

ABORTION CHANGES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Daniel McCay

6	Cosponsors:	Katy Hall	Jefferson Moss
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LONG TITLE

General Description:

This bill modifies provisions related to abortion.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ requires abortions to be performed in a hospital, with some exceptions;
- ▶ prohibits licensing of abortion clinics after May 2, 2023, but allows licensing of certain clinics for providing an abortion if the clinic meets certain standards;
- ▶ removes certain references to abortion clinics;
- ▶ provides that inducing or performing an abortion contrary to statutory requirements is unprofessional conduct for a physician, osteopathic physician, physician assistant, advanced practice registered nurse, certified nurse midwife, and direct-entry midwife;

28 ▶ modifies provisions that govern what constitutes a medical emergency in relation to
29 an abortion;

30 ▶ modifies the conditions under which an abortion may be performed to protect the
31 life or health of the mother;

32 ▶ amends language related to medical defects of a fetus;

33 ▶ repeals the statute that established a prohibition on abortions after 18 weeks and
34 incorporates its contents into existing statute, replacing language that established
35 now-superseded viability standards;

36 ▶ standardizes language between various statutes that regulate abortion;

37 ▶ requires a physician, in the case of a diagnosis of a lethal fetal anomaly, to give
38 notice of the availability of perinatal hospice and perinatal palliative care services as
39 an alternative to abortion;

40 ▶ treats an individual who becomes pregnant at a certain age as having the same
41 access to abortion services as rape or incest situations;

42 ▶ prohibits the ability to receive an abortion due to rape or incest if the unborn child
43 has reached 18 weeks gestational age;

44 ▶ requires updates to abortion information modules to match current law;

45 ▶ modifies state of mind standards for criminal acts;

46 ▶ provides for severability;

47 ▶ provides for regulation of drugs that are known to be used in relation to an abortion;

48 ▶ creates a criminal offense for prescribing a drug for the purpose of causing an
49 abortion, unless the prescriber is licensed as a physician under the laws of this state;

50 and

51 ▶ makes technical changes.

52 **Money Appropriated in this Bill:**

53 None

54 **Other Special Clauses:**

55 None

56 **Utah Code Sections Affected:**

57 AMENDS:

- 58 **26-21-2**, as last amended by Laws of Utah 2022, Chapter 255
- 59 **26-21-6.5**, as last amended by Laws of Utah 2018, Chapter 282
- 60 **26-21-7**, as last amended by Laws of Utah 2019, Chapter 349
- 61 **26-21-8**, as last amended by Laws of Utah 2016, Chapter 74
- 62 **26-21-11**, as last amended by Laws of Utah 1997, Chapter 209
- 63 **26-21-25**, as last amended by Laws of Utah 2010, Chapter 218
- 64 **58-31b-502**, as last amended by Laws of Utah 2022, Chapter 290
- 65 **58-44a-502**, as last amended by Laws of Utah 2020, Chapter 25
- 66 **58-67-304**, as last amended by Laws of Utah 2020, Chapters 12, 339
- 67 **58-67-502**, as last amended by Laws of Utah 2021, Chapter 337
- 68 **58-68-304**, as last amended by Laws of Utah 2020, Chapters 12, 339
- 69 **58-68-502**, as last amended by Laws of Utah 2021, Chapter 337
- 70 **58-70a-501**, as last amended by Laws of Utah 2021, Chapter 312
- 71 **58-77-603**, as enacted by Laws of Utah 2005, Chapter 299
- 72 **63I-2-276**, as last amended by Laws of Utah 2022, Chapter 117
- 73 **76-7-301**, as last amended by Laws of Utah 2021, Chapter 262
- 74 **76-7-302**, as last amended by Laws of Utah 2022, Chapter 335
- 75 **76-7-302.4**, as enacted by Laws of Utah 2019, Chapter 124
- 76 **76-7-304**, as last amended by Laws of Utah 2018, Chapter 282
- 77 **76-7-304.5**, as last amended by Laws of Utah 2022, Chapter 287
- 78 **76-7-305**, as last amended by Laws of Utah 2022, Chapter 181
- 79 **76-7-305.5**, as last amended by Laws of Utah 2020, Chapter 251
- 80 **76-7-313**, as last amended by Laws of Utah 2019, Chapters 124, 208
- 81 **76-7-314**, as last amended by Laws of Utah 2019, Chapter 208
- 82 **76-7-314.5**, as last amended by Laws of Utah 2010, Chapter 13
- 83 **76-7-317**, as enacted by Laws of Utah 1974, Chapter 33

84 **76-7a-101**, as last amended by Laws of Utah 2021, Chapter 262

85 **76-7a-201**, as enacted by Laws of Utah 2020, Chapter 279

86 ENACTS:

87 **76-7-332**, Utah Code Annotated 1953

88 REPEALS:

89 **76-7-302.5**, as enacted by Laws of Utah 2019, Chapter 208



91 *Be it enacted by the Legislature of the state of Utah:*

92 Section 1. Section **26-21-2** is amended to read:

93 **26-21-2. Definitions.**

94 As used in this chapter:

95 (1) (a) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

96 (b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under

97 Section **76-7-301** or Section **76-7a-101**.

98 (2) "Activities of daily living" means essential activities including:

99 (a) dressing;

100 (b) eating;

101 (c) grooming;

102 (d) bathing;

103 (e) toileting;

104 (f) ambulation;

105 (g) transferring; and

106 (h) self-administration of medication.

107 (3) "Ambulatory surgical facility" means a freestanding facility, which provides
108 surgical services to patients not requiring hospitalization.

109 (4) "Assistance with activities of daily living" means providing of or arranging for the
110 provision of assistance with activities of daily living.

111 (5) (a) "Assisted living facility" means:

112 (i) a type I assisted living facility, which is a residential facility that provides assistance
113 with activities of daily living and social care to two or more residents who:

114 (A) require protected living arrangements; and

115 (B) are capable of achieving mobility sufficient to exit the facility without the
116 assistance of another person; and

117 (ii) a type II assisted living facility, which is a residential facility with a home-like
118 setting that provides an array of coordinated supportive personal and health care services
119 available 24 hours per day to residents who have been assessed under department rule to need
120 any of these services.

121 (b) Each resident in a type I or type II assisted living facility shall have a service plan
122 based on the assessment, which may include:

123 (i) specified services of intermittent nursing care;

124 (ii) administration of medication; and

125 (iii) support services promoting residents' independence and self sufficiency.

126 (6) "Birthing center" means a facility that:

127 (a) receives maternal clients and provides care during pregnancy, delivery, and
128 immediately after delivery; and

129 (b) (i) is freestanding; or

130 (ii) is not freestanding, but meets the requirements for an alongside midwifery unit
131 described in Subsection 26-21-29(7).

132 (7) "Committee" means the Health Facility Committee created in Section 26B-1-204.

133 (8) "Consumer" means any person not primarily engaged in the provision of health care
134 to individuals or in the administration of facilities or institutions in which such care is provided
135 and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in
136 the provision of health care, and does not receive, either directly or through his spouse, more
137 than 1/10 of his gross income from any entity or activity relating to health care.

138 (9) "End stage renal disease facility" means a facility which furnishes staff-assisted
139 kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

140 (10) "Freestanding" means existing independently or physically separated from another
141 health care facility by fire walls and doors and administrated by separate staff with separate
142 records.

143 (11) "General acute hospital" means a facility which provides diagnostic, therapeutic,
144 and rehabilitative services to both inpatients and outpatients by or under the supervision of
145 physicians.

146 (12) "Governmental unit" means the state, or any county, municipality, or other
147 political subdivision or any department, division, board, or agency of the state, a county,
148 municipality, or other political subdivision.

149 (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home
150 health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing
151 centers, ambulatory surgical facilities, small health care facilities, abortion clinics, a clinic that
152 meets the definition of hospital under Section [76-7-301](#) or [76-7a-201](#), facilities owned or
153 operated by health maintenance organizations, end stage renal disease facilities, and any other
154 health care facility which the committee designates by rule.

155 (b) "Health care facility" does not include the offices of private physicians or dentists,
156 whether for individual or group practice, except that it does include an abortion clinic.

157 (14) "Health maintenance organization" means an organization, organized under the
158 laws of any state which:

159 (a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

160 (b) (i) provides or otherwise makes available to enrolled participants at least the
161 following basic health care services: usual physician services, hospitalization, laboratory, x-ray,
162 emergency, and preventive services and out-of-area coverage;

163 (ii) is compensated, except for copayments, for the provision of the basic health
164 services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a
165 periodic basis without regard to the date the health services are provided and which is fixed
166 without regard to the frequency, extent, or kind of health services actually provided; and

167 (iii) provides physicians' services primarily directly through physicians who are either

168 employees or partners of such organizations, or through arrangements with individual
169 physicians or one or more groups of physicians organized on a group practice or individual
170 practice basis.

171 (15) (a) "Home health agency" means an agency, organization, or facility or a
172 subdivision of an agency, organization, or facility which employs two or more direct care staff
173 persons who provide licensed nursing services, therapeutic services of physical therapy, speech
174 therapy, occupational therapy, medical social services, or home health aide services on a
175 visiting basis.

176 (b) "Home health agency" does not mean an individual who provides services under
177 the authority of a private license.

178 (16) "Hospice" means a program of care for the terminally ill and their families which
179 occurs in a home or in a health care facility and which provides medical, palliative,
180 psychological, spiritual, and supportive care and treatment.

181 (17) "Nursing care facility" means a health care facility, other than a general acute or
182 specialty hospital, constructed, licensed, and operated to provide patient living
183 accommodations, 24-hour staff availability, and at least two of the following patient services:

184 (a) a selection of patient care services, under the direction and supervision of a
185 registered nurse, ranging from continuous medical, skilled nursing, psychological, or other
186 professional therapies to intermittent health-related or paraprofessional personal care services;

187 (b) a structured, supportive social living environment based on a professionally
188 designed and supervised treatment plan, oriented to the individual's habilitation or
189 rehabilitation needs; or

190 (c) a supervised living environment that provides support, training, or assistance with
191 individual activities of daily living.

192 (18) "Person" means any individual, firm, partnership, corporation, company,
193 association, or joint stock association, and the legal successor thereof.

194 (19) "Resident" means a person 21 years old or older who:

195 (a) as a result of physical or mental limitations or age requires or requests services

196 provided in an assisted living facility; and

197 (b) does not require intensive medical or nursing services as provided in a hospital or
198 nursing care facility.

