health care fa-
35 cility. With the consent of a sexual assault survivor, a rape crisis counselor shall remain in
36 the exam room during the collection of forensic evidence.

37 (4) The authority shall periodically conduct on-site reviews of treatment hospitals and
38 approved pediatric health care facilities to ensure that each hospital and approved pediatric
39 health care facility is complying with all required procedures and protocols. The authority
40 shall specify corrective actions that a hospital or approved pediatric health care facility must
41 undertake if the hospital or facility is found to be out of compliance.

42 (5) If a treatment hospital or an approved pediatric health care facility does not employ
43 a qualified medical provider, the treatment hospital or approved pediatric health care facility
44 shall ensure that emergency department physicians, physician assistants, advanced practice
45 registered nurses and certified nurse practitioners providing clinical services receive a min-

1 **imum of two hours of sexual assault training, which must include information on:**

2 **(a) Providing medical forensic services;**

3 **(b) Using sexual assault forensic kits and collecting evidence;**

4 **(c) Sexual assault epidemiology, neurobiology of trauma, drug-facilitated sexual assault**
5 **and child sexual abuse;**

6 **(d) State laws relating to sexual assault and sexual abuse; and**

7 **(e) The hospital's sexual assault related policies and procedures.**

8 **SECTION 3. (1) A hospital and a pediatric health care facility shall submit to the Oregon**
9 **Health Authority for approval a sexual assault transfer plan or a sexual assault treatment**
10 **plan, as applicable, and an area-wide sexual assault treatment plan.**

11 **(2) The authority shall prescribe by rule the requirements for a sexual assault transfer**
12 **plan, which must:**

13 **(a) Include sufficient protections to a sexual assault survivor from the risk of pregnancy;**

14 **(b) Specify that the transfer hospital or pediatric health care facility has entered into an**
15 **area-wide sexual assault treatment plan with a treatment hospital or an approved pediatric**
16 **health care facility, if any, to accept sexual assault survivors transferred from the hospital**
17 **or facility;**

18 **(c) Ensure that the transfer will not unduly burden a sexual assault survivor;**

19 **(d) Include that, for pediatric sexual assault survivors, the hospital or pediatric health**
20 **care facility will:**

21 **(A) Offer transportation to the treatment hospital or approved pediatric health care fa-**
22 **ility by ambulance, law enforcement vehicle or personal vehicle; and**

23 **(B) Initiate medical forensic services within 90 minutes of the pediatric sexual assault**
24 **survivor's arrival at the treatment hospital or approved pediatric health care facility; and**

25 **(e) Ensure that, in a county with a population of less than 1,000,000 that has a four-year**
26 **college or university, the treatment hospital is less than 20 miles from the college or uni-**
27 **versity.**

28 **(3) The authority shall prescribe by rule the requirements for a sexual assault treatment**
29 **plan, which must include:**

30 **(a) Conducting medical forensic services in a private, age-appropriate or developmentally**
31 **appropriate space that ensures the health, safety and welfare of a sexual assault survivor;**

32 **(b) Providing appropriate oral and written information concerning evidence-based guide-**
33 **lines to determine the appropriateness of evidence collection that considers the sexual de-**
34 **velopment of the sexual assault survivor, the type of sexual assault and the timing of the**
35 **sexual assault;**

36 **(c) Providing appropriate oral and written information concerning the possibility of**
37 **sexually transmitted infection and an evaluation of the sexual assault survivor's risk of**
38 **contracting human immunodeficiency virus from the sexual assault;**

39 **(d) Providing appropriate oral and written information concerning accepted medical pro-**
40 **cedures, laboratory tests, medications and possible contraindications of the medications,**
41 **available for the prevention or treatment of infection resulting from the sexual assault;**

42 **(e) Providing emergency contraception as required by ORS 435.254;**

43 **(f) Obtaining photo documentation of the sexual assault survivor's injuries, anatomy in-**
44 **involved in the assault or other visible evidence of the sexual assault survivor's body to sup-**
45 **plement the medical forensic services, and written documentation of physical findings and**

1 evidence;

2 (g) Providing written and oral instructions that indicate the need for follow-up health
3 care;

4 (h) Offering medical advocacy services provided by a rape crisis counselor; and

5 (i) Providing written information about services provided by a child advocacy group or
6 rape crisis center, if available.

