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FROM THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

February 13, 2020

Chair William C. Smith Jr.
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: Senate Bill 406 - Criminal Procedure- Sexual Assault Evidence Kits - Privacy, Reimbursement, and Notification

POSITION: SUPPORT with Amendments

Dear Chair Smith and Members of the Judicial Proceedings Committee:

The Governor's Office of Crime Prevention, Youth, and Victim Services supports with amendments Senate Bill 406 which seeks to limit the information provided to the Sexual Assault Reimbursement Unit (SARU) for the purpose of reimbursement for sexual assault forensic exam (SAFE) kits by the hospitals and clinics that provide sexual assault forensic exams to victims of sexual assault. Additionally, the bill addresses the extension of the time frame for reimbursement for cervical swab collection for Sexual Assault Forensic Examination kits from 5 days to 15 days or a longer period established by regulations.

One of the key missions of the Governor's Office of Justice, Youth, and Victim Services is to aid in serving crime victims in a compassionate, comprehensive, discrete, trauma-informed approach. As part of this responsibility our office runs the SARU program which is the only payor for emergency treatment and follow-up testing of rape and sexual assault victims and child sexual abuse victims and obtaining SAFE kits for potential use in a criminal investigation.

Senate Bill 406 seeks to address the privacy of the victim in regards to the documentation of the events of the sexual assault by prohibiting a health care provider or hospital from providing a narrative to describe the alleged crime and any photographs taken of the victim. The bill requires written or electronic notification that services were rendered relating to a specified sexual offense.

Our office takes very seriously the issues of privacy and confidentiality of the information we receive regarding these claims. The SARU employs trained nurses to examine the claims and

make the necessary determinations for reimbursement. No other Office staff has access to the data required for reimbursement requests, so great care is taken to preserve victim confidentiality and privacy. All SARU claims documents are kept in locked cabinets in the locked offices of the nurses who examine the claims and make the reimbursement decisions.

Since July 1, 2019, the SARU has denied approximately 1,400 claims. At an average claim of \$500 this would total \$700,000. The total annual SARU budget is \$1.3 million. While some of these denials are for incomplete forms, which will eventually be paid when the proper records are received, others are for claims that are unrelated to a specified sexual offense or where treatment was also provided for a condition unrelated to the sexual offense. Because SARU pays for all medical bills related to the sexual offense, in addition to the SAFE exam, these bills can total thousands of dollars. The narrative allows SARU to determine the extent to which a claim is compensable.

The following is a list of actual SARU reimbursement claims that were denied, the amount of the claim, and the reason for the denial. The following data was gathered from narratives and is not documented in any other areas of SARU claims submission:

Claim 1: According to the ER doctor, “Findings which indicate a diagnosis other than sexual assault”.

- SARU received a reimbursement claim of \$646.00 to cover a SAFE exam.

Claim 2: Patient indicated in narrative that she and her boyfriend got into an argument following consensual sex which led to a physical altercation. Patient presented to the ER for laceration on chin which required stitches. Per physician’s report, patient was victim of physical assault during an altercation, not sexual assault. Case does not warrant SAFE exam.

- SARU received a reimbursement claim of \$955.80, (\$665.00 SAFE exam, \$18.50 pregnancy test, miscellaneous other fees) to cover services rendered.

Claim 3: Patient and caregiver statements presented during forensic interview indicate physical abuse along with neglect and not sexual assault.

- SARU received a reimbursement claim of \$400.00 for services provided.

It is not uncommon for an individual who seeks treatment for a sexual offense to also seek treatment for a condition unrelated to a sexual offense. Having a narrative allows SARU to separate the claims that are compensable from other unrelated claims and use the funding that would go to unrelated claims to better serve sexual assault victims..

As the administrator of state funds, it is the responsibility of the Sexual Assault Reimbursement Unit to examine each claim and ensure that the claims that are reimbursed by the unit are sexual assault claims. Our office has no need for photographs and supports the provision in the bill eliminating photographs as part of the request for reimbursement.

Further, while our office uses the narratives to verify claims, there are other ways besides a narrative to verify claims. Because the bill requires unspecified “verification” our office believes that it will be able to obtain necessary information to ensure the claim is eligible for payment.

For all inquiries, please contact
Andy Baranauskas, Legislative Affairs Manager
410-855-2538
Anthony.Baranauskas@maryland.gov

For there to be proper verification we do believe it is essential that the individual who actually treated the victim verify that the treatment was as a result of a specified sexual offense. We therefore request an amendment to require the treating physician or health care provider sign the verification that the treatment was as a result of a specified sexual offense.

Attached to this letter are amendments proposed by our office for the committee's consideration. For the above reasons the Governor's Office of Crime Prevention, Youth, and Victim Services supports with amendments Senate Bill 406.

Sincerely,

A handwritten signature in black ink, appearing to read "V. Glenn Fueston, Jr.", with a stylized flourish at the end.

V. Glenn Fueston, Jr.
Executive Director

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BY: Governor's Office of Crime Prevention, Youth, and Victim Services
(To be offered in the Judicial Proceedings Committee)

AMENDMENT TO SENATE BILL 406
(First Reading File Bill)

On page 2, in line 24, after "VERIFICATION" insert "SIGNED BY THE TREATING PHYSICIAN OR HEALTHCARE PROVIDER"; and in line 25, after "SERVICES" insert "DESCRIBED UNDER SUBSECTION (C) OF THIS SECTION".

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