199 (20) "Small health care facility" means a four to 16 bed facility that provides licensed
200 health care programs and services to residents.

201 (21) "Specialty hospital" means a facility which provides specialized diagnostic,
202 therapeutic, or rehabilitative services in the recognized specialty or specialties for which the
203 hospital is licensed.

204 (22) "Substantial compliance" means in a department survey of a licensee, the
205 department determines there is an absence of deficiencies which would harm the physical
206 health, mental health, safety, or welfare of patients or residents of a licensee.

207 (23) "Type I abortion clinic" means a facility, including a physician's office, but not
208 including a general acute or specialty hospital, that:

209 (a) performs abortions, as defined in Section 76-7-301, during the first trimester of
210 pregnancy; and

211 (b) does not perform abortions, as defined in Section 76-7-301, after the first trimester
212 of pregnancy.

213 (24) "Type II abortion clinic" means a facility, including a physician's office, but not
214 including a general acute or specialty hospital, that:

215 (a) performs abortions, as defined in Section 76-7-301, after the first trimester of
216 pregnancy; or

217 (b) performs abortions, as defined in Section 76-7-301, during the first trimester of
218 pregnancy and after the first trimester of pregnancy.

219 Section 2. Section 26-21-6.5 is amended to read:

220 **26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee --**

221 **Licensing of a clinic meeting the definition of hospital.**

222 (1) (a) No abortion clinic may operate in the state on or after January 1, 2024, or the
223 last valid date of an abortion clinic license issued under the requirements of this section,

224 whichever date is later.

225 (b) Notwithstanding Subsection (1)(a), a licensed abortion clinic may not perform an
226 abortion in violation of any provision of state law.

227 (2) The state may not issue a license for an abortion clinic after May 2, 2023.

228 (3) For any license for an abortion clinic that is issued under this section:

229 (a) A type I abortion clinic may not operate in the state without a license issued by the
230 department to operate a type I abortion clinic.

231 ~~(b)~~ (b) A type II abortion clinic may not operate in the state without a license issued
232 by the department to operate a type II abortion clinic.

233 ~~(c)~~ (c) The department shall make rules establishing minimum health, safety,
234 sanitary, and recordkeeping requirements for:

235 ~~(i)~~ (i) a type I abortion clinic; and

236 ~~(ii)~~ (ii) a type II abortion clinic.

237 ~~(d)~~ (d) To receive and maintain a license described in this section, an abortion clinic
238 shall:

239 ~~(i)~~ (i) apply for a license on a form prescribed by the department;

240 ~~(ii)~~ (ii) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping
241 requirements established under Subsection ~~(3)~~ (3)(c) that relate to the type of abortion clinic
242 licensed;

243 ~~(iii)~~ (iii) comply with the recordkeeping and reporting requirements of Section
244 76-7-313;

245 ~~(iv)~~ (iv) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion, and
246 Title 76, Chapter 7a, Abortion Prohibition;

247 ~~(v)~~ (v) pay the annual licensing fee; and

248 ~~(vi)~~ (vi) cooperate with inspections conducted by the department.

249 ~~(e)~~ (e) The department shall, at least twice per year, inspect each abortion clinic in
250 the state to ensure that the abortion clinic is complying with all statutory and licensing
251 requirements relating to the abortion clinic. At least one of the inspections shall be made

252 without providing notice to the abortion clinic.

253 [(6)] (f) The department shall charge an annual license fee, set by the department in
254 accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an
255 amount that will pay for the cost of the licensing requirements described in this section and the
256 cost of inspecting abortion clinics.

257 [(7)] (g) The department shall deposit the licensing fees described in this section in the
258 General Fund as a dedicated credit to be used solely to pay for the cost of the licensing
259 requirements described in this section and the cost of inspecting abortion clinics.

260 (4) (a) Notwithstanding any other provision of this section, the department may license
261 a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-7a-101.

262 (b) A clinic described in Subsection (4)(a) is not defined as an abortion clinic.

263 Section 3. Section 26-21-7 is amended to read:

264 **26-21-7. Exempt facilities.**

265 This chapter does not apply to:

266 (1) a dispensary or first aid facility maintained by any commercial or industrial plant,
267 educational institution, or convent;

268 (2) a health care facility owned or operated by an agency of the United States;

269 (3) the office of a physician, physician assistant, or dentist whether it is an individual
270 or group practice~~[, except that it does apply to an abortion clinic];~~

271 (4) a health care facility established or operated by any recognized church or
272 denomination for the practice of religious tenets administered by mental or spiritual means
273 without the use of drugs, whether gratuitously or for compensation, if it complies with statutes
274 and rules on environmental protection and life safety;

275 (5) any health care facility owned or operated by the Department of Corrections,
276 created in Section 64-13-2; and

277 (6) a residential facility providing 24-hour care:

278 (a) that does not employ direct care staff;

279 (b) in which the residents of the facility contract with a licensed hospice agency to

280 receive end-of-life medical care; and

281 (c) that meets other requirements for an exemption as designated by administrative
282 rule.

283 Section 4. Section **26-21-8** is amended to read:

284 **26-21-8. License required -- Not assignable or transferable -- Posting --**
285 **Expiration and renewal -- Time for compliance by operating facilities.**

286 (1) (a) A person or governmental unit acting severally or jointly with any other person
287 or governmental unit, may not establish, conduct, or maintain a health care facility in this state
288 without receiving a license from the department as provided by this chapter and the rules
289 adopted pursuant to this chapter.

290 (b) This Subsection (1) does not apply to facilities that are exempt under Section
291 [26-21-7](#).

292 (2) A license issued under this chapter is not assignable or transferable.

293 (3) The current license shall at all times be posted in each health care facility in a place
294 readily visible and accessible to the public.

295 (4) (a) The department may issue a license for a period of time [~~not to exceed 12~~
296 ~~months from the date of issuance for an abortion clinic and~~] not to exceed 24 months from the
297 date of issuance for [~~other~~] health care facilities that meet the provisions of this chapter and
298 department rules adopted pursuant to this chapter.

299 (b) Each license expires at midnight on the day designated on the license as the
300 expiration date, unless previously revoked by the department.

301 (c) The license shall be renewed upon completion of the application requirements,
302 unless the department finds the health care facility has not complied with the provisions of this
303 chapter or the rules adopted pursuant to this chapter.

304 (5) A license may be issued under this section only for the operation of a specific
305 facility at a specific site by a specific person.

306 (6) Any health care facility in operation at the time of adoption of any applicable rules
307 as provided under this chapter shall be given a reasonable time for compliance as determined

308 by the committee.

309 Section 5. Section **26-21-11** is amended to read:

310 **26-21-11. Violations -- Denial or revocation of license -- Restricting or prohibiting**
311 **new admissions -- Monitor.**

312 (1) If the department finds a violation of this chapter or any rules adopted pursuant to
313 this chapter the department may take one or more of the following actions:

314 [~~1~~] (a) serve a written statement of violation requiring corrective action, which shall
315 include time frames for correction of all violations;

316 [~~2~~] (b) subject to Subsection (2), deny or revoke a license if it finds:

317 [~~a~~] (i) there has been a failure to comply with the rules established pursuant to this
318 chapter;

319 [~~b~~] (ii) evidence of aiding, abetting, or permitting the commission of any illegal act;
320 or

321 [~~c~~] (iii) conduct adverse to the public health, morals, welfare, and safety of the people
322 of the state;

323 [~~3~~] (c) restrict or prohibit new admissions to a health care facility or revoke the
324 license of a health care facility for:

325 [~~a~~] (i) violation of any rule adopted under this chapter; or

326 [~~b~~] (ii) permitting, aiding, or abetting the commission of any illegal act in the health
327 care facility;

328 [~~4~~] (d) place a department representative as a monitor in the facility until corrective
329 action is completed;

330 [~~5~~] (e) assess to the facility the cost incurred by the department in placing a monitor;

331 [~~6~~] (f) assess an administrative penalty as allowed by Subsection **26-23-6(1)(a)**; or

332 [~~7~~] (g) issue a cease and desist order to the facility.

333 (2) If the department finds that an abortion has been performed in violation of Section
334 76-7-314 or 76-7a-201, the department shall deny or revoke the license.

335 Section 6. Section **26-21-25** is amended to read:

336 **26-21-25. Patient identity protection.**

337 (1) As used in this section:

338 (a) "EMTALA" means the federal Emergency Medical Treatment and Active Labor
339 Act.

340 (b) "Health professional office" means:

341 (i) a physician's office; or

342 (ii) a dental office.

343 (c) "Medical facility" means:

344 (i) a general acute hospital;

345 (ii) a specialty hospital;

346 (iii) a home health agency;

347 (iv) a hospice;

348 (v) a nursing care facility;

349 (vi) a residential-assisted living facility;

350 (vii) a birthing center;

351 (viii) an ambulatory surgical facility;

352 (ix) a small health care facility;

353 (x) an abortion clinic;

354 (xi) a clinic that meets the definition of hospital under Section 76-7-301 or Section
355 76-7a-101;

356 [~~(xi)~~] (xii) a facility owned or operated by a health maintenance organization;

357 [~~(xii)~~] (xiii) an end stage renal disease facility;

358 [~~(xiii)~~] (xiv) a health care clinic; or

359 [~~(xiv)~~] (xv) any other health care facility that the committee designates by rule.

360 (2) (a) In order to discourage identity theft and health insurance fraud, and to reduce
361 the risk of medical errors caused by incorrect medical records, a medical facility or a health
362 professional office shall request identification from an individual prior to providing in-patient
363 or out-patient services to the individual.

364 (b) If the individual who will receive services from the medical facility or a health
365 professional office lacks the legal capacity to consent to treatment, the medical facility or a
366 health professional office shall request identification:

367 (i) for the individual who lacks the legal capacity to consent to treatment; and
368 (ii) from the individual who consents to treatment on behalf of the individual described
369 in Subsection (2)(b)(i).

370 (3) A medical facility or a health professional office:

371 (a) that is subject to EMTALA:

372 (i) may not refuse services to an individual on the basis that the individual did not
373 provide identification when requested; and

374 (ii) shall post notice in its emergency department that informs a patient of the patient's
375 right to treatment for an emergency medical condition under EMTALA;

376 (b) may not be penalized for failing to ask for identification;

377 (c) is not subject to a private right of action for failing to ask for identification; and

378 (d) may document or confirm patient identity by:

379 (i) photograph;

380 (ii) fingerprinting;

381 (iii) palm scan; or

382 (iv) other reasonable means.