7 (4) The authority shall prescribe by rule the requirements for an area-wide sexual assault
8 treatment plan to ensure that implementation of the plan will provide for appropriate and
9 timely medical forensic services for the residents of the area served.

10 **SECTION 4.** (1) To qualify as an approved pediatric health care facility, a pediatric health
11 care facility must have a sexual assault treatment plan approved by the Oregon Health Au-
12 thority. To be approved, the sexual assault treatment plan of a pediatric health care facility
13 must:

14 (a) Ensure that medical forensic services will be provided by qualified medical providers;

15 (b) Include participation in an area-wide sexual assault treatment plan with a treatment
16 hospital in case a sexual assault survivor is in need of medical or surgical services that the
17 pediatric health care facility is unable to provide; and

18 (c) Meet other criteria adopted by the authority by rule.

19 (2) If an approved pediatric health care facility is not open 24 hours a day, seven days a
20 week, the facility shall post a sign at each public entrance to the facility that:

21 (a) Is at least 14 inches by 14 inches in size;

22 (b) States, "If closed, call 9-1-1 for services or go to the closest hospital emergency de-
23 partment, (insert name) located at (insert address).";

24 (c) Lists the approved pediatric health care facility's hours of operation;

25 (d) Lists the street address of the approved pediatric health care facility;

26 (e) Has a black background with white bold capital lettering in a clear and easy to read
27 font that is at least 72-point type, with "call 9-1-1" in at least 125-point type;

28 (f) Is posted clearly and conspicuously on or adjacent to the door at each entrance;

29 (g) If building materials allow, is posted internally for viewing through glass;

30 (h) If posted externally, is made of weather-resistant and theft-resistant materials, is
31 nonremovable and permanently adhered to the building; and

32 (i) Has lighting that is part of the sign itself or is lit with a dedicated light that fully il-
33 luminates the sign.

34 (3) A copy of the proposed sign must be submitted to the authority and approved as part
35 of the pediatric health care facility's sexual assault treatment plan.

36 **SECTION 5.** (1) The Oregon Health Authority shall adopt a sexual assault services
37 voucher form. A sexual assault services voucher may be used to pay the cost of any ambu-
38 lance services, medical forensic services, laboratory services, pharmacy services and
39 follow-up health care provided to a sexual assault survivor as a result of a sexual assault if
40 the cost is not paid by insurance or by the Department of Justice in accordance with ORS
41 147.390 or 147.397.

42 (2) At the time that a sexual assault survivor receives medical forensic services, a
43 treatment hospital or an approved pediatric health care facility shall:

44 (a) Assist the sexual assault survivor or a person authorized to act on behalf of the
45 sexual assault survivor in completing the form developed by the department under ORS

1 147.397 (3); and

2 (b) Provide a sexual assault services voucher to the sexual assault survivor or to a per-
3 son authorized to act on behalf of the sexual assault survivor a sexual assault services
4 voucher.

5 (3) A treatment hospital, approved pediatric health care facility, health care professional,
6 ambulance provider, laboratory or pharmacy may submit a bill to the authority, in the form
7 and manner prescribed by the authority, for services described in subsection (1) of this sec-
8 tion.

9 (4) A treatment hospital, approved pediatric health care facility, health care professional,
10 ambulance provider, laboratory or pharmacy is not required to submit a copy of the sexual
11 assault services voucher to the authority for payment.

12 (5) The authority shall reimburse the costs billed under subsection (3) of this section in
13 the amount paid by the authority for the service as determined under ORS 414.065.

