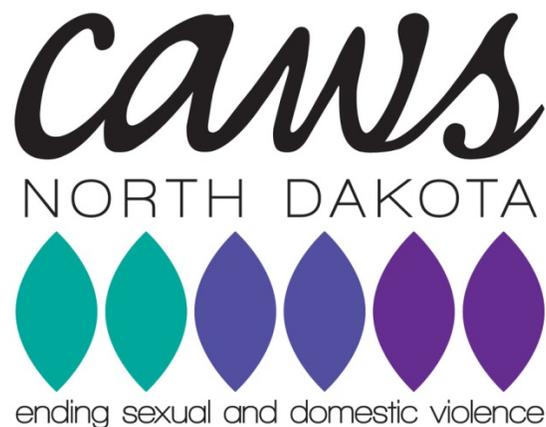


North Dakota SANE Best Practice Guidelines

Developed by the subcommittee through the
ND SANE Advisory Board
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Table of Contents

<u>Purpose and Introduction</u>	page 5
<u>Section 1</u>	page 6
SANE/trained Medical Provider	
Victim Centered Approach	
Cultural Considerations	
Advocacy	
<u>Section 2</u>	page 7
Reporting/non-reporting	
Mandatory Reporting	
Alcohol/Toxicology	
<u>Section 3</u>	page 8
Age of Consent	
EMTALA Screening	
HIPAA/Release of Information	
Evidence Collection	
<u>Section 4</u>	page 9
Documentation	
Strangulation	
<u>Section 5</u>	page 10
Suspect Examination	
Follow- up Photo Documentation	
STI/Prophylactic Treatment/Emergency Contraceptive Treatment	
<u>Section 6</u>	page 11
Discharge Education	
Forensic Medical Examination Reimbursement	
SANE Program Development	
<u>At a Glance</u>	page 13
<u>References</u>	page 14

Purpose

The purpose of this document is for it to be used as a guide to best practice in medical facilities and to provide direction for the SANE in the care of the adolescent or adult sexual assault patient. The guideline is not intended to include the triage issues, medical evaluations, tests, and follow up that may be necessary for the individual patient.

Introduction

The holistic care of the patient reporting a sexual assault should always be a medical emergency and above the forensic needs of this patient. For example, if strangulation has occurred the physical needs of this patient should be evaluated before the collection of any evidence for the case. The SANE examination for the patient reporting a sexual assault may assist with the investigation and prosecution of the case but is foremost intended to assist the patient of sexual assault in his/her recovery. The patient reporting a sexual assault should always be referred to the SANE for assessment and care.

Section 1

Sexual Assault Nurse Examiner (SANE)/trained medical provider

It is considered best practice that all sexual assault examinations be performed by a SANE, who is a RN/NP who has been specially trained in the comprehensive care of the patient reporting a sexual assault, is the preferred choice to provide this care. However, if a SANE is not available a trained medical professional who has received forensic training focusing on sexual assault is preferred.

Victim Centered Approach/Patient Well being

A victim centered approach identifies that sexual assault victims are the central participant in the forensic exam process. Victims deserve a timely, compassionate, respectful, and appropriate care. The SANE response must always be neutral in order to provide quality patient centered care. The SANE must not make any determination regarding if the reported sexual assault occurred or not. Each patient is to be treated fairly and equally as every other patient they care for regardless of history given. All medical/forensic exams and treatments are to be based on the patient's complaints and disclosures, not on the patient's demeanor during the assault history taken.

Cultural Considerations Section

North Dakota has become more diverse and so this presents more challenges for SANEs. The SANE must be aware of the relationship of culture and its impact on sexual assault patients. Maintaining a patient centered approach to their response to sexual assault will positively impact the sexual assault patient. SANE programs must be committed in their communities to increase their cultural competency. Cultural competency should be a goal of every SANE program in North Dakota. By becoming cultural competent this will ensure equity in access to patients centered services for all victims of sexual assault. It is considered the SANEs responsibility to keep up with cultural competency training.

Advocacy

In every instance, the hospital or medical provider will immediately call an advocate from the agency who serves that area, to come to the hospital/clinic and meet with patient. Each and every patient reporting a sexual assault will be given the opportunity to speak with an advocate. Advocates are the best people to provide support to a victim from the beginning, throughout the investigative and prosecution process.

Section 2

Reporting and Non-Reporting Patients

It is not the role of the SANE to encourage patients to report or not report but to give the patient all the information needed for them to make an informed decision. The information that should be offered is the following:

- Report the assault to Law Enforcement and have evidence collected
- Choose NOT to report to Law Enforcement and NOT have any evidence collected
- Choose to have evidence collected and NOT report to Law Enforcement
- SANE programs are not to store any evidence. **All evidence should be stored at the law enforcement agency.**

It is vital the SANE understands how important confidentiality of the patient is as well as maintaining chain of custody of the evidence collected. Whatever decision is made by the patient should be supported by the SANE. The victim who decides NOT report should be treated in the same way as the patient who is reporting and completing the full exam.

