

Representative Karianne Lisonbee proposes the following substitute bill:

ABORTION CHANGES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Daniel McCay

6	Cosponsors:	Joseph Elison	A. Cory Maloy
7	Cheryl K. Acton	Katy Hall	Jefferson Moss
8	Carl R. Albrecht	Jon Hawkins	Susan Pulsipher
9	Kera Birkeland	Colin W. Jack	Mike Schultz
10	Brady Brammer	Dan N. Johnson	Mark A. Strong
11	Walt Brooks	Trevor Lee	Jordan D. Teuscher
12	Jefferson S. Burton	Steven J. Lund	

LONG TITLE

General Description:

This bill modifies provisions related to abortion.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ requires abortions to be performed in a hospital, with some exceptions;
- ▶ prohibits licensing of abortion clinics after May 2, 2023, but allows licensing of certain clinics for providing an abortion if the clinic meets certain standards;
- ▶ removes certain references to abortion clinics;
- ▶ provides that inducing or performing an abortion contrary to statutory requirements



- 25 is unprofessional conduct for a physician, osteopathic physician, physician assistant, advanced
26 practice registered nurse, certified nurse midwife, and direct-entry midwife;
- 27 ▶ modifies provisions that govern what constitutes a medical emergency in relation to
28 an abortion;
 - 29 ▶ modifies the conditions under which an abortion may be performed to protect the
30 life or health of the mother;
 - 31 ▶ amends language related to medical defects of a fetus;
 - 32 ▶ repeals the statute that established a prohibition on abortions after 18 weeks and
33 incorporates its contents into existing statute, replacing language that established
34 now-superseded viability standards;
 - 35 ▶ standardizes language between various statutes that regulate abortion;
 - 36 ▶ requires a physician, in the case of a diagnosis of a lethal fetal anomaly, to give
37 notice of the availability of perinatal hospice and perinatal palliative care services as
38 an alternative to abortion;
 - 39 ▶ treats an individual who becomes pregnant at a certain age as having the same
40 access to abortion services as rape or incest situations;
 - 41 ▶ prohibits the ability to receive an abortion due to rape or incest if the unborn child
42 has reached 18 weeks gestational age;
 - 43 ▶ requires updates to abortion information modules to match current law;
 - 44 ▶ modifies state of mind standards for criminal act;
 - 45 ▶ provides for severability;
 - 46 ▶ provides for regulation of drugs that are known to be used in relation to an abortion;
 - 47 ▶ creates a criminal offense for prescribing a drug for the purpose of causing an
48 abortion, unless the prescriber is licensed as a physician under the laws of this state;
 - 49 and
 - 50 ▶ makes technical changes.

51 **Money Appropriated in this Bill:**

52 None

53 **Other Special Clauses:**

54 None

55 **Utah Code Sections Affected:**

56 AMENDS:

- 57 **26-21-2**, as last amended by Laws of Utah 2022, Chapter 255
- 58 **26-21-6.5**, as last amended by Laws of Utah 2018, Chapter 282
- 59 **26-21-7**, as last amended by Laws of Utah 2019, Chapter 349
- 60 **26-21-8**, as last amended by Laws of Utah 2016, Chapter 74
- 61 **26-21-11**, as last amended by Laws of Utah 1997, Chapter 209
- 62 **26-21-25**, as last amended by Laws of Utah 2010, Chapter 218
- 63 **58-31b-502**, as last amended by Laws of Utah 2022, Chapter 290
- 64 **58-44a-502**, as last amended by Laws of Utah 2020, Chapter 25
- 65 **58-67-304**, as last amended by Laws of Utah 2020, Chapters 12, 339
- 66 **58-67-502**, as last amended by Laws of Utah 2021, Chapter 337
- 67 **58-68-304**, as last amended by Laws of Utah 2020, Chapters 12, 339
- 68 **58-68-502**, as last amended by Laws of Utah 2021, Chapter 337
- 69 **58-70a-501**, as last amended by Laws of Utah 2021, Chapter 312
- 70 **58-77-603**, as enacted by Laws of Utah 2005, Chapter 299
- 71 **63I-2-276**, as last amended by Laws of Utah 2022, Chapter 117
- 72 **76-7-301**, as last amended by Laws of Utah 2021, Chapter 262
- 73 **76-7-302**, as last amended by Laws of Utah 2022, Chapter 335
- 74 **76-7-302.4**, as enacted by Laws of Utah 2019, Chapter 124
- 75 **76-7-304**, as last amended by Laws of Utah 2018, Chapter 282
- 76 **76-7-304.5**, as last amended by Laws of Utah 2022, Chapter 287
- 77 **76-7-305**, as last amended by Laws of Utah 2022, Chapter 181
- 78 **76-7-305.5**, as last amended by Laws of Utah 2020, Chapter 251
- 79 **76-7-313**, as last amended by Laws of Utah 2019, Chapters 124, 208
- 80 **76-7-314**, as last amended by Laws of Utah 2019, Chapter 208
- 81 **76-7-314.5**, as last amended by Laws of Utah 2010, Chapter 13
- 82 **76-7-317**, as enacted by Laws of Utah 1974, Chapter 33
- 83 **76-7a-101**, as last amended by Laws of Utah 2021, Chapter 262
- 84 **76-7a-201**, as enacted by Laws of Utah 2020, Chapter 279

85 ENACTS:

- 86 **76-7-332**, Utah Code Annotated 1953

87 REPEALS:

88 [76-7-302.5](#), as enacted by Laws of Utah 2019, Chapter 208

89

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

91 Section 1. Section **26-21-2** is amended to read:

92 **26-21-2. Definitions.**

93 As used in this chapter:

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

95 (b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under

96 Section [76-7-301](#) or Section [76-7a-101](#).

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

98 (a) dressing;

99 (b) eating;

100 (c) grooming;

101 (d) bathing;

102 (e) toileting;

103 (f) ambulation;

104 (g) transferring; and

105 (h) self-administration of medication.

106 (3) "Ambulatory surgical facility" means a freestanding facility, which provides

107 surgical services to patients not requiring hospitalization.

108 (4) "Assistance with activities of daily living" means providing of or arranging for the

109 provision of assistance with activities of daily living.

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

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

113 (A) require protected living arrangements; and

114 (B) are capable of achieving mobility sufficient to exit the facility without the

115 assistance of another person; and

116 (ii) a type II assisted living facility, which is a residential facility with a home-like

117 setting that provides an array of coordinated supportive personal and health care services

118 available 24 hours per day to residents who have been assessed under department rule to need
119 any of these services.

120 (b) Each resident in a type I or type II assisted living facility shall have a service plan
121 based on the assessment, which may include:

122 (i) specified services of intermittent nursing care;

123 (ii) administration of medication; and

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

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

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

128 (b) (i) is freestanding; or

129 (ii) is not freestanding, but meets the requirements for an alongside midwifery unit
130 described in Subsection 26-21-29(7).

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

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

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

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

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

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

148 (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home

149 health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing
150 centers, ambulatory surgical facilities, small health care facilities, abortion clinics, a clinic that
151 meets the definition of hospital under Section 76-7-301 or 76-7a-201, facilities owned or
152 operated by health maintenance organizations, end stage renal disease facilities, and any other
153 health care facility which the committee designates by rule.

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

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

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

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

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

166 (iii) provides physicians' services primarily directly through physicians who are either
167 employees or partners of such organizations, or through arrangements with individual
168 physicians or one or more groups of physicians organized on a group practice or individual
169 practice basis.

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

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

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

180 (17) "Nursing care facility" means a health care facility, other than a general acute or
181 specialty hospital, constructed, licensed, and operated to provide patient living
182 accommodations, 24-hour staff availability, and at least two of the following patient services:

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

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

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

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

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

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

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

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

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

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

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

208 (a) performs abortions, as defined in Section [76-7-301](#), during the first trimester of
209 pregnancy; and

210 (b) does not perform abortions, as defined in Section [76-7-301](#), after the first trimester

211 of pregnancy.

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

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

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

218 Section 2. Section 26-21-6.5 is amended to read:

219 **26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee --**
220 **Licensing of a clinic meeting the definition of hospital.**

221 (1) (a) No abortion clinic may operate in the state on or after January 1, 2024, or the
222 last valid date of an abortion clinic license issued under the requirements of this section,
223 whichever date is later.

224 (b) Notwithstanding Subsection (1)(a), a licensed abortion clinic may not perform an
225 abortion in violation of any provision of state law.

226 (2) The state may not issue a license for an abortion clinic after May 2, 2023.

227 (3) For any license for an abortion clinic that is issued under this section:

228 (a) A type I abortion clinic may not operate in the state without a license issued by the
229 department to operate a type I abortion clinic.

230 ~~[(2)]~~ (b) A type II abortion clinic may not operate in the state without a license issued
231 by the department to operate a type II abortion clinic.

232 ~~[(3)]~~ (c) The department shall make rules establishing minimum health, safety,
233 sanitary, and recordkeeping requirements for:

234 ~~[(a)]~~ (i) a type I abortion clinic; and

235 ~~[(b)]~~ (ii) a type II abortion clinic.

236 ~~[(4)]~~ (d) To receive and maintain a license described in this section, an abortion clinic
237 shall:

238 ~~[(a)]~~ (i) apply for a license on a form prescribed by the department;

239 ~~[(b)]~~ (ii) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping
240 requirements established under Subsection ~~[(3)]~~ (3)(c) that relate to the type of abortion clinic
241 licensed;

242 [(e)] (iii) comply with the recordkeeping and reporting requirements of Section
 243 76-7-313;

244 [(d)] (iv) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion, and
 245 Title 76, Chapter 7a, Abortion Prohibition;

246 [(e)] (v) pay the annual licensing fee; and

247 [(f)] (vi) cooperate with inspections conducted by the department.

248 [(5)] (e) The department shall, at least twice per year, inspect each abortion clinic in
 249 the state to ensure that the abortion clinic is complying with all statutory and licensing
 250 requirements relating to the abortion clinic. At least one of the inspections shall be made
 251 without providing notice to the abortion clinic.

