

## The Registered Nurse Who Performs Sexual Assault Examinations

### Purpose

This Interpretive Statement is designed to assist the registered nurse (RN) in determining whether it is within their individual scope of practice to perform a sexual assault examination of a sexual assault victim. The definition of *individual scope of practice* is codified in [Chapter 851 Division 006](#) of the Nurse Practice Act (NPA).

This Interpretive Statement is to be used in conjunction with OSBN's *Scope of Practice Decision-Making Framework for the RN and the LPN* which is retrievable at [www.oregon.gov/osbn/Pages/interpretive-statements.aspx](http://www.oregon.gov/osbn/Pages/interpretive-statements.aspx).

The abbreviations SAE for sexual assault examination, and SANE for Sexual Assault Nurse Examiner, will be used through this interpretive statement.

### Background

The care of the patient who has experienced sexual assault is unique in that it requires both the provision of patient-centered comprehensive healthcare *and* the preservation of the evidentiary material that may be used by the criminal justice system (International Association of Forensic Nurses, 2022; U.S. Department of Justice, 2013). Applied this means that in addition to holding accountability for the protection of the public and for the safety of their patient, the individual RN who performs a sexual assault examination also holds accountability for the proper collection and preservation of the evidentiary material that may be used by the criminal justice system. The individual RN who makes the decision to proceed with a sexual assault examination of a victim when such action is outside of the RN's individual scope of practice has prevented the prosecution of perpetrators.

It is the opinion of the Board that a SAE is outside the scope of practice of the LPN. While Oregon's NPA does not specifically prohibit the LPN from performing a SAE, the comprehensive examination and interpretation of collected data necessary to perform a prosecutable SAE exceeds the parameters of focused assessment allowed with LPN licensure.

Important: The Board's scope of practice decisioning framework should be utilized by the RN who engages in SAE policy development, implementation and evaluation, and by the RN who assigns the performance of an SAE to another RN. Utilization of the decisioning framework promotes the authorship and implementation of prudent practice policies and the protection of persons receiving nursing services. RN policy development, policy implementation, and assignments made that are not consistent with the decisioning criteria presented in the Board's Scope of Practice Decision-Making Framework demonstrate conduct derogatory to the practice of nursing pursuant to OAR 851-045-0070. For example:

- Developing, modifying, or implementing policies that jeopardize client safety;
- Assigning persons to perform functions for which they are not prepared to perform or that are beyond their scope of practice, authorized duties, or job functions; and
- Aiding, abetting, or assisting an individual to violate or circumvent any law, rule or regulation intended to guide the conduct of nurses or other health care providers.

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### **Application of Scope of Practice Decision-Making Framework**

Application of the Scope of Practice Decision-Making Framework cues the nurse to identify the specific practice activity, intervention or role in question. Once identified, the nurse is prompted to answer a specific "yes" or "no" question concerning their self-identified activity, intervention or role.

Based on a nurse's response to the first question posed by the decisioning framework, the nurse will be directed to take one of two possible actions:

1. The nurse will be directed to STOP. When the nurse is directed to STOP, the activity, intervention or role is determined to be not within their individual scope of practice. Based on OAR 851-045 standards, the nurse is responsible to decline the assignment. Performing acts beyond the authorized scope or accepting an assignment when individual competency necessary to safely perform the assignment have not been established or maintained is juxtaposed to client safety and conduct derogatory to the practice of nursing.
2. The nurse will be promoted to proceed to the next question of the decision-making framework.

For the nurse who is prompted to proceed to the next question, the same decisioning framework applies. At any time, the nurse's response to a question directs a STOP, the nurse *must stop* and not proceed with the activity, intervention or role as it is outside of their individual scope of practice based on the criteria presented in the question.

It is only when the nurse has been prompted to progress through all questions and responds "yes" to the final question, that the nurse may consider the activity, intervention or role to be within their individual scope of practice and appropriate to carry out to acceptable and prevailing standards of safe nursing practice.