14 (6) If a sexual assault services voucher was not issued to the sexual assault survivor by
15 a treatment hospital or an approved pediatric health care facility, a treatment hospital, ap-
16 proved pediatric health care facility, health care professional, ambulance provider, laboratory
17 or pharmacy may request that the authority authorize a sexual assault services voucher.

18 **SECTION 6.** (1) An ambulance provider that furnishes transportation to a sexual assault
19 survivor, a hospital, an approved pediatric health care facility or a health care professional
20 that furnishes outpatient medical forensic services to a sexual assault survivor and a labo-
21 ratory or pharmacy that furnishes follow-up health care on an outpatient basis to a sexual
22 assault survivor may not:

23 (a) Charge or submit a bill to a sexual assault survivor for any portion of the costs of
24 the ambulance transport, medical forensic services or follow-up health care provided to the
25 sexual assault survivor, including:

26 (A) Submitting a charge or bill for any insurance deductible, copayment, coinsurance or
27 denied claim for reimbursement;

28 (B) Submitting a charge or bill to a sexual assault survivor for the difference between
29 the amount charged by the provider and the amount paid by the Oregon Health Authority
30 under section 5 of this 2019 Act; or

31 (C) Taking any other action resulting in an out-of-pocket expense to the sexual assault
32 survivor;

33 (b) Communicate with, harass or intimidate the sexual assault survivor for payment of
34 ambulance transport, medical forensic services or follow-up health care, including, but not
35 limited to, repeatedly calling or writing to the sexual assault survivor or the survivor's par-
36 ent or legal guardian and threatening to refer the matter for collection or file a lawsuit;

37 (c) Refer a bill for ambulance transport, medical forensic services or follow-up health
38 care for collection;

39 (d) Contact a credit reporting agency or distribute information to affect the sexual as-
40 sult survivor's credit rating; or

41 (e) Take any other action adverse to the sexual assault survivor or the survivor's parent
42 or legal guardian that results from providing ambulance transport, medical forensic services
43 or follow-up health care to the sexual assault survivor.

44 (2) Every treatment hospital and approved pediatric health care facility providing medical
45 forensic services to sexual assault survivors in accordance with an approved sexual assault

1 treatment plan shall provide a written notice to a sexual assault survivor. The written notice
 2 must include, but need not be limited to:

3 (a) A statement that the sexual assault survivor should not be directly billed by any
 4 ambulance provider for transportation services or by any hospital, approved pediatric health
 5 care facility, health care professional, laboratory or pharmacy for the medical forensic ser-
 6 vices the sexual assault survivor received as an outpatient at the hospital or approved
 7 pediatric health care facility;

8 (b) A statement that a sexual assault survivor who is admitted to a hospital may be billed
 9 for inpatient services other than medical forensic services that are provided by the hospital,
 10 health care professional, laboratory or pharmacy;

11 (c) A statement that, prior to leaving the hospital or approved pediatric health care fa-
 12 cility, the hospital or approved pediatric health care facility will give the sexual assault sur-
 13 vivor a sexual assault services voucher for follow-up health care and an explanation of the
 14 services for which the voucher may be used; and

15 (d) The toll-free telephone number of the division of the office of the Attorney General
 16 that assists crime victims and survivors, which the sexual assault survivor may call should
 17 the sexual assault survivor receive a bill for services described in section 5 of this 2019 Act
 18 from an ambulance provider, a treatment hospital, an approved pediatric health care facility,
 19 a health care professional, a laboratory or a pharmacy.

