OSAC PROPOSED STANDARD 2023-N-0014
Standard for the Medical Forensic Examination in the Clinical Setting

Forensic Nursing Subcommittee
Medicine Scientific Area Committee (SAC)
Organization of Scientific Area Committees (OSAC) for Forensic Science



OSAC Proposed Standard

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Prepared by
Forensic Nursing Subcommittee
Version: 2.0
May 2025

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This OSAC Proposed Standard has completed an open comment period and a rigorous technical and quality review by the originating OSAC unit (e.g., subcommittee), their parent body (e.g., scientific area committee), and the OSAC Standards Review Panel.

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Foreword

This document provides principles that govern the care of medical forensic examinations of living persons by trained clinicians. This standard assures forensic care is patient centered, and trauma informed while protecting the clinician's safety and the integrity of items that might have evidentiary value.

This document is utilized in conjunction with any requirement by state or federal laws, licensing boards, local regulations, and by the clinician's healthcare organization. This standard informs policies relating to the care of the medical forensic examination.

Hyperlinks and web addresses shown in this document are current as of the publication date of this standard.

This document has been drafted by the Forensic Nursing Subcommittee of the Organization of Scientific Area Committees (OSAC) for Forensic Science through a consensus process.

Keywords: *Medical forensic examination, trauma-informed care, scope of practice patient-centered care*

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Standard for the Medical Forensic Examination in the Clinical Setting

1 Scope

This document describes the minimum standards for the medical forensic examination of living persons by a medical forensic examiner following suspected or disclosed violence. This standard sets the foundation for medical forensic services provided to patients that assures care is patient-centered, and trauma-informed while protecting the clinician's safety and the integrity of items that might have evidentiary value.

2 Normative References

U.S. Department of Justice. *A National Protocol for Sexual Assault Medical Forensic Examinations: Adults/Adolescents*. U.S. Department of Justice, Office on Violence Against Women.

U.S. Department of Justice. *A National Protocol for Intimate Partner Violence Medical Forensic Examinations.* U.S. Department of Justice, Office on Violence Against Women.

3 Terms and Definitions

For the purpose of this document, the following definitions apply.

3.1
autonomy
right to self-determination. Providing adequate information to allow patients to make their own decisions based on their beliefs and values (American Nurses Association, 2023)

3.2
cognitive bias
A tendency for an individual's preexisting beliefs, expectations, motives, or the situational context to influence their sampling, observations, results, interpretations, or opinions, or their confidence in the aforementioned (OSAC Lexicon)

3.3
competent
ability to demonstrate defined performance expectations based on observable behavior documented by an experienced supervisor/preceptor (American Association of Colleges of Nursing, 2021)

3.4
context
spatial and temporal associations of evidence

3.5
equity

recognizes that each person has different circumstances and that reaching equal outcomes requires the allocation of resources and opportunities according to circumstance and need (United Nations, n.d.)

3.6
evidence integrity
ensuring the physical security, completeness, and accuracy of evidence is maintained from the time it is collected until its final disposition to prevent any claims of mishandling or tampering and guarantee its acceptance in a court of law (National Institute of Justice, 2020)

3.7
medical forensic examiner
healthcare provider who applies medical knowledge and practices to the medicolegal aspects of death, injury, neglect, or behavior (adapted from National Commission on Forensic Sciences, n.d.)

3.8
medical forensic examination
comprehensive healthcare examination of a living patient by a medical forensic examiner

3.9
reliability
extent to which an experiment, test, or measuring procedure yields the same results on repeated trials (OSAC Lexicon)

3.10
scope of practice
set of activities and procedures that a healthcare professional is authorized to perform based on their education, training, and license. It is defined by each profession's regulatory board or licensing agency and varies by state and country (American Nurses Association, 2021)

3.11
(TIC)
‘organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma’ (Substance Abuse and Mental Health Services Administration. SAMHSA’s concept of trauma and guidance for a trauma-informed approach. HHS Publication No. (SMA) 14-4884. Rockville (MD): Substance Abuse and Mental Health Services Administration; 2014)

3.12
transparency
concept of disclosing as much information as possible to provide clarity and reproducibility

3.13
validity

the extent to which a measurement actually measures what you intend to measure which provides information relevant to the questions asked (OSAC Lexicon).

4 Requirements

4.1 Background

The medical forensic examination addresses patients' healthcare needs and collects specimens ("traces") that could have potential use within the criminal justice system (DOJ, 2013) (Roux, 2022).

Each case is unique and requires medical personnel to continuously evaluate how to proceed with conducting a medical forensic examination in a manner that is safe for both the patient and the examiner. This standard is not a substitute for substantive guidance on how to fulfill these principles in practice. Neither the absence nor the presence of law enforcement involvement nullifies the clinician's duty to provide medical forensic patient care that abides to this standard.