252 [(6)] (f) The department shall charge an annual license fee, set by the department in
 253 accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an
 254 amount that will pay for the cost of the licensing requirements described in this section and the
 255 cost of inspecting abortion clinics.

256 [(7)] (g) The department shall deposit the licensing fees described in this section in the
 257 General Fund as a dedicated credit to be used solely to pay for the cost of the licensing
 258 requirements described in this section and the cost of inspecting abortion clinics.

259 (4) (a) Notwithstanding any other provision of this section, the department may license
 260 a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-7a-101.

261 (b) A clinic described in Subsection (4)(a) is not defined as an abortion clinic.

262 Section 3. Section 26-21-7 is amended to read:

263 **26-21-7. Exempt facilities.**

264 This chapter does not apply to:

265 (1) a dispensary or first aid facility maintained by any commercial or industrial plant,
 266 educational institution, or convent;

267 (2) a health care facility owned or operated by an agency of the United States;

268 (3) the office of a physician, physician assistant, or dentist whether it is an individual
 269 or group practice~~[-except that it does apply to an abortion clinic];~~

270 (4) a health care facility established or operated by any recognized church or
 271 denomination for the practice of religious tenets administered by mental or spiritual means
 272 without the use of drugs, whether gratuitously or for compensation, if it complies with statutes

273 and rules on environmental protection and life safety;

274 (5) any health care facility owned or operated by the Department of Corrections,
275 created in Section 64-13-2; and

276 (6) a residential facility providing 24-hour care:

277 (a) that does not employ direct care staff;

278 (b) in which the residents of the facility contract with a licensed hospice agency to
279 receive end-of-life medical care; and

280 (c) that meets other requirements for an exemption as designated by administrative
281 rule.

282 Section 4. Section 26-21-8 is amended to read:

283 **26-21-8. License required -- Not assignable or transferable -- Posting --**
284 **Expiration and renewal -- Time for compliance by operating facilities.**

285 (1) (a) A person or governmental unit acting severally or jointly with any other person
286 or governmental unit, may not establish, conduct, or maintain a health care facility in this state
287 without receiving a license from the department as provided by this chapter and the rules
288 adopted pursuant to this chapter.

289 (b) This Subsection (1) does not apply to facilities that are exempt under Section
290 26-21-7.

291 (2) A license issued under this chapter is not assignable or transferable.

292 (3) The current license shall at all times be posted in each health care facility in a place
293 readily visible and accessible to the public.

294 (4) (a) The department may issue a license for a period of time [~~not to exceed 12~~
295 ~~months from the date of issuance for an abortion clinic and~~] not to exceed 24 months from the
296 date of issuance for [~~other~~] health care facilities that meet the provisions of this chapter and
297 department rules adopted pursuant to this chapter.

298 (b) Each license expires at midnight on the day designated on the license as the
299 expiration date, unless previously revoked by the department.

300 (c) The license shall be renewed upon completion of the application requirements,
301 unless the department finds the health care facility has not complied with the provisions of this
302 chapter or the rules adopted pursuant to this chapter.

303 (5) A license may be issued under this section only for the operation of a specific

304 facility at a specific site by a specific person.

305 (6) Any health care facility in operation at the time of adoption of any applicable rules
306 as provided under this chapter shall be given a reasonable time for compliance as determined
307 by the committee.

308 Section 5. Section 26-21-11 is amended to read:

309 **26-21-11. Violations -- Denial or revocation of license -- Restricting or prohibiting**
310 **new admissions -- Monitor.**

311 (1) If the department finds a violation of this chapter or any rules adopted
312 pursuant to this chapter the department may take one or more of the following actions:

313 ~~[(1)]~~ (a) serve a written statement of violation requiring corrective action, which shall
314 include time frames for correction of all violations;

315 ~~[(2)]~~ (b) subject to Subsection (2), deny or revoke a license if it finds:

316 ~~[(a)]~~ (i) there has been a failure to comply with the rules established pursuant to this
317 chapter;

318 ~~[(b)]~~ (ii) evidence of aiding, abetting, or permitting the commission of any illegal act;

319 or

320 ~~[(c)]~~ (iii) conduct adverse to the public health, morals, welfare, and safety of the people
321 of the state;

322 ~~[(3)]~~ (c) restrict or prohibit new admissions to a health care facility or revoke the
323 license of a health care facility for:

324 ~~[(a)]~~ (i) violation of any rule adopted under this chapter; or

325 ~~[(b)]~~ (ii) permitting, aiding, or abetting the commission of any illegal act in the health
326 care facility;

327 ~~[(4)]~~ (d) place a department representative as a monitor in the facility until corrective
328 action is completed;

329 ~~[(5)]~~ (e) assess to the facility the cost incurred by the department in placing a monitor;

330 ~~[(6)]~~ (f) assess an administrative penalty as allowed by Subsection 26-23-6(1)(a); or

331 ~~[(7)]~~ (g) issue a cease and desist order to the facility.

332 (2) If the department finds that an abortion has been performed in violation of Section
333 76-7-314 or 76-7a-201, the department shall deny or revoke the license.

334 Section 6. Section 26-21-25 is amended to read:

335 **26-21-25. Patient identity protection.**

336 (1) As used in this section:

337 (a) "EMTALA" means the federal Emergency Medical Treatment and Active Labor
338 Act.

339 (b) "Health professional office" means:

340 (i) a physician's office; or

341 (ii) a dental office.

342 (c) "Medical facility" means:

343 (i) a general acute hospital;

344 (ii) a specialty hospital;

345 (iii) a home health agency;

346 (iv) a hospice;

347 (v) a nursing care facility;

348 (vi) a residential-assisted living facility;

349 (vii) a birthing center;

350 (viii) an ambulatory surgical facility;

351 (ix) a small health care facility;

352 (x) an abortion clinic;

353 (xi) a clinic that meets the definition of hospital under Section [76-7-301](#) or Section
354 [76-7a-101](#);

355 [~~(xi)~~] [\(xii\)](#) a facility owned or operated by a health maintenance organization;

356 [~~(xii)~~] [\(xiii\)](#) an end stage renal disease facility;

357 [~~(xiii)~~] [\(xiv\)](#) a health care clinic; or

358 [~~(xiv)~~] [\(xv\)](#) any other health care facility that the committee designates by rule.

359 (2) (a) In order to discourage identity theft and health insurance fraud, and to reduce
360 the risk of medical errors caused by incorrect medical records, a medical facility or a health
361 professional office shall request identification from an individual prior to providing in-patient
362 or out-patient services to the individual.

363 (b) If the individual who will receive services from the medical facility or a health
364 professional office lacks the legal capacity to consent to treatment, the medical facility or a
365 health professional office shall request identification:

366 (i) for the individual who lacks the legal capacity to consent to treatment; and
367 (ii) from the individual who consents to treatment on behalf of the individual described
368 in Subsection (2)(b)(i).

369 (3) A medical facility or a health professional office:

370 (a) that is subject to EMTALA:

371 (i) may not refuse services to an individual on the basis that the individual did not
372 provide identification when requested; and

373 (ii) shall post notice in its emergency department that informs a patient of the patient's
374 right to treatment for an emergency medical condition under EMTALA;

375 (b) may not be penalized for failing to ask for identification;

376 (c) is not subject to a private right of action for failing to ask for identification; and

377 (d) may document or confirm patient identity by:

378 (i) photograph;

379 (ii) fingerprinting;

380 (iii) palm scan; or

381 (iv) other reasonable means.

382 (4) The identification described in this section:

383 (a) is intended to be used for medical records purposes only; and

384 (b) shall be kept in accordance with the requirements of the Health Insurance
385 Portability and Accountability Act of 1996.

386 Section 7. Section **58-31b-502** is amended to read:

387 **58-31b-502. Unprofessional conduct.**

388 (1) "Unprofessional conduct" includes:

389 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,
390 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
391 because of the licensee's or person with a certification's position or practice as a nurse or
392 practice as a medication aide certified;

393 (b) failure to provide nursing service or service as a medication aide certified in a
394 manner that demonstrates respect for the patient's human dignity and unique personal character
395 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
396 status, age, sex, or the nature of the patient's health problem;

- 397 (c) engaging in sexual relations with a patient during any:
- 398 (i) period when a generally recognized professional relationship exists between the
399 person licensed or certified under this chapter and the patient; or
- 400 (ii) extended period when a patient has reasonable cause to believe a professional
401 relationship exists between the person licensed or certified under the provisions of this chapter
402 and the patient;
- 403 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
404 information about a patient or exploiting the licensee's or the person with a certification's
405 professional relationship between the licensee or holder of a certification under this chapter and
406 the patient; or
- 407 (ii) exploiting the patient by use of the licensee's or person with a certification's
408 knowledge of the patient obtained while acting as a nurse or a medication aide certified;
- 409 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;
- 410 (f) unauthorized taking or personal use of nursing supplies from an employer;
- 411 (g) unauthorized taking or personal use of a patient's personal property;
- 412 (h) unlawful or inappropriate delegation of nursing care;
- 413 (i) failure to exercise appropriate supervision of persons providing patient care services
414 under supervision of the licensed nurse;
- 415 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
416 person to practice as a nurse;
- 417 (k) failure to file or record any medical report as required by law, impeding or
418 obstructing the filing or recording of such a report, or inducing another to fail to file or record
419 such a report;
- 420 (l) breach of a statutory, common law, regulatory, or ethical requirement of
421 confidentiality with respect to a person who is a patient, unless ordered by a court;
- 422 (m) failure to pay a penalty imposed by the division;
- 423 (n) prescribing a Schedule II controlled substance without complying with the
424 requirements in Section 58-31b-803, if applicable;
- 425 (o) violating Section 58-31b-801;
- 426 (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part
427 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if

428 applicable;

429 (q) performing or inducing an abortion in violation of the requirements of Section
430 [76-7-302](#) or Section [76-7a-201](#), regardless of whether the person licensed or certified under the
431 provisions of this chapter is found guilty of a crime in connection with the violation;

432 [~~(r)~~] (r) falsely making an entry in, or altering, a medical record with the intent to
433 conceal:

434 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
435 or an individual under the direction or control of an individual licensed under this chapter; or

436 (ii) conduct described in Subsections (1)(a) through (o) or Subsection [58-1-501\(1\)](#); or
437 [~~(s)~~] (s) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis
438 Act.