20 **SECTION 7.** A transfer hospital or pediatric health care facility may transfer a sexual
 21 assault survivor to an out-of-state hospital if the out-of-state hospital:

22 (1) Has an area-wide sexual assault treatment plan approved by the Oregon Health Au-
 23 thority; and

24 (2) Certifies that the out-of-state hospital will:

25 (a) Consent to the jurisdiction of the authority in accordance with section 3 of this 2019
 26 Act;

27 (b) Comply with the requirements of sections 1 to 10 of this 2019 Act applicable to
 28 treatment hospitals, including, but not limited to:

29 (A) Offering medical forensic services to any sexual assault survivor who is a resident
 30 of this state and who presents with a complaint of sexual assault within the past seven days
 31 or who has disclosed past sexual assault by a specific individual and was in the care of that
 32 individual within a minimum of the past seven days; and

33 (B) Not billing the sexual assault survivor for medical forensic services, medical trans-
 34 port or follow-up health care;

35 (c) Use a sexual assault forensic evidence kit to collect forensic evidence from a sexual
 36 assault survivor who is a resident of this state;

37 (d) Ensure that the hospital's staff members cooperate with Oregon law enforcement
 38 agencies and are responsive to subpoenas issued by Oregon courts; and

39 (e) Provide appropriate transportation, upon the completion of medical forensic services,
 40 back to the transfer hospital or pediatric health care facility from which the sexual assault
 41 survivor initially presented seeking medical forensic services, unless the sexual assault sur-
 42 vivor chooses to arrange the survivor's own transportation.

43 **SECTION 8.** (1) A treatment hospital must report to the Oregon Health Authority for
 44 every six-month period, in the form and manner prescribed by the authority:

45 (a) The number of patients who presented with a complaint of sexual assault; and

1 (b) The number of sexual assault forensic evidence kits that were:

2 (A) Offered to sexual assault survivors;

3 (B) Completed for sexual assault survivors; and

4 (C) Declined by sexual assault survivors.

5 (2) The authority shall post to the authority's website the information reported under
6 subsection (1) of this section.

7 (3) The report described in ORS 181A.324 (5) shall include information on the hospitals
8 that have submitted sexual assault transfer plans and sexual assault treatment plans and
9 shall post the report to the authority's website. The report must include:

10 (a) For each hospital that has submitted a sexual assault transfer plan or a sexual as-
11 sault treatment plan:

12 (A) The type of plan and the date submitted;

13 (B) The date the plan was approved by the authority; and

14 (C) The date the hospital withdrew its plan, if applicable;

15 (b) Each hospital that has failed to have a sexual assault transfer plan or a sexual assault
16 treatment plan approved by the authority;

17 (c) Each hospital that was required to take corrective action to comply with the
18 hospital's sexual assault transfer plan or sexual assault treatment plan; and

19 (d) Each hospital for which the authority conducted a periodic on-site review under sec-
20 tion 2 of this 2019 Act and whether the hospital was found to be in compliance with the
21 protocols and procedures in the hospital's sexual assault treatment plan or sexual assault
22 transfer plan.

23 **SECTION 9.** The Oregon Health Authority shall adopt rules necessary to implement
24 sections 1 to 10 of this 2019 Act, which shall apply to every hospital required to be licensed
25 by the authority and to every pediatric health care facility. The rules must include standards
26 for a uniform system for recording in the chart of a sexual assault survivor the results of
27 medical examinations and all diagnostic tests performed in connection with the examinations
28 to determine the condition of and necessary treatment for the sexual assault survivor.

29 **SECTION 10.** The Oregon Health Authority shall assist in the development and operation
30 of programs that provide medical forensic services to sexual assault survivors and, when
31 necessary, shall provide grants to treatment hospitals and approved pediatric health care
32 facilities for this purpose.

33 **SECTION 11.** ORS 147.397, as amended by section 2, chapter 120, Oregon Laws 2018, is
34 amended to read:

35 147.397. (1) Subject to the availability of funds from gifts, grants and donations in the Sexual
36 Assault Victims' Emergency Medical Response Fund, the Department of Justice shall pay the costs
37 of:

38 (a) A complete medical assessment obtained by the victim of a sexual assault if the victim ob-
39 tains the medical assessment no later than 84 hours after the sexual assault.

