



VAWA Provisions and Forensic Compliance in North Carolina

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Topics to be discussed

- **Violence Against Women Act**
 - #VAWA2005
 - #VAWA2013
- **Forensic Compliance Implementation in NC**
 - **Anonymous Reporting (AR)**
 - **Billing**
 - **Storage**
 - **Chain of custody**
- **Mandatory Reporting**

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today's
Training**



Which is more familiar:

1. VAWA Forensic Compliance
2. Anonymous Reporting
3. Jane Doe

What is VAWA 2005?

#VAWA2005 impacted the response of law enforcement agencies and health care facilities to victims of sexual assault by mandating:

Victims of sexual assault have access to a forensic medical exam **free of charge**

OR

Victims of sexual assault have access to a forensic medical exam with **full reimbursement**

Whether they engage with the criminal/legal system or not.
(investigations, trial etc.)



Also made explicit in #VAWA2005: All states and territories must certify that they are in compliance with these requirements in order to remain eligible for STOP Grant funds from the Office on Violence Against Women (OVW). Certification completed was expected by January 2009

What is VAWA 2013?

#VAWA2013 is the most recent authorization to the Violence Against Women Act. The reauthorization retains all previous forensic compliance provisions (2005) and introduces two new changes. These changes affect billing procedures AND raises public awareness.

Victims **cannot be required to pay any out-of-pocket cost to obtain a medical forensic exam.** (#VAWA2005 said this was ok as long as the survivor was reimbursed. VAWA2013 eliminated the option.)

To be eligible for STOP grant funding, agencies must coordinate with regional health care providers to notify victims of sexual assault of the availability of rape exams at no cost to the victims.

Communities have until March 2016 to be in compliance with the new provisions of #VAWA2013.

And it reads...

Nothing in this section shall be construed to permit a State, Indian tribal government, or territorial government to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a medical forensic exam, reimbursement for charges incurred on account of such an exam or both (42 U.S.C.A § 3796gg-4(d)(1)(2005)).

North Carolina Response to Forensic Compliance

- Funding source established
- Memorandum of understanding template and supporting consent forms created
- Storage facility opened
- Packaging to transport kits was made available
- NCCASA hired a staff person to provide technical assistance to those seeking help with compliance progress
- NCCASA collaborated with Fox50 to create and air a PSA to increase awareness that survivors have options after an assault.
- Trainings as well as print and digital media resources were made available.

N.C. Gen. Stat. § 143B-480.1. Assistance Program for Victims of Rape and Sex Offenses

- Standard payment
- Physician or SANE Nurse \$350.00
- Hospital/Facility Fee \$250.00
- Other Expenses Deemed Eligible by the Program \$200.00
- **Total: \$800.00**



For medical providers only:

The examination should include at a minimum an examination of physical trauma, a patient interview, a determination of penetration or force, and a collection and evaluation of evidence. Please note that a patient can decline any/all steps

What if the hospital charges more than RVAP pays?

“A medical facility or medical professional that performs a forensic medical examination shall accept payment made under this section as payment in full of the amount owed for the cost of the examination and other eligible expenses and shall not bill victims, their personal insurance, Medicaid, Medicare, or any other collateral source for the examination. ”

N.C. Gen. Stat. Ann. § 143B-480.1 (2011). Assistance Program for Victims of Rape and Sex Offenses

How long after collection can RVAP be billed?

“A medical facility or medical professional shall not seek reimbursement from the Program after one year from the date of the examination.”

