



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

LORI SWANSON
ATTORNEY GENERAL

February 26, 2016

102 STATE CAPITOL
ST. PAUL, MN 55155
TELEPHONE: (651) 296-6196

[Chief Financial Officer]
[Name of Hospital System]
[Address]

Dear [Hospital CFO]:

The Minnesota Coalition Against Sexual Assault released a report earlier this month that indicated some hospitals in Minnesota may be billing sexual assault victims for the cost of medical forensic examinations, in contravention of Minnesota law. The report suggests that there are disparities in billing practices by hospitals throughout the State, and that each county and/or hospital system uses its own process for determining costs of exams and billing procedures. In some instances, it appears that victims may receive bills for some aspects of an examination, such as a "facility fee" or a "physician fee," but not for the full medical forensic examination. I enclose a copy of the report.

The federal Violence Against Women Act and Minnesota law prohibit the billing of sexual assault victims for forensic medical exams. These laws not only protect sexual assault victims from incurring expenses as a result of their victimization, but also serve the important purpose of encouraging victims to seek prompt medical treatment which may help to preserve evidence of a crime.

Minnesota Statutes section 609.35 provides as follows:

609.35 COSTS OF MEDICAL EXAMINATION.

- (a) Costs incurred by a county, city, or private hospital or other emergency medical facility or by a private physician for the examination of a victim of criminal sexual conduct when the examination is performed for the purpose of gathering evidence shall be paid by the county in which the criminal sexual conduct occurred. These costs include, but are not limited to, full cost of the rape kit examination, associated tests relating to the complainant's sexually transmitted disease status, and pregnancy status.
- (b) Nothing in this section shall be construed to limit the duties, responsibilities, or liabilities of any insurer, whether public or private. However, a county may seek insurance reimbursement from the victim's insurer only if authorized by the victim. This authorization may only be sought after the examination is performed. When seeking this authorization, the county shall inform the victim that if the victim does not authorize this, the county is

required by law to pay for the examination and that the victim is in no way liable for these costs or obligated to authorize the reimbursement.

- (c) The applicability of this section does not depend upon whether the victim reports the offense to law enforcement or the existence or status of any investigation or prosecution.

The purpose of this letter is to ensure that Minnesota hospitals are aware of this law and do not bill sexual assault victims for charges prohibited by state law. Accordingly, I ask that your health system respond to the following questions:

1. Do all [hospital name] hospitals provide medical forensic sexual assault examinations? If not, please list the [hospital name] hospitals that do not provide medical forensic sexual assault examinations and describe any steps staff at those facilities take to assist victims in obtaining a medical forensic sexual assault examination.
2. Describe how emergency department/hospital staff at [hospital name] hospitals are trained to respond to sexual assault patients.
3. Describe how [hospital name] hospitals notify victims that they are not responsible for the costs of a medical forensic sexual assault examination.
4. Describe [hospital name] hospitals' billing practices for medical forensic sexual assault examinations, including any procedures employed to prevent victims from being billed.
5. Do [hospital name] hospitals impose additional fees or charges (e.g., facility fee, physician fee, etc.) when they conduct medical forensic sexual assault examinations? If so, are those fees/charges billed to the county or to the victim and under what circumstances are such fees imposed?
6. Have [hospital name] hospitals billed any victims for medical forensic sexual assault examinations over the past three years? If so, please describe the steps you will take to contact the victims, inform them that they are not responsible for the bills, and refund any payments made by them.
7. Do [hospital name] hospitals bill victim's insurance carriers for the costs of medical forensic sexual assault examinations? If so, please describe how your hospital obtains consent from victims to bill insurance providers and how you ensure that victims are not charged a co-payment or deductible as the result of the billing of their insurers.

February 26, 2016

Page 3

8. Have [hospital name] hospitals billed any victim's insurance provider for medical forensic sexual assault examinations without the victim's consent within the past three years? If so, please describe the steps you intend to take to remedy this.
9. Have [hospital name] hospitals experienced any incidents in the last three years which a county has failed to pay for a medical forensic sexual assault examination. If so, please identify the county and describe how your facility responded.

I ask that you provide written responses to the above questions within two (2) weeks of your receipt of this letter. Please direct your response as follows:

David S. Voigt
Deputy Attorney General
Minnesota Attorney General's Office
445 Minnesota Street, 1800 Bremer Tower
St. Paul, MN 55101-2131
651-757-1350

If you have any questions, please feel free to contact Mr. Voigt at the number above.

I thank you for your prompt attention to this important issue.

Sincerely,

LORI SWANSON
Attorney General

Enclosure