

1 **PHYSICIAN ASSISTANT PRACTICE AMENDMENTS**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill modifies provisions relating to physician assistants.

8 **Highlighted Provisions:**

9 This bill:

- 10 ▶ clarifies the scope of practice for physician assistants.

11 **Money Appropriated in this Bill:**

12 None

13 **Other Special Clauses:**

14 None

15 **Utah Code Sections Affected:**

16 AMENDS:

17 **26B-1-501**, as renumbered and amended by Laws of Utah 2023, Chapter 305

18 **26B-2-201**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and
19 amended by Laws of Utah 2023, Chapter 305

20 **26B-3-123**, as last amended by Laws of Utah 2023, Chapter 295 and renumbered and
21 amended by Laws of Utah 2023, Chapter 306

22 **26B-4-409**, as renumbered and amended by Laws of Utah 2023, Chapter 307

23 **26B-4-410**, as renumbered and amended by Laws of Utah 2023, Chapter 307

24 **26B-7-216**, as renumbered and amended by Laws of Utah 2023, Chapter 308

25 **26B-7-402**, as renumbered and amended by Laws of Utah 2023, Chapter 308

26 **26B-8-104**, as renumbered and amended by Laws of Utah 2023, Chapter 306

27 **26B-8-115**, as renumbered and amended by Laws of Utah 2023, Chapter 306

28 **26B-8-118**, as renumbered and amended by Laws of Utah 2023, Chapter 306

29 **53-2a-1601**, as enacted by Laws of Utah 2022, Chapter 111

30 **53-3-206**, as last amended by Laws of Utah 2023, Chapter 391

31 **53-3-220**, as last amended by Laws of Utah 2023, Chapter 415

32 **53G-6-204**, as last amended by Laws of Utah 2023, Chapter 162
 33 **53G-6-603**, as last amended by Laws of Utah 2022, Chapter 329
 34 **53G-9-403**, as last amended by Laws of Utah 2022, Chapter 214
 35 **58-37c-3**, as last amended by Laws of Utah 2015, Chapter 258
 36 **75-2a-104**, as last amended by Laws of Utah 2009, Chapter 99
 37 **75-2a-106**, as last amended by Laws of Utah 2023, Chapter 330
 38 **75-2a-117**, as last amended by Laws of Utah 2009, Chapter 99
 39 **75-5-301.5**, as enacted by Laws of Utah 2022, Chapter 358 and last amended by
 40 Coordination Clause, Laws of Utah 2022, Chapter 358
 41 **75-5-303**, as last amended by Laws of Utah 2018, Chapter 455
 42 **76-5-111**, as last amended by Laws of Utah 2022, Chapter 181

43

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

45 Section 1. Section **26B-1-501** is amended to read:

46 **26B-1-501. Definitions.**

47 As used in this part:

48 (1) "Abuse" means the same as that term is defined in Section 80-1-102.

49 (2) "Child" means the same as that term is defined in Section 80-1-102.

50 (3) "Committee" means a fatality review committee that is formed under Section
 51 26B-1-503 or 26B-1-504.

52 (4) "Dependency" means the same as that term is defined in Section 80-1-102.

53 (5) "Formal review" means a review of a death or a near fatality that is ordered under
 54 Subsection 26B-1-502(6).

55 (6) "Near fatality" means alleged abuse or neglect that, as certified by a physician or
 56 physician assistant, places a child in serious or critical condition.

57 (7) "Qualified individual" means an individual who:

58 (a) at the time that the individual dies, is a resident of a facility or program that is
 59 owned or operated by the department or a division of the department;

60 (b) (i) is in the custody of the department or a division of the department; and

61 (ii) is placed in a residential placement by the department or a division of the
 62 department;

63 (c) at the time that the individual dies, has an open case for the receipt of child welfare
64 services, including:

65 (i) an investigation for abuse, neglect, or dependency;

66 (ii) foster care;

67 (iii) in-home services; or

68 (iv) substitute care;

69 (d) had an open case for the receipt of child welfare services within one year before the
70 day on which the individual dies;

71 (e) was the subject of an accepted referral received by Adult Protective Services within
72 one year before the day on which the individual dies, if:

73 (i) the department or a division of the department is aware of the death; and

74 (ii) the death is reported as a homicide, suicide, or an undetermined cause;

75 (f) received services from, or under the direction of, the Division of Services for People
76 with Disabilities within one year before the day on which the individual dies, unless the
77 individual:

78 (i) lived in the individual's home at the time of death; and

79 (ii) the director of the Division of Continuous Quality and Improvement determines
80 that the death was not in any way related to services that were provided by, or under the
81 direction of, the department or a division of the department;

82 (g) dies within 60 days after the day on which the individual is discharged from the
83 Utah State Hospital, if the department is aware of the death;

84 (h) is a child who:

85 (i) suffers a near fatality; and

86 (ii) is the subject of an open case for the receipt of child welfare services within one
87 year before the day on which the child suffered the near fatality, including:

88 (A) an investigation for abuse, neglect, or dependency;

89 (B) foster care;

90 (C) in-home services; or

91 (D) substitute care; or

92 (i) is designated as a qualified individual by the executive director.

93 (8) "Neglect" means the same as that term is defined in Section 80-1-102.

94 (9) "Substitute care" means the same as that term is defined in Section 80-1-102.

95 Section 2. Section **26B-2-201** is amended to read:

96 **26B-2-201. Definitions.**

97 As used in this part:

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

99 (b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under
100 Section 76-7-301 or Section 76-71-101.

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

102 (a) dressing;

103 (b) eating;

104 (c) grooming;

105 (d) bathing;

106 (e) toileting;

107 (f) ambulation;

108 (g) transferring; and

109 (h) self-administration of medication.

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

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

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

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

117 (A) require protected living arrangements; and

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

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

124 (b) Each resident in a type I or type II assisted living facility shall have a service plan

125 based on the assessment, which may include:

126 (i) specified services of intermittent nursing care;

127 (ii) administration of medication; and

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

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

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

132 (b) (i) is freestanding; or

133 (ii) is not freestanding, but meets the requirements for an alongside midwifery unit
134 described in Subsection 26B-2-228(7).

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

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

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

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

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

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

152 (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home
153 health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing
154 centers, ambulatory surgical facilities, small health care facilities, abortion clinics, a clinic that
155 meets the definition of hospital under Section 76-7-301 or 76-71-201, facilities owned or

156 operated by health maintenance organizations, end stage renal disease facilities, and any other
157 health care facility which the committee designates by rule.

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

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

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

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

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

170 (iii) provides physicians' services primarily directly through physicians who are either
171 employees or partners of such organizations, or through arrangements with individual
172 physicians or one or more groups of physicians organized on a group practice or individual
173 practice basis[~~;~~]; and

174 (iv) provides physician assistant services.

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

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

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

185 (17) "Nursing care facility" means a health care facility, other than a general acute or
186 specialty hospital, constructed, licensed, and operated to provide patient living

187 accommodations, 24-hour staff availability, and at least two of the following patient services:

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

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

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

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

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

199 (a) as a result of physical or mental limitations or age requires or requests services
200 provided in an assisted living facility; and

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

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

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

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

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

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

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

217 (24) "Type II abortion clinic" means a facility, including a physician's office, but not

218 including a general acute or specialty hospital, that:

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

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

223 Section 3. Section **26B-3-123** is amended to read:

224 **26B-3-123. Reimbursement of telemedicine services and telepsychiatric**
225 **consultations.**

226 (1) As used in this section:

227 (a) "Telehealth services" means the same as that term is defined in Section 26B-4-704.

228 (b) "Telemedicine services" means the same as that term is defined in Section
229 26B-4-704.

230 (c) "Telepsychiatric consultation" means a consultation between a physician or
231 physician assistant and a board certified psychiatrist, both of whom are licensed to engage in
232 the practice of medicine or physician assistant services in the state, that utilizes:

233 (i) the health records of the patient, provided from the patient or the referring physician
234 or physician assistant;

235 (ii) a written, evidence-based patient questionnaire; and

236 (iii) telehealth services that meet industry security and privacy standards, including
237 compliance with the:

238 (A) Health Insurance Portability and Accountability Act; and

239 (B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No.
240 111-5, 123 Stat. 226, 467, as amended.

241 (2) This section applies to:

242 (a) a managed care organization that contracts with the Medicaid program; and

243 (b) a provider who is reimbursed for health care services under the Medicaid program.

244 (3) The Medicaid program shall reimburse for telemedicine services at the same rate
245 that the Medicaid program reimburses for other health care services.

246 (4) The Medicaid program shall reimburse for audio-only telehealth services as
247 specified by division rule.

248 (5) The Medicaid program shall reimburse for telepsychiatric consultations at a rate set

249 by the Medicaid program.

250 Section 4. Section **26B-4-409** is amended to read:

251 **26B-4-409. Authority to obtain and use an epinephrine auto-injector or stock**
252 **albuterol.**

253 (1) A qualified adult who is a teacher or other school employee at a public or private
254 primary or secondary school in the state, or a school nurse, may obtain from the school district
255 physician, the medical director of the local health department, or the local emergency medical
256 services director a prescription for:

- 257 (a) epinephrine auto-injectors for use in accordance with this part; or
- 258 (b) stock albuterol for use in accordance with this part.

259 (2) (a) A qualified adult may obtain an epinephrine auto-injector for use in accordance
260 with this part that is dispensed by:

- 261 (i) a pharmacist as provided under Section 58-17b-1004; or
- 262 (ii) a pharmacy intern as provided under Section 58-17b-1004.

263 (b) A qualified adult may obtain stock albuterol for use in accordance with this part
264 that is dispensed by:

- 265 (i) a pharmacist as provided under Section 58-17b-1004; or
- 266 (ii) a pharmacy intern as provided under Section 58-17b-1004.

267 (3) A qualified adult:

268 (a) may immediately administer an epinephrine auto-injector to a person exhibiting
269 potentially life-threatening symptoms of anaphylaxis when a physician or physician assistant is
270 not immediately available; and

271 (b) shall initiate emergency medical services or other appropriate medical follow-up in
272 accordance with the training materials retained under Section 26B-4-407 after administering an
273 epinephrine auto-injector.

274 (4) If a school nurse is not immediately available, a qualified adult:

275 (a) may immediately administer stock albuterol to an individual who:

276 (i) has a diagnosis of asthma by a health care provider;

277 (ii) has a current asthma action plan on file with the school; and

278 (iii) is showing symptoms of an asthma emergency as described in the student's asthma
279 action plan; and

280 (b) shall initiate appropriate medical follow-up in accordance with the training
281 materials retained under Section 26B-4-408 after administering stock albuterol.

282 (5) (a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain a
283 supply of epinephrine auto-injectors or stock albuterol, respectively, from a pharmacist under
284 Section 58-17b-1004, or a pharmacy intern under Section 58-17b-1004 for:

285 (i) storing:

286 (A) the epinephrine auto-injectors on the qualified epinephrine auto-injector entity's
287 premises; and

288 (B) stock albuterol on the qualified stock albuterol entity's premises; and

289 (ii) use by a qualified adult in accordance with Subsection (3) or (4).

