

TASK FORCE ON
SERVICES FOR SURVIVORS
OF SEXUAL ASSAULT

2020 ANNUAL REPORT

VIRGINIA DEPARTMENT OF HEALTH
OFFICE OF LICENSURE AND CERTIFICATION
DIVISION OF ACUTE CARE SERVICES

PREFACE

The Task Force on Services for Survivors of Sexual Assault (Task Force) is submitting this report in response to the requirements in Chapter 725 of the 2020 Acts of Assembly, which enacted Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia related to treatment services and transfer services of adult and pediatric survivors of sexual assault. The newly enacted Va. Code § 32.1-162.15:11(B)(8) requires the Task Force to “[r]eport to the Governor and the General Assembly by December 1 of each year regarding its activities and the status of implementation of the provisions of [Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia].”

As of December 1, 2020, the Task Force did not yet have 10 members appointed, which would constitute a quorum, and has been unable to meet.

MEMBERS OF TASK FORCE

The Honorable Jennifer B. Boysko – Senator, Senate of Virginia
The Honorable Kelly K. Convirs-Fowler – Delegate, House of Delegates of Virginia
The Honorable Karrie K. Delaney – Delegate, House of Delegates of Virginia
The Honorable Mark R. Herring – Attorney General
M. Norman Oliver, MD, MA – Commissioner, Virginia Department of Health
Colonel Gary T. Settle – Superintendent, Virginia State Police
S. Duke Storen, PhD, MA – Commissioner, Virginia Department of Social Services
Dawn Schaff, MSN, RN, SANE-P – Representative of licensed hospital
Robin L. Foster, MD – Representative of licensed hospital
Scott E. Sparks, MD, MS, RDMS, RDCS, FACEP – Physician licensed by the Board of Medicine to practice medicine or osteopathy who is a practitioner of emergency medicine
Lindsey N. Caley, MD – Physician licensed by the Board of Medicine to practice medicine or osteopathy who is a practitioner of emergency medicine
Brooke Burkhardt Thomas, MD – Physician licensed by the Board of Medicine to practice medicine or osteopathy who is a practitioner of emergency medicine and who is a pediatrician
Bonnie Price, DNP, RN, SANE-A, SANE-P, AFN-BC – Nurse licensed to practice in the Commonwealth who is a sexual assault nurse examiner
Melissa Ratcliff Harper, MSN, APRN, SANE-A, SANE-P – Nurse licensed to practice in the Commonwealth who is a sexual assault nurse examiner
Sara Jennings, DNP, RN, SANE-A, SANE-P, AFN-BC – Nurse licensed to practice in the Commonwealth who is a sexual assault nurse examiner
Chatonia "Toni" Zollicoffer, LPC – Representative of an organization providing advocacy on behalf of survivors of sexual assault
Patricia McComas Hall – Representative of an organization providing advocacy on behalf of survivors of sexual assault
Jeanne Parrish, DNP, LNP, FNP-C, EMT-P – Representative of an organization providing advocacy on behalf of children

STAFF TO THE TASK FORCE

Rebekah E. Allen, JD – Senior Policy Analyst, Office of Licensure and Certification, Virginia Department of Health
Kimberly F. Beazley – Director, Office of Licensure and Certification, Virginia Department of Health
Alexandra Jansson, MPP – Policy Analyst, Governmental and Regulatory Affairs, Virginia Department of Health
Ruthanne Risser, RN – Deputy Director, Office of Licensure and Certification, Virginia Department of Health

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EXECUTIVE SUMMARY

The Task Force on Services for Survivors of Sexual Assault (Task Force) was created by Chapter 725 of the 2020 Acts of Assembly to assist in the implementation of the treatment and transfer requirements placed on hospitals and pediatric health care facilities for adult and pediatric survivors of sexual assault. The primary responsibilities of this 18-member Task Force is to develop model documents, plans, and processes for these facilities to use, to educate these facilities on their obligations in treating or transferring survivors of sexual assault, and to increase the use of telemedicine in providing services to survivors of sexual assault.

Due to the coronavirus disease 2019 (COVID-19) pandemic, appointments to the Task Force have progressed at a slower rate and as of December 1, 2020, there was not a sufficient number of appointees to the Task Force to constitute a quorum. While appointments were proceeding, the State Board of Health has initiated a standard regulatory action to promulgate a new regulatory chapter that will detail the requirements hospitals and pediatric health care facilities must meet to satisfy the provisions of Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia. The first stage of this standard regulatory action has been published and a public comment period held, during which no public comments were received. The second stage of this standard regulatory action is in progress.

