

Effective 5/3/2023

Chapter 8
Health Data, Vital Statistics, and Utah Medical Examiner

Part 1
Vital Statistics

26B-8-101 Definitions.

As used in this part:

- (1) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.
- (2) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by sex and reproductive organ anatomy, chromosomal makeup, and endogenous hormone profiles.
- (3) "Certified nurse midwife" means an individual who:
 - (a) is licensed to practice as a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act; and
 - (b) has completed an education program regarding the completion of a certificate of death developed by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) "Custodial funeral service director" means a funeral service director who:
 - (a) is employed by a licensed funeral establishment; and
 - (b) has custody of a dead body.
- (5) "Dead body" means a human body or parts of a human body from the condition of which it reasonably may be concluded that death occurred.
- (6) "Decedent" means the same as a dead body.
- (7) "Dead fetus" means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):
 - (a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and
 - (b) that was not born alive.
- (8) "Declarant father" means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child's paternity.
- (9) "Dispositioner" means:
 - (a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or
 - (b) the next of kin of the decedent, if:
 - (i)
 - (A) a person has not been designated as described in Subsection (9)(a); or
 - (B) the person described in Subsection (9)(a) is unable or unwilling to exercise the right and duty described in Subsection (9)(a); and
 - (ii) the next of kin voluntarily acts as the dispositioner.
- (10) "Fetal remains" means:
 - (a) an aborted fetus as that term is defined in Section 26B-2-232; or
 - (b) a miscarried fetus as that term is defined in Section 26B-2-233.

- (11) "File" means the submission of a completed certificate or other similar document, record, or report as provided under this part for registration by the state registrar or a local registrar.
- (12) "Funeral service director" means the same as that term is defined in Section 58-9-102.
- (13) "Health care facility" means the same as that term is defined in Section 26B-2-201.
- (14) "Health care professional" means a physician, physician assistant, nurse practitioner, or certified nurse midwife.
- (15) "Intersex individual" means an individual who:
 - (a) is born with external biological sex characteristics that are irresolvably ambiguous;
 - (b) is born with 46, XX chromosomes with virilization;
 - (c) is born with 46, XY chromosomes with undervirilization;
 - (d) has both ovarian and testicular tissue; or
 - (e) has been diagnosed by a physician, based on genetic or biochemical testing, with abnormal:
 - (i) sex chromosome structure;
 - (ii) sex steroid hormone production; or
 - (iii) sex steroid hormone action for a male or female.
- (16) "Licensed funeral establishment" means:
 - (a) if located in Utah, a funeral service establishment, as that term is defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act; or
 - (b) if located in a state, district, or territory of the United States other than Utah, a funeral service establishment that complies with the licensing laws of the jurisdiction where the establishment is located.
- (17) "Live birth" means the birth of a child who shows evidence of life after the child is entirely outside of the mother.
- (18) "Local registrar" means a person appointed under Subsection 26B-8-102(3)(b).
- (19) "Nurse practitioner" means an individual who:
 - (a) is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act; and
 - (b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (20) "Office" means the Office of Vital Records and Statistics within the department.
- (21) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
- (22) "Physician assistant" means an individual who:
 - (a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act; and
 - (b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (23) "Presumed father" means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.
- (24) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.
- (25) "State registrar" means the state registrar of vital records appointed under Section 26B-8-102.
- (26) "Vital records" means:

- (a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;
 - (b) amendments to any of the registered certificates or reports described in Subsection (26)(a);
 - (c) an adoption document; and
 - (d) other similar documents.
- (27) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

Amended by Chapter 306, 2023 General Session, (Coordination Clause)

Amended by Chapter 306, 2023 General Session

26B-8-102 Department duties and authority.

(1) As used in this section:

- (a) "Compact" means the Compact for Interstate Sharing of Putative Father Registry Information created in Section 78B-6-121.5, effective on May 10, 2016.
- (b) "Putative father":
 - (i) means the same as that term is as defined in Section 78B-6-121.5; and
 - (ii) includes an unmarried biological father.
- (c) "State registrar" means the state registrar of vital records appointed under Subsection (2)(e).
- (d) "Unmarried biological father" means the same as that term is defined in Section 78B-6-103.

(2) The department shall:

- (a) provide offices properly equipped for the preservation of vital records made or received under this part;
- (b) establish a statewide vital records system for the registration, collection, preservation, amendment, and certification of vital records and other similar documents required by this part and activities related to them, including the tabulation, analysis, and publication of vital statistics;
- (c) prescribe forms for certificates, certification, reports, and other documents and records necessary to establish and maintain a statewide system of vital records;
- (d) prepare an annual compilation, analysis, and publication of statistics derived from vital records; and
- (e) appoint a state registrar to direct the statewide system of vital records.

(3) The department may:

- (a) divide the state from time to time into registration districts; and
- (b) appoint local registrars for registration districts who under the direction and supervision of the state registrar shall perform all duties required of them by this part and department rules.

(4) The state registrar appointed under Subsection (2)(e) shall, with the input of Utah stakeholders and the Uniform Law Commission, study the following items for the state's implementation of the compact:

- (a) the feasibility of using systems developed by the National Association for Public Health Statistics and Information Systems, including the State and Territorial Exchange of Vital Events (STEVE) system and the Electronic Verification of Vital Events (EVVE) system, or similar systems, to exchange putative father registry information with states that are parties to the compact;
- (b) procedures necessary to share putative father information, located in the confidential registry maintained by the state registrar, upon request from the state registrar of another state that is a party to the compact;

- (c) procedures necessary for the state registrar to access putative father information located in a state that is a party to the compact, and share that information with persons who request a certificate from the state registrar;
- (d) procedures necessary to ensure that the name of the mother of the child who is the subject of a putative father's notice of commencement, filed pursuant to Section 78B-6-121, is kept confidential when a state that is a party to the compact accesses this state's confidential registry through the state registrar; and
- (e) procedures necessary to ensure that a putative father's registration with a state that is a party to the compact is given the same effect as a putative father's notice of commencement filed pursuant to Section 78B-6-121.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-103 Content and form of certificates and reports.

- (1) As used in this section:
 - (a) "Additional information" means information that is beyond the information necessary to comply with federal standards or state law for registering a birth.
 - (b) "Diacritical mark" means a mark on a letter from the ISO basic Latin alphabet used to indicate a special pronunciation.
 - (c) "Diacritical mark" includes accents, tildes, graves, umlauts, and cedillas.
- (2) Except as provided in Subsection (8), to promote and maintain nationwide uniformity in the vital records system, the forms of certificates, certification, reports, and other documents and records required by this part or the rules implementing this part shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval, additions, and modifications by the department.
- (3) Certificates, certifications, forms, reports, other documents and records, and the form of communications between persons required by this part shall be prepared in the format prescribed by department rule.
- (4) All vital records shall include the date of filing.
- (5) Certificates, certifications, forms, reports, other documents and records, and communications between persons required by this part may be signed, filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by department rule.
- (6)
 - (a) An individual may use a diacritical mark in an application for a vital record.
 - (b) The office shall record a diacritical mark on a vital record as indicated on the application for the vital record.
- (7) The absence of a diacritical mark on a vital record does not render the document invalid or affect any constructive notice imparted by proper recordation of the document.
- (8)
 - (a) The state:
 - (i) may collect the Social Security number of a deceased individual; and
 - (ii) may not include the Social Security number of an individual on a certificate of death.
 - (b) For registering a birth, the department may not require an individual to provide additional information.
 - (c) The department may request additional information if the department provides a written statement that:
 - (i) discloses that providing the additional information is voluntary;
 - (ii) discloses how the additional information will be used and the duration of use;

- (iii) describes how the department prevents the additional information from being used in a manner different from the disclosure given under Subsection (8)(c)(ii); and
 - (iv) includes a notice that the individual is consenting to the department's use of the additional information by providing the additional information.
- (d)
- (i) Beginning July 1, 2022, an individual may submit a written request to the department to de-identify the individual's additional information contained in the department's databases.
 - (ii) Upon receiving the written request, the department shall de-identify the additional information.
- (e) The department shall de-identify additional information contained in the department's databases before the additional information is held by the department for longer than six years.

Renumbered and Amended by Chapter 306, 2023 General Session

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

- (1) As used in this section, "birthing facility" means a general acute hospital or birthing center as defined in Section 26B-2-201.
- (2) For each live birth occurring in the state, a certificate shall be filed with the local registrar for the district in which the birth occurred within 10 days following the birth. The certificate shall be registered if it is completed and filed in accordance with this part.
- (3)
- (a) For each live birth that occurs in a birthing facility, the administrator of the birthing facility, or his designee, shall obtain and enter the information required under this part on the certificate, securing the required signatures, and filing the certificate.
 - (b)
 - (i) The date, time, place of birth, and required medical information shall be certified by the birthing facility administrator or his designee.
 - (ii) The attending physician or nurse midwife may sign the certificate, but if the attending physician or nurse midwife has not signed the certificate within seven days of the date of birth, the birthing facility administrator or his designee shall enter the attending physician's or nurse midwife's name and transmit the certificate to the local registrar.
 - (iii) The information on the certificate about the parents shall be provided and certified by the mother or father or, in their incapacity or absence, by a person with knowledge of the facts.
- (4)
- (a) For live births that occur outside a birthing facility, the birth certificate shall be completed and filed by the physician, physician assistant, nurse, midwife, or other person primarily responsible for providing assistance to the mother at the birth. If there is no such person, either the presumed or declarant father shall complete and file the certificate. In his absence, the mother shall complete and file the certificate, and in the event of her death or disability, the owner or operator of the premises where the birth occurred shall do so.
 - (b) The certificate shall be completed as fully as possible and shall include the date, time, and place of birth, the mother's name, and the signature of the person completing the certificate.
- (5)
- (a) For each live birth to an unmarried mother that occurs in a birthing facility, the administrator or director of that facility, or his designee, shall:
 - (i) provide the birth mother and declarant father, if present, with:
 - (A) a voluntary declaration of paternity form published by the state registrar;

- (B) oral and written notice to the birth mother and declarant father of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration; and
- (C) the opportunity to sign the declaration;
- (ii) witness the signature of a birth mother or declarant father in accordance with Section 78B-15-302 if the signature occurs at the facility;
- (iii) enter the declarant father's information on the original birth certificate, but only if the mother and declarant father have signed a voluntary declaration of paternity or a court or administrative agency has issued an adjudication of paternity; and
- (iv) file the completed declaration with the original birth certificate.
- (b) If there is a presumed father, the voluntary declaration will only be valid if the presumed father also signs the voluntary declaration.
- (c) The state registrar shall file the information provided on the voluntary declaration of paternity form with the original birth certificate and may provide certified copies of the declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah Uniform Parentage Act.
- (6)
 - (a) The state registrar shall publish a form for the voluntary declaration of paternity, a description of the process for filing a voluntary declaration of paternity, and of the rights and responsibilities established or effected by that filing, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act.
 - (b) Information regarding the form and services related to voluntary paternity establishment shall be made available to birthing facilities and to any other entity or individual upon request.
- (7) The name of a declarant father may only be included on the birth certificate of a child of unmarried parents if:
 - (a) the mother and declarant father have signed a voluntary declaration of paternity; or
 - (b) a court or administrative agency has issued an adjudication of paternity.
- (8) Voluntary declarations of paternity, adjudications of paternity by judicial or administrative agencies, and voluntary rescissions of paternity shall be filed with and maintained by the state registrar for the purpose of comparing information with the state case registry maintained by the Office of Recovery Services pursuant to Section 26B-9-104.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-105 Requirement to obtain parents' social security numbers.

- (1) For each live birth that occurs in this state, the administrator of the birthing facility, as defined in Section 26B-8-104, or other person responsible for completing and filing the birth certificate under Section 26B-8-104 shall obtain the social security numbers of each parent and provide those numbers to the state registrar.
- (2) Each parent shall furnish his or her social security number to the person authorized to obtain the numbers under Subsection (1) unless a court or administrative agency has determined there is good cause for not furnishing a number under Subsection (1).
- (3) The state registrar shall, as soon as practicable, supply those social security numbers to the Office of Recovery Services within the department.
- (4) The social security numbers obtained under this section may not be recorded on the child's birth certificate.
- (5) The state may not use any social security number obtained under this section for any reason other than enforcement of child support orders in accordance with the federal Family Support Act of 1988, Pub. L. No. 100-485.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-106 Foundling certificates.

- (1) A foundling certificate shall be filed for each infant of unknown parentage found in the state. The certificate shall be prepared and filed with the local registrar of the district in which the infant was found by the person assuming custody.
- (2) The certificate shall be filed within 10 days after the infant is found and is acceptable for all purposes in lieu of a certificate of birth.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-107 Correction of errors or omissions in vital records -- Conflicting birth and foundling certificates -- Rulemaking.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules:
 - (a) governing applications to correct alleged errors or omissions on any vital record;
 - (b) establishing procedures to resolve conflicting birth and foundling certificates;
 - (c) allowing for the correction and reissuance of a vital record that was originally created omitting a diacritical mark; and
 - (d) notwithstanding any other provision of law, allowing for the change of a child's name on the child's birth certificate within one year from the day the child is born.
- (2) For a birth certificate, the department may correct an error or omission under Subsection (1)(a) if:
 - (a) the error or omission is a result of a scrivener's error or a data entry error; and
 - (b) the department receives:
 - (i)
 - (A) an affidavit from the applicant attesting that there is an error on the birth certificate;
 - (B) supporting documentation from the health care facility or attending health care provider; and
 - (C) an affidavit from the health care facility or health care provider described in Subsection (2)(b)(i)(B) attesting to the accuracy of the supporting documentation; or
 - (ii) documentation deemed sufficient by the state registrar to establish the facts of the error or omission.
- (3) The department may amend a birth certificate's sex designation for an intersex individual at the request of the individual or the guardian of the individual if:
 - (a) the sex designation indicating the biological sex at birth of the individual was misidentified on the original certificate due to the individual's condition; and
 - (b) the department receives:
 - (i) a correction affidavit attesting the individual is intersex;
 - (ii) chromosomal, molecular, karyotypic, DNA, or genetic testing results that confirm the individual is intersex; and
 - (iii) an affidavit from the health care facility, health care professional, or laboratory testing facility that conducted the test or analyzed the test results, attesting to the test results and accuracy.

Renumbered and Amended by Chapter 306, 2023 General Session
Amended by Chapter 493, 2023 General Session

26B-8-108 Birth certificates -- Delayed registration.

- (1) When a certificate of birth of a person born in this state has not been filed within the time provided in Subsection 26B-8-104(2), a certificate of birth may be filed in accordance with department rules and subject to this section.
- (2)
 - (a) The registrar shall mark a certificate of birth as "delayed" and show the date of registration if the certificate is registered one year or more after the date of birth.
 - (b) The registrar shall abstract a summary statement of the evidence submitted in support of delayed registration onto the certificate.
- (3) When the minimum evidence required for delayed registration is not submitted or when the state registrar has reasonable cause to question the validity or adequacy of the evidence supporting the application, and the deficiencies are not corrected, the state registrar:
 - (a) may not register the certificate; and
 - (b) shall provide the applicant with a written statement indicating the reasons for denial of registration.
- (4) The state registrar has no duty to take further action regarding an application which is not actively pursued.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-109 Birth certificates -- Petition for issuance of delayed certificate -- Court procedure.

- (1)
 - (a) If registration of a certificate of birth under Section 26B-8-108 is denied, the person seeking registration may bring an action by a verified petition in the Utah court encompassing where the petitioner resides or in the district encompassing Salt Lake City.
 - (b) The petition shall request an order establishing a record of the date and place of the birth and the parentage of the person whose birth is to be registered.
- (2) The petition shall be on a form furnished by the state registrar and shall allege:
 - (a) the person for whom registration of a delayed certificate is sought was born in this state and is still living;
 - (b) no registered certificate of birth of the person can be found in the state office of vital statistics or the office of any local registrar;
 - (c) diligent efforts by the petitioner have failed to obtain the evidence required by department rule; and
 - (d) the state registrar has denied the petitioner's request to register a delayed certificate of birth.
- (3) The petition shall be accompanied by a written statement of the state registrar indicating the reasons for denial of registration and all documentary evidence which was submitted in support of registration.
- (4) The court shall fix a time and place for hearing the petition and shall give the state registrar 15 days' notice of the hearing. The state registrar or his authorized representative may appear and testify at the hearing.
- (5)
 - (a) If the court finds the person for whom registration of a certificate of birth is sought under Section 26B-8-108 was born in this state, it shall make findings as to the place and date of birth, parentage, and other findings as may be required and shall issue an order, on a form prescribed and furnished by the state registrar, to establish a court-ordered delayed certificate of birth.