383 (4) The identification described in this section:

384 (a) is intended to be used for medical records purposes only; and

385 (b) shall be kept in accordance with the requirements of the Health Insurance

386 Portability and Accountability Act of 1996.

387 Section 7. Section **58-31b-502** is amended to read:

388 **58-31b-502. Unprofessional conduct.**

389 (1) "Unprofessional conduct" includes:

390 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,
391 diagnosis, personal effects, or any other matter about which the licensee is privileged to know

392 because of the licensee's or person with a certification's position or practice as a nurse or
393 practice as a medication aide certified;

394 (b) failure to provide nursing service or service as a medication aide certified in a
395 manner that demonstrates respect for the patient's human dignity and unique personal character
396 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
397 status, age, sex, or the nature of the patient's health problem;

398 (c) engaging in sexual relations with a patient during any:

399 (i) period when a generally recognized professional relationship exists between the
400 person licensed or certified under this chapter and the patient; or

401 (ii) extended period when a patient has reasonable cause to believe a professional
402 relationship exists between the person licensed or certified under the provisions of this chapter
403 and the patient;

404 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
405 information about a patient or exploiting the licensee's or the person with a certification's
406 professional relationship between the licensee or holder of a certification under this chapter and
407 the patient; or

408 (ii) exploiting the patient by use of the licensee's or person with a certification's
409 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

410 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

411 (f) unauthorized taking or personal use of nursing supplies from an employer;

412 (g) unauthorized taking or personal use of a patient's personal property;

413 (h) unlawful or inappropriate delegation of nursing care;

414 (i) failure to exercise appropriate supervision of persons providing patient care services
415 under supervision of the licensed nurse;

416 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
417 person to practice as a nurse;

418 (k) failure to file or record any medical report as required by law, impeding or
419 obstructing the filing or recording of such a report, or inducing another to fail to file or record

420 such a report;

421 (l) breach of a statutory, common law, regulatory, or ethical requirement of
422 confidentiality with respect to a person who is a patient, unless ordered by a court;

423 (m) failure to pay a penalty imposed by the division;

424 (n) prescribing a Schedule II controlled substance without complying with the
425 requirements in Section 58-31b-803, if applicable;

426 (o) violating Section 58-31b-801;

427 (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part
428 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if
429 applicable;

430 (q) performing or inducing an abortion in violation of the requirements of Section
431 76-7-302 or Section 76-7a-201, regardless of whether the person licensed or certified under the
432 provisions of this chapter is found guilty of a crime in connection with the violation;

433 [~~(q)~~] (r) falsely making an entry in, or altering, a medical record with the intent to
434 conceal:

435 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
436 or an individual under the direction or control of an individual licensed under this chapter; or

437 (ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1); or

438 [~~(r)~~] (s) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis
439 Act.

440 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
441 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as
442 a limited medical provider, as those terms are defined in Section 26-61a-102, recommending
443 the use of medical cannabis.

444 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
445 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
446 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

447 Section 8. Section 58-44a-502 is amended to read:

448 **58-44a-502. Unprofessional conduct.**

449 "Unprofessional conduct" includes:

450 (1) disregard for a patient's dignity or right to privacy as to the patient's person,
451 condition, possessions, or medical record;452 (2) engaging in an act, practice, or omission which when considered with the duties
453 and responsibilities of a certified nurse midwife does or could jeopardize the health, safety, or
454 welfare of a patient or the public;455 (3) failure to confine one's practice as a certified nurse midwife to those acts or
456 practices permitted by law;457 (4) failure to file or record any medical report as required by law, impeding or
458 obstructing the filing or recording of such a report, or inducing another to fail to file or record
459 such a report;460 (5) breach of a statutory, common law, regulatory, or ethical requirement of
461 confidentiality with respect to a person who is a patient, unless ordered by the court;

462 (6) failure to pay a penalty imposed by the division;

463 (7) prescribing a schedule II-III controlled substance without a consulting physician;

464 (8) performing or inducing an abortion in violation of the requirements of Section
465 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
466 is found guilty of a crime in connection with the violation;467 [~~(8)~~] (9) (a) failure to have and maintain a safe mechanism for obtaining medical
468 consultation, collaboration, and referral with a consulting physician, including failure to
469 identify one or more consulting physicians in the written documents required by Subsection
470 58-44a-102(9)(b)(iii); or471 (b) representing that the certified nurse midwife is in compliance with Subsection
472 [~~(8)(a)~~] (9)(a) when the certified nurse midwife is not in compliance with Subsection [~~(8)(a)~~]
473 (9)(a); or474 [~~(9)~~] (10) falsely making an entry in, or altering, a medical record with the intent to
475 conceal:

476 (a) a wrongful or negligent act or omission of an individual licensed under this chapter
477 or an individual under the direction or control of an individual licensed under this chapter; or

478 (b) conduct described in Subsections (1) through [~~(8)~~] (9) or Subsection 58-1-501(1).

479 Section 9. Section 58-67-304 is amended to read:

480 **58-67-304. License renewal requirements.**

481 (1) As a condition precedent for license renewal, each licensee shall, during each
482 two-year licensure cycle or other cycle defined by division rule:

483 (a) complete qualified continuing professional education requirements in accordance
484 with the number of hours and standards defined by division rule made in collaboration with the
485 board;

486 (b) appoint a contact person for access to medical records and an alternate contact
487 person for access to medical records in accordance with Subsection 58-67-302(1)(i);

488 (c) if the licensee practices medicine in a location with no other persons licensed under
489 this chapter, provide some method of notice to the licensee's patients of the identity and
490 location of the contact person and alternate contact person for the licensee; and

491 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,
492 successfully complete the educational methods and programs described in Subsection
493 58-67-807(4).

494 (2) If a renewal period is extended or shortened under Section 58-67-303, the
495 continuing education hours required for license renewal under this section are increased or
496 decreased proportionally.

497 (3) (a) An application to renew a license under this chapter shall:

498 [~~(a)~~] (i) require a physician to answer the following question: "Do you perform elective
499 abortions in Utah in a location other than a hospital?"; and

500 [~~(b)~~] (ii) immediately following the question, contain the following statement: "For
501 purposes of the immediately preceding question, elective abortion means an abortion other than
502 one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion
503 that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious

504 physical risk of substantial [~~and irreversible~~] impairment of a major bodily function of a
 505 woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly
 506 lethal, or an abortion where the woman is pregnant as a result of rape or incest."

507 (b) The statement in Subsection (3)(a)(ii) shall be modified, if necessary, to ensure
 508 compliance with the definitions and requirements of Title 76, Chapter 7, Part 3, Abortion, and
 509 Title 76, Chapter 7a, Abortion Prohibition.

510 (4) In order to assist the Department of Health and Human Services in fulfilling [its]
 511 the department's responsibilities relating to the licensing of [~~an abortion clinic~~] a health care
 512 facility and the enforcement of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a,
 513 Abortion Prohibition, if a physician responds positively to the question described in Subsection
 514 [~~(3)(a);~~] (3)(a)(i) the division shall, within 30 days after the day on which [it] the division
 515 renews the physician's license under this chapter, inform the Department of Health and Human
 516 Services in writing:

517 (a) of the name and business address of the physician; and

518 (b) that the physician responded positively to the question described in Subsection
 519 [~~(3)(a);~~] (3)(a)(i).

520 (5) The division shall accept and apply toward the hour requirement in Subsection
 521 (1)(a) any continuing education that a physician completes in accordance with Sections
 522 [26-61a-106](#) and [26-61a-403](#).

523 Section 10. Section **58-67-502** is amended to read:

524 **58-67-502. Unprofessional conduct.**

525 (1) "Unprofessional conduct" includes, in addition to the definition in Section
 526 [58-1-501](#):

527 (a) using or employing the services of any individual to assist a licensee in any manner
 528 not in accordance with the generally recognized practices, standards, or ethics of the
 529 profession, state law, or division rule;

530 (b) making a material misrepresentation regarding the qualifications for licensure under
 531 Section [58-67-302.7](#) or Section [58-67-302.8](#);

532 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
533 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

534 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act;
535 [~~or~~]

536 (e) performing or inducing an abortion in violation of the requirements of Section
537 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
538 is found guilty of a crime in connection with the violation; or

539 [~~e~~] (f) falsely making an entry in, or altering, a medical record with the intent to
540 conceal:

541 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
542 or an individual under the direction or control of an individual licensed under this chapter; or

543 (ii) conduct described in Subsections (1)(a) through [~~f~~] (e) or Subsection
544 58-1-501(1).

545 (2) "Unprofessional conduct" does not include:

546 (a) in compliance with Section 58-85-103:

547 (i) obtaining an investigational drug or investigational device;

548 (ii) administering the investigational drug to an eligible patient; or

549 (iii) treating an eligible patient with the investigational drug or investigational device;

550 or

551 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

552 (i) when registered as a qualified medical provider or acting as a limited medical
553 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical
554 cannabis;

555 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
556 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

557 (iii) when registered as a state central patient portal medical provider, as that term is
558 defined in Section 26-61a-102, providing state central patient portal medical provider services.

559 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and

560 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
561 unprofessional conduct for a physician described in Subsection (2)(b).

562 Section 11. Section **58-68-304** is amended to read:

563 **58-68-304. License renewal requirements.**

564 (1) As a condition precedent for license renewal, each licensee shall, during each
565 two-year licensure cycle or other cycle defined by division rule:

566 (a) complete qualified continuing professional education requirements in accordance
567 with the number of hours and standards defined by division rule in collaboration with the
568 board;

569 (b) appoint a contact person for access to medical records and an alternate contact
570 person for access to medical records in accordance with Subsection **58-68-302(1)(i)**;

571 (c) if the licensee practices osteopathic medicine in a location with no other persons
572 licensed under this chapter, provide some method of notice to the licensee's patients of the
573 identity and location of the contact person and alternate contact person for access to medical
574 records for the licensee in accordance with Subsection **58-68-302(1)(j)**; and

575 (d) if the licensee is an associate physician licensed under Section **58-68-302.5**,
576 successfully complete the educational methods and programs described in Subsection
577 **58-68-807(4)**.

578 (2) If a renewal period is extended or shortened under Section **58-68-303**, the
579 continuing education hours required for license renewal under this section are increased or
580 decreased proportionally.

