



29 AMENDS:

30 **76-7-305**, as last amended by Laws of Utah 2016, Chapter 362

31 **76-7-305.5**, as last amended by Laws of Utah 2016, Chapter 362

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

34 Section 1. Section **76-7-305** is amended to read:

35 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**

36 **-- Exceptions.**

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

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

42 (b) the provisions of this section.

43 (2) Except as provided in Subsection (9), consent to an abortion is voluntary and  
44 informed only if:

45 (a) at least 72 hours before the abortion, the physician who is to perform the abortion,  
46 the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice  
47 registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a  
48 face-to-face consultation in any location in the state, orally informs the woman:

49 (i) consistent with Subsection (3)(a), of:

50 (A) the nature of the proposed abortion procedure;

51 (B) specifically how the procedure described in Subsection (2)(a)(i)(A) will affect the  
52 fetus; ~~and~~

53 (C) the risks and alternatives to an abortion procedure or treatment; and

54 (D) the options and consequences of aborting a medication-induced abortion;

55 (ii) of the probable gestational age and a description of the development of the unborn  
56 child at the time the abortion would be performed;

57 (iii) of the medical risks associated with carrying her child to term; and  
58 (iv) if the abortion is to be performed on an unborn child who is at least 20 weeks  
59 gestational age:  
60 (A) that substantial medical evidence from studies concludes that an unborn child who  
61 is at least 20 weeks gestational age may be capable of experiencing pain during an abortion  
62 procedure; and  
63 (B) the measures that shall be taken in accordance with Section 76-7-308.5;  
64 (b) at least 72 hours prior to the abortion the physician who is to perform the abortion,  
65 the referring physician, or, as specifically delegated by either of those physicians, a physician, a  
66 registered nurse, licensed practical nurse, certified nurse-midwife, advanced practice registered  
67 nurse, clinical laboratory technologist, psychologist, marriage and family therapist, clinical  
68 social worker, genetic counselor, or certified social worker orally, in a face-to-face consultation  
69 in any location in the state, informs the pregnant woman that:  
70 (i) the Department of Health, in accordance with Section 76-7-305.5, publishes printed  
71 material and an informational video that:  
72 (A) provides medically accurate information regarding all abortion procedures that may  
73 be used;  
74 (B) describes the gestational stages of an unborn child; and  
75 (C) includes information regarding public and private services and agencies available  
76 to assist her through pregnancy, at childbirth, and while the child is dependent, including  
77 private and agency adoption alternatives;  
78 (ii) the printed material and a viewing of or a copy of the informational video shall be  
79 made available to her, free of charge, on the Department of Health's website;  
80 (iii) medical assistance benefits may be available for prenatal care, childbirth, and  
81 neonatal care, and that more detailed information on the availability of that assistance is  
82 contained in the printed materials and the informational video published by the Department of  
83 Health;  
84 (iv) except as provided in Subsection (3)(b):

85 (A) the father of the unborn child is legally required to assist in the support of her  
86 child, even if he has offered to pay for the abortion; and

87 (B) the Office of Recovery Services within the Department of Human Services will  
88 assist her in collecting child support; and

89 (v) she has the right to view an ultrasound of the unborn child, at no expense to her,  
90 upon her request;

91 (c) the information required to be provided to the pregnant woman under Subsection  
92 (2)(a) is also provided by the physician who is to perform the abortion, in a face-to-face  
93 consultation, prior to performance of the abortion, unless the attending or referring physician is  
94 the individual who provides the information required under Subsection (2)(a);

95 (d) a copy of the printed materials published by the Department of Health has been  
96 provided to the pregnant woman;

97 (e) the informational video, published by the Department of Health, has been provided  
98 to the pregnant woman in accordance with Subsection (4); and

99 (f) the pregnant woman has certified in writing, prior to the abortion, that the  
100 information required to be provided under Subsections (2)(a) through (e) was provided, in  
101 accordance with the requirements of those subsections.

102 (3) (a) The alternatives required to be provided under Subsection (2)(a)(i) include:

103 (i) a description of adoption services, including private and agency adoption methods;  
104 and

105 (ii) a statement that it is legal for adoptive parents to financially assist in pregnancy and  
106 birth expenses.

107 (b) The information described in Subsection (2)(b)(iv) may be omitted from the  
108 information required to be provided to a pregnant woman under this section if the woman is  
109 pregnant as the result of rape.

