

311.723 When physician may perform action that separates woman from her unborn child -- Guidelines.

- (1) No action that requires separating a pregnant woman from her unborn child shall be performed, except the following when performed by a physician based upon his or her reasonable medical judgment:
 - (a) A medical procedure performed with the intent to save the life or preserve the health of an unborn child;
 - (b) Lifesaving miscarriage management, which includes medically necessary interventions when the pregnancy has ended or is in the unavoidable and untreatable process of ending due to spontaneous or incomplete miscarriage;
 - (c) Sepsis and hemorrhage emergency medical interventions required when a miscarriage or impending miscarriage results in a life-threatening infection or excessive bleeding;
 - (d) A medically necessary intervention, inducement, or delivery for the removal of a dead child from the uterine cavity, when documented in the woman's medical record along with the results of an obstetric ultrasound test, confirming that fetal cardiac activity is not present at a gestational age when it should be present;
 - (e) The removal of an ectopic pregnancy or a pregnancy that is not implanted normally within the endometrial cavity;
 - (f) The use of methotrexate or similar medications to treat an ectopic pregnancy;
 - (g) The removal of a molar pregnancy;
 - (h) A medical procedure necessary based on reasonable medical judgment to prevent the death or substantial risk of death of the pregnant woman due to a physical condition, or to prevent serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of the unborn child in a manner consistent with reasonable medical practice; or
 - (i) Medical treatment provided to the mother by a licensed physician, which results in the accidental or unintentional injury or death of the unborn human being.
- (2) No treatment or procedure authorized under subsection (1) of this section shall be performed except in compliance with regulations which the cabinet shall promulgate to ensure that:
 - (a)
 1. Before the treatment or procedure is performed, the pregnant woman shall have a private medical consultation either with the physician who is to provide the treatment or perform the procedure or with the referring physician in a place, at a time and of a duration reasonably sufficient to enable the physician to determine whether, based upon his or her reasonable medical judgment, the action is necessary;
 2. The physician shall document in the pregnant woman's medical record the pregnant woman's informed consent to the treatment or procedure

following a discussion, acknowledged in writing by the woman, of the risks, benefits, and alternatives to the treatment or procedure, sufficient in scope for a reasonable person to make an informed decision;

- (b) The physician who is to provide the treatment or perform the procedure or the referring physician will describe the basis for his or her reasonable medical judgment that the action is necessary on a form prescribed by the cabinet as required by KRS 213.101; and
- (c)
 - 1. Paragraph (a) of this subsection shall not apply when, in the reasonable medical judgment of the attending physician based on the particular facts of the case before him or her, there exists a medical emergency. In the case of a medical emergency, the physician shall describe the basis of his or her reasonable medical judgment that an emergency exists on a form prescribed by the cabinet as required by KRS 213.101; and
 - 2. If an emergency exists which limits the time available for documentation or the scope of the informed consent discussion, the physician shall endeavor to complete the requirements of this subsection to the extent possible without undue risk to the woman's life or health and shall promptly complete any required documentation when the emergency no longer exists.
- (3) Notwithstanding any statute to the contrary, nothing in this chapter shall be construed as prohibiting a physician from prescribing or a woman from using birth control methods or devices, including, but not limited to, intrauterine devices, oral contraceptives, or any other birth control method or device.
- (4) Nothing in this section shall be interpreted as permitting any violation of KRS 311.772.

Effective: March 27, 2025

History: Amended 2025 Ky. Acts ch. 121, sec. 21, effective March 27, 2025. -- Amended 2019 Ky. Acts ch. 191, sec. 3, effective June 27, 2019. -- Created 1982 Ky. Acts ch. 342, sec. 3, effective July 15, 1982.

Legislative Research Commission Note (3/27/2025). 2025 Ky. Acts ch. 121, sec. 25, provides that the Act, which amended this statute, may be cited as the Love Them Both Act of 2025.