



The Department of Inspections, Appeals, and Licensing understands that misleading information exists regarding Iowa’s Fetal Heartbeat Law, which has caused confusion among some healthcare professionals. Any time misleading information causes confusion among healthcare professionals, it could cause harm to the health and well-being of their patients. The following guidance is being provided in hopes of avoiding such situations.

**Background:** any physician performing an abortion shall, at least twenty-four hours prior to performing an abortion, certify that the woman (1) has undergone an ultrasound imaging of the unborn child that displays the approximate age of the unborn child, (2) was given the opportunity to see the unborn child by viewing the ultrasound image, (3) was given the option of hearing a description of the unborn child based on the ultrasound image and hearing the heartbeat, if one, and (4) was provided reference materials developed by Health and Human Services Department related to abortion, pregnancy, and options. Iowa Code § 146A.1. These are informed consent provisions that predate the Fetal Heartbeat Law.

**Summary:** the Fetal Heartbeat Law was signed into law on July 14, 2023, and prohibits certain actions relating to abortion. The law prohibits the performance or inducement of an abortion if the unborn child has fetal heartbeat. A physician performing or inducing an abortion must first determine that (1) the requirements of section 146A.1 have been complied with and (2) determine using a transabdominal pelvic ultrasound whether the unborn child has a detectable fetal heartbeat. Documentation of both the informed consent and the testing for a fetal heartbeat shall be recorded in the women’s medical record. The law does NOT prohibit an abortion if it was performed or induced due to a medical emergency, including fetal abnormalities that are incompatible with life; or if the pregnancy resulted from rape or incest.

**Iowa law does not prohibit:**

- Abortions occurring prior to the development of a fetal heartbeat. Iowa Code § 146E.2(1).
- Removal of the remains of an unborn child who has already died, i.e., miscarriage or stillborn. Iowa Code § 146E.1(1) and (3)(c).
- During the practice of in vitro fertilization, the termination or loss of life of an unborn child who is not being carried inside a woman’s body. Iowa Code §§ 146E.1, 146E.2, and Iowa Admin. Code r. 653-13.17 (for abortion restrictions to apply there must a detectable fetal heartbeat using a transabdominal pelvic ultrasound on the woman).

**Rape or Incest**

Iowa law provides that it shall not be a violation for a physician to perform or induce an abortion in the case of a pregnancy resulting from rape or incest.

A pregnancy that is the result of incest means a circumstance in which a sex act occurred between closely related persons that caused the pregnancy. 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, and includes a stepparent, stepchild, or stepsibling. For the exception to apply, incest must be reported within 140 days of the incident that caused the pregnancy to either a law enforcement agency, a public or private health agency, OR a family physician.



A pregnancy that is the result of rape means a circumstance in which the pregnancy is the result of conduct that would constitute an offense under Iowa Code section 709.2, 709.3, 709.4, or 709.4A when perpetrated against a female, regardless of where the conduct occurred. For the exception to apply, rape must be reported within 45 days of the incident that caused the pregnancy to either a law enforcement agency, a public or private health agency, OR a family physician.

The physician who intends to perform the abortion shall obtain information from the woman to determine whether the rape or incest was reported timely. The physician may rely on the information received from the woman upon a good-faith assessment that the information is true. The information obtained shall be documented in the woman's medical records.

### **Medical Emergencies**

An abortion may be performed if a medical emergency exists. Medical emergencies are any physical condition which, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the termination of her pregnancy to avert her death or for which a delay in terminating her pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function. Iowa Code §§ 146E.1(4), 146E.2(2)(a), 146A.1(6). Reasonable medical judgments are judgments that can be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved. Iowa Code § 146E.1(6).

### **Fetal Abnormalities**

An abortion may be performed when the fetus has a fetal abnormality which, in reasonable medical judgment, is incompatible with life. Iowa Code § 146E.1(3)(d).

The law does not require a medical emergency to be immediate. Physicians understand that it is difficult to predict with certainty whether a situation will cause a patient to become seriously ill or die, but physicians do know what situations could lead to serious outcomes.

Physicians should exercise their best clinical judgment, and the law allows intervention consistent with prevailing standards of care. The law is deferential to a physician's judgment in these circumstances.

This law has been in place for over a year and no disciplinary action has taken place for violations of the law. Doctors use their medical judgment on a regular and routine basis for all medical issues that arise.