110 (c) Nothing in this section shall be construed to prohibit a person described in  
111 Subsection (2)(a) from, when providing the information described in Subsection (2)(a)(iv),  
112 informing a woman of the person's own opinion regarding the capacity of an unborn child to

113 experience pain.

114 (4) When the informational video described in Section 76-7-305.5 is provided to a  
115 pregnant woman, the person providing the information shall:

116 (a) request that the woman view the video at that time or at another specifically  
117 designated time and location; or

118 (b) if the woman chooses not to view the video at a time described in Subsection (4)(a),  
119 inform the woman that she can access the video on the Department of Health's website.

120 (5) When a serious medical emergency compels the performance of an abortion, the  
121 physician shall inform the woman prior to the abortion, if possible, of the medical indications  
122 supporting the physician's judgment that an abortion is necessary.

123 (6) If an ultrasound is performed on a woman before an abortion is performed, the  
124 person who performs the ultrasound, or another qualified person, shall:

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

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

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

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

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

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

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

134 including:

135 (i) the dimensions of the unborn child;

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

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

138 (d) provide the detailed description described in Subsection (6)(c), if the woman  
139 requests it.

140 (7) The information described in Subsections (2), (3), (4), and (6) is not required to be

141 provided to a pregnant woman under this section if the abortion is performed for a reason  
142 described in:

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

- 145 (i) the death of the woman on whom the abortion is performed; or
- 146 (ii) a serious risk of substantial and irreversible impairment of a major bodily function  
147 of the woman on whom the abortion is performed; or

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

149 (8) In addition to the criminal penalties described in this part, a physician who violates  
150 the provisions of this section:

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

153 (b) shall be subject to:

- 154 (i) suspension or revocation of the physician's license for the practice of medicine and  
155 surgery in accordance with Section 58-67-401 or 58-68-401; and
- 156 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

157 (9) A physician is not guilty of violating this section for failure to furnish any of the  
158 information described in Subsection (2), or for failing to comply with Subsection (6), if:

159 (a) the physician can demonstrate by a preponderance of the evidence that the  
160 physician reasonably believed that furnishing the information would have resulted in a severely  
161 adverse effect on the physical or mental health of the pregnant woman;

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

- 163 (i) the death of the woman on whom the abortion is performed; or
- 164 (ii) a serious risk of substantial and irreversible impairment of a major bodily function  
165 of the woman on whom the abortion is performed;

166 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections  
167 76-5-402 and 76-5-402.1;

168 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(10) and

169 Section 76-7-102; or

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

171 (10) A physician who complies with the provisions of this section and Section

172 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain

173 informed consent under Section 78B-3-406.

174 (11) (a) The Department of Health shall provide an ultrasound, in accordance with the  
175 provisions of Subsection (2)(b), at no expense to the pregnant woman.

176 (b) A local health department shall refer a person who requests an ultrasound described  
177 in Subsection (11)(a) to the Department of Health.

178 (12) A physician is not guilty of violating this section if:

179 (a) the physician provides the information described in Subsection (2) less than 72  
180 hours before performing the abortion; and

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

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

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

187 Section 2. Section 76-7-305.5 is amended to read:

188 **76-7-305.5. Requirements for printed materials and informational video.**

189 (1) In order to ensure that a woman's consent to an abortion is truly an informed  
190 consent, the Department of Health shall, in accordance with the requirements of this section:

191 (a) publish printed materials; and

192 (b) produce an informational video.

193 (2) The printed materials and the informational video described in Subsection (1) shall:

194 (a) be scientifically accurate, comprehensible, and presented in a truthful,  
195 nonmisleading manner;

