

ABORTION REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve R. Christiansen

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill creates requirements relating to abortion procedures.

Highlighted Provisions:

This bill:

▶ requires a medical professional to do the following before a pregnant woman may give informed consent to an abortion:

- perform an ultrasound on the pregnant woman;
- describe the images produced by the ultrasound;
- make audible the fetal heartbeat, if possible; and
- provide written confirmation to the pregnant woman stating that the medical professional complied with the requirements;

▶ provides that a pregnant woman may choose not to view the images produced by the ultrasound and not to listen to the fetal heartbeat;

▶ adds certain record keeping requirements for a physician performing an abortion;

▶ imposes a fine on a physician that performs an abortion on a pregnant woman who has not received an ultrasound;

▶ requires the Department of Health to:

- create, and make available online, a form to be signed by a physician or qualified technician performing the mandatory ultrasound; and

- provide a list of organizations that offer a free or low cost ultrasound; and



28 ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **26-21-6.5**, as last amended by Laws of Utah 2018, Chapter 282

36 **76-7-305**, as last amended by Laws of Utah 2019, Chapters 124 and 189

37 **76-7-305.5**, as last amended by Laws of Utah 2018, Chapter 282

38 **78B-3-406**, as last amended by Laws of Utah 2019, Chapter 346



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

40 Section 1. Section **26-21-6.5** is amended to read:

41 **26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee.**

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

44 (2) A type II abortion clinic may not operate in the state without a license issued by the
45 department to operate a type II abortion clinic.

46 (3) The department shall make rules establishing minimum health, safety, sanitary, and
47 recordkeeping requirements for:

48 (a) a type I abortion clinic; and

49 (b) a type II abortion clinic.

50 (4) To receive and maintain a license described in this section, an abortion clinic shall:

51 (a) apply for a license on a form prescribed by the department;

52 (b) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping

53 requirements established under Subsection (3) that relate to the type of abortion clinic licensed;

54 (c) comply with the recordkeeping and reporting requirements of Section **76-7-313** and
55 Subsection 76-7-305(3);

56 (d) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion;

57 (e) pay the annual licensing fee; and



59 (f) cooperate with inspections conducted by the department.

60 (5) The department shall, at least twice per year, inspect each abortion clinic in the
61 state to ensure that the abortion clinic is complying with all statutory and licensing
62 requirements relating to the abortion clinic. At least one of the inspections shall be made
63 without providing notice to the abortion clinic.

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

68 (7) The department shall deposit the licensing fees described in this section in the
69 General Fund as a dedicated credit to be used solely to pay for the cost of the licensing
70 requirements described in this section and the cost of inspecting abortion clinics.

71 Section 2. Section 76-7-305 is amended to read:

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

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

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

79 (b) the provisions of this section.

80 (2) Except as provided in Subsection [(8)] (9), consent to an abortion is voluntary and
81 informed only if, at least 72 hours before the abortion:

82 (a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse
83 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
84 physician's assistant presents the information module to the pregnant woman;

85 (b) the pregnant woman views the entire information module and presents evidence to
86 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire
87 information module;

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

- 90 (i) documents that the pregnant woman viewed the entire information module;
- 91 (ii) gives the pregnant woman, upon her request, a copy of the documentation
- 92 described in Subsection (2)(c)(i); and
- 93 (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician
- 94 who is to perform the abortion, upon request of that physician or the pregnant woman;
- 95 (d) after the pregnant woman views the entire information module, the physician who
- 96 is to perform the abortion, the referring physician, a physician, a registered nurse, nurse
- 97 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
- 98 physician's assistant, in a face-to-face consultation in any location in the state, orally informs
- 99 the woman of:
 - 100 (i) the nature of the proposed abortion procedure;
 - 101 (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the
 - 102 fetus;
 - 103 (iii) the risks and alternatives to the abortion procedure or treatment;
 - 104 (iv) the options and consequences of aborting a medication-induced abortion, if the
 - 105 proposed abortion procedure is a medication-induced abortion;
 - 106 (v) the probable gestational age and a description of the development of the unborn
 - 107 child at the time the abortion would be performed;
 - 108 (vi) the medical risks associated with carrying her child to term; and
 - 109 [~~vii~~] ~~the right to view an ultrasound of the unborn child, at no expense to the pregnant~~
 - 110 ~~woman, upon her request; and~~
 - 111 [~~viii~~] (vii) when the result of a prenatal screening or diagnostic test indicates that the
 - 112 unborn child has or may have Down syndrome, the Department of Health website containing
 - 113 the information described in Section 26-10-14, including the information on the informational
 - 114 support sheet; [~~and~~]
 - 115 (e) after the pregnant woman views the entire information module, a staff member of
 - 116 the abortion clinic or hospital provides to the pregnant woman:
 - 117 (i) on a document that the pregnant woman may take home:
 - 118 (A) the address for the department's website described in Section 76-7-305.5; and
 - 119 (B) a statement that the woman may request, from a staff member of the abortion clinic
 - 120 or hospital where the woman viewed the information module, a printed copy of the material on

