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GAVIN NEWSOM
Governor

January 17, 2020

AFL 20-05

TO: General Acute Care Hospitals (GACHs)
Clinics

SUBJECT: Medical Evidentiary Examinations and Reporting

AUTHORITY: Health and Safety Code (HSC) section 1281;
Penal Code (PC) sections 1203.1h, 13823.5, 13823.7, 13823.9,
13823.93, 13823.95, 13823.11, and 13823.13

All Facilities Letter (AFL) Summary

This AFL provides notice to all GACHs and licensed clinics of the chaptering of Assembly Bill (AB) 538 ([Chapter 714, Statutes of 2019](#)), containing new provisions regarding medical evidentiary examinations of sexual assault victims.

AB 538 expands PC provisions regarding medical evidentiary examinations, formerly called forensic examinations, for victims of sexual assault or attempted sexual assault, including child sexual abuse. Under California Department of Public Health licensing requirements, GACHs must comply with specified PC standards for the examination and treatment of victims of sexual assault and attempted sexual assault or refer the victims to another hospital that complies with those standards.

Effective no later than January 1, 2020, AB 538 allows clinics “and other emergency medical facilities”, to conduct medical evidentiary examinations of sexual assault victims but, like GACHs, may not charge those victims for examination costs. AB 538 also adds nurses, nurse practitioners, physician assistants, and sexual assault forensic examiners to the list of health care professionals who may conduct medical evidentiary examinations. Additionally, AB 538 specifies the right of a minor to consent to medical evidentiary examination and treatment without the consent of a parent or guardian.

AB 538 also authorizes testing and presumptive treatment of sexually transmitted infections based on current guidelines of the federal Centers for Disease Control and Prevention (CDC). Baseline testing for those infections is required by AB 538, if forensically indicated, for a child, a person with a disability, or a person who has been residing in a long-term care facility. In addition, victims with an assault history of strangulation must be examined and tested in accordance with specified best practices.

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GACHs and clinics conducting medical evidentiary examinations must adopt and follow written policies and procedures for maintaining the confidentiality of examination records. In addition, those facilities must implement a records maintenance system by January 1, 2021, ensuring proper records preservation and the release of records only as required or authorized by law.

Additional provisions of AB 538 include:

- clarifying protocols and reporting requirements for the examination of sexual assault victims who are undecided about whether to report to law enforcement;
- authorizing collection of data from medical evidentiary examinations for health and forensic purposes, under specified conditions;
- revising medical evidentiary examination reimbursement requirements;
- expanding the training provided by the California Clinical Forensic Medical Training Center.

CDPH's failure to expressly notify facilities of statutory or regulatory requirements does not relieve facilities of their responsibility for following all laws and regulations. Facilities should refer to the full text of all applicable code sections and the California Code of Regulations to ensure compliance.

If you have questions regarding this AFL, please contact your district office.

Sincerely,

Original signed by Heidi W. Steinecker

Heidi W. Steinecker
Deputy Director