581 (3) (a) An application to renew a license under this chapter shall:

582 ~~[(a)]~~ (i) require a physician to answer the following question: "Do you perform elective
583 abortions in Utah in a location other than a hospital?"; and

584 ~~[(b)]~~ (ii) immediately following the question, contain the following statement: "For
585 purposes of the immediately preceding question, elective abortion means an abortion other than
586 one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion
587 that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious

588 physical risk of substantial [~~and irreversible~~] impairment of a major bodily function of a
589 woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly
590 lethal, or an abortion where the woman is pregnant as a result of rape or incest."

591 (b) The statement in Subsection (3)(a)(ii) shall be modified, if necessary, to ensure
592 compliance with the definitions and requirements of Title 76, Chapter 7, Part 3, Abortion, and
593 Title 76, Chapter 7a, Abortion Prohibition.

594 (4) In order to assist the Department of Health and Human Services in fulfilling [its]
595 the department's responsibilities relating to the licensing of [~~an abortion clinic~~] a health care
596 facility and the enforcement of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a,
597 Abortion Prohibition, if a physician responds positively to the question described in Subsection
598 [~~(3)(a)~~] (3)(a)(i), the division shall, within 30 days after the day on which it renews the
599 physician's license under this chapter, inform the Department of Health and Human Services in
600 writing:

601 (a) of the name and business address of the physician; and

602 (b) that the physician responded positively to the question described in Subsection
603 [~~(3)(a)~~] (3)(a)(i).

604 (5) The division shall accept and apply toward the hour requirement in Subsection
605 (1)(a) any continuing education that a physician completes in accordance with Sections
606 [26-61a-106](#) and [26-61a-403](#).

607 Section 12. Section **58-68-502** is amended to read:

608 **58-68-502. Unprofessional conduct.**

609 (1) "Unprofessional conduct" includes, in addition to the definition in Section
610 [58-1-501](#):

611 (a) using or employing the services of any individual to assist a licensee in any manner
612 not in accordance with the generally recognized practices, standards, or ethics of the
613 profession, state law, or division rule;

614 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
615 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

616 (c) making a material misrepresentation regarding the qualifications for licensure under
617 Section [58-68-302.5](#);

618 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act;
619 ~~[or]~~

620 (e) performing or inducing an abortion in violation of the requirements of Section
621 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
622 is found guilty of a crime in connection with the violation; or

623 ~~[(e)]~~ (f) falsely making an entry in, or altering, a medical record with the intent to
624 conceal:

625 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
626 or an individual under the direction or control of an individual licensed under this chapter; or

627 (ii) conduct described in Subsections (1)(a) through ~~[(d)]~~ (e) or Subsection
628 [58-1-501\(1\)](#).

629 (2) "Unprofessional conduct" does not include:

630 (a) in compliance with Section [58-85-103](#):

631 (i) obtaining an investigational drug or investigational device;

632 (ii) administering the investigational drug to an eligible patient; or

633 (iii) treating an eligible patient with the investigational drug or investigational device;

634 or

635 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

636 (i) when registered as a qualified medical provider or acting as a limited medical
637 provider, as those terms are defined in Section [26-61a-102](#), recommending the use of medical
638 cannabis;

639 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
640 [26-61a-102](#), providing pharmacy medical provider services in a medical cannabis pharmacy; or

641 (iii) when registered as a state central patient portal medical provider, as that term is
642 defined in Section [26-61a-102](#), providing state central patient portal medical provider services.

643 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and

644 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
645 unprofessional conduct for a physician described in Subsection (2)(b).

646 Section 13. Section **58-70a-501** is amended to read:

647 **58-70a-501. Scope of practice.**

648 (1) A physician assistant may provide any medical services that are not specifically
649 prohibited under this chapter or rules adopted under this chapter, and that are within the
650 physician assistant's skills and scope of competence.

651 (2) A physician assistant shall consult, collaborate with, and refer to appropriate
652 members of the health care team:

- 653 (a) as indicated by the patient's condition;
- 654 (b) based on the physician assistant's education, experience, and competencies;
- 655 (c) the applicable standard of care; and
- 656 (d) if applicable, in accordance with the requirements described in Section [58-70a-307](#).

657 (3) Subject to Section [58-70a-307](#), the degree of collaboration under Subsection (2):

658 (a) shall be determined at the physician assistant's practice, including decisions made
659 by the physician assistant's:

- 660 (i) employer;
- 661 (ii) group;
- 662 (iii) hospital service; or
- 663 (iv) health care facility credentialing and privileging system; and

664 (b) may also be determined by a managed care organization with whom the physician
665 assistant is a network provider.

666 (4) A physician assistant may only provide healthcare services:

667 (a) for which the physician assistant has been trained and credentialed, privileged, or
668 authorized to perform; and

669 (b) that are within the physician assistant's practice specialty.

670 (5) A physician assistant may authenticate through a signature, certification, stamp,
671 verification, affidavit, or endorsement any document that may be authenticated by a physician

672 and that is within the physician assistant's scope of practice.

673 (6) A physician assistant is responsible for the care that the physician assistant
674 provides.

675 (7) (a) As used in this Subsection (7):

676 (i) "ALS/ACLS certification" means a certification:

677 (A) in advanced life support by the American Red Cross;

678 (B) in advanced cardiac life support by the American Heart Association; or

679 (C) that is equivalent to a certification described in Subsection (7)(a)(i)(A) or (B).

680 (ii) "Minimal sedation anxiolysis" means creating a drug induced state:

681 (A) during which a patient responds normally to verbal commands;

682 (B) which may impair cognitive function and physical coordination; and

683 (C) which does not affect airway, reflexes, or ventilatory and cardiovascular function.

684 (b) Except as provided in Subsections (c) through (e), a physician assistant may not
685 administer general anesthetics.

686 (c) A physician assistant may perform minimal sedation anxiolysis if the procedure is
687 within the physician assistant's scope of practice.

688 (d) A physician assistant may perform rapid sequence induction for intubation of a
689 patient if:

690 (i) the procedure is within the physician assistant's scope of practice;

691 (ii) the physician assistant holds a valid ALS/ACLS certification and is credentialed
692 and privileged at the hospital where the procedure is performed; and

693 (iii) (A) a qualified physician is not available and able to perform the procedure; or

694 (B) the procedure is performed by the physician assistant under supervision of or
695 delegation by a physician.

696 (e) Subsection (7)(b) does not apply to anesthetics administered by a physician
697 assistant:

698 (i) in an intensive care unit of a hospital;

699 (ii) for the purpose of enabling a patient to tolerate ventilator support or intubation; and

700 (iii) under supervision of or delegation by a physician whose usual scope of practice
701 includes the procedure.

702 (8) (a) A physician assistant may prescribe or administer an appropriate controlled
703 substance that is within the physician assistant's scope of practice if the physician assistant
704 holds a Utah controlled substance license and a DEA registration.

705 (b) A physician assistant may prescribe, order, administer, and procure a drug or
706 medical device that is within the physician assistant's scope of practice.

707 (c) A physician assistant may dispense a drug if dispensing the drug:

708 (i) is permitted under Title 58, Chapter 17b, Pharmacy Practice Act; and

709 (ii) is within the physician assistant's scope of practice.

710 (9) A physician assistant may not perform or induce an abortion in violation of the
711 requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the physician
712 assistant is found guilty of a crime in connection with the violation.

713 [~~9~~] (10) A physician assistant practicing independently may only perform or provide
714 a health care service that:

715 (a) is appropriate to perform or provide outside of a health care facility; and

716 (b) the physician assistant has been trained and credentialed or authorized to provide or
717 perform independently without physician supervision.

718 [~~10~~] (11) A physician assistant, while practicing as a physician assistant:

719 (a) shall wear an identification badge showing the physician assistant's license
720 classification as a physician assistant;

721 (b) shall identify themselves to a patient as a physician assistant; and

722 (c) may not identify themselves to any person in connection with activities allowed
723 under this chapter other than as a physician assistant or PA.

724 Section 14. Section **58-77-603** is amended to read:

725 **58-77-603. Prohibited practices.**

726 A direct-entry midwife may not:

727 (1) administer a prescription drug to a client in a manner that violates this chapter;

- 728 (2) effect any type of surgical delivery except for the cutting of an emergency
 729 episiotomy;
- 730 (3) administer any type of epidural, spinal, or caudal anesthetic, or any type of narcotic
 731 analgesia;
- 732 (4) use forceps or a vacuum extractor;
- 733 (5) manually remove the placenta, except in an emergency that presents an immediate
 734 threat to the life of the client; or
- 735 (6) ~~[induce abortion]~~ perform or induce an abortion in violation of the requirements of
 736 Section 76-7-302 or Section 76-7a-201, regardless of whether the direct-entry midwife is found
 737 guilty of a crime in connection with the violation.

738 Section 15. Section **63I-2-276** is amended to read:

739 **63I-2-276. Repeal dates: Title 76.**

740 (1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an
 741 owner, employee, or contractor of a health facility, is repealed January 1, 2027.

742 ~~[(2) If Section 76-7-302.4 is not in effect before January 1, 2029, Section 76-7-302.4 is~~
 743 ~~repealed January 1, 2029.]~~

744 ~~[(3)]~~ (2) Section 76-7-305.7 is repealed January 1, 2023.

745 Section 16. Section **76-7-301** is amended to read:

746 **76-7-301. Definitions.**

747 As used in this part:

748 (1) (a) "Abortion" means~~[:]~~ the act, by a physician, of using an instrument, or
 749 prescribing a drug, with the intent to cause the death of an unborn child of a woman known to
 750 be pregnant, except as permitted under this part.

751 ~~[(i) the intentional termination or attempted termination of human pregnancy after~~
 752 ~~implantation of a fertilized ovum through a medical procedure carried out by a physician or~~
 753 ~~through a substance used under the direction of a physician;]~~

754 ~~[(ii) the intentional killing or attempted killing of a live unborn child through a medical~~
 755 ~~procedure carried out by a physician or through a substance used under the direction of a~~

756 physician; or]

757 ~~[(iii) the intentional causing or attempted causing of a miscarriage through a medical~~
758 ~~procedure carried out by a physician or through a substance used under the direction of a~~
759 ~~physician.]~~

760 (b) "Abortion" does not include:

761 (i) removal of a dead unborn child;

762 (ii) removal of an ectopic pregnancy; or

763 (iii) the killing or attempted killing of an unborn child without the consent of the
764 pregnant woman, unless:

765 (A) the killing or attempted killing is done through a medical procedure carried out by
766 a physician or through a substance used under the direction of a physician; and

767 (B) the physician is unable to obtain the consent due to a medical emergency.