Mandatory Reporting

In North Dakota, medical personnel are considered mandatory reporters. This consists of the reporting of violent crimes, including sexual assault and domestic violence. Anyone, who reports a sexual assault or domestic violence incident to a medical facility, is mandated to report this to Law Enforcement, no matter the age.

Taken from N.D.C.C. 43-17.41 under N.D.C.C. 43.12.1 (Nurse Practice Act)

Alcohol/Toxicology

It may be disclosed during the interview process that the patient voluntarily used drugs and/or alcohol prior to the assault. This should not diminish the seriousness of the assault. This should not disqualify them from thorough investigation of their case. It is important to document the patient's voluntary use of drugs and alcohol between the time of the assault and the exam. This makes affect the quality of the history of the assault that the patient discloses and should be considered. Routine alcohol and toxicology testing with patients reporting sexual assault is not considered best practice.

If a urine sample is to be collected because a drug facilitated sexual assault is suspected, a sign informed consent should be collected from the patient prior to collecting the sample. Prior to the collection the following should be understood by the patient prior to collecting the sample:

- The purpose and the scope of the confidentiality of results
- There is no guarantee that testing will reveal that drugs were used to facilitate the assault
- Testing may or may not be limited to the commonly used to facilitate a sexual assault and may reveal other drugs or alcohol the patient may have ingested. The urine sample should be collected, handed over to law enforcement, and frozen in a timely manner.

Section 3

Age of Consent

Under North Dakota Law, any person age 14 years and older may consent to receive a medical examination, care and treatment for STI's without permission, authority, or consent from a parent or guardian. However, they **cannot** consent to forensic evidence collection without a parent or guardian present or consent given over the phone with 2 nurses present. It is the patient's right to decline evidence collection whether or not the parent or guardian requests it, and the patient is a minor.

EMTALA Screening

It is considered best practice, for the medical screening to be performed with all patients reporting a sexual assault. It should be a trained SANE nurse or ER staff/physician performing this screening. It is the decision of the healthcare agency to decide who is qualified to perform the EMTALA screening. However, a trained SANE should be considered qualified and appointed to do this health screening on all patients reporting a sexual assault. The health care needs of all sexual assault patients, comes before any evidence collection ie pain control, x-rays etc.

HIPAA and the Release of Evidence/Information

Best practice guidelines are that the patient must consent to a SANE examination and evidence collection. Consent can be withdrawn for any portion and at any time from the patient.

Protected Health Information (PHI), which in these cases includes the collection of forensic evidence, is protected under the Health Insurance Portability & Accountability Act (HIPAA). This information can only be released to law enforcement with the adult patients' written consent. Also included in that consent should be the release of information including photos to facilitate the legal investigation and subsequent actions that are needed to evaluate the kit.

Evidence Collection

The process of evidence collection can be complex in nature and if done incorrectly, it can be as intrusive and traumatizing as the assault itself. Evidence collection should only be done by those healthcare providers who are trained as a SANE. Evidence can be lost if not collected in a timely manner. Evidence should be collected within the 96 hour timeframe set forth by the state of North Dakota however, should be evaluated on a case by case basis, if collecting outside of this timeframe is necessary.

Section 4

Documentation

The documentation portion of the forensic exam is just as important as the actual collection of evidence. A health care provider who does not document appropriately and accurately may be subject to liability and have her credibility challenged in court.

Sound Medical documentation should:

- Be objective (and not include opinions from the SANE)
- Include general information of the circumstances as relayed by the patient
- Include objective observations of demeanor, altered mental status, and physical appearance
- Use the patient's language and terminology (avoid sanitizing the language)
- Use simple descriptive vs. medical terminology (bruise vs. ecchymosis etc.)
- Avoid neutral terminology (Refuses, non-compliant, alleges etc) that can be misunderstood in a legal setting.

Strangulation

It is best practice to evaluate each patient reporting a sexual assault for the possibility of having had experienced strangulation. Strangulation is an aspect of a sexual assault that is not evaluated most often. The term "choking" is most often used by patients when describing what happened however this is incorrect.

Strangulation is considered exceptionally dangerous in which it can and has caused death within an hour or even days after the reported assault. Though there may be visible injuries **most often there are not any visible injuries that are noted and it is overlooked.**

If strangulation is suspected or assessed:

- Document assessment findings
- Refer patient for further assessment and monitored and for complications.
- SANE and the advocate present should develop a safety plan re: personal safety issues prior to discharge.

It is important to remember, that all injuries including strangulation, take priority over any portion of the forensic exam.

Section 5

Suspect Examination

It is considered best practice for SANE programs to participate in completing the suspect forensic examination. It is important for all SANE programs to remain unbiased in their forensic evidence collection procedure.

It is also considered best practice for the SANE who is conducting this exam not be the SANE who conducted the forensic examination with the victim, as the cross contamination of evidence might occur. Prior to collecting the evidence the SANE should be presented with a signed search warrant by law enforcement. The search warrant will indicate what evidence will need to be collected. It is vital that law enforcement stay in the examination room at all times during the evidence collection with the suspect.

