



New Law for Emergency Room Physicians Who Provide Services to Sexual Assault Survivors



Illinois Attorney General
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AMENDMENTS TO THE SEXUAL ASSAULT EMERGENCY TREATMENT ACT ADDRESSING THE RESPONSIBILITIES OF EMERGENCY ROOM PHYSICIANS, EFFECTIVE JANUARY 1, 2016

Public Act 099-0454 amends several sections of the Sexual Assault Survivors Emergency Treatment Act (SASETA, 410 ILCS 70). The new law addresses the billing procedure emergency room physicians must follow when they provide hospital emergency services or forensic services to sexual assault survivors. Monetary penalties may be assessed for violations of the billing provisions. The amendments bring Illinois into compliance with provisions of the federal Violence Against Women Act's provisions requiring states, as a condition to receipt of grant funds, to certify that victims of sexual assault in Illinois are not being charged or sent a bill for hospital emergency services or forensic services. The new law is effective January 1, 2016.

The relevant sections for emergency room physicians are:

- Section 7.5(a) prohibits the direct billing of sexual assault survivors, as well as other debt collection activities.
- Section 7 sets forth the procedure for billing patients covered by government healthcare programs, private insurance and public or private healthcare programs, as well as uninsured patients.
- Section 7.5(d) requires emergency room physicians who provide hospital emergency and forensic services to sexual assault survivors to develop a billing protocol to ensure that sexual assault survivors are not charged for or sent a bill or statement for these services. The protocol must be submitted to the Crime Victim Services Division of the Office of the Attorney General within 60 days of the effective date of the law, i.e. by March 1, 2016.
- Section 8 provides that the Office of the Attorney General may seek monetary penalties for violations of Section 7.5.

The materials that follow set forth the requirements and prohibitions in the new law in more detail and include two sample billing protocols.

The full text of the new law can be found at:

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0454&print>.

THE AMENDMENTS IN MORE DETAIL

I. Definitions [410 ILCS 70/1a]

A “sexual assault survivor” is defined as “a person who presents for hospital emergency room services in relation to injuries or trauma resulting from a sexual assault.”

“Health care professional” means a physician, a physician assistant, or an advanced practice nurse.

“Hospital emergency services” are defined as “healthcare delivered to outpatients within or under the care and supervision of personnel working in a designated emergency department of a hospital, including, but not limited to, care ordered by such personnel for a sexual assault survivor in the emergency department.”

“Forensic services” are defined as “the collection of evidence pursuant to a statewide sexual assault evidence collection program administered by the Department of State Police, using the Illinois State Police Sexual Assault Evidence Collection Kit.”

II. Prohibited Billing and Related Conduct [410 ILCS 70/7.5(a)]

Section 7.5 of the Sexual Assault Survivors Emergency Treatment Act (SASETA) provides that a health care professional furnishing hospital emergency services or forensic services to a sexual assault survivor shall not:

- (1) charge or submit a bill for any portion of the costs of the services to the sexual assault survivor, including any insurance deductible, co-pay, co-insurance, denial of claim by an insurer, spenddown, or any other out-of-pocket expense;
- (2) communicate with, harass, or intimidate the sexual assault survivor for payment of services, including, but not limited to, repeatedly calling or writing to the sexual assault survivor and threatening to refer the matter to a debt collection agency or to an attorney for collection, enforcement, or filing of other process;
- (3) refer a bill to a collection agency or attorney for collection action against the sexual assault survivor;
- (4) contact or distribute information to affect the sexual assault survivor’s credit rating; or
- (5) take any other action adverse to the sexual assault survivor or his or her family on account of providing services to the sexual assault survivor.

III. The Billing Procedure [410 ILCS 70/7(a)]

The sexual assault survivor cannot be billed for services; however, health care professionals can bill other entities such as private insurance and public and private health coverage programs.

Section 7(a) of SASETA sets out the billing procedure in detail:

A. If the patient is eligible to receive health benefits under a government program, billing staff shall timely submit the bill to the Department of Healthcare and Family Services or the appropriate Medicaid managed care organization and accept the amount paid as full payment. No bill or statement shall be sent to the sexual assault survivor for the original amount, a spenddown, or any other amount not paid by the government program.