290 (b) A qualified epinephrine auto-injector entity shall:

291 (i) designate an individual to complete an initial and annual refresher training program
292 regarding the proper storage and emergency use of an epinephrine auto-injector available to a
293 qualified adult; and

294 (ii) store epinephrine auto-injectors in accordance with the standards established by the
295 department in Section 26B-4-411.

296 (c) A qualified stock albuterol entity shall:

297 (i) designate an individual to complete an initial and annual refresher training program
298 regarding the proper storage and emergency use of stock albuterol available to a qualified
299 adult; and

300 (ii) store stock albuterol in accordance with the standards established by the department
301 in Section 26B-4-411.

302 Section 5. Section **26B-4-410** is amended to read:

303 **26B-4-410. Immunity from liability.**

304 (1) The following, if acting in good faith, are not liable in any civil or criminal action
305 for any act taken or not taken under the authority of Sections 26B-4-406 through 26B-4-411
306 with respect to an anaphylactic reaction or asthma emergency:

307 (a) a qualified adult;

308 (b) a physician, physician assistant, pharmacist, or any other person or entity authorized
309 to prescribe or dispense prescription drugs;

310 (c) a person who conducts training described in Section 26B-4-407 or 26B-4-408;

311 (d) a qualified epinephrine auto-injector entity; and

312 (e) a qualified stock albuterol entity.

313 (2) Section 53G-9-502 does not apply to the administration of an epinephrine
314 auto-injector or stock albuterol in accordance with this part.

315 (3) This section does not eliminate, limit, or reduce any other immunity from liability
316 or defense against liability that may be available under state law.

317 Section 6. Section **26B-7-216** is amended to read:

318 **26B-7-216. Serological testing of pregnant or recently delivered women.**

319 (1) As used in this section, a "standard serological test" means a test for syphilis
320 approved by the department and made at an approved laboratory.

321 (2) (a) Every licensed physician [~~and~~], surgeon, or physician assistant attending a
322 pregnant or recently delivered woman for conditions relating to her pregnancy shall take or
323 cause to be taken a sample of blood of the woman at the time of first examination or within 10
324 days thereafter.

325 (b) The blood sample shall be submitted to an approved laboratory for a standard
326 serological test for syphilis.

327 (c) The provisions of this section do not apply to any female who objects thereto on the
328 grounds that she is a bona fide member of a specified, well recognized religious organization
329 whose teachings are contrary to the tests.

330 (3) (a) Every other person attending a pregnant or recently delivered woman, who is
331 not permitted by law to take blood samples, shall within 10 days from the time of first
332 attendance cause a sample of blood to be taken by a licensed physician or physician assistant.

333 (b) The blood sample shall be submitted to an approved laboratory for a standard
334 serological test for syphilis.

335 (4) (a) An approved laboratory is a laboratory approved by the department according to
336 its rules governing the approval of laboratories for the purpose of this title.

337 (b) In submitting the sample to the laboratory the physician or physician assistant shall
338 designate whether it is a prenatal test or a test following recent delivery.

339 (5) The laboratory shall transmit a detailed report of the standard serological test,
340 showing the result thereof to the physician or physician assistant.

341 Section 7. Section **26B-7-402** is amended to read:

342 **26B-7-402. Minimum rules of sanitation established by department.**

343 The department shall establish and enforce, or provide for the enforcement of minimum
344 rules of sanitation necessary to protect the public health. Such rules shall include, but not be
345 limited to, rules necessary for the design, construction, operation, maintenance, or expansion
346 of:

347 (1) restaurants and all places where food or drink is handled, sold or served to the
348 public;

349 (2) public swimming pools;

350 (3) public baths including saunas, spas, massage parlors, and suntan parlors;

351 (4) public bathing beaches;

352 (5) schools which are publicly or privately owned or operated;

353 (6) recreational resorts, camps, and vehicle parks;

354 (7) amusement parks and all other centers and places used for public gatherings;

355 (8) mobile home parks and highway rest stops;

356 (9) construction or labor camps;

357 (10) jails, prisons and other places of incarceration or confinement;

358 (11) hotels and motels;

359 (12) lodging houses and boarding houses;

360 (13) service stations;

361 (14) barbershops and beauty shops, including a facility in which one or more
362 individuals are engaged in:

363 (a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and
364 Associated Professions Licensing Act; or

365 (b) styling hair in accordance with the exemption from licensure described in [Section]
366 Subsection 58-11a-304(13);

367 (15) physician [and], physician assistant, and dentist offices;

368 (16) public buildings and grounds;

369 (17) public conveyances and terminals; and

370 (18) commercial tanning facilities.

371 Section 8. Section **26B-8-104** is amended to read:

372 **26B-8-104. Birth certificates -- Execution and registration requirements.**

373 (1) As used in this section, "birthing facility" means a general acute hospital or birthing
374 center as defined in Section 26B-2-201.

375 (2) For each live birth occurring in the state, a certificate shall be filed with the local
376 registrar for the district in which the birth occurred within 10 days following the birth. The
377 certificate shall be registered if it is completed and filed in accordance with this part.

378 (3) (a) For each live birth that occurs in a birthing facility, the administrator of the
379 birthing facility, or his designee, shall obtain and enter the information required under this part
380 on the certificate, securing the required signatures, and filing the certificate.

381 (b) (i) The date, time, place of birth, and required medical information shall be certified
382 by the birthing facility administrator or his designee.

383 (ii) The attending physician, physician assistant, or nurse midwife may sign the
384 certificate, but if the attending physician, physician assistant primarily responsible for
385 providing assistance to the mother at birth, or nurse midwife has not signed the certificate
386 within seven days of the date of birth, the birthing facility administrator or his designee shall
387 enter the attending physician's, physician assistant's, or nurse midwife's name and transmit the
388 certificate to the local registrar.

389 (iii) The information on the certificate about the parents shall be provided and certified
390 by the mother or father or, in their incapacity or absence, by a person with knowledge of the
391 facts.

392 (4) (a) For live births that occur outside a birthing facility, the birth certificate shall be
393 completed and filed by the physician, physician assistant, nurse, midwife, or other person
394 primarily responsible for providing assistance to the mother at the birth. If there is no such
395 person, either the presumed or declarant father shall complete and file the certificate. In his
396 absence, the mother shall complete and file the certificate, and in the event of her death or
397 disability, the owner or operator of the premises where the birth occurred shall do so.

398 (b) The certificate shall be completed as fully as possible and shall include the date,
399 time, and place of birth, the mother's name, and the signature of the person completing the
400 certificate.

401 (5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the
402 administrator or director of that facility, or his designee, shall:

403 (i) provide the birth mother and declarant father, if present, with:

- 404 (A) a voluntary declaration of paternity form published by the state registrar;
- 405 (B) oral and written notice to the birth mother and declarant father of the alternatives
- 406 to, the legal consequences of, and the rights and responsibilities that arise from signing the
- 407 declaration; and
- 408 (C) the opportunity to sign the declaration;
- 409 (ii) witness the signature of a birth mother or declarant father in accordance with
- 410 Section 78B-15-302 if the signature occurs at the facility;
- 411 (iii) enter the declarant father's information on the original birth certificate, but only if
- 412 the mother and declarant father have signed a voluntary declaration of paternity or a court or
- 413 administrative agency has issued an adjudication of paternity; and
- 414 (iv) file the completed declaration with the original birth certificate.
- 415 (b) If there is a presumed father, the voluntary declaration will only be valid if the
- 416 presumed father also signs the voluntary declaration.
- 417 (c) The state registrar shall file the information provided on the voluntary declaration
- 418 of paternity form with the original birth certificate and may provide certified copies of the
- 419 declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah Uniform
- 420 Parentage Act.
- 421 (6) (a) The state registrar shall publish a form for the voluntary declaration of paternity,
- 422 a description of the process for filing a voluntary declaration of paternity, and of the rights and
- 423 responsibilities established or effected by that filing, in accordance with Title 78B, Chapter 15,
- 424 Utah Uniform Parentage Act.
- 425 (b) Information regarding the form and services related to voluntary paternity
- 426 establishment shall be made available to birthing facilities and to any other entity or individual
- 427 upon request.
- 428 (7) The name of a declarant father may only be included on the birth certificate of a
- 429 child of unmarried parents if:
- 430 (a) the mother and declarant father have signed a voluntary declaration of paternity; or
- 431 (b) a court or administrative agency has issued an adjudication of paternity.
- 432 (8) Voluntary declarations of paternity, adjudications of paternity by judicial or
- 433 administrative agencies, and voluntary rescissions of paternity shall be filed with and
- 434 maintained by the state registrar for the purpose of comparing information with the state case

435 registry maintained by the Office of Recovery Services pursuant to Section 26B-9-104.

436 Section 9. Section **26B-8-115** is amended to read:

437 **26B-8-115. Fetal death certificate -- Filing and registration requirements.**

438 (1) A fetal death certificate shall be filed for each fetal death which occurs in this state.
439 The certificate shall be filed within five days after delivery with the local registrar or as
440 otherwise directed by the state registrar. The certificate shall be registered if it is completed and
441 filed in accordance with this part.

442 (2) When a dead fetus is delivered in an institution, the institution administrator or his
443 designated representative shall prepare and file the fetal death certificate. The attending
444 physician or physician assistant shall state in the certificate the cause of death and sign the
445 certificate.

446 (3) When a dead fetus is delivered outside an institution, the physician in attendance at
447 or immediately after delivery shall complete, sign, and file the fetal death certificate.

448 (4) When a fetal death occurs without medical attendance at or immediately after the
449 delivery or when inquiry is required by Part 2, Utah Medical Examiner, the medical examiner
450 shall investigate the cause of death and prepare and file the certificate of fetal death within five
451 days after taking charge of the case.

452 (5) When a fetal death occurs in a moving conveyance and the dead fetus is first
453 removed from the conveyance in this state or when a dead fetus is found in this state and the
454 place of death is unknown, the death shall be registered in this state. The place where the dead
455 fetus was first removed from the conveyance or found shall be considered the place of death.

456 (6) Final disposition of the dead fetus may not be made until the fetal death certificate
457 has been registered.

458 Section 10. Section **26B-8-118** is amended to read:

459 **26B-8-118. Certificate of early term stillbirth.**

460 (1) As used in this section, "early term stillborn child" means a product of human
461 conception, other than in the circumstances described in Subsection 76-7-301(1), that:

462 (a) is of at least 16 weeks' gestation but less than 20 weeks' gestation, calculated from
463 the day on which the mother's last normal menstrual period began to the day of delivery; and

464 (b) is not born alive.

465 (2) The state registrar shall issue a certificate of early term stillbirth to a parent of an

466 early term stillborn child if:

467 (a) the parent requests, on a form created by the state registrar, that the state registrar
468 register and issue a certificate of early term stillbirth for the early term stillborn child; and

469 (b) the parent files with the state registrar:

470 (i) (A) a signed statement from a physician, or physician assistant if a physician is not
471 in attendance at the delivery, confirming the delivery of the early term stillborn child; or

472 (B) an accurate copy of the parent's medical records related to the early term stillborn
473 child; and

474 (ii) any other record the state registrar determines, by rule made in accordance with
475 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is necessary for accurate
476 recordkeeping.

