311.7735 Informed consent of patient receiving abortion-inducing drug -- Form.

(1) An abortion-inducing drug as defined in KRS 311.7731 shall not be provided to a pregnant patient without the informed consent of the patient. Informed consent shall be obtained at least twenty-four (24) hours before the abortion-inducing drug is provided to a pregnant patient, except if, in the reasonable medical judgment of the qualified physician, compliance with this subsection would pose a risk of:

(a) The death of the pregnant patient; or

(b) The substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the pregnant patient.

(2) A qualified physician shall use a form created by the Cabinet for Health and Family Services to obtain the consent required prior to providing an abortion-inducing drug as defined in KRS 311.7731 and submit the completed form to the cabinet.

(3) A consent form is not valid and consent is not sufficient, unless:

(a) The patient initials each entry, list, description, or declaration required to be on the consent form;

(b) The patient signs the consent statement; and

(c) The qualified physician signs the qualified physician declaration.

(4) The consent form shall include but is not limited to the following:

(a) The probable gestational age of the unborn child as determined by both patient history and by ultrasound results used to confirm gestational age;

(b) A detailed description of the steps to complete the drug-induced abortion;

(c) A detailed list of the risks related to the specific abortion-inducing drug as defined in KRS 311.7731 or drugs to be used, including potential complications and adverse events as defined in KRS 311.7731;

(d) If the pregnant patient was Rh negative, the pregnant patient was provided with an Rh negative information fact sheet and offered treatment with the prevailing medical standard of care to prevent harmful fetal or child outcomes or Rh incompatibility in future pregnancies;

(e) That the risks of complications from a medication abortion, including incomplete abortion, increase with advancing gestational age;

(f) That it may be possible to reverse the effects of the abortion-inducing drug if desired but that this should be done as soon as possible;

(g) That the patient may see the remains of the unborn child in the process of completing the abortion;

(h) That initial studies suggest that children born after reversing the effects of the abortion-inducing drug mifeprex/mifepristone have no greater risk of birth defects than the general population;

(i) That initial studies suggest that there is no increased risk of maternal mortality after reversing the effects of the abortion-inducing drug mifeprex/mifepristone;

(j) That information on and assistance with reversing the effects of abortion-inducing drugs are available in the state-prepared materials and on the cabinet's Web site;

(k) An "acknowledgment of risks and consent statement" which the pregnant patient shall sign. The pregnant patient shall initial by each statement and the statement shall include but is not limited to the following declarations:

1. That the pregnant patient understands that the abortion-inducing drug regimen or procedure is intended to end the pregnancy and will result in the death of the unborn child;
2. That the pregnant patient is not being forced to have an abortion, has the choice not to have the abortion, and may withdraw consent to the abortion-inducing drug regimen even after it has been provided;
3. That the pregnant patient understands that the abortion-inducing drug to be provided has specific risks and may result in specific complications;
4. That the pregnant patient has been given the opportunity to ask questions about the pregnancy, the development of the unborn child, alternatives to abortion, the abortion-inducing drug or drugs to be used, and the risks and complications possible when abortion-inducing drugs are provided;
5. That the pregnant patient was specifically told that information on the potential ability of qualified medical professionals to reverse the effects of a drug-induced abortion is available and where to obtain information for assistance in locating a medical professional that can aid in the reversal of a drug-induced abortion;
6. That the pregnant patient has been provided access to printed materials on informed consent for abortion;
7. That the pregnant patient has been given the name and phone number of the associated physician who has agreed to provide medical care and treatment in the event of complications associated with the abortion-inducing drug regimen or procedure;
8. That the qualified physician will schedule an in-person follow-up visit for the patient for approximately seven (7) to fourteen (14) days after providing the abortion-inducing drug or drugs to confirm that the pregnancy is completely terminated and to assess any degree of bleeding and other complications;
9. That the pregnant patient has received or been given sufficient information to give informed consent to the abortion-inducing drug regimen or procedure; and
10. That the patient has a private right of action to sue the qualified physician under the laws of Kentucky if the patient feels coerced or misled prior to obtaining an abortion;

(l) A qualified physician's declaration that states that the qualified physician has explained the abortion-inducing drug or drugs to be provided, has provided all of the information required in paragraph (k) of this subsection,

and has answered all of the woman s questions, shall be signed by the qualified physician; and

(m) If prescribing for the purpose of inducing an abortion, a qualified physician shall include the following on the prescription for an abortion-inducing drug: "For The Purpose of Abortion Inducement".

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