B. If the patient is not eligible to receive healthcare benefits under a government program, policy of insurance, or public or private health coverage program, billing staff shall timely submit a request for reimbursement to the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services in accordance with 89 Ill. Adm. Code 148.510 at the Department of Healthcare and Family Services' allowable rates under the Illinois Public Aid Code. The amount paid shall be accepted as full payment. No bill or statement shall be sent to the sexual assault survivor for any amount.

C. If the patient is eligible to receive healthcare benefits under one or more government program, policy of insurance, or public or private health coverage program, billing staff shall timely bill insurance and/or the program(s). A bill for any amount not paid may be sent to the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services in accordance with 89 Ill. Adm. Code 148.510 at the Department of Healthcare and Family Services' allowable rates under the Illinois Public Aid Code. The amount paid by these entities shall be accepted as full payment. No bill or statement shall be sent to the sexual assault survivor for any portion of the charges not paid by insurance or health coverage program, including co-pays and deductibles.

IV. A Billing Protocol Is Required [410 ILCS 70/7.5(d)]

Section 7.5(d) requires health care professionals who provide hospital emergency and forensic services to develop a billing protocol to ensure that sexual assault survivors are not charged or sent a bill. The protocol must be submitted to the Crime Victim Services Division of the Office of the Attorney General by March 1, 2016, for approval. Health care professionals who bill as a single entity, such as an LLC, may submit a single protocol. At a minimum, the protocol must include:

- (1) a description of training for persons who prepare bills for hospital emergency services and forensic services;
- (2) a written acknowledgment signed by a person who has completed the training that the person will not bill survivors of sexual assault;
- (3) prohibitions on submitting any bill for any portion of hospital emergency services or forensic services provided to a survivor of sexual assault to a collection agency;
- (4) prohibitions on taking any action that would adversely affect the credit of the survivor of sexual assault;
- (5) the termination of all collection activities if the protocol is violated; and
- (6) the actions to be taken if a bill is sent to a collection agency or the failure to pay is reported to any credit reporting agency.

The Office of the Attorney General will approve a protocol if it determines that implementation of the protocol would result in no sexual assault survivor being charged or sent a bill for services. If the Office of the Attorney General determines that implementation of the protocol could result in billing the sexual assault survivor or other prohibited conduct, the Office of the Attorney General will provide a written statement of deficiencies. The health care professional will have 30 days to correct the deficiencies and submit a revised protocol.

The Crime Victim Services Division of the Office of the Attorney General has prepared two sample templates for billing protocols. They are included here as Appendix A and Appendix B.

Billing protocols should be mailed to:

Crime Victim Services Division
Office of the Attorney General
100 W. Randolph St., 13th Floor
Chicago, IL 60601
Attn: Cynthia Hora

Or emailed to: crimevictimservices@atg.state.il.us

V. Modification or Revision to Approved Protocol [410 ILCS 70/7.5(d)]

If a health care professional revises or modifies a billing protocol approved by the Office of the Attorney General, the revisions or modifications must be submitted to the Crime Victim Services Division of the Office of the Attorney General for approval.

VI. Enforcement and Penalties [410 ILS 70/8(b)]

The Office of the Attorney General may seek civil monetary penalties for violations of Section 7.5 of SASETA.

The penalty for failing to submit a billing protocol by March 1, 2016, may be up to \$100 per day until the protocol is submitted.

The penalty for willfully engaging in prohibited conduct or engaging in prohibited conduct involving a pattern or practice may be up to \$500.

The penalty for sending a bill to a collection agency may be up to \$500 for each day the bill is with the collection agency.

For More Information

If you have questions about the changes to SASETA or the billing protocol, please call the toll-free number for the Crime Victim Services Division: 1-800-228-3368.

For an electronic version of the billing protocols in Microsoft Word, please send an email request to: crimevictimservices@state.il.us.

