

April 5, 2024

U.S. Department of Justice
Office of Justice Programs
Office of Victims of Crime

Via electronic submission at www.regulations.gov

**RE: RIN 1121-AA89: Victims of Crime Act (VOCA) Victim Compensation Grant Program
Proposed Rule**

The International Association of Forensic Nurses (“IAFN”) appreciates the opportunity to respond to the Victims of Crime Act (VOCA) Victim Compensation Grant Program proposed rule (“Proposed Rule”), published in the *Federal Register* on February 5, 2024.

IAFN is a professional education and membership association representing approximately 6,000 forensic nurses and allied professionals worldwide. Forensic nurses are specially trained to provide comprehensive care to patients who have experienced unspeakable acts of violence and abuse. In addition to providing forensic nursing education, IAFN establishes clinical and professional practice standards for the nursing specialty across a range of settings, educational institutions, and patient populations.¹

IAFN applauds efforts by the Office of Victims of Crime (OVC) to clarify and remove barriers to compensation for victims of violence while safeguarding this critical resource. Given the diverse range of patient populations that forensic nurses care for, we recognize the strong need for clear and accessible victim compensation policies. Forensic nurses significantly improve individual health outcomes and public safety by providing quality healthcare post-violence, enhancing evidence collection, and improving prosecution rates, ultimately contributing to healthier communities and reducing the compounding costs of violence. Furthermore, VOCA funding is a lifeline for many forensic nursing programs because *when forensic nurses do not get paid for their services, forensic nursing programs are more likely to have insufficient staff or close permanently*. Victims of violence deserve access to trauma-informed healthcare providers who can provide all appropriate medical services.

¹ International Association of Forensic Nurses & American Nurses Association. *Forensic Nursing 2nd Edition Scope and Standards of Practice*. <https://www.nursingworld.org/nurses-books/forensic-nursing-scope-and-standards-of-practice-2nd-ed/>

Forensic Nursing's Contributions to the Healthcare and Criminal Justice Systems

Forensic nurses are highly trained registered or advanced practice nurses who practice in a variety of hospital-based and community settings. These providers have specific expertise in the comprehensive medical forensic examination (MFE) and treatment of patients who have experienced sexual assault, intimate partner violence, child or elder maltreatment, human trafficking, and accidental as well as non-accidental trauma. They are often the first healthcare professionals to provide medical care to a victim of violence and routinely coordinate necessary follow-up resources, including those involving advocacy, community referrals, and law enforcement reporting. Forensic nurses also address any unmet evidentiary needs and provide consultation and testimony for civil and criminal proceedings relative to nursing practice, administered care, evidence collection processes, and opinions rendered regarding health findings.² IAFN establishes and improves education and clinical practice standards for the specialty of forensic nursing to treat these individuals.

Patients impacted by violence, exploitation, trauma, and abuse experience acute and long-term health consequences associated with that victimization.^{3, 4, 5, 6, 7} Clinical studies demonstrate that patients experiencing violence are more likely than the general population to experience depression, substance use, posttraumatic stress disorder, and other chronic conditions,^{8, 9} and that early intervention can lead to both better long-term outcomes and lower costs. Access to a trained forensic nurse can positively impact a patient's short- and long-term health outcomes. This is true especially for individuals from historically underserved populations, including those from diverse ethnic and cultural backgrounds,

² *Ibid*

³ Walsh, K., Galea, S., & Koenen, K. C. (2012). Mechanisms underlying sexual violence exposure and psychosocial sequelae: A theoretical and empirical review. *Clinical Psychology: Science and Practice*, 19(3), 260–275. <https://doi.org/10.1111/cpsp.12004>

⁴ Walker-Descartes I., Hopgood G., et al. Sexual violence against children. *Pediatric Clinics of North America*. 2021 April; 68(2): 427-436. <https://doi.org/10.1016/j.pcl.2020.12.006>

⁵ Church Barker, L., Stewart, D., & Vigod, S. Intimate Partner Sexual Violence: An Often Overlooked Problem. *Journal of Women's Health*. 2019 March; 28(3): 363-374. <https://doi.org/10.1089/jwh.2017.6811>

⁶ Mazza, M., Marano, G., Gonzalez Del Castillo, A., et al. (2021). Interpersonal violence: Serious sequelae for heart disease in women. *World J Cardiol*. 13(9), 438–445. <https://doi.org/10.4330/wjc.v13.i9.438>.

