

243 (4) A pregnant woman who has an abortion:

244 (a) except as provided in Subsection (6), has the right to control the final disposition of
245 the aborted fetus;

246 (b) if the pregnant woman has a preference for disposition of the aborted fetus, shall
247 inform the health care facility of the pregnant woman's decision for final disposition of the
248 aborted fetus;

249 (c) is responsible for the costs related to the final disposition of the aborted fetus at the
250 chosen location if the pregnant woman chooses a method or location for the final disposition of
251 the aborted fetus that is different from the method or location that is usual and customary for
252 the health care facility; and

253 (d) for a medication-induced abortion, shall be permitted to return the aborted fetus to
254 the health care facility in a sealed container for disposition by the health care facility in
255 accordance with this section.

256 (5) The form described in Subsection (3)(a)(i) shall include the following information:

257 "You have the right to decide what you would like to do with the aborted fetus. You
258 may decide for the provider to be responsible for disposition of the fetus. If you are having a
259 medication-induced abortion, you also have the right to bring the aborted fetus back to this
260 provider for disposition after the fetus is expelled. The provider may dispose of the aborted
261 fetus by burial or cremation. You can ask the provider if you want to know the specific method
262 for disposition."

263 (6) If the pregnant woman is a minor, the health care facility shall obtain parental
264 consent for the disposition of the aborted fetus unless the minor is granted a court order under
265 Subsection 76-7-304(1)(b).

266 (7) (a) A health care facility may not include fetal remains with other biological,
267 infectious, or pathological waste.

268 (b) Fetal tissue that is ~~H→~~ [~~H→~~ submitted to a pathology or genetic laboratory for the
268a purpose of conducting an examination of the fetal tissue and is ~~←H~~ a permanently fixed
268b pathological specimen] sent for permanently fixed pathology or used for genetic study ~~←H~~ is not
268c subject to the
269 requirements of this section.

270 (c) (i) A health care facility is responsible for maintaining a record to demonstrate to
271 the department that the health care facility has complied with the provisions of this section.

272 (ii) The records described in Subsection (7)(c)(i) shall be:

273 (A) maintained for at least two years; and

274 (B) made available to the department for inspection upon request by the department.

275 Section 5. Section **26-21-34** is enacted to read:

276 **26-21-34. Treatment of miscarried remains.**

277 (1) As used in this section, "miscarried fetus" means a product of human conception,
 278 regardless of gestational age, that has died from a spontaneous or accidental death before
 279 expulsion or extraction from the mother, regardless of the duration of the pregnancy.

280 (2) (a) A health care facility having possession of a miscarried fetus shall provide for
 281 the final disposition of the miscarried fetus through:

282 (i) cremation as that term is defined in Section 58-9-102; ~~H→~~ [or] ~~←H~~

283 (ii) interment ~~H→~~ [:] ; or

283a (iii) with the consent of the parent, the health care facility's usual process for disposing
 283b of biological material. ~~←H~~

284 (b) A health care facility may not conduct the final disposition of a miscarried fetus
 285 less than 72 hours after a woman has her miscarried fetus expelled or extracted in the health
 286 care facility unless:

287 (i) the parent authorizes the health care facility, in writing, to conduct the final
 288 disposition of the miscarried fetus less than 72 hours after the miscarriage occurs; or

289 (ii) immediate disposition is required under state or federal law.

290 (c) A health care facility may serve as an authorizing agent as defined in Section
 291 58-9-102 with respect to the final disposition of a miscarried fetus if:

292 (i) the parent provides written authorization for the health care facility to act as the
 293 authorizing agent; or

294 (ii) (A) more than 72 hours have passed since the miscarriage occurs; and

295 (B) the parent did not exercise their right to control the final disposition of the
 296 miscarried fetus under Subsection (4)(a).

297 (c) Within 120 business days after the day on which a miscarriage occurs, a health care
 298 facility possessing miscarried remains shall:

299 (i) conduct the final disposition of the miscarried remains in accordance with this
 300 section; or

301 (ii) ensure that the miscarried remains are preserved until final disposition.

302 (d) A health care facility shall conduct the final disposition under this section in
 303 accordance with applicable state and federal law.

304 (3) (a) No more than 24 hours after a woman has her miscarried fetus expelled or

305 extracted in a health care facility, the health care facility shall provide information to the parent
 306 or parents of the miscarried fetus regarding:

- 307 (i) the parents' right to determine the final disposition of the miscarried fetus;
 308 (ii) the available options for disposition of the miscarried fetus; and
 309 (iii) counseling that may be available concerning the death of the miscarried fetus.

310 (b) A health care facility shall:

311 (i) provide the information described in Subsection (3)(a) through:

312 (A) a form approved by the department;

313 (B) an in-person consultation with a physician; or

314 (C) an in-person consultation with a mental health therapist as defined in Section

315 58-60-102; and

316 (ii) if the parent or parents make a decision under Subsection (4)(b), document the
 317 parent's decision under Subsection (4)(b) in the parent's medical record.

318 (4) The parents of a miscarried fetus:

319 (a) have the right to control the final disposition of the miscarried fetus;

320 (b) if the parents have a preference for disposition of the miscarried fetus, shall inform
 321 the health care facility of the parents' decision for final disposition of the miscarried fetus; and

322 (c) are responsible for the costs related to the final disposition of the miscarried fetus at
 323 the chosen location if the parents choose a method or location for the final disposition of the
 324 miscarried fetus that is different from the method or location that is usual and customary for the
 325 health care facility.

326 (5) The form described in Subsection (3)(b)(i) shall include the following information:

327 "You have the right to decide what you would like to do with the miscarried fetus. You
 328 may decide for the provider to be responsible for disposition of the fetus. The provider may
 329 dispose of the miscarried fetus by burial ~~or~~, ~~cremation~~, or the health care
 329a facility's usual process for disposal of biological material. You can ask the provider if you
 329b want to

330 know the specific method for disposition."

331 (6) (a) ~~Except as provided in Subsection (2)(a)(iii), a~~ health care facility may
 331a not include miscarried fetus with other biological,
 332 infectious, or pathological waste.

333 (b) Fetal tissue that is ~~submitted to a pathology or genetic laboratory for the~~
 333a purpose of conducting an examination of the fetal tissue and is ~~a permanently fixed~~
 333b pathological specimen] sent for permanently fixed pathology or used for genetic study ~~is not~~
 333c subject to the
 334 requirements of this section.

335 (c) (i) A health care facility is responsible for maintaining a record to demonstrate to