APPENDIX A

SAMPLE BILLING PROTOCOL TEMPLATE FOR HEALTH CARE PROFESSIONALS

The Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70/7.5 (a)] prohibits physicians, hospitals, and other providers from directly billing sexual assault survivors for any “hospital emergency services” or “forensic services.” The [Emergency Room Physician Group] adopts this protocol to ensure that sexual assault survivors are not directly billed for these services and that the charges for services are sent to the appropriate entity.

Description of training for persons who prepare bills for hospital emergency services and forensic services:

Description of actions to be taken to ensure that no bill for any portion of hospital emergency or forensic services will be sent to a collection agency:

Description of the process to ensure that no action is taken that would adversely affect the credit of the sexual assault survivor:

The following actions will be taken if an error is made and a bill is sent to a collection agency or the failure to pay is reported to any credit reporting agency:

Staff will sign and date the following statement upon completion of training:

My signature acknowledges that I have completed training on billing for hospital emergency services and forensic services, and I will not bill survivors of sexual assault.

Signature: _____

APPENDIX B

SAMPLE TEMPLATE FOR BILLING PROTOCOL FOR PHYSICIANS PROVIDING EMERGENCY AND FORENSIC SERVICES TO SEXUAL ASSAULT SURVIVORS

The Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70/7.5 (a)] prohibits physicians, hospitals, and other providers from directly billing sexual assault survivors for any “hospital emergency services” or “forensic services.” The [Emergency Room Physician Group] adopts this protocol to ensure that sexual assault survivors are not directly billed for these services and that the charges for services are sent to the appropriate entity.

I. Definitions

“Hospital emergency services” means “healthcare delivered to outpatients within or under the care and supervision of personnel working in a designated emergency department of a hospital, including, but not limited to, care ordered by such personnel for a sexual assault survivor in the emergency department.”

“Forensic services” means “the collection of evidence pursuant to a statewide sexual assault evidence collection program administered by the Department of State Police, using the Illinois State Police Sexual Assault Evidence Collection Kit.”

“Sexual assault survivor” means “a person who presents for hospital emergency room services in relation to injuries or trauma resulting from a sexual assault.”

II. Prohibited Conduct

In accordance with Section 7.5(a) of the Sexual Assault Survivors Emergency Treatment Act, billing staff shall not do any of the following with respect to hospital emergency or forensic services provided to a sexual assault survivor:

- (1) charge or submit a bill for any portion of the costs of the services to the sexual assault survivor, including any insurance deductible, co-pay, co-insurance, denial of claim by an insurer, spenddown, or any other out-of-pocket expense;
- (2) communicate with, harass, or intimidate the sexual assault survivor for payment of services, including, but not limited to, repeatedly calling or writing to the sexual assault survivor and threatening to refer the matter to a debt collection agency or to an attorney for collection, enforcement, or filing of other process;
- (3) refer a bill to a collection agency or attorney for collection action against the sexual assault survivor;
- (4) contact or distribute information to affect the sexual assault survivor’s credit rating;
or
- (5) take any other action adverse to the sexual assault survivor or his or her family on account of providing services to the sexual assault survivor.

III. Billing Appropriate Entity

Only trained billing staff will process charges for hospital emergency services and forensic services. Staff shall process the bills as follows:

A. If the patient is eligible to receive health benefits under a government program, billing staff shall timely submit the bill to the Department of Healthcare and Family Services or the appropriate Medicaid managed care organization and accept the amount paid as full payment. No bill will be sent to the sexual assault survivor for the original amount, a spenddown, or any other amount not paid by the government program. No statement will be sent to the survivor indicating the bill has been sent to a government program for payment.

B. If the patient is not eligible to receive healthcare benefits under a government program, policy of insurance, or public or private health coverage program, billing staff will timely submit a request for reimbursement to the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services in accordance with 89 Ill. Adm. Code 148.510 at the Department of Healthcare and Family Services' allowable rates under the Illinois Public Aid Code. The amount paid shall be accepted as full payment. No bill or statement shall be sent to the sexual assault survivor for any amount.