⁷ Iverson K., Dardis C., et al. Associations between traumatic brain injury from intimate partner violence and future psychosocial health risks in women. *Comprehensive Psychiatry*. 2019 Vol. 92:13-21. <https://doi.org/10.1016/j.comppsy.2019.05.001>

⁸ Young-Wolff, K. C., Sarovar, V., et al. (2018). Changes in psychiatric and medical conditions and health care utilization following a diagnosis of sexual assault: a retrospective cohort study. *Medical Care*. 56(8), 649–657. <https://doi.org/10.1097/MLR.0000000000000930>

⁹ Santaularia, J., Johnson, M., et al. (2014). Relationships between sexual violence and chronic disease: a cross-sectional study. *BMC Public Health*. 14, 1286. <https://doi.org/10.1186/1471-2458-14-1286>

people with disabilities or mental health disorders, and individuals of diverse gender identities who face serious access to care barriers following violent victimization.¹⁰

Reimbursement Impacts on Patient Healthcare

The existing state-by-state patchwork of payment systems for the MFE contributes to gaps in reimbursement for forensic nursing programs and patients, even when there is funding and statutory or regulatory authority to reimburse for the exam.^{11, 12} These payment processes even may vary across jurisdictions within a state. For instance, forensic nursing programs may bill state-designated payors (including VOCA administrators, other dedicated agencies, and police departments) or private health insurance when doing so would not compromise the safety of the victim. In many cases, *VOCA and victim's compensation programs are lifelines and the only sources of funding for forensic nursing programs.* Without this critical support, many programs would close their doors to patients.

VOCA funds are utilized by 80 percent of states to cover all or some of the sexual assault MFEs in their state.¹³ Though some states have expanded the aspects of medical care they cover, forensic nursing programs or patients remain inconsistently reimbursed for essential items and services that directly impact victims' acute and long-term health outcomes.¹⁴ Fifty-one states and territories cover the MFE. However, many medical services that the U.S. Department of Justice Office on Violence Against Women defines as part of the MFE are not covered.¹⁵ For example, fewer than 17 states cover pregnancy testing, sexually transmitted infection testing and prophylaxis, HIV testing and prophylaxis, laboratory testing, emergency contraception, other potentially necessary medications, and diagnostic imaging.¹⁶ These medical services are critical to interrupting a lifetime of ongoing medical

¹⁰ Bach, M. H., Beck Hansen, N., et al. (2021). Underserved survivors of sexual assault: a systematic scoping review. *European Journal of Psychotraumatology*, 12(1), 1895516. <https://doi.org/10.1080/20008198.2021.1895516>

¹¹ Urban Institute & the International Association of Forensic Nurses. Paying for Sexual Assault Medical Forensic Exams (2021). Retrieved April 2024. <https://www.urban.org/sites/default/files/publication/104611/paying-for-sexual-assault-medical-forensic-exams-how-states-and-jurisdictions-pay-for-exams-so-survivors-do-not-have-to.pdf>

¹² Amrutha Ramaswamy, B. F. (2022). Out-of-Pocket Charges for Rape Kits and Services for Sexual Assault Survivors. *Women's Health Policy*. Retrieved April 2024. <https://www.kff.org/womens-health-policy/issue-brief/out-of-pocket-charges-for-rape-kits-and-services-for-sexual-assault-survivors/>

¹³ Urban Institute & the International Association of Forensic Nurses. Paying for Sexual Assault Medical Forensic Exams (2021). Retrieved April 2024. <https://www.urban.org/sites/default/files/publication/104611/paying-for-sexual-assault-medical-forensic-exams-how-states-and-jurisdictions-pay-for-exams-so-survivors-do-not-have-to.pdf>

