

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 216.2950 TO 216.2980 IS  
4 CREATED TO READ AS FOLLOWS:

5 (1) For the purpose of this section, "informed consent" means the signing of a  
6 medical examination consent form by the patient or a person authorized to make  
7 health care decisions for the patient that satisfies all of 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 (1)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  
10                  that 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.