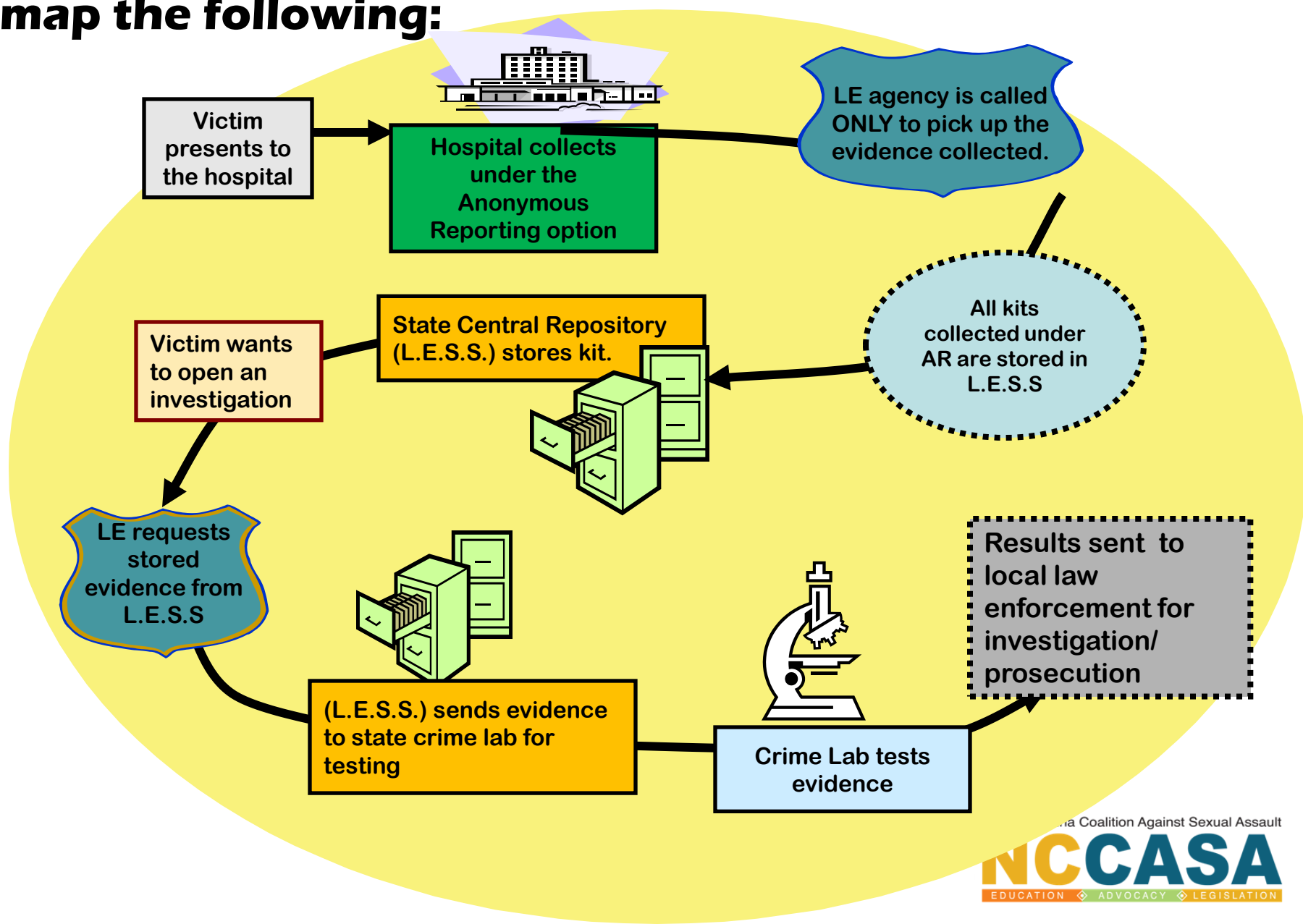
N.C. Gen. Stat. Ann. § 143B-480.1 (2011). Assistance Program for Victims of Rape and Sex Offenses

Who pays if the sexual assault victim has the evidence collected outside of the state of NC?

It is the policy of this State to arrange for victims to obtain forensic medical examinations free of charge. Whenever a forensic medical examination is conducted as a result of a sexual assault or an attempted sexual assault that occurred in this State, RVAP shall pay for the cost of the examination.

A medical facility or medical professional that performs a forensic medical examination on the victim of a sexual assault or attempted sexual assault shall not seek payment for the examination except from RVAP.

A successful MOU to achieve forensic compliance should map the following:



Forensic compliance in Motion



1. The victim presents for treatment/forensic medical exam at an area hospital after an assault
2. The hospital retains forensic exam information as part of the medical record and packages the evidence kit appropriately
 - ➔ No identifying information will be on the package, only the chain-of-custody and the destination are indicated
3. The hospital will contact the law enforcement agency identified in the Memorandum of Understanding (MOU) to pick up and ship the package to LESS C.O.D. to maintain chain of custody
4. LESS will obtain identifying data from package, enter the information necessary to retrieve the kit at a later date and store the kit in a proper environment
5. If the victim reports the crime to local law enforcement, LLE will obtain a signed release from the victim, allowing them to retrieve the evidence from LESS and allowing LESS to transport the evidence to the crime lab for processing
 - ➔ Local law enforcement is responsible for accessing the SBI Crime Lab database in order to generate a ticket to process the evidence when it arrives at the Crime Lab
6. The evidence kit is transported by LESS or the lead investigator to the crime lab for processing
7. Results are provided to the lead investigator
8. Kits are maintained as long as possible or until the victim reports

Can we store kits in our local community? i.e. hospital

- LESS is preferred
- Can compromise integrity of evidence
- Discuss alternatives with District Attorney



Summary of VAWA reauthorizations and NC Forensic Compliance Provisions

Sexual assault victims can give consent to a forensic medical exam without consulting with or making a report to law enforcement. (VAWA 2005) * AR does not trump circumstances where mandatory reporting is legally required.

Victims should not pay any fees out of pocket, including co-pay for the collection of a forensic medical exam. (VAWA 2013)

Hospitals should bill Rape Victim Assistance Program (RVAP) for the forensic medical exam collection. (HB1342)

Law Enforcement Support Services (L.E.S.S) will store all kits collected anonymously.

Hospitals and medical facilities that collect kits should have a MOU with LE for the purpose of evidence integrity, chain of custody and storage.

Resources and People to Contact

- Charnessa Ridley - North Carolina Coalition Against Sexual Assault (Forensic Compliance TA). Charnessa@nccasa.org
- Joe Polich North Carolina Coalition Against Sexual Assault (mandatory reporting). Joe@nccasa.org
- Governor's Crime Commission VAWA Coordinator (919) 733-4564
- Rape Victims Assistance Program (919) 733-7974
- For forms, sample MOU and other documents
 - <http://www.nccasa.org/resources/anonymous-reporting>
- Ending Violence Against Women International
 - <http://www.evawintl.org/PAGEID11/Forensic-Compliance/Resources/Public-Education>
 - San Francisco, Texas and Ashland PD implementation and awareness models