

**3701-47-03 Physician abortion reports.**

- (A) In addition to the data reported pursuant to division (C) of 3701.79 of the Revised Code, a physician who performs or induces or attempts to perform or induce an abortion on a woman after the beginning of the twentieth week of gestation shall submit a report on a form prescribed by the department of health with the following information:
- (1) Whether the attending physician performed a medical examination of the pregnant woman to determine the gestational age of the unborn child and the viability of the unborn child within forty eight hours before the performance or inducement of the abortion or the attempt to perform or induce the abortion;
  - (2) Whether or not, in the attending physician's good faith judgment, the unborn child was viable;
  - (3) The type of testing performed to determine gestational age and viability;
  - (4) Whether or not a medical emergency existed; and
  - (5) For abortions performed for which the physician has indicated under section (A)(2) of this rule that the unborn child is viable;
    - (a) Whether, in the attending physician's good faith judgment and based on the facts known to the physician at the time, the abortion was necessary to prevent the death of the pregnant woman or a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman and if a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman exists, the physician must document the specific nature of such risk;
    - (b) If the attending physician determined that the abortion was necessary to prevent the death of the pregnant woman or a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman, the name of the physician not professionally related to the attending physician who certified in writing that the abortion was necessary to prevent the death of the pregnant woman or a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman;
    - (c) If the attending physician determined that the abortion was necessary to prevent the death of the pregnant woman or a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman, the method or techniques considered and the reasons for choosing the method or technique employed when performing, inducing or attempting to induce an abortion; and
    - (d) Whether the abortion was based on a claim or diagnosis that the pregnant woman will engage in conduct that would result in the pregnant woman's death or a substantial and irreversible impairment of a major bodily function of the pregnant woman or on any reason related to the women's mental health.

- (B) A physician shall submit the report described in paragraph (A) of this rule to the department of health within fifteen days after the woman is discharged.
- (C) A physician who fails to submit the report described in paragraph (A) of this rule more than thirty days after the fifteen-day deadline, shall be subject to a late fee of five hundred dollars for each additional thirty-day period or portion of a thirty-day period the report is overdue.
- (D) A physician who is required to submit to the department of health a report under paragraph (A) of this rule and who has not submitted a report or has submitted an incomplete report more than one year following the fifteen-day deadline may, in an action brought by the department of health, be directed by a court of competent jurisdiction to submit a complete report to the department of health within a period of time stated in a court order or be subject to contempt of court.
- (E) A physician who fails to comply with the requirements of this rule, other than filing a late report with the department of health, or fails to submit a complete report to the department of health in accordance with a court order is subject to division (B)(41) of section 4731.22 of the Revised Code.
- (F) For purposes of this rule, "viable" means the stage of development of a human fetus at which in the determination of a physician, based on the particular facts of a woman's pregnancy that are known to the physician and in light of medical technology and information reasonably available to the physician, there is a realistic possibility of the maintaining and nourishing of a life outside of the womb with or without temporary artificial life-sustaining support.
- (G) A physician who, between October 20, 2011 and the effective date of this rule, has performed or induced or attempted to perform or induce an abortion on a woman after the beginning of the twentieth week of gestation shall submit a report to the department of health that includes all of the information the physician is required to certify in writing or determine under sections 2919.17 and 2919.18 of the Revised Code not later than March 1, 2012. A physician may use the forms prescribed by the department of health to submit such reports.
- (H) The department of health may require all reports required by section 2919.171 of the Revised Code and this rule to be filed electronically. Until such time as the department of health approves an electronic reporting form, reports shall be submitted on paper forms approved by the department of health.

Effective: 01/19/2012

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CERTIFIED ELECTRONICALLY

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Certification

01/09/2012

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Date

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