¹⁴ *Ibid*

¹⁵ U.S. Department of Justice, Office on Violence Against Women. (2013). *A National Protocol for Sexual Abuse Medical Forensic Examinations—Adult/Adolescent*. <https://www.ojp.gov/pdffiles1/ovw/228119.pdf>

¹⁶ Amrutha Ramaswamy, B. F. (2022). Out-of-Pocket Charges for Rape Kits and Services for Sexual Assault Survivors. *Women's Health Policy*. Retrieved April 2024. <https://www.kff.org/womens-health-policy/issue-brief/out-of-pocket-charges-for-rape-kits-and-services-for-sexual-assault-survivors/>

consequences stemming from violence. Almost all forensic nursing programs today write off some of their expenses regularly.

IAFN Comments on Elements of the Proposed Rule

OVC proposes to omit in the Compensation rule some language in the current Guidelines (and make a conforming change to the VOCA Victim Assistance Program rule) that creates some confusion regarding which program (Victim Compensation or other programs, such as Victim Assistance) may pay for sexual assault forensic exams. This proposal would allow States to structure their coverage of the costs for these exams more flexibly, to enable them to better meet the requirement in Federal law that such exams be covered without charge to a victim. OVC also proposes to allow States to certify payments by the State compensation program for sexual assault forensic exams regardless of whether those funds derive from general state funding or are specifically appropriated for sexual assault forensic exam expenses.

IAFN highlights that VOCA and state-operated crime victim's compensation programs serve as lifesaving resources for patients in these cases and are critical to the sustainability of forensic nursing programs. They currently provide coverage for sexual assault MFEs across the country and serve as essential resources for many patients. IAFN continues to advocate that traditional insurance plans (including private payors and Medicaid) should be the primary means of reimbursing payment for medical care when that coverage is safe and appropriate for victims to access. IAFN also advocates that states identify sustainable sources of payment to replace the use of VOCA funds.¹⁷ Unfortunately, many survivors find themselves in circumstances where utilizing traditional insurance is not an option because of concerns over privacy, retribution from their attacker who is on the same plan, or lack of insurance overall.

IAFN supports simplifying the payment systems with which victims and healthcare providers must interact. We appreciate a measure in the Proposed Rule (§ 94.233, Payor of Last Resort) that would make clear OVC's interpretation of current statute that VOCA does not require the use of private health insurance prior to initiating a victim's compensation payment. IAFN requests that the final regulation also provide explicit direction to states regarding the allowance of insurance billing, addressing costs not covered by insurance, and how patient survivors can make informed decisions about the safety of using their insurance following an assault. These efforts would continue to reduce financial pressures on VOCA funds and preserve funds for direct reimbursement to victims, or expansion of medical forensic treatment in the aftermath of violence (such as in cases of intimate partner violence, dating violence, strangulation, trafficking, etc.).

¹⁷ Urban Institute & the International Association of Forensic Nurses. Paying for Sexual Assault Medical Forensic Exams (2021). Retrieved April 2024. <https://www.urban.org/sites/default/files/publication/104611/paying-for-sexual-assault-medical-forensic-exams-how-states-and-jurisdictions-pay-for-exams-so-survivors-do-not-have-to.pdf>

OVC proposes to clarify the definition of “medical expenses” and “mental health counseling and care” to emphasize that a limited definition applies for purposes of costs that a State must cover (to be an eligible program), but that States may apply a broader understanding of such expenses, in the exercise of their discretion. This would clarify that States have the flexibility to address victim expenses more comprehensively where reasonable and appropriate; for example, in connection with services accessed in another jurisdiction, areas with limited access to licensed providers, or Native American healing practices.

Medical expenses has the meaning set forth in 34 U.S.C. 20102(d)(2) (“includes, to the extent provided under the eligible crime victim compensation program, expenses for eyeglasses or other corrective lenses, for dental services and devices and prosthetic devices, and for services rendered in accordance with a method of healing recognized by the law of the State.”)