439 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
440 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as
441 a limited medical provider, as those terms are defined in Section [26-61a-102](#), recommending
442 the use of medical cannabis.

443 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
444 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
445 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

446 Section 8. Section [58-44a-502](#) is amended to read:

447 **58-44a-502. Unprofessional conduct.**

448 "Unprofessional conduct" includes:

449 (1) disregard for a patient's dignity or right to privacy as to the patient's person,
450 condition, possessions, or medical record;

451 (2) engaging in an act, practice, or omission which when considered with the duties
452 and responsibilities of a certified nurse midwife does or could jeopardize the health, safety, or
453 welfare of a patient or the public;

454 (3) failure to confine one's practice as a certified nurse midwife to those acts or
455 practices permitted by law;

456 (4) failure to file or record any medical report as required by law, impeding or
457 obstructing the filing or recording of such a report, or inducing another to fail to file or record
458 such a report;

459 (5) breach of a statutory, common law, regulatory, or ethical requirement of
460 confidentiality with respect to a person who is a patient, unless ordered by the court;
461 (6) failure to pay a penalty imposed by the division;
462 (7) prescribing a schedule II-III controlled substance without a consulting physician;
463 (8) performing or inducing an abortion in violation of the requirements of Section
464 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
465 is found guilty of a crime in connection with the violation;

466 [~~(8)~~] (9) (a) failure to have and maintain a safe mechanism for obtaining medical
467 consultation, collaboration, and referral with a consulting physician, including failure to
468 identify one or more consulting physicians in the written documents required by Subsection
469 58-44a-102(9)(b)(iii); or

470 (b) representing that the certified nurse midwife is in compliance with Subsection
471 [~~(8)(a)~~] (9)(a) when the certified nurse midwife is not in compliance with Subsection [~~(8)(a)~~]
472 (9)(a); or

473 [~~(9)~~] (10) falsely making an entry in, or altering, a medical record with the intent to
474 conceal:

475 (a) a wrongful or negligent act or omission of an individual licensed under this chapter
476 or an individual under the direction or control of an individual licensed under this chapter; or

477 (b) conduct described in Subsections (1) through [~~(8)~~] (9) or Subsection 58-1-501(1).
478 Section 9. Section **58-67-304** is amended to read:

479 **58-67-304. License renewal requirements.**

480 (1) As a condition precedent for license renewal, each licensee shall, during each
481 two-year licensure cycle or other cycle defined by division rule:

482 (a) complete qualified continuing professional education requirements in accordance
483 with the number of hours and standards defined by division rule made in collaboration with the
484 board;

485 (b) appoint a contact person for access to medical records and an alternate contact
486 person for access to medical records in accordance with Subsection 58-67-302(1)(i);

487 (c) if the licensee practices medicine in a location with no other persons licensed under
488 this chapter, provide some method of notice to the licensee's patients of the identity and
489 location of the contact person and alternate contact person for the licensee; and

490 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,
 491 successfully complete the educational methods and programs described in Subsection
 492 58-67-807(4).

493 (2) If a renewal period is extended or shortened under Section 58-67-303, the
 494 continuing education hours required for license renewal under this section are increased or
 495 decreased proportionally.

496 (3) (a) An application to renew a license under this chapter shall:

497 ~~[(a)]~~ (i) require a physician to answer the following question: "Do you perform elective
 498 abortions in Utah in a location other than a hospital?"; and

499 ~~[(b)]~~ (ii) immediately following the question, contain the following statement: "For
 500 purposes of the immediately preceding question, elective abortion means an abortion other than
 501 one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion
 502 that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious
 503 physical risk of substantial ~~[and irreversible]~~ impairment of a major bodily function of a
 504 woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly
 505 lethal, or an abortion where the woman is pregnant as a result of rape or incest."

506 (b) The statement in Subsection (3)(a)(ii) shall be modified, if necessary, to ensure
 507 compliance with the definitions and requirements of Title 76, Chapter 7, Part 3, Abortion, and
 508 Title 76, Chapter 7a, Abortion Prohibition.

509 (4) In order to assist the Department of Health and Human Services in fulfilling ~~[its]~~
 510 the department's responsibilities relating to the licensing of ~~[an abortion clinic]~~ a health care
 511 facility and the enforcement of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a,
 512 Abortion Prohibition, if a physician responds positively to the question described in Subsection
 513 ~~[(3)(a)]~~ (3)(a)(i) the division shall, within 30 days after the day on which ~~[it]~~ the division
 514 renews the physician's license under this chapter, inform the Department of Health and Human
 515 Services in writing:

516 (a) of the name and business address of the physician; and

517 (b) that the physician responded positively to the question described in Subsection
 518 ~~[(3)(a)]~~ (3)(a)(i).

519 (5) The division shall accept and apply toward the hour requirement in Subsection
 520 (1)(a) any continuing education that a physician completes in accordance with Sections

521 26-61a-106 and 26-61a-403.

522 Section 10. Section 58-67-502 is amended to read:

523 **58-67-502. Unprofessional conduct.**

524 (1) "Unprofessional conduct" includes, in addition to the definition in Section
525 58-1-501:

526 (a) using or employing the services of any individual to assist a licensee in any manner
527 not in accordance with the generally recognized practices, standards, or ethics of the
528 profession, state law, or division rule;

529 (b) making a material misrepresentation regarding the qualifications for licensure under
530 Section 58-67-302.7 or Section 58-67-302.8;

531 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
532 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

533 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act;
534 [or]

535 (e) performing or inducing an abortion in violation of the requirements of Section
536 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
537 is found guilty of a crime in connection with the violation; or

538 [~~e~~] (f) falsely making an entry in, or altering, a medical record with the intent to
539 conceal:

540 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
541 or an individual under the direction or control of an individual licensed under this chapter; or

542 (ii) conduct described in Subsections (1)(a) through [~~f~~] (e) or Subsection
543 58-1-501(1).

544 (2) "Unprofessional conduct" does not include:

545 (a) in compliance with Section 58-85-103:

546 (i) obtaining an investigational drug or investigational device;

547 (ii) administering the investigational drug to an eligible patient; or

548 (iii) treating an eligible patient with the investigational drug or investigational device;

549 or

550 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

551 (i) when registered as a qualified medical provider or acting as a limited medical

552 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical
553 cannabis;

554 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
555 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

556 (iii) when registered as a state central patient portal medical provider, as that term is
557 defined in Section 26-61a-102, providing state central patient portal medical provider services.

558 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
559 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
560 unprofessional conduct for a physician described in Subsection (2)(b).

561 Section 11. Section 58-68-304 is amended to read:

562 **58-68-304. License renewal requirements.**

563 (1) As a condition precedent for license renewal, each licensee shall, during each
564 two-year licensure cycle or other cycle defined by division rule:

565 (a) complete qualified continuing professional education requirements in accordance
566 with the number of hours and standards defined by division rule in collaboration with the
567 board;

568 (b) appoint a contact person for access to medical records and an alternate contact
569 person for access to medical records in accordance with Subsection 58-68-302(1)(i);

570 (c) if the licensee practices osteopathic medicine in a location with no other persons
571 licensed under this chapter, provide some method of notice to the licensee's patients of the
572 identity and location of the contact person and alternate contact person for access to medical
573 records for the licensee in accordance with Subsection 58-68-302(1)(j); and

574 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,
575 successfully complete the educational methods and programs described in Subsection
576 58-68-807(4).

577 (2) If a renewal period is extended or shortened under Section 58-68-303, the
578 continuing education hours required for license renewal under this section are increased or
579 decreased proportionally.

580 (3) (a) An application to renew a license under this chapter shall:

581 [~~(a)~~] (i) require a physician to answer the following question: "Do you perform elective
582 abortions in Utah in a location other than a hospital?"; and

583 ~~[(b)]~~ (ii) immediately following the question, contain the following statement: "For
584 purposes of the immediately preceding question, elective abortion means an abortion other than
585 one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion
586 that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious
587 physical risk of substantial ~~[and irreversible]~~ impairment of a major bodily function of a
588 woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly
589 lethal, or an abortion where the woman is pregnant as a result of rape or incest."

590 (b) The statement in Subsection (3)(a)(ii) shall be modified, if necessary, to ensure
591 compliance with the definitions and requirements of Title 76, Chapter 7, Part 3, Abortion, and
592 Title 76, Chapter 7a, Abortion Prohibition.

593 (4) In order to assist the Department of Health and Human Services in fulfilling [its]
594 the department's responsibilities relating to the licensing of ~~[an abortion clinic]~~ a health care
595 facility and the enforcement of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a,
596 Abortion Prohibition, if a physician responds positively to the question described in Subsection
597 ~~[(3)(a)]~~ (3)(a)(i), the division shall, within 30 days after the day on which it renews the
598 physician's license under this chapter, inform the Department of Health and Human Services in
599 writing:

600 (a) of the name and business address of the physician; and

601 (b) that the physician responded positively to the question described in Subsection
602 ~~[(3)(a)]~~ (3)(a)(i).

603 (5) The division shall accept and apply toward the hour requirement in Subsection
604 (1)(a) any continuing education that a physician completes in accordance with Sections
605 [26-61a-106](#) and [26-61a-403](#).

606 Section 12. Section **58-68-502** is amended to read:

607 **58-68-502. Unprofessional conduct.**

608 (1) "Unprofessional conduct" includes, in addition to the definition in Section
609 [58-1-501](#):

610 (a) using or employing the services of any individual to assist a licensee in any manner
611 not in accordance with the generally recognized practices, standards, or ethics of the
612 profession, state law, or division rule;

613 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical

614 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;
615 (c) making a material misrepresentation regarding the qualifications for licensure under
616 Section [58-68-302.5](#);

617 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act;
618 [~~or~~]

619 (e) performing or inducing an abortion in violation of the requirements of Section
620 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
621 is found guilty of a crime in connection with the violation; or

622 [~~(f)~~] (f) falsely making an entry in, or altering, a medical record with the intent to
623 conceal:

624 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
625 or an individual under the direction or control of an individual licensed under this chapter; or
626 (ii) conduct described in Subsections (1)(a) through [~~(d)~~] (e) or Subsection
627 [58-1-501\(1\)](#).