121 the department's website; and

122 (ii) a printed copy of the material on the department's website described in Section
123 76-7-305.5, if requested by the pregnant woman~~[-]; and~~

124 (f) a qualified physician or technician performs an ultrasound on the pregnant woman
125 in accordance with Subsection (5).

126 (3) (a) Before performing an abortion, the physician who is to perform the abortion
127 shall:

128 ~~[(a)]~~ (i) in a face-to-face consultation, provide the information described in Subsection
129 (2)(d), unless the attending physician or referring physician is the individual who provided the
130 information required under Subsection (2)(d); and

131 ~~[(b) (i) obtain from the pregnant woman]~~

132 (ii) obtain:

133 (A) a written certification from the pregnant woman that the information required to be
134 provided under Subsection (2) and this Subsection (3) was provided in accordance with the
135 requirements of Subsection (2) and this Subsection (3); ~~[and]~~

136 (B) the signed form or copy of the signed form described in Subsection (5)(c); and

137 ~~[(ii) obtain]~~ (C) a copy of the statement described in Subsection (2)(c)(i).

138 (b) The treating physician shall retain a copy of each document described in Subsection
139 (3)(a) in the pregnant woman's medical record.

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

143 ~~[(5) If an ultrasound is performed on a woman before an abortion is performed, the~~
144 ~~individual who performs the ultrasound, or another qualified individual, shall:]~~

145 ~~[(a) inform the woman that the ultrasound images will be simultaneously displayed in a~~
146 ~~manner to permit her to:]~~

147 ~~[(i) view the images, if she chooses to view the images; or]~~

148 ~~[(ii) not view the images, if she chooses not to view the images;]~~

149 ~~[(b) simultaneously display the ultrasound images in order to permit the woman to:]~~

150 ~~[(i) view the images, if she chooses to view the images; or]~~

151 ~~[(ii) not view the images, if she chooses not to view the images;]~~

152 ~~[(c) inform the woman that, if she desires, the person performing the ultrasound, or~~
153 ~~another qualified person shall]~~

154 (5) (a) A physician, or a qualified technician, performing an ultrasound required under
155 Subsection (2)(f) shall:

156 (i) provide a simultaneous detailed description of the ultrasound images, including:

157 (A) the presence and location of each unborn child within the uterus;

158 (B) the number of unborn children within the uterus;

159 ~~[(i)]~~ (C) the dimensions of [the] each unborn child;

160 ~~[(ii)]~~ (D) the presence of cardiac activity in [the] each unborn child, if present and
161 viewable; and

162 ~~[(iii)]~~ (E) the presence of external body parts or internal organs, if present and
163 viewable; [and]

164 ~~[(d) provide the detailed description described in Subsection (5)(c), if the woman~~
165 ~~requests it.]~~

166 (ii) display the ultrasound images so that the pregnant woman may view the images;
167 and

168 (iii) make each unborn child's heartbeat audible to the pregnant woman, if a heartbeat
169 is audible.

170 (b) (i) This section does not prevent a pregnant woman from:

171 (A) averting her eyes from the ultrasound images; or

172 (B) requesting the volume of a heartbeat be reduced or turned off.

173 (ii) The physician or qualified technician performing the ultrasound and the pregnant
174 woman are not subject to any civil or criminal penalty if the pregnant woman refuses to look at
175 the displayed ultrasound images or listen to the heartbeat of an unborn child.

176 (c) The physician or qualified technician who performs a required ultrasound in
177 accordance with this Subsection (5) shall:

178 (i) sign the form described in Subsection(5)(d) certifying that the physician or qualified
179 technician completed each of the requirements described in Subsection (5)(a); and

180 (ii) provide the signed form to the pregnant woman.

