

EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NO. BJ 2014 – 17

MEDICAL EXPENSES AND EXAMINATIONS RELATED TO THE CRIME OF SEXUAL ASSAULT

WHEREAS, Article I, Section 1 of the Louisiana Constitution is titled “Origin and Purpose of Government”, and provides

“All government, of right, originates with the people, is founded on their will alone, and is instituted to protect the rights of the individual and for the good of the whole. Its only legitimate ends are to secure justice for all, preserve peace, protect the rights, and promote the happiness and general welfare of the people. The rights enumerated in this Article are inalienable by the state and shall be preserved inviolate by the state.”;

WHEREAS, Article IV, Section 5 establishes the governor as the chief executive officer of the State and charged with the duty to faithfully support the constitution and laws of the State and see that the laws are faithfully executed;

WHEREAS, sexual assault is a horrendous crime that creates physical and emotional damage to victims, for which special measures must be taken by every public officer and agency in this state in order to bring the perpetrators to justice and assist the victims in their recovery;

WHEREAS, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, a statutorily created agency in the executive branch, is responsible for bringing together persons familiar with law enforcement and the administration of criminal justice for the purpose of studying and encouraging the adoption of methods by which law enforcement can be made more effective and justice administered more efficiently and fairly so that the citizens of this state may be more fully protected.

WHEREAS, the Crime Victims Reparations Board, created in statute under the jurisdiction of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, is responsible for assisting victims of crime with the financial losses caused by the crime, and is charged with administering this vital program in accordance with law and the administrative rules which it has promulgated;

WHEREAS, the Department of Health and Hospitals, which is created within the executive branch, is responsible for protecting and promoting the health of the people of this state by ensuring access to preventative, medical, and rehabilitative services;

WHEREAS, the Department of Public Safety, which is also statutorily created within the executive branch, is responsible for protecting the health and safety of the people of this state by providing functions related to the enforcement of laws of the state and the maintenance of investigations;

WHEREAS, both the Department of Health and Hospitals and the Department of Public Safety are responsible for carrying out their statutory duties in accordance with the laws and the administrative rules promulgated by them;

WHEREAS, Executive Order BJ 2014–14 directed the Board of Regents and the Crime Victims Reparations Board to review and revise its policies and procedures according to best practices and it is the goal of this administration that a victim of sexual assault not be billed for the financial cost of forensic or other testing incident to the crime whether the victim reports the crime to law enforcement or not, that such bills be sent for payment directly to the Crime Victims Reparations Board, and that this outcome will require a change in statutory law;

WHEREAS, it is incumbent upon the public officers and agencies, with a role to play in bringing the perpetrators to justice and assisting the victims in their recovery, to coordinate their efforts to ensure that this vital issue is addressed immediately.

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Crime Victims Reparations Board, in consultation with the Louisiana Commission on Law Enforcement, shall review and revise its administrative rules, policies, and practices to develop a defined list of eligible medical expenses related to the forensic medical examination provided to victims of sexual assault for which such victims of sexual assault may assign, or otherwise transfer, his or her right to collect these specific expenses from the Crime Victims Reparations Board to the hospital or healthcare provider that conducts the forensic medical examination or provides medical services related to the sexual assault. Upon assignment or transfer of this right, the hospital or health care facility may apply on behalf of the victim and the agency may pay such eligible expenses directly to the hospital or health care facility.

SECTION 2: The Crime Victims Reparations Board shall exercise its statutory discretion, as provided for in R.S. 46:1806, to revise its administrative rules, policies, and practices to extend the time period by which a victim has reported an act of sexual assault to the appropriate law enforcement officers from 72 hours to 1 year in order to make a claim for reparations.

SECTION 3: The Department of Health and Hospitals and the Department of Public Safety shall jointly convene a group to review and formulate a definition for “Forensic Medical Exam” as it relates to the crime of sexual assault in order to ensure that all charges related to such forensic medical exam including, but not limited to emergency room charges, hospital stay charges, and physician charges are included in that definition such that those expenses are not chargeable to the sexual assault victim. The Department of Health and Hospitals and the Department Public Safety shall further jointly revise such administrative rules, policies, and practices in accordance with their findings as they pertain to victims of sexual assault.

SECTION 4: The Department of Health and Hospitals, through the medical directors of each of its nine (9) regional Health Service Districts, shall coordinate a sexual assault response plan for each district and shall submit such plan to the Secretary by February 1, 2015. The plan shall include existing resources and infrastructure and shall clearly outline the entity responsible for the purchase of sexual assault examination kits, the standards and procedures for the storage of such kits, and the standards, and procedures for a woman to receive a sexual assault examination to ensure access to a forensic medical examination in every parish. The plan shall further outline the standards and procedures for the handling and payment of medical bills related to the sexual assault examination to clarify and ensure that those standards and procedures are in compliance with the law.

SECTION 5: The Department of Health and Hospitals and the Department of Public Safety are jointly directed to convene a group to review and formulate the minimum standards and requirements for the contents of a sexual assault examination kit, including the accompanying paperwork to be included therein, with the intent of creating a kit that that is shelf stable and has no expiration date. The Department of Health and Hospitals and the Department Public Safety shall further jointly revise such administrative rules, policies, and practices in accordance with their findings as they pertain to victims of sexual assault.

SECTION 6: All departments, budget units, agencies, offices, entities, and officers of the executive branch of the State of Louisiana are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 7: Nothing in this Order shall be applied in a manner which violates, or is contrary to, the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), the Health Insurance Portability and Accountability Act (HIPAA), or any other applicable federal or state law, rule, or regulation.

SECTION 8: The Order is effective December 9th, 2014 and shall remain in effect modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of December, 2014.