628 (2) "Unprofessional conduct" does not include:

629 (a) in compliance with Section [58-85-103](#):

630 (i) obtaining an investigational drug or investigational device;
631 (ii) administering the investigational drug to an eligible patient; or
632 (iii) treating an eligible patient with the investigational drug or investigational device;

633 or

634 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

635 (i) when registered as a qualified medical provider or acting as a limited medical
636 provider, as those terms are defined in Section [26-61a-102](#), recommending the use of medical
637 cannabis;

638 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
639 [26-61a-102](#), providing pharmacy medical provider services in a medical cannabis pharmacy; or
640 (iii) when registered as a state central patient portal medical provider, as that term is
641 defined in Section [26-61a-102](#), providing state central patient portal medical provider services.

642 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
643 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
644 unprofessional conduct for a physician described in Subsection (2)(b).

645 Section 13. Section **58-70a-501** is amended to read:

646 **58-70a-501. Scope of practice.**

647 (1) A physician assistant may provide any medical services that are not specifically
648 prohibited under this chapter or rules adopted under this chapter, and that are within the
649 physician assistant's skills and scope of competence.

650 (2) A physician assistant shall consult, collaborate with, and refer to appropriate
651 members of the health care team:

- 652 (a) as indicated by the patient's condition;
- 653 (b) based on the physician assistant's education, experience, and competencies;
- 654 (c) the applicable standard of care; and
- 655 (d) if applicable, in accordance with the requirements described in Section [58-70a-307](#).

656 (3) Subject to Section [58-70a-307](#), the degree of collaboration under Subsection (2):

657 (a) shall be determined at the physician assistant's practice, including decisions made
658 by the physician assistant's:

- 659 (i) employer;
- 660 (ii) group;
- 661 (iii) hospital service; or
- 662 (iv) health care facility credentialing and privileging system; and

663 (b) may also be determined by a managed care organization with whom the physician
664 assistant is a network provider.

665 (4) A physician assistant may only provide healthcare services:

- 666 (a) for which the physician assistant has been trained and credentialed, privileged, or
667 authorized to perform; and
- 668 (b) that are within the physician assistant's practice specialty.

669 (5) A physician assistant may authenticate through a signature, certification, stamp,
670 verification, affidavit, or endorsement any document that may be authenticated by a physician
671 and that is within the physician assistant's scope of practice.

672 (6) A physician assistant is responsible for the care that the physician assistant
673 provides.

674 (7) (a) As used in this Subsection (7):

- 675 (i) "ALS/ACLS certification" means a certification:

- 676 (A) in advanced life support by the American Red Cross;
- 677 (B) in advanced cardiac life support by the American Heart Association; or
- 678 (C) that is equivalent to a certification described in Subsection (7)(a)(i)(A) or (B).
- 679 (ii) "Minimal sedation anxiolysis" means creating a drug induced state:
- 680 (A) during which a patient responds normally to verbal commands;
- 681 (B) which may impair cognitive function and physical coordination; and
- 682 (C) which does not affect airway, reflexes, or ventilatory and cardiovascular function.
- 683 (b) Except as provided in Subsections (c) through (e), a physician assistant may not
- 684 administer general anesthetics.
- 685 (c) A physician assistant may perform minimal sedation anxiolysis if the procedure is
- 686 within the physician assistant's scope of practice.
- 687 (d) A physician assistant may perform rapid sequence induction for intubation of a
- 688 patient if:
- 689 (i) the procedure is within the physician assistant's scope of practice;
- 690 (ii) the physician assistant holds a valid ALS/ACLS certification and is credentialed
- 691 and privileged at the hospital where the procedure is performed; and
- 692 (iii) (A) a qualified physician is not available and able to perform the procedure; or
- 693 (B) the procedure is performed by the physician assistant under supervision of or
- 694 delegation by a physician.
- 695 (e) Subsection (7)(b) does not apply to anesthetics administered by a physician
- 696 assistant:
- 697 (i) in an intensive care unit of a hospital;
- 698 (ii) for the purpose of enabling a patient to tolerate ventilator support or intubation; and
- 699 (iii) under supervision of or delegation by a physician whose usual scope of practice
- 700 includes the procedure.
- 701 (8) (a) A physician assistant may prescribe or administer an appropriate controlled
- 702 substance that is within the physician assistant's scope of practice if the physician assistant
- 703 holds a Utah controlled substance license and a DEA registration.
- 704 (b) A physician assistant may prescribe, order, administer, and procure a drug or
- 705 medical device that is within the physician assistant's scope of practice.
- 706 (c) A physician assistant may dispense a drug if dispensing the drug:

707 (i) is permitted under Title 58, Chapter 17b, Pharmacy Practice Act; and

708 (ii) is within the physician assistant's scope of practice.

709 (9) A physician assistant may not perform or induce an abortion in violation of the
710 requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the physician
711 assistant is found guilty of a crime in connection with the violation.

712 [(9)] (10) A physician assistant practicing independently may only perform or provide
713 a health care service that:

714 (a) is appropriate to perform or provide outside of a health care facility; and

715 (b) the physician assistant has been trained and credentialed or authorized to provide or
716 perform independently without physician supervision.

717 [(10)] (11) A physician assistant, while practicing as a physician assistant:

718 (a) shall wear an identification badge showing the physician assistant's license
719 classification as a physician assistant;

720 (b) shall identify themselves to a patient as a physician assistant; and

721 (c) may not identify themselves to any person in connection with activities allowed
722 under this chapter other than as a physician assistant or PA.

723 Section 14. Section 58-77-603 is amended to read:

724 **58-77-603. Prohibited practices.**

725 A direct-entry midwife may not:

726 (1) administer a prescription drug to a client in a manner that violates this chapter;

727 (2) effect any type of surgical delivery except for the cutting of an emergency
728 episiotomy;

729 (3) administer any type of epidural, spinal, or caudal anesthetic, or any type of narcotic
730 analgesia;

731 (4) use forceps or a vacuum extractor;

732 (5) manually remove the placenta, except in an emergency that presents an immediate
733 threat to the life of the client; or

734 (6) ~~induce abortion~~ perform or induce an abortion in violation of the requirements of
735 Section 76-7-302 or Section 76-7a-201, regardless of whether the direct-entry midwife is found
736 guilty of a crime in connection with the violation.

737 Section 15. Section 63I-2-276 is amended to read:

738 **63I-2-276. Repeal dates: Title 76.**

739 (1) Subsection [76-5-102.7\(2\)\(b\)](#), regarding assault or threat of violence against an
740 owner, employee, or contractor of a health facility, is repealed January 1, 2027.

741 [~~(2) If Section [76-7-302.4](#) is not in effect before January 1, 2029, Section [76-7-302.4](#) is~~
742 ~~repealed January 1, 2029.~~]

743 [~~(3)~~] (2) Section [76-7-305.7](#) is repealed January 1, 2023.

744 Section 16. Section **76-7-301** is amended to read:

745 **76-7-301. Definitions.**

746 As used in this part:

747 (1) (a) "Abortion" means~~[:]~~ the act, by a physician, of using an instrument, or
748 prescribing a drug, with the intent to cause the death of an unborn child of a woman known to
749 be pregnant, except as permitted under this part.

750 [~~(i) the intentional termination or attempted termination of human pregnancy after~~
751 ~~implantation of a fertilized ovum through a medical procedure carried out by a physician or~~
752 ~~through a substance used under the direction of a physician;~~]

753 [~~(ii) the intentional killing or attempted killing of a live unborn child through a medical~~
754 ~~procedure carried out by a physician or through a substance used under the direction of a~~
755 ~~physician; or]~~

756 [~~(iii) the intentional causing or attempted causing of a miscarriage through a medical~~
757 ~~procedure carried out by a physician or through a substance used under the direction of a~~
758 ~~physician.~~]

759 (b) "Abortion" does not include:

760 (i) removal of a dead unborn child;

761 (ii) removal of an ectopic pregnancy; or

762 (iii) the killing or attempted killing of an unborn child without the consent of the
763 pregnant woman, unless:

764 (A) the killing or attempted killing is done through a medical procedure carried out by
765 a physician or through a substance used under the direction of a physician; and

766 (B) the physician is unable to obtain the consent due to a medical emergency.

767 [~~(2) "Abortion clinic" means the same as that term is defined in Section [26-21-2.](#)]~~

768 [~~(3)~~] (2) "Abuse" means the same as that term is defined in Section [80-1-102](#).

769 ~~[(4)]~~ (3) "Department" means the Department of Health and Human Services.

770 ~~[(5)]~~ (4) "Down syndrome" means a genetic condition associated with an extra
771 chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

772 ~~[(6)]~~ (5) "Gestational age" means the age of an unborn child as calculated from the first
773 day of the last menstrual period of the pregnant woman.

774 ~~[(7)]~~ (6) "Hospital" means:

775 (a) a general hospital licensed by the department according to Title 26, Chapter 21,
776 Health Care Facility Licensing and Inspection Act; and

777 (b) a clinic or other medical facility [~~to the extent that such clinic or other medical~~
778 ~~facility is certified by the department as providing equipment and personnel sufficient in~~
779 ~~quantity and quality to provide the same degree of safety to the pregnant woman and the~~
780 ~~unborn child as would be provided for the particular medical procedures undertaken by a~~
781 ~~general hospital licensed by the department]~~ that meets the following criteria:

782 (i) a clinician who performs procedures at the clinic is required to be credentialed to
783 perform the same procedures at a general hospital licensed by the department; and

784 (ii) any procedures performed at the clinic are done with the same level of safety for
785 the pregnant woman and unborn child as would be available in a general hospital licensed by
786 the department.