INTRODUCTION

Chapter 725 of the 2020 Acts of Assembly created Article 8, *Services for Survivors of Sexual Assault* (§ 32.1-162.15:2 *et seq.*), in Chapter 5 of Title 32.1 of the Code of Virginia. This article requires hospitals and pediatric health care facilities to have plans approved by the Virginia Department of Health (VDH) to address the transfer and treatment of adult and pediatric survivors of sexual assault. This article also created a Task Force on Services for Survivors of Sexual Assault (Task Force), which is supported by VDH staff and is comprised of the following members¹:

... (i) two members of the House of Delegates appointed by the Speaker of the House of Delegates; (ii) one member of the Senate appointed by the Senate Committee on Rules; (iii) the Attorney General, or his designee; (iv) the Commissioners of Health and Social Services, or their designees; (v) the Director of the Department of State Police; (vi) two representatives of hospitals licensed by the Department of Health appointed by the Governor; (vii) three physicians licensed by the Board of Medicine to practice medicine or osteopathy appointed by the Governor, each of whom is a practitioner of emergency medicine and at least one of whom is a pediatrician; (viii) three nurses licensed to practice in the Commonwealth appointed by the Governor, each of whom is a sexual assault nurse examiner; (ix) two representatives of organizations providing advocacy on behalf of survivors of sexual assault appointed by the Governor; and (x) one representative of an organization providing advocacy on behalf of children appointed by the Governor...

REPORT MANDATE

Va. Code § 32.1-152.15:11(B)(8) requires the Task Force to “[r]eport to the Governor and the General Assembly by December 1 of each year regarding its activities and the status of implementation of the provisions of [Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia].”

TASK FORCE ACTIVITIES

The Task Force consists of 18 members and thus, a quorum for the purposes of holding a meeting would require 10 members. As of December 1, 2020, the Task Force did not yet have 10 members appointed and was unable to meet. The coronavirus disease 2019 (COVID-19) pandemic has impacted multiple secretariats within the Commonwealth as well as the Governor’s office. This impact, which resulted in staff time and other resources being redirected to address and mitigate the threat of COVID-19, meant that gubernatorial appointments were prioritized lower than they otherwise would have been in the absence of the pandemic. The Secretary of the Commonwealth was soliciting and accepting nominations for persons to serve on the Task Force during calendar year 2020, but the Task Force did not have enough members to attain a quorum and convene a meeting on or before December 1, 2020.

When a sufficient number of persons have been appointed to the Task Force, it will begin meeting so that it can fulfill the seven responsibilities prescribed by Va. Code § 32.1-162.15:11(B):

- Develop model treatment and transfer plans and work with hospitals and pediatric health care facilities to facilitate the development of treatment and transfer plans;

¹ Va. Code § 32.1-162.15:11(A).

- Develop model written transfer agreements and work with treatment hospitals, transfer hospitals, and pediatric health care facilities to facilitate the development of transfer agreements;
- Develop model written agreements for use by treatment hospitals and approved pediatric health care facilities required to enter into agreements with rape crisis centers;
- Work with treatment hospitals and approved pediatric health care facilities to develop plans to employ or contract with sexual assault forensic examiners for treatment services to survivors of sexual assault by sexual assault forensic examiners, including plans for implementation of on-call systems to ensure availability of sexual assault forensic examiners;
- Work with treatment hospitals and approved pediatric health care facilities to identify and recommend processes to ensure compliance related to creation, storage, and retention of photographic and other documentation and evidence;
- Develop and distribute educational materials regarding implementation to hospitals, health care providers, rape crisis centers, children's advocacy centers, and others; and
- Study and provide recommendations to VDH for the use of telemedicine in meeting the requirements of Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia.

As noted above, a quorum of members have not been appointed to the Task Force, so the Task Force has not begun implementation of any of the listed responsibilities.

While the appointments to the Task Force are ongoing, the State Board of Health (Board) has initiated a standard regulatory action to promulgate regulations pursuant to the authority granted in Article 8 (§ 32.1-162.15:2 *et seq.*) of Chapter 5 of Title 32.1 of the Code of Virginia. The Board intends to create a new regulatory chapter, 12VAC5-416, to address the newly enacted provisions and requirements on hospitals and pediatric health care facilities. The first stage of the standard regulatory action, the Notice of Intended Regulatory Action (NOIRA), was published in *The Virginia Register of Regulations* on March 1, 2021 and a 30-day public comment period started upon its publication, during which time no public comments were received. Following publication of the NOIRA, the next steps in a standard regulatory action is the Proposed stage, on which VDH staff are currently working and which will be presented to the Board for approval. Once approved, the Proposed stage will be subject to executive branch review; provided that it is favorably reviewed, the Board will then submit the Proposed stage for publication in *The Virginia Register of Regulations* and a 60-day public comment period will commence upon its publication. The Proposed stage will then be followed by the Final stage.