213.101 Abortion required to be reported to Vital Statistics Branch -- Contents of report -- Public report by Vital Statistics Branch -- Administrative regulations -- Audit by Inspector General.

(1) Each abortion as defined in KRS 213.011 which occurs in the Commonwealth, regardless of the length of gestation, shall be reported to the Vital Statistics Branch by the person in charge of the institution within three (3) days after the end of the month in which the abortion occurred. If the abortion was performed outside an institution, the attending physician shall prepare and file the report within three (3) days after the end of the month in which the abortion occurred.

(2) The report shall include all the information the physician is required to certify in writing or determine under KRS 311.731, 311.732, 311.7704, 311.7705, 311.7706, 311.7707, 311.7735, 311.7736, 311.774, 311.782, and 311.783, and at a minimum:

(a) The full name and address of the physician who performed the abortion or provided the abortion-inducing drug as defined in KRS 311.7731;

(b) The address at which the abortion was performed or the address at which the abortion-inducing drug was provided by a qualified physician, or the method of obtaining the abortion-inducing drug if not provided by a qualified physician, including mail order, Internet order, or by a telehealth provider in which case identifying information for the pharmacy, Web site address, or the telemedicine provider shall be included;

(c) The names, serial numbers, National Drug Codes, lot numbers, and expiration dates of the specific abortion-inducing drugs that were provided to the pregnant patient and the dates each were provided;

(d) The full name and address of the referring physician, agency, or service, if any;

(e) The pregnant patient's city or town, county, state, country of residence, and zip code;

(f) The pregnant patient's age, race, and ethnicity;

(g) The age or approximate age of the father, if known;

(h) The total number and dates of each previous pregnancy, live birth, and abortion of the pregnant patient;

(i) The probable gestational and post-fertilization ages of the unborn child, the methods used to confirm the gestational and post-fertilization ages, and the date determined;

(j) A list of any pre-existing medical conditions of the pregnant patient that may complicate her pregnancy, if any, including hemorrhage, infection, uterine perforation, cervical laceration, retained products, or any other condition;

(k) Whether the fetus was delivered alive and the length of time the fetus survived;

(l) Whether the fetus was viable and, if viable, the medical reason for termination;

(m) Whether a pathological examination of the fetus was performed;

(n) Whether the pregnant patient returned for a follow-up examination, the

date and results of any such follow-up examination, and what reasonable efforts were made by the qualified physician to encourage the patient to reschedule a follow-up examination if the appointment was missed;

(o) Whether the woman suffered any complications or adverse events as defined in KRS 311.7731 and what specific complications or adverse events occurred, and any follow-up treatment provided as required by KRS 311.774;

(p) Whether the pregnant patient was Rh negative and, if so, was provided with an Rh negative information fact sheet and treated with the prevailing medical standard of care to prevent harmful fetal or child outcomes or Rh incompatibility in future pregnancies;

(q) The amount billed to cover the treatment for specific complications or adverse events, including whether the treatment was billed to Medicaid, private insurance, private pay, or other method. This should include ICD-10 codes reported and charges for any physician, hospital, emergency room, prescription or other drugs, laboratory tests, and any other costs for treatment rendered;

(r) The reason for the abortion, if known, including abuse, coercion, harassment, or trafficking; and

(s) Whether the pregnant patient was tested for sexually transmitted diseases when providing the informed consent required in KRS 311.725 and 311.7735 twenty-four (24) hours before the abortion procedure or tested at the time of the abortion procedure, and if the pregnant patient tested positive, was treated or referred for treatment and follow-up care.

(3) The report shall not contain:

(a) The name of the pregnant patient;

(b) Common identifiers such as a Social Security number and motor vehicle operator's license number; and

(c) Any other information or identifiers that would make it possible to ascertain the patient's identity.

(4) If a person other than the physician described in this subsection makes or maintains a record required by KRS 311.732, 311.7704, 311.7705, 311.7706, or 311.7707 on the physician's behalf or at the physician's direction, that person shall comply with the reporting requirement described in this subsection as if the person were the physician.