40 (b) A partial medical assessment obtained by the victim of a sexual assault if the victim obtains
41 the medical assessment no later than seven days after the sexual assault.

42 (2) The department may not deny payment under this section for any of the following reasons:

43 (a) The victim of a sexual assault has not reported the assault to a law enforcement agency.

44 (b) The identity of a victim of a sexual assault is not readily available to the department because
45 forensic evidence has been collected from the victim and preserved in a manner intended to protect

1 the victim's identity.

2 (3) The department shall develop a form that the victim of a sexual assault must complete if the
 3 victim wants the department to pay for a medical assessment as provided in subsection (1) of this
 4 section. The department shall make copies of the form available to providers of medical assessments.
 5 The form must inform the victim that:

6 (a) A complete or partial medical assessment can be obtained regardless of whether the victim
 7 reports the assault to a law enforcement agency; and

8 (b) A complete or partial medical assessment can be performed and evidence collected in a
 9 manner intended to protect the victim's identity.

10 (4) When the victim of a sexual assault completes the form developed by the department under
 11 subsection (3) of this section, the victim shall submit the form to the provider of the medical as-
 12 sessment. The provider shall submit the form with a bill for the medical assessment to the depart-
 13 ment. A provider who submits a bill under this subsection may not bill the victim or the victim's
 14 insurance carrier for the medical assessment [*except to the extent that the department is unable to pay*
 15 *the bill due to lack of funds or declines to pay the bill*].

16 (5) Providers of medical assessments that seek reimbursement under this section shall:

17 (a) Maintain records of medical assessments that protect the identity of victims of sexual assault
 18 and keep confidential the identity of victims who have not reported the sexual assault to a law
 19 enforcement agency;

20 (b) Store sexual assault forensic evidence kits and transfer custody of the kits to a law
 21 enforcement agency having jurisdiction over the geographic area where the provider is located; and

22 (c) Cooperate with law enforcement agencies to develop and implement procedures that protect
 23 the identities of victims while allowing retrieval and assessment of sexual assault forensic evidence
 24 kits and related evidence.

25 (6) Law enforcement agencies that receive evidence as provided by subsection (5) of this section
 26 shall preserve:

27 (a) A sexual assault forensic evidence kit for no less than 60 years after collection of the evi-
 28 dence; and

29 (b) Any related evidence for at least six months.

30 (7) A provider may not charge the department more for a complete medical assessment or a
 31 partial medical assessment than the maximum amounts established by the department by rule for the
 32 assessments.

33 (8) The victim of a sexual assault may obtain a medical assessment and complete and submit a
 34 form under this section regardless of whether the victim reports the sexual assault to a law
 35 enforcement agency.

36 (9) This section does not require the department to pay any costs of treatment for injuries re-
 37 sulting from the sexual assault.

38 (10) The department shall create, and make available to medical assessment providers, informa-
 39 tional materials describing the services payable by the fund as described in subsection (1) of this
 40 section. A provider shall ensure that the informational materials are made available to sexual as-
 41 sault victims.

42 (11) The department may adopt rules necessary to carry out the provisions of this section.

43 **SECTION 12.** ORS 147.403 is amended to read:

44 147.403. (1) Each [*hospital,*] emergency medical service provider, intermediate care facility,
 45 skilled nursing facility, long term care facility and residential care facility in this state shall adopt

1 policies for the treatment or referral of acute sexual assault patients, if such policies are not oth-
 2 erwise provided for by statute or administrative rule.

3 (2)(a) Each [hospital,] emergency medical service provider, intermediate care facility, skilled
 4 nursing facility, long term care facility and residential care facility in this state that performs
 5 forensic medical examinations of sexual assault patients shall:

6 [(A)] (a) Adopt, in addition to the facility’s own guidelines, if any, the State of Oregon Medical
 7 Guideline for Sexual Assault Evaluation of Adolescent and Adult Patients developed and published
 8 by the Attorney General’s Sexual Assault Task Force.