787 ~~[(8)]~~ (7) "Information module" means the pregnancy termination information module
788 prepared by the department.

789 ~~[(9)]~~ (8) "Medical emergency" means [~~that condition which, on the basis of the~~
790 ~~physician's good faith clinical judgment, so threatens the life of a pregnant woman as to~~
791 ~~necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay~~
792 ~~will create serious risk of substantial and irreversible impairment of major bodily function]~~ a
793 life threatening physical condition aggravated by, caused by, or arising from a pregnancy that
794 places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of
795 a major bodily function, unless the abortion is performed or induced.

796 ~~[(10)]~~ (9) "Minor" means an individual who is:

797 (a) under 18 years old;

798 (b) unmarried; and

799 (c) not emancipated.

800 ~~[(H)]~~ (10) (a) "Partial birth abortion" means an abortion in which the person
801 performing the abortion:

802 (i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a
803 head first presentation, the entire fetal head is outside the body of the mother, or, in the case of
804 breech presentation, any part of the fetal trunk past the navel is outside the body of the mother,
805 for the purpose of performing an overt act that the person knows will kill the partially delivered
806 living fetus; and

807 (ii) performs the overt act, other than completion of delivery, that kills the partially
808 living fetus.

809 (b) "Partial birth abortion" does not include the dilation and evacuation procedure
810 involving dismemberment prior to removal, the suction curettage procedure, or the suction
811 aspiration procedure for abortion.

812 (11) "Perinatal hospice" means comprehensive support to the mother and her family
813 from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's birth,
814 and through the postpartum period, that:

815 (a) focuses on alleviating fear and ensuring that the woman and her family experience
816 the life and death of a child in a comfortable and supportive environment; and

817 (b) may include counseling or medical care by:

818 (i) maternal-fetal medical specialists;

819 (ii) obstetricians;

820 (iii) neonatologists;

821 (iv) anesthesia specialists;

822 (v) psychiatrists, psychologists, or other mental health providers;

823 (vi) clergy;

824 (vii) social workers; or

825 (viii) specialty nurses.

826 (12) "Physician" means:

827 (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter
828 67, Utah Medical Practice Act;

829 (b) an osteopathic physician licensed to practice osteopathic medicine under Title 58,
830 Chapter 68, Utah Osteopathic Medical Practice Act; or

831 (c) a physician employed by the federal government who has qualifications similar to
832 ~~[a person]~~ an individual described in Subsection (12)(a) or (b).

833 (13) (a) "Severe brain abnormality" means a malformation or defect that causes an
834 individual to live in a mentally vegetative state.

835 (b) "Severe brain abnormality" does not include:

836 (i) Down syndrome;

837 (ii) spina bifida;

838 (iii) cerebral palsy; or

839 (iv) any other malformation, defect, or condition that does not cause an individual to
840 live in a mentally vegetative state.

841 Section 17. Section ~~76-7-302~~ is amended to read:

842 **76-7-302. Circumstances under which abortion authorized.**

843 ~~[(1) As used in this section, "viable" means that the unborn child has reached a stage of~~
844 ~~fetal development when the unborn child is potentially able to live outside the womb, as~~
845 ~~determined by the attending physician to a reasonable degree of medical certainty.]~~

846 ~~[(2)]~~ (1) An abortion may be performed in this state only by a physician.

847 ~~[(3)]~~ (2) An abortion may be performed in this state only under the following
848 circumstances:

849 (a) the unborn child ~~[is not viable; or]~~ has not reached 18 weeks gestational age;

850 (b) the unborn child ~~[is viable, if:]~~ has reached 18 weeks gestational age, and:

851 (i) the abortion is necessary to avert:

852 (A) the death of the woman on whom the abortion is performed; or

853 (B) a serious physical risk of substantial ~~[and irreversible]~~ impairment of a major
854 bodily function of the woman on whom the abortion is performed; or

855 (ii) subject to Subsection (4), two physicians who practice maternal fetal medicine
856 concur, in writing, in the patient's medical record that the fetus[+] has a fetal abnormality that in
857 the physicians' reasonable medical judgment is incompatible with life; or

858 ~~[(A) has a defect that is uniformly diagnosable and uniformly lethal; or]~~

859 ~~[(B) has a severe brain abnormality that is uniformly diagnosable; or]~~

860 ~~[(iii)-(A)]~~

861 (c) the unborn child has not reached 18 weeks gestational age and:

862 (i) (A) the woman is pregnant as a result of:
 863 (I) rape, as described in Section 76-5-402;
 864 (II) rape of a child, as described in Section 76-5-402.1; or
 865 (III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; ~~[and]~~ or
 866 (B) the pregnant ~~Œ~~ **woman** ~~child~~ **child** ~~Œ~~ is under the age of 14; and
 867 ~~[(B)]~~ (ii) before the abortion is performed, the physician who performs the abortion:
 868 ~~[(H)]~~ (A) for an abortion authorized under Subsection (2)(c)(i)(A), verifies that the
 869 incident described in Subsection ~~[(3)(b)(iii)(A)]~~ (2)(c)(i)(A) has been reported to law
 870 enforcement; and
 871 ~~[(H)]~~ (B) if applicable, complies with the requirements of Section 80-2-602.
 872 ~~[(4)]~~ (3) An abortion may be performed only in ~~[an abortion clinic or]~~ a hospital, unless
 873 it is necessary to perform the abortion in another location due to a medical emergency.
 874 (4) If the unborn child has been diagnosed with a fetal abnormality that is incompatible
 875 with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and
 876 in writing, that perinatal hospice and perinatal palliative care services are available and are an
 877 alternative to abortion.

878 Section 18. Section 76-7-302.4 is amended to read:

879 **76-7-302.4. Abortion restriction of an unborn child with Down syndrome.**

880 Notwithstanding any other provision of this part, an abortion may not be performed if
 881 the pregnant mother's sole reason for the abortion is that the unborn child has or may have
 882 Down syndrome, unless the abortion is permissible for a reason described in ~~[Subsection~~
 883 ~~76-7-302(3)(b)]~~ Section 76-7-302.

884 Section 19. Section 76-7-304 is amended to read:

885 **76-7-304. Considerations by physician -- Notice to a parent or guardian --**

886 **Exceptions.**

887 (1) To enable the physician to exercise the physician's best medical judgment, the
 888 physician shall consider all factors relevant to the well-being of a pregnant woman upon whom
 889 an abortion is to be performed, including:

- 890 (a) her physical, emotional, and psychological health and safety;
- 891 (b) her age; and
- 892 (c) her familial situation.

893 (2) Subject to Subsection (3), at least 24 hours before a physician performs an abortion
894 on a minor, the physician shall notify a parent or guardian of the minor that the minor intends
895 to have an abortion.

896 (3) A physician is not required to comply with Subsection (2) if:

897 (a) subject to Subsection (4)(a):

898 (i) a medical condition exists that, on the basis of the physician's good faith clinical
899 judgment, so complicates the medical condition of a pregnant minor as to necessitate the
900 abortion of her pregnancy to avert:

901 (A) the minor's death; or

902 (B) a serious physical risk of substantial [~~and irreversible~~] impairment of a major
903 bodily function of the minor; and

904 (ii) there is not sufficient time to give the notice required under Subsection (2) before it
905 is necessary to terminate the minor's pregnancy in order to avert the minor's death or
906 impairment described in Subsection (3)(a)(i);

907 (b) subject to Subsection (4)(b):

908 (i) the physician complies with Subsection (5); and

909 (ii) (A) the minor is pregnant as a result of incest to which the parent or guardian was a
910 party; or

911 (B) the parent or guardian has abused the minor; or

912 (c) subject to Subsection (4)(b), the parent or guardian has not assumed responsibility
913 for the minor's care and upbringing.

914 (4) (a) If, for the reason described in Subsection (3)(a), a physician does not give the
915 24-hour notice described in Subsection (2), the physician shall give the required notice as early
916 as possible before the abortion, unless it is necessary to perform the abortion immediately in
917 order to avert the minor's death or impairment described in Subsection (3)(a)(i).

918 (b) If, for a reason described in Subsection (3)(b) or (c), a parent or guardian of a minor
919 is not notified that the minor intends to have an abortion, the physician shall notify another
920 parent or guardian of the minor, if the minor has another parent or guardian that is not exempt
921 from notification under Subsection (3)(b) or (c).

922 (5) If, for a reason described in Subsection (3)(b)(ii)(A) or (B), a physician does not
923 notify a parent or guardian of a minor that the minor intends to have an abortion, the physician

924 shall report the incest or abuse to the Division of Child and Family Services within the
925 Department of Health and Human Services.

926 Section 20. Section **76-7-304.5** is amended to read:

927 **76-7-304.5. Consent required for abortions performed on minors -- Division of**
928 **Child and Family Services as guardian of a minor -- Hearing to allow a minor to**
929 **self-consent -- Appeals.**

930 (1) In addition to the other requirements of this part, a physician may not perform an
931 abortion on a minor unless:

932 (a) the physician obtains the informed written consent of a parent or guardian of the
933 minor, in accordance with Sections 76-7-305 and 76-7-305.5;

934 (b) the minor is granted the right, by court order under Subsection (4)(b), to consent to
935 the abortion without obtaining consent from a parent or guardian; or

936 (c) (i) a medical condition exists that, on the basis of the physician's good faith clinical
937 judgment, so complicates the medical condition of a pregnant minor as to necessitate the
938 abortion of her pregnancy to avert:

939 (A) the minor's death; or

940 (B) a [~~serious risk of substantial and irreversible impairment of a major bodily function~~
941 ~~of the minor~~] risk described in Subsection 76-7-302(2)(b)(i)(B); and

942 (ii) there is not sufficient time to obtain the consent in the manner chosen by the minor
943 under Subsection (2) before it is necessary to terminate the minor's pregnancy in order to avert
944 the minor's death or impairment described in Subsection (1)(c)(i).

945 (2) (a) A minor who wants to have an abortion may choose:

946 (i) to seek consent from the minor's parent or guardian as described in Subsection (1);

947 or

948 (ii) to seek a court order as described in Subsection (1).