IAFN supports OVC’s expansion and clarification of mental health counseling and medical expenses, specifically the inclusion of dental services and prosthetic devices. We also applaud OVC’s clarification that States have the flexibility to address victim expenses more comprehensively, specifically in expanding connections with services accessed in another jurisdiction, areas with limited access to licensed providers, or Native American healing practices. For patients experiencing violence, access to healing services is a foundational component of recovery.

IAFN additionally recommends clarification that assistive devices are covered, along with corrective procedures for damaged assistive devices and implants, including prostheses. IAFN also encourages expedited access to crime victim’s funds for assistive devices and prostheses. Ensuring that individuals can restore their ability to function fully in society after they have been victims of violence is a significant aspect of healing and even prevention. IAFN encourages OVC to take into account additional safety considerations for some individuals, such as trans individuals who may face a greater likelihood of additional victimization or “outing” as a result of changes in appearance, as well as individuals who need access to assistive technology and devices to navigate their environment safely.¹⁸

OVC proposes to add a provision generally prohibiting States from considering a victim’s alleged contributory conduct in determining compensation claims, except in specific exceptional claims and where a State has a publicly available written policy regarding consideration of this factor.

IAFN supports this proposed change and the reference to patients who are victims of human trafficking. Additionally, we respectfully urge OVC to expand this prohibition to include and protect

¹⁸ Centers for Disease Control and Prevention. (2020). Sexual Violence and Intimate Partner Violence Among People with Disabilities. <https://www.cdc.gov/violenceprevention/sexualviolence/svandipv.html#:~:text=and%20nursing%20homes,-,Sexual%20Violence,the%20time%20of%20the%20rape>

the unique needs of patients experiencing Intimate Partner Violence (IPV)/Domestic Violence (DV). A specific recognition of the IPV patient population would be consistent with recent work by the Office on Violence Against Women to complete the first [*National Protocol for Intimate Partner Violence Medical Forensic Examinations*](#), launched in May 2023, which properly calls attention to victims of IPV who receive a MFE. We are currently seeing an increase in the severity of IPV that sometimes includes instances of one partner coercing or forcing another partner to violate laws to protect the other partner. Given these trends, IAFN continues to seek opportunities to highlight the need for medical care and protected access to reimbursement for MFEs provided to victims of IPV/DV.

Additional Comments and Perspectives

Proposed Rule background: In 2022, Public Law 117–103, div. W, title XIII, sec. 1311, 1316(b), March 15, 2022, added a provision (that is to be implemented no later than March 2025) requiring State victim compensation programs to waive the application deadline for certain victims whose delay in filing “was a result of a delay in the testing of, or a delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense[.]”

IAFN applauds the March 2022 statutory change to expand the reporting timeframe for victims of sexual violence based on when forensic evidence testing, or DNA matching, is delayed. IAFN calls upon OVC to go further and expand this same right by waiving the application deadline for victims for whom it is unsafe to apply for victim’s compensation, particularly those with known offenders in cases such as DV/IPV and trafficking. If OVC does not have existing statutory authority to make these changes, we urge OVC to seek expanded authority from Congress to achieve these objectives. Some patients are unable to apply for victim’s compensation within specified timeframes due to safety concerns, ongoing violence, or the reality that having additional financial resources could put them at greater risk for violence and victimization.

94.221 Residency and Place of Crime. Updates to omit statutory repetition, and remove provisions no longer supported by law

IAFN applauds OVC’s acknowledgment that residency and place of crime should not be administrative impediments to crime victims seeking care and resources after assault. IAFN further advocates for increased clarity in interstate compensation guidelines when a patient’s residency, crime, and medical care occur in multiple locations. We continue to learn of instances where administered sexual assault MFEs are not reimbursed due to differences in policies or administrative hurdles between states and territories.

Unique Billing Systems Create Obstacles to Patient Access to Healthcare

As described earlier, forensic nursing programs often write off expenses that are not specifically covered or associated with a sexual assault MFE, contributing to financial sustainability challenges.