9 [(B)] (b) [Except as provided in paragraph (b) of this subsection,] Employ or contract with at least
 10 one sexual assault forensic examiner who has completed didactic training sufficient to satisfy the
 11 training requirement for certification by the Oregon SAE/SANE Certification Commission estab-
 12 lished by the Attorney General.

13 [(b) Paragraph (a)(B) of this subsection does not apply to a hospital that performs forensic medical
 14 examinations only of sexual assault patients who are minors. A hospital described in this paragraph
 15 may use physicians, physician assistants licensed under ORS 677.505 to 677.525, naturopathic physi-
 16 cians licensed under ORS chapter 685 and nurses to conduct the examinations in consultation with a
 17 social worker trained in assisting sexual assault victims who are minors.]

18 **(3) Policies adopted under subsection (1) of this section must be consistent with sections**
 19 **1 to 10 of this 2019 Act and rules adopted under sections 1 to 10 of this 2019 Act.**

20 **SECTION 13.** ORS 181A.323 is amended to read:

21 181A.323. As used in ORS 181A.323 to 181A.326:

22 (1) “Anonymous kit” means a sexual assault forensic evidence kit collected from a victim who
 23 has not participated with a law enforcement agency in the creation of a report of the sexual assault.

24 (2) “Law enforcement agency” has the meaning given that term in ORS 133.741.

25 (3) “Medical facility” means: [a hospital, clinic, urgent care center or]

26 **(a) An approved pediatric health care facility as defined in section 1 of this 2019 Act;**

27 **(b) A treatment hospital as defined in section 1 of this 2019 Act; or**

28 (c) Any other facility that is authorized to provide sexual assault medical assessments as de-
 29 scribed in ORS 147.395.

30 (4) “Sexual assault” means the commission of or the attempted commission of an offense de-
 31 scribed in ORS 163.355 to 163.427.

32 (5) “Sexual assault forensic evidence kit” means forensic evidence collected using an evidence
 33 collection kit during a sexual assault medical assessment as described in ORS 147.395.

34 (6) “Victim” means a person from whom a sexual assault forensic evidence kit has been col-
 35 lected.

36 **SECTION 14.** ORS 181A.326 is amended to read:

37 181A.326. (1) A medical facility collecting sexual assault forensic evidence kits shall, [within
 38 seven days after the collection of a kit, notify the law enforcement agency with jurisdiction over a
 39 possible sexual assault criminal investigation that the kit has been collected.] **no more than four**
 40 **hours after completing the forensic evidence kit, notify the law enforcement agency with**
 41 **jurisdiction over a possible sexual assault criminal investigation that the medical facility is**
 42 **in possession of evidence of a sexual assault and of the date and time that the evidence was**
 43 **collected. The medical facility shall document the notification in the patient’s medical re-**
 44 **records and shall include the law enforcement agency notified, the date and time of the no-**
 45 **tification and the name of the individual who was notified.**

1 **(2) If a law enforcement agency has not taken physical custody of the sexual assault**
 2 **forensic evidence kit within five days after the notification is provided under subsection (1)**
 3 **of this section, the medical facility shall notify the law enforcement agency again and docu-**
 4 **ment the second notification in the patient’s medical records.**

5 **(3) If the law enforcement agency has not taken physical custody of the sexual assault**
 6 **forensic evidence kit within 10 days after the notification is provided under subsection (1)**
 7 **of this section, and the medical facility has provided the second notification under subsection**
 8 **(2) of this section, the medical facility shall contact the district attorney in the county where**
 9 **the hospital is located and inform the district attorney that the medical facility is in pos-**
 10 **session of evidence of sexual assault, of the date and time that the evidence was collected,**
 11 **the law enforcement agency that was notified and the names of the individuals notified and**
 12 **the dates and times of notification. The notification to the district attorney must occur no**
 13 **more than 14 days after the completion of the sexual assault forensic evidence kit.**