- (b) The order shall include the birth data to be registered, a description of the evidence presented, and the date of the court's action.
- (c) The clerk of the court shall forward each order to the state registrar not later than the tenth day of the calendar month following the month in which the order was entered.
- (d) The order described in Subsection (5)(a) shall be registered by the state registrar and constitutes the certificate of birth.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-110 Supplementary certificate of birth.

- (1) An individual born in this state may request the state registrar to register a supplementary birth certificate for the individual if:
 - (a) the individual is legally recognized as a child of the individual's natural parents when the individual's natural parents are subsequently married;
 - (b) the individual's parentage has been determined by a state court of the United States or a Canadian provincial court with jurisdiction; or
 - (c) the individual has been legally adopted, as a child or as an adult, under the law of this state, any other state, or any province of Canada.
- (2) The application for registration of a supplementary birth certificate may be made by:
 - (a) the individual requesting registration under Subsection (1) if the individual is of legal age;
 - (b) a legal representative; or
 - (c) any agency authorized to receive children for placement or adoption under the laws of this or any other state.
- (3)
 - (a) The state registrar shall require that an applicant submit identification and proof according to department rules.
 - (b) In the case of an adopted individual, that proof may be established by order of the court in which the adoption proceedings were held.
- (4)
 - (a) After the supplementary birth certificate is registered, any information disclosed from the record shall be from the supplementary birth certificate.
 - (b) Access to the original birth certificate and to the evidence submitted in support of the supplementary birth certificate are not open to inspection except upon the order of a Utah district court or as described in Section 78B-6-141 or Section 78B-6-144.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-111 Birth certificate name or sex designation change -- Registration of court order and amendment of birth certificate.

- (1) An individual may obtain a court order in accordance with Title 42, Names, to change the name on the individual's birth certificate.
- (2)
 - (a) A court may grant a petition ordering a sex designation change on a birth certificate if the court determines by clear and convincing evidence that the individual seeking the sex designation change:
 - (i) is not involved in any kind of lawsuit;
 - (ii) is not on probation or parole;
 - (iii) is not seeking the amendment:

- (A) to commit a crime;
 - (B) to interfere with the rights of others;
 - (C) to avoid creditors;
 - (D) to influence the sentence, fine, or conditions of imprisonment in a criminal case;
 - (E) to commit fraud on the public; or
 - (F) for any other fraudulent purpose;
 - (iv) has transitioned from the sex designation of the biological sex at birth to the sex sought in the petition;
 - (v) has outwardly expressed as the sex sought in the petition in a consistent and uniform manner for at least six months; and
 - (vi) suffers from clinically significant distress or impairment due to the current sex designation on the birth certificate.
- (b) The court shall consider the following when making the determination described in Subsection (2)(a)(iv):
- (i) evidence of medical history, care, or treatment related to sex transitioning; and
 - (ii) evidence that the sex sought in the petition is sincerely held and part of the individual's core identity.
- (3)
- (a)
- (i) When determining whether to grant a sex designation change for a child who is at least 15 years and six months old, unless the child is emancipated, the court shall appoint, notwithstanding Subsection 78A-2-703(1), a guardian ad litem for the child.
 - (ii) Notwithstanding Subsection 78A-2-703(7), the child's parent or guardian is responsible for the costs of the guardian ad litem's services unless the court determines the parent or guardian is indigent in accordance with Section 78A-2-302.
- (b) The guardian ad litem shall provide the court relevant evidence, whether submitted by the child or other sources of evidence, regarding the following:
- (i) whether the child is capable of making decisions with long-term consequences independently of the child's parent or guardian;
 - (ii) whether the child is mature and capable of appreciating the implications of the decision to change the sex designation on the child's birth certificate; and
 - (iii) whether the child meets the other requirements of this section.
- (c) The guardian of a child described in Subsection (3)(a) shall:
- (i) give notice of the proceeding to any known parent of the child; and
 - (ii) provide the court with a declaration of the status of any divorce or custody matter pertaining to the child, including the case name, case number, court, judge, and current status of the case.
- (d) The court shall:
- (i) consider any objection given by a parent;
 - (ii) close the hearing on a petition for a sex designation change;
 - (iii) receive all evidence; and
 - (iv) make a determination as to whether:
 - (A) all of the requirements of Subsection (2) have been met; and
 - (B) the evidence supports a finding by clear and convincing evidence that the sex designation change is in the best interest of the child and would not create a risk of harm to the minor.
- (4)
- (a) A court may not grant a petition for a sex designation change if:
- (i) the birth certificate is for a child who is younger than 15 years and six months old; or

- (ii) the child's parent or guardian with legal custody has not given permission.
- (b) An order granting a sex designation change under this section is not effective until the individual is at least 16 years old.
- (5) A petition for a sex designation under this section may be combined with a petition under Title 42, Names.
- (6)
 - (a) Upon the receipt of a certified order granting a birth certificate amendment, any required application, and an appropriate fee, the department shall issue:
 - (i) a birth certificate that does not indicate which fields were amended unless requested by the individual; and
 - (ii) an amendment history of the birth certificate, including the fields of the birth certificate that have been amended and the date of the amendment.
 - (b) The department shall retain a record of all amendments to a birth certificate, including any amendment history issued by the department.
- (7) The provisions of this section are severable.
- (8) This section only applies to birth certificates issued by the state.

Amended by Chapter 306, 2023 General Session, (Coordination Clause)
Renumbered and Amended by Chapter 306, 2023 General Session
Repealed and Re-enacted by Chapter 493, 2023 General Session

26B-8-112 Certified copies of birth certificates -- Fees credited to Children's Account.

- (1) In addition to the fees provided for in Section 26B-1-209, the department and local registrars authorized to issue certified copies shall charge an additional \$3 fee for each certified copy of a birth certificate, including certified copies of supplementary and amended birth certificates, under Sections 26B-8-108 through 26B-8-111.
- (2) The additional fee described in Subsection (1) may be charged only for the first copy requested at any one time.
- (3) The fee shall be transmitted monthly to the state treasurer and credited to the Children's Account created in Section 80-2-501.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-113 Fee waived for certified copy of birth certificate.

- (1) Notwithstanding Sections 26B-1-209 and 26B-6-112, the department shall waive a fee that would otherwise be charged for a certified copy of a birth certificate, if the individual whose birth is confirmed by the birth certificate is:
 - (a) the individual requesting the certified copy of the birth certificate; and
 - (b)
 - (i) homeless, as defined in Section 26B-3-207;
 - (ii) a person who is homeless, as defined in Section 35A-5-302;
 - (iii) an individual whose primary nighttime residence is a location that is not designed for or ordinarily used as a sleeping accommodation for an individual;
 - (iv) a homeless service provider as verified by the Department of Workforce Services; or
 - (v) a homeless child or youth, as defined in 42 U.S.C. Sec. 11434a.
- (2) To satisfy the requirement in Subsection (1)(b), the department shall accept written verification that the individual is homeless or a person, child, or youth who is homeless from:
 - (a) a homeless shelter;

- (b) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;
- (c) the Department of Workforce Services;
- (d) a homeless service provider as verified by the Department of Workforce Services; or
- (e) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-114 Certificate of death -- Execution and registration requirements -- Information provided to lieutenant governor.

- (1)
 - (a) A certificate of death for each death that occurs in this state shall be filed with the local registrar of the district in which the death occurs, or as otherwise directed by the state registrar, within five days after death and prior to the decedent's interment, any other disposal, or removal from the registration district where the death occurred.
 - (b) A certificate of death shall be registered if the certificate of death is completed and filed in accordance with this part.
- (2)
 - (a) If the place of death is unknown but the dead body is found in this state:
 - (i) the certificate of death shall be completed and filed in accordance with this section; and
 - (ii) the place where the dead body is found shall be shown as the place of death.
 - (b) If the date of death is unknown, the date shall be determined by approximation.
- (3)
 - (a) When death occurs in a moving conveyance in the United States and the decedent is first removed from the conveyance in this state:
 - (i) the certificate of death shall be filed with:
 - (A) the local registrar of the district where the decedent is removed; or
 - (B) a person designated by the state registrar; and
 - (ii) the place where the decedent is removed shall be considered the place of death.
 - (b) When a death occurs on a moving conveyance outside the United States and the decedent is first removed from the conveyance in this state:
 - (i) the certificate of death shall be filed with:
 - (A) the local registrar of the district where the decedent is removed; or
 - (B) a person designated by the state registrar; and
 - (ii) the certificate of death shall show the actual place of death to the extent it can be determined.
- (4)
 - (a) Subject to Subsections (4)(d) and (10), a custodial funeral service director or, if a funeral service director is not retained, a dispositioner shall sign the certificate of death.
 - (b) The custodial funeral service director, an agent of the custodial funeral service director, or, if a funeral service director is not retained, a dispositioner shall:
 - (i) file the certificate of death prior to any disposition of a dead body or fetus; and
 - (ii) obtain the decedent's personal data from the next of kin or the best qualified person or source available, including the decedent's social security number, if known.
 - (c) The certificate of death may not include the decedent's social security number.
 - (d) A dispositioner may not sign a certificate of death, unless the signature is witnessed by the state registrar or a local registrar.

- (5)
 - (a) Except as provided in Section 26B-8-115, fetal death certificates, the medical section of the certificate of death shall be completed, signed, and returned to the funeral service director, or, if a funeral service director is not retained, a dispositioner, within 72 hours after death by the health care professional who was in charge of the decedent's care for the illness or condition which resulted in death, except when inquiry is required by Part 2, Utah Medical Examiner.
 - (b) In the absence of the health care professional or with the health care professional's approval, the certificate of death may be completed and signed by an associate physician, the chief medical officer of the institution in which death occurred, or a physician who performed an autopsy upon the decedent, if:
 - (i) the person has access to the medical history of the case;
 - (ii) the person views the decedent at or after death; and
 - (iii) the death is not due to causes required to be investigated by the medical examiner.
- (6) When death occurs more than 365 days after the day on which the decedent was last treated by a health care professional, the case shall be referred to the medical examiner for investigation to determine and certify the cause, date, and place of death.
- (7) When inquiry is required by Part 2, Utah Medical Examiner, the medical examiner shall make an investigation and complete and sign the medical section of the certificate of death within 72 hours after taking charge of the case.
- (8) If the cause of death cannot be determined within 72 hours after death:
 - (a) the medical section of the certificate of death shall be completed as provided by department rule;
 - (b) the attending health care professional or medical examiner shall give the funeral service director, or, if a funeral service director is not retained, a dispositioner, notice of the reason for the delay; and
 - (c) final disposition of the decedent may not be made until authorized by the attending health care professional or medical examiner.
- (9)
 - (a) When a death is presumed to have occurred within this state but the dead body cannot be located, a certificate of death may be prepared by the state registrar upon receipt of an order of a Utah court.
 - (b) The order described in Subsection (9)(a) shall include a finding of fact stating the name of the decedent, the date of death, and the place of death.
 - (c) A certificate of death prepared under Subsection (9)(a) shall:
 - (i) show the date of registration; and
 - (ii) identify the court and the date of the order.
- (10) It is unlawful for a dispositioner to charge for or accept any remuneration for:
 - (a) signing a certificate of death; or
 - (b) performing any other duty of a dispositioner, as described in this section.
- (11) The state registrar shall, within five business days after the day on which the state registrar or local registrar registers a certificate of death for a Utah resident, inform the lieutenant governor of:
 - (a) the decedent's name, last known residential address, date of birth, and date of death; and
 - (b) any other information requested by the lieutenant governor to assist the county clerk in identifying the decedent for the purpose of removing the decedent from the official register of voters.

- (12) The lieutenant governor shall, within one business day after the day on which the lieutenant governor receives the information described in Subsection (11), provide the information to the county clerks.

Renumbered and Amended by Chapter 306, 2023 General Session

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

- (1) A fetal death certificate shall be filed for each fetal death which occurs in this state. The certificate shall be filed within five days after delivery with the local registrar or as otherwise directed by the state registrar. The certificate shall be registered if it is completed and filed in accordance with this part.
- (2) When a dead fetus is delivered in an institution, the institution administrator or his designated representative shall prepare and file the fetal death certificate. The attending physician shall state in the certificate the cause of death and sign the certificate.
- (3) When a dead fetus is delivered outside an institution, the physician in attendance at or immediately after delivery shall complete, sign, and file the fetal death certificate.
- (4) When a fetal death occurs without medical attendance at or immediately after the delivery or when inquiry is required by Part 2, Utah Medical Examiner, the medical examiner shall investigate the cause of death and prepare and file the certificate of fetal death within five days after taking charge of the case.
- (5) When a fetal death occurs in a moving conveyance and the dead fetus is first removed from the conveyance in this state or when a dead fetus is found in this state and the place of death is unknown, the death shall be registered in this state. The place where the dead fetus was first removed from the conveyance or found shall be considered the place of death.
- (6) Final disposition of the dead fetus may not be made until the fetal death certificate has been registered.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-116 Certificate of birth resulting in stillbirth.

- (1) As used in this section, "stillbirth" and "stillborn child" mean the same as "dead fetus" as defined in Section 26B-8-101.
- (2)
 - (a) In addition to the requirements of Section 26B-8-115, the state registrar shall establish a certificate of birth resulting in stillbirth on a form approved by the state registrar for each stillbirth occurring in this state.
 - (b) This certificate shall be offered to the parent or parents of a stillborn child.
- (3) The certificate of birth resulting in stillbirth shall meet all of the format and filing requirements of Sections 26B-8-103 and 26B-8-104, relating to a live birth.
- (4) The person who prepares a certificate pursuant to this section shall leave blank any references to the stillborn child's name if the stillborn child's parent or parents do not wish to provide a name for the stillborn child.
- (5) Notwithstanding Subsections (2) and (3), the certificate of birth resulting in stillbirth shall be filed with the designated registrar within 10 days following the delivery and prior to cremation or removal of the fetus from the registration district.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-117 Delayed registration of birth resulting in stillbirth.

When a birth resulting in stillbirth occurring in this state has not been registered within one year after the date of delivery, a certificate marked "delayed" may be filed and registered in accordance with department rule relating to evidentiary and other requirements sufficient to substantiate the alleged facts of birth resulting in stillbirth.

Renumbered and Amended by Chapter 306, 2023 General Session

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

- (1) As used in this section, "early term stillborn child" means a product of human conception, other than in the circumstances described in Subsection 76-7-301(1), that:
 - (a) is of at least 16 weeks' gestation but less than 20 weeks' gestation, calculated from the day on which the mother's last normal menstrual period began to the day of delivery; and
 - (b) is not born alive.
- (2) The state registrar shall issue a certificate of early term stillbirth to a parent of an early term stillborn child if:
 - (a) the parent requests, on a form created by the state registrar, that the state registrar register and issue a certificate of early term stillbirth for the early term stillborn child; and
 - (b) the parent files with the state registrar:
 - (i)
 - (A) a signed statement from a physician confirming the delivery of the early term stillborn child; or
 - (B) an accurate copy of the parent's medical records related to the early term stillborn child; and
 - (ii) any other record the state registrar determines, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is necessary for accurate recordkeeping.
- (3) The certificate of early term stillbirth described in Subsection (2) shall meet all of the format and filing requirements of Section 26B-8-103.
- (4) A person who prepares a certificate of early term stillbirth under this section shall leave blank any references to an early term stillborn child's name if the early term stillborn child's parent does not wish to provide a name for the early term stillborn child.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-119 Petition for establishment of unregistered birth or death -- Court procedure.

- (1) A person holding a direct, tangible, and legitimate interest as described in Subsection 26B-8-125(3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth or death that is not registered or for which a certified copy of the registered birth or death certificate is not obtainable. The person shall verify the petition and file the petition in the Utah court for the county where:
 - (a) the birth or death is alleged to have occurred;
 - (b) the person resides whose birth is to be established; or
 - (c) the decedent named in the petition resided at the date of death.
- (2) In order for the court to have jurisdiction, the petition shall:
 - (a) allege the date, time, and place of the birth or death; and
 - (b) state either that no certificate of birth or death has been registered or that a copy of the registered certificate cannot be obtained.
- (3) The court shall set a hearing for five to 10 days after the day on which the petition is filed.