(5) Each prescription issued for an abortion-inducing drug as defined in KRS 311.7731 for which the primary indication is the induction of abortion as defined in KRS 213.011 shall be reported to the Vital Statistics Branch within three (3) days after the end of the month in which the prescription was issued as required by KRS 311.774, but the report shall not include information which will identify the woman involved or anyone who may be picking up the prescription on behalf of the woman.

(6) The name of the person completing the report and the reporting institution shall not be subject to disclosure under KRS 61.870 to 61.884.

(7) By September 30 of each year, the Vital Statistics Branch shall issue a public report that provides statistics on all data collected, including the type of

abortion procedure used, for the previous calendar year compiled from all of the reports covering that calendar year submitted to the cabinet in accordance with this section for each of the items listed in this section. Each annual report shall also provide statistics for all previous calendar years in which this section was in effect, adjusted to reflect any additional information from late or corrected reports. The Vital Statistics Branch shall ensure that none of the information included in the report could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed or attempted. Each annual report shall be made available on the cabinet's Web site.

(8) (a) Any person or institution who fails to submit a report by the end of thirty (30) days following the due date set in this section shall be subject to a late fee of five hundred dollars ($500) for each additional thirty (30) day period or portion of a thirty (30) day period the report is overdue.

(b) Any person or institution who fails to submit a report, or who has submitted only an incomplete report, more than one (1) year following the due date set in this section, may in a civil action brought by the Vital Statistics Branch be directed by a court of competent jurisdiction to submit a complete report within a time period stated by court order or be subject to contempt of court.

(c) Failure by any physician to comply with the requirements of this section, other than filing a late report, or to submit a complete report in accordance with a court order shall subject the physician to KRS 311.595.

(9) Intentional falsification of any report required under this section is a Class A misdemeanor.

(10) The Vital Statistics Branch shall promulgate administrative regulations in accordance with KRS Chapter 13A to assist in compliance with this section.

(11) (a) The Office of the Inspector General, Cabinet for Health and Family Services, shall annually audit the required reporting of abortion-related information to the Vital Statistics Branch in this section and KRS 213.172, and in so doing, shall function as a health oversight agency of the Commonwealth for this specific purpose.

(b) The Office of the Inspector General shall ensure that none of the information included in the audit report could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed or attempted.

(c) If any personally identifiable information is viewed or recorded by the Office of the Inspector General in conducting an audit authorized by this subsection, the information held by the Inspector General shall not be subject to the Kentucky Open Records Act, shall be confidential, and shall only be released upon court order.

(d) The Inspector General shall submit a written report to the General Assembly and the Attorney General by October 1 of each year. The reports shall include findings from:

1. The audit required in this subsection, including any identified reporting deficiencies; and

2. All abortion facility inspections, including any violations of KRS

216B.0431 and 216B.0435.

Effective: April 14, 2022

History: Amended 2022 Ky. Acts ch. 210, sec. 4, effective April 14, 2022. -- Amended 2020 Ky. Acts ch. 36, sec. 31, effective July 15, 2020. -- Amended 2019 Ky. Acts ch. 20, sec. 15, effective March 15, 2019; ch. 37, sec. 6, effective March 19, 2019; and ch. 191, sec. 1, effective June 27, 2019. -- Amended 2017 Ky. Acts ch. 5, sec. 9, effective January 9, 2017. -- Amended 2005 Ky. Acts ch. 99, sec. 438, effective June 20, 2005. -- Created 1990 Ky. Acts ch. 369, sec. 19, effective July 13, 1990.

Legislative Research Commission Note (4/14/2022). This statute was amended by 2022 Ky. Acts ch. 210, sec. 4. Section 38 of that Act states, "Sections 1 to 31 of this Act may be cited as the Humanity in Healthcare Act of 2022."

Legislative Research Commission Note (6/27/2019). This statute was amended by 2019 Ky. Acts chs. 20, 37, and 191. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 191, which was last enacted by the General Assembly, prevails under KRS 446.250.

Legislative Research Commission Note (3/19/2019). 2019 Ky. Acts ch. 37, sec. 8, provides that 2019 Ky. Acts ch. 37 may be cited as the "Human Rights of the Unborn Child and Anti-Discrimination Act." This statute was amended in Section 6 of that Act.