14 **SECTION 15.** Section 2 of this 2019 Act is amended to read:

15 **Sec. 2.** (1)(a) A transfer hospital or a pediatric health care facility that is not an approved
 16 pediatric health care facility shall provide an appropriate medical screening and provide necessary
 17 stabilizing treatment to a sexual assault survivor:

18 (A) Who presents at the hospital or facility no more than seven days after the sexual assault;
 19 or

20 (B) Who discloses past sexual assault by a specific individual and was in the care of the indi-
 21 vidual within a minimum of the past seven days.

22 (b) Following the medical screening and stabilizing treatment, a transfer hospital or pediatric
 23 health care facility shall transfer:

24 (A) A pediatric sexual assault survivor to an approved pediatric health care facility, in accord-
 25 ance with subsections (3) to (5) of this section, if the transfer hospital or pediatric health care fa-
 26 cility has an area-wide sexual assault treatment plan with an approved pediatric health care facility;
 27 or

28 (B) A sexual assault survivor who is 13 years of age or older, or a pediatric sexual assault
 29 survivor, to a treatment hospital, if the treatment hospital or pediatric health care facility does not
 30 have an area-wide sexual assault treatment plan with an approved pediatric health care facility.

31 (2) In accordance with a sexual assault treatment plan approved by the Oregon Health Author-
 32 ity, a treatment hospital or an approved pediatric health care facility shall provide medical forensic
 33 services to a sexual assault survivor:

34 (a) Who presents at the hospital or facility within a minimum of seven days after the sexual
 35 assault; or

36 (b) Who discloses past sexual assault by a specific individual and was in the care of the indi-
 37 vidual within a minimum of the past seven days.

38 (3) A treatment hospital or an approved pediatric health care facility must enter into a memo-
 39 randum of understanding with a rape crisis center for medical advocacy services, if such services
 40 are available to the treatment hospital or approved pediatric health care facility. With the consent
 41 of a sexual assault survivor, a rape crisis counselor shall remain in the exam room during the col-
 42 lection of forensic evidence.

43 (4) The authority shall periodically conduct on-site reviews of treatment hospitals and approved
 44 pediatric health care facilities to ensure that each hospital and approved pediatric health care fa-
 45 cility is complying with all required procedures and protocols. The authority shall specify corrective

1 actions that a hospital or approved pediatric health care facility must undertake if the hospital or
 2 facility is found to be out of compliance.

3 *[(5) If a treatment hospital or an approved pediatric health care facility does not employ a qualified*
 4 *medical provider, the treatment hospital or approved pediatric health care facility shall ensure that*
 5 *emergency department physicians, physician assistants, advanced practice registered nurses and certi-*
 6 *fied nurse practitioners providing clinical services receive a minimum of two hours of sexual assault*
 7 *training, which must include information on:]*

8 *[(a) Providing medical forensic services;]*

9 *[(b) Using sexual assault forensic kits and collecting evidence;]*

10 *[(c) Sexual assault epidemiology, neurobiology of trauma, drug-facilitated sexual assault and child*
 11 *sexual abuse;]*

12 *[(d) State laws relating to sexual assault and sexual abuse; and]*

13 *[(e) The hospital's sexual assault related policies and procedures.]*

14 **SECTION 16.** Section 3 of this 2019 Act is amended to read:

15 **Sec. 3.** (1) A hospital and a pediatric health care facility shall submit to the Oregon Health
 16 Authority for approval a sexual assault transfer plan or a sexual assault treatment plan, as appli-
 17 cable, and an area-wide sexual assault treatment plan.