768 ~~[(2) "Abortion clinic" means the same as that term is defined in Section 26-21-2.]~~

769 ~~[(3)]~~ (2) "Abuse" means the same as that term is defined in Section 80-1-102.

770 ~~[(4)]~~ (3) "Department" means the Department of Health and Human Services.

771 ~~[(5)]~~ (4) "Down syndrome" means a genetic condition associated with an extra
772 chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

773 ~~[(6)]~~ (5) "Gestational age" means the age of an unborn child as calculated from the first
774 day of the last menstrual period of the pregnant woman.

775 ~~[(7)]~~ (6) "Hospital" means:

776 (a) a general hospital licensed by the department according to Title 26, Chapter 21,
777 Health Care Facility Licensing and Inspection Act; and

778 (b) a clinic or other medical facility ~~[to the extent that such clinic or other medical~~
779 ~~facility is certified by the department as providing equipment and personnel sufficient in~~
780 ~~quantity and quality to provide the same degree of safety to the pregnant woman and the~~
781 ~~unborn child as would be provided for the particular medical procedures undertaken by a~~
782 ~~general hospital licensed by the department]~~ that meets the following criteria:

783 (i) a clinician who performs procedures at the clinic is required to be credentialed to

784 perform the same procedures at a general hospital licensed by the department; and

785 (ii) any procedures performed at the clinic are done with the same level of safety for
786 the pregnant woman and unborn child as would be available in a general hospital licensed by
787 the department.

788 [~~(8)~~] (7) "Information module" means the pregnancy termination information module
789 prepared by the department.

790 [~~(9)~~] (8) "Medical emergency" means [~~that condition which, on the basis of the~~
791 ~~physician's good faith clinical judgment, so threatens the life of a pregnant woman as to~~
792 ~~necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay~~
793 ~~will create serious risk of substantial and irreversible impairment of major bodily function] a
794 life threatening physical condition aggravated by, caused by, or arising from a pregnancy that
795 places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of
796 a major bodily function, unless the abortion is performed or induced.~~

797 [~~(10)~~] (9) "Minor" means an individual who is:

- 798 (a) under 18 years old;
- 799 (b) unmarried; and
- 800 (c) not emancipated.

801 [~~(11)~~] (10) (a) "Partial birth abortion" means an abortion in which the person
802 performing the abortion:

803 (i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a
804 head first presentation, the entire fetal head is outside the body of the mother, or, in the case of
805 breech presentation, any part of the fetal trunk past the navel is outside the body of the mother,
806 for the purpose of performing an overt act that the person knows will kill the partially delivered
807 living fetus; and

808 (ii) performs the overt act, other than completion of delivery, that kills the partially
809 living fetus.

810 (b) "Partial birth abortion" does not include the dilation and evacuation procedure
811 involving dismemberment prior to removal, the suction curettage procedure, or the suction

812 aspiration procedure for abortion.

813 (11) "Perinatal hospice" means comprehensive support to the mother and her family
814 from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's birth,
815 and through the postpartum period, that:

816 (a) focuses on alleviating fear and ensuring that the woman and her family experience
817 the life and death of a child in a comfortable and supportive environment; and

818 (b) may include counseling or medical care by:

819 (i) maternal-fetal medical specialists;

820 (ii) obstetricians;

821 (iii) neonatologists;

822 (iv) anesthesia specialists;

823 (v) psychiatrists, psychologists, or other mental health providers;

824 (vi) clergy;

825 (vii) social workers; or

826 (viii) specialty nurses.

827 (12) "Physician" means:

828 (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter
829 67, Utah Medical Practice Act;

830 (b) an osteopathic physician licensed to practice osteopathic medicine under Title 58,
831 Chapter 68, Utah Osteopathic Medical Practice Act; or

832 (c) a physician employed by the federal government who has qualifications similar to
833 ~~[a person]~~ an individual described in Subsection (12)(a) or (b).

834 (13) (a) "Severe brain abnormality" means a malformation or defect that causes an
835 individual to live in a mentally vegetative state.

836 (b) "Severe brain abnormality" does not include:

837 (i) Down syndrome;

838 (ii) spina bifida;

839 (iii) cerebral palsy; or

840 (iv) any other malformation, defect, or condition that does not cause an individual to
 841 live in a mentally vegetative state.

842 Section 17. Section 76-7-302 is amended to read:

843 **76-7-302. Circumstances under which abortion authorized.**

844 ~~[(1) As used in this section, "viable" means that the unborn child has reached a stage of~~
 845 ~~fetal development when the unborn child is potentially able to live outside the womb, as~~
 846 ~~determined by the attending physician to a reasonable degree of medical certainty.]~~

847 ~~[(2)]~~ (1) An abortion may be performed in this state only by a physician.

848 ~~[(3)]~~ (2) An abortion may be performed in this state only under the following
 849 circumstances:

850 (a) the unborn child ~~[is not viable; or]~~ has not reached 18 weeks gestational age;

851 (b) the unborn child ~~[is viable, if:]~~ has reached 18 weeks gestational age, and:

852 (i) the abortion is necessary to avert:

853 (A) the death of the woman on whom the abortion is performed; or

854 (B) a serious physical risk of substantial ~~[and irreversible]~~ impairment of a major
 855 bodily function of the woman on whom the abortion is performed; or

856 (ii) subject to Subsection (4), two physicians who practice maternal fetal medicine

857 concur, in writing, in the patient's medical record that the fetus[*] has a fetal abnormality that in

858 the physicians' reasonable medical judgment is incompatible with life; or

859 ~~[(A) has a defect that is uniformly diagnosable and uniformly lethal; or]~~

860 ~~[(B) has a severe brain abnormality that is uniformly diagnosable; or]~~

861 ~~[(iii)(A)]~~

862 (c) the unborn child has not reached 18 weeks gestational age and:

863 (i) (A) the woman is pregnant as a result of:

864 (I) rape, as described in Section 76-5-402;

865 (II) rape of a child, as described in Section 76-5-402.1; or

866 (III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; ~~[and]~~ or

867 (B) the pregnant child is under the age of 14; and

868 ~~[(B)]~~ (ii) before the abortion is performed, the physician who performs the abortion:

869 ~~[(F)]~~ (A) for an abortion authorized under Subsection (2)(c)(i)(A), verifies that the

870 incident described in Subsection ~~[(3)(b)(iii)(A)]~~ (2)(c)(i)(A) has been reported to law

871 enforcement; and

872 ~~[(H)]~~ (B) if applicable, complies with the requirements of Section 80-2-602.

873 ~~[(4)]~~ (3) An abortion may be performed only in ~~[an abortion clinic or]~~ a hospital, unless

874 it is necessary to perform the abortion in another location due to a medical emergency.

875 (4) If the unborn child has been diagnosed with a fetal abnormality that is incompatible

876 with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and

877 in writing, that perinatal hospice and perinatal palliative care services are available and are an

878 alternative to abortion.

879 Section 18. Section 76-7-302.4 is amended to read:

880 **76-7-302.4. Abortion restriction of an unborn child with Down syndrome.**

881 Notwithstanding any other provision of this part, an abortion may not be performed if

882 the pregnant mother's sole reason for the abortion is that the unborn child has or may have

883 Down syndrome, unless the abortion is permissible for a reason described in ~~[Subsection~~

884 ~~76-7-302(3)(b)]~~ Section 76-7-302.

885 Section 19. Section 76-7-304 is amended to read:

886 **76-7-304. Considerations by physician -- Notice to a parent or guardian --**

887 **Exceptions.**

888 (1) To enable the physician to exercise the physician's best medical judgment, the

889 physician shall consider all factors relevant to the well-being of a pregnant woman upon whom

890 an abortion is to be performed, including:

891 (a) her physical, emotional, and psychological health and safety;

892 (b) her age; and

893 (c) her familial situation.

894 (2) Subject to Subsection (3), at least 24 hours before a physician performs an abortion

895 on a minor, the physician shall notify a parent or guardian of the minor that the minor intends

896 to have an abortion.

897 (3) A physician is not required to comply with Subsection (2) if:

898 (a) subject to Subsection (4)(a):

899 (i) a medical condition exists that, on the basis of the physician's good faith clinical
900 judgment, so complicates the medical condition of a pregnant minor as to necessitate the
901 abortion of her pregnancy to avert:

902 (A) the minor's death; or

903 (B) a serious physical risk of substantial [~~and irreversible~~] impairment of a major
904 bodily function of the minor; and

905 (ii) there is not sufficient time to give the notice required under Subsection (2) before it
906 is necessary to terminate the minor's pregnancy in order to avert the minor's death or
907 impairment described in Subsection (3)(a)(i);

908 (b) subject to Subsection (4)(b):

909 (i) the physician complies with Subsection (5); and

910 (ii) (A) the minor is pregnant as a result of incest to which the parent or guardian was a
911 party; or

912 (B) the parent or guardian has abused the minor; or

913 (c) subject to Subsection (4)(b), the parent or guardian has not assumed responsibility
914 for the minor's care and upbringing.

915 (4) (a) If, for the reason described in Subsection (3)(a), a physician does not give the
916 24-hour notice described in Subsection (2), the physician shall give the required notice as early
917 as possible before the abortion, unless it is necessary to perform the abortion immediately in
918 order to avert the minor's death or impairment described in Subsection (3)(a)(i).

919 (b) If, for a reason described in Subsection (3)(b) or (c), a parent or guardian of a minor
920 is not notified that the minor intends to have an abortion, the physician shall notify another
921 parent or guardian of the minor, if the minor has another parent or guardian that is not exempt
922 from notification under Subsection (3)(b) or (c).

923 (5) If, for a reason described in Subsection (3)(b)(ii)(A) or (B), a physician does not

924 notify a parent or guardian of a minor that the minor intends to have an abortion, the physician
925 shall report the incest or abuse to the Division of Child and Family Services within the
926 Department of Health and Human Services.

