CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Epidemiology and Health Planning
(Amended at ARRS Committee)

901 KAR 5:120. Abortion reporting.

RELATES TO: KRS 213.101, 213.106, 213.172, 311.595, 311.720, 311.774, 311.781, 311.782, 311.783

STATUTORY AUTHORITY: KRS 194A.050(1), 213.021, 213.101(1), (10), 213.172(1), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of Kentucky citizens and to operate programs and fulfill the responsibilities vested in the cabinet. KRS 213.101(1) requires each abortion that occurs in the commonwealth to be reported to the Office of Vital Statistics. KRS 213.101(10) requires the Office of Vital Statistics to promulgate administrative regulations to assist in compliance with that statute. KRS 213.172(1) requires that each prescription dispensed for which the primary indication is the induction of abortion be reported to the Vital Statistics Branch within three (3) days after the end of the month in which the prescription was dispensed. This administrative regulation establishes the reporting criteria for abortions.

Section 1. Definitions.

(1) "Abortion" is defined by KRS 311.720(1).

(2) "Probable post-fertilization age" is defined by KRS 311.781(6).

(3) "Reasonable medical judgment" is defined by KRS 311.781(7).

(4) "Serious risk of the substantial and irreversible impairment of a major bodily function" is defined by KRS 311.781(8).

Section 2. Reporting.

(1) A person or institution shall comply with the reporting requirements of KRS 213.101(1) and (2).

(2) The report shall be filed irrelevant of the gestational age or probable post-fertilization age of the fetus at the time of the abortion.

(3) The report shall be made within three (3) days after the end of the month in which the abortion was performed through the cabinet's electronic database or on VS-913, Report of Abortion.

(4) The report shall:

(a) Contain the information required to be certified in writing including the following:

1. The probable post-fertilization age of the unborn child;

2. Whether the abortion was necessary to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman;

3. The available methods or techniques considered and the reasons for choosing the method or technique employed;

4. Whether the physician determined in his or her reasonable medical judgment that termination of the pregnancy in the manner selected provides the best opportunity for the unborn child to survive;

5. If the physician did not choose the method of abortion that provides the best chance of survival for the unborn child, whether the pregnancy termination in that manner would have posed a greater risk of death of the pregnant woman or a greater

risk of substantial and irreversible impairment of a major bodily function of the pregnant woman than other available methods of abortion; and

6. Any complications known to the provider as a result of the abortion, as established in KRS 311.774(3); and

(b) Not contain information that identifies the woman or man involved.

(5) Pursuant to KRS 213.106, a report shall be used in accordance with the provisions of KRS 213.101.

Section 3. Prescription Reporting.

(1) In accordance with KRS 213.101(5) and 213.172(1), each prescription for an abortion-inducing drug for which the primary indication is the induction of abortion shall be reported by the physician prescribing or dispensing the medicationwithin three (3) days after the end of the month in which the prescription was issued.

(2) In accordance with KRS 213.172(1), a pharmacy shall report each drug or combination of drugs for which the primary indication is the induction of an abortion within three (3) days after the end of the month in which the prescription was dispensed.

(3) The report shall be made through the cabinet's electronic database or on VS-913P, Abortion Prescription Reporting Form.

(4) The report shall:

(a) Contain the drug or combination or drugs prescribed or dispensed;

(b) The information required by 2022 Ky. Acts ch. 210; and

(c) Not contain information that identifies the woman or man involved.

Section 4. Penalties.

(1) Failure to comply with the provisions of KRS 213.101(1) through (4) shall subject the reporting person or institution to the penalties provided in KRS 213.101(8) and (9).

(2) Failure to comply with the provisions of KRS 213.172(1) and (2) shall subject the reporting pharmacist or pharmacy to the penalties provided in KRS 213.172(5) and (6).

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form VS-913P, "Abortion Prescription Reporting Form", 10/2022; and

(b) Form VS-913, "Report of Abortion", 12/2022.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, first floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may be obtained, subject to applicable copyright law, at https://chfs.ky.gov/agencies/dph/dehp/vsb/Pages/abreqadr.aspx.

(43 Ky.R. 2243; 44 Ky.R. 223; eff. 8-16-2017; TAm eff. 1-25-2019; 47 Ky.R. 418, 1393; eff. 2-4-2021; 49 Ky.R. 442, 1305, 1429; eff. 1-12-2023.)

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