181 (d) The department shall:

182 (i) create a form to be signed by a physician or qualified technician who performs an

183 ultrasound in accordance with this Subsection (5) that, when signed by the physician or
184 qualified technician, certifies that the physician or qualified technician complied with each
185 requirement described in Subsection (5)(a); and

186 (ii) make the form described in Subsection (5)(d)(i) available for download on the
187 department's website.

188 (e) A pregnant woman obtaining a required ultrasound in accordance with this
189 Subsection (5) may obtain the required ultrasound from any physician or qualified technician.

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

193 (a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician
194 concur, in writing, that the abortion is necessary to avert:

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

196 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
197 of the woman on whom the abortion is performed; or

198 (b) Subsection 76-7-302(3)(b)(ii).

199 (7) In addition to the criminal penalties described in this part, a physician who violates
200 the provisions of this section:

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

203 (b) shall be subject to:

204 (i) suspension or revocation of the physician's license for the practice of medicine and
205 surgery in accordance with Section 58-67-401 or 58-68-401; and

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

207 (8) In addition to the penalties described in this part, a physician who fails to comply
208 with Subsection (3)(a)(ii)(B) is subject to a fine not to exceed \$100,000 for a first offense or
209 \$250,000 for each subsequent offense.

210 ~~[(8)]~~ (9) A physician is not guilty of violating this section for failure to furnish any of
211 the information described in Subsection (2) or (3), or for failing to comply with Subsection (5),
212 if:

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

214 physician reasonably believed that furnishing the information would have resulted in a severely
215 adverse effect on the physical [~~or mental~~] health of the pregnant woman;

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

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

218 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
219 of the woman on whom the abortion is performed;

220 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections
221 [76-5-402](#) and [76-5-402.1](#);

222 (d) the pregnancy was the result of incest, as defined in Subsection [76-5-406\(2\)\(j\)](#) and
223 Section [76-7-102](#); or

224 (e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

225 ~~[(9)]~~ (10) A physician who complies with the provisions of this section and Section
226 [76-7-304.5](#) may not be held civilly liable to the physician's patient for failure to obtain
227 informed consent under Section [78B-3-406](#).

228 ~~[(10)]~~ (11) (a) The department shall provide an ultrasound, in accordance with the
229 provisions of Subsection (5)~~[(b)]~~(a), at no expense to the pregnant woman.

230 (b) A local health department shall refer a pregnant woman who requests an ultrasound
231 described in Subsection ~~[(10)]~~ (11)(a) to the department.

232 ~~[(11)]~~ (12) A physician is not guilty of violating this section if:

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

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

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

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

241 Section 3. Section [76-7-305.5](#) is amended to read:

242 **[76-7-305.5](#). Requirements for information module and website.**

243 (1) In order to ensure that a woman's consent to an abortion is truly an informed
244 consent, the department shall, in accordance with the requirements of this section, develop an

245 information module and maintain a public website.

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

247 (a) be scientifically accurate, comprehensible, and presented in a truthful,
248 nonmisleading manner;

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

250 (c) be produced in a manner that conveys the state's preference for childbirth over
251 abortion;

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

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

254 (f) state that any physician who performs an abortion without obtaining the woman's
255 informed consent or without providing her a private medical consultation in accordance with
256 the requirements of this section, may be liable to her for damages in a civil action at law;

257 (g) provide a geographically indexed list of resources and public and private services
258 available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth,
259 and while the child is dependent, including:

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

261 (ii) organizations that offer a free or low-cost ultrasound;

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

263 [~~(iii)~~] (iv) other financial aid that may be available during an adoption;

264 [~~(iv)~~] (v) services available from public adoption agencies, private adoption agencies,
265 and private attorneys whose practice includes adoption; and

266 [~~(v)~~] (vi) the names, addresses, and telephone numbers of each person listed under this
267 Subsection (2)(g);

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

269 (i) describe the persons who may pay the adoption related expenses described in
270 Subsection (2)(h);

271 (j) except as provided in Subsection (4), describe the legal responsibility of the father
272 of a child to assist in child support, even if the father has agreed to pay for an abortion;

273 (k) except as provided in Subsection (4), describe the services available through the
274 Office of Recovery Services, within the Department of Human Services, to establish and
275 collect the support described in Subsection (2)(j);

