

CHAPTER 89
DECISION-MAKING ASSISTANCE PROGRAM
AND PARENTAL NOTIFICATION OF INTENT
TO TERMINATE A PREGNANCY THROUGH ABORTION

641—89.1(135L) Title. This chapter may be cited as “Decision-Making Assistance Program and Parental Notification of Intent to Terminate a Pregnancy Through Abortion.”

641—89.2(135L) Purpose and scope. The rules contained in this chapter govern the procedures and documentation necessary for notification of a parent or grandparent of a pregnant minor prior to the termination of the pregnancy through abortion. These rules also describe the certification procedure for the decision-making assistance program.

641—89.3(135L) Definitions. The following definitions shall apply throughout the chapter.

“*Abortion*” means an abortion as defined in Iowa Code chapter 146.

“*Adult*” means a person 18 years of age or older.

“*Certification form*” means the form included in the written decision-making materials developed by the department.

“*Court*” means juvenile court.

“*Department*” means the Iowa department of public health.

“*Grandparent*” means the parent of an individual who is the parent of the pregnant minor.

“*Licensed physician*” means a physician as licensed by the Iowa board of medical examiners, Iowa Code chapters 148, 150, and 150A.

“*Medical emergency*” means a condition which, based upon a physician’s judgment, necessitates an abortion to avert the pregnant minor’s death, or for which a delay will create a risk of serious impairment of a major bodily function.

“*Minor*” means a person under 18 years of age who has not been and is not married.

“*Parent*” means a parent or a legal guardian or custodian of a pregnant minor.

“*Video*” means the video developed by the Iowa department of public health which provides information regarding the various options available to a pregnant minor with regard to the pregnancy, including a decision to continue the pregnancy to term and retain parental rights following the child’s birth, a decision to continue the pregnancy to term and place the child for adoption following the child’s birth, and a decision to terminate the pregnancy through abortion.

“*Written decision-making materials*” means the materials developed by the Iowa department of public health which provide information regarding the various options available to a pregnant minor with regard to the pregnancy as outlined in the definition of video.

641—89.4 to 89.10 Reserved.

DECISION-MAKING ASSISTANCE PROGRAM

641—89.11(135L) Purpose. The program is intended to provide assistance to minors in making informed decisions relating to pregnancy through the use of the video and written decision-making materials developed by the department.

89.11(1) The video and written decision-making materials contain information regarding the following options available to a pregnant minor with regard to the pregnancy:

- a. Continue the pregnancy to term and retain parental rights following the child’s birth;
- b. Continue the pregnancy to term and place the child for adoption following the child’s birth; and
- c. Terminate the pregnancy through abortion.

89.11(2) Reserved.

641—89.12(135L) Initial appointment of a pregnant minor with a licensed physician from whom an abortion is sought and certification procedure for the decision-making assistance program.

89.12(1) A licensed physician from whom a pregnant minor is seeking the performance of an abortion shall offer the viewing of the video and the written decision-making materials to the pregnant minor during the initial appointment relating to those services.

89.12(2) The pregnant minor shall sign and date the certification form provided in the written decision-making materials or an exact replica certifying that she has been offered a viewing of the video and the written decision-making materials.

a. The minor shall complete a certification form for the licensed physician providing medical services relating to the termination of the minor's pregnancy.

b. The licensed physician from whom an abortion is sought shall keep the original certification form as a part of the minor's medical record relating to the termination of the pregnancy.

c. A copy of the completed certification form shall be provided to the pregnant minor.

89.12(3) A licensed physician shall not knowingly perform an abortion on a pregnant minor prior to obtaining the completed certification form and completing the notification process.

641—89.13 to 89.20 Reserved.

NOTIFICATION PROCESS

641—89.21(135L) Notification of parent prior to the performance of abortion on a pregnant minor.

89.21(1) Notification shall be made to the parent of the pregnant minor at least 48 hours prior to the termination of a pregnancy through abortion unless a judicial waiver is granted as provided in Iowa Code section 135L.3, or unless any of the conditions of rule 89.22(135L) have been met.

a. The licensed physician who will perform the abortion shall provide notification in person or by mailing the notification by restricted certified mail to a parent of the pregnant minor at the usual place of abode of the parent.

b. For the purpose of delivery by restricted certified mail, the time of delivery is deemed to occur at 12 noon on the next day on which regular mail delivery takes place, subsequent to the mailing.

c. The notification form shall be in duplicate in the form that may be provided by the department or shall be in duplicate and include, at a minimum, the following:

(1) The name of the minor.

