



Maryland  
Hospital Association

## **House Bill 1248 – Sexual Assault Evidence Kits - Privacy and Reimbursement** **Position: *Support***

### **Bill Summary**

HB 1248 prohibits a physician, qualified health care provider, and hospital from including a narrative describing the alleged offense or a photograph of the victim in a request to obtain payment for certain services related to forensic examinations for certain sexually related crimes under certain circumstances, alters the services for which the Criminal Injuries Compensation Board is required to pay certain claims and for which a physician and provides that a qualified health care provider is immune from civil liability under certain circumstances; etc.

### **MHA Position**

Maryland's hospitals support HB 1248, which seeks to preserve patient confidentiality and streamline the claims process for health care services delivered to survivors of sexual assault. 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. HB 1248 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.<sup>i</sup> Maryland's forensic nurse examiners are required to submit full medical charts, which could affect 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: the medical and the 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. The medical chart contains details of a provider's exam, medical test results, medications prescribed, and justification for the reimbursement being requested. This legislation allows these claims to be processed like other health care services would be with payers. This should not require providers to submit a lengthy narrative describing the alleged offense/justification for service or photographs of the victim. This provision reflects the recommendations included in the Maryland Sexual Assault Evidence Kit Policy & Funding Committee's (SAEK Committee) 2019 annual report.<sup>ii</sup>

HB 1248 also seeks to address the requirement in current state regulations that evidence submitted for reimbursement be collected within 120 hours of the assault.<sup>iii</sup> This legislation acknowledges that the 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.<sup>iv</sup> This provision in the bill aligns with the SAEK Committee's recommendations that providers be reimbursed for cervical swabs collected up to 15 days after an assault.<sup>v</sup> This recommendation is important to ensure that victims have the best possible evidence available to defend their case against their attacker.

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 is allowing more survivors the opportunity to have a forensic exam, even if they decide to wait to seek treatment. This empowers survivors, acknowledges advancement in science, and allows more opportunities to identify sexual assault perpetrators.

For these reasons, we urge a *favorable report* on HB 1248.

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- <sup>i</sup> South Carolina, Texas, and Ohio State policies on SAFE service reimbursement with and claims forms retrieved from:  
<https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/crime-victims/Forensic-Sexual-Assault-Examination-Reimbursement-Guidelines.pdf>  
<https://www.ohioattorneygeneral.gov/Files/Forms/Forms-for-Victims/Sexual-Assault-Forensic-Examination/HIV-Reimbursement-Form>  
[http://www.sova.sc.gov/documents/eblasts/FINAL%20SAP%20CAP%20hospital%20%20billing%2022818RB%20\(002\)%20\(002\).pdf](http://www.sova.sc.gov/documents/eblasts/FINAL%20SAP%20CAP%20hospital%20%20billing%2022818RB%20(002)%20(002).pdf)
- <sup>ii</sup> Maryland Sexual Assault Evidence Kit Policy & Funding Committee. *Annual Report*. (January 2019). Retrieved from:  
[http://www.marylandattorneygeneral.gov/Pages/Groups/2019\\_SAEK\\_Committee\\_Annual\\_Report.pdf](http://www.marylandattorneygeneral.gov/Pages/Groups/2019_SAEK_Committee_Annual_Report.pdf)
- <sup>iii</sup> COMAR 10.12.02.03(B)(1)(a).
- <sup>iv</sup> Speck, P., & Ballantyne, J. Post-Coital DNA Recovery Study (2015). Retrieved from:  
<https://www.ncjrs.gov/pdffiles1/nij/grants/248682.pdf>.
- <sup>v</sup> *Ibid*, ii.