- 276 (l) state that private adoption is legal;
- 277 (m) describe and depict, with pictures or video segments, the probable anatomical and
- 278 physiological characteristics of an unborn child at two-week gestational increments from
- 279 fertilization to full term, including:
 - 280 (i) brain and heart function;
 - 281 (ii) the presence and development of external members and internal organs; and
 - 282 (iii) the dimensions of the fetus;
- 283 (n) show an ultrasound of the heartbeat of an unborn child at:
 - 284 (i) four weeks from conception;
 - 285 (ii) six to eight weeks from conception; and
 - 286 (iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;
- 287 (o) describe abortion procedures used in current medical practice at the various stages
- 288 of growth of the unborn child, including:
 - 289 (i) the medical risks associated with each procedure;
 - 290 (ii) the risk related to subsequent childbearing that are associated with each procedure;
 - 291 and
 - 292 (iii) the consequences of each procedure to the unborn child at various stages of fetal
 - 293 development;
- 294 (p) describe the possible detrimental psychological effects of abortion;
- 295 (q) describe the medical risks associated with carrying a child to term;
- 296 (r) include relevant information on the possibility of an unborn child's survival at the
- 297 two-week gestational increments described in Subsection (2)(m);
- 298 (s) except as provided in Subsection (5), include:
 - 299 (i) information regarding substantial medical evidence from studies concluding that an
 - 300 unborn child who is at least 20 weeks gestational age may be capable of experiencing pain
 - 301 during an abortion procedure; and
 - 302 (ii) the measures that will be taken in accordance with Section [76-7-308.5](#);
- 303 (t) explain the options and consequences of aborting a medication-induced abortion;
- 304 (u) include the following statement regarding a medication-induced abortion,
- 305 "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You
- 306 may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but

307 have not yet taken the second drug and have questions regarding the health of your fetus or are
308 questioning your decision to terminate your pregnancy, you should consult a physician
309 immediately.";

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

312 (w) be in a typeface large enough to be clearly legible.

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

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

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

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

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

326 (i) the abortion is being performed for a reason described in Subsection

327 [76-7-302\(3\)\(b\)\(i\)](#) or (ii); and

328 (ii) due to a serious medical emergency, time does not permit compliance with the
329 requirement to provide the information described in Subsection (2)(s).

330 (6) The department and each local health department shall make the information
331 module and the website described in Subsection (1) available at no cost to any person.

332 (7) The department shall make the website described in Subsection (1) available for
333 viewing on the department's website by clicking on a conspicuous link on the home page of the
334 website.

335 (8) The department shall ensure that the information module is:

336 (a) available to be viewed at all facilities where an abortion may be performed;

337 (b) interactive for the individual viewing the module, including the provision of

338 opportunities to answer questions and manually engage with the module before the module
339 transitions from one substantive section to the next;

340 (c) produced in English and may include subtitles in Spanish or another language; and

341 (d) capable of being viewed on a tablet or other portable device.

342 (9) The department shall present the information module to the Health and Human
343 Services Interim Committee for the committee's review and recommendation before November
344 1, 2018.

345 (10) The department shall release the information module, for the use described in
346 Section 76-7-305, before January 1, 2019.

347 (11) After the department releases the initial version of the information module, for the
348 use described in Section 76-7-305, the department shall:

349 (a) update the information module, as required by law; and

350 (b) present an updated version of the information module to the Health and Human
351 Services Interim Committee for the committee's review and recommendation before releasing
352 the updated version for the use described in Section 76-7-305.

353 Section 4. Section 78B-3-406 is amended to read:

354 **78B-3-406. Failure to obtain informed consent -- Proof required of patient --**
355 **Defenses -- Consent to health care.**

356 (1) (a) When a person submits to health care rendered by a health care provider, it is
357 presumed that actions taken by the health care provider are either expressly or impliedly
358 authorized to be done.

359 (b) For a patient to recover damages from a health care provider in an action based
360 upon the provider's failure to obtain informed consent, the patient must prove the following:

361 (i) that a provider-patient relationship existed between the patient and health care
362 provider;

363 (ii) the health care provider rendered health care to the patient;

364 (iii) the patient suffered personal injuries arising out of the health care rendered;

365 (iv) the health care rendered carried with it a substantial and significant risk of causing
366 the patient serious harm;

367 (v) the patient was not informed of the substantial and significant risk;

368 (vi) a reasonable, prudent person in the patient's position would not have consented to

369 the health care rendered after having been fully informed as to all facts relevant to the decision
370 to give consent; and

371 (vii) the unauthorized part of the health care rendered was the proximate cause of
372 personal injuries suffered by the patient.