949 (b) Neither Subsection (1) nor this Subsection (2) require the minor to seek or obtain
950 consent from the minor's parent or guardian if the circumstances described in Subsection
951 76-7-304(3)(b)(ii) exist.

952 (3) If a minor does not obtain the consent of the minor's parent or guardian, the minor
953 may file a petition with the juvenile court to obtain a court order as described in Subsection (1).

954 (4) (a) The juvenile court shall close the hearing on a petition described in Subsection

955 (3) to the public.

956 (b) After considering the evidence presented at the hearing, the court shall order that
957 the minor may obtain an abortion without the consent of a parent or guardian of the minor if
958 the court finds by a preponderance of the evidence that:

959 (i) the minor:

960 (A) has given her informed consent to the abortion; and

961 (B) is mature and capable of giving informed consent to the abortion; or

962 (ii) an abortion would be in the minor's best interest.

963 (5) The Judicial Council shall make rules that:

964 (a) provide for the administration of the proceedings described in this section;

965 (b) provide for the appeal of a court's decision under this section;

966 (c) ensure the confidentiality of the proceedings described in this section and the
967 records related to the proceedings; and

968 (d) establish procedures to expedite the hearing and appeal proceedings described in
969 this section.

970 Section 21. Section **76-7-305** is amended to read:

971 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**
972 **-- Exceptions.**

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

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

978 (b) the provisions of this section.

979 (2) Except as provided in Subsection (8), consent to an abortion is voluntary and
980 informed only if, at least 72 hours before the abortion:

981 (a) a staff member of ~~[an abortion clinic or]~~ a hospital, physician, registered nurse,
982 nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic
983 counselor, or physician's assistant presents the information module to the pregnant woman;

984 (b) the pregnant woman views the entire information module and presents evidence to
985 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire

986 information module;

987 (c) after receiving the evidence described in Subsection (2)(b), the individual described
988 in Subsection (2)(a):

989 (i) documents that the pregnant woman viewed the entire information module;

990 (ii) gives the pregnant woman, upon her request, a copy of the documentation
991 described in Subsection (2)(c)(i); and

992 (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician
993 who is to perform the abortion, upon request of that physician or the pregnant woman;

994 (d) after the pregnant woman views the entire information module, the physician who
995 is to perform the abortion, the referring physician, a physician, a registered nurse, nurse
996 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
997 physician's assistant, in a face-to-face consultation in any location in the state, orally informs
998 the woman of:

999 (i) the nature of the proposed abortion procedure;

1000 (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the
1001 fetus;

1002 (iii) the risks and alternatives to the abortion procedure or treatment;

1003 (iv) the options and consequences of aborting a medication-induced abortion, if the
1004 proposed abortion procedure is a medication-induced abortion;

1005 (v) the probable gestational age and a description of the development of the unborn
1006 child at the time the abortion would be performed;

1007 (vi) the medical risks associated with carrying her child to term;

1008 (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant
1009 woman, upon her request; and

1010 (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn
1011 child has or may have Down syndrome, the [~~Department of Health website containing~~
1012 department's website, which contains the information described in Section 26-10-14, including
1013 the information on the informational support sheet; and

1014 (e) after the pregnant woman views the entire information module, a staff member of
1015 the [~~abortion clinic or~~] hospital provides to the pregnant woman:

1016 (i) on a document that the pregnant woman may take home:

1017 (A) the address for the department's website described in Section 76-7-305.5; and

1018 (B) a statement that the woman may request, from a staff member of the [abortion
1019 clinic or] hospital where the woman viewed the information module, a printed copy of the
1020 material on the department's website;

1021 (ii) a printed copy of the material on the department's website described in Section
1022 76-7-305.5, if requested by the pregnant woman; and

1023 (iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the
1024 disposition of the aborted fetus.

1025 (3) Before performing an abortion, the physician who is to perform the abortion shall:

1026 (a) in a face-to-face consultation, provide the information described in Subsection
1027 (2)(d), unless the attending physician or referring physician is the individual who provided the
1028 information required under Subsection (2)(d); and

1029 (b) (i) obtain from the pregnant woman a written certification that the information
1030 required to be provided under Subsection (2) and this Subsection (3) was provided in
1031 accordance with the requirements of Subsection (2) and this Subsection (3);

1032 (ii) obtain a copy of the statement described in Subsection (2)(c)(i); and

1033 (iii) ensure that:

1034 (A) the woman has received the information described in Subsections 26-21-33(3) and
1035 (4); and

1036 (B) if the woman has a preference for the disposition of the aborted fetus, the woman
1037 has informed the health care facility of the woman's decision regarding the disposition of the
1038 aborted fetus.

1039 (4) When a [serious] medical emergency compels the performance of an abortion, the
1040 physician shall inform the woman prior to the abortion, if possible, of the medical indications
1041 supporting the physician's judgment that an abortion is necessary.

1042 (5) If an ultrasound is performed on a woman before an abortion is performed, the
1043 individual who performs the ultrasound, or another qualified individual, shall:

1044 (a) inform the woman that the ultrasound images will be simultaneously displayed in a
1045 manner to permit her to:

1046 (i) view the images, if she chooses to view the images; or

1047 (ii) not view the images, if she chooses not to view the images;

1048 (b) simultaneously display the ultrasound images in order to permit the woman to:

1049 (i) view the images, if she chooses to view the images; or

1050 (ii) not view the images, if she chooses not to view the images;

1051 (c) inform the woman that, if she desires, the person performing the ultrasound, or

1052 another qualified person shall provide a detailed description of the ultrasound images,

1053 including:

1054 (i) the dimensions of the unborn child;

1055 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and

1056 (iii) the presence of external body parts or internal organs, if present and viewable; and

1057 (d) provide the detailed description described in Subsection (5)(c), if the woman

1058 requests it.

1059 (6) The information described in Subsections (2), (3), and (5) is not required to be

1060 provided to a pregnant woman under this section if the abortion is performed for a reason

1061 described in:

1062 (a) Subsection ~~[76-7-302(3)(b)(i)]~~ 76-7-302(2)(b)(i), if the treating physician and one
1063 other physician concur, in writing, that the abortion is necessary to avert:

1064 (i) the death of the woman on whom the abortion is performed; or

1065 (ii) a ~~[serious risk of substantial and irreversible impairment of a major bodily function
1066 of the woman on whom the abortion is performed]~~ risk described in Subsection
1067 76-7-302(2)(b)(i)(B); or

1068 (b) Subsection ~~[76-7-302(3)(b)(ii)]~~ 76-7-302(2)(b)(ii).

1069 (7) In addition to the criminal penalties described in this part, a physician who violates
1070 the provisions of this section:

1071 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;

1072 and

1073 (b) shall be subject to:

1074 (i) suspension or revocation of the physician's license for the practice of medicine and
1075 surgery in accordance with Section 58-67-401 or 58-68-401; and

1076 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

1077 (8) A physician is not guilty of violating this section for failure to furnish any of the
1078 information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

- 1079 (a) the physician can demonstrate by a preponderance of the evidence that the
1080 physician reasonably believed that furnishing the information would have resulted in a severely
1081 adverse effect on the physical or mental health of the pregnant woman;
- 1082 (b) in the physician's professional judgment, the abortion was necessary to avert:
- 1083 (i) the death of the woman on whom the abortion is performed; or
- 1084 (ii) a ~~[serious risk of substantial and irreversible impairment of a major bodily function~~
1085 ~~of the woman on whom the abortion is performed]~~ risk described in Subsection
1086 76-7-302(2)(b)(i)(B);
- 1087 (c) the pregnancy was the result of rape or rape of a child, as described in Sections
1088 76-5-402 and 76-5-402.1;
- 1089 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and
1090 Section 76-7-102; or
- 1091 (e) at the time of the abortion, the pregnant ~~Œ→~~ **[woman]** child ~~←Œ~~ was 14 years old or
1091a younger.
- 1092 (9) A physician who complies with the provisions of this section and Section
1093 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
1094 informed consent under Section 78B-3-406.
- 1095 (10) (a) The department shall provide an ultrasound, in accordance with the provisions
1096 of Subsection (5)(b), at no expense to the pregnant woman.
- 1097 (b) A local health department shall refer a pregnant woman who requests an ultrasound
1098 described in Subsection (10)(a) to the department.
- 1099 (11) A physician is not guilty of violating this section if:
- 1100 (a) the information described in Subsection (2) is provided less than 72 hours before
1101 the physician performs the abortion; and
- 1102 (b) in the physician's professional judgment, the abortion was necessary in a case
1103 where:
- 1104 (i) a ruptured membrane, documented by the attending or referring physician, will
1105 cause a serious infection; or
- 1106 (ii) a serious infection, documented by the attending or referring physician, will cause a
1107 ruptured membrane.
- 1108 Section 22. Section 76-7-305.5 is amended to read:
- 1109 **76-7-305.5. Requirements for information module and website.**

1110 (1) In order to ensure that a woman's consent to an abortion is truly an informed
1111 consent, the department shall, in accordance with the requirements of this section, develop an
1112 information module and maintain a public website.