- (4)
 - (a) If the time and place of birth or death are in question, the court shall hear available evidence and determine the time and place of the birth or death.
 - (b) If the time and place of birth or death are not in question, the court shall determine the time and place of birth or death to be those alleged in the petition.
- (5) A court order under this section shall be made on a form prescribed and furnished by the department and is effective upon the filing of a certified copy of the order with the state registrar.
- (6)
 - (a) For purposes of this section, the birth certificate of an adopted alien child, as defined in Section 78B-6-108, is considered to be unobtainable if the child was born in a country that is not recognized by department rule as having an established vital records registration system.
 - (b) If the adopted child was born in a country recognized by department rule, but a person described in Subsection (1) is unable to obtain a certified copy of the birth certificate, the state registrar shall authorize the preparation of a birth certificate if the state registrar receives a written statement signed by the registrar of the child's birth country stating a certified copy of the birth certificate is not available.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-120 Certificate of death -- Duties of a custodial funeral service director, an agent of a funeral service director, or a dispositioner -- Medical certification -- Records of funeral service director or dispositioner -- Information filed with local registrar -- Unlawful signing of certificate of death.

- (1) The custodial funeral service director or, if a funeral service director is not retained, a dispositioner shall sign the certificate of death prior to any disposition of a dead body or dead fetus.
- (2) The custodial funeral service director, an agent of the custodial funeral service director, or, if a funeral service director is not retained, a dispositioner shall:
 - (a) obtain personal and statistical information regarding the decedent from the available persons best qualified to provide the information;
 - (b) present the certificate of death to the attending health care professional, if any, or to the medical examiner who shall certify the cause of death and other information required on the certificate of death;
 - (c) provide the address of the custodial funeral service director or, if a funeral service director is not retained, a dispositioner;
 - (d) certify the date and place of burial; and
 - (e) file the certificate of death with the state or local registrar.
- (3) A funeral service director, dispositioner, embalmer, or other person who removes a dead body or dead fetus from the place of death or transports or is in charge of final disposal of a dead body or dead fetus, shall keep a record identifying the dead body or dead fetus, and containing information pertaining to receipt, removal, and delivery of the dead body or dead fetus as prescribed by department rule.
- (4)
 - (a) Not later than the tenth day of each month, every licensed funeral service establishment shall send to the local registrar and the department a list of the information required in Subsection (3) for each casket furnished and for funerals performed when no casket was furnished, during the preceding month.

- (b) The list described in Subsection (4)(a) shall be in the form prescribed by the state registrar.
- (5) Any person who intentionally signs the portion of a certificate of death that is required to be signed by a funeral service director or a disposer under Subsection (1) is guilty of a class B misdemeanor, unless the person:
 - (a)
 - (i) is a funeral service director; and
 - (ii) is employed by a licensed funeral establishment; or
 - (b) is a disposer, if a funeral service director is not retained.
- (6) The state registrar shall post information on the state registrar's website, providing instructions to a disposer for complying with the requirements of law relating to the disposer's responsibilities for:
 - (a) completing and filing a certificate of death; and
 - (b) possessing, transporting, and disposing of a dead body or dead fetus.
- (7) The provisions of this part shall be construed to avoid interference, to the fullest extent possible, with the ceremonies, customs, rites, or beliefs of the decedent and the decedent's next of kin for disposing of a dead body or dead fetus.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-121 Certificate of death -- Registration prerequisite to interment -- Burial-transit permits -- Procedure where body donated under anatomical gift law -- Permit for disinterment.

- (1)
 - (a) A dead body or dead fetus may not be interred or otherwise disposed of or removed from the registration district in which death or fetal death occurred or the remains are found until a certificate of death is registered.
 - (b) Subsection (1)(a) does not apply to fetal remains for a fetus that is less than 20 weeks in gestational age.
- (2)
 - (a) For deaths or fetal deaths which occur in this state, no burial-transit permit is required for final disposition of the remains if:
 - (i) disposition occurs in the state and is performed by a funeral service director; or
 - (ii) the disposition takes place with authorization of the next of kin and in:
 - (A) a general acute hospital as defined in Section 26B-2-201, that is licensed by the department; or
 - (B) in a pathology laboratory operated under contract with a general acute hospital licensed by the department.
 - (b) For an abortion or miscarriage that occurs at a health care facility, no burial-transit permit is required for final disposition of the fetal remains if:
 - (i) disposition occurs in the state and is performed by a funeral service director; or
 - (ii) the disposition takes place:
 - (A) with authorization of the parent of a miscarried fetus or the pregnant woman for an aborted fetus; and
 - (B) in a general acute hospital as defined in Section 26B-2-201, or a pathology laboratory operated under contract with a general acute hospital.
- (3)
 - (a) A burial-transit permit shall be issued by the local registrar of the district where the certificate of death or fetal death is registered:

- (i) for a dead body or a dead fetus to be transported out of the state for final disposition; or
 - (ii) when disposition of the dead body or dead fetus is made by a person other than a funeral service director.
- (b) For fetal remains that are less than 20 weeks in gestational age, a burial-transit permit shall be issued by the local registrar of the district where the health care facility that is in possession of the fetal remains is located:
- (i) for the fetal remains to be transported out of the state for final disposition; or
 - (ii) when disposition of the fetal remains is made by a person other than a funeral service director.
- (c) A local registrar issuing a burial-transit permit issued under Subsection (3)(b):
- (i) may not require an individual to designate a name for the fetal remains; and
 - (ii) may leave the space for a name on the burial-transit permit blank; and
- (d) shall redact from any public records maintained under this part any information:
- (i) that is submitted under Subsection (3)(c); and
 - (ii) that may be used to identify the parent or pregnant woman.
- (4) A burial-transit permit issued under the law of another state which accompanies a dead body, dead fetus, or fetal remains brought into this state is authority for final disposition of the dead body, dead fetus, or fetal remains in this state.
- (5) When a dead body or dead fetus or any part of the dead body or dead fetus has been donated under Part 3, Revised Uniform Anatomical Gift Act, or similar laws of another state and the preservation of the gift requires the immediate transportation of the dead body, dead fetus, or any part of the body or fetus outside of the registration district in which death occurs or the remains are found, or into this state from another state, the dead body or dead fetus or any part of the body or fetus may be transported and the burial-transit permit required by this section obtained within a reasonable time after transportation.
- (6) A permit for disinterment and reinterment is required prior to disinterment of a dead body, dead fetus, or fetal remains, except as otherwise provided by statute or department rule.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-122 Interments -- Duties of sexton or person in charge -- Record of interments -- Information filed with local registrar.

- (1)
- (a) A sexton or person in charge of any premises in which interments are made may not inter or permit the interment of any dead body, dead fetus, or fetal remains unless the interment is made by a funeral service director or by a person holding a burial-transit permit.
 - (b) The right and duty to control the disposition of a deceased person shall be governed by Sections 58-9-601 through 58-9-604.
- (2)
- (a) The sexton or the person in charge of any premises where interments are made shall keep a record of all interments made in the premises under their charge, stating the name of the decedent, place of death, date of burial, and name and address of the funeral service director or other person making the interment.
 - (b) The record described in this Subsection (2) shall be open to public inspection.
 - (c) A city or county clerk may, at the clerk's option, maintain the interment records described in this Subsection (2) on behalf of the sexton or person in charge of any premises in which interments are made.
- (3)

- (a) Not later than the tenth day of each month, the sexton, person in charge of the premises, or city or county clerk who maintains the interment records shall send to the local registrar and the department a list of all interments made in the premises during the preceding month.
- (b) The list described in Subsection (3)(a) shall be in the form prescribed by the state registrar.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-123 Rules of department for transmittal of certificates and keeping of records by local registrar.

Each local registrar shall transmit all records registered by him to the department in accordance with department rules. The manner of keeping local copies of vital records and the uses of them shall be prescribed by department rules.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-124 Local registrars authorized to issue certified copies of records.

The state registrar may authorize local registrars to issue certified copies of vital records.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-125 Inspection of vital records.

(1) As used in this section:

- (a) "Designated legal representative" means an attorney, physician, funeral service director, genealogist, or other agent of the subject, or an immediate family member of the subject, who has been delegated the authority to access vital records.
- (b) "Drug use intervention or suicide prevention effort" means a program that studies or promotes the prevention of drug overdose deaths or suicides in the state.
- (c) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

(2)

- (a) The vital records shall be open to inspection, but only in compliance with the provisions of this part, department rules, and Sections 78B-6-141 and 78B-6-144.
- (b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this part, department rule, Section 78B-6-141, or Section 78B-6-144.
- (c)
 - (i) An adoption document is open to inspection as provided in Section 78B-6-141 or Section 78B-6-144.
 - (ii) A birth parent may not access an adoption document under Subsection 78B-6-141(3).
- (d) A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

(3) Except as provided in Subsection (4), a direct, tangible, and legitimate interest in a vital record is present only if:

- (a) the request is from:
 - (i) the subject;
 - (ii) an immediate family member of the subject;
 - (iii) the guardian of the subject;
 - (iv) a designated legal representative of the subject; or

- (v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;
 - (b) the request involves a personal or property right of the subject of the record;
 - (c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;
 - (d) the request is for a drug use intervention or suicide prevention effort or a statistical or medical research program and prior consent has been obtained from the state registrar; or
 - (e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.
- (4)
- (a) Except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or an immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest under this section.
 - (b) Except as provided in Subsection (2)(d), a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest under this section.
- (5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records available to the public:
- (a) except as provided in Subsection 26B-8-110(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;
 - (b) a death record if 50 years or more have passed since the date of death; and
 - (c) a vital record not subject to Subsection (5)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.
- (6) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.
- (7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:
- (a) for the inspection of adoption documents under Subsection 78B-6-141(4);
 - (b) for a birth parent's election to permit identifying information about the birth parent to be made available, under Section 78B-6-141;
 - (c) for the release of information by the mutual-consent, voluntary adoption registry, under Section 78B-6-144;
 - (d) for collecting fees and donations under Section 78B-6-144.5; and
 - (e) for the review and approval of a request described in Subsection (3)(d).

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-126 Records required to be kept by health care institutions -- Information filed with local registrar and department.

- (1)
- (a) All administrators or other persons in charge of hospitals, nursing homes, or other institutions, public or private, to which persons resort for treatment of diseases, confinements, or are

committed by law, shall record all the personal and statistical information about patients of their institutions as required in certificates prescribed by this part.

- (b) The information described in Subsection (1)(a) shall:
 - (i) be recorded for collection at the time of admission of a patient;
 - (ii) be obtained from the patient, if possible; and
 - (iii) if the information cannot be obtained from the patient, the information shall be secured in as complete a manner as possible from other persons acquainted with the facts.
- (2)
 - (a) When a dead body or dead fetus is released or disposed of by an institution, the person in charge of the institution shall keep a record showing:
 - (i) the name of the deceased;
 - (ii) the date of death of the deceased;
 - (iii) the name and address of the person to whom the dead body or dead fetus is released; and
 - (iv) the date that the dead body or dead fetus is removed from the institution.
 - (b) If final disposal is by the institution, the date, place, manner of disposition, and the name of the person authorizing disposition shall be recorded by the person in charge of the institution.
- (3) Not later than the tenth day of each month, the administrator of each institution shall cause to be sent to the local registrar and the department a list of all births, deaths, fetal deaths, and induced abortions occurring in the institution during the preceding month. The list shall be in the form prescribed by the state registrar.
- (4) A person or institution who, in good faith, releases a dead body or dead fetus, under this section, to a funeral service director or a dispositioner is immune from civil liability connected, directly or indirectly, with release of the dead body or dead fetus.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-127 Marriage licenses -- Execution and filing requirements.

- (1) The state registrar shall supply county clerks with application forms for marriage licenses.
- (2) Completed applications shall be transmitted by the clerks to the state registrar monthly.
- (3) The personal identification information contained on each application for a marriage license filed with the county clerk shall be entered on a form supplied by the state registrar.
- (4) The person performing the marriage shall furnish the date and place of marriage and his name and address.
- (5) The form described in Subsection (1) shall be completed and certified by the county clerk before it is filed with the state registrar.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-128 Divorce or adoption -- Duty of court clerk to file certificates or reports.

- (1) For each adoption, annulment of adoption, divorce, and annulment of marriage ordered or decreed in this state, the clerk of the court shall prepare a divorce certificate or report of adoption on a form furnished by the state registrar or, for a report of adoption, the state of the child's birth.
- (2) The petitioner shall provide the clerk of the court with the information necessary to prepare the certificate or report under Subsection (1), including the form furnished by the child's state of birth if the child was born in another state.
- (3) The clerk shall:
 - (a) prepare the certificate or report under Subsection (1); and

- (b) complete the remaining entries for the certificate or report immediately after the decree or order becomes final.
- (4) On or before the 15th day of each month, the clerk shall forward the divorce certificates and reports of adoption under Subsection (1) completed by the clerk during the preceding month to the state registrar, except for reports of adoption provided to an attorney or child-placing agency under Subsection (5)(b).
- (5)
 - (a) In addition to the report of adoption that the clerk forwards to the state registrar under Subsection (4), the clerk shall also provide an original report of adoption under Subsection (1), upon request, to the attorney who is providing representation of a party to the adoption, or the child-placing agency, as defined in Section 78B-6-103, that is placing the child.
 - (b) If the child was born in another state, the clerk of court shall prepare and provide one original report of adoption, upon request, to the attorney who is providing representation of a party to the adoption, or the child-placing agency that is placing the child, and the attorney or child-placing agency shall be responsible for submitting the report to the state of the child's birth.
 - (c) If the attorney or child-placing agency does not request an original report of adoption under Subsection (5)(a) or (b), the clerk shall forward the report of adoption to the state registrar pursuant to Subsection (4).
 - (d) If, pursuant to Subsection (5)(a), an original report of adoption is provided to the attorney or the child-placing agency, as defined in Section 78B-6-103, the attorney or the child-placing agency shall immediately provide the report of adoption to the state registrar.

Amended by Chapter 289, 2023 General Session

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-129 Certified copies of vital records -- Preparation by state and local registrars -- Evidentiary value.

- (1) The state registrar and local registrars authorized by the department under Section 26B-8-124 may prepare typewritten, photographic, electronic, or other reproductions of vital records and certify their correctness.
- (2) Certified copies of the vital record, or authorized reproductions of the original, issued by either the state registrar or a designated local registrar are prima facie evidence in all courts of the state with like effect as the vital record.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-130 Identifying birth certificates of missing persons -- Procedures.

- (1) As used in this section:
 - (a) "Division" means the Criminal Investigations and Technical Services Division, Department of Public Safety, in Title 53, Chapter 10, Criminal Investigations and Technical Services Act.
 - (b) "Missing child" means a person younger than 18 years old who is missing from the person's home environment or a temporary placement facility for any reason, and whose whereabouts cannot be determined by the person responsible for the child's care.
 - (c) "Missing person" means a person who:
 - (i) is missing from the person's home environment; and
 - (ii) (A) has a physical or mental disability;

- (B) is missing under circumstances that indicate that the person is endangered, missing involuntarily, or a victim of a catastrophe; or
- (C) is a missing child.

- (2)
 - (a) In accordance with Section 53-10-203, upon the state registrar's notification by the division that a person who was born in this state is missing, the state and local registrars shall flag the registered birth certificate of that person so that when a copy of the registered birth certificate or information regarding the birth record is requested, the state and local registrars are alerted to the fact the registered birth certificate is that of a missing person.
 - (b) Upon notification by the division the missing person has been recovered, the state and local registrars shall remove the flag from that person's registered birth certificate.
- (3) The state and local registrars may not provide a copy of a registered birth certificate of any person whose record is flagged under Subsection (2), except as approved by the division.
- (4)
 - (a) When a copy of the registered birth certificate of a person whose record has been flagged is requested in person, the state or local registrar shall require that person to complete a form supplying that person's name, address, telephone number, and relationship to the missing person, and the name and birth date of the missing person.
 - (b) The state or local registrar shall inform the requester that a copy of the registered birth certificate will be mailed to the requester.
 - (c) The state or local registrar shall note the physical description of the person making the request, and shall immediately notify the division of the request and the information obtained pursuant to this Subsection (4).
- (5) When a copy of the registered birth certificate of a person whose record has been flagged is requested in writing, the state or local registrar or personnel of the state or local registrar shall immediately notify the division, and provide it with a copy of the written request.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-131 Birth certificate for foreign adoptees.

