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**AB-2730 Sexual assault: medical evidentiary examinations.** (2023-2024)

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**Assembly Bill No. 2730**

**CHAPTER 113**

An act to amend Section 13823.5 of the Penal Code, relating to sexual assault.

[ Approved by Governor July 15, 2024. Filed with Secretary of State July 15, 2024. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2730, Lackey. Sexual assault: medical evidentiary examinations.

Existing law requires the Office of Emergency Services to establish a protocol for the examination and treatment of victims of sexual assault and attempted sexual assault and the collection of evidence therefrom. Existing law requires a qualified health care professional who conducts an examination for evidence of a sexual assault or an attempted sexual assault to use the standard form and to make those observations and perform those tests required to record the data required by the form. Existing law defines qualified health care professional for this purpose to include a physician and surgeon, or a currently licensed nurse, nurse practitioner, or physician assistant who is working in consultation with a physician and surgeon who conducts examinations or provides treatment in a general acute care hospital or in a physician and surgeon's office.

This bill would revise the definition of a qualified health care professional as it pertains to a physician assistant and nurse or nurse practitioner by removing the requirement that the consulting physician and surgeon conduct examinations or provide treatment. The bill would also define a licensed and certified nurse-midwife who is working in consultation with a licensed physician and surgeon as a qualified health care professional.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 13823.5 of the Penal Code is amended to read:

**13823.5.** (a) The Office of Emergency Services, with the assistance of the advisory committee established pursuant to Section 13836, shall establish a protocol for the examination and treatment of victims of sexual assault and attempted sexual assault, including child sexual abuse, and the collection and preservation of evidence therefrom. The protocol shall contain recommended methods for meeting the standards specified in Section 13823.11.

(b) (1) In addition to the protocol, the Office of Emergency Services shall develop informational guidelines, containing general reference information on evidence collection and examination of, and psychological and medical treatment for, victims of sexual assault and attempted sexual assault, including child sexual abuse.

(2) In developing the protocol and the informational guidelines, the Office of Emergency Services and the advisory committee shall seek the assistance and guidance of organizations assisting victims of sexual assault; qualified health care professionals,

sexual assault forensic examiners, criminalists, and administrators who are familiar with emergency room procedures; victims of sexual assault; and law enforcement officials.

(c) (1) The Office of Emergency Services, in cooperation with the State Department of Public Health and the Department of Justice, shall adopt a standard and a complete form or forms for the recording of medical and physical evidence data disclosed by a victim of sexual assault or attempted sexual assault, including child sexual abuse. The form may be issued as a paper version, as an electronic version, or as both the paper and electronic versions. Electronic forms may include links to the California Victim Compensation Board to help patients apply for victim compensation.

(2) Each qualified health care professional who conducts an examination for evidence of a sexual assault or an attempted sexual assault, including child sexual abuse, shall use the standard form or forms adopted pursuant to this section, and shall make those observations and perform those tests as may be required for recording of the data required by the form. The forms shall be subject to the same principles of confidentiality applicable to other medical records.

(3) The Office of Emergency Services shall make the standard form or forms available to every public or private general acute care hospital, as requested.

(4) The standard form shall be used to satisfy the reporting requirements specified in Sections 11160 and 11161 in cases of sexual assault, and may be used in lieu of the form specified in Section 11168 for reports of child abuse.

(d) The Office of Emergency Services shall distribute copies of the protocol and the informational guidelines to every general acute care hospital, law enforcement agency, and prosecutor's office in the state.

(e) For the purposes of this chapter, the following definitions apply:

(1) "Qualified health care professional" means any of the following:

(A) A physician and surgeon currently licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(B) A nurse, nurse practitioner, or certified nurse-midwife currently licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code and working in consultation with a physician and surgeon currently licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(C) A physician assistant currently licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code and working in consultation with a physician and surgeon currently licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(2) "Sexual assault forensic examiner" or "SAFE" means a qualified health care professional who has been trained on the standardized sexual assault forensic medical curriculum specified in this section and Sections 13823.6 to 13823.11, inclusive.