(2) Notification of the intent to terminate the pregnancy.

(3) The name, address, and relationship of the person to be notified.

d. The licensed physician who will perform the abortion shall keep the original notification form as a part of the minor's medical record relating to the termination of the pregnancy.

e. A copy of the completed notification form shall be provided to the pregnant minor.

89.21(2) If the pregnant minor objects to the notification of a parent prior to the performance of an abortion on the pregnant minor, the pregnant minor may petition the court to authorize waiver of the notification requirement pursuant to Iowa Code section 135L.3.

641—89.22(135L) Exceptions to notification of parent. The requirements of rule 89.21(135L) do not apply if any of the following conditions exist:

89.22(1) The abortion is authorized in writing by a parent entitled to notification.

89.22(2) The pregnant minor declares, in a written statement submitted to the licensed physician who will perform the abortion, a reason for not notifying a parent and a reason for notifying a grandparent of the pregnant minor in lieu of the notification of a parent.

a. The licensed physician who will perform the abortion shall keep all written documentation as a part of the minor's medical record relating to the termination of the pregnancy.

b. Upon receipt of the written statement from the pregnant minor, the licensed physician who will perform the abortion shall provide notification to a grandparent of the pregnant minor, specified by the pregnant minor, in the manner in which the notification of a parent was prescribed in rule 89.21(135L).

c. The notification form shall be in duplicate in the form that may be provided by the department or shall be in duplicate and include, at a minimum, the following:

- (1) The name of the minor.
- (2) Notification of the intent to terminate the pregnancy.
- (3) The name, address, and relationship of the person to be notified.
- (4) A declaration which informs the grandparent of the pregnant minor that the grandparent of the pregnant minor may be subject to civil action if the grandparent accepts notification.
- (5) A provision that the grandparent of the pregnant minor may refuse acceptance of notification and a provision that the grandparent immediately contact the licensed physician if refusing acceptance of the notification.

d. The licensed physician who will perform the abortion shall keep the original notification form as a part of the minor's medical record relating to the termination of the pregnancy.

e. A copy of the completed notification form shall be provided to the pregnant minor.

89.22(3) The licensed physician who will perform the abortion certifies in writing that a medical emergency exists which necessitates the immediate performance of an abortion in accordance with Iowa Code chapter 135L. The physician shall certify in writing the basis for the medical judgment that a medical emergency exists and place this written certification in the medical file of the pregnant minor.

89.22(4) The pregnant minor declares that the pregnant minor is a victim of child abuse pursuant to Iowa Code section 232.68, the person responsible for the care of the child is a parent of the child, and either the abuse has been reported pursuant to the procedures prescribed in Iowa Code chapter 232, division III, part 2, or a parent of the child is named in a report of founded child abuse.

89.22(5) The pregnant minor declares that the pregnant minor is a victim of sexual abuse as defined in Iowa Code chapter 709 and has reported the sexual abuse to law enforcement.

89.22(6) The pregnant minor elects not to allow notification of the pregnant minor's parent and a court authorizes waiver of the notification requirement following completion of the proceedings prescribed under Iowa Code chapter 135L.

641—89.23(135L) Physician compliance. A licensed physician shall not perform an abortion on a pregnant minor prior to compliance with the requirements outlined in rule 89.21(135L) or 89.22(135L).

641—89.24 and 89.25 Reserved.

641—89.26(135L) Fraudulent practice. A person who does any of the following is guilty of a fraudulent practice in the fourth degree pursuant to Iowa Code section 714.12:

89.26(1) Knowingly tenders a false original or copy of the signed and dated certification form described in rule 89.12(135L) or Iowa Code section 135L.2, to be retained by the licensed physician.

89.26(2) Knowingly tenders a false original or copy of the notification document mailed to a parent or grandparent of the pregnant minor under this chapter, a false original or copy of the written certification to be provided to a parent of a pregnant minor pursuant to rule 89.22(135L) or Iowa Code section 135L.6, or a false original or copy of the order waiving notification relative to the performance of an abortion on a pregnant minor.

These rules are intended to implement Iowa Code chapter 135L as amended by 1997 Iowa Acts, House File 121.

[Filed emergency 11/14/96 after Notice 10/9/96—published 12/4/96, effective 1/1/97]

[Filed emergency 7/11/97 after Notice 6/4/97—published 7/30/97, effective 7/11/97]