927 Section 20. Section **76-7-304.5** is amended to read:

928 **76-7-304.5. Consent required for abortions performed on minors -- Division of**
929 **Child and Family Services as guardian of a minor -- Hearing to allow a minor to**
930 **self-consent -- Appeals.**

931 (1) In addition to the other requirements of this part, a physician may not perform an
932 abortion on a minor unless:

933 (a) the physician obtains the informed written consent of a parent or guardian of the
934 minor, in accordance with Sections [76-7-305](#) and [76-7-305.5](#);

935 (b) the minor is granted the right, by court order under Subsection (4)(b), to consent to
936 the abortion without obtaining consent from a parent or guardian; or

937 (c) (i) a medical condition exists that, on the basis of the physician's good faith clinical
938 judgment, so complicates the medical condition of a pregnant minor as to necessitate the
939 abortion of her pregnancy to avert:

940 (A) the minor's death; or

941 (B) a [~~serious risk of substantial and irreversible impairment of a major bodily function~~
942 ~~of the minor~~] risk described in Subsection [76-7-302\(2\)\(b\)\(i\)\(B\)](#); and

943 (ii) there is not sufficient time to obtain the consent in the manner chosen by the minor
944 under Subsection (2) before it is necessary to terminate the minor's pregnancy in order to avert
945 the minor's death or impairment described in Subsection (1)(c)(i).

946 (2) (a) A minor who wants to have an abortion may choose:

947 (i) to seek consent from the minor's parent or guardian as described in Subsection (1);

948 or

949 (ii) to seek a court order as described in Subsection (1).

950 (b) Neither Subsection (1) nor this Subsection (2) require the minor to seek or obtain
951 consent from the minor's parent or guardian if the circumstances described in Subsection

952 76-7-304(3)(b)(ii) exist.

953 (3) If a minor does not obtain the consent of the minor's parent or guardian, the minor
954 may file a petition with the juvenile court to obtain a court order as described in Subsection (1).

955 (4) (a) The juvenile court shall close the hearing on a petition described in Subsection
956 (3) to the public.

957 (b) After considering the evidence presented at the hearing, the court shall order that
958 the minor may obtain an abortion without the consent of a parent or guardian of the minor if
959 the court finds by a preponderance of the evidence that:

960 (i) the minor:

961 (A) has given her informed consent to the abortion; and

962 (B) is mature and capable of giving informed consent to the abortion; or

963 (ii) an abortion would be in the minor's best interest.

964 (5) The Judicial Council shall make rules that:

965 (a) provide for the administration of the proceedings described in this section;

966 (b) provide for the appeal of a court's decision under this section;

967 (c) ensure the confidentiality of the proceedings described in this section and the
968 records related to the proceedings; and

969 (d) establish procedures to expedite the hearing and appeal proceedings described in
970 this section.

971 Section 21. Section **76-7-305** is amended to read:

972 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**
973 **-- Exceptions.**

974 (1) A person may not perform an abortion, unless, before performing the abortion, the
975 physician who will perform the abortion obtains from the woman on whom the abortion is to
976 be performed a voluntary and informed written consent that is consistent with:

977 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,
978 Current Opinions; and

979 (b) the provisions of this section.

980 (2) Except as provided in Subsection (8), consent to an abortion is voluntary and
981 informed only if, at least 72 hours before the abortion:

982 (a) a staff member of ~~[an abortion clinic or]~~ a hospital, physician, registered nurse,
983 nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic
984 counselor, or physician's assistant presents the information module to the pregnant woman;

985 (b) the pregnant woman views the entire information module and presents evidence to
986 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire
987 information module;

988 (c) after receiving the evidence described in Subsection (2)(b), the individual described
989 in Subsection (2)(a):

990 (i) documents that the pregnant woman viewed the entire information module;

991 (ii) gives the pregnant woman, upon her request, a copy of the documentation
992 described in Subsection (2)(c)(i); and

993 (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician
994 who is to perform the abortion, upon request of that physician or the pregnant woman;

995 (d) after the pregnant woman views the entire information module, the physician who
996 is to perform the abortion, the referring physician, a physician, a registered nurse, nurse
997 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
998 physician's assistant, in a face-to-face consultation in any location in the state, orally informs
999 the woman of:

1000 (i) the nature of the proposed abortion procedure;

1001 (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the
1002 fetus;

1003 (iii) the risks and alternatives to the abortion procedure or treatment;

1004 (iv) the options and consequences of aborting a medication-induced abortion, if the
1005 proposed abortion procedure is a medication-induced abortion;

1006 (v) the probable gestational age and a description of the development of the unborn
1007 child at the time the abortion would be performed;

- 1008 (vi) the medical risks associated with carrying her child to term;
- 1009 (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant
1010 woman, upon her request; and
- 1011 (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn
1012 child has or may have Down syndrome, the [~~Department of Health website containing~~
1013 department's website, which contains the information described in Section 26-10-14, including
1014 the information on the informational support sheet; and
- 1015 (e) after the pregnant woman views the entire information module, a staff member of
1016 the [~~abortion clinic or~~] hospital provides to the pregnant woman:
- 1017 (i) on a document that the pregnant woman may take home:
- 1018 (A) the address for the department's website described in Section 76-7-305.5; and
- 1019 (B) a statement that the woman may request, from a staff member of the [~~abortion
1020 clinic or~~] hospital where the woman viewed the information module, a printed copy of the
1021 material on the department's website;
- 1022 (ii) a printed copy of the material on the department's website described in Section
1023 76-7-305.5, if requested by the pregnant woman; and
- 1024 (iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the
1025 disposition of the aborted fetus.
- 1026 (3) Before performing an abortion, the physician who is to perform the abortion shall:
- 1027 (a) in a face-to-face consultation, provide the information described in Subsection
1028 (2)(d), unless the attending physician or referring physician is the individual who provided the
1029 information required under Subsection (2)(d); and
- 1030 (b) (i) obtain from the pregnant woman a written certification that the information
1031 required to be provided under Subsection (2) and this Subsection (3) was provided in
1032 accordance with the requirements of Subsection (2) and this Subsection (3);
- 1033 (ii) obtain a copy of the statement described in Subsection (2)(c)(i); and
- 1034 (iii) ensure that:
- 1035 (A) the woman has received the information described in Subsections 26-21-33(3) and

1036 (4); and

1037 (B) if the woman has a preference for the disposition of the aborted fetus, the woman
1038 has informed the health care facility of the woman's decision regarding the disposition of the
1039 aborted fetus.

1040 (4) When a ~~serious~~ medical emergency compels the performance of an abortion, the
1041 physician shall inform the woman prior to the abortion, if possible, of the medical indications
1042 supporting the physician's judgment that an abortion is necessary.

1043 (5) If an ultrasound is performed on a woman before an abortion is performed, the
1044 individual who performs the ultrasound, or another qualified individual, shall:

1045 (a) inform the woman that the ultrasound images will be simultaneously displayed in a
1046 manner to permit her to:

1047 (i) view the images, if she chooses to view the images; or

1048 (ii) not view the images, if she chooses not to view the images;

1049 (b) simultaneously display the ultrasound images in order to permit the woman to:

1050 (i) view the images, if she chooses to view the images; or

1051 (ii) not view the images, if she chooses not to view the images;

1052 (c) inform the woman that, if she desires, the person performing the ultrasound, or
1053 another qualified person shall provide a detailed description of the ultrasound images,

1054 including:

1055 (i) the dimensions of the unborn child;

1056 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and

1057 (iii) the presence of external body parts or internal organs, if present and viewable; and

1058 (d) provide the detailed description described in Subsection (5)(c), if the woman
1059 requests it.

1060 (6) The information described in Subsections (2), (3), and (5) is not required to be
1061 provided to a pregnant woman under this section if the abortion is performed for a reason
1062 described in:

1063 (a) Subsection ~~[76-7-302(3)(b)(i)]~~ 76-7-302(2)(b)(i), if the treating physician and one

1064 other physician concur, in writing, that the abortion is necessary to avert:

1065 (i) the death of the woman on whom the abortion is performed; or

1066 (ii) a [~~serious risk of substantial and irreversible impairment of a major bodily function~~

1067 ~~of the woman on whom the abortion is performed~~] risk described in Subsection

1068 76-7-302(2)(b)(i)(B); or

1069 (b) Subsection [~~76-7-302(3)(b)(ii)~~] 76-7-302(2)(b)(ii).

1070 (7) In addition to the criminal penalties described in this part, a physician who violates

1071 the provisions of this section:

1072 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;

1073 and

1074 (b) shall be subject to:

1075 (i) suspension or revocation of the physician's license for the practice of medicine and

1076 surgery in accordance with Section 58-67-401 or 58-68-401; and

1077 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

1078 (8) A physician is not guilty of violating this section for failure to furnish any of the
1079 information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

1080 (a) the physician can demonstrate by a preponderance of the evidence that the

1081 physician reasonably believed that furnishing the information would have resulted in a severely
1082 adverse effect on the physical or mental health of the pregnant woman;

1083 (b) in the physician's professional judgment, the abortion was necessary to avert:

1084 (i) the death of the woman on whom the abortion is performed; or

1085 (ii) a [~~serious risk of substantial and irreversible impairment of a major bodily function~~

1086 ~~of the woman on whom the abortion is performed~~] risk described in Subsection

1087 76-7-302(2)(b)(i)(B);

1088 (c) the pregnancy was the result of rape or rape of a child, as described in Sections

1089 76-5-402 and 76-5-402.1;

1090 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and

1091 Section 76-7-102; or

1092 (e) at the time of the abortion, the pregnant [~~woman~~] child was 14 years old or
1093 younger.

1094 (9) A physician who complies with the provisions of this section and Section
1095 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
1096 informed consent under Section 78B-3-406.

1097 (10) (a) The department shall provide an ultrasound, in accordance with the provisions
1098 of Subsection (5)(b), at no expense to the pregnant woman.

1099 (b) A local health department shall refer a pregnant woman who requests an ultrasound
1100 described in Subsection (10)(a) to the department.

1101 (11) A physician is not guilty of violating this section if:

1102 (a) the information described in Subsection (2) is provided less than 72 hours before
1103 the physician performs the abortion; and

1104 (b) in the physician's professional judgment, the abortion was necessary in a case
1105 where:

1106 (i) a ruptured membrane, documented by the attending or referring physician, will
1107 cause a serious infection; or

1108 (ii) a serious infection, documented by the attending or referring physician, will cause a
1109 ruptured membrane.

1110 Section 22. Section 76-7-305.5 is amended to read:

1111 **76-7-305.5. Requirements for information module and website.**

1112 (1) In order to ensure that a woman's consent to an abortion is truly an informed
1113 consent, the department shall, in accordance with the requirements of this section, develop an
1114 information module and maintain a public website.

