

ABORTION CHANGES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Daniel McCay

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 limited exceptions;
- ▶ prohibits licensing of abortion clinics after May 2, 2023;
- ▶ removes certain references to abortion clinics;
- ▶ provides that inducing or performing an abortion contrary to statutory requirements is unprofessional conduct for a physician, osteopathic physician, physician assistant, advanced practice registered nurse, certified nurse midwife, and direct-entry midwife;
- ▶ modifies provisions that govern what constitutes a medical emergency in relation to an abortion;
- ▶ modifies the conditions under which an abortion may be performed to protect the life or health of the mother;
- ▶ amends language related to medical defects of a fetus;
- ▶ establishes that certain abortion methods are preferred in an abortion involving medical defects of a fetus;
- ▶ repeals the statute that established a prohibition on abortions after 18 weeks and



28 incorporates its contents into existing statute, replacing language that established
 29 now-superseded viability standards;

- 30 ▶ standardizes language between various statutes that regulate abortion;
- 31 ▶ treats an individual who becomes pregnant at a certain age as having the same
 32 access to abortion services as rape or incest situations;
- 33 ▶ restricts the ability to receive an abortion due to rape or incest to a pregnancy where
 34 the unborn child has not reached 18 weeks gestational age;
- 35 ▶ modifies state of mind standards for criminal act;
- 36 ▶ provides for severability;
- 37 ▶ provides for regulation of drugs that are known to be used in relation to an abortion;
- 38 ▶ creates a criminal offense for prescribing a drug for the purpose of causing an
 39 abortion, unless the prescriber is licensed as a physician under the laws of this state;
- 40 and
- 41 ▶ makes technical changes.

42 **Money Appropriated in this Bill:**

43 None

44 **Other Special Clauses:**

45 None

46 **Utah Code Sections Affected:**

47 AMENDS:

- 48 [26-21-6.5](#), as last amended by Laws of Utah 2018, Chapter 282
- 49 [26-21-7](#), as last amended by Laws of Utah 2019, Chapter 349
- 50 [26-21-8](#), as last amended by Laws of Utah 2016, Chapter 74
- 51 [26-21-11](#), as last amended by Laws of Utah 1997, Chapter 209
- 52 [26-21-25](#), as last amended by Laws of Utah 2010, Chapter 218
- 53 [58-31b-502](#), as last amended by Laws of Utah 2022, Chapter 290
- 54 [58-44a-502](#), as last amended by Laws of Utah 2020, Chapter 25
- 55 [58-67-304](#), as last amended by Laws of Utah 2020, Chapters 12, 339
- 56 [58-67-502](#), as last amended by Laws of Utah 2021, Chapter 337
- 57 [58-68-304](#), as last amended by Laws of Utah 2020, Chapters 12, 339
- 58 [58-68-502](#), as last amended by Laws of Utah 2021, Chapter 337

- 59 **58-70a-501**, as last amended by Laws of Utah 2021, Chapter 312
- 60 **58-77-603**, as enacted by Laws of Utah 2005, Chapter 299
- 61 **63I-2-276**, as last amended by Laws of Utah 2022, Chapter 117
- 62 **76-7-301**, as last amended by Laws of Utah 2021, Chapter 262
- 63 **76-7-302**, as last amended by Laws of Utah 2022, Chapter 335
- 64 **76-7-302.4**, as enacted by Laws of Utah 2019, Chapter 124
- 65 **76-7-304**, as last amended by Laws of Utah 2018, Chapter 282
- 66 **76-7-304.5**, as last amended by Laws of Utah 2022, Chapter 287
- 67 **76-7-305**, as last amended by Laws of Utah 2022, Chapter 181
- 68 **76-7-314**, as last amended by Laws of Utah 2019, Chapter 208
- 69 **76-7-314.5**, as last amended by Laws of Utah 2010, Chapter 13
- 70 **76-7-317**, as enacted by Laws of Utah 1974, Chapter 33
- 71 **76-7a-101**, as last amended by Laws of Utah 2021, Chapter 262
- 72 **76-7a-201**, as enacted by Laws of Utah 2020, Chapter 279

73 ENACTS:

- 74 **76-7-332**, Utah Code Annotated 1953

75 REPEALS:

- 76 **76-7-302.5**, as enacted by Laws of Utah 2019, Chapter 208



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

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

80 **26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee.**

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

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

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

87 (3) For any license that is issued under this section:

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

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

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

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

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

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

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

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

102 ~~[(c)]~~ (iii) comply with the recordkeeping and reporting requirements of Section
103 [76-7-313](#);

