

1 AN ACT relating to informed consent for medical examinations.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section, "informed consent" means the signing of a medical*
6 *examination consent form by the patient or a person authorized to make health*
7 *care decisions for the patient that satisfies the following conditions:*

8 *(a) Is written in plain language or is communicated by a method the patient or*
9 *person authorized to make health care decisions for the patient is able to*
10 *understand;*

11 *(b) Is dated;*

12 *(c) Includes a description of the procedure to be performed; and*

13 *(d) States whether a student or medical resident will perform or be present at*
14 *the patient's examination.*

15 *(2) A health care provider shall not knowingly perform or supervise the performance*
16 *of a pelvic, rectal, or prostate examination on a patient who is anesthetized,*
17 *unconscious, undergoing a prenatal visit, or giving birth unless one of the*
18 *following applies:*

19 *(a) The patient or the person authorized to make health care decisions for the*
20 *patient has given informed consent to the examination;*

21 *(b) The examination is necessary for diagnostic or treatment purposes;*

22 *(c) An emergency exists that makes it impracticable to obtain informed consent*
23 *and the examination is necessary for diagnostic or treatment purposes; or*

24 *(d) A court of competent jurisdiction orders the performance of the*
25 *examination for the collection of evidence and the order is issued in*
26 *compliance with all of the following provisions:*

27 *1. The court finds that there is a compelling need for the examination*

- 1 that cannot be accommodated by other means. In assessing
2 compelling need, the court shall weigh the need for the examination
3 and the disclosure of the results against the privacy interest of the
4 individual to be examined; and
- 5 2. Pleadings pertaining to the ordering of the examination shall
6 substitute a pseudonym for the true name of the subject of the
7 examination. The true name shall be communicated confidentially to
8 the court and kept under seal of the court.
- 9 (3) A health care provider shall notify the patient as soon as reasonably practical that
10 an examination was performed.
- 11 (4) A health care provider who violates subsection (2) of this section shall be subject
12 to discipline by the appropriate professional licensing or certification board.