Upon presentation of a court order of adoption and an order establishing the fact, time, and place of birth under Section 26B-8-119, the department shall prepare a birth certificate for an individual who:

- (1) was adopted under the laws of this state; and
- (2) was at the time of adoption, as a child or as an adult, considered an alien child or adult for whom the court received documentary evidence of lawful admission under Section 78B-6-108.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-132 Determination of death made by registered nurse.

- (1) As used in this section, "registered nurse" means a registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act.
- (2)
 - (a) An individual is dead if the individual has sustained either:
 - (i) irreversible cessation of circulatory and respiratory functions; or
 - (ii) irreversible cessation of all functions of the entire brain, including the brain stem.
 - (b) A determination of death shall be made in accordance with this part and accepted medical standards.

- (3) A registered nurse may make a determination of death of an individual if:
 - (a) an attending physician has:
 - (i) documented in the individual's medical or clinical record that the individual's death is anticipated due to illness, infirmity, or disease no later than 180 days after the day on which the physician makes the documentation; and
 - (ii) established clear assessment procedures for determining death;
 - (b) the death actually occurs within the 180-day period described in Subsection (3)(a); and
 - (c) at the time of the documentation described in Subsection (3)(a), the physician authorized the following, in writing, to make the determination of death:
 - (i) one or more specific registered nurses; or
 - (ii) if the individual is in a health care facility that has complied with Subsection (6), all registered nurses that the facility employs.
- (4) A registered nurse who has determined death under this section shall:
 - (a) document the clinical criteria for the determination in the individual's medical or clinical record;
 - (b) notify the physician described in Subsection (3); and
 - (c) ensure that the death certificate includes:
 - (i) the name of the deceased;
 - (ii) the presence of a contagious disease, if known; and
 - (iii) the date and time of death.
- (5) Except as otherwise provided by law or rule, a physician shall certify a determination of death described in Subsection (4) within 24 hours after the registered nurse makes the determination of death.
- (6)
 - (a) For a health care facility to be eligible for a general authorization described in Subsection (3)(c), the facility shall adopt written policies and procedures that provide for the determination of death by a registered nurse under this section.
 - (b) A registered nurse that a health care facility employs may not make a determination of death under this section unless the facility has adopted the written policies and procedures described in Subsection (6)(a).
- (7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the appropriate determination of death under this section.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-133 Unlawful acts concerning certificates, records, and reports -- Unlawful transportation or acceptance of dead human body.

It is unlawful for any person, association, or corporation and the officers of any of them:

- (1) to willfully and knowingly make any false statement in a certificate, record, or report required to be filed with the department, or in an application for a certified copy of a vital record, or to willfully and knowingly supply false information intending that the information be used in the preparation of any report, record, or certificate, or an amendment to any of these;
- (2) to make, counterfeit, alter, amend, or mutilate any certificate, record, or report required to be filed under this code or a certified copy of the certificate, record, or report without lawful authority and with the intent to deceive;
- (3) to willfully and knowingly obtain, possess, use, sell, furnish, or attempt to obtain, possess, use, sell, or furnish to another, for any purpose of deception, any certificate, record, report, or certified copy of any of them, including any that are counterfeited, altered, amended, or mutilated;

- (4) without lawful authority, to possess any certificate, record, or report, required by the department or a copy or certified copy of the certificate, record, or report, knowing it to have been stolen or otherwise unlawfully obtained; or
- (5) to willfully and knowingly transport or accept for transportation, interment, or other disposition a dead human body without a permit required by law.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-134 Illegal use of birth certificate -- Penalties.

- (1) It is a third degree felony for any person to willfully and knowingly:
 - (a) and with the intent to deceive, obtain, possess, use, sell, furnish, or attempt to obtain, possess, use, sell, or furnish to another any certificate of birth or certified copy of a certificate of birth knowing that the certificate or certified copy was issued upon information which is false in whole or in part or which relates to the birth of another person, whether living or deceased; or
 - (b) furnish or process a certificate of birth or certified copy of a certificate of birth with the knowledge or intention that it be used for the purpose of deception by a person other than the person to whom the certificate of birth relates.
- (2) The specific criminal violations and the criminal penalty under this section take precedence over any more general criminal offense as described in Section 26B-8-133.

Renumbered and Amended by Chapter 306, 2023 General Session

Part 2
Utah Medical Examiner

26B-8-201 Definitions.

As used in this part:

- (1) "Dead body" means the same as that term is defined in Section 26B-8-101.
- (2)
 - (a) "Death by violence" means death that resulted by the decedent's exposure to physical, mechanical, or chemical forces.
 - (b) "Death by violence" includes death that appears to have been due to homicide, death that occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or any attempt to commit any of the foregoing offenses.
- (3) "Immediate relative" means an individual's spouse, child, parent, sibling, grandparent, or grandchild.
- (4) "Health care professional" means any of the following while acting in a professional capacity:
 - (a) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (b) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or
 - (c) an advance practice registered nurse licensed under Subsection 58-31b-301(2)(e).

- (5) "Medical examiner" means the state medical examiner appointed pursuant to Section 26B-8-202 or a deputy appointed by the medical examiner.
- (6) "Medical examiner record" means:
 - (a) all information that the medical examiner obtains regarding a decedent; and
 - (b) reports that the medical examiner makes regarding a decedent.
- (7) "Regional pathologist" means a trained pathologist licensed to practice medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection 26B-8-202(3).
- (8) "Sudden death while in apparent good health" means apparently instantaneous death without obvious natural cause, death during or following an unexplained syncope or coma, or death during an acute or unexplained rapidly fatal illness.
- (9) "Sudden infant death syndrome" means the death of a child who was thought to be in good health or whose terminal illness appeared to be so mild that the possibility of a fatal outcome was not anticipated.
- (10) "Suicide" means death caused by an intentional and voluntary act of an individual who understands the physical nature of the act and intends by such act to accomplish self-destruction.
- (11) "Unattended death" means a death that occurs more than 365 days after the day on which a health care professional examined or treated the deceased individual for any purpose, including writing a prescription.
- (12)
 - (a) "Unavailable for postmortem investigation" means that a dead body is:
 - (i) transported out of state;
 - (ii) buried at sea;
 - (iii) cremated;
 - (iv) processed by alkaline hydrolysis; or
 - (v) otherwise made unavailable to the medical examiner for postmortem investigation or autopsy.
 - (b) "Unavailable for postmortem investigation" does not include embalming or burial of a dead body pursuant to the requirements of law.
- (13) "Within the scope of the decedent's employment" means all acts reasonably necessary or incident to the performance of work, including matters of personal convenience and comfort not in conflict with specific instructions.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-202 Chief medical examiner -- Appointment -- Qualifications -- Authority.

- (1) The executive director, with the advice of an advisory board consisting of the chairman of the Department of Pathology at the University of Utah medical school and the dean of the law school at the University of Utah, shall appoint a chief medical examiner who shall be licensed to practice medicine in the state and shall meet the qualifications of a forensic pathologist, certified by the American Board of Pathology.
- (2)
 - (a) The medical examiner shall serve at the will of the executive director.
 - (b) The medical examiner has authority to:
 - (i) employ medical, technical and clerical personnel as may be required to effectively administer this chapter, subject to the rules of the department and the state merit system;
 - (ii) conduct investigations and pathological examinations;
 - (iii) perform autopsies authorized in this title;

- (iv) conduct or authorize necessary examinations on dead bodies; and
- (v) notwithstanding the provisions of Subsection 26B-8-321(3), retain tissues and biological samples:
 - (A) for scientific purposes;
 - (B) where necessary to accurately certify the cause and manner of death; or
 - (C) for tissue from an unclaimed body, subject to Section 26B-8-225, in order to donate the tissue or biological sample to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.
- (c) In the case of an unidentified body, the medical examiner shall authorize or conduct investigations, tests and processes in order to determine its identity as well as the cause of death.
- (3) The medical examiner may appoint regional pathologists, each of whom shall be approved by the executive director.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-203 County medical examiners.

The county executive, with the advice and consent of the county legislative body, may appoint medical examiners for their respective counties.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-204 Investigation of deaths -- Requests for autopsies.

- (1) The following have authority to investigate a death described in Section 26B-8-205 and any other case which may be within their jurisdiction:
 - (a) the attorney general or an assistant attorney general;
 - (b) the district attorney or county attorney who has criminal jurisdiction over the death or case;
 - (c) a deputy of the district attorney or county attorney described in Subsection (1)(b); or
 - (d) a peace officer within the jurisdiction described in Subsection (1)(b).
- (2) If, in the opinion of the medical examiner, an autopsy should be performed or if an autopsy is requested by the district attorney or county attorney having criminal jurisdiction, or by the attorney general, the autopsy shall be performed by the medical examiner or a regional pathologist.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-205 Custody by medical examiner.

Upon notification under Section 26B-8-206 or investigation by the medical examiner's office, the medical examiner shall assume custody of a deceased body if it appears that death:

- (1) was by violence, gunshot, suicide, or accident;
- (2) was sudden death while in apparent good health;
- (3) occurred unattended, except that an autopsy may only be performed in accordance with the provisions of Subsection 26B-8-207(3);
- (4) occurred under suspicious or unusual circumstances;
- (5) resulted from poisoning or overdose of drugs;
- (6) resulted from a disease that may constitute a threat to the public health;
- (7) resulted from disease, injury, toxic effect, or unusual exertion incurred within the scope of the decedent's employment;

- (8) was due to sudden infant death syndrome;
- (9) occurred while the decedent was in prison, jail, police custody, the state hospital, or in a detention or medical facility operated for the treatment of persons with a mental illness, persons who are emotionally disturbed, or delinquent persons;
- (10) resulted directly from the actions of a law enforcement officer, as defined in Section 53-13-103;
- (11) was associated with diagnostic or therapeutic procedures; or
- (12) was described in this section when request is made to assume custody by a county or district attorney or law enforcement agency in connection with a potential homicide investigation or prosecution.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-206 Discovery of dead body -- Notice requirements -- Procedure.

- (1) When death occurs under circumstances listed in Section 26B-8-205, the person or persons finding or having custody of the body shall immediately notify the nearest law enforcement agency. The law enforcement agency having jurisdiction over the case shall then proceed to the place where the body is and conduct an investigation concerning the cause and circumstances of death for the purpose of determining whether there exists any criminal responsibility for the death.
- (2) On a determination by the law enforcement agency that death may have occurred in any of the ways described in Section 26B-8-205, the death shall be reported to the district attorney or county attorney having criminal jurisdiction and to the medical examiner by the law enforcement agency having jurisdiction over the investigation.
- (3) The report shall be made by the most expeditious means available. Failure to give notification or report to the district attorney or county attorney having criminal jurisdiction and medical examiner is a class B misdemeanor.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-207 Custody of dead body and personal effects -- Examination of scene of death -- Preservation of body -- Autopsies.

- (1)
 - (a) Upon notification of a death under Section 26B-8-206, the medical examiner shall assume custody of the deceased body, clothing on the body, biological samples taken, and any article on or near the body which may aid the medical examiner in determining the cause of death except those articles which will assist the investigative agency to proceed without delay with the investigation.
 - (b) In all cases the scene of the event may not be disturbed until authorization is given by the senior ranking peace officer from the law enforcement agency having jurisdiction of the case and conducting the investigation.
 - (c) Where death appears to have occurred under circumstances listed in Section 26B-8-205, the person or persons finding or having custody of the body, or jurisdiction over the investigation of the death, shall take reasonable precautions to preserve the body and body fluids so that minimum deterioration takes place.
 - (d) A person may not move a body in the custody of the medical examiner unless:
 - (i) the medical examiner, or district attorney or county attorney that has criminal jurisdiction, authorizes the person to move the body;

- (ii) a designee of an individual listed in this Subsection (1)(d) authorizes the person to move the body;
 - (iii) not moving the body would be an affront to public decency or impractical; or
 - (iv) the medical examiner determines the cause of death is likely due to natural causes.
 - (e) The body can under direction of the medical examiner or the medical examiner's designee be moved to a place specified by the medical examiner or the medical examiner's designee.
- (2)
- (a) If the medical examiner has custody of a body, a person may not clean or embalm the body without first obtaining the medical examiner's permission.
 - (b) An intentional or knowing violation of Subsection (2)(a) is a class B misdemeanor.
- (3)
- (a) When the medical examiner assumes lawful custody of a body under Subsection 26B-8-205(3) solely because the death was unattended, an autopsy may not be performed unless requested by the district attorney, county attorney having criminal jurisdiction, or law enforcement agency having jurisdiction of the place where the body is found.
 - (b) The county attorney or district attorney and law enforcement agency having jurisdiction shall consult with the medical examiner to determine the need for an autopsy.
 - (c) If the deceased chose not to be seen or treated by a health care professional for a spiritual or religious reason, a district attorney, county attorney, or law enforcement agency, may not request an autopsy or inquest under Subsection (3)(a) solely because of the deceased's choice.
 - (d) The medical examiner or medical examiner's designee may not conduct a requested autopsy described in Subsection (3)(a) if the medical examiner or medical examiner's designee determines:
 - (i) the request violates Subsection (3)(c); or
 - (ii) the cause of death can be determined without performing an autopsy.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-208 Rendering a dead body unavailable for postmortem investigation.

- (1) As used in this section:
 - (a) "Medical examiner" means the same as that term is defined in Section 26B-8-201.
 - (b) "Unavailable for postmortem investigation" means the same as that term is defined in Section 26B-8-201.
- (2) It is unlawful for a person to engage in any conduct that makes a dead body unavailable for postmortem investigation, unless, before engaging in that conduct, the person obtains a permit from the medical examiner to render the dead body unavailable for postmortem investigation, under Section 26B-8-230, if the person intends to make the body unavailable for postmortem investigation.
- (3) A person who violates Subsection (2) is guilty of a third degree felony.
- (4) If a person engages in conduct that constitutes both a violation of this section and a violation of Section 76-9-704, the provisions and penalties of Section 76-9-704 supersede the provisions and penalties of this section.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-209 Certification of cause of death.

- (1)

- (a) For a death under any of the circumstances described in Section 26B-8-205, only the medical examiner or the medical examiner's designee may certify the cause of death.
 - (b) An individual who knowingly certifies the cause of death in violation of Subsection (1)(a) is guilty of a class B misdemeanor.
- (2)
- (a) For a death described in Section 26B-8-205, an individual may not knowingly give false information, with the intent to mislead, to the medical examiner or the medical examiner's designee.
 - (b) A violation of Subsection (2)(a) is a class B misdemeanor.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-210 Medical examiner to report death caused by prescribed controlled substance poisoning or overdose.

- (1) If a medical examiner determines that the death of a person who is 12 years old or older at the time of death resulted from poisoning or overdose involving a prescribed controlled substance, the medical examiner shall, within three business days after the day on which the medical examiner determines the cause of death, send a written report to the Division of Professional Licensing, created in Section 58-1-103, that includes:
 - (a) the decedent's name;
 - (b) each drug or other substance found in the decedent's system that may have contributed to the poisoning or overdose, if known; and
 - (c) the name of each person the medical examiner has reason to believe may have prescribed a controlled substance described in Subsection (1)(b) to the decedent.
- (2) This section does not create a new cause of action.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-211 Records and reports of investigations.

- (1) A complete copy of all written records and reports of investigations and facts resulting from medical care treatment, autopsies conducted by any person on the body of the deceased who died in any manner listed in Section 26B-8-205 and the written reports of any investigative agency making inquiry into the incident shall be promptly made and filed with the medical examiner.
- (2) The judiciary or a state or local government entity that retains a record, other than a document described in Subsection (1), of the decedent shall provide a copy of the record to the medical examiner:
 - (a) in accordance with federal law; and
 - (b) upon receipt of the medical examiner's written request for the record.
- (3) Failure to submit reports or records described in Subsection (1) or (2), other than reports of a county attorney, district attorney, or law enforcement agency, within 10 days after the day on which the person in possession of the report or record receives the medical examiner's written request for the report or record is a class B misdemeanor.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-212 Order to exhume body -- Procedure.

