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JON BRUNING
ATTORNEY GENERAL



SUBJECT: Approval Of Sexual Assault Evidence Collection Kits

TO: Health Care Professionals And Persons In Charge Of Emergency Rooms

LB 713 was enacted by the Nebraska Legislature during its most recent session, and approved by the Governor on June 2, 2005. Section 1 of that bill provides:

Every health care professional as defined in section 44-5418 or any person in charge of any emergency room in this state:

- (1) Shall utilize a standardized sexual assault evidence collection kit approved by the Attorney General; and
- (2) Shall collect forensic evidence with the consent of the sexual assault victim without separate authorization by a law enforcement agency.

One goal of LB 713 was to implement a standardized process for the collection of evidence pertaining to sexual assaults throughout the state, and that legislation requires health care professionals and managers of emergency rooms in Nebraska to utilize a standardized sexual assault evidence collection kit approved by the Attorney General. In response to LB 713, this opinion will set out those items which will be included in a standard sexual assault evidence collection kit utilized in Nebraska.

Pursuant to Section 1 of 2005 Neb. Laws LB 713, I hereby approve any sexual assault collection kit for use in this State that contains the following items:

- 1) An authorization form for the collection and release of evidence;
- 2) A patient's/victim's medical history and assault information form/document, to include at a minimum the following information, if available:

- a. Name;
 - b. Date of birth;
 - c. Date and time of assault;
 - d. Date and time of collection;
 - e. Whether the victim has bathed or showered, urinated or defecated, brushed his or her teeth, changed his or her clothes, ate, drank, vomited, douched, or engaged in any other activity that could affect the availability of evidence;
 - f. Date and time of last prior consensual sexual encounter;
 - g. Whether the victim is menstruating, and if so, whether she used a pad or tampon;
 - h. Whether a condom was used during the assault;
 - i. The gender and number of offenders;
 - j. A narrative of the circumstances surrounding the assault;
 - k. Whether there are/were any injuries to the victim;
 - l. Whether there are/were any injuries to the assailant; and,
 - m. Whether the assailant kissed or bit any area or areas of the victim's body;
- 3) A paper bag for the collection of foreign material, outer clothing, and underwear/panties, if applicable;
- 4) A paper bag for the collection of debris, if applicable;
- 5) Paper envelopes for a combed pubic hair sample (taking this sample is mandatory) and pulled pubic and hair samples (taking of these samples is optional);
- 6) An envelope for fingernail clippings/scrapings;
- 7) A swab or filter paper for a saliva sample (taking this sample is optional);
- 8) Dried secretions swabs, if applicable (1 to 2) (may be used for bite marks as well);
- 9) One paper box each for:
- a. Vaginal swabs (4 swabs should be collected, if possible);
 - b. Oral swabs (4 swabs should be collected, if possible); and,
 - c. Rectal swabs (4 swabs should be collected, if possible);
- 10) One cardboard slide holder each for:
- a. Vaginal smear slides (1 or 2, if possible);
 - b. Oral smear slide (1, if possible); and,
 - c. Anal smear slide (1, if possible).

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- b. Oral smear slide (1, if possible); and,
- c. Anal smear slide (1, if possible).

Note: The slides should not be fixed or stained.

- 11) Penile swabs (2-4), to be used in an appropriate case when the victim is a male;
- 12) An FTA filter paper (Whatman) and lancet for preparing a dry reference blood stain OR one 5 milliliter purple top vial;
- 13) Anatomical drawings (to be used if possible);
- 14) Additional paper bags for additional evidence not covered above (any wet items should be dried before packaging); and,
- 15) A collection checklist;

Note: Each item of evidence collected should be maintained in a paper container with the proper labels.

The items listed above represent the standard contents for any sexual assault evidence collection kit used in this state. If a health care professional or person in charge of an emergency room does not have any or all of the items listed above available at the time of the sexual assault examination and evidence collection, the health care professional or emergency room person shall utilize other materials then available to conduct the examination and evidence collection.

Sincerely,



JON BRUNING
Attorney General

