

653-13.17 (135L, 146A, 146E, 147, 148, 272C) Standards of practice for physicians who perform or induce abortions – definitions – detection of fetal heartbeat – fetal heartbeat exceptions – discipline.

13.17(1): This section sets forth the standards of practice for physicians who perform or induce abortions. *See* Iowa Code section 146E.2(5).

13.17(2): *Definitions.* As used in this section or in Iowa Code section 146E:

a. “Private health agency” means any establishment, facility, organization, or other entity that is not owned by a federal, state, or local government that either is a health care provider or employs or provides the services of a health care provider. Establishments, facilities, organizations, or other entities that are health care providers include the following:

1. a hospital as defined in Iowa Code section 135B.1;
2. a health care facility as defined in Iowa Code section 135C.1;
3. a health facility as defined in Iowa Code section 135P.1; or
4. other similar entities that either are or employ or provide the services of a health care provider.

b. “Public health agency” means any establishment; facility; organization; administrative division; or entity that is owned by a federal, state, or local government that either is a health care provider or employs or provides the services of a health care provider. Establishments, facilities, organizations, administrative divisions, or other entities that are health care providers include the following:

1. a hospital as defined in Iowa Code section 135B.1;
2. a health care facility as defined in Iowa Code section 135C.1;
3. a health facility as defined in Iowa Code section 135P.1; or
4. other similar entities that either are or employ or provide the services of a health care provider.

c. The phrase “*the pregnancy is the result of incest*” means a circumstance in which a sex act occurs between closely related persons that

involves a vaginal penetration that causes a pregnancy. The closely related persons must be related, either legitimately or illegitimately, as an ancestor, descendant, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew. For purposes of this rule, a closely related person includes a stepparent, stepchild, or stepsibling, including siblings through adoption.

d. The phrase “*the pregnancy is the result of a rape*” means a circumstance in which the pregnancy is the result of conduct that would constitute an offense under sections 709.2, 709.3, 709.4, or 709.4A of the Iowa Code, when perpetrated against a female, regardless of where the conduct occurred.

e. “*Standard medical practice*” means the degree of skill, care, and diligence that a physician of the same medical specialty would employ in like circumstances. As applied to the method used to determine the presence of a fetal heartbeat for purposes of Iowa Code section 146E and this section, “standard medical practice” includes employing the appropriate means of detection depending on the estimated gestational age of the unborn child and the condition of the woman and her pregnancy.

f. “*Unborn child*” means an individual organism of the species homo sapiens from fertilization to live birth—that is, at all stages of development, including embryo and fetus.

“*Woman*” means a female individual regardless of her age.

3.17(3): *Detection of fetal heartbeat.* A physician who intends to perform or induce an abortion must determine via ultrasound whether the woman is carrying an unborn child with a detectable fetal heartbeat.

a. Obligation. The obligation under this section requires a bona fide effort to detect a fetal heartbeat in the unborn child. This effort must be made in good faith and according to standard medical practice and reasonable medical judgment.

b. Method. The physician shall perform a transabdominal pelvic ultrasound on the woman to determine whether the unborn child has a detectable fetal heartbeat. This shall be performed in a manner consistent with standard medical practice, with real-time ultrasound equipment with a transducer of appropriate frequency. The equipment must be properly maintained and in proper functioning order.

13.17(4): *Fetal heartbeat exceptions.* The following applies to a physician who intends to perform or induce an abortion under a fetal heartbeat exception as defined in Iowa Code section 146E and this section:

a. For purposes of this rule, a pregnancy resulting from incest or rape may be reported within the appropriate timeframe to a licensed physician whose services are retained for an abortion procedure.

b. To determine whether a pregnancy is the result of incest, a physician who intends to perform or induce an abortion must use the following information:

- Whether a sex act occurred between the woman and a closely related person, meaning, either legitimately or illegitimately, an ancestor, descendant, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew, including a stepparent, stepchild, or stepsibling to include an adopted sibling.
- The date the act occurred.
- If initial reporting was to someone other than the physician who intends to perform or induce an abortion, the date the act was reported to a law enforcement agency, public health agency, private health agency, or family physician.

The physician who intends to perform or induce an abortion shall use this information to determine whether the fetal heartbeat exception for incest applies. This rule does not prescribe the manner in which the physician is to obtain this information. This information and its source shall be documented in the woman's medical records.

The physician who intends to perform or induce an abortion may rely on the information received upon a good-faith assessment that the information is true.. The physician who intends to perform or induce an abortion may require the person providing the information to sign a certification form attesting that the information is true.

c. To determine whether a pregnancy is the result of rape, a physician who intends to perform or induce an abortion must use the following information:

- The date the sex act that caused the pregnancy occurred.
- The age of the woman seeking an abortion at the time of that sex act.

- Whether the sex act constituted a rape.
- Whether the rape was perpetrated against the woman seeking an abortion.
- If initial reporting was to someone other than the physician who intends to perform or induce an abortion, the date the rape was reported to a law enforcement agency, public health agency, private health agency, or family physician.

The physician who intends to perform or induce an abortion shall use this information to determine whether the fetal heartbeat exception for rape applies. This rule does not prescribe the manner in which the physician is to obtain this information. This information and its source shall be documented in the woman's medical records.

The physician who intends to perform or induce an abortion may rely on the information they receive upon a good-faith assessment that the information is true. The physician who intends to perform or induce an abortion may require the person providing the information to sign a certification form attesting that the information is true.

d. A certification from an attending physician that a fetus has a fetal abnormality that in the attending physician's reasonable medical judgment is incompatible with life must contain the following information:

- The diagnosis of the abnormality;
- The basis for the diagnosis, including the tests and procedures performed, the results of those tests and procedures, and why those results support the diagnosis; and
- A description of why the abnormality is incompatible with life.

The diagnosis and the attending physician's conclusion must be reached in good faith following a bona fide effort, consistent with standard medical practice and reasonable medical judgment, to determine the health of the fetus. The certification must be signed by the attending physician. A physician who intends to perform or induce an abortion may rely in good faith on a certification from an attending physician if the physician who intends to perform or induce an abortion has a copy of the certification. The certification must be included by the physician who intends to perform or induce an abortion in the woman's medical records.

13.17(5): *Discipline.* Failure to comply with this rule or the requirements of Iowa Code section 146E may constitute grounds for discipline.

Proposed Rules
for 146E