477 (3) The certificate of early term stillbirth described in Subsection (2) shall meet all of
478 the format and filing requirements of Section 26B-8-103.

479 (4) A person who prepares a certificate of early term stillbirth under this section shall
480 leave blank any references to an early term stillborn child's name if the early term stillborn
481 child's parent does not wish to provide a name for the early term stillborn child.

482 Section 11. Section **53-2a-1601** is amended to read:

483 **53-2a-1601. Definitions.**

484 As used in this part:

485 (1) "Emergency responder" includes a:

486 (a) firefighter;

487 (b) structural engineer;

488 (c) physician;

489 (d) physician assistant;

490 [~~(d)~~] (e) paramedic; or

491 [~~(e)~~] (f) technical rescue specialist.

492 (2) "Emergency response team" means a group of emergency responders placed at the
493 direction, control, and funding of the Division of Emergency Management, in accordance with
494 an agreement between the Division of Emergency Management and a sponsoring agency and
495 the provisions of this part, to assist in urban search and rescue:

496 (a) in response to a disaster, emergency, or important event; or

497 (b) in anticipation of a forecasted severe weather event, a flood, or a planned important
498 event.

499 (3) "Emergency response team member" means an individual who is:

500 (a) an emergency responder;

501 (b) a member of an emergency response team; and

502 (c) acting within the scope of the individual's duties for an emergency response team.

503 (4) "Important event" includes an event attended by one or more officials of the United
504 States or one or more foreign dignitaries and where a large crowd has or is anticipated to
505 gather.

506 (5) "Sponsoring agency" means an entity in the state that executes a written agreement
507 to organize a National Urban Search and Rescue Response System task force as described in 44
508 C.F.R. Part 208 to assist the Federal Emergency Management Agency during a disaster or
509 emergency.

510 Section 12. Section **53-3-206** is amended to read:

511 **53-3-206. Examination of applicant's physical and mental fitness to drive a motor**
512 **vehicle.**

513 (1) The division shall examine every applicant for a license, including a test of the
514 applicant's:

515 (a) eyesight either:

516 (i) by the division; or

517 (ii) by allowing the applicant to furnish to the division a statement from a physician
518 licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician assistant licensed
519 under Title 58, Chapter 70A, Utah Physician Assistant Act, or an optometrist licensed under
520 Title 58, Chapter 16a, Utah Optometry Practice Act;

521 (b) ability to read and understand highway signs regulating, warning, and directing
522 traffic;

523 (c) ability to read and understand simple English used in highway traffic and
524 directional signs;

525 (d) knowledge of the state traffic laws;

526 (e) other physical and mental abilities the division finds necessary to determine the
527 applicant's fitness to drive a motor vehicle safely on the highways; and

528 (f) ability to exercise ordinary and responsible control driving a motor vehicle, as
529 determined by actual demonstration or other indicator.

530 (2) (a) Subject to Subsection (2)(d), and notwithstanding the provisions of Subsection
531 (1) or any other provision of law, the division shall allow an individual to take an examination
532 of the individual's knowledge of the state traffic laws in the individual's preferred language:

533 (i) if the individual is a refugee, an approved asylee, or a covered humanitarian parolee:

534 (A) the first time the individual applies for a limited-term license certificate; and

535 (B) the first time the individual applies for a renewal of a limited-term license
536 certificate; and

537 (ii) for any other individual applying for a class D license certificate:

538 (A) the first time the individual applies for a class D license certificate; and

539 (B) the first time the individual applies for a renewal of a class D license certificate.

540 (b) (i) Upon the second renewal of a refugee's, an approved asylee's, or a covered
541 humanitarian parolee's limited-term license certificate for a refugee, an approved asylee, or a
542 covered humanitarian parolee that has taken the knowledge exam in the individual's preferred
543 language under Subsection (2)(a), the division shall re-examine the individual's knowledge of
544 the state traffic laws in English.

545 (ii) Upon the second renewal of an individual's class D license certificate of an
546 individual who has taken the knowledge exam in the individual's preferred language under
547 Subsection (2)(a)(ii), the division shall re-examine the individual's knowledge of the state
548 traffic laws in English.

549 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
550 division shall make rules establishing the procedures and requirements for the examination of
551 the individual's knowledge of the state traffic laws in the individual's preferred language.

552 (d) (i) Beginning on July 1, 2023, for a class D license certificate, except for a driving
553 privilege card issued under Section 53-3-207, the division shall administer the written
554 knowledge examination in as many languages as reasonably possible given budgetary and other
555 constraints.

556 (ii) If the division is unable to administer the written knowledge examination in a
557 particular language, an individual may take an examination with the assistance of a translator
558 approved by the division.

559 (iii) If an individual takes the examination with the assistance of a translator, the
560 individual is responsible for the costs of the translator.

561 (e) In order to provide the services described in Subsection (2)(d)(i), the division may
562 contract with a private vendor to provide the translation services or technology.

563 (3) (a) For an applicant for an original or a renewal of a class D license, other than a
564 driving privilege card or a limited term license certificate, the division shall provide the
565 examination of an individual's knowledge of the state traffic laws in five commonly spoken
566 languages in the state, other than English, as determined under Subsection (3)(c).

567 (b) An applicant for an original or a renewal of a class D license, other than a driving
568 privilege card or a limited term license certificate, may request to take the examination of the
569 individual's knowledge of the state traffic laws in a language other than English, if the
570 requested language is one of five commonly spoken languages in the state as determined under
571 Subsection (3)(c).

572 (c) (i) The Division of Multicultural Affairs created in Section 9-21-201 shall
573 recommend five commonly spoken languages in the state, other than English, for examination
574 of an individual's knowledge of the state traffic laws.

575 (ii) The division shall offer the examination of an individual's knowledge of the state
576 traffic laws in the five commonly spoken languages, other than English, recommended by the
577 Division of Multicultural Affairs created in Section 9-21-201.

578 (4) The division shall determine whether any facts exist that would bar granting a
579 license under Section 53-3-204.

580 (5) The division shall examine each applicant according to the class of license applied
581 for.

582 (6) An applicant for a CDL shall meet all additional requirements of Part 4, Uniform
583 Commercial Driver License Act, of this chapter.

584 (7) The division shall provide a report to the Transportation Interim Committee on or
585 before October 1, 2023, regarding the written knowledge examination in languages other than
586 English, including:

587 (a) costs associated with the program;

588 (b) the number of languages provided;

589 (c) the likelihood of adding additional languages in the future; and

590 (d) other information the division finds relevant.

591 Section 13. Section **53-3-220** is amended to read:

592 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
593 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
594 **Limited driving privileges.**

595 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter
596 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
597 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
598 receiving a record of the person's conviction for:

599 (i) manslaughter or negligent homicide resulting from driving a motor vehicle,
600 negligently operating a vehicle resulting in death under Section 76-5-207, or automobile
601 homicide involving using a handheld wireless communication device while driving under
602 Section 76-5-207.5;

603 (ii) driving or being in actual physical control of a motor vehicle while under the
604 influence of alcohol, any drug, or combination of them to a degree that renders the person
605 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited
606 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

607 (iii) driving or being in actual physical control of a motor vehicle while having a blood
608 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance
609 that complies with the requirements of Subsection 41-6a-510(1);

610 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
611 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
612 regulating driving on highways;

613 (v) any felony under the motor vehicle laws of this state;

614 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

615 (vii) failure to stop and render aid as required under the laws of this state if a motor
616 vehicle accident results in the death or personal injury of another;

617 (viii) two charges of reckless driving, impaired driving, or any combination of reckless
618 driving and impaired driving committed within a period of 12 months; but if upon a first
619 conviction of reckless driving or impaired driving the judge or justice recommends suspension
620 of the convicted person's license, the division may after a hearing suspend the license for a

621 period of three months;

622 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement
623 officer as required in Section 41-6a-210;

624 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
625 requires disqualification;

626 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
627 allowing the discharge of a firearm from a vehicle;

628 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
629 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

630 (xiii) operating or being in actual physical control of a motor vehicle while having any
631 measurable controlled substance or metabolite of a controlled substance in the person's body in
632 violation of Section 41-6a-517;

633 (xiv) operating or being in actual physical control of a motor vehicle while having any
634 measurable or detectable amount of alcohol in the person's body in violation of Section
635 41-6a-530;

636 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
637 violation of Section 41-6a-606;

638 (xvi) operating or being in actual physical control of a motor vehicle in this state
639 without an ignition interlock system in violation of Section 41-6a-518.2; or

640 (xvii) refusal of a chemical test under Subsection 41-6a-520.1(1).

641 (b) The division shall immediately revoke the license of a person upon receiving a
642 record of an adjudication under Section 80-6-701 for:

643 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
644 allowing the discharge of a firearm from a vehicle; or

645 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
646 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

647 (c) (i) Except when action is taken under Section 53-3-219 for the same offense, upon
648 receiving a record of conviction, the division shall immediately suspend for six months the
649 license of the convicted person if the person was convicted of violating any one of the
650 following offenses while the person was an operator of a motor vehicle, and the court finds that
651 a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

- 652 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 653 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 654 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 655 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 656 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
- 657 (F) any criminal offense that prohibits possession, distribution, manufacture,
- 658 cultivation, sale, or transfer of any substance that is prohibited under the acts described in
- 659 Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute,
- 660 manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described
- 661 in Subsections (1)(c)(i)(A) through (E).
- 662 (ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a
- 663 person's driving privilege before completion of the suspension period imposed under
- 664 Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner
- 665 specified by the division, that the defendant is participating in or has successfully completed a
- 666 drug court program as defined in Section 78A-5-201.
- 667 (iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is
- 668 required to pay the license reinstatement fees under Subsection 53-3-105(26).
- 669 (iv) The court shall notify the division, in a manner specified by the division, if a
- 670 person fails to complete all requirements of the drug court program.
- 671 (v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall
- 672 suspend the person's driving privilege for a period of six months from the date of the notice,
- 673 and no days shall be subtracted from the six-month suspension period for which a driving
- 674 privilege was previously suspended under Subsection (1)(c)(i).
- 675 (d) (i) The division shall immediately suspend a person's driver license for conviction
- 676 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:
- 677 (A) an order from the sentencing court requiring that the person's driver license be
- 678 suspended; and
- 679 (B) a record of the conviction.
- 680 (ii) An order of suspension under this section is at the discretion of the sentencing
- 681 court, and may not be for more than 90 days for each offense.
- 682 (e) (i) The division shall immediately suspend for one year the license of a person upon

683 receiving a record of:

684 (A) conviction for the first time for a violation under Section 32B-4-411; or

685 (B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

686 (ii) The division shall immediately suspend for a period of two years the license of a
687 person upon receiving a record of:

688 (A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

689 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior
690 conviction for a violation under Section 32B-4-411; or

691 (B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation
692 under Section 32B-4-411; and

693 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior
694 adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

695 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

696 (A) for a conviction or adjudication described in Subsection (1)(e)(i):

697 (I) impose a suspension for one year beginning on the date of conviction; or

698 (II) if the person is under the age of eligibility for a driver license, impose a suspension
699 that begins on the date of conviction and continues for one year beginning on the date of
700 eligibility for a driver license; or

701 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):

702 (I) impose a suspension for a period of two years; or

703 (II) if the person is under the age of eligibility for a driver license, impose a suspension
704 that begins on the date of conviction and continues for two years beginning on the date of
705 eligibility for a driver license.