The remainder of this Interpretive Statement presents the Scope of Practice Decision-Making Framework with the provision of specific information to be applied by the RN who is considering an assignment to perform a forensic examination of a sexual assault victim.

### **Identify, describe or clarify the activity, intervention or role under consideration.**

The activity under consideration is an RN's performance of a sexual assault examination.

#### **1. Is the activity, intervention or role prohibited by the Nurse Practice Act laws and rules or any other applicable laws, rules, regulations or accreditation standards?**

##### Oregon's Nurse Practice Act

Oregon's NPA does not preclude the performance of a SAE from the scope of practice of the RN. As such, it is the opinion of the Board that a SAE is within the scope of RN licensure when the requirements of the decision-making framework are met by the individual RN.

##### Laws and Rules or any other Applicable Laws, Rules, Regulations or Accreditation Standards

There are no prohibitions from other Oregon health care licensing Boards regarding the RN licensee performing a SAE or functioning as a certified Oregon Sexual Assault Nurse Examiner (SANE).

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### 2. Is performing the role, intervention or activity consistent with professional nursing standards, evidence-based nursing and other health care literature?

International Association of Forensic Nurses (IANF) has published an authoritative body of literature and knowledge specific to the SANE and related topics. Publications include Sexual Assault Nurse Examiner Education and Certification (2022); Sexual Assault Nurse Examiner Education Guidelines, Adult and Pediatric (2018); Forensic Nurse Death Investigator Education Guidelines (2013); Intimate Partner Violence Nurse Examiner Education Guidelines (2020); and Core Competencies for Advanced Practice Forensic Nursing (2004).

The American Nurses Association (ANA) in conjunction with the IAFN has published *Forensic Nursing: Scope and Standards of Practice*, 2nd ed. (2017).

The peer-reviewed publication of the IANF, *Journal of Forensic Nursing*, contains empirical studies, review and theoretical articles, methodological and concept papers, and case reports that address the provision of care to victims and perpetrators of violence, trauma, and abuse.

The US Department of Justice has also established National Training Standards for Sexual Assault Medical Forensic Examiners and professional certification exists for both the Adult and Pediatric SANE.

As such, it is the opinion of the Board that the performance of a SAE by an RN is consistent with professional nursing standards, evidence-based nursing and health care literature.

### 3. Are there practice setting policies and procedures in place to support the nurse's performance of the activity, intervention or role?

Institutional, organizational or facility policies and procedures must be formulated to adhere to prevailing rules and regulations of the state of Oregon; e.g., *Oregon Revised Statutes (ORS) 147.403 Policies, guidelines and training requirements for providers of medical care to sexual assault victims* and prevailing Federal regulations for hospitals in the Veterans Administration System.

Institutional, organizational or facility policies may not supersede state and federal requirements. Any policy that describes the education, training, and competency validation for an RN performing a sexual assault examination contrary to the Oregon SAE/SANE Certification Commission is in violation of the requirements of the Oregon State Attorney General.

### 4. Has the nurse completed the necessary education to safely perform the role, intervention or activity?

The [Oregon SAE/SANE Certification Commission](#) has established standards for the training and education requirements required of all Oregon RNs who wish to perform SAE. The commission has also established SANE certification requirements to ensure that RNs have the necessary training and qualifications to provide medical forensic care that meets the highest standards using a victim-centered approach. The Oregon SAE/SANE Certification Commission is the determiner if the RN requesting to perform SAE has met the standards.

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While the OSBN has no jurisdiction regarding SAE educational requirements, an OSBN staff member holds a position on Oregon SAE/SANE Certification Commission and serves as a liaison between the Board and the Commission.

**5. Is there documented evidence of the nurse's current competence (knowledge, skills, abilities and judgement) to safely perform the role, intervention or activity?**

Pursuant to statute, the Oregon SAE/SANE Certification Commission is responsible for the state certification of RNs who perform SAE. The Commission also maintains a record of RNs who hold current OR-SANE certification.