1113 (2) The information module and public website described in Subsection (1) shall:

1114 (a) be scientifically accurate, comprehensible, and presented in a truthful,
1115 nonmisleading manner;

1116 (b) present adoption as a preferred and positive choice and alternative to abortion;

1117 (c) be produced in a manner that conveys the state's preference for childbirth over
1118 abortion;

1119 (d) state that the state prefers childbirth over abortion;

1120 (e) state that it is unlawful for any person to coerce a woman to undergo an abortion;

1121 (f) state that any physician who performs an abortion without obtaining the woman's
1122 informed consent or without providing her a private medical consultation in accordance with
1123 the requirements of this section, may be liable to her for damages in a civil action at law;

1124 (g) provide a geographically indexed list of resources and public and private services
1125 available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth,
1126 and while the child is dependent, including:

1127 (i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

1128 (ii) services and supports available under Section [35A-3-308](#);

1129 (iii) other financial aid that may be available during an adoption;

1130 (iv) services available from public adoption agencies, private adoption agencies, and
1131 private attorneys whose practice includes adoption; and

1132 (v) the names, addresses, and telephone numbers of each person listed under this
1133 Subsection (2)(g);

1134 (h) describe the adoption-related expenses that may be paid under Section [76-7-203](#);

1135 (i) describe the persons who may pay the adoption related expenses described in
1136 Subsection (2)(h);

1137 (j) except as provided in Subsection (4), describe the legal responsibility of the father
1138 of a child to assist in child support, even if the father has agreed to pay for an abortion;

1139 (k) except as provided in Subsection (4), describe the services available through the
1140 Office of Recovery Services, within the Department of Human Services, to establish and

1141 collect the support described in Subsection (2)(j);
1142 (l) state that private adoption is legal;
1143 (m) describe and depict, with pictures or video segments, the probable anatomical and
1144 physiological characteristics of an unborn child at two-week gestational increments from
1145 fertilization to full term, including:
1146 (i) brain and heart function;
1147 (ii) the presence and development of external members and internal organs; and
1148 (iii) the dimensions of the fetus;
1149 (n) show an ultrasound of the heartbeat of an unborn child at:
1150 (i) four weeks from conception;
1151 (ii) six to eight weeks from conception; and
1152 (iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;
1153 (o) describe abortion procedures used in current medical practice at the various stages
1154 of growth of the unborn child, including:
1155 (i) the medical risks associated with each procedure;
1156 (ii) the risk related to subsequent childbearing that are associated with each procedure;
1157 and
1158 (iii) the consequences of each procedure to the unborn child at various stages of fetal
1159 development;
1160 (p) describe the possible detrimental psychological effects of abortion;
1161 (q) describe the medical risks associated with carrying a child to term;
1162 (r) include relevant information on the possibility of an unborn child's survival at the
1163 two-week gestational increments described in Subsection (2)(m);
1164 (s) except as provided in Subsection (5), include:
1165 (i) information regarding substantial medical evidence from studies concluding that an
1166 unborn child who is at least 20 weeks gestational age may be capable of experiencing pain
1167 during an abortion procedure; and
1168 (ii) the measures that will be taken in accordance with Section [76-7-308.5](#);
1169 (t) explain the options and consequences of aborting a medication-induced abortion;
1170 (u) include the following statement regarding a medication-induced abortion,
1171 "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You

1172 may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but
1173 have not yet taken the second drug and have questions regarding the health of your fetus or are
1174 questioning your decision to terminate your pregnancy, you should consult a physician
1175 immediately.";

1176 (v) inform a pregnant woman that she has the right to view an ultrasound of the unborn
1177 child, at no expense to her, upon her request;

1178 (w) inform a pregnant woman that she has the right to:

1179 (i) determine the final disposition of the remains of the aborted fetus;

1180 (ii) unless the woman waives this right in writing, wait up to 72 hours after the
1181 abortion procedure is performed to make a determination regarding the disposition of the
1182 aborted fetus before the health care facility may dispose of the fetal remains;

1183 (iii) receive information about options for disposition of the aborted fetus, including
1184 the method of disposition that is usual and customary for a health care facility; and

1185 (iv) for a medication-induced abortion, return the aborted fetus to the health care
1186 facility for disposition; and

1187 (x) provide a digital copy of the form described in Subsection 26-21-33(3)(a)(i); and

1188 (y) be in a typeface large enough to be clearly legible.

1189 (3) The information module and website described in Subsection (1) may include a
1190 toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and
1191 description of services, agencies, and adoption attorneys in the locality of the caller.

1192 (4) The department may develop a version of the information module and website that
1193 omits the information in Subsections (2)(j) and (k) for a viewer who is pregnant as the result of
1194 rape.

1195 (5) The department may develop a version of the information module and website that
1196 omits the information described in Subsection (2)(s) for a viewer who will have an abortion
1197 performed:

1198 (a) on an unborn child who is less than 20 weeks gestational age at the time of the
1199 abortion; or

1200 (b) on an unborn child who is at least 20 weeks gestational age at the time of the
1201 abortion, if:

1202 (i) the abortion is being performed for a reason described in Subsection

1203 [~~76-7-302(3)(b)(i)~~] 76-7-302(2)(b)(i) or (ii); and

1204 (ii) due to a serious medical emergency, time does not permit compliance with the
1205 requirement to provide the information described in Subsection (2)(s).

1206 (6) The department and each local health department shall make the information
1207 module and the website described in Subsection (1) available at no cost to any person.

1208 (7) The department shall make the website described in Subsection (1) available for
1209 viewing on the department's website by clicking on a conspicuous link on the home page of the
1210 website.

1211 (8) The department shall ensure that the information module is:

1212 (a) available to be viewed at all facilities where an abortion may be performed;

1213 (b) interactive for the individual viewing the module, including the provision of
1214 opportunities to answer questions and manually engage with the module before the module
1215 transitions from one substantive section to the next;

1216 (c) produced in English and may include subtitles in Spanish or another language; and

1217 (d) capable of being viewed on a tablet or other portable device.

1218 (9) After the department releases the initial version of the information module, for the
1219 use described in Section 76-7-305, the department shall:

1220 (a) update the information module, as required by law; and

1221 (b) present an updated version of the information module to the Health and Human
1222 Services Interim Committee for the committee's review and recommendation before releasing
1223 the updated version for the use described in Section 76-7-305.

1224 Section 23. Section **76-7-313** is amended to read:

1225 **76-7-313. Department's enforcement responsibility -- Physician's report to**
1226 **department.**

1227 (1) In order for the department to maintain necessary statistical information and ensure
1228 enforcement of the provisions of this part:

1229 (a) any physician performing an abortion must obtain and record in writing:

1230 (i) the age, marital status, and county of residence of the woman on whom the abortion
1231 was performed;

1232 (ii) the number of previous abortions performed on the woman described in Subsection
1233 (1)(a)(i);

- 1234 (iii) the hospital or other facility where the abortion was performed;
- 1235 (iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;
- 1236 (v) the pathological description of the unborn child;
- 1237 (vi) the given gestational age of the unborn child;
- 1238 (vii) the date the abortion was performed;
- 1239 (viii) the measurements of the unborn child, if possible to ascertain; and
- 1240 (ix) the medical procedure used to abort the unborn child; and
- 1241 (b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah
- 1242 Administrative Rulemaking Act.
- 1243 (2) Each physician who performs an abortion shall provide the following to the
- 1244 department within 30 days after the day on which the abortion is performed:
- 1245 (a) the information described in Subsection (1);
- 1246 (b) a copy of the pathologist's report described in Section 76-7-309;
- 1247 (c) an affidavit:
- 1248 (i) indicating whether the required consent was obtained pursuant to Sections 76-7-305
- 1249 and 76-7-305.5;
- 1250 (ii) described in Subsection (3), if applicable; and
- 1251 (iii) indicating whether at the time the physician performed the abortion, the physician
- 1252 had any knowledge that the pregnant woman sought the abortion solely because the unborn
- 1253 child had or may have had Down syndrome; and
- 1254 (d) a certificate indicating:
- 1255 [~~(i) whether the unborn child was or was not viable, as defined in Subsection~~
- 1256 ~~76-7-302(1), at the time of the abortion;]~~
- 1257 [(~~ii~~) (i) whether the unborn child was older or younger than 18 weeks gestational age
- 1258 at the time of the abortion; and
- 1259 [(~~iii~~) (ii) [~~if the unborn child was viable, as defined in Subsection 76-7-302(1), or~~
- 1260 ~~older than 18 weeks gestational age at the time of the abortion,]~~ the reason for the abortion.
- 1261 (3) If the information module or the address to the website is not provided to a
- 1262 pregnant woman, the physician who performs the abortion on the woman shall, within 10 days
- 1263 after the day on which the abortion is performed, provide to the department an affidavit that:
- 1264 (a) specifies the information that was not provided to the woman; and

1265 (b) states the reason that the information was not provided to the woman.

1266 (4) All information supplied to the department shall be confidential and privileged
1267 pursuant to Title 26, Chapter 25, Confidential Information Release.

1268 (5) The department shall pursue all administrative and legal remedies when the
1269 department determines that a physician or a facility has not complied with the provisions of this
1270 part.

1271 Section 24. Section **76-7-314** is amended to read:

1272 **76-7-314. Violations of abortion laws -- Classifications.**

1273 (1) [~~A willful~~] An intentional violation of Section [76-7-307](#), [76-7-308](#), [76-7-310](#),
1274 [76-7-310.5](#), [76-7-311](#), or [76-7-312](#) is a felony of the third degree.

1275 (2) A violation of Section [76-7-326](#) is a felony of the third degree.

1276 (3) A violation of Section [~~76-7-302.5~~ or] [76-7-314.5](#) is a felony of the second degree.

1277 (4) A violation of any other provision of this part, including Subsections
1278 [76-7-305](#)(2)(a) through (c), and (e), is a class A misdemeanor.

1279 (5) The [~~Department of Health~~] department shall report a physician's violation of any
1280 provision of this part to the Physicians Licensing Board, described in Section [58-67-201](#).

1281 (6) Any person with knowledge of a physician's violation of any provision of this part
1282 may report the violation to the Physicians Licensing Board, described in Section [58-67-201](#).

1283 (7) In addition to the penalties described in this section, the department may take any
1284 action described in Section [26-21-11](#) against [~~an abortion clinic~~] a health care facility if a
1285 violation of this chapter occurs at the [~~abortion clinic~~] health care facility.

1286 Section 25. Section **76-7-314.5** is amended to read:

1287 **76-7-314.5. Killing an unborn child.**

1288 (1) A person is guilty of killing an unborn child if the person intentionally causes the
1289 death of an unborn child by performing an abortion of the unborn child in violation of the
1290 provisions of Subsection [~~76-7-302(3)~~] [76-7-302\(2\)](#).