706 (iv) Upon receipt of the first order suspending a person's driving privileges under
707 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if
708 ordered by the court in accordance with Subsection 32B-4-411(3)(a).

709 (v) Upon receipt of the second or subsequent order suspending a person's driving
710 privileges under Section 32B-4-411, the division shall reduce the suspension period under
711 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

712 (2) The division shall extend the period of the first denial, suspension, revocation, or
713 disqualification for an additional like period, to a maximum of one year for each subsequent

714 occurrence, upon receiving:

715 (a) a record of the conviction of any person on a charge of driving a motor vehicle
716 while the person's license is denied, suspended, revoked, or disqualified;

717 (b) a record of a conviction of the person for any violation of the motor vehicle law in
718 which the person was involved as a driver;

719 (c) a report of an arrest of the person for any violation of the motor vehicle law in
720 which the person was involved as a driver; or

721 (d) a report of an accident in which the person was involved as a driver.

722 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
723 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
724 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
725 or revocation originally imposed under Section 53-3-221.

726 (4) (a) The division may extend to a person the limited privilege of driving a motor
727 vehicle to and from the person's place of employment or within other specified limits on
728 recommendation of the judge in any case where a person is convicted of any of the offenses
729 referred to in Subsections (1) and (2) except:

730 (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b),
731 and (1)(c)(i); and

732 (ii) those offenses referred to in Subsection (2) when the original denial, suspension,
733 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
734 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1),
735 Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the
736 person was charged with violating as a result of a plea bargain after having been originally
737 charged with violating one or more of these sections or ordinances, unless:

738 (A) the person has had the period of the first denial, suspension, revocation, or
739 disqualification extended for a period of at least three years;

740 (B) the division receives written verification from the person's primary care physician
741 or physician assistant that:

742 (I) to the physician's or physician assistant's knowledge the person has not used any
743 narcotic drug or other controlled substance except as prescribed by a licensed medical
744 practitioner within the last three years; and

745 (II) the physician or physician assistant is not aware of any physical, emotional, or
746 mental impairment that would affect the person's ability to operate a motor vehicle safely; and

747 (C) for a period of one year prior to the date of the request for a limited driving
748 privilege:

749 (I) the person has not been convicted of a violation of any motor vehicle law in which
750 the person was involved as the operator of the vehicle;

751 (II) the division has not received a report of an arrest for a violation of any motor
752 vehicle law in which the person was involved as the operator of the vehicle; and

753 (III) the division has not received a report of an accident in which the person was
754 involved as an operator of a vehicle.

755 (b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege
756 authorized in this Subsection (4):

757 (A) is limited to when undue hardship would result from a failure to grant the
758 privilege; and

759 (B) may be granted only once to any person during any single period of denial,
760 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
761 or disqualification.

762 (ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

763 (A) is limited to when the limited privilege is necessary for the person to commute to
764 school or work; and

765 (B) may be granted only once to any person during any single period of denial,
766 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
767 or disqualification.

768 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
769 Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or
770 denied under this chapter.

771 Section 14. Section **53G-6-204** is amended to read:

772 **53G-6-204. School-age children exempt from school attendance.**

773 (1) (a) A local school board or charter school governing board may excuse a school-age
774 child from attendance for any of the following reasons:

775 (i) a school-age child over age 16 may receive a partial release from school to enter

776 employment, or attend a trade school, if the school-age child has completed grade 8; or

777 (ii) on an annual basis, a school-age child may receive a full release from attending a
778 public, regularly established private, or part-time school or class if:

779 (A) the school-age child has already completed the work required for graduation from
780 high school;

781 (B) the school-age child is in a physical or mental condition, certified by a competent
782 physician or physician assistant if required by the local school board or charter school
783 governing board, which renders attendance inexpedient and impracticable;

784 (C) proper influences and adequate opportunities for education are provided in
785 connection with the school-age child's employment; or

786 (D) the district superintendent or charter school governing board has determined that a
787 school-age child over the age of 16 is unable to profit from attendance at school because of
788 inability or a continuing negative attitude toward school regulations and discipline.

789 (b) A school-age child receiving a partial release from school under Subsection
790 (1)(a)(i) is required to attend:

791 (i) school part time as prescribed by the local school board or charter school governing
792 board; or

793 (ii) a home school part time.

794 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)
795 must be sufficient to satisfy the local school board or charter school governing board.

796 (d) A local school board or charter school governing board that excuses a school-age
797 child from attendance as provided by this Subsection (1) shall issue a certificate that the child
798 is excused from attendance during the time specified on the certificate.

799 (2) (a) (i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or
800 attempted felony offense of which an individual is convicted, or to which an individual pleads
801 guilty or no contest, for conduct that constitutes any of the following:

802 (A) child abuse under Section 76-5-109;

803 (B) aggravated child abuse under Section 76-5-109.2;

804 (C) child abandonment under Section 76-5-109.3;

805 (D) commission of domestic violence in the presence of a child under Section
806 76-5-114;

- 807 (E) child abuse homicide under Section 76-5-208;
- 808 (F) child kidnapping under Section 76-5-301.1;
- 809 (G) human trafficking of a child under Section 76-5-308.5;
- 810 (H) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title 76,
811 Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;
- 812 (I) sexual exploitation of a minor under Section 76-5b-201;
- 813 (J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or
- 814 (K) an offense in another state that, if committed in this state, would constitute an
815 offense described in this Subsection (2)(a)(i).
- 816 (ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a
817 school-age child from attendance, if the school-age child's parent or legal guardian files a
818 signed and notarized affidavit with the school-age child's school district of residence, as
819 defined in Section 53G-6-302, that:
- 820 (A) the school-age child will attend a home school; and
- 821 (B) the parent or legal guardian assumes sole responsibility for the education of the
822 school-age child, except to the extent the school-age child is dual enrolled in a public school as
823 provided in Section 53G-6-702.
- 824 (iii) If a parent or legal guardian has been convicted of child abuse or if a court of
825 competent jurisdiction has made a substantiated finding of child abuse against the parent or
826 legal guardian:
- 827 (A) the parent or legal guardian may not assume responsibility for the education of a
828 school-age child under Subsection (2)(a)(ii); and
- 829 (B) the local school board may not accept the affidavit described in Subsection
830 (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from
831 attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to
832 home school the child.
- 833 (iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents
834 or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit
835 described in Subsection (2)(a)(ii).
- 836 (b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall
837 remain in effect as long as:

- 838 (i) the school-age child attends a home school;
- 839 (ii) the school district where the affidavit was filed remains the school-age child's
840 district of residence; and
- 841 (iii) the parent or legal guardian who filed the signed and notarized affidavit has not
842 been convicted of child abuse or been the subject of a substantiated finding of child abuse by a
843 court of competent jurisdiction.
- 844 (c) A parent or legal guardian of a school-age child who attends a home school is
845 solely responsible for:
- 846 (i) the selection of instructional materials and textbooks;
- 847 (ii) the time, place, and method of instruction; and
- 848 (iii) the evaluation of the home school instruction.
- 849 (d) A local school board may not:
- 850 (i) require a parent or legal guardian of a school-age child who attends a home school
851 to maintain records of instruction or attendance;
- 852 (ii) require credentials for individuals providing home school instruction;
- 853 (iii) inspect home school facilities; or
- 854 (iv) require standardized or other testing of home school students.
- 855 (e) Upon the request of a parent or legal guardian, a local school board shall identify
856 the knowledge, skills, and competencies a student is recommended to attain by grade level and
857 subject area to assist the parent or legal guardian in achieving college and career readiness
858 through home schooling.
- 859 (f) A local school board that excuses a school-age child from attendance under this
860 Subsection (2) shall annually issue a certificate stating that the school-age child is excused
861 from attendance for the specified school year.
- 862 (g) A local school board shall issue a certificate excusing a school-age child from
863 attendance:
- 864 (i) within 30 days after receipt of a signed and notarized affidavit filed by the
865 school-age child's parent or legal guardian under this Subsection (2); and
- 866 (ii) on or before August 1 each year thereafter unless:
- 867 (A) the school-age child enrolls in a school within the school district;
- 868 (B) the school-age child's parent or legal guardian notifies the school district that the

869 school-age child no longer attends a home school; or

870 (C) the school-age child's parent or legal guardian notifies the school district that the
871 school-age child's school district of residence has changed.

872 (3) A parent or legal guardian who is eligible to file and files a signed and notarized
873 affidavit under Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2),
874 (5), and (6).

875 (4) (a) Nothing in this section may be construed to prohibit or discourage voluntary
876 cooperation, resource sharing, or testing opportunities between a school or school district and a
877 parent or legal guardian of a child attending a home school.

878 (b) The exemptions in this section apply regardless of whether:

879 (i) a parent or legal guardian provides education instruction to the parent's or legal
880 guardian's child alone or in cooperation with other parents or legal guardians similarly
881 exempted under this section; or

882 (ii) the parent or legal guardian makes payment for educational services the parent's or
883 legal guardian's child receives.

884 Section 15. Section **53G-6-603** is amended to read:

885 **53G-6-603. Requirement of birth certificate for enrollment of students --**

886 **Procedures.**

887 (1) As used in this section:

888 (a) "Child trafficking" means human trafficking of a child in violation of Section
889 76-5-308.5.

890 (b) "Enroller" means an individual who enrolls a student in a public school.

891 (c) "Review team" means a team described in Subsection (4), assigned to determine a
892 student's biological age as described in this section.

893 (d) "Social service provider" means the same as that term is defined in Section
894 53E-3-524.

895 (2) Except as provided in Subsection (3), upon enrollment of a student for the first time
896 in a particular school, that school shall notify the enroller in writing that within 30 days the
897 enroller shall provide to the school either:

898 (a) a certified copy of the student's birth certificate; or

899 (b) (i) other reliable proof of the student's:

- 900 (A) identity;
- 901 (B) biological age; and
- 902 (C) relationship to the student's legally responsible individual; and
- 903 (ii) an affidavit explaining the enroller's inability to produce a copy of the student's
- 904 birth certificate.
- 905 (3) (a) If the documentation described in Subsection (2)(a) or (2)(b)(i) inaccurately
- 906 reflects the student's biological age, the enroller shall provide to the school:
- 907 (i) an affidavit explaining the reasons for the inaccuracy described in Subsection (3)(a);
- 908 and
- 909 (ii) except as provided in Subsection (4), supporting documentation that establishes the
- 910 student's biological age.
- 911 (b) The supporting documentation described in Subsection (3)(a)(ii) may include:
- 912 (i) a religious, hospital, [or] physician, or physician assistant certificate showing the
- 913 student's date of birth;
- 914 (ii) an entry in a family religious text;
- 915 (iii) an adoption record;
- 916 (iv) previously verified school records;
- 917 (v) previously verified immunization records;
- 918 (vi) documentation from a social service provider; or
- 919 (vii) other legal documentation, including from a consulate, that reflects the student's
- 920 biological age.
- 921 (4) (a) If the supporting documentation described in Subsection (3)(b) is not available,
- 922 the school shall assign a review team to work with the enroller to determine the student's
- 923 biological age for an LEA to use for a student's enrollment and appropriate placement in a
- 924 public school.
- 925 (b) The review team described in Subsection (4)(a):
- 926 (i) may include:
- 927 (A) an appropriate district administrator;
- 928 (B) the student's teacher or teachers;
- 929 (C) the school principal;
- 930 (D) a school counselor;

- 931 (E) a school social worker;
932 (F) a school psychologist;
933 (G) a culturally competent and trauma-informed community representative;
934 (H) a school nurse or other school health specialist;
935 (I) an interpreter, if necessary; or
936 (J) a relevant educational equity administrator; and
937 (ii) shall include at least three members, at least one of which has completed the
938 instruction described in Subsection 53G-9-207(3)(a), no more than two years prior to the
939 member's appointment to the review team.