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

- 197 (c) be printed and produced in a manner that conveys the state's preference for  
198 childbirth over abortion;
- 199 (d) state that the state prefers childbirth over abortion;
- 200 (e) state that it is unlawful for any person to coerce a woman to undergo an abortion;
- 201 (f) state that any physician who performs an abortion without obtaining the woman's  
202 informed consent or without providing her a private medical consultation in accordance with  
203 the requirements of this section, may be liable to her for damages in a civil action at law;
- 204 (g) provide information on resources and public and private services available to assist  
205 a pregnant woman, financially or otherwise, during pregnancy, at childbirth, and while the  
206 child is dependent, including:
- 207 (i) medical assistance benefits for prenatal care, childbirth, and neonatal care;
- 208 (ii) services and supports available under Section [35A-3-308](#);
- 209 (iii) other financial aid that may be available during an adoption; and
- 210 (iv) services available from public adoption agencies, private adoption agencies, and  
211 private attorneys whose practice includes adoption;
- 212 (h) describe the adoption-related expenses that may be paid under Section [76-7-203](#);
- 213 (i) describe the persons who may pay the adoption related expenses described in  
214 Subsection (2)(h);
- 215 (j) describe the legal responsibility of the father of a child to assist in child support,  
216 even if the father has agreed to pay for an abortion;
- 217 (k) describe the services available through the Office of Recovery Services, within the  
218 Department of Human Services, to establish and collect the support described in Subsection  
219 (2)(j);
- 220 (l) state that private adoption is legal;
- 221 (m) in accordance with Subsection (3), describe the probable anatomical and  
222 physiological characteristics of an unborn child at two-week gestational increments from  
223 fertilization to full term, including:
- 224 (i) brain and heart function; and



225           (ii) the presence and development of external members and internal organs;

226           (n) describe abortion procedures used in current medical practice at the various stages

227 of growth of the unborn child, including:

228           (i) the medical risks associated with each procedure;

229           (ii) the risk related to subsequent childbearing that are associated with each procedure;

230 and

231           (iii) the consequences of each procedure to the unborn child at various stages of fetal

232 development;

233           (o) describe the possible detrimental psychological effects of abortion;

234           (p) describe the medical risks associated with carrying a child to term; and

235           (q) include relevant information on the possibility of an unborn child's survival at the

236 two-week gestational increments described in Subsection (2)(m).

237           (3) The information described in Subsection (2)(m) shall be accompanied by the

238 following for each gestational increment described in Subsection (2)(m):

239           (a) pictures or video segments that accurately represent the normal development of an

240 unborn child at that stage of development; and

241           (b) the dimensions of the fetus at that stage of development.

242           (4) The printed material and video described in Subsection (1) may include a toll-free

243 24-hour telephone number that may be called in order to obtain, orally, a list and description of

244 services, agencies, and adoption attorneys in the locality of the caller.

245           (5) In addition to the requirements described in Subsection (2), the printed material

246 described in Subsection (1)(a) shall:

247           (a) be printed in a typeface large enough to be clearly legible;

248           (b) in accordance with Subsection (6), include a geographically indexed list of public

249 and private services and agencies available to assist a woman, financially or otherwise, through

250 pregnancy, at childbirth, and while the child is dependent; [~~and~~]

251           (c) except as provided in Subsection (7), include a separate brochure that contains

252 truthful, nonmisleading information regarding:

253 (i) substantial medical evidence from studies concluding that an unborn child who is at  
254 least 20 weeks gestational age may be capable of experiencing pain during an abortion  
255 procedure; and

256 (ii) the measures that shall be taken in accordance with Section 76-7-308.5[-];

257 (d) explain the options and consequences of aborting a medication-induced abortion;

258 and

259 (e) include the following statement, "Research indicates that mifepristone alone is not  
260 always effective in ending a pregnancy. You may still have a viable pregnancy after taking  
261 mifepristone. If you have taken mifepristone but have not yet taken the second drug and have  
262 questions regarding the health of your fetus or are questioning your decision to terminate your  
263 pregnancy, you should consult a physician immediately."

264 (6) The list described in Subsection (5)(b) shall include:

265 (a) private attorneys whose practice includes adoption; and

266 (b) the names, addresses, and telephone numbers of each person listed under  
267 Subsection (5)(b) or (6)(a).

268 (7) A person or facility is not required to provide the information described in  
269 Subsection (5)(c) to a patient or potential patient, if the abortion is to be performed:

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

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

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

275 76-7-302(3)(b)(i) or (ii); and

276 (ii) due to a serious medical emergency, time does not permit compliance with the  
277 requirement to provide the information described in Subsection (5)(c).

278 (8) In addition to the requirements described in Subsection (2), the video described in  
279 Subsection (1)(b) shall:

280 (a) make reference to the list described in Subsection (5)(b); and

- 281 (b) show an ultrasound of the heartbeat of an unborn child at:
- 282 (i) four weeks from conception;
- 283 (ii) six to eight weeks from conception; and
- 284 (iii) each month after 10 weeks gestational age, up to 14 weeks gestational age.