1115 (2) The information module and public website described in Subsection (1) shall:

1116 (a) be scientifically accurate, comprehensible, and presented in a truthful,
1117 nonmisleading manner;

1118 (b) present adoption as a preferred and positive choice and alternative to abortion;

1119 (c) be produced in a manner that conveys the state's preference for childbirth over

1120 abortion;

1121 (d) state that the state prefers childbirth over abortion;

1122 (e) state that it is unlawful for any person to coerce a woman to undergo an abortion;

1123 (f) state that any physician who performs an abortion without obtaining the woman's

1124 informed consent or without providing her a private medical consultation in accordance with

1125 the requirements of this section, may be liable to her for damages in a civil action at law;

1126 (g) provide a geographically indexed list of resources and public and private services

1127 available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth,

1128 and while the child is dependent, including:

1129 (i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

1130 (ii) services and supports available under Section [35A-3-308](#);

1131 (iii) other financial aid that may be available during an adoption;

1132 (iv) services available from public adoption agencies, private adoption agencies, and

1133 private attorneys whose practice includes adoption; and

1134 (v) the names, addresses, and telephone numbers of each person listed under this

1135 Subsection (2)(g);

1136 (h) describe the adoption-related expenses that may be paid under Section [76-7-203](#);

1137 (i) describe the persons who may pay the adoption related expenses described in

1138 Subsection (2)(h);

1139 (j) except as provided in Subsection (4), describe the legal responsibility of the father

1140 of a child to assist in child support, even if the father has agreed to pay for an abortion;

1141 (k) except as provided in Subsection (4), describe the services available through the

1142 Office of Recovery Services, within the Department of Human Services, to establish and

1143 collect the support described in Subsection (2)(j);

1144 (l) state that private adoption is legal;

1145 (m) describe and depict, with pictures or video segments, the probable anatomical and

1146 physiological characteristics of an unborn child at two-week gestational increments from

1147 fertilization to full term, including:

- 1148 (i) brain and heart function;
- 1149 (ii) the presence and development of external members and internal organs; and
- 1150 (iii) the dimensions of the fetus;
- 1151 (n) show an ultrasound of the heartbeat of an unborn child at:
- 1152 (i) four weeks from conception;
- 1153 (ii) six to eight weeks from conception; and
- 1154 (iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;
- 1155 (o) describe abortion procedures used in current medical practice at the various stages
- 1156 of growth of the unborn child, including:
- 1157 (i) the medical risks associated with each procedure;
- 1158 (ii) the risk related to subsequent childbearing that are associated with each procedure;
- 1159 and
- 1160 (iii) the consequences of each procedure to the unborn child at various stages of fetal
- 1161 development;
- 1162 (p) describe the possible detrimental psychological effects of abortion;
- 1163 (q) describe the medical risks associated with carrying a child to term;
- 1164 (r) include relevant information on the possibility of an unborn child's survival at the
- 1165 two-week gestational increments described in Subsection (2)(m);
- 1166 (s) except as provided in Subsection (5), include:
- 1167 (i) information regarding substantial medical evidence from studies concluding that an
- 1168 unborn child who is at least 20 weeks gestational age may be capable of experiencing pain
- 1169 during an abortion procedure; and
- 1170 (ii) the measures that will be taken in accordance with Section [76-7-308.5](#);
- 1171 (t) explain the options and consequences of aborting a medication-induced abortion;
- 1172 (u) include the following statement regarding a medication-induced abortion,
- 1173 "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You
- 1174 may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but
- 1175 have not yet taken the second drug and have questions regarding the health of your fetus or are

1176 questioning your decision to terminate your pregnancy, you should consult a physician
1177 immediately.";

1178 (v) inform a pregnant woman that she has the right to view an ultrasound of the unborn
1179 child, at no expense to her, upon her request;

1180 (w) inform a pregnant woman that she has the right to:

1181 (i) determine the final disposition of the remains of the aborted fetus;

1182 (ii) unless the woman waives this right in writing, wait up to 72 hours after the
1183 abortion procedure is performed to make a determination regarding the disposition of the
1184 aborted fetus before the health care facility may dispose of the fetal remains;

1185 (iii) receive information about options for disposition of the aborted fetus, including
1186 the method of disposition that is usual and customary for a health care facility; and

1187 (iv) for a medication-induced abortion, return the aborted fetus to the health care
1188 facility for disposition; and

1189 (x) provide a digital copy of the form described in Subsection 26-21-33(3)(a)(i); and

1190 (y) be in a typeface large enough to be clearly legible.

1191 (3) The information module and website described in Subsection (1) may include a
1192 toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and
1193 description of services, agencies, and adoption attorneys in the locality of the caller.

1194 (4) The department may develop a version of the information module and website that
1195 omits the information in Subsections (2)(j) and (k) for a viewer who is pregnant as the result of
1196 rape.

1197 (5) The department may develop a version of the information module and website that
1198 omits the information described in Subsection (2)(s) for a viewer who will have an abortion
1199 performed:

1200 (a) on an unborn child who is less than 20 weeks gestational age at the time of the
1201 abortion; or

1202 (b) on an unborn child who is at least 20 weeks gestational age at the time of the
1203 abortion, if:

- 1204 (i) the abortion is being performed for a reason described in Subsection
1205 [~~76-7-302(3)(b)(i)~~] 76-7-302(2)(b)(i) or (ii); and
- 1206 (ii) due to a serious medical emergency, time does not permit compliance with the
1207 requirement to provide the information described in Subsection (2)(s).
- 1208 (6) The department and each local health department shall make the information
1209 module and the website described in Subsection (1) available at no cost to any person.
- 1210 (7) The department shall make the website described in Subsection (1) available for
1211 viewing on the department's website by clicking on a conspicuous link on the home page of the
1212 website.
- 1213 (8) The department shall ensure that the information module is:
- 1214 (a) available to be viewed at all facilities where an abortion may be performed;
- 1215 (b) interactive for the individual viewing the module, including the provision of
1216 opportunities to answer questions and manually engage with the module before the module
1217 transitions from one substantive section to the next;
- 1218 (c) produced in English and may include subtitles in Spanish or another language; and
- 1219 (d) capable of being viewed on a tablet or other portable device.
- 1220 (9) After the department releases the initial version of the information module, for the
1221 use described in Section 76-7-305, the department shall:
- 1222 (a) update the information module, as required by law; and
- 1223 (b) present an updated version of the information module to the Health and Human
1224 Services Interim Committee for the committee's review and recommendation before releasing
1225 the updated version for the use described in Section 76-7-305.
- 1226 Section 23. Section **76-7-313** is amended to read:
- 1227 **76-7-313. Department's enforcement responsibility -- Physician's report to**
1228 **department.**
- 1229 (1) In order for the department to maintain necessary statistical information and ensure
1230 enforcement of the provisions of this part:
- 1231 (a) any physician performing an abortion must obtain and record in writing:

1232 (i) the age, marital status, and county of residence of the woman on whom the abortion
1233 was performed;

1234 (ii) the number of previous abortions performed on the woman described in Subsection
1235 (1)(a)(i);

1236 (iii) the hospital or other facility where the abortion was performed;

1237 (iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;

1238 (v) the pathological description of the unborn child;

1239 (vi) the given gestational age of the unborn child;

1240 (vii) the date the abortion was performed;

1241 (viii) the measurements of the unborn child, if possible to ascertain; and

1242 (ix) the medical procedure used to abort the unborn child; and

1243 (b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah
1244 Administrative Rulemaking Act.

1245 (2) Each physician who performs an abortion shall provide the following to the
1246 department within 30 days after the day on which the abortion is performed:

1247 (a) the information described in Subsection (1);

1248 (b) a copy of the pathologist's report described in Section 76-7-309;

1249 (c) an affidavit:

1250 (i) indicating whether the required consent was obtained pursuant to Sections 76-7-305
1251 and 76-7-305.5;

1252 (ii) described in Subsection (3), if applicable; and

1253 (iii) indicating whether at the time the physician performed the abortion, the physician
1254 had any knowledge that the pregnant woman sought the abortion solely because the unborn
1255 child had or may have had Down syndrome; and

1256 (d) a certificate indicating:

1257 [~~(i) whether the unborn child was or was not viable, as defined in Subsection~~
1258 ~~76-7-302(1), at the time of the abortion;]~~

1259 [(~~ii~~) (i) whether the unborn child was older or younger than 18 weeks gestational age

1260 at the time of the abortion; and

1261 ~~[(iii)]~~ (ii) ~~[if the unborn child was viable, as defined in Subsection 76-7-302(1), or~~
 1262 ~~older than 18 weeks gestational age at the time of the abortion,]~~ the reason for the abortion.

1263 (3) If the information module or the address to the website is not provided to a
 1264 pregnant woman, the physician who performs the abortion on the woman shall, within 10 days
 1265 after the day on which the abortion is performed, provide to the department an affidavit that:

1266 (a) specifies the information that was not provided to the woman; and

1267 (b) states the reason that the information was not provided to the woman.

1268 (4) All information supplied to the department shall be confidential and privileged
 1269 pursuant to Title 26, Chapter 25, Confidential Information Release.

1270 (5) The department shall pursue all administrative and legal remedies when the
 1271 department determines that a physician or a facility has not complied with the provisions of this
 1272 part.

1273 Section 24. Section **76-7-314** is amended to read:

1274 **76-7-314. Violations of abortion laws -- Classifications.**

1275 (1) ~~[A willful]~~ An intentional violation of Section ~~76-7-307, 76-7-308, 76-7-310,~~
 1276 ~~76-7-310.5, 76-7-311, or 76-7-312~~ is a felony of the third degree.

1277 (2) A violation of Section ~~76-7-326~~ is a felony of the third degree.

1278 (3) A violation of Section ~~[76-7-302.5 or]~~ ~~76-7-314.5~~ is a felony of the second degree.

1279 (4) A violation of any other provision of this part, including Subsections
 1280 ~~76-7-305(2)(a) through (c), and (e),~~ is a class A misdemeanor.

1281 (5) The ~~[Department of Health]~~ department shall report a physician's violation of any
 1282 provision of this part to the Physicians Licensing Board, described in Section ~~58-67-201~~.

1283 (6) Any person with knowledge of a physician's violation of any provision of this part
 1284 may report the violation to the Physicians Licensing Board, described in Section ~~58-67-201~~.

1285 (7) In addition to the penalties described in this section, the department may take any
 1286 action described in Section ~~26-21-11~~ against ~~[an abortion clinic]~~ a health care facility if a
 1287 violation of this chapter occurs at the ~~[abortion clinic]~~ health care facility.

