

- 25 ▶ adds certain record keeping requirements for a physician performing an abortion;
- 26 ▶ imposes a fine on a physician that performs an abortion on a pregnant woman who
- 27 has not confirmed that the pregnant woman has provided informed consent;
- 28 ▶ requires the Department of Health to:
- 29 • create, and make available online, a form to be signed by a physician or
- 30 qualified technician displaying the fetal images; and
- 31 • provide a list of organizations that offer a free or low cost ultrasound; and
- 32 ▶ makes technical and conforming changes.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None **§→ This bill provides a coordination clause. ←§**

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **26-21-6.5**, as last amended by Laws of Utah 2018, Chapter 282

40 **76-7-305**, as last amended by Laws of Utah 2019, Chapters 124 and 189

41 **76-7-305.5**, as last amended by Laws of Utah 2018, Chapter 282

42 **78B-3-406**, as last amended by Laws of Utah 2019, Chapter 346

42a **§→ Utah Code Sections Affected by Coordination Clause:**

42b **76-7-305, as last amended by laws of Utah 2019, Chapters 124 and 189** ←§

43

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

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

46 **26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee.**

47 (1) A type I abortion clinic may not operate in the state without a license issued by the

48 department to operate a type I abortion clinic.

49 (2) A type II abortion clinic may not operate in the state without a license issued by the

50 department to operate a type II abortion clinic.

51 (3) The department shall make rules establishing minimum health, safety, sanitary, and

52 recordkeeping requirements for:

53 (a) a type I abortion clinic; and

54 (b) a type II abortion clinic.

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

118 support sheet; and

119 ~~[(e) after the pregnant woman views the entire information module;]~~

120 ~~[(ii) a staff member of [the] an abortion clinic or hospital [provides to the pregnant~~

121 ~~woman] orally informs the pregnant woman of:~~

122 ~~[(i) on a document that the pregnant woman may take home:]~~

123 (A) the address for the department's website described in Section 76-7-305.5; and

124 ~~[(B) a statement that the woman may request, from a staff member of the abortion~~

125 ~~clinic or hospital where the woman viewed the information module, a printed copy of the~~

126 ~~material on the department's website; and]~~

127 ~~[(ii) a printed copy of] (B) the material on the department's website described in~~

128 ~~Section 76-7-305.5 ~~§~~→ [;] ←~~§~~ [if requested by the pregnant woman.]; and~~

129 (c) a physician or qualified technician, in accordance with Subsection (5), displays fetal

130 images of each unborn child and makes each unborn child's heartbeat audible for the pregnant

131 woman.

132 (3) (a) Before performing an abortion, the physician who is to perform the abortion

133 shall:

134 ~~[(a)]~~ (i) in a face-to-face consultation, provide the information described in Subsection

135 ~~[(2)(d)]~~ (2)(b), unless the attending physician or referring physician is the individual who

136 provided the information required under Subsection ~~[(2)(d)]~~ (2)(b); and

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

138 (ii) obtain:

139 (A) a written certification from the pregnant woman that the information required to be

140 provided under Subsection (2) and this Subsection (3) was provided in accordance with the

141 requirements of Subsection (2) and this Subsection (3); [and]

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

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

144 (2)(a).

145 (b) The treating physician shall retain a copy of each document described in Subsection

146 (3)(a) in the pregnant woman's medical record.

147 (4) When a serious medical emergency compels the performance of an abortion, the

148 physician shall inform the woman prior to the abortion, if possible, of the medical indications

180 (B) the procedure described in Subsection (5)(a)(iii) complies with best medical
 181 practices.

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

183 (A) averting her eyes from the fetal images described in Subsection (5)(a)(i); or

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

185 (ii) The physician or qualified technician completing the requirements of Subsection
 186 (5)(a) and the pregnant woman are not subject to any civil or criminal penalty if the pregnant
 187 woman refuses to look at the fetal images described in Subsection (5)(a)(i) or listen to the
 188 heartbeat of an unborn child.

189 (c) The physician or qualified technician who completes the requirements of
 190 Subsection (5)(a) shall:

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

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

194 (d) The department shall:

195 (i) create a form to be signed by a physician or qualified technician who completes the
 196 requirements of Subsection (5)(a) that, when signed by the physician or qualified technician,
 197 certifies that the physician or qualified technician complied with each requirement described in
 198 Subsection (5)(a); and

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

201 (e) Any physician or qualified technician capable of complying with the requirements
 202 of Subsection (5)(a) may complete the requirements of Subsection (5)(a).

203 (f) ~~§~~→ (i) ←~~§~~ Displaying the images produced by a transabdominal ultrasound satisfies the
 204 requirement to display fetal images under Subsection (5)(a)(i) regardless of the stage of the
 205 pregnancy.

205a **§→ (ii) A physician or qualified technician may not use a transvaginal ultrasound to satisfy**
 205b **the requirement to display fetal images under Subsection (5)(a)(i). ←~~§~~**

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

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

211 (i) the death of the woman on whom the abortion is performed; or
212 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
213 of the woman on whom the abortion is performed; or

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

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

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

219 (b) shall be subject to:

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

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

223 (8) In addition to the penalties described in this part, a physician who fails to comply
224 with Subsection (3)(a) is subject to a fine not to exceed \$100,000 for a first offense or
225 \$250,000 for each subsequent offense.

226 [~~8~~] (9) A physician is not guilty of violating this section for failure to furnish any of
227 the information described in Subsection (2) or (3), or for failing to comply with Subsection (5),
228 if:

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

230 (i) the physician reasonably believed that furnishing the information would have
231 resulted in a severely adverse effect on the physical [~~or mental~~] health of the pregnant woman;
232 or

233 (ii) (A) a licensed mental health professional determined that furnishing the
234 information would have resulted in a severely adverse effect on the mental health of the
235 pregnant woman;

236 (B) the licensed mental health professional documented the determination described in
237 Subsection ~~8~~ (9) (a)(ii)(A); and

238 (C) the documentation described in Subsection ~~8~~ (9) (a)(ii)(B) is retained in the
238a pregnant
239 woman's medical record;

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

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

459 provider is presumed to have lacked the informed consent of the pregnant woman to perform
460 an abortion.

461 (b) A health care provider may reverse the presumption described in Subsection (9)(a)
462 if the health care provider produces a signed copy of the certificate described in Subsection
463 76-7-305(3)(a)(ii)(A).

463a **§→ Section 5. Coordinating H.B. 364 with S.B. 67 -- Technical amendments.**

463b **If H.B. 364 and S.B. 67, Disposition of Fetal Remains both pass and become law, it is the**
463c **intent of the Legislature that Subsection 76-7-305(3)(b) be amended to read as follows:**

463d **"(b) The treating physician shall retain a copy of each document described in**
463e **Subsections (3)(a)(i) and (3)(a)(ii) in the pregnant woman's medical record."** ←§