The lack of consistent guidance at the national level to cover MFEs writ-large, rather than only those associated with sexual violence, contributes to an ever-more convoluted patchwork of payment for medical providers as individual states work to address gaps. For example, medical care associated with strangulation may or may not be covered by a victim's compensation program in certain states. The Wisconsin SAFE Fund does not reimburse for medical care associated with strangulation unless it was an element of a sexual assault.¹⁹ Meanwhile, Virginia recently developed a pathway to cover the medical costs associated with strangulation assessment independent of sexual assault. We highlight these future opportunities for consistent guidance while recognizing that many states are actively working to ensure all aspects of medical care provided to patients are reimbursed to the patient or medical facility.

Additional examples of reimbursement challenges include:

- By statute, New York limits reimbursement to “New York State hospitals or New York State licensed providers.”²⁰
- Colorado has 22 different crime victim compensation programs that intend to pay for an out-of-state MFE, when appropriate, but connecting with the right program can be an administrative barrier to applying and accessing reimbursement for out-of-state victims or programs.²¹
- Some states require that a state-specific medical forensic exam kit, paperwork, or components of the kit must be used in order to be eligible for reimbursement.
- New Hampshire requires that all claims for reimbursement are completed on New Hampshire paperwork. Some denied claims are never resubmitted on the correct paperwork.²²
- We have heard at least one report that the victim is required to sign, not notarize, a specific form when they receive medical care for the healthcare facility to receive reimbursement for the MFE. When out-of-state providers aren't aware of this form, they do not receive reimbursement, even when it would otherwise be approved.

These state-specific requirements contribute to instances where MFEs are not reimbursed, even when reimbursement is intended. These differences between states lead to funding gaps for victims and

¹⁹ Wisconsin Department of Justice. (n.d.). Sexual Assault Forensic Exam. <https://www.doj.state.wi.us/ocvs/sexual-assault-forensic-exam#:~:text=The%20WI%20SAFE%20Fund%20can,for%20victims%20of%20sexual%20assault.&text=The%20SAFE%20Fund%20can%20reimburse.the%20crime%20to%20law%20enforcement>

²⁰ New York Consolidated Laws, Executive Law - EXC § 631. Awards. (January 1, 2021). Retrieved from FindLaw. <https://codes.findlaw.com/ny/executive-law/exc-sect-631.html>.

²¹ Crime Victim Compensation. (n.d.). Retrieved from Colorado Division of Criminal Justice. <https://dcj.colorado.gov/dcj-offices/victims-programs/crime-victim-compensation>.

²² State of New Hampshire Victims' Compensation Forensic Sexual Assault Examination Billing Form. (n.d.). Retrieved from New Hampshire Department of Administrative Services: https://www.das.nh.gov/purchasing/docs/bids/attachments/attachment_16_bid_54-21.pdf



ForensicNurses.org

p 410 626 7805
f 410 626 7804

forensic nursing programs. Forensic nurses do not have the resources to manage the varied processes outside of their state, even when reimbursement is available within those states. For more information, SAFEta.org provides a list of state-by-state billing resources and requirements.

Each time a forensic nurse provides the essential service of a medical forensic exam to patients experiencing violence, it is a benefit to individual victims and society. However, each unpaid health encounter negatively impacts the sustainability and availability of forensic nursing programs and healthcare's ability to maintain these programs.²³ IAFN encourages OVC to consider the opportunities outlined herein to promote greater coordination between states to ensure that the current state-by-state patchwork²⁴ of payment regulations does not negatively impact individual victims who deserve access to trained healthcare providers.

Thank you for the opportunity to provide comment on the Proposed Rule. Please contact Christina Presenti, Membership Director and Government Affairs Committee Chair at cpresenti@forensicnurses.org with any additional questions.

Sincerely,

Jennifer Pierce-Weeks, BSN, RN, SANE-A, SANE-P
Chief Executive Officer

²³ Clowers, A. N. (2018). Sexual Assault Information on the Availability of Forensic Examiners. United States Government Accountability Office. Retrieved April 2024: www.gao.gov/assets/gao-19-259t.pdf

²⁴ International Association of Forensic Nurses. Payment Resources. (n.d.). www.safeta.org/page/PTAresource

■ info@ForensicNurses.org

6755 Business Parkway, Ste 303
Elkridge, Maryland 21075

Research. Educate. Lead.