373 (2) In determining what a reasonable, prudent person in the patient's position would do
374 under the circumstances, the finder of fact shall use the viewpoint of the patient before health
375 care was provided and before the occurrence of any personal injuries alleged to have arisen
376 from said health care.

377 (3) It shall be a defense to any malpractice action against a health care provider based
378 upon alleged failure to obtain informed consent if:

379 (a) the risk of the serious harm which the patient actually suffered was relatively
380 minor;

381 (b) the risk of serious harm to the patient from the health care provider was commonly
382 known to the public;

383 (c) the patient stated, prior to receiving the health care complained of, that he would
384 accept the health care involved regardless of the risk; or that he did not want to be informed of
385 the matters to which he would be entitled to be informed;

386 (d) the health care provider, after considering all of the attendant facts and
387 circumstances, used reasonable discretion as to the manner and extent to which risks were
388 disclosed, if the health care provider reasonably believed that additional disclosures could be
389 expected to have a substantial and adverse effect on the patient's condition; or

390 (e) the patient or the patient's representative executed a written consent which sets forth
391 the nature and purpose of the intended health care and which contains a declaration that the
392 patient accepts the risk of substantial and serious harm, if any, in hopes of obtaining desired
393 beneficial results of health care and which acknowledges that health care providers involved
394 have explained the patient's condition and the proposed health care in a satisfactory manner and
395 that all questions asked about the health care and its attendant risks have been answered in a
396 manner satisfactory to the patient or the patient's representative.

397 (4) The written consent shall be a defense to an action against a health care provider
398 based upon failure to obtain informed consent unless the patient proves that the person giving
399 the consent lacked capacity to consent or shows by clear and convincing evidence that the

400 execution of the written consent was induced by the defendant's affirmative acts of fraudulent
401 misrepresentation or fraudulent omission to state material facts.

402 (5) This act may not be construed to prevent any person 18 years of age or over from
403 refusing to consent to health care for the patient's own person upon personal or religious
404 grounds.

405 (6) Except as provided in Section 76-7-304.5, the following persons are authorized and
406 empowered to consent to any health care not prohibited by law:

407 (a) any parent, whether an adult or a minor, for the parent's minor child;

408 (b) any married person, for a spouse;

409 (c) any person temporarily standing in loco parentis, whether formally serving or not,
410 for the minor under that person's care and any guardian for the guardian's ward;

411 (d) any person 18 years of age or over for that person's parent who is unable by reason
412 of age, physical or mental condition, to provide such consent;

413 (e) any patient 18 years of age or over;

414 (f) any female regardless of age or marital status, when given in connection with her
415 pregnancy or childbirth;

416 (g) in the absence of a parent, any adult for the adult's minor brother or sister;

417 (h) in the absence of a parent, any grandparent for the grandparent's minor grandchild;

418 (i) an emancipated minor as provided in Section 78A-6-805;

419 (j) a minor who has contracted a lawful marriage; and

420 (k) an unaccompanied homeless minor, as that term is defined in the McKinney-Vento
421 Homeless Assistance Act of 1987, Pub. L. 100-77, as amended, who is 15 years of age or older.

422 (7) A person who in good faith consents or authorizes health care treatment or
423 procedures for another as provided by this act may not be subject to civil liability.

424 (8) Notwithstanding any other provision of this section, if a health care provider fails to
425 comply with the requirement in Section 58-1-509, the health care provider is presumed to have
426 lacked informed consent with respect to the patient examination, as defined in Section
427 58-1-509.

428 (9) (a) Notwithstanding any other provision of this section, if a health care provider
429 fails to comply with Subsection 76-7-305(2) before performing an abortion, the health care
430 provider is presumed to have lacked the informed consent of the pregnant woman to perform

431 an abortion.

432 (b) A health care provider may reverse the presumption described in Subsection (9)(a)

433 if the health care provider produces a signed copy of the certificate described in Subsection

434 [76-7-305\(3\)\(a\)\(ii\)\(A\)](#).