

311.727 Requirement for performance and explanation of obstetric ultrasound and auscultation of fetal heartbeat prior to abortion -- Exception for medical emergency or necessity.

- (1) As used in this section:
 - (a) "Auscultate" means to examine by listening for sounds made by internal organs of the fetus, specifically for a fetal heartbeat, utilizing an ultrasound transducer or a fetal heart rate monitor;
 - (b) "Obstetric ultrasound" or "ultrasound" means the use of ultrasonic waves for diagnostic or therapeutic purposes, specifically to monitor a developing fetus; and
 - (c) "Qualified technician" means a medical imaging technologist as defined in KRS 311B.020 who is certified in obstetrics and gynecology by the American Registry for Diagnostic Medical Sonography or a nurse midwife or advance practice nurse practitioner in obstetrics with certification in obstetrical ultrasonography.
- (2) Prior to a woman giving informed consent to having any part of an abortion performed, the physician who is to perform the abortion or a qualified technician to whom the responsibility has been delegated by the physician shall:
 - (a) Perform an obstetric ultrasound on the pregnant woman;
 - (b) Provide a simultaneous explanation of what the ultrasound is depicting, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted and also, if the ultrasound image indicates that fetal demise has occurred, inform the woman of that fact;
 - (c) Display the ultrasound images so that the pregnant woman may view the images;
 - (d) Auscultate the fetal heartbeat of the unborn child so that the pregnant woman may hear the heartbeat if the heartbeat is audible;
 - (e) Provide a medical description of the ultrasound images, which shall include the dimensions of the embryo or fetus and the presence of external members and internal organs, if present and viewable; and
 - (f) Retain in the woman's medical record a signed certification from the pregnant woman that she has been presented with the information required to be provided under paragraphs (c) and (d) of this subsection and has viewed the ultrasound images, listened to the heartbeat if the heartbeat is audible, or declined to do so. The signed certification shall be on a form prescribed by the cabinet.
- (3) When the ultrasound images and heartbeat sounds are provided to and reviewed with the pregnant woman, nothing in this section shall be construed to prevent the pregnant woman from averting her eyes from the ultrasound images or requesting the volume of the heartbeat be reduced or turned off if the heartbeat is audible. Neither the physician, the qualified technician, nor the pregnant woman shall be subject to any penalty if the pregnant woman refuses to look at the displayed ultrasound images or to listen to the heartbeat if the heartbeat is audible.

- (4) The requirements of this section shall be in addition to any requirement contained in KRS 311.725 or any other section of KRS 311.710 to 311.820.
- (5) The provisions of this section shall not apply in the case of a medical emergency or medical necessity. If a medical emergency or medical necessity compels the performance or inducement of an abortion, the physician who will perform or induce the abortion, prior to its performance or inducement if possible, shall inform the pregnant woman of the medical indications supporting the physician's judgment that an immediate abortion is necessary. Any physician who performs or induces an abortion without the prior satisfaction of the requirements of this section because of a medical emergency or medical necessity shall enter the reasons for the conclusion that a medical emergency or medical necessity exists in the medical record of the pregnant woman.

Effective: January 9, 2017

History: Created 2017 Ky. Acts ch. 2, sec. 1, effective January 9, 2017.

Legislative Research Commission Note (1/9/2017). 2017 Ky. Acts ch. 2, sec. 3 provides that this statute created in 2017 Ky. Acts ch. 2, sec. 1 and the amendments made to KRS 311.990 in Section 2 of that Act shall be known and may be cited as the Ultrasound Informed Consent Act.