940 (c) In addition to any duty to comply with the mandatory reporting requirements
941 described in Sections 53E-6-701 and 62A-4a-403, a school shall report to local law
942 enforcement and to the division any sign of child trafficking that the review team identifies in
943 carrying out the review team's duties described in Subsection (4)(a).

944 Section 16. Section **53G-9-403** is amended to read:

945 **53G-9-403. Personnel to perform health examination.**

946 A local school board may use teachers or school nurses to conduct examinations
947 required under this part and licensed physicians or physician assistants as needed for medical
948 consultation related to those examinations.

949 Section 17. Section **58-37c-3** is amended to read:

950 **58-37c-3. Definitions.**

951 In addition to the definitions in Section 58-1-102, as used in this chapter:

- 952 (1) "Controlled substance precursor" includes a chemical reagent and means any of the
953 following:
- 954 (a) Phenyl-2-propanone;
 - 955 (b) Methylamine;
 - 956 (c) Ethylamine;
 - 957 (d) D-lysergic acid;
 - 958 (e) Ergotamine and its salts;
 - 959 (f) Diethyl malonate;
 - 960 (g) Malonic acid;
 - 961 (h) Ethyl malonate;

- 962 (i) Barbituric acid;
- 963 (j) Piperidine and its salts;
- 964 (k) N-acetylanthranilic acid and its salts;
- 965 (l) Pyrrolidine;
- 966 (m) Phenylacetic acid and its salts;
- 967 (n) Anthranilic acid and its salts;
- 968 (o) Morpholine;
- 969 (p) Ephedrine;
- 970 (q) Pseudoephedrine;
- 971 (r) Norpseudoephedrine;
- 972 (s) Phenylpropanolamine;
- 973 (t) Benzyl cyanide;
- 974 (u) Ergonovine and its salts;
- 975 (v) 3,4-Methylenedioxyphenyl-2-propanone;
- 976 (w) propionic anhydride;
- 977 (x) Insosafrole;
- 978 (y) Safrole;
- 979 (z) Piperonal;
- 980 (aa) N-Methylephedrine;
- 981 (bb) N-ethylephedrine;
- 982 (cc) N-methylpseudoephedrine;
- 983 (dd) N-ethylpseudoephedrine;
- 984 (ee) Hydriotic acid;
- 985 (ff) gamma butyrolactone (GBL), including butyrolactone, 1,2 butanolide,
- 986 2-oxanolone, tetrahydro-2-furanone, dihydro-2(3H)-furanone, and tetramethylene glycol, but
- 987 not including gamma aminobutric acid (GABA);
- 988 (gg) 1,4 butanediol;
- 989 (hh) any salt, isomer, or salt of an isomer of the chemicals listed in Subsections (1)(a)
- 990 through (gg);
- 991 (ii) Crystal iodine;
- 992 (jj) Iodine at concentrations greater than 1.5% by weight in a solution or matrix;

- 993 (kk) Red phosphorous, except as provided in Section 58-37c-19.7;
- 994 (ll) anhydrous ammonia, except as provided in Section 58-37c-19.9;
- 995 (mm) any controlled substance precursor listed under the provisions of the Federal
996 Controlled Substances Act which is designated by the director under the emergency listing
997 provisions set forth in Section 58-37c-14; and
- 998 (nn) any chemical which is designated by the director under the emergency listing
999 provisions set forth in Section 58-37c-14.
- 1000 (2) "Deliver," "delivery," "transfer," or "furnish" means the actual, constructive, or
1001 attempted transfer of a controlled substance precursor.
- 1002 (3) "Matrix" means something, as a substance, in which something else originates,
1003 develops, or is contained.
- 1004 (4) "Person" means any individual, group of individuals, proprietorship, partnership,
1005 joint venture, corporation, or organization of any type or kind.
- 1006 (5) "Practitioner" means a physician, physician assistant, dentist, podiatric physician,
1007 veterinarian, pharmacist, scientific investigator, pharmacy, hospital, pharmaceutical
1008 manufacturer, or other person licensed, registered, or otherwise permitted to distribute,
1009 dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a
1010 controlled substance in the course of professional practice or research in this state.
- 1011 (6) (a) "Regulated distributor" means a person within the state who provides, sells,
1012 furnishes, transfers, or otherwise supplies a listed controlled substance precursor chemical in a
1013 regulated transaction.
- 1014 (b) "Regulated distributor" does not include any person excluded from regulation under
1015 this chapter.
- 1016 (7) (a) "Regulated purchaser" means any person within the state who receives a listed
1017 controlled substance precursor chemical in a regulated transaction.
- 1018 (b) "Regulated purchaser" does not include any person excluded from regulation under
1019 this chapter.
- 1020 (8) "Regulated transaction" means any actual, constructive or attempted:
- 1021 (a) transfer, distribution, delivery, or furnishing by a person within the state to another
1022 person within or outside of the state of a threshold amount of a listed precursor chemical; or
- 1023 (b) purchase or acquisition by any means by a person within the state from another

1024 person within or outside the state of a threshold amount of a listed precursor chemical.

1025 (9) "Retail distributor" means a grocery store, general merchandise store, drug store, or
1026 other entity or person whose activities as a distributor are limited almost exclusively to sales
1027 for personal use:

1028 (a) in both number of sales and volume of sales; and

1029 (b) either directly to walk-in customers or in face-to-face transactions by direct sales.

1030 (10) "Threshold amount of a listed precursor chemical" means any amount of a
1031 controlled substance precursor or a specified amount of a controlled substance precursor in a
1032 matrix; however, the division may exempt from the provisions of this chapter a specific
1033 controlled substance precursor in a specific amount and in certain types of transactions which
1034 provisions for exemption shall be defined by the division by rule adopted pursuant to Title
1035 63G, Chapter 3, Utah Administrative Rulemaking Act.

1036 (11) "Unlawful conduct" as defined in Section 58-1-501 includes knowingly and
1037 intentionally:

1038 (a) engaging in a regulated transaction without first being appropriately licensed or
1039 exempted from licensure under this chapter;

1040 (b) acting as a regulated distributor and selling, transferring, or in any other way
1041 conveying a controlled substance precursor to a person within the state who is not appropriately
1042 licensed or exempted from licensure as a regulated purchaser, or selling, transferring, or
1043 otherwise conveying a controlled substance precursor to a person outside of the state and
1044 failing to report the transaction as required;

1045 (c) acting as a regulated purchaser and purchasing or in any other way obtaining a
1046 controlled substance precursor from a person within the state who is not a licensed regulated
1047 distributor, or purchasing or otherwise obtaining a controlled substance precursor from a
1048 person outside of the state and failing to report the transaction as required;

1049 (d) engaging in a regulated transaction and failing to submit reports and keep required
1050 records of inventories required under the provisions of this chapter or rules adopted pursuant to
1051 this chapter;

1052 (e) making any false statement in any application for license, in any record to be kept,
1053 or on any report submitted as required under this chapter;

1054 (f) with the intent of causing the evasion of the recordkeeping or reporting

1055 requirements of this chapter and rules related to this chapter, receiving or distributing any listed
1056 controlled substance precursor chemical in any manner designed so that the making of records
1057 or filing of reports required under this chapter is not required;

1058 (g) failing to take immediate steps to comply with licensure, reporting, or
1059 recordkeeping requirements of this chapter because of lack of knowledge of those
1060 requirements, upon becoming informed of the requirements;

1061 (h) presenting false or fraudulent identification where or when receiving or purchasing
1062 a listed controlled substance precursor chemical;

1063 (i) creating a chemical mixture for the purpose of evading any licensure, reporting or
1064 recordkeeping requirement of this chapter or rules related to this chapter, or receiving a
1065 chemical mixture created for that purpose;

1066 (j) if the person is at least 18 years of age, employing, hiring, using, persuading,
1067 inducing, enticing, or coercing another person under 18 years of age to violate any provision of
1068 this chapter, or assisting in avoiding detection or apprehension for any violation of this chapter
1069 by any federal, state, or local law enforcement official; and

1070 (k) obtaining or attempting to obtain or to possess any controlled substance precursor
1071 or any combination of controlled substance precursors knowing or having a reasonable cause to
1072 believe that the controlled substance precursor is intended to be used in the unlawful
1073 manufacture of any controlled substance.

1074 (12) "Unprofessional conduct" as defined in Section 58-1-102 and as may be further
1075 defined by rule includes the following:

1076 (a) violation of any provision of this chapter, the Controlled Substance Act of this state
1077 or any other state, or the Federal Controlled Substance Act; and

1078 (b) refusing to allow agents or representatives of the division or authorized law
1079 enforcement personnel to inspect inventories or controlled substance precursors or records or
1080 reports relating to purchases and sales or distribution of controlled substance precursors as such
1081 records and reports are required under this chapter.