C. If the patient is eligible to receive healthcare benefits under one or more government program, policy of insurance, or public or private health coverage program, billing staff will timely submit the bill to the insurance carrier and/or program(s). A bill for any amount not paid may be sent to the Illinois Sexual Assault Emergency Treatment Program under the Department of Healthcare and Family Services in accordance with 89 Ill. Adm. Code 148.510 at the Department of Healthcare and Family Services' allowable rates under the Illinois Public Aid Code. Billing staff will only send a bill for any unpaid amount to the Illinois Sexual Assault Emergency Treatment Program if the amount paid by insurance and/or other program(s) is less than the amount that would be paid by the Illinois Sexual Assault Emergency Treatment Program. The amount paid by these entities shall be accepted as full payment. No bill or statement shall be sent to the sexual assault survivor for any portion of the charges not paid by insurance or healthcare program, including co-pays or deductibles. No statement will be sent to the survivor indicating the bill has been sent to an insurance carrier or health coverage program.

IV. Procedure When Billing Error is Discovered

In the event billing staff learns that a bill for hospital emergency or forensic services has been sent to a sexual assault survivor, or that any of the prohibited conduct set forth in Section II has occurred, staff shall notify the billing supervisor immediately. The supervisor shall terminate any collection activity immediately and investigate the matter within one business day. The supervisor will take all necessary steps to notify the sexual assault survivor that the bill was sent in error, to recall the bill if it was sent to a collection agency, and to ensure that the collection agency takes action to correct or remove any information sent to credit agencies.

The billing supervisor shall then review the protocol and propose changes that would have avoided the bill being sent.

V. Penalties

The Office of the Attorney General may seek the assessment of fines of \$500 for providers who willfully engage in prohibited conduct or who engage in a pattern or practice of prohibited conduct. Fines in the amount of \$500 per day may be assessed for every day the bill of a sexual assault survivor is with a collection agency.

VI. Use of Correct Codes

To ensure that sexual assault survivors are not billed for hospital emergency or forensic services, it is imperative that the correct codes are used to identify the patient as a sexual assault survivor.

A. The physician shall be responsible for recording the appropriate procedure, diagnosis, and billing code(s) for services provided to a sexual assault survivor. This will alert billing staff that the patient cannot be billed for hospital emergency services or forensic services.

B. The physicians group and the hospital have developed the following method for identifying a patient who did not initially present as a sexual assault survivor:

The hospital medical records department will notify the physicians group via email that the progress notes or discharge summary of a patient indicates that the patient is a sexual assault survivor. This notification will be provided within three days of discharge.

VII. Training for Physicians and Billing Staff

A. Current physicians shall be trained on this protocol within 15 days of its approval by the Office of the Attorney General. Physicians who join the practice shall receive training within 10 days after being placed on the payroll.

B. Current billing staff shall be trained on this protocol within five days of its approval by the Office of the Attorney General. Billing staff hired after the approval of this protocol shall be trained within five days of being placed on the payroll or prior to handling any bills. The training shall be conducted by a billing supervisor who has correctly handled bills for hospital emergency and forensic services and shall include the following:

1. How to identify a bill for hospital emergency services or forensic services, such as reviewing codes or looking for a flag (and how to “flag” bills for these services in the computer billing system).
2. The appropriate billing procedure set forth in Section III, above.
3. Action to be taken if staff is not sure whom to bill.
4. How to close an account after receiving payment as provided in Section III, above.
5. The full range of prohibited conduct set forth in Section II, above.

6. The penalties for sending a bill to a sexual assault survivor or engaging in prohibited conduct set forth in Section V, above.
7. How to verify that a bill is not for hospital emergency services or forensic services before sending it to a collection agency. This could include contacting the hospital.
8. The procedure to be followed should a survivor be billed and/or sent to collections.
9. A test at the conclusion of the training using a minimum of five sample bills. The person must handle all bills correctly in order to pass.
10. Upon successful completion of the test, the person shall sign and date an acknowledgment stating:

I, _____, acknowledge that I have completed training on billing for hospital emergency services and forensic services, and I will not bill survivors of sexual assault.

VIII. Distribution of Protocol

All billing staff shall have ready access to this protocol and any changes made to it, either in hard copy or on their work computer.