1291 (2) A woman is not criminally liable for:

1292 (a) seeking to obtain, or obtaining, an abortion that is permitted by this part; or

1293 (b) a physician's failure to comply with Subsection [~~76-7-302(3)(b)(ii)~~]
1294 [76-7-302\(2\)\(b\)\(ii\)](#) or Section [76-7-305](#).

1295 Section 26. Section **76-7-317** is amended to read:

1296 **76-7-317. Severability clause.**

1297 If any one or more provision, section, subsection, sentence, clause, phrase, or word of
1298 this part or the application thereof to any person or circumstance is found to be
1299 unconstitutional, the same is hereby declared to be severable and the balance of this part shall
1300 remain effective notwithstanding such unconstitutionality. The legislature hereby declares that
1301 it would have passed this part, and each provision, section, subsection, sentence, clause, phrase,
1302 or word thereof, irrespective of the fact that any one or more provision, section, subsection,
1303 sentence, clause, phrase, or word be declared unconstitutional. This section applies to any
1304 provision, section, subsection, sentence, clause, phrase, or word of this part, regardless of the
1305 time of enactment, amendment, or repeal.

1306 Section 27. Section **76-7-332** is enacted to read:

1307 **76-7-332. Drugs known to be used for abortion -- Prescriber limitation --**

1308 **Criminal penalties -- Pharmacy presumption for other use.**

1309 (1) As used in the section, "abortion-related drug" means a drug or medication that is
1310 known to be used for the purpose of performing an abortion, and includes:

1311 (a) methotrexate, or methotrexate with misoprostol;

1312 (b) mifepristone, also known as mifeprex;

1313 (c) misoprostol, also known as cytotec; and

1314 (d) RU-486.

1315 (2) An individual may not prescribe an abortion-related drug for the purpose of causing
1316 an abortion, unless the individual is licensed as a physician in this state under:

1317 (a) Title 58, Chapter 67, Utah Medical Practice Act; or

1318 (b) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

1319 (3) A violation of Subsection (2) is a class B misdemeanor.

1320 (4) (a) Any prescription or medical order for a drug that is known to possibly cause an
1321 abortion shall be presumed by a pharmacy to be for an indication other than for the termination
1322 of a pregnancy.

1323 (b) A pharmacy dispensing a prescription or medical order for a drug that is known to
1324 possibly cause an abortion shall not be required to verify whether the prescription or medical
1325 order violates any provision of this chapter.

1326 Section 28. Section **76-7a-101** is amended to read:

1327 **76-7a-101. Definitions.**

1328 As used in this chapter:

1329 (1) (a) "Abortion" means~~[:]~~ the act, by a physician, of using an instrument, or
1330 prescribing a drug, with the intent to cause the death of an unborn child of a woman known to
1331 be pregnant, except as permitted under this chapter.

1332 ~~[(i) the intentional termination or attempted termination of human pregnancy after~~
1333 ~~implantation of a fertilized ovum through a medical procedure carried out by a physician or~~
1334 ~~through a substance used under the direction of a physician;]~~

1335 ~~[(ii) the intentional killing or attempted killing of a live unborn child through a medical~~
1336 ~~procedure carried out by a physician or through a substance used under the direction of a~~
1337 ~~physician; or]~~

1338 ~~[(iii) the intentional causing or attempted causing of a miscarriage through a medical~~
1339 ~~procedure carried out by a physician or through a substance used under the direction of a~~
1340 ~~physician.]~~

1341 (b) "Abortion" does not include:

1342 (i) removal of a dead unborn child;

1343 (ii) removal of an ectopic pregnancy; or

1344 (iii) the killing or attempted killing of an unborn child without the consent of the
1345 pregnant woman, unless:

1346 (A) the killing or attempted killing is done through a medical procedure carried out by
1347 a physician or through a substance used under the direction of a physician; and

1348 (B) the physician is unable to obtain the consent due to a medical emergency.

1349 ~~[(2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II~~
1350 ~~abortion clinic licensed by the state.]~~

1351 ~~[(3)]~~ (2) "Department" means the Department of Health and Human Services.

1352 ~~[(4)]~~ (3) "Down syndrome" means a genetic condition associated with an extra
1353 chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

1354 ~~[(5)]~~ (4) "Hospital" means:

1355 (a) a general hospital licensed by the department; ~~Ŝ→ [or]~~ and ~~←Ŝ~~

1356 (b) a clinic or other medical facility ~~[to the extent the clinic or other medical facility is~~
1357 ~~certified by the department as providing equipment and personnel sufficient in quantity and~~

1358 ~~quality to provide the same degree of safety to a pregnant woman and an unborn child as would~~
1359 ~~be provided for the particular medical procedure undertaken by a general hospital licensed by~~
1360 ~~the department.] that meets the following criteria:~~

1361 (i) a clinician who performs procedures at the clinic is required to be credentialed to
1362 perform the same procedures at a general hospital licensed by the department; and

1363 (ii) any procedures performed at the clinic are done with the same level of safety for
1364 the pregnant woman and unborn child as would be available in a general hospital licensed by
1365 the department.

1366 [~~(6) "Incest" means the same as that term is defined in Section 80-1-102.~~]

1367 [~~(7) (5) "Medical emergency" means a [condition which, on the basis of the~~
1368 ~~physician's good faith clinical judgment, so threatens the life of a pregnant woman as to~~
1369 ~~necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay~~
1370 ~~will create serious risk of substantial and irreversible impairment of major bodily function] life~~
1371 ~~threatening physical condition aggravated by, caused by, or arising from a pregnancy that~~
1372 ~~places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of~~
1373 ~~a major bodily function, unless the abortion is performed or induced.~~

1374 (6) "Perinatal hospice" means comprehensive support to the mother and her family
1375 from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's birth,
1376 and through the postpartum period, that:

1377 (a) focuses on alleviating fear and ensuring that the woman and her family experience
1378 the life and death of a child in a comfortable and supportive environment; and

1379 (b) may include counseling or medical care by:

1380 (i) maternal-fetal medical specialists;

1381 (ii) obstetricians;

1382 (iii) neonatologists;

1383 (iv) anesthesia specialists;

1384 (v) psychiatrists, psychologists, or other mental health providers;

1385 (vi) clergy;

1386 (vii) social workers; or

1387 (viii) specialty nurses

1388 [~~(8) (7) "Physician" means:~~

- 1389 (a) a medical doctor licensed to practice medicine and surgery in the state;
- 1390 (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or
- 1391 (c) a physician employed by the federal government who has qualifications similar to
- 1392 an individual described in Subsection ~~[(8)(a) or (b)]~~ (7)(a) or (b).

1393 ~~[(9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.]~~
 1394 ~~[(10)]~~ (8) (a) "Severe brain abnormality" means a malformation or defect that causes an
 1395 individual to live in a mentally vegetative state.

- 1396 (b) "Severe brain abnormality" does not include:
- 1397 (i) Down syndrome;
- 1398 (ii) spina bifida;
- 1399 (iii) cerebral palsy; or
- 1400 (iv) any other malformation, defect, or condition that does not cause an individual to
- 1401 live in a mentally vegetative state.

1402 Section 29. Section ~~76-7a-201~~ is amended to read:

1403 **76-7a-201. Abortion prohibition -- Exceptions -- Penalties.**

1404 (1) An abortion may be performed in this state only under the following circumstances:

- 1405 (a) the abortion is necessary to avert:
- 1406 (i) the death of the woman on whom the abortion is performed; or
- 1407 (ii) a serious physical risk of substantial ~~[and irreversible]~~ impairment of a major
- 1408 bodily function of the woman on whom the abortion is performed;

1409 (b) subject to Subsection (3), two physicians who practice maternal fetal medicine
 1410 concur, in writing, in the patient's medical record that the fetus~~[-]~~ has a fetal abnormality that in
 1411 the physicians' reasonable medical judgment is incompatible with life; or

1412 ~~[(i) has a defect that is uniformly diagnosable and uniformly lethal; or]~~

1413 ~~[(ii) has a severe brain abnormality that is uniformly diagnosable; or]~~

1414 (c) ~~[(i)]~~ the unborn child has not reached 18 weeks gestational age and:

1415 (i) (A) the woman is pregnant as a result of:

1416 ~~[(A)]~~ (I) rape, as described in Section 76-5-402;

1417 ~~[(B)]~~ (II) rape of a child, as described in Section 76-5-402.1; or

1418 ~~[(C)]~~ (III) incest~~[-and]~~, as described in Subsection 76-5-406(2)(j) or Section 76-7-102;

1419 or

1420 (B) the pregnant ~~Œ~~→ [woman] child ←Œ is under the age of 14; and

1421 (ii) before the abortion is performed, the physician who performs the abortion:

1422 (A) for an abortion authorized under Subsection (1)(c)(i)(A), verifies that the incident

1423 described in Subsection ~~[(1)(c)(i)]~~ (1)(c)(i)(A) has been reported to law enforcement; and

1424 (B) if applicable, complies with requirements related to reporting suspicions of or

1425 known child abuse.

1426 (2) An abortion may be performed only:

1427 (a) by a physician; and

1428 (b) in ~~[an abortion clinic or]~~ a hospital, unless it is necessary to perform the abortion in

1429 another location due to a medical emergency.

1430 (3) If the unborn child has been diagnosed with a fetal abnormality that is incompatible

1431 with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and

1432 in writing, that perinatal hospice services and perinatal palliative care are available and are an

1433 alternative to abortion.

1434 ~~[(3)]~~ (4) A person who performs an abortion in violation of this section is guilty of a

1435 second degree felony.

1436 ~~[(4)]~~ (5) In addition to the penalty described in Subsection ~~[(3)]~~ (4), the department

1437 may take appropriate corrective action against ~~[an abortion clinic]~~ a health care facility,

1438 including revoking the ~~[abortion clinic's]~~ health care facility's license, if a violation of this

1439 chapter occurs at the ~~[abortion clinic]~~ health care facility.

1440 ~~[(5)]~~ (6) The department shall report a physician's violation of any provision of this

1441 section to the state entity that regulates the licensing of a physician.

Section 30. **Repealer.**

This bill repeals:

Section **76-7-302.5, Circumstances under which abortion prohibited.**