1082 Section 18. Section **75-2a-104** is amended to read:

1083 **75-2a-104. Capacity to make health care decisions -- Presumption -- Overcoming**
1084 **presumption.**

1085 (1) An adult is presumed to have:

- 1086 (a) health care decision making capacity; and
- 1087 (b) capacity to make or revoke an advance health care directive.
- 1088 (2) To overcome the presumption of capacity described in Subsection (1)(a), a
- 1089 physician, an APRN, or ~~subject to Subsection (6),~~ a physician assistant who has personally
- 1090 examined the adult and assessed the adult's health care decision making capacity must:
- 1091 (a) find that the adult lacks health care decision making capacity;
- 1092 (b) record the finding in the adult's medical chart including an indication of whether
- 1093 the adult is likely to regain health care decision making capacity; and
- 1094 (c) make a reasonable effort to communicate the determination to:
- 1095 (i) the adult;
- 1096 (ii) other health care providers or health care facilities that the person who makes the
- 1097 finding would routinely inform of such a finding; and
- 1098 (iii) if the adult has a surrogate, any known surrogate.
- 1099 (3) (a) An adult who is found to lack health care decision making capacity in
- 1100 accordance with Subsection (2) may, at any time, challenge the finding by:
- 1101 (i) submitting to a health care provider a written notice stating that the adult disagrees
- 1102 with the physician's or physician assistant's finding; or
- 1103 (ii) orally informing the health care provider that the adult disagrees with the finding.
- 1104 (b) A health care provider who is informed of a challenge under Subsection (3)(a),
- 1105 shall, if the adult has a surrogate, promptly inform the surrogate of the adult's challenge.
- 1106 (c) A surrogate informed of a challenge to a finding under this section, or the adult if
- 1107 no surrogate is acting on the adult's behalf, shall inform the following of the adult's challenge:
- 1108 (i) any other health care providers involved in the adult's care; and
- 1109 (ii) the health care facility, if any, in which the adult is receiving care.
- 1110 (d) Unless otherwise ordered by a court, a finding, under Subsection (2), that the adult
- 1111 lacks health care decision making capacity, is not in effect if the adult challenges the finding
- 1112 under Subsection (3)(a).
- 1113 (e) If an adult does not challenge the finding described in Subsection (2), the health
- 1114 care provider and health care facility may rely on a surrogate, pursuant to the provisions of this
- 1115 chapter, to make health care decisions for the adult.
- 1116 (4) A health care provider or health care facility that relies on a surrogate to make

1117 decisions on behalf of an adult has an ongoing obligation to consider whether the adult
1118 continues to lack health care decision making capacity.

1119 (5) If at any time a health care provider finds, based on an examination and assessment,
1120 that the adult has regained health care decision making capacity, the health care provider shall
1121 record the results of the assessment in the adult's medical record, and the adult can direct the
1122 adult's own health care.

1123 ~~[(6) A physician assistant may not make a finding described in Subsection (2), unless~~
1124 ~~the physician assistant is permitted to make the finding under the physician assistant's~~
1125 ~~delegation of services agreement, as defined in Section 58-70a-102.]~~

1126 Section 19. Section **75-2a-106** is amended to read:

1127 **75-2a-106. Emergency medical services -- POLST order.**

1128 (1) A POLST order may be created by or on behalf of a person as described in this
1129 section.

1130 (2) A POLST order shall, in consultation with the person authorized to consent to the
1131 order pursuant to this section, be prepared by:

1132 (a) the physician, APRN, or ~~[, subject to Subsection (11),]~~ physician assistant of the
1133 person to whom the POLST order relates; or

1134 (b) a health care provider who:

1135 (i) is acting under the supervision of a person described in Subsection (2)(a); and

1136 (ii) is:

1137 (A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

1138 (B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician

1139 Assistant Act;

1140 (C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health
1141 Professional Practice Act; or

1142 (D) another health care provider, designated by rule as described in Subsection (10).

1143 (3) A POLST order shall be signed:

1144 (a) personally, by the physician, APRN, or ~~[, subject to Subsection (11),]~~ physician
1145 assistant of the person to whom the POLST order relates; and

1146 (b) (i) if the person to whom the POLST order relates is an adult with health care
1147 decision making capacity, by:

- 1148 (A) the person; or
- 1149 (B) an adult who is directed by the person to sign the POLST order on behalf of the
1150 person;
- 1151 (ii) if the person to whom the POLST order relates is an adult who lacks health care
1152 decision making capacity, by:
- 1153 (A) the surrogate with the highest priority under Section 75-2a-111;
- 1154 (B) the majority of the class of surrogates with the highest priority under Section
1155 75-2a-111; or
- 1156 (C) a person directed to sign the POLST order by, and on behalf of, the persons
1157 described in Subsection (3)(b)(ii)(A) or (B); or
- 1158 (iii) if the person to whom the POLST order relates is a minor, by a parent or guardian
1159 of the minor.
- 1160 (4) If a POLST order relates to a minor and directs that life sustaining treatment be
1161 withheld or withdrawn from the minor, the order shall include a certification by two physicians
1162 that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in
1163 the best interest of the minor.
- 1164 (5) A POLST order:
- 1165 (a) shall be in writing, on a form designated by the Department of Health and Human
1166 Services;
- 1167 (b) shall state the date on which the POLST order was made;
- 1168 (c) may specify the level of life sustaining care to be provided to the person to whom
1169 the order relates; and
- 1170 (d) may direct that life sustaining care be withheld or withdrawn from the person to
1171 whom the order relates.
- 1172 (6) A health care provider or emergency medical service provider, licensed or certified
1173 under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, is immune from
1174 civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:
- 1175 (a) complying with a POLST order in good faith; or
- 1176 (b) providing life sustaining treatment to a person when a POLST order directs that the
1177 life sustaining treatment be withheld or withdrawn.
- 1178 (7) To the extent that the provisions of a POLST order described in this section conflict

1179 with the provisions of an advance health care directive made under Section 75-2a-107, the
1180 provisions of the POLST order take precedence.

1181 (8) An adult, or a parent or guardian of a minor, may revoke a POLST order by:

1182 (a) orally informing emergency service personnel;

1183 (b) writing "void" across the POLST order form;

1184 (c) burning, tearing, or otherwise destroying or defacing:

1185 (i) the POLST order form; or

1186 (ii) a bracelet or other evidence of the POLST order;

1187 (d) asking another adult to take the action described in this Subsection (8) on the
1188 person's behalf;

1189 (e) signing or directing another adult to sign a written revocation on the person's
1190 behalf;

1191 (f) stating, in the presence of an adult witness, that the person wishes to revoke the
1192 order; or

1193 (g) completing a new POLST order.

1194 (9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks
1195 health care decision making capacity may only revoke a POLST order if the revocation is
1196 consistent with the substituted judgment standard.

1197 (b) Except as provided in Subsection (9)(c), a surrogate who has authority under this
1198 section to sign a POLST order may revoke a POLST order, in accordance with Subsection
1199 (9)(a), by:

1200 (i) signing a written revocation of the POLST order; or

1201 (ii) completing and signing a new POLST order.

1202 (c) A surrogate may not revoke a POLST order during the period of time beginning
1203 when an emergency service provider is contacted for assistance, and ending when the
1204 emergency ends.

1205 (10) (a) The Department of Health and Human Services shall make rules, in
1206 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

1207 (i) create the forms and systems described in this section; and

1208 (ii) develop uniform instructions for the form established in Section 75-2a-117.

1209 (b) The Department of Health and Human Services may make rules, in accordance

1210 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate health care
 1211 professionals, in addition to those described in Subsection (2)(b)(ii), who may prepare a
 1212 POLST order.

1213 (c) The Department of Health and Human Services may assist others with training of
 1214 health care professionals regarding this chapter.

1215 ~~[(11) A physician assistant may not prepare or sign a POLST order, unless the~~
 1216 ~~physician assistant is permitted to prepare or sign the POLST order under the physician~~
 1217 ~~assistant's delegation of services agreement, as defined in Section 58-70a-102.]~~

1218 ~~[(12)]~~ (11) (a) Notwithstanding any other provision of this section:

1219 (i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to
 1220 any signature required on the POLST order; and

1221 (ii) a verbal confirmation satisfies the requirement for a signature from an individual
 1222 under Subsection (3)(b)(ii) or (iii), if:

1223 (A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the
 1224 POLST order in person or electronically would require significant difficulty or expense; and

1225 (B) a licensed health care provider witnesses the verbal confirmation and signs the
 1226 POLST order attesting that the health care provider witnessed the verbal confirmation.

1227 (b) The health care provider described in Subsection ~~[(12)(a)(ii)(B)]~~ (11)(a)(ii)(B):

1228 (i) may not be the same individual who signs the POLST order under Subsection
 1229 (3)(a); and

1230 (ii) shall verify, in accordance with HIPAA as defined in Section 26B-3-126, the
 1231 identity of the individual who is providing the verbal confirmation.

1232 Section 20. Section **75-2a-117** is amended to read:

1233 **75-2a-117. Optional form.**

1234 (1) The form created in Subsection (2), or a substantially similar form, is presumed
 1235 valid under this chapter.

1236 (2) The following form is presumed valid under Subsection (1):

1237 Utah Advance Health Care Directive

1238 (Pursuant to Utah Code Section 75-2a-117)

1239 Part I: Allows you to name another person to make health care decisions for you when
 1240 you cannot make decisions or speak for yourself.

1241 Part II: Allows you to record your wishes about health care in writing.

1242 Part III: Tells you how to revoke or change this directive.

1243 Part IV: Makes your directive legal.

1244

1245

1246 My Personal Information

1247 Name:

1248

1249 Street Address:

1250

1251 City, State, Zip Code:

1252

1253 Telephone: _____ Cell Phone:

1254

1255 Birth date: _____

1256

1257 Part I: My Agent (Health Care Power of Attorney)

1258 A. No Agent

1259 If you do not want to name an agent: initial the box below, then go to Part II; do not
1260 name an agent in B or C below. No one can force you to name an agent.

1261 _____ I do not want to choose an agent.

1262 B. My Agent

1263 Agent's Name:

1264

1265 Street Address:

1266

1267 City, State, Zip Code:

1268

1269 Home Phone: () _____ Cell Phone: () _____ Work Phone: ()

1270

1271 C. My Alternate Agent

1272 This person will serve as your agent if your agent, named above, is unable or unwilling
1273 to serve.

1274 Alternate Agent's Name:

1275 _____

1276 Street Address:

1277 _____

1278 City, State, Zip Code:

1279 _____

1280 Home Phone: () _____ Cell Phone: () _____ Work Phone: ()

1281 _____

1282 D. Agent's Authority

1283 If I cannot make decisions or speak for myself (in other words, after my physician or
1284 another authorized provider finds that I lack health care decision making capacity under
1285 Section 75-2a-104 of the Advance Health Care Directive Act), my agent has the power to make
1286 any health care decision I could have made such as, but not limited to:

- 1287 • Consent to, refuse, or withdraw any health care. This may include care to prolong my
- 1288 life such as food and fluids by tube, use of antibiotics, CPR (cardiopulmonary resuscitation),
- 1289 and dialysis, and mental health care, such as convulsive therapy and psychoactive medications.

1290 This authority is subject to any limits in paragraph F of Part I or in Part II of this directive.

- 1291 • Hire and fire health care providers.
- 1292 • Ask questions and get answers from health care providers.
- 1293 • Consent to admission or transfer to a health care provider or health care facility,
- 1294 including a mental health facility, subject to any limits in paragraphs E and F of Part I.
- 1295 • Get copies of my medical records.
- 1296 • Ask for consultations or second opinions.

1297 My agent cannot force health care against my will, even if a physician has found that I
1298 lack health care decision making capacity.

1299 E. Other Authority

1300 My agent has the powers below ONLY IF I initial the "yes" option that precedes the
1301 statement. I authorize my agent to:

1302 YES _____ NO _____ Get copies of my medical records at any time, even when I can

1303 speak for myself.

1304 YES _____ NO _____ Admit me to a licensed health care facility, such as a hospital,
1305 nursing home, assisted living, or other facility for long-term placement other than convalescent
1306 or recuperative care.

