

**214.160 Blood specimen of pregnant women to be taken -- Laboratory test -- Substance abuse tests of pregnant women and newborn infants -- Use of tests -- Report if infant is affected by substance abuse withdrawal symptoms -- Tests for presence of hepatitis B and hepatitis C.**

- (1) Every physician and every other person legally permitted to engage in attendance upon a pregnant woman in this state shall take or cause to be taken from the woman a specimen of blood for serological test for syphilis as soon as he is engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. If the woman is in labor at the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen at that time, the specimen shall be obtained within ten (10) days after delivery. The specimen of blood shall be submitted to the laboratory of the Cabinet for Health and Family Services or a laboratory approved by the cabinet for the purpose of having made a serological test for syphilis. The test shall be of a type approved by the Cabinet for Health and Family Services.
- (2) The Cabinet for Health and Family Services shall, as often as necessary, publish a list of the five (5) most frequently abused substances, including alcohol, by pregnant women in the Commonwealth. Any physician and any other person legally permitted to engage in attendance upon a pregnant woman in this state may perform a screening for alcohol or substance dependency or abuse, including a comprehensive history of such behavior. Any physician may administer a toxicology test to a pregnant woman under the physician's care within eight (8) hours after delivery to determine whether there is evidence that she has ingested alcohol, a controlled substance, or a substance identified on the list provided by the cabinet, or if the woman has obstetrical complications that are a medical indication of possible use of any such substance for a nonmedical purpose.
- (3) Any physician or person legally permitted to engage in attendance upon a pregnant woman may administer to each newborn infant born under that person's care a toxicology test to determine whether there is evidence of prenatal exposure to alcohol, a controlled substance, or a substance identified on the list provided by the Cabinet for Health and Family Services, if the attending person has reason to believe, based on a medical assessment of the mother or the infant, that the mother used any such substance for a nonmedical purpose during the pregnancy.
- (4) The circumstances surrounding any positive toxicology finding shall be evaluated by the attending person to determine if abuse or neglect of the infant, as defined under KRS 600.020(1), shall be reported to the state's child protective services agency.
- (5) An infant affected by substance abuse withdrawal symptoms resulting from prenatal drug exposure or fetal alcohol spectrum disorder shall be reported to the state's child protective services agency in accordance with 42 U.S.C. sec. 5106a.
- (6) No prenatal screening for alcohol or other substance abuse or positive toxicology finding shall be used as prosecutorial evidence.
- (7) No person shall conduct or cause to be conducted any toxicological test pursuant to this section on any pregnant woman without first informing the pregnant woman of

the purpose of the test.

- (8) Every physician or other person legally permitted to engage in attendance upon a pregnant woman in the Commonwealth shall take or cause to be taken from the woman a specimen of blood which shall be submitted for the purpose of serologic testing for the presence of hepatitis B surface antigen to a laboratory certified by the United States Department for Health and Human Services pursuant to Section 333 of the Public Health Service Act (42 U.S.C. sec. 263a), as revised by the Clinical Laboratory Improvement Amendments (CLIA), Pub.L. 100-578.
- (9) (a) Every physician or other person legally permitted to engage in attendance upon a pregnant woman in the Commonwealth shall take or cause to be taken from the woman a specimen of blood which shall be submitted for the purpose of serologic testing for the presence of hepatitis C virus antibodies and RNA in the blood.
- (b) The results of this testing shall be recorded by the physician or other person legally permitted to engage in attendance upon a pregnant woman in the Commonwealth, in:
1. The permanent medical record of the woman; and
  2. The permanent medical record of the child or children she was pregnant with at the time of the testing after the child or children are born.
- (c) If the woman receives a test result that shows she is positive for hepatitis C virus antibodies or RNA, the physician or other person legally permitted to engage in attendance upon a pregnant woman in the Commonwealth shall orally inform and clearly document the woman or the legal guardian of the child or children she was pregnant with at the time of the testing, that it is recommended that serologic testing for the presence of hepatitis C virus antibodies and confirmation RNA in the blood be conducted on the child or children she was pregnant with at the time of the testing at the twenty-four (24) month recommended well baby pediatric check-up.

**Effective:** July 15, 2020

**History:** Amended 2020 Ky. Acts ch. 36, sec. 33, effective July 15, 2020. -- Amended 2018 Ky. Acts ch. 125, sec. 1, effective July 14, 2018. -- Amended 2005 Ky. Acts ch. 99, sec. 451, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 79, sec. 1, effective July 15, 1998; and ch. 426, sec. 398, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 442, sec. 3, effective July 14, 1992. -- Amended 1982 Ky. Acts ch. 146, sec. 1, effective June 15, 1982. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2062b-5.

**Legislative Research Commission Note** (7/14/2018). Under the authority of KRS 7.136(1), the Reviser of Statutes has altered the format of the text in subsection (8) of this statute during codification. The words in the text were not changed.