- (1) In case of any death described in Section 26B-8-205, when a body is buried without an investigation by the medical examiner as to the cause and manner of death, it shall be the duty of the medical examiner, upon being advised of the fact, to notify the district attorney or county attorney having criminal jurisdiction where the body is buried or death occurred. Upon notification, the district attorney or county attorney having criminal jurisdiction may file an action in the district court to obtain an order to exhume the body. A district judge may order the body exhumed upon an ex parte hearing.
- (2)
 - (a) A body may not be exhumed until notice of the order has been served upon the executor or administrator of the deceased's estate, or if no executor or administrator has been appointed, upon the nearest heir of the deceased, determined as if the deceased had died intestate. If the nearest heir of the deceased cannot be located within the jurisdiction, then the next heir in succession within the jurisdiction may be served.
 - (b) The executor, administrator, or heir shall have 24 hours to notify the issuing court of any objection to the order prior to the time the body is exhumed. If no heirs can be located within the jurisdiction within 24 hours, the facts shall be reported to the issuing court which may order that the body be exhumed forthwith.
 - (c) Notification to the executor, administrator, or heir shall specifically state the nature of the action and the fact that any objection shall be filed with the issuing court within 24 hours of the time of service.
 - (d) In the event an heir files an objection, the court shall set hearing on the matter at the earliest possible time and issue an order on the matter immediately at the conclusion of the hearing. Upon the receipt of notice of objection, the court shall immediately notify the county attorney who requested the order, so that the interest of the state may be represented at the hearing.
 - (e) When there is reason to believe that death occurred in a manner described in Section 26B-8-205, the district attorney or county attorney having criminal jurisdiction may make a motion that the court, upon ex parte hearing, order the body exhumed forthwith and without notice. Upon a showing of exigent circumstances the court may order the body exhumed forthwith and without notice. In any event, upon motion of the district attorney or county attorney having criminal jurisdiction and upon the personal appearance of the medical examiner, the court for good cause may order the body exhumed forthwith and without notice.
- (3) An order to exhume a body shall be directed to the medical examiner, commanding the medical examiner to cause the body to be exhumed, perform the required autopsy, and properly cause the body to be reburied upon completion of the examination.
- (4) The examination shall be completed and the complete autopsy report shall be made to the district attorney or county attorney having criminal jurisdiction for any action the attorney considers appropriate. The district attorney or county attorney shall submit the return of the order to exhume within 10 days in the manner prescribed by the issuing court.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-213 Autopsies -- When authorized.

- (1) The medical examiner shall perform an autopsy to:
 - (a) aid in the discovery and prosecution of a crime;
 - (b) protect an innocent person accused of a crime; and
 - (c) disclose hazards to public health.
- (2) The medical examiner may perform an autopsy:

- (a) to aid in the administration of civil justice in life and accident insurance problems in accordance with Title 34A, Chapter 2, Workers' Compensation Act; and
- (b) in other cases involving questions of civil liability.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-214 Certification of death by attending health care professional -- Deaths without medical attendance -- Cause of death uncertain -- Notice requirements.

- (1)
 - (a) A health care professional who treats or examines an individual within 365 days from the day on which the individual dies, shall certify the individual's cause of death to the best of the health care professional's knowledge and belief unless the health care professional determines the individual may have died in a manner described in Section 26B-8-205.
 - (b) If a health care professional is unable to determine an individual's cause of death in accordance with Subsection (1)(a), the health care professional shall notify the medical examiner.
- (2) For an unattended death, the person with custody of the body shall notify the medical examiner of the death.
- (3) If the medical examiner determines there may be criminal responsibility for a death, the medical examiner shall notify:
 - (a) the district attorney or county attorney that has criminal jurisdiction; or
 - (b) the head of the law enforcement agency that has jurisdiction to investigate the death.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-215 Deaths in medical centers and federal facilities.

All death certificates of any decedent who died in a teaching medical center or a federal medical facility unattended or in the care of an unlicensed physician or other medical personnel shall be signed by the licensed supervisory physician, attending physician or licensed resident physician of the medical center or facility.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-216 Release of body for funeral preparations.

- (1)
 - (a) Where a body is held for investigation or autopsy under this chapter or for a medical investigation permitted by law, the body shall, if requested by the person given priority under Section 58-9-602, be released for funeral preparations no later than 24 hours after the arrival at the office of the medical examiner or regional medical facility.
 - (b) An extension may be ordered only by a district court.
- (2) The right and duty to control the disposition of a deceased person is governed by Sections 58-9-601 through 58-9-606.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-217 Records of medical examiner -- Confidentiality.

- (1) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

- (a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;
 - (b) indicate the place where the body was found;
 - (c) indicate the date of death;
 - (d) indicate the cause and manner of death;
 - (e) indicate the occupation of the decedent, if available;
 - (f) include all other relevant information concerning the death; and
 - (g) include a full report and detailed findings of the autopsy or report of the investigation.
- (2)
- (a) Upon written request from an individual described in Subsections (2)(a)(i) through (iv), the medical examiner shall provide a copy of the medical examiner's final report of examination for the decedent, including the autopsy report, toxicology report, lab reports, and investigative reports to any of the following:
 - (i) a decedent's immediate relative;
 - (ii) a decedent's legal representative;
 - (iii) a physician or physician assistant who attended the decedent during the year before the decedent's death; or
 - (iv) a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction, as necessary for the performance of the attorney or official's professional duties.
 - (b) Upon written request from the director or a designee of the director of an entity described in Subsections (2)(b)(i) through (iv), the medical examiner may provide a copy of the of the medical examiner's final report of examination for the decedent, including any other reports described in Subsection (2)(a), to any of the following entities as necessary for performance of the entity's official purposes:
 - (i) a local health department;
 - (ii) a local mental health authority;
 - (iii) a public health authority; or
 - (iv) another state or federal governmental agency.
 - (c) The medical examiner may provide a copy of the medical examiner's final report of examination, including any other reports described in Subsection (2)(a), if the final report relates to an issue of public health or safety, as further defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) Reports provided under Subsection (2) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent's death.
- (4) The medical examiner may provide a medical examiner record to a researcher who:
- (a) has an advanced degree;
 - (b)
 - (i) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or
 - (ii) is part of a research firm contracted with an accredited college or university, a hospital, or another system of care;
 - (c) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the department; and
 - (d) provides to the medical examiner an approval from:
 - (i) the researcher's sponsoring organization; and
 - (ii) the Utah Department of Health and Human Services Institutional Review Board.
- (5) Records provided under Subsection (4) may not include a third party record, unless:

- (a) a court has ordered disclosure of the third party record; and
 - (b) disclosure is conducted in compliance with state and federal law.
- (6) A person who obtains a medical examiner record under Subsection (4) shall:
- (a) maintain the confidentiality of the medical examiner record by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent before using the medical examiner record in research;
 - (b) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;
 - (c) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;
 - (d) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;
 - (e) reimburse the medical examiner, as provided in Section 26B-1-209, for any costs incurred by the medical examiner in providing a medical examiner record;
 - (f) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and
 - (g) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.
- (7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consideration of applicable state and federal law, to establish permissible uses and disclosures of a medical examiner record or other record obtained under this section.
- (8) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.
- (9) A person who obtains a medical examiner record under Subsection (4) is guilty of a class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a) through (d).

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-218 Records of medical examiner -- Admissibility as evidence -- Subpoena of person who prepared record.

The records of the medical examiner or transcripts thereof certified by the medical examiner are admissible as evidence in any civil action in any court in this state except that statements by witnesses or other persons, unless taken pursuant to Section 26B-8-221, as conclusions upon extraneous matters are not hereby made admissible. The person who prepared a report or record offered in evidence hereunder may be subpoenaed as a witness in the case by any party.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-219 Personal property of deceased -- Disposition.

- (1) Personal property of the deceased not held as evidence shall be turned over to the legal representative of the deceased within 30 days after completion of the investigation of the death of the deceased. If no legal representative is known, the county attorney, district attorney, or the

medical examiner shall, within 30 days after the investigation, turn the personal property over to the county treasurer to be handled pursuant to the escheat laws.

- (2) An affidavit shall be filed with the county treasurer by the county attorney, district attorney, or the medical examiner within 30 days after investigation of the death of the deceased showing the money or other property belonging to the estate of the deceased person which has come into his possession and the disposition made of the property.
- (3) Property required to be turned over to the legal representative of the deceased may be held longer than 30 days if, in the opinion of the county attorney, district attorney, or attorney general, the property is necessary evidence in a court proceeding. Upon conclusion of the court proceedings, the personal property shall be turned over as described in this section and in accordance with the rules of the court.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-220 Officials not liable for authorized acts.

Except as provided in this part, a criminal or civil action may not arise against the county attorney, district attorney, or his deputies, the medical examiner or his deputies, or regional pathologists for authorizing or performing autopsies authorized by this part or for any other act authorized by this part.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-221 Authority of county attorney or district attorney to subpoena witnesses and compel testimony -- Determination if decedent died by unlawful means.

- (1) The district attorney or county attorney having criminal jurisdiction may subpoena witnesses and compel testimony concerning the death of any person and have such testimony reduced to writing under his direction and may employ a shorthand reporter for that purpose at the same compensation as is allowed to reporters in the district courts. When the testimony has been taken down by the shorthand reporter, a transcript thereof, duly certified, shall constitute the deposition of the witness.
- (2) Upon review of all facts and testimony taken concerning the death of a person, the district attorney or county attorney having criminal jurisdiction shall determine if the decedent died by unlawful means and shall also determine if criminal prosecution shall be instituted.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-222 Additional powers and duties of department.

The department may:

- (1) establish rules to carry out the provisions of this part;
- (2) arrange for the state health laboratory to perform toxicologic analysis for public or private institutions and fix fees for the services;
- (3) cooperate and train law enforcement personnel in the techniques of criminal investigation as related to medical and pathological matters; and
- (4) pay to private parties, institutions or funeral directors the reasonable value of services performed for the medical examiner's office.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-223 Authority of examiner to provide organ or other tissue for transplant purposes.

- (1) When requested by the licensed physician of a patient who is in need of an organ or other tissue for transplant purpose, by a legally created Utah eye bank, organ bank or medical facility, the medical examiner may provide an organ or other tissue if:
 - (a) a decedent who may provide a suitable organ or other tissue for the transplant is in the custody of the medical examiner;
 - (b) the medical examiner is assured that the requesting party has made reasonable search for and inquiry of next of kin of the decedent and that no objection by the next of kin is known by the requesting party; and
 - (c) the removal of the organ or other tissue will not interfere with the investigation or autopsy or alter the post-mortem facial appearance.
- (2) When the medical examiner is in custody of a decedent who may provide a suitable organ or other tissue for transplant purposes, he may contact the appropriate eye bank, organ bank or medical facility and notify them concerning the suitability of the organ or other tissue. In such contact the medical examiner may disclose the name of the decedent so that necessary clearances can be obtained.
- (3) No person shall be held civilly or criminally liable for any acts performed pursuant to this section.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-224 Autopsies -- Persons eligible to authorize.

- (1) Autopsies may be authorized:
 - (a) by the commissioner of the Labor Commission or the commissioner's designee as provided in Section 34A-2-603;
 - (b) by individuals by will or other written document;
 - (c) upon a decedent by the next of kin in the following order and as known: surviving spouse, child, if 18 years old or older, otherwise the legal guardian of the child, parent, sibling, uncle or aunt, nephew or niece, cousin, others charged by law with the duty of burial, or friend assuming the obligation of burial;
 - (d) by the county attorney, district attorney, or the district attorney's deputy, or a district judge; and
 - (e) by the medical examiner as provided in this part.
- (2) Autopsies authorized under Subsections (1)(a) and (1)(d) shall be performed by a certified pathologist.
- (3) No criminal or civil action arises against a pathologist or a physician who proceeds in good faith and performs an autopsy authorized by this section.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-225 Burial of an unclaimed body -- Request by the school of medicine at the University of Utah -- Medical examiner may retain tissue for dog training.

- (1) Except as described in Subsection (2) or (3), a county shall provide, at the county's expense, decent burial for an unclaimed body found in the county.
- (2) A county is not responsible for decent burial of an unclaimed body found in the county if the body is requested by the dean of the school of medicine at the University of Utah under Section 53B-17-301.

- (3) For an unclaimed body that is temporarily in the medical examiner's custody before burial under Subsection (1), the medical examiner may retain tissue from the unclaimed body in order to donate the tissue to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-226 Social security number in certification of death.

A certification of death shall include, if known, the social security number of the deceased person, and a copy of the certification shall be sent to the Office of Recovery Services within the department upon request.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-227 Registry of unidentified deceased persons.

- (1) If the identity of a deceased person over which the medical examiner has jurisdiction under Section 26B-8-205 is unknown, the medical examiner shall do the following before releasing the body to the county in which the body was found as provided in Section 26B-8-225:
 - (a) assign a unique identifying number to the body;
 - (b) create and maintain a file under the assigned number;
 - (c) examine the body, take samples, and perform other related tasks for the purpose of deriving information that may be useful in ascertaining the identity of the deceased person;
 - (d) use the identifying number in all records created by the medical examiner that pertains to the body;
 - (e) record all information pertaining to the body in the file created and maintained under Subsection (1)(b);
 - (f) communicate the unique identifying number to the county in which the body was found; and
 - (g) access information from available government sources and databases in an attempt to ascertain the identity of the deceased person.
- (2) A county which has received a body to which Subsection (1) applies:
 - (a) shall adopt and use the same identifying number assigned by Subsection (1) in all records created by the county that pertain to the body;
 - (b) require any funeral director or sexton who is involved in the disposition of the body to adopt and use the same identifying number assigned by Subsection (1) in all records created by the funeral director or sexton pertaining to the body; and
 - (c) shall provide a decent burial for the body.
- (3) Within 30 days of receiving a body to which Subsection (1) applies, the county shall inform the medical examiner of the disposition of the body including the burial plot. The medical examiner shall record this information in the file created and maintained under Subsection (1)(b).
- (4) The requirements of Subsections (1) and (6) apply to a county examiner appointed under Section 26B-8-203, with the additional requirements that the county examiner:
 - (a) obtain a unique identifying number from the medical examiner for the body; and
 - (b) send to the medical examiner a copy of the file created and maintained in accordance with Subsection (1)(b), including the disposition of the body and burial plot, within 30 days of releasing the body.
- (5) The medical examiner shall maintain a file received under Subsection (4) in the same way that it maintains a file created and maintained by the medical examiner in accordance with Subsection (1)(b).

- (6) The medical examiner shall cooperate and share information generated and maintained under this section with a person who demonstrates:
- (a) a legitimate personal or governmental interest in determining the identity of a deceased person; and
 - (b) a reasonable belief that the body of that deceased person may have come into the custody of the medical examiner.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-228 Testing for suspected suicides -- Maintaining information -- Compensation to deputy medical examiners.

- (1) In all cases where it is suspected that a death resulted from suicide, including assisted suicide, the medical examiner shall endeavor to have the following tests conducted upon samples taken from the body of the deceased:
- (a) a test that detects all of the substances included in the volatiles panel of the Bureau of Forensic Toxicology within the department;
 - (b) a test that detects all of the substances included in the drugs of abuse panel of the Bureau of Forensic Toxicology within the department; and
 - (c) a test that detects all of the substances included in the prescription drug panel of the Bureau of Forensic Toxicology within the department.
- (2) The medical examiner shall maintain information regarding the types of substances found present in the samples taken from the body of a person who is suspected to have died as a result of suicide or assisted suicide.
- (3) Within funds appropriated by the Legislature for this purpose, the medical examiner shall provide compensation, at a standard rate determined by the medical examiner, to a deputy medical examiner who collects samples for the purposes described in Subsection (1).

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-229 Psychological autopsy examiner.