1307 F. Limits/Expansion of Authority

1308 I wish to limit or expand the powers of my health care agent as follows:

1309

1310

1311

1312

1313 G. Nomination of Guardian

1314 Even though appointing an agent should help you avoid a guardianship, a guardianship
1315 may still be necessary. Initial the "YES" option if you want the court to appoint your agent or,
1316 if your agent is unable or unwilling to serve, your alternate agent, to serve as your guardian, if a
1317 guardianship is ever necessary.

1318 YES _____ NO _____ I, being of sound mind and not acting under duress, fraud, or
1319 other undue influence, do hereby nominate my agent, or if my agent is unable or unwilling to
1320 serve, I hereby nominate my alternate agent, to serve as my guardian in the event that, after the
1321 date of this instrument, I become incapacitated.

1322 H. Consent to Participate in Medical Research

1323 YES _____ NO _____ I authorize my agent to consent to my participation in medical
1324 research or clinical trials, even if I may not benefit from the results.

1325 I. Organ Donation

1326 YES _____ NO _____ If I have not otherwise agreed to organ donation, my agent may
1327 consent to the donation of my organs for the purpose of organ transplantation.

1328

1329

1330 Part II: My Health Care Wishes (Living Will)

1331 I want my health care providers to follow the instructions I give them when I am being
1332 treated, even if my instructions conflict with these or other advance directives. My health care
1333 providers should always provide health care to keep me as comfortable and functional as

1334 possible.

1335 Choose only one of the following options, numbered Option 1 through Option 4, by
1336 placing your initials before the numbered statement. Do not initial more than one option. If
1337 you do not wish to document end-of-life wishes, initial Option 4. You may choose to draw a
1338 line through the options that you are not choosing.

1339 Option 1

1340 _____ Initial

1341 I choose to let my agent decide. I have chosen my agent carefully. I have talked with
1342 my agent about my health care wishes. I trust my agent to make the health care decisions for
1343 me that I would make under the circumstances.

1344 Additional Comments:

1345 _____

1346 Option 2

1347 _____ Initial

1348 I choose to prolong life. Regardless of my condition or prognosis, I want my health
1349 care team to try to prolong my life as long as possible within the limits of generally accepted
1350 health care standards.

1351 Other:

1352 _____

1353 Option 3

1354 _____ Initial

1355 I choose not to receive care for the purpose of prolonging life, including food and fluids
1356 by tube, antibiotics, CPR, or dialysis being used to prolong my life. I always want comfort care
1357 and routine medical care that will keep me as comfortable and functional as possible, even if
1358 that care may prolong my life.

1359 If you choose this option, you must also choose either (a) or (b), below.

1360 _____ Initial

1361 (a) I put no limit on the ability of my health care provider or agent to withhold or
1362 withdraw life-sustaining care.

1363 If you selected (a), above, do not choose any options under (b).

1364 _____ Initial

1365 (b) My health care provider should withhold or withdraw life-sustaining care if at least
1366 one of the following initialed conditions is met:

1367 _____ I have a progressive illness that will cause death.

1368 _____ I am close to death and am unlikely to recover.

1369 _____ I cannot communicate and it is unlikely that my condition will improve.

1370 _____ I do not recognize my friends or family and it is unlikely that my condition will
1371 improve.

1372 _____ I am in a persistent vegetative state.

1373 Other:

1374 _____

1375 Option 4

1376 _____ Initial

1377 I do not wish to express preferences about health care wishes in this directive.

1378 Other:

1379 _____

1380 Additional instructions about your health care wishes:

1381 _____

1382 _____

1383 _____

1384 If you do not want emergency medical service providers to provide CPR or other life
1385 sustaining measures, you must work with a physician, physician assistant, or APRN to
1386 complete an order that reflects your wishes on a form approved by the Utah Department of
1387 Health and Human Services.

1388 Part III: Revoking or Changing a Directive

1389 I may revoke or change this directive by:

1390 1. Writing "void" across the form, or burning, tearing, or otherwise destroying or
1391 defacing this document or directing another person to do the same on my behalf;

1392 2. Signing a written revocation of the directive, or directing another person to sign a
1393 revocation on my behalf;

1394 3. Stating that I wish to revoke the directive in the presence of a witness who: is 18
1395 years of age or older; will not be appointed as my agent in a substitute directive; will not

1396 become a default surrogate if the directive is revoked; and signs and dates a written document
1397 confirming my statement; or

1398 4. Signing a new directive. (If you sign more than one Advance Health Care Directive,
1399 the most recent one applies.)

1400 Part IV: Making My Directive Legal

1401 I sign this directive voluntarily. I understand the choices I have made and declare that I
1402 am emotionally and mentally competent to make this directive. My signature on this form
1403 revokes any living will or power of attorney form, naming a health care agent, that I have
1404 completed in the past.

1405 _____

1406 Date

1407 _____

1408 Signature

1409

1410

1411 City, County, and State of Residence

1412 I have witnessed the signing of this directive, I am 18 years of age or older, and I am
1413 not:

1414 1. related to the declarant by blood or marriage;

1415 2. entitled to any portion of the declarant's estate according to the laws of intestate
1416 succession of any state or jurisdiction or under any will or codicil of the declarant;

1417 3. a beneficiary of a life insurance policy, trust, qualified plan, pay on death account, or
1418 transfer on death deed that is held, owned, made, or established by, or on behalf of, the
1419 declarant;

1420 4. entitled to benefit financially upon the death of the declarant;

1421 5. entitled to a right to, or interest in, real or personal property upon the death of the
1422 declarant;

1423 6. directly financially responsible for the declarant's medical care;

1424 7. a health care provider who is providing care to the declarant or an administrator at a
1425 health care facility in which the declarant is receiving care; or

1426 8. the appointed agent or alternate agent.

1427 _____

1428 _____

1429 Signature of Witness Printed Name of Witness

1430 _____

1431 _____

1432 Street Address City State Zip

1433 Code

1434 If the witness is signing to confirm an oral directive, describe below the circumstances
1435 under which the directive was made.

1436 _____

1437 _____

1438 _____

1439 Section 21. Section **75-5-301.5** is amended to read:

1440 **75-5-301.5. Rights of a person alleged to be incapacitated -- Rights of an**

1441 **incapacitated person.**

1442 (1) Except as otherwise provided by this chapter or any other law, a person alleged to be
1443 incapacitated has the right to:

1444 (a) be represented by counsel before a guardianship is imposed and have counsel
1445 represent the person during the guardianship proceeding;

1446 (b) receive a copy of all documents filed in a guardianship proceeding;

1447 (c) have a relative, [a] physician, physician assistant, or any interested person speak
1448 about or raise any issue of concern on behalf of the person during the guardianship proceeding;

1449 (d) receive information about guardianships from the court; and

1450 (e) be treated with respect and dignity.

1451 (2) Except as otherwise provided by this chapter or any other law, an incapacitated
1452 person for whom a guardian is appointed has right to:

1453 (a) have counsel represent the incapacitated person at any time after the guardian is
1454 appointed;

1455 (b) have a relative, [a] physician, physician assistant, or any interested person speak
1456 about or raise any issue of concern on behalf of the person in any court hearing about the
1457 guardianship;

- 1458 (c) receive a copy of all documents filed in court regarding the guardianship;
- 1459 (d) receive information about guardianships from the court;
- 1460 (e) ask questions and express concerns or complaints about a guardian and the actions
- 1461 of a guardian to the court;
- 1462 (f) participate in developing an individualized plan for the incapacitated person's care,
- 1463 including:
- 1464 (i) managing the incapacitated person's assets and property;
- 1465 (ii) determining the incapacitated person's residence; and
- 1466 (iii) determining the services to be received by the incapacitated person;
- 1467 (g) be given consideration in regards to the incapacitated person's current and
- 1468 previously stated desires, preferences for health care and medical treatment, and religious and
- 1469 moral beliefs;
- 1470 (h) remain as independent as possible, including giving deference to the incapacitated
- 1471 person's preference for the incapacitated person's residence and standard of living:
- 1472 (i) as expressed or demonstrated before a determination of capacity was made; or
- 1473 (ii) as currently expressed or demonstrated by the incapacitated person if the preference
- 1474 is reasonable under the circumstances;
- 1475 (i) be granted the greatest degree of freedom possible that is consistent with the reasons
- 1476 for the guardianship;
- 1477 (j) be able to exercise control over all aspects of the incapacitated person's life that are
- 1478 not granted to the guardian in the order of appointment;
- 1479 (k) engage in any activity that the court has not expressly reserved for the guardian,
- 1480 including marriage or domestic partnership, traveling, working, or having a driver license;
- 1481 (l) be treated with respect and dignity;
- 1482 (m) be treated fairly by the incapacitated person's guardian;
- 1483 (n) maintain privacy and confidentiality in personal matters;
- 1484 (o) receive telephone calls and personal mail and associate with relatives and
- 1485 acquaintances unless the guardian and the court determine that the association should be
- 1486 restricted or prohibited in accordance with Section 75-5-312.5;
- 1487 (p) receive timely, effective, and appropriate health care and medical treatment that
- 1488 does not violate the incapacitated person's rights;

- 1489 (q) have all services provided by a guardian at a reasonable rate of compensation;
- 1490 (r) have a court review any request for payment by a guardian to avoid excessive or
1491 unnecessary fees or duplicative billing;
- 1492 (s) receive prudent financial management of the incapacitated person's property;
- 1493 (t) subject to Subsections 75-5-312(4)(h) and 75-5-417(4), receive a copy of an
1494 accounting report regarding the incapacitated person's estate that is submitted to the court by
1495 the guardian under Section 75-5-312 or the conservator under Section 75-5-417 if a conservator
1496 is appointed for the incapacitated person;
- 1497 (u) receive and control the incapacitated person's salary;
- 1498 (v) maintain a bank account and manage the incapacitated person's personal money;
- 1499 and
- 1500 (w) ask the court to:
- 1501 (i) review the management activity of a guardian if a dispute cannot be resolved
1502 regarding the guardian's management;
- 1503 (ii) continue to review the need for a guardianship or to modify or terminate a
1504 guardianship; and
- 1505 (iii) enter an order restoring the incapacitated person's capacity at the earliest possible
1506 time.
- 1507 (3) The rights of an incapacitated person under this section do not abrogate any remedy
1508 provided by law.
- 1509 (4) Any right described in this section may be:
- 1510 (a) addressed in a guardianship proceeding; or
- 1511 (b) enforced through a private cause of action.
- 1512 Section 22. Section **75-5-303** is amended to read:
- 1513 **75-5-303. Procedure for court appointment of a guardian of an incapacitated**
1514 **person.**
- 1515 (1) An incapacitated person or any person interested in the incapacitated person's
1516 welfare may petition for a finding of incapacity and appointment of a guardian.
- 1517 (2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues
1518 of incapacity.
- 1519 (b) Unless the allegedly incapacitated person has counsel of the person's own choice,

1520 the court shall appoint an attorney to represent the person in the proceeding the cost of which
1521 shall be paid by the person alleged to be incapacitated, unless the allegedly incapacitated
1522 person and the allegedly incapacitated person's parents are indigent.

1523 (c) If the court determines that the petition is without merit, the attorney fees and court
1524 costs shall be paid by the person filing the petition.