18 (2) The authority shall prescribe by rule the requirements for a sexual assault transfer plan,
 19 which must:

20 (a) Include sufficient protections to a sexual assault survivor from the risk of pregnancy;

21 (b) Specify that the transfer hospital or pediatric health care facility has entered into an area-
 22 wide sexual assault treatment plan with a treatment hospital or an approved pediatric health care
 23 facility, if any, to accept sexual assault survivors transferred from the hospital or facility;

24 (c) Ensure that the transfer will not unduly burden a sexual assault survivor;

25 (d) Include that, for pediatric sexual assault survivors, the hospital or pediatric health care fa-
 26 cility will:

27 (A) Offer transportation to the treatment hospital or approved pediatric health care facility by
 28 ambulance, law enforcement vehicle or personal vehicle; and

29 (B) Initiate medical forensic services within 90 minutes of the pediatric sexual assault survivor's
 30 arrival at the treatment hospital or approved pediatric health care facility; and

31 (e) Ensure that, in a county with a population of less than 1,000,000 that has a four-year college
 32 or university, the treatment hospital is less than 20 miles from the college or university.

33 (3) The authority shall prescribe by rule the requirements for a sexual assault treatment plan,
 34 which must include:

35 (a) Conducting medical forensic services in a private, age-appropriate or developmentally ap-
 36 propriate space that ensures the health, safety and welfare of a sexual assault survivor;

37 (b) Providing appropriate oral and written information concerning evidence-based guidelines to
 38 determine the appropriateness of evidence collection that considers the sexual development of the
 39 sexual assault survivor, the type of sexual assault and the timing of the sexual assault;

40 (c) Providing appropriate oral and written information concerning the possibility of sexually
 41 transmitted infection and an evaluation of the sexual assault survivor's risk of contracting human
 42 immunodeficiency virus from the sexual assault;

43 (d) Providing appropriate oral and written information concerning accepted medical procedures,
 44 laboratory tests, medications and possible contraindications of the medications, available for the
 45 prevention or treatment of infection resulting from the sexual assault;

1 (e) Providing emergency contraception as required by ORS 435.254;

2 (f) Obtaining photo documentation of the sexual assault survivor's injuries, anatomy involved in
3 the assault or other visible evidence of the sexual assault survivor's body to supplement the medical
4 forensic services, and written documentation of physical findings and evidence;

5 (g) Providing written and oral instructions that indicate the need for follow-up health care;

6 (h) Offering medical advocacy services provided by a rape crisis counselor; *[and]*

7 (i) Providing written information about services provided by a child advocacy group or rape
8 crisis center, if available[.]; **and**

9 **(j) Employing qualified medical providers to provide medical forensic services.**

10 (4) The authority shall prescribe by rule the requirements for an area-wide sexual assault
11 treatment plan to ensure that implementation of the plan will provide for appropriate and timely
12 medical forensic services for the residents of the area served.

13 **SECTION 17. (1) In addition to any other liability or penalty provided by law, the Oregon**
14 **Health Authority may impose a civil penalty of not more than \$500 for each violation of**
15 **sections 1 to 8 of this 2019 Act. Civil penalties under this section shall be imposed in the**
16 **manner provided in ORS 183.745.**

17 **(2) All civil penalties recovered under this section shall be paid into the State Treasury**
18 **and credited to the General Fund, and are available for general governmental expenses.**

19 **SECTION 18. Section 6 of this 2019 Act applies to bills or charges for services furnished**
20 **on or after the effective date of this 2019 Act.**

21 **SECTION 19. The amendments to sections 2 and 3 of this 2019 Act by sections 15 and 16**
22 **of this 2019 Act become operative on July 1, 2021.**

23 **SECTION 20. In addition to and not in lieu of any other appropriation, there is appro-**
24 **priated to the Oregon Health Authority, for the biennium beginning July 1, 2019, out of the**
25 **General Fund, the amount of \$1,000, which may be expended for carrying out the provisions**
26 **of sections 1 to 8 and 10 of this 2019 Act.**

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