While it is not required in Oregon to be a Certified SANE in order to perform a SAE, RNs without certification must provide proof of current SANE competency that is congruent with the Commission's standards. The Oregon SAE/SANE Certification Commission is the determiner if the RN requesting to perform SAE has met the standards.

**6. Does the nurse have the appropriate resources to perform the activity, intervention, or role in the practice setting?**

Pursuant to oar 851-006, the term *appropriate resources* means the human and material support necessary to perform the activity, intervention or role safely, including any necessary emergency management.

**7. Would a reasonable and prudent nurse perform the role, intervention or activity in this setting?**

A reasonable and prudent nurse is one that uses good judgment in providing nursing care according to accepted standards and that another nurse with similar education and experience in similar circumstances would provide (National Council of State Boards of Nursing, 2016, p. 21).

National and state standards for education and competency verification exist and are required in Oregon. National and State certification programs exist. Therefore, it is the opinion of the Board, that performance of an SAE is an activity that a reasonable and prudent RN who has followed statutorily required education and training would perform.

**8. Is the nurse prepared to accept accountability for the role, intervention or activity for the related outcome?**

The individual RN remains accountable for their nursing actions and for the outcome of nursing services provided. The RN who proceeds to perform a SAE understands the requirements of the assignment. Education, training, competency validation can provide the RN the knowledge of how to manage consequence whereby appropriate, effective, and timely application of consequence management becomes an RN self-regulatory issue.

### Summary

The RN whose answer to each respective question posed prompts progression through all questions, including a "yes" response to the final question, may consider the performance of a sexual assault examination to be within their individual scope of practice and appropriate to carry out to acceptable and prevailing standards of safe nursing practice.

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For information on the SANE and the Medical Screening Examination (MSE) required under the Emergency Medical Treatment & Active Labor (EMTALA) Act of 1986, please review the OSBN EMTALA Interpretive Statement.

### References:

- American Nurses Association (2017). *Forensic Nursing: Scope and Standards of Practice*, 2nd ed. (2017). Silver Spring, Maryland: Author.
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- International Association of Forensic Nurses (2022). Sexual Assault Nurse Examiner (SANE) Education and Certification. [www.forensicnurses.org/page/PositionPapers/](http://www.forensicnurses.org/page/PositionPapers/)
- National Council of State Boards of Nursing (2016). Scope of Nursing Practice Decision-Making Framework. *Journal of Nursing Regulation* (7)3, 19-21.
- Oregon Secretary of State. Oregon Administrative Rules Chapter 851 Division 45. Standards and Scope of Practice for the Licensed Practical Nurse and Registered Nurse. <https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=16>
- ORS 147.403 Policies, guidelines and training requirements for providers of medical care to sexual assault patients. [www.oregonlegislature.gov/bills\\_laws/ors/ors147.html](http://www.oregonlegislature.gov/bills_laws/ors/ors147.html)
- ORS 678.010 - 678.448 Professional Nurses. [www.oregonlegislature.gov/bills\\_laws/ors/ors678.html](http://www.oregonlegislature.gov/bills_laws/ors/ors678.html)
- U.S. Department of Justice (2013). A National Protocol for Sexual Assault Medical Forensic Examinations: Adults/Adolescents, 2<sup>nd</sup> edition. [www.ojp.gov/pdffiles1/ovw/241903.pdf](http://www.ojp.gov/pdffiles1/ovw/241903.pdf)

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*The Oregon State Board of Nursing (OSBN) is authorized by Oregon Revised Statutes Chapter 678 to exercise general supervision over the practice of nursing in Oregon to include regulation of nursing licensure, education, and practice to assure that the citizens of Oregon receive safe and effective care. The OSBN further interprets statute and rule and issues opinions in the form of policies and interpretive statements, which are advisory in nature and used as guidelines for safe nursing practice.*