4.2 Responsibilities of a Medical Forensic Examiner

The medical forensic examiner shall meet the following requirements at a minimum before, during, and after a medical forensic exam of a living person:

- Trauma-informed Approach to Care
- Patient-centered Approach to Care
- Medical Safety and Well-being of the Patient
- Equity
- Patient Autonomy and Privacy
- Personnel Safety
- Scope of Practice
- Competency and Currency of Practice
- Scientific Reliability and Validity
- Preserving Context
- Maintaining Evidence Integrity
- Transparency
- Managing Cognitive Bias

Each requirement listed in this document is important. Some circumstances may cause a medical forensic examiner to give greater weight to one requirement over another. A decision to weigh one requirement over another shall be documented and explained.

4.2.1 Trauma-informed Approach to Care

The program or organization providing the medical forensic examination shall use a trauma-informed approach to care. Such an organization "realizes the widespread impact of trauma and understands potential paths for recovery, recognizes the signs and symptoms of trauma in clients, families, staff, and others involved with the system; and responds by fully integrating

knowledge about trauma into policies, procedures, and practices, and seeks to actively resist re-traumatization" (Substance Abuse and Mental Health Services Administration, 2014, p.9).

4.2.2 Patient-centered Approach to Care

The medical forensic examiner conducting the medical forensic examination shall administer care using a patient-centered approach. Patient-centered care is providing care that is respectful of and responsive to individual patient preferences, needs, and values and ensuring that patient values guide each clinical decision (Institute of Medicine, 2001).

4.2.3 Medical Safety and Well-being of the Patient

Assuring the medical safety and well-being of the patient distinguishes the responsibilities of the medical forensic examiner from crime scene investigators. The medical safety of the patient shall take priority over the conduct of the forensic medical examination. The medical forensic examination should take place as expediently as possible once the patient is stable. Additionally, the examiner shall support the patient's mental and physical well-being during the medical forensic examination process.

4.2.4 Equity

Medical forensic examiners shall provide equitable access to culturally competent medical forensic examinations regardless of the patient's race, ethnicity, age, ability, sex, gender identity or expression, sexual orientation, nationality, socioeconomic status, and geographical location.

4.2.5 Patient Autonomy and Privacy

To protect the patient's rights, consent or assent shall be obtained from the patient. In cases where the patient is unable to provide consent or assent, consent, assent, or authorization shall be obtained by a surrogate decision-maker (which could be a court of law), prior to conducting the medical forensic examination.

4.2.6 Personnel Safety

Conducting medical forensic examinations, regardless of the setting, can present a wide range of risks to personnel, including physical, biological, chemical, and situational hazards. The facility shall have policies and procedures in place to promote a safe environment.

4.2.7 Scope of Practice

Medical forensic examiners shall conduct the medical forensic exam within their scope of practice established by their profession and licensing body.

4.2.8 Competency and Currency of Practice

Medical forensic examiners shall maintain competency and currency of practice through initial didactic and specialized clinical training, followed by ongoing continuing education in their area of medical forensic practice.

4.2.9 Scientific Reliability and Validity

Medical forensic examiners shall use scientifically reliable and valid methods and practices based on best practices, peer-reviewed studies, and/or validated techniques. When applicable, methods, practices, and analytical procedures published in the OSAC Registry shall be employed unless the OSAC registry recommendations have been superseded by later information regarding scientific best practices.

4.2.10 Preserving Context

Medical forensic examiners shall document the medical forensic examination in such a way that it preserves all documentation, and any items collected that may have evidentiary value to ensure others can later understand what, where, how, and in what condition specimens (traces) were found and how it pertains to the patient's history.

4.2.11 Maintaining Evidence Integrity

Medical forensic examiners shall take appropriate steps to maintain integrity of specimens (traces) with potential evidentiary value by preventing contamination, tampering, alteration, or loss of items. Procedures and documents shall be utilized to account for the integrity and possession of items by tracking handling and storage from point of collection to final disposition.

4.2.12 Transparency

The medical forensic examiner shall provide documentation and testimony about the medical forensic examination that clearly represents the patient's presentation, the examiner's and patient's actions during the examination, and any other information the examiner identifies as pertinent at the time of examination.

4.2.13 Managing Cognitive Bias

Cognitive bias refers to the class of effects by which an individual's preexisting beliefs,

expectations, motives, and situational context can influence their collection, perception, or interpretation of information, or their resulting judgments, decisions, or confidence (Spellman et al., 2021).

Medical forensic examiners shall obtain education on identification and mitigation of cognitive biases in their work and incorporate bias mitigation strategies into their practice (e.g., Almazrouei, et al., 2019; Dror et al., 2013, Osborne et al., 2018).

Annex A

(Informative)

Bibliography

The following bibliography is not intended to be an all-inclusive list, review, or endorsement of literature on this topic. The goal of the bibliography is to provide citations and examples of publications addressed in the standard. recognizes other publications on this subject can exist.

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