1288 Section 25. Section **76-7-314.5** is amended to read:

1289 **76-7-314.5. Killing an unborn child.**

1290 (1) A person is guilty of killing an unborn child if the person intentionally causes the
1291 death of an unborn child by performing an abortion of the unborn child in violation of the
1292 provisions of Subsection [~~76-7-302(3)~~] 76-7-302(2).

1293 (2) A woman is not criminally liable for:

1294 (a) seeking to obtain, or obtaining, an abortion that is permitted by this part; or

1295 (b) a physician's failure to comply with Subsection [~~76-7-302(3)(b)(ii)~~]

1296 76-7-302(2)(b)(ii) or Section 76-7-305.

1297 Section 26. Section **76-7-317** is amended to read:

1298 **76-7-317. Severability clause.**

1299 If any one or more provision, section, subsection, sentence, clause, phrase, or word of
1300 this part or the application thereof to any person or circumstance is found to be
1301 unconstitutional, the same is hereby declared to be severable and the balance of this part shall
1302 remain effective notwithstanding such unconstitutionality. The legislature hereby declares that
1303 it would have passed this part, and each provision, section, subsection, sentence, clause, phrase,
1304 or word thereof, irrespective of the fact that any one or more provision, section, subsection,
1305 sentence, clause, phrase, or word be declared unconstitutional. This section applies to any
1306 provision, section, subsection, sentence, clause, phrase, or word of this part, regardless of the
1307 time of enactment, amendment, or repeal.

1308 Section 27. Section **76-7-332** is enacted to read:

1309 **76-7-332. Drugs known to be used for abortion -- Prescriber limitation --**

1310 **Criminal penalties -- Pharmacy presumption for other use.**

1311 (1) As used in the section, "abortion-related drug" means a drug or medication that is
1312 known to be used for the purpose of performing an abortion, and includes:

1313 (a) methotrexate, or methotrexate with misoprostol;

1314 (b) mifepristone, also known as mifeprex;

1315 (c) misoprostol, also known as cytotec; and

1316 (d) RU-486.

1317 (2) An individual may not prescribe an abortion-related drug for the purpose of causing
1318 an abortion, unless the individual is licensed as a physician in this state under:

1319 (a) Title 58, Chapter 67, Utah Medical Practice Act; or

1320 (b) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

1321 (3) A violation of Subsection (2) is a class B misdemeanor.

1322 (4) (a) Any prescription or medical order for a drug that is known to possibly cause an
1323 abortion shall be presumed by a pharmacy to be for an indication other than for the termination
1324 of a pregnancy.

1325 (b) A pharmacy dispensing a prescription or medical order for a drug that is known to
1326 possibly cause an abortion shall not be required to verify whether the prescription or medical
1327 order violates any provision of this chapter.

1328 Section 28. Section **76-7a-101** is amended to read:

1329 **76-7a-101. Definitions.**

1330 As used in this chapter:

1331 (1) (a) "Abortion" means[~~:~~] the act, by a physician, of using an instrument, or
1332 prescribing a drug, with the intent to cause the death of an unborn child of a woman known to
1333 be pregnant, except as permitted under this chapter.

1334 [~~(i) the intentional termination or attempted termination of human pregnancy after~~
1335 ~~implantation of a fertilized ovum through a medical procedure carried out by a physician or~~
1336 ~~through a substance used under the direction of a physician;]~~

1337 [~~(ii) the intentional killing or attempted killing of a live unborn child through a medical~~
1338 ~~procedure carried out by a physician or through a substance used under the direction of a~~
1339 ~~physician; or]~~

1340 [~~(iii) the intentional causing or attempted causing of a miscarriage through a medical~~
1341 ~~procedure carried out by a physician or through a substance used under the direction of a~~
1342 ~~physician.]~~

1343 (b) "Abortion" does not include:

- 1344 (i) removal of a dead unborn child;
- 1345 (ii) removal of an ectopic pregnancy; or
- 1346 (iii) the killing or attempted killing of an unborn child without the consent of the
- 1347 pregnant woman, unless:
 - 1348 (A) the killing or attempted killing is done through a medical procedure carried out by
 - 1349 a physician or through a substance used under the direction of a physician; and
 - 1350 (B) the physician is unable to obtain the consent due to a medical emergency.
- 1351 [~~(2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II~~
- 1352 ~~abortion clinic licensed by the state.~~]
- 1353 [~~(3)~~ (2) "Department" means the Department of Health and Human Services.
- 1354 [~~(4)~~ (3) "Down syndrome" means a genetic condition associated with an extra
- 1355 chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.
- 1356 [~~(5)~~ (4) "Hospital" means:
- 1357 (a) a general hospital licensed by the department; [~~or~~] and
- 1358 (b) a clinic or other medical facility [~~to the extent the clinic or other medical facility is~~
- 1359 ~~certified by the department as providing equipment and personnel sufficient in quantity and~~
- 1360 ~~quality to provide the same degree of safety to a pregnant woman and an unborn child as would~~
- 1361 ~~be provided for the particular medical procedure undertaken by a general hospital licensed by~~
- 1362 ~~the department.] that meets the following criteria:~~
- 1363 (i) a clinician who performs procedures at the clinic is required to be credentialed to
- 1364 perform the same procedures at a general hospital licensed by the department; and
- 1365 (ii) any procedures performed at the clinic are done with the same level of safety for
- 1366 the pregnant woman and unborn child as would be available in a general hospital licensed by
- 1367 the department.
- 1368 [~~(6) "Incest" means the same as that term is defined in Section [80-1-102](#).~~]
- 1369 [~~(7)~~ (5) "Medical emergency" means a [~~condition which, on the basis of the~~
- 1370 ~~physician's good faith clinical judgment, so threatens the life of a pregnant woman as to~~
- 1371 ~~necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay~~

1372 ~~will create serious risk of substantial and irreversible impairment of major bodily function] life~~
1373 threatening physical condition aggravated by, caused by, or arising from a pregnancy that
1374 places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of
1375 a major bodily function, unless the abortion is performed or induced.

1376 (6) "Perinatal hospice" means comprehensive support to the mother and her family
1377 from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's birth,
1378 and through the postpartum period, that:

1379 (a) focuses on alleviating fear and ensuring that the woman and her family experience
1380 the life and death of a child in a comfortable and supportive environment; and

1381 (b) may include counseling or medical care by:

1382 (i) maternal-fetal medical specialists;

1383 (ii) obstetricians;

1384 (iii) neonatologists;

1385 (iv) anesthesia specialists;

1386 (v) psychiatrists, psychologists, or other mental health providers;

1387 (vi) clergy;

1388 (vii) social workers; or

1389 (viii) specialty nurses.

1390 ~~[(8)]~~ (7) "Physician" means:

1391 (a) a medical doctor licensed to practice medicine and surgery in the state;

1392 (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

1393 (c) a physician employed by the federal government who has qualifications similar to
1394 an individual described in Subsection ~~[(8)(a) or (b)] (7)(a) or (b).~~

1395 ~~[(9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.]~~

1396 ~~[(10)]~~ (8) (a) "Severe brain abnormality" means a malformation or defect that causes an
1397 individual to live in a mentally vegetative state.

1398 (b) "Severe brain abnormality" does not include:

1399 (i) Down syndrome;

- 1400 (ii) spina bifida;
- 1401 (iii) cerebral palsy; or
- 1402 (iv) any other malformation, defect, or condition that does not cause an individual to
- 1403 live in a mentally vegetative state.

1404 Section 29. Section **76-7a-201** is amended to read:

1405 **76-7a-201. Abortion prohibition -- Exceptions -- Penalties.**

1406 (1) An abortion may be performed in this state only under the following circumstances:

1407 (a) the abortion is necessary to avert:

1408 (i) the death of the woman on whom the abortion is performed; or

1409 (ii) a serious physical risk of substantial [~~and irreversible~~] impairment of a major

1410 bodily function of the woman on whom the abortion is performed;

1411 (b) subject to Subsection (3), two physicians who practice maternal fetal medicine

1412 concur, in writing, in the patient's medical record that the fetus[?] has a fetal abnormality that in

1413 the physicians' reasonable medical judgment is incompatible with life; or

1414 [~~(i) has a defect that is uniformly diagnosable and uniformly lethal; or~~]

1415 [~~(ii) has a severe brain abnormality that is uniformly diagnosable; or~~]

1416 (c) [~~(i)~~] the unborn child has not reached 18 weeks gestational age and:

1417 (i) (A) the woman is pregnant as a result of:

1418 [~~(A)~~] (I) rape, as described in Section 76-5-402;

1419 [~~(B)~~] (II) rape of a child, as described in Section 76-5-402.1; or

1420 [~~(C)~~] (III) incest[; and], as described in Subsection 76-5-406(2)(j) or Section 76-7-102;

1421 or

1422 (B) the pregnant child is under the age of 14; and

1423 (ii) before the abortion is performed, the physician who performs the abortion:

1424 (A) for an abortion authorized under Subsection (1)(c)(i)(A), verifies that the incident

1425 described in Subsection [~~(1)(c)(i)~~] (1)(c)(i)(A) has been reported to law enforcement; and

1426 (B) if applicable, complies with requirements related to reporting suspicions of or

1427 known child abuse.

1428 (2) An abortion may be performed only:
1429 (a) by a physician; and
1430 (b) in ~~[an abortion clinic or]~~ a hospital, unless it is necessary to perform the abortion in
1431 another location due to a medical emergency.

1432 (3) If the unborn child has been diagnosed with a fetal abnormality that is incompatible
1433 with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and
1434 in writing, that perinatal hospice services and perinatal palliative care are available and are an
1435 alternative to abortion.

1436 ~~[(3)]~~ (4) A person who performs an abortion in violation of this section is guilty of a
1437 second degree felony.

1438 ~~[(4)]~~ (5) In addition to the penalty described in Subsection ~~[(3)]~~ (4), the department
1439 may take appropriate corrective action against ~~[an abortion clinic]~~ a health care facility,
1440 including revoking the ~~[abortion clinic's]~~ health care facility's license, if a violation of this
1441 chapter occurs at the ~~[abortion clinic]~~ health care facility.

1442 ~~[(5)]~~ (6) The department shall report a physician's violation of any provision of this
1443 section to the state entity that regulates the licensing of a physician.

1444 Section 30. **Repealer.**

1445 This bill repeals:

1446 Section **76-7-302.5, Circumstances under which abortion prohibited.**