Follow up Photo documentation

The need for follow up photo documentation is performed only when necessary. However, education should be provided to patients to monitor the injuries and if the color has gotten worse etc. the advocate should be called and follow up photo documentation should be completed by a SANE. It is best practice the SANE discusses the possibility of follow up photo documentation. It should be a SANE or law enforcement personnel to document these photos.

STI/Prophylactic Treatment/ Emergency Contraceptive Treatment

“Under North Dakota law, any person age 14 years or older may consent to receive medical examination, care or treatment for sexually transmitted infections/diseases without permission, authority, or consent of a parent or guardian.” Taken from the North Dakota Sexual Assault Evidence Collection Protocol.

Screening for STI's at the time of the forensic examination is not considered best practice and should be avoided. It is best practice to provide each patient with the opportunity to take prophylactic antibiotics according to current standards by the Centers for Disease Control (CDC). For female patients an emergency contraceptive medication should always be offered, Plan B is recommended.

- No cultures should be taken at this time according to the National Protocol for Sexual Assault Medical forensic Examinations 2nd Edition.

Section 6

Discharge Education

It is best practice to ensure that all patients are fully informed about post-exam care. The information included is as follows:

- Provide patients with oral and written medical discharge instructions which consist of-
 - Home care for genital, anal, and strangulation injuries
 - Home care for other injuries that may have been incurred ie. Bruises to the body, sprained ankle or arm, abrasion care etc.
- Make sure the patient's medical and mental health concerns have been addressed-
 - Provide referrals for follow up assessment of injuries or mental health needs as needed
- When possible arrange for follow up appointments for patients
- Provide a follow up medical procedures schedule
 - Provide a written document outlining the timeframe that is indicated for different STI detection and possible treatment plan, including HIV care
 - Include information regarding the need for tetanus vaccination
- When applicable address safety concerns with the patient prior to discharge and work with the advocate to ensure those needs are met

Forensic Medical Examination Reimbursement

The state of North Dakota provides reimbursement money for every sexual assault examination provided, through the Attorney General's office. The inability to pay should never hinder the medical forensic examination process. Also patients should never receive a bill nor should their insurance company be billed for the forensic/medical examination or discharge medications.

Another option for patients, if they are reporting the crime to the police, is that she/he may be eligible to Crime Victim Compensation (CVC) Funds. These funds can be used to pay for the medical costs of sexual assault exams (if the reimbursement funds do not cover the entire exam). It can also cover clothing expenses if clothing was collected at the time of the examination. The advocate who responds at the time of the exam is an excellent resource to help the patient through filling out the forms needed to complete the application for this funding.

SANE Program Development

SANE program development is crucial for the state of North Dakota. It is imperative to health and well-being of victims of violence is given the same opportunity as any other patient that walks through the doors of any ER or clinic- health care professional that can provide patient centered care, appropriately. It is considered best practice for SANE programs to function as part of a SART response in their communities.

Funding is always a huge barrier to starting any program and in this area it is not different. There are a few options that are available in North Dakota to assist with this and they are as follows:

- Federal grants (STOP)
- Local grants such as grants from banks
- Donations/fund raising
- Donations of supplies/room/possibly medications from the health care facility in the area
- Forensic Medical reimbursement funds

The training that is required for health care providers is a 40 hours specialized training in the evaluation and treatment of the adolescent/adult victim of sexual assault. The content that is provided in the training adheres to the standards of forensic nursing as well as the guidelines provided by the International Association of Forensic Nurses. For more information regarding this training and program development, *contact the CAWS of North Dakota at 701-255-6240.*

North Dakota SANE Best Practice Guidelines

At a Glance

The goal of this document is to ensure that compassionate and sensitive medical services and care are provided in a non-judgmental, victim centered manner. It is best practice to have all sexual assault medical/forensic examinations in North Dakota be performed by a SANE or a medical professional who has gone through the 40 hours of SANE training and appropriate clinical training.

- Prioritize the patients well-being
- Provide an effective, patient-centered medical response
- Call the local advocacy agency before the medical examination starts to ensure a support person is there for the patient
- Ensure the patient understands their choices regarding reporting options and medical/forensic care options
- Obtain written informed consent from patient for the conducting of the medical/forensic examination
- Conduct the medical forensic examination in a private room
- Provide continuity of care when performing the examination
- Refer the patient for further medical care if needed and follow up care
- Provide prophylaxis treatment according to the CDC guidelines which include offering an emergency contraceptive

References

National Protocol for Sexual Assault Medical forensic Examinations, 2nd Edition.

North Dakota State Sexual Assault Protocol, 2005

Sexual Assault Response Team: A Model Protocol for Virginia, May 2011

Sexual Assault Response team handbook, Oregon, July 2009, Version III

State of New Hampshire, Governor's Commission on Domestic and Sexual Violence. A model Protocol for Response to Adult Sexual Assault Cases, 2012 edition

Wisconsin Adult Sexual Assault Response team Protocol May 2011