- (1) With funds appropriated by the Legislature for this purpose, the department shall provide compensation, at a standard rate determined by the department, to a psychological autopsy examiner.
- (2) The psychological autopsy examiner shall:
- (a) work with the medical examiner to compile data regarding suicide related deaths;
 - (b) as relatives of the deceased are willing, gather information from relatives of the deceased regarding the psychological reasons for the decedent's death;
 - (c) maintain a database of information described in Subsections (2)(a) and (b);
 - (d) in accordance with all applicable privacy laws subject to approval by the department, share the database described in Subsection (2)(c) with the University of Utah Department of Psychiatry or other university-based departments conducting research on suicide;
 - (e) coordinate no less than monthly with the suicide prevention coordinator described in Subsection 26B-5-611(2); and
 - (f) coordinate no less than quarterly with the state suicide prevention coalition.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-230 Application for permit to render a dead body unavailable for postmortem examination -- Fees.

- (1) Upon receiving an application by a person for a permit to render a dead body unavailable for postmortem investigation, the medical examiner shall review the application to determine whether:
 - (a) the person is authorized by law to render the dead body unavailable for postmortem investigation in the manner specified in the application; and
 - (b) there is a need to delay any action that will render the dead body unavailable for postmortem investigation until a postmortem investigation or an autopsy of the dead body is performed by the medical examiner.
- (2) Except as provided in Subsection (4), within three days after receiving an application described in Subsection (1), the medical examiner shall:
 - (a) make the determinations described in Subsection (1); and
 - (b)
 - (i) issue a permit to render the dead body unavailable for postmortem investigation in the manner specified in the application; or
 - (ii) deny the permit.
- (3) The medical examiner may deny a permit to render a dead body unavailable for postmortem investigation only if:
 - (a) the applicant is not authorized by law to render the dead body unavailable for postmortem investigation in the manner specified in the application;
 - (b) the medical examiner determines that there is a need to delay any action that will render the dead body unavailable for postmortem investigation; or
 - (c) the applicant fails to pay the fee described in Subsection (5).
- (4) If the medical examiner cannot in good faith make the determinations described in Subsection (1) within three days after receiving an application described in Subsection (1), the medical examiner shall notify the applicant:
 - (a) that more time is needed to make the determinations described in Subsection (1); and
 - (b) of the estimated amount of time needed before the determinations described in Subsection (1) can be made.
- (5) The medical examiner may charge a fee, pursuant to Section 63J-1-504, to recover the costs of fulfilling the duties of the medical examiner described in this section.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-231 Overdose fatality examiner.

- (1) Within funds appropriated by the Legislature, the department shall provide compensation, at a standard rate determined by the department, to an overdose fatality examiner.
- (2) The overdose fatality examiner shall:
 - (a) work with the medical examiner to compile data regarding overdose and opioid related deaths, including:
 - (i) toxicology information;
 - (ii) demographics; and
 - (iii) the source of opioids or drugs;
 - (b) as relatives of the deceased are willing, gather information from relatives of the deceased regarding the circumstances of the decedent's death;
 - (c) maintain a database of information described in Subsections (2)(a) and (b);

- (d) coordinate no less than monthly with the suicide prevention coordinator described in Section 26B-5-611; and
- (e) coordinate no less than quarterly with the Opioid and Overdose Fatality Review Committee created in Section 26B-1-403.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-232 Injury reporting requirements by health care provider -- Contents of report -- Penalties.

- (1) As used in this section:
 - (a) "Health care provider" means any person, firm, corporation, or association which furnishes treatment or care to persons who have suffered bodily injury, and includes hospitals, clinics, podiatrists, dentists and dental hygienists, nurses, nurse practitioners, physicians and physicians' assistants, osteopathic physicians, naturopathic practitioners, chiropractors, acupuncturists, paramedics, and emergency medical technicians.
 - (b) "Injury" does not include any psychological or physical condition brought about solely through the voluntary administration of prescribed controlled substances.
 - (c) "Law enforcement agency" means the municipal or county law enforcement agency:
 - (i) having jurisdiction over the location where the injury occurred; or
 - (ii) if the reporting health care provider is unable to identify or contact the law enforcement agency with jurisdiction over the injury, "law enforcement agency" means the agency nearest to the location of the reporting health care provider.
 - (d) "Report to a law enforcement agency" means to report, by telephone or other spoken communication, the facts known regarding an injury subject to reporting under Section 26B-8-232 to the dispatch desk or other staff person designated by the law enforcement agency to receive reports from the public.
- (2)
 - (a) Any health care provider who treats or cares for any person who suffers from any wound or other injury inflicted by the person's own act or by the act of another by means of a knife, gun, pistol, explosive, infernal device, or deadly weapon, or by violation of any criminal statute of this state, shall immediately report to a law enforcement agency the facts regarding the injury.
 - (b) The report shall state the name and address of the injured person, if known, the person's whereabouts, the character and extent of the person's injuries, and the name, address, and telephone number of the person making the report.
- (3) A health care provider may not be discharged, suspended, disciplined, or harassed for making a report pursuant to this section.
- (4) A person may not incur any civil or criminal liability as a result of making any report required by this section.
- (5) A health care provider who has personal knowledge that the report of a wound or injury has been made in compliance with this section is under no further obligation to make a report regarding that wound or injury under this section.
- (6) Any health care provider who intentionally or knowingly violates any provision of this section is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 306, 2023 General Session

Part 3

Revised Uniform Anatomical Gift Act

26B-8-301 Definitions.

As used in this part:

- (1) "Adult" means an individual who is at least 18 years old.
- (2) "Agent" means an individual:
 - (a) authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or
 - (b) expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.
- (3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.
- (4) "Decedent" means:
 - (a) a deceased individual whose body or part is or may be the source of an anatomical gift; and
 - (b) includes:
 - (i) a stillborn infant; and
 - (ii) subject to restrictions imposed by law other than this part, a fetus.
- (5)
 - (a) "Disinterested witness" means:
 - (i) a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift; or
 - (ii) another adult who exhibited special care and concern for the individual.
 - (b) "Disinterested witness" does not include a person to which an anatomical gift could pass under Section 26B-8-310.
- (6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver license, identification card, or donor registry.
- (7) "Donor" means an individual whose body or part is the subject of an anatomical gift.
- (8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.
- (9) "Driver license" means a license or permit issued by the Driver License Division of the Department of Public Safety, to operate a vehicle, whether or not conditions are attached to the license or permit.
- (10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.
- (11) "Guardian":
 - (a) means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual; and
 - (b) does not include a guardian ad litem.
- (12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.
- (13) "Identification card" means an identification card issued by the Driver License Division of the Department of Public Safety.
- (14) "Know" means to have actual knowledge.
- (15) "Minor" means an individual who is under 18 years of age.

- (16) "Organ procurement organization" means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.
- (17) "Parent" means a parent whose parental rights have not been terminated.
- (18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.
- (19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (20) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.
- (21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.
- (22) "Prospective donor":
 - (a) means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education; and
 - (b) does not include an individual who has made a refusal.
- (23) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.
- (24) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.
- (25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (26) "Refusal" means a record created under Section 26B-8-306 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.
- (27) "Sign" means, with the present intent to authenticate or adopt a record:
 - (a) to execute or adopt a tangible symbol; or
 - (b) to attach to or logically associate with the record an electronic symbol, sound, or process.
- (28) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (29) "Technician":
 - (a) means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law; and
 - (b) includes an enucleator.
- (30) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.
- (31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.
- (32) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-302 Applicability.

This part applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-303 Who may make anatomical gift before donor's death.

Subject to Section 26B-8-307, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section 26B-8-304 by:

- (1) the donor, if the donor is an adult or if the donor is a minor and is:
 - (a) emancipated; or
 - (b) authorized under state law to apply for a driver license because the donor is at least 15 years old;
- (2) an agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;
- (3) a parent of the donor, if the donor is an unemancipated minor; or
- (4) the donor's guardian.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-304 Manner of making anatomical gift before donor's death.

- (1) A donor may make an anatomical gift:
 - (a) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver license or identification card;
 - (b) in a will;
 - (c) during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or
 - (d) as provided in Subsection (2).
- (2) A donor or other person authorized to make an anatomical gift under Section 26B-8-303 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall:
 - (a) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
 - (b) state that it has been signed and witnessed as provided in Subsection (2)(a).
- (3) Revocation, suspension, expiration, or cancellation of a driver license or identification card upon which an anatomical gift is indicated does not invalidate the gift.
- (4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-305 Amending or revoking anatomical gift before donor's death.

- (1) Subject to Section 26B-8-307, a donor or other person authorized to make an anatomical gift under Section 26B-8-303 may amend or revoke an anatomical gift by:
 - (a) a record signed by:
 - (i) the donor;
 - (ii) the other person; or

- (iii) subject to Subsection (2), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or
- (b) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.
- (2) A record signed pursuant to Subsection (1)(a)(iii) shall:
 - (a) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
 - (b) state that it has been signed and witnessed as provided in Subsection (1)(a).
- (3) Subject to Section 26B-8-307, a donor or other person authorized to make an anatomical gift under Section 26B-8-303 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.
- (4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.
- (5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in Subsection (1).

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-306 Refusal to make anatomical gift -- Effect of refusal.

- (1) An individual may refuse to make an anatomical gift of the individual's body or part by:
 - (a) a record signed by:
 - (i) the individual; or
 - (ii) subject to Subsection (2), another individual acting at the direction of the individual if the individual is physically unable to sign;
 - (b) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or
 - (c) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.
- (2) A record signed pursuant to Subsection (1)(a)(ii) shall:
 - (a) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and
 - (b) state that it has been signed and witnessed as provided in Subsection (1)(a).
- (3) An individual who has made a refusal may amend or revoke the refusal:
 - (a) in the manner provided in Subsection (1) for making a refusal;
 - (b) by subsequently making an anatomical gift pursuant to Section 26B-8-304 that is inconsistent with the refusal; or
 - (c) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.
- (4) Except as otherwise provided in Subsection 26B-8-307(8), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-307 Preclusive effect of anatomical gift, amendment, or revocation.

- (1) Except as otherwise provided in Subsection (7) and subject to Subsection (6), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under Section 26B-8-304 or an amendment to an anatomical gift of the donor's body or part under Section 26B-8-305.
- (2) A donor's revocation of an anatomical gift of the donor's body or part under Section 26B-8-305 is not a refusal and does not bar another person specified in Section 26B-8-303 or 26B-8-308 from making an anatomical gift of the donor's body or part under Section 26B-8-304 or 26B-8-309.
- (3) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under Section 26B-8-304 or an amendment to an anatomical gift of the donor's body or part under Section 26B-8-305, another person may not make, amend, or revoke the gift of the donor's body or part under Section 26B-8-309.
- (4) A revocation of an anatomical gift of a donor's body or part under Section 26B-8-305 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under Section 26B-8-304 or 26B-8-309.
- (5) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 26B-8-303, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.
- (6) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 26B-8-303, an anatomical gift of a part for one or more of the purposes set forth in Section 26B-8-303 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under Section 26B-8-304 or 26B-8-309.
- (7) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.
- (8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-308 Who may make anatomical gift of decedent's body or part.

- (1) Subject to Subsections (2) and (3) and unless barred by Section 26B-8-306 or 26B-8-307, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:
 - (a) an agent of the decedent at the time of death who could have made an anatomical gift under Subsection 26B-8-303(2) immediately before the decedent's death;
 - (b) the spouse of the decedent;
 - (c) adult children of the decedent;
 - (d) parents of the decedent;
 - (e) adult siblings of the decedent;
 - (f) adult grandchildren of the decedent;
 - (g) grandparents of the decedent;
 - (h) the persons who were acting as the guardians of the person of the decedent at the time of death;
 - (i) an adult who exhibited special care and concern for the decedent; and

- (j) any other person having the authority to dispose of the decedent's body.
- (2) If there is more than one member of a class listed in Subsection (1)(a), (c), (d), (e), (f), (g), or (j) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section 26B-8-310 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.
- (3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under Subsection (1) is reasonably available to make or to object to the making of an anatomical gift.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-309 Manner of making, amending, or revoking anatomical gift of decedent's body or part.

- (1) A person authorized to make an anatomical gift under Section 26B-8-308 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.
- (2) Subject to Subsection (3), an anatomical gift by a person authorized under Section 26B-8-308 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under Section 26B-8-308 may be:
 - (a) amended only if a majority of the reasonably available members agree to the amending of the gift; or
 - (b) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.
- (3) A revocation under Subsection (2) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-310 Persons that may receive anatomical gift -- Purpose of anatomical gift.

- (1) An anatomical gift may be made to the following persons named in the document of gift:
 - (a) a hospital, accredited medical school, dental school, college, university, organ procurement organization, or other appropriate person, for research or education;
 - (b) subject to Subsection (2), an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or
 - (c) an eye bank or tissue bank.
- (2) If an anatomical gift to an individual under Subsection (1)(b) cannot be transplanted into the individual, the part passes in accordance with Subsection (7) in the absence of an express, contrary indication by the person making the anatomical gift.
- (3) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in Subsection (1) but identifies the purpose for which an anatomical gift may be used, the following rules apply:
 - (a) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

- (b) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.
 - (c) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.
 - (d) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.
- (4) For the purpose of Subsection (3), if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.
 - (5) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in Subsection (1) and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection (7).
 - (6) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection (7).
 - (7) For purposes of Subsections (2), (5), and this Subsection (7), the following rules apply:
 - (a) If the part is an eye, the gift passes to the appropriate eye bank.
 - (b) If the part is tissue, the gift passes to the appropriate tissue bank.
 - (c) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.
 - (8) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under Subsection (1)(b), passes to the organ procurement organization as custodian of the organ.
 - (9) If an anatomical gift does not pass pursuant to Subsections (2) through (8) or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.
 - (10) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under Section 26B-8-304 or 26B-8-309 or if the person knows that the decedent made a refusal under Section 26B-8-306 that was not revoked. For purposes of this Subsection (10), if a person knows that an anatomical gift was made on a document of gift, the person is considered to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.
 - (11) Except as otherwise provided in Subsection (1)(b), nothing in this part affects the allocation of organs for transplantation or therapy.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-311 Search and notification.

- (1) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:
 - (a) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual;
 - (b) if no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital; and

- (c) a law enforcement officer, firefighter, emergency medical services provider, or other emergency rescuer who finds an individual who is deceased at the scene of a motor vehicle accident, when the deceased individual is transported from the scene of the accident to a funeral establishment licensed under Title 58, Chapter 9, Funeral Services Licensing Act:
 - (i) the law enforcement officer, firefighter, emergency medical services provider, or other emergency rescuer shall as soon as reasonably possible, notify the appropriate organ procurement organization, tissue bank, or eye bank of:
 - (A) the identity of the deceased individual, if known;
 - (B) information, if known, pertaining to the deceased individual's legal next-of-kin in accordance with Section 26B-8-308; and
 - (C) the name and location of the funeral establishment which received custody of and transported the deceased individual; and
 - (ii) the funeral establishment receiving custody of the deceased individual under this Subsection (1)(c) may not embalm the body of the deceased individual until:
 - (A) the funeral establishment receives notice from the organ procurement organization, tissue bank, or eye bank that the readily available persons listed as having priority in Section 26B-8-308 have been informed by the organ procurement organization of the option to make or refuse to make an anatomical gift in accordance with Section 26B-8-303, with reasonable discretion and sensitivity appropriate to the circumstances of the family;
 - (B) in accordance with federal law, prior approval for embalming has been obtained from a family member or other authorized person; and
 - (C) the period of time in which embalming is prohibited under Subsection (1)(c)(ii) may not exceed 24 hours after death.
- (2) If a document of gift or a refusal to make an anatomical gift is located by the search required by Subsection (1)(a) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.
- (3) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-312 Delivery of document of gift not required -- Right to examine.

- (1) A document of gift need not be delivered during the donor's lifetime to be effective.
- (2) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under Section 26B-8-310.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-313 Rights and duties of procurement organization and others.

- (1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Public Safety and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

- (2) A procurement organization shall be allowed reasonable access to information in the records of the Department of Public Safety to ascertain whether an individual at or near death is a donor.
- (3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.
- (4) Unless prohibited by law other than this part, at any time after a donor's death, the person to which a part passes under Section 26B-8-310 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.
- (5) Unless prohibited by law other than this part, an examination under Subsection (3) or (4) may include an examination of all medical and dental records of the donor or prospective donor.
- (6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.
- (7) Upon referral by a hospital under Subsection (1), a procurement organization shall make a reasonable search for any person listed in Section 26B-8-308 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.
- (8) Subject to Subsection 26B-8-310(9) and Section 26B-8-322, the rights of the person to which a part passes under Section 26B-8-310 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this part, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 26B-8-310, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.
- (9) Neither the physician or physician assistant who attends the decedent at death nor the physician or physician assistant who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.
- (10) A physician, physician assistant, or technician may remove a donated part from the body of a donor that the physician, physician assistant, or technician is qualified to remove.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-314 Coordination of procurement and use.

