



Maryland
Hospital Association

**Senate Bill 406– Criminal Procedure - Sexual Assault Evidence Kits - Privacy,
Reimbursement, and Notification**

Position: *Support*

February 13, 2020

Senate Judicial Proceedings Committee

MHA Position

Maryland’s 61 nonprofit hospitals and health systems care for millions of people each year, treating 2.3 million in emergency departments and delivering more than 67,000 babies. The 108,000 people they employ are [caring for Maryland](#) around-the-clock every day.

Unfortunately, all too often that includes caring for people who have been harmed through abuse and violence. Forensic nurse examiners are on the front lines of that work, which often includes collecting evidence to be used in court. Senate Bill 406 addresses two concerns raised by these providers and echoed in the recommendations of the Maryland Sexual Assault Evidence Kit Policy and Funding Committee’s (SAEK Committee) 2019 annual report.ⁱ State regulations require evidence to be collected within 120 hours of an assault.ⁱⁱ This legislation acknowledges medical standards for testing are subject to change as science and technology improves. Research and best practices indicate that certain evidence can be collected up to nine days post-assault and potentially as long as until the next menstrual cycle.ⁱⁱⁱ This provision aligns with the SAEK Committee’s recommendation to provide reimbursement for cervical swabs collected up to 15 days after an assault.^{iv}

State law ensures survivors have access to emergency medical treatment and forensic services for injuries sustained as a result of the assault, with no out-of-pocket expenses. SB 406 would restrict the amount and type of information required for submission to the state’s Sexual Assault Reimbursement Unit, which requires significantly more documentation than in most states.^v Maryland’s forensic nurse examiners are required to physically mail full medical charts, which affects the efficiency of processing the claims and the security of protected health information.

For patients seen at hospitals for sexual assault care and forensic services, there are two parts to their chart: medical and forensic. The forensic portion often includes pictures and descriptive narrative needed for a law enforcement case file and potentially prosecution should the victim choose to pursue it. The medical chart contains details of a provider’s exam, medical test results, medications prescribed, and justification for the requested reimbursement. This legislation allows these claims to be processed like other health care services, which rely on billing and diagnosis codes. A lengthy narrative describing the alleged offense/justification for service or photographs of the victim are unnecessary for processing these claims.

Maryland’s hospitals support this common-sense legislation because it seeks to streamline the claims process and protect survivors from further victimization by keeping intimate details of their assault private. Additionally, by expanding the timeline for reimbursement, the state would allow more survivors the opportunity to have a forensic exam—even if they decide to wait to seek treatment. This empowers survivors, acknowledges advancements in science, and allows more opportunities to identify sexual assault perpetrators.

For these reasons, we urge a *favorable* report.

For more information, please contact:

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ⁱ Maryland Sexual Assault Evidence Kit Policy & Funding Committee, *Annual Report*. (January 2019), www.marylandattorneygeneral.gov/Pages/Groups/2019_SAEK_Committee_Annual_Report.pdf

ⁱⁱ COMAR 10.12.02.03(B)(1)(a).

ⁱⁱⁱ Speck, P., & Ballantyne, J. Post-Coital DNA Recovery Study (2015), www.ncjrs.gov/pdffiles1/nij/grants/248682.pdf.

^{iv} *Ibid*, ii.

^v South Carolina, Texas, and Ohio State policies on SAFE service reimbursement with and claims forms, www.texasattorneygeneral.gov/sites/default/files/files/divisions/crime-victims/Forensic-Sexual-Assault-Examination-Reimbursement-Guidelines.pdf
www.ohioattorneygeneral.gov/Files/Forms/Forms-for-Victims/Sexual-Assault-Forensic-Examination/HIV-Reimbursement-Form
[www.sova.sc.gov/documents/eblasts/FINAL%20SAP%20CAP%20hospital%20%20billing%20022818RB%20\(002\)%20\(002\).pdf](http://www.sova.sc.gov/documents/eblasts/FINAL%20SAP%20CAP%20hospital%20%20billing%20022818RB%20(002)%20(002).pdf)