1525 (d) If the court appoints the petitioner or the petitioner's nominee as guardian of the
1526 incapacitated person, regardless of whether the nominee is specified in the moving petition or
1527 nominated during the proceedings, the petitioner shall be entitled to receive from the
1528 incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting,
1529 or defending the petition.

1530 (3) The legal representation of the incapacitated person by an attorney shall terminate
1531 upon the appointment of a guardian, unless:

1532 (a) there are separate conservatorship proceedings still pending before the court
1533 subsequent to the appointment of a guardian;

1534 (b) there is a timely filed appeal of the appointment of the guardian or the
1535 determination of incapacity; or

1536 (c) upon an express finding of good cause, the court orders otherwise.

1537 (4) The person alleged to be incapacitated may be examined by a physician or
1538 physician assistant appointed by the court who shall submit a report in writing to the court and
1539 may be interviewed by a visitor sent by the court. The visitor also may interview the person
1540 seeking appointment as guardian, visit the present place of abode of the person alleged to be
1541 incapacitated and the place it is proposed that the person will be detained or reside if the
1542 requested appointment is made, conduct other investigations or observations as directed by the
1543 court, and submit a report in writing to the court.

1544 (5) (a) The person alleged to be incapacitated shall be present at the hearing in person
1545 and see or hear all evidence bearing upon the person's condition. If the person seeking the
1546 guardianship requests a waiver of presence of the person alleged to be incapacitated, the court
1547 shall order an investigation by a court visitor, the costs of which shall be paid by the person
1548 seeking the guardianship.

1549 (b) The investigation by a court visitor is not required if there is clear and convincing
1550 evidence from a physician that the person alleged to be incapacitated has:

- 1551 (i) fourth stage Alzheimer's Disease;
- 1552 (ii) extended comatosis; or
- 1553 (iii) (A) an intellectual disability; and
- 1554 (B) an intelligence quotient score under 25.
- 1555 (c) The person alleged to be incapacitated is entitled to be represented by counsel, to
- 1556 present evidence, to cross-examine witnesses, including the court-appointed physician and the
- 1557 visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if
- 1558 the person alleged to be incapacitated or the person's counsel so requests.
- 1559 (d) Counsel for the person alleged to be incapacitated, as defined in Subsection
- 1560 75-1-201(22), is not required if:
- 1561 (i) the person is the biological or adopted child of the petitioner;
- 1562 (ii) the value of the person's entire estate does not exceed \$20,000 as established by an
- 1563 affidavit of the petitioner in accordance with Section 75-3-1201;
- 1564 (iii) the person appears in court with the petitioner;
- 1565 (iv) the person is given the opportunity to communicate, to the extent possible, the
- 1566 person's acceptance of the appointment of petitioner;
- 1567 (v) no attorney from the state court's list of attorneys who have volunteered to represent
- 1568 respondents in guardianship proceedings is able to provide counsel to the person within 60
- 1569 days of the date of the appointment described in Subsection (2);
- 1570 (vi) the court is satisfied that counsel is not necessary in order to protect the interests of
- 1571 the person; and
- 1572 (vii) the court appoints a visitor under Subsection (4).
- 1573 Section 23. Section **76-5-111** is amended to read:
- 1574 **76-5-111. Abuse of a vulnerable adult -- Penalties.**
- 1575 (1) (a) As used in this section:
- 1576 (i) "Abandonment" means a knowing or intentional action or inaction, including
- 1577 desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable
- 1578 adult without the means or ability to obtain necessary food, clothing, shelter, or medical or
- 1579 other health care.
- 1580 (ii) "Abuse" means:
- 1581 (A) attempting to cause harm, intentionally or knowingly causing harm, or

1582 intentionally or knowingly placing another in fear of imminent harm;

1583 (B) causing physical injury by knowing or intentional acts or omissions;

1584 (C) unreasonable or inappropriate use of physical restraint, medication, or isolation that

1585 causes or is likely to cause harm to a vulnerable adult that is in conflict with a physician's or

1586 physician assistant's orders or used as an unauthorized substitute for treatment, unless that

1587 conduct furthers the health and safety of the vulnerable adult; or

1588 (D) deprivation of life-sustaining treatment, except:

1589 (I) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

1590 (II) when informed consent, as defined in this section, has been obtained.

1591 (iii) "Caretaker" means a person or public institution that is entrusted with or assumes

1592 the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision,

1593 medical or other health care, or other necessities for pecuniary gain, by contract, or as a result

1594 of friendship, or in a position of trust and confidence with a vulnerable adult, including a

1595 relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or

1596 who provides volunteer work, a court-appointed or voluntary guardian, or a person who

1597 contracts or is under court order to provide care.

1598 (iv) (A) "Dependent adult" means an individual 18 years old or older, who has a

1599 physical or mental impairment that restricts the individual's ability to carry out normal

1600 activities or to protect the individual's rights.

1601 (B) "Dependent adult" includes an individual who has physical or developmental

1602 disabilities or whose physical or mental capacity has substantially diminished because of age.

1603 (v) "Elder adult" means an individual 65 years old or older.

1604 (vi) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or

1605 76-5b-202.

1606 (vii) "Harm" means pain, mental anguish, emotional distress, hurt, physical or

1607 psychological damage, physical injury, suffering, or distress inflicted knowingly or

1608 intentionally.

1609 (viii) "Informed consent" means:

1610 (A) a written expression by the individual or authorized by the individual, stating that

1611 the individual fully understands the potential risks and benefits of the withdrawal of food,

1612 water, medication, medical services, shelter, cooling, heating, or other services necessary to

1613 maintain minimum physical or mental health, and that the individual desires that the services
1614 be withdrawn, except that a written expression is valid only if the individual is of sound mind
1615 when the consent is given, and the consent is witnessed by at least two individuals who do not
1616 benefit from the withdrawal of services; or

1617 (B) consent to withdraw food, water, medication, medical services, shelter, cooling,
1618 heating, or other services necessary to maintain minimum physical or mental health, as
1619 permitted by court order.

1620 (ix) (A) "Isolation" means knowingly or intentionally preventing a vulnerable adult
1621 from having contact with another person, unless the restriction of personal rights is authorized
1622 by court order, by:

1623 (I) preventing the vulnerable adult from communicating, visiting, interacting, or
1624 initiating interaction with others, including receiving or inviting visitors, mail, or telephone
1625 calls, contrary to the express wishes of the vulnerable adult, or communicating to a visitor that
1626 the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing
1627 that communication to be false;

1628 (II) physically restraining the vulnerable adult in order to prevent the vulnerable adult
1629 from meeting with a visitor; or

1630 (III) making false or misleading statements to the vulnerable adult in order to induce
1631 the vulnerable adult to refuse to receive communication from visitors or other family members.

1632 (B) "Isolation" does not include an act:

1633 (I) intended in good faith to protect the physical or mental welfare of the vulnerable
1634 adult; or

1635 (II) performed pursuant to the treatment plan or instructions of a physician, physician
1636 assistant, or other professional advisor of the vulnerable adult.

1637 (x) "Neglect" means:

1638 (A) failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal
1639 care, or dental or other health care, or failure to provide protection from health and safety
1640 hazards or maltreatment;

1641 (B) failure of a caretaker to provide care to a vulnerable adult in a timely manner and
1642 with the degree of care that a reasonable person in a like position would exercise;

1643 (C) a pattern of conduct by a caretaker, without the vulnerable adult's informed

1644 consent, resulting in deprivation of food, water, medication, health care, shelter, cooling,
1645 heating, or other services necessary to maintain the vulnerable adult's well being;

1646 (D) intentional failure by a caretaker to carry out a prescribed treatment plan that
1647 results or could result in physical injury or physical harm; or

1648 (E) abandonment by a caretaker.

1649 (xi) (A) "Physical injury" includes damage to any bodily tissue caused by
1650 nontherapeutic conduct, to the extent that the tissue must undergo a healing process in order to
1651 be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that
1652 the tissue cannot be restored to a sound and healthy condition.

1653 (B) "Physical injury" includes skin bruising, a dislocation, physical pain, illness,
1654 impairment of physical function, a pressure sore, bleeding, malnutrition, dehydration, a burn, a
1655 bone fracture, a subdural hematoma, soft tissue swelling, injury to any internal organ, or any
1656 other physical condition that imperils the health or welfare of the vulnerable adult and is not a
1657 serious physical injury as defined in this section.

1658 (xii) "Position of trust and confidence" means the position of a person who:

1659 (A) is a parent, spouse, adult child, or other relative of a vulnerable adult;

1660 (B) is a joint tenant or tenant in common with a vulnerable adult;

1661 (C) has a legal or fiduciary relationship with a vulnerable adult, including a
1662 court-appointed or voluntary guardian, trustee, attorney, attorney-in-fact, or conservator; or

1663 (D) is a caretaker of a vulnerable adult.

1664 (xiii) "Serious physical injury" means any physical injury or set of physical injuries
1665 that:

1666 (A) seriously impairs a vulnerable adult's health;

1667 (B) was caused by use of a dangerous weapon;

1668 (C) involves physical torture or causes serious emotional harm to a vulnerable adult; or

1669 (D) creates a reasonable risk of death.

1670 (xiv) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental
1671 or physical impairment which substantially affects that individual's ability to:

1672 (A) provide personal protection;

1673 (B) provide necessities such as food, shelter, clothing, or medical or other health care;

1674 (C) obtain services necessary for health, safety, or welfare;

1675 (D) carry out the activities of daily living;
1676 (E) manage the adult's own resources; or
1677 (F) comprehend the nature and consequences of remaining in a situation of abuse,
1678 neglect, or exploitation.

1679 (b) Terms defined in Section 76-1-101.5 apply to this section.

1680 (2) An actor, including a caretaker, commits abuse of a vulnerable adult if the actor,
1681 under circumstances other than those likely to produce death or serious physical injury:

1682 (a) causes a vulnerable adult to suffer harm, abuse, or neglect;
1683 (b) having the care or custody of a vulnerable adult, causes or permits that vulnerable
1684 adult's person or health to be injured, abused, or neglected; or
1685 (c) causes or permits a vulnerable adult to be placed in a situation in which the
1686 vulnerable adult's person or health is endangered.

1687 (3) (a) A violation of Subsection (2):

1688 (i) is a class A misdemeanor if done intentionally or knowingly;
1689 (ii) is a class B misdemeanor if done recklessly; or
1690 (iii) is a class C misdemeanor if done with criminal negligence.

1691 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) that is based on
1692 isolation of a vulnerable adult is a third degree felony.

1693 (4) (a) It does not constitute a defense to a prosecution for a violation of this section
1694 that the actor did not know the age of the vulnerable adult.

1695 (b) An adult is not considered abused, neglected, or a vulnerable adult for the reason
1696 that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of
1697 medical care.

1698 (5) If an actor, including a caretaker, violates this section by willfully isolating a
1699 vulnerable adult, in addition to the penalties under Subsection (3), the court may require that
1700 the actor:

1701 (a) undergo appropriate counseling as a condition of the sentence; and
1702 (b) pay for the costs of the ordered counseling.

1703 **Section 24. Effective date.**
1704 This bill takes effect on May 1, 2024.