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-315 Sale or purchase of parts prohibited.

- (1) Except as otherwise provided in Subsection (2), a person that for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a third degree felony.
- (2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-316 Other prohibited acts.

A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment, or revocation of a document of gift, or a refusal commits a third degree felony.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-317 Immunity.

- (1) A person that acts in accordance with this part or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.
- (2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.
- (3) In determining whether an anatomical gift has been made, amended, or revoked under this part, a person may rely upon representations of an individual listed in Subsection 26B-8-308(1) (b), (c), (d), (e), (f), (g), (h), (i), or (j) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

Renumbered and Amended by Chapter 306, 2023 General Session

**26B-8-318 Law governing validity -- Choice of law as to execution of document of gift --
Presumption of validity.**

- (1) A document of gift is valid if executed in accordance with:
 - (a) this part;
 - (b) the laws of the state or country where it was executed; or
 - (c) the laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.
- (2) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.
- (3) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-319 Donor registry.

- (1) The Department of Public Safety may establish or contract for the establishment of a donor registry.
- (2) The Driver License Division of the Department of Public Safety shall cooperate with a person that administers any donor registry that this state establishes, contracts for, or recognizes for

the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift.

- (3) A donor registry shall:
 - (a) allow a donor or other person authorized under Section 26B-8-303 to include on the donor registry a statement or symbol that the donor has made, amended, or revoked an anatomical gift;
 - (b) be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift; and
 - (c) be accessible for purposes of Subsections (3)(a) and (b) seven days a week on a 24-hour basis.
- (4) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.
- (5) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. Any such registry shall comply with Subsections (3) and (4).

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-320 Effect of anatomical gift on advance health care directive.

- (1) As used in this section:
 - (a) "Advance health care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor.
 - (b) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.
 - (c) "Health care decision" means any decision regarding the health care of the prospective donor.
- (2) If a prospective donor has a declaration or advance health care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or if no declaration or directive exists or the agent is not reasonably available, another person authorized by a law other than this part to make a health care decision on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict shall be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under Section 26B-8-308. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end of life care.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-321 Cooperation between medical examiner and procurement organization.

- (1) A medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.
- (2) If a medical examiner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is going to be performed, unless the medical examiner denies recovery in accordance with Section 26B-8-322, the medical examiner or designee shall conduct a postmortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.
- (3) A part may not be removed from the body of a decedent under the jurisdiction of a medical examiner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the medical examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This Subsection (3) does not preclude a medical examiner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the medical examiner.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-322 Facilitation of anatomical gift from decedent whose body is under jurisdiction of medical examiner.

- (1) Upon request of a procurement organization, a medical examiner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the medical examiner. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner shall release postmortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the medical examiner only if relevant to transplantation or therapy.
- (2) The medical examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner which the medical examiner determines may be relevant to the investigation.
- (3) A person that has any information requested by a medical examiner pursuant to Subsection (2) shall provide that information as expeditiously as possible to allow the medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.
- (4) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is not required, or the medical examiner determines that a postmortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the medical examiner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research, or education.
- (5) If an anatomical gift of a part from the decedent under the jurisdiction of the medical examiner has been or might be made, but the medical examiner initially believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of

death, the medical examiner shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the medical examiner may allow the recovery.

- (6) Following the consultation under Subsection (5), in the absence of mutually agreed upon protocols to resolve conflict between the medical examiner and the procurement organization, if the medical examiner intends to deny recovery, the medical examiner or designee, at the request of the procurement organization, may attend the removal procedure for the part before making a final determination not to allow the procurement organization to recover the part. During the removal procedure, the medical examiner or designee may allow recovery by the procurement organization to proceed, or, if the medical examiner or designee reasonably believes that the part may be involved in determining the decedent's cause or manner of death, deny recovery by the procurement organization.
- (7) If the medical examiner or designee denies recovery under Subsection (6), the medical examiner or designee shall:
 - (a) explain in a record the specific reasons for not allowing recovery of the part;
 - (b) include the specific reasons in the records of the medical examiner; and
 - (c) provide a record with the specific reasons to the procurement organization.
- (8) If the medical examiner or designee allows recovery of a part under Subsection (4), (5), or (6), the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the medical examiner with a record describing the condition of the part, a biopsy, a photograph, and any other information and observations that would assist in the postmortem examination.
- (9) If a medical examiner or designee is required to be present at a removal procedure under Subsection (6), upon request the procurement organization requesting the recovery of the part shall reimburse the medical examiner or designee for the additional costs incurred in complying with Subsection (6).

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-323 Uniformity of application and construction.

In applying and construing the uniform act in this part, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-324 Relation to Electronic Signatures in Global and National Commerce Act.

This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit or supersede Section 101(a) of that act, 15 U.S.C. Sec. 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Renumbered and Amended by Chapter 306, 2023 General Session

**Part 4
Health Statistics**

26B-8-401 Definitions.

As used in this part:

- (1) "Disclosure" or "disclose" means the communication of health data to any individual or organization outside the department.
- (2) "Health data" means any information, except vital records as defined in Section 26B-8-101, relating to the health status of individuals, the availability of health resources and services, and the use and cost of these resources and services.
- (3) "Identifiable health data" means any item, collection, or grouping of health data which makes the individual supplying it or described in it identifiable.
- (4) "Individual" means a natural person.
- (5) "Organization" means any corporation, association, partnership, agency, department, unit, or other legally constituted institution or entity, or part of any of these.
- (6) "Research and statistical purposes" means the performance of activities relating to health data, including:
 - (a) describing the group characteristics of individuals or organizations;
 - (b) analyzing the interrelationships among the various characteristics of individuals or organizations;
 - (c) the conduct of statistical procedures or studies to improve the quality of health data;
 - (d) the design of sample surveys and the selection of samples of individuals or organizations;
 - (e) the preparation and publication of reports describing these matters; and
 - (f) other related functions.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-402 Powers of department to collect and maintain health data.

The department may on a voluntary basis, except when there is specific legal authority to compel reporting of health data:

- (1) collect and maintain health data on:
 - (a) the extent, nature, and impact of illness and disability on the population of the state;
 - (b) the determinants of health and health hazards;
 - (c) health resources, including the extent of available manpower and resources;
 - (d) utilization of health care;
 - (e) health care costs and financing; or
 - (f) other health or health-related matters;
- (2) undertake and support research, demonstrations, and evaluations respecting new or improved methods for obtaining current data on the matters referred to in Subsection (1) of this section; and
- (3) collect health data under other authorities and on behalf of other governmental or not-for-profit organizations.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-403 Quality and publication of statistics.

The department shall:

- (1) take such actions as may be necessary to assure that statistics developed under this part are of high quality, timely, and comprehensive, as well as specific, standardized, and adequately analyzed and indexed; and
- (2) publish, make available, and disseminate such statistics on as wide a basis as practicable.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-404 Coordination of health data collection activities.

- (1) The department shall coordinate health data activities within the state to eliminate unnecessary duplication of data collection and maximize the usefulness of data collected.
- (2) Except as specifically provided, this part does not independently provide authority for the department to compel the reporting of information.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-405 Uniform standards -- Powers of department.

The department may:

- (1) participate and cooperate with state, local, and federal agencies and other organizations in the design and implementation of uniform standards for the management of health information at the federal, state, and local levels; and
- (2) undertake and support research, development, demonstrations, and evaluations that support uniform health information standards.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-406 Disclosure of health data -- Limitations.

The department may not make a disclosure of any identifiable health data unless:

- (1) one of the following persons has consented to the disclosure:
 - (a) the individual;
 - (b) the next-of-kin if the individual is deceased;
 - (c) the parent or legal guardian if the individual is a minor or mentally incompetent; or
 - (d) a person holding a power of attorney covering such matters on behalf of the individual;
- (2) the disclosure is to a governmental entity in this or another state or the federal government, provided that:
 - (a) the data will be used for a purpose for which they were collected by the department; and
 - (b) the recipient enters into a written agreement satisfactory to the department agreeing to protect such data in accordance with the requirements of this part and department rule and not permit further disclosure without prior approval of the department;
- (3) the disclosure is to an individual or organization, for a specified period, solely for bona fide research and statistical purposes, determined in accordance with department rules, and the department determines that the data are required for the research and statistical purposes proposed and the requesting individual or organization enters into a written agreement satisfactory to the department to protect the data in accordance with this part and department rule and not permit further disclosure without prior approval of the department;
- (4) the disclosure is to a governmental entity for the purpose of conducting an audit, evaluation, or investigation of the department and such governmental entity agrees not to use those data for making any determination affecting the rights, benefits, or entitlements of any individual to whom the health data relates;
- (5) the disclosure is of specific medical or epidemiological information to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or agencies responsible to enforce quarantine, when necessary

to continue patient services or to undertake public health efforts to control communicable, infectious, acute, chronic, or any other disease or health hazard that the department considers to be dangerous or important or that may affect the public health;

- (6)
- (a) the disclosure is of specific medical or epidemiological information to a "health care provider" as defined in Section 78B-3-403, health care personnel, or public health personnel who has a legitimate need to have access to the information in order to assist the patient or to protect the health of others closely associated with the patient; and
 - (b) this Subsection (6) does not create a duty to warn third parties;
- (7) the disclosure is necessary to obtain payment from an insurer or other third-party payor in order for the department to obtain payment or to coordinate benefits for a patient; or
- (8) the disclosure is to the subject of the identifiable health data.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-407 Disclosure of health data -- Discretion of department.

- (1) Any disclosure provided for in Section 26B-8-406 shall be made at the discretion of the department.
- (2) Notwithstanding Subsection (1), the disclosure provided for in Subsection 26B-8-406(4) shall be made when the requirements of that paragraph are met.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-408 Health data not subject to subpoena or compulsory process -- Exception.

Identifiable health data obtained in the course of activities undertaken or supported under this part may not be subject to discovery, subpoena, or similar compulsory process in any civil or criminal, judicial, administrative, or legislative proceeding, nor shall any individual or organization with lawful access to identifiable health data under the provisions of this part be compelled to testify with regard to such health data, except that data pertaining to a party in litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of such individual to enforce any liability arising under this part.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-409 Department measures to protect security of health data.

The department shall protect the security of identifiable health data by use of the following measures and any other measures adopted by rule:

- (1) limit access to identifiable health data to authorized individuals who have received training in the handling of such data;
- (2) designate a person to be responsible for physical security;
- (3) develop and implement a system for monitoring security; and
- (4) review periodically all identifiable health data to determine whether identifying characteristics should be removed from the data.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-410 Relation to other provisions.

Because the following parts contain specific provisions regarding collection and disclosure of data, the provisions of this part do not apply to data that is subject to the following parts:

- (1) Part 1, Vital Statistics;
- (2) Part 2, Utah Medical Examiner; and
- (3) Sections 26B-7-201 through 26B-7-223.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-411 Duty to establish standards for the electronic exchange of clinical health information -- Immunity.

(1) As used in this section:

- (a) "Affiliate" means an organization that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another organization.
- (b) "Clinical health information" shall be defined by the department by administrative rule adopted in accordance with Subsection (2).
- (c) "Electronic exchange":
 - (i) includes:
 - (A) the electronic transmission of clinical health data via Internet or extranet; and
 - (B) physically moving clinical health information from one location to another using magnetic tape, disk, or compact disc media; and
 - (ii) does not include exchange of information by telephone or fax.
- (d) "Health care provider" means a licensing classification that is either:
 - (i) licensed under Title 58, Occupations and Professions, to provide health care; or
 - (ii) licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- (e) "Health care system" shall include:
 - (i) affiliated health care providers;
 - (ii) affiliated third party payers; and
 - (iii) other arrangement between organizations or providers as described by the department by administrative rule.
- (f) "Qualified network" means an entity that:
 - (i) is a non-profit organization;
 - (ii) is accredited by the Electronic Healthcare Network Accreditation Commission, or another national accrediting organization recognized by the department; and
 - (iii) performs the electronic exchange of clinical health information among multiple health care providers not under common control, multiple third party payers not under common control, the department, and local health departments.
- (g) "Third party payer" means:
 - (i) all insurers offering health insurance who are subject to Section 31A-22-614.5; and
 - (ii) the state Medicaid program.

(2)

- (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
 - (i) define:
 - (A) "clinical health information" subject to this section; and
 - (B) "health system arrangements between providers or organizations" as described in Subsection (1)(e)(iii); and
 - (ii) adopt standards for the electronic exchange of clinical health information between health care providers and third party payers that are for treatment, payment, health care

operations, or public health reporting, as provided for in 45 C.F.R. Parts 160, 162, and 164, Health Insurance Reform: Security Standards.

- (b) The department shall coordinate its rule making authority under the provisions of this section with the rule making authority of the Insurance Department under Section 31A-22-614.5.
 - (c) The department shall establish procedures for developing the rules adopted under this section, which ensure that the Insurance Department is given the opportunity to comment on proposed rules.
- (3)
- (a) Except as provided in Subsection (3)(e), a health care provider or third party payer in Utah is required to use the standards adopted by the department under the provisions of Subsection (2) if the health care provider or third party payer elects to engage in an electronic exchange of clinical health information with another health care provider or third party payer.
 - (b) A health care provider or third party payer may make a disclosure of information to the department or a local health department, by electronic exchange of clinical health information, as permitted by Subsection 45 C.F.R. Sec. 164.512(b).
 - (c) When functioning in its capacity as a health care provider or payer, the department or a local health department may make a disclosure of clinical health information by electronic exchange to another health care provider or third party payer.
 - (d) An electronic exchange of clinical health information by a health care provider, a third party payer, the department, a local health department, or a qualified network is a disclosure for treatment, payment, or health care operations if it complies with Subsection (3)(a) or (c) and is for treatment, payment, or health care operations, as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.
 - (e) A health care provider or third party payer is not required to use the standards adopted by the department under the provisions of Subsection (2) if the health care provider or third party payer engage in the electronic exchange of clinical health information within a particular health care system.
- (4) Nothing in this section shall limit the number of networks eligible to engage in the electronic data interchange of clinical health information using the standards adopted by the department under Subsection (2)(a)(ii).
- (5)
- (a) The department, a local health department, a health care provider, a third party payer, or a qualified network is not subject to civil liability for a disclosure of clinical health information if the disclosure is in accordance with:
 - (i) Subsection (3)(a); and
 - (ii) Subsection (3)(b), (c), or (d).
 - (b) The department, a local health department, a health care provider, a third party payer, or a qualified network that accesses or reviews clinical health information from or through the electronic exchange in accordance with the requirements in this section is not subject to civil liability for the access or review.
- (6) Within a qualified network, information generated or for which a disclosure is made in the electronic exchange of clinical health information is not subject to discovery, use, or receipt in evidence in any legal proceeding of any kind or character.

Renumbered and Amended by Chapter 306, 2023 General Session

Part 5 Utah Health Data Authority

26B-8-501 Definitions.

As used in this part:

- (1) "Committee" means the Health Data Committee created in Section 26B-1-413.
- (2) "Control number" means a number assigned by the committee to an individual's health data as an identifier so that the health data can be disclosed or used in research and statistical analysis without readily identifying the individual.
- (3) "Data supplier" means a health care facility, health care provider, self-funded employer, third-party payor, health maintenance organization, or government department which could reasonably be expected to provide health data under this part.
- (4) "Disclosure" or "disclose" means the communication of health care data to any individual or organization outside the committee, its staff, and contracting agencies.
- (5)
 - (a) "Health care facility" means a facility that is licensed by the department under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, may by rule add, delete, or modify the list of facilities that come within this definition for purposes of this part.
- (6) "Health care provider" means the same as that term is defined in Section 78B-3-403.
- (7) "Health data" means information relating to the health status of individuals, health services delivered, the availability of health manpower and facilities, and the use and costs of resources and services to the consumer, except vital records as defined in Section 26B-8-101 shall be excluded.
- (8) "Health maintenance organization" means the same as that term is defined in Section 31A-8-101.
- (9) "Identifiable health data" means any item, collection, or grouping of health data that makes the individual supplying or described in the health data identifiable.
- (10) "Organization" means any corporation, association, partnership, agency, department, unit, or other legally constituted institution or entity, or part thereof.
- (11) "Research and statistical analysis" means activities using health data analysis including:
 - (a) describing the group characteristics of individuals or organizations;
 - (b) analyzing the noncompliance among the various characteristics of individuals or organizations;
 - (c) conducting statistical procedures or studies to improve the quality of health data;
 - (d) designing sample surveys and selecting samples of individuals or organizations; and
 - (e) preparing and publishing reports describing these matters.
- (12) "Self-funded employer" means an employer who provides for the payment of health care services for employees directly from the employer's funds, thereby assuming the financial risks rather than passing them on to an outside insurer through premium payments.
- (13) "Plan" means the plan developed and adopted by the Health Data Committee under Section 26B-1-413.
- (14) "Third party payor" means:
 - (a) an insurer offering a health benefit plan, as defined by Section 31A-1-301, to at least 2,500 enrollees in the state;

- (b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;
- (c) a program funded or administered by Utah for the provision of health care services, including the Medicaid and medical assistance programs described in Chapter 3, Part 1, Health Care Assistance; and
- (d) a corporation, organization, association, entity, or person:
 - (i) which administers or offers a health benefit plan to at least 2,500 enrollees in the state; and
 - (ii) which is required by administrative rule adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the committee.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-502 Executive secretary -- Appointment -- Powers.

- (1) An executive secretary shall be appointed by the executive director, with the approval of the committee, and shall serve under the administrative direction of the executive director.
- (2) The executive secretary shall:
 - (a) employ full-time employees necessary to carry out this part;
 - (b) supervise the development of a draft health data plan for the committee's review, modification, and approval; and
 - (c) supervise and conduct the staff functions of the committee in order to assist the committee in meeting its responsibilities under this part.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-503 Limitations on use of health data.

The committee may not use the health data provided to it by third-party payors, health care providers, or health care facilities to make recommendations with regard to a single health care provider or health care facility, or a group of health care providers or health care facilities.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-504 Health care cost and reimbursement data.

- (1) The committee shall, as funding is available:
 - (a) establish a plan for collecting data from data suppliers to determine measurements of cost and reimbursements for risk-adjusted episodes of health care;
 - (b) share data regarding insurance claims and an individual's and small employer group's health risk factor and characteristics of insurance arrangements that affect claims and usage with the Insurance Department, only to the extent necessary for:
 - (i) risk adjusting; and
 - (ii) the review and analysis of health insurers' premiums and rate filings; and
 - (c) assist the Legislature and the public with awareness of, and the promotion of, transparency in the health care market by reporting on:
 - (i) geographic variances in medical care and costs as demonstrated by data available to the committee; and
 - (ii) rate and price increases by health care providers:
 - (A) that exceed the Consumer Price Index - Medical as provided by the United States Bureau of Labor Statistics;

- (B) as calculated yearly from June to June; and
- (C) as demonstrated by data available to the committee;
- (d) provide on at least a monthly basis, enrollment data collected by the committee to a not-for-profit, broad-based coalition of state health care insurers and health care providers that are involved in the standardized electronic exchange of health data as described in Section 31A-22-614.5, to the extent necessary:
 - (i) for the department or the Medicaid Office of the Inspector General to determine insurance enrollment of an individual for the purpose of determining Medicaid third party liability;
 - (ii) for an insurer that is a data supplier, to determine insurance enrollment of an individual for the purpose of coordination of health care benefits; and
 - (iii) for a health care provider, to determine insurance enrollment for a patient for the purpose of claims submission by the health care provider;
- (e) coordinate with the State Emergency Medical Services Committee to publish data regarding air ambulance charges under Section 26B-4-106;
- (f) share data collected under this part with the state auditor for use in the health care price transparency tool described in Section 67-3-11; and
- (g) publish annually a report on primary care spending within Utah.
- (2) A data supplier is not liable for a breach of or unlawful disclosure of the data caused by an entity that obtains data in accordance with Subsection (1).
- (3) The plan adopted under Subsection (1) shall include:
 - (a) the type of data that will be collected;
 - (b) how the data will be evaluated;
 - (c) how the data will be used;
 - (d) the extent to which, and how the data will be protected; and
 - (e) who will have access to the data.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-505 Comparative analyses.

- (1) The committee may publish compilations or reports that compare and identify health care providers or data suppliers from the data it collects under this part or from any other source.
- (2)
 - (a) Except as provided in Subsection (7)(c), the committee shall publish compilations or reports from the data it collects under this part or from any other source which:
 - (i) contain the information described in Subsection (2)(b); and
 - (ii) compare and identify by name at least a majority of the health care facilities, health care plans, and institutions in the state.
 - (b) Except as provided in Subsection (7)(c), the report required by this Subsection (2) shall:
 - (i) be published at least annually;
 - (ii) list, as determined by the committee, the median paid amount for at least the top 50 medical procedures performed in the state by volume;
 - (iii) describe the methodology approved by the committee to determine the amounts described in Subsection (2)(b)(ii); and
 - (iv) contain comparisons based on at least the following factors:
 - (A) nationally or other generally recognized quality standards;
 - (B) charges; and
 - (C) nationally recognized patient safety standards.
- (3)

- (a) The committee may contract with a private, independent analyst to evaluate the standard comparative reports of the committee that identify, compare, or rank the performance of data suppliers by name.
- (b) The evaluation described in this Subsection (3) shall include a validation of statistical methodologies, limitations, appropriateness of use, and comparisons using standard health services research practice.
- (c) The independent analyst described in Subsection (3)(a) shall be experienced in analyzing large databases from multiple data suppliers and in evaluating health care issues of cost, quality, and access.
- (d) The results of the analyst's evaluation shall be released to the public before the standard comparative analysis upon which it is based may be published by the committee.
- (4) The committee, with the concurrence of the department, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adopt a timetable for the collection and analysis of data from multiple types of data suppliers.
- (5) The comparative analysis required under Subsection (2) shall be available free of charge and easily accessible to the public.
- (6)
 - (a) The department shall include in the report required by Subsection (2)(b), or include in a separate report, comparative information on commonly recognized or generally agreed upon measures of cost and quality identified in accordance with Subsection (7), for:
 - (i) routine and preventive care; and
 - (ii) the treatment of diabetes, heart disease, and other illnesses or conditions as determined by the committee.
 - (b) The comparative information required by Subsection (6)(a) shall be based on data collected under Subsection (2) and clinical data that may be available to the committee, and shall compare:
 - (i) results for health care facilities or institutions;
 - (ii) results for health care providers by geographic regions of the state;
 - (iii) a clinic's aggregate results for a physician who practices at a clinic with five or more physicians; and
 - (iv) a geographic region's aggregate results for a physician who practices at a clinic with less than five physicians, unless the physician requests physician-level data to be published on a clinic level.
 - (c) The department:
 - (i) may publish information required by this Subsection (6) directly or through one or more nonprofit, community-based health data organizations; and
 - (ii) may use a private, independent analyst under Subsection (3)(a) in preparing the report required by this section.
 - (d) A report published by the department under this Subsection (6):
 - (i) is subject to the requirements of Section 26B-8-506; and
 - (ii) shall, prior to being published by the department, be submitted to a neutral, non-biased entity with a broad base of support from health care payers and health care providers in accordance with Subsection (7) for the purpose of validating the report.
- (7)
 - (a) The Health Data Committee shall, through the department, for purposes of Subsection (6)(a), use the quality measures that are developed and agreed upon by a neutral, non-biased entity with a broad base of support from health care payers and health care providers.

- (b) If the entity described in Subsection (7)(a) does not submit the quality measures, the department may select the appropriate number of quality measures for purposes of the report required by Subsection (6).
- (c)
 - (i) For purposes of the reports published on or after July 1, 2014, the department may not compare individual facilities or clinics as described in Subsections (6)(b)(i) through (iv) if the department determines that the data available to the department can not be appropriately validated, does not represent nationally recognized measures, does not reflect the mix of cases seen at a clinic or facility, or is not sufficient for the purposes of comparing providers.
 - (ii) The department shall report to the Legislature's Health and Human Services Interim Committee prior to making a determination not to publish a report under Subsection (7)(c)(i).

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-506 Limitations on release of reports.

The committee may not release a compilation or report that compares and identifies health care providers or data suppliers unless it:

- (1) allows the data supplier and the health care provider to verify the accuracy of the information submitted to the committee and submit to the committee any corrections of errors with supporting evidence and comments within a reasonable period of time to be established by rule, with the concurrence of the department, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (2) corrects data found to be in error; and
- (3) allows the data supplier a reasonable amount of time prior to publication to review the committee's interpretation of the data and prepare a response.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-507 Disclosure of identifiable health data prohibited.

- (1)
 - (a) All information, reports, statements, memoranda, or other data received by the committee are strictly confidential.
 - (b) Any use, release, or publication of the information shall be done in such a way that no person is identifiable except as provided in Sections 26B-8-506 and 26B-8-508.
- (2) No member of the committee may be held civilly liable by reason of having released or published reports or compilations of data supplied to the committee, so long as the publication or release is in accordance with the requirements of Subsection (1).
- (3) No person, corporation, or entity may be held civilly liable for having provided data to the committee in accordance with this part.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-508 Exceptions to prohibition on disclosure of identifiable health data.

- (1) The committee may not disclose any identifiable health data unless:
 - (a) the individual has authorized the disclosure;
 - (b) the disclosure is to the department or a public health authority in accordance with Subsection (2); or
 - (c) the disclosure complies with the provisions of:

- (i) Subsection (3);
 - (ii) insurance enrollment and coordination of benefits under Subsection 26B-8-504(1)(d); or
 - (iii) risk adjusting under Subsection 26B-8-504(1)(b).
- (2) The committee may disclose identifiable health data to the department or a public health authority under Subsection (1)(b) if:
- (a) the department or the public health authority has clear statutory authority to possess the identifiable health data; and
 - (b) the disclosure is solely for use:
 - (i) in the Utah Statewide Immunization Information System operated by the department;
 - (ii) in the Utah Cancer Registry operated by the University of Utah, in collaboration with the department; or
 - (iii) by the medical examiner, as defined in Section 26B-8-201, or the medical examiner's designee.
- (3) The committee shall consider the following when responding to a request for disclosure of information that may include identifiable health data:
- (a) whether the request comes from a person after that person has received approval to do the specific research or statistical work from an institutional review board; and
 - (b) whether the requesting entity complies with the provisions of Subsection (4).
- (4) A request for disclosure of information that may include identifiable health data shall:
- (a) be for a specified period; or
 - (b) be solely for bona fide research or statistical purposes as determined in accordance with administrative rules adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall require:
 - (i) the requesting entity to demonstrate to the department that the data is required for the research or statistical purposes proposed by the requesting entity; and
 - (ii) the requesting entity to enter into a written agreement satisfactory to the department to protect the data in accordance with this part or other applicable law.
- (5) A person accessing identifiable health data pursuant to Subsection (4) may not further disclose the identifiable health data:
- (a) without prior approval of the department; and
 - (b) unless the identifiable health data is disclosed or identified by control number only.
- (6) Identifiable health data that has been designated by a data supplier as being subject to regulation under 42 C.F.R. Part 2, Confidentiality of Substance Use Disorder Patient Records, may only be used or disclosed in accordance with applicable federal regulations.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-509 Penalties.

- (1) Any use, release, or publication of health care data contrary to the provisions of Sections 26B-8-507 and 26B-8-508 is a class A misdemeanor.
- (2) Subsection (1) does not relieve the person or organization responsible for that use, release, or publication from civil liability.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-510 Health data not subject to subpoena or compulsory process -- Exception.

Identifiable health data obtained in the course of activities undertaken or supported under this part are not subject to subpoena or similar compulsory process in any civil or criminal, judicial,

administrative, or legislative proceeding, nor shall any individual or organization with lawful access to identifiable health data under the provisions of this part be compelled to testify with regard to such health data, except that data pertaining to a party in litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of such individual to enforce any liability arising under this part.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-511 Consumer-focused health care delivery and payment reform demonstration project.

(1) The Legislature finds that:

- (a) current health care delivery and payment systems do not provide system wide incentives for the competitive delivery and pricing of health care services to consumers;
- (b) there is a compelling state interest to encourage consumers to seek high quality, low cost care and educate themselves about health care options;
- (c) some health care providers and health care payers have developed consumer-focused ideas for health care delivery and payment system reform, but lack the critical number of patient lives and payer involvement to accomplish system-wide consumer-focused reform; and
- (d) there is a compelling state interest to encourage as many health care providers and health care payers to join together and coordinate efforts at consumer-focused health care delivery and payment reform that would provide to consumers enrolled in a high-deductible health plan:
 - (i) greater choice in health care options;
 - (ii) improved services through competition; and
 - (iii) more affordable options for care.

(2)

- (a) The department shall meet with health care providers and health care payers for the purpose of coordinating a demonstration project for consumer-based health care delivery and payment reform.
- (b) Participation in the coordination efforts is voluntary, but encouraged.

(3) The department, in order to facilitate the coordination of a demonstration project for consumer-based health care delivery and payment reform, shall convene and consult with pertinent entities including:

- (a) the Utah Insurance Department;
- (b) the Office of Consumer Services;
- (c) the Utah Medical Association;
- (d) the Utah Hospital Association; and
- (e) neutral, non-biased third parties with an established record for broad based, multi-provider and multi-payer quality assurance efforts and data collection.

(4) The department shall supervise the efforts by entities under Subsection (3) regarding:

- (a) applying for and obtaining grant funding and other financial assistance that may be available for demonstrating consumer-based improvements to health care delivery and payment;
- (b) obtaining and analyzing information and data related to current health system utilization and costs to consumers; and
- (c) consulting with those health care providers and health care payers who elect to participate in the consumer-based health delivery and payment demonstration project.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-512 Health care billing data.

- (1) Subject to Subsection (2), the department shall make aggregate data produced under this part available to the public through a standardized application program interface format.
- (2)
 - (a) The department shall ensure that data made available to the public under Subsection (1):
 - (i) does not contain identifiable health data of a patient; and
 - (ii) meets state and federal data privacy requirements, including the requirements of Section 26B-8-506.
 - (b) The department may not release any data under Subsection (1) that may be identifiable health data of a patient.

Renumbered and Amended by Chapter 306, 2023 General Session

26B-8-514 Standard health record access form.

- (1) As used in this section:
 - (a) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.
 - (b) "Patient" means the individual whose information is being requested.
 - (c) "Personal representative" means an individual described in 45 C.F.R. Sec. 164.502(g).
- (2) Before December 31, 2022, the department shall create a standard form that:
 - (a) is compliant with HIPAA and 42 C.F.R. Part 2; and
 - (b) a patient or a patient's personal representative may use to request that a copy of the patient's health records be sent to any of the following:
 - (i) the patient;
 - (ii) the patient's personal representative;
 - (iii) the patient's attorney; or
 - (iv) a third party authorized by the patient.
- (3) The form described in Subsection (2) shall include fields for:
 - (a) the patient's name;
 - (b) the patient's date of birth;
 - (c) the patient's phone number;
 - (d) the patient's address;
 - (e)
 - (i) the patient's signature and date of signature, which may not require notarization; or
 - (ii) the signature of the patient's personal representative and date of signature, which may not require notarization;
 - (f) the name, address, and phone number of the person to which the information will be disclosed;
 - (g) the records requested, including whether the patient is requesting paper or electronic records;
 - (h) the duration of time the authorization is valid; and
 - (i) the dates of service requested.
- (4) The form described in Subsection (2) shall include the following options for the field described in Subsection (3)(g):
 - (a) history and physical examination records;
 - (b) treatment plans;
 - (c) emergency room records;
 - (d) radiology and lab reports;

- (e) operative reports;
- (f) pathology reports;
- (g) consultations;
- (h) discharge summary;
- (i) outpatient clinic records and progress notes;
- (j) behavioral health evaluation;
- (k) behavioral health discharge summary;
- (l) mental health therapy records;
- (m) financial information including an itemized billing statement;
- (n) health insurance claim form;
- (o) billing form; and
- (p) other.

Renumbered and Amended by Chapter 306, 2023 General Session