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

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

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

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

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

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

119 Section 2. Section **26-21-7** is amended to read:

120 **26-21-7. Exempt facilities.**

121 This chapter does not apply to:

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

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

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

127 (4) a health care facility established or operated by any recognized church or
128 denomination for the practice of religious tenets administered by mental or spiritual means
129 without the use of drugs, whether gratuitously or for compensation, if it complies with statutes
130 and rules on environmental protection and life safety;

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

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

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

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

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

139 Section 3. Section 26-21-8 is amended to read:

140 **26-21-8. License required -- Not assignable or transferable -- Posting --**

141 **Expiration and renewal -- Time for compliance by operating facilities.**

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

146 (b) This Subsection (1) does not apply to facilities that are exempt under Section
147 26-21-7.

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

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

151 (4) (a) The department may issue a license for a period of time ~~[not to exceed 12~~

152 ~~months from the date of issuance for an abortion clinic and]~~ not to exceed 24 months from the
153 date of issuance for ~~[other]~~ health care facilities that meet the provisions of this chapter and
154 department rules adopted pursuant to this chapter.

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

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

160 (5) A license may be issued under this section only for the operation of a specific
161 facility at a specific site by a specific person.

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

165 Section 4. Section **26-21-11** is amended to read:

166 **26-21-11. Violations -- Denial or revocation of license -- Restricting or prohibiting**
167 **new admissions -- Monitor.**

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

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

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

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

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

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

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

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

182 ~~[(b)]~~ (ii) permitting, aiding, or abetting the commission of any illegal act in the health

183 care facility;

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

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

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

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

189 (2) If the department finds that an abortion has been performed in violation of Section
190 76-7-314 or 76-7a-201, the department shall deny or revoke the license.

191 Section 5. Section 26-21-25 is amended to read:

192 **26-21-25. Patient identity protection.**

193 (1) As used in this section:

194 (a) "EMTALA" means the federal Emergency Medical Treatment and Active Labor

195 Act.

196 (b) "Health professional office" means:

197 (i) a physician's office; or

198 (ii) a dental office.

199 (c) "Medical facility" means:

200 (i) a general acute hospital;

201 (ii) a specialty hospital;

202 (iii) a home health agency;

203 (iv) a hospice;

204 (v) a nursing care facility;

205 (vi) a residential-assisted living facility;

206 (vii) a birthing center;

207 (viii) an ambulatory surgical facility;

208 (ix) a small health care facility;

209 ~~[(x) an abortion clinic;]~~

210 ~~[(xi)]~~ (x) a facility owned or operated by a health maintenance organization;

211 ~~[(xii)]~~ (xi) an end stage renal disease facility;

212 ~~[(xiii)]~~ (xii) a health care clinic; or

213 ~~[(xiv)]~~ (xiii) any other health care facility that the committee designates by rule.

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

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

- 221 (i) for the individual who lacks the legal capacity to consent to treatment; and
- 222 (ii) from the individual who consents to treatment on behalf of the individual described
223 in Subsection (2)(b)(i).

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

225 (a) that is subject to EMTALA:

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

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

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

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

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

233 (i) photograph;

234 (ii) fingerprinting;

235 (iii) palm scan; or

236 (iv) other reasonable means.

237 (4) The identification described in this section:

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

239 (b) shall be kept in accordance with the requirements of the Health Insurance

240 Portability and Accountability Act of 1996.

241 Section 6. Section **58-31b-502** is amended to read:

242 **58-31b-502. Unprofessional conduct.**

243 (1) "Unprofessional conduct" includes:

244 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,

245 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
246 because of the licensee's or person with a certification's position or practice as a nurse or
247 practice as a medication aide certified;

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

252 (c) engaging in sexual relations with a patient during any:

253 (i) period when a generally recognized professional relationship exists between the
254 person licensed or certified under this chapter and the patient; or

255 (ii) extended period when a patient has reasonable cause to believe a professional
256 relationship exists between the person licensed or certified under the provisions of this chapter
257 and the patient;

258 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
259 information about a patient or exploiting the licensee's or the person with a certification's
260 professional relationship between the licensee or holder of a certification under this chapter and
261 the patient; or

262 (ii) exploiting the patient by use of the licensee's or person with a certification's
263 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

264 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

265 (f) unauthorized taking or personal use of nursing supplies from an employer;

266 (g) unauthorized taking or personal use of a patient's personal property;

267 (h) unlawful or inappropriate delegation of nursing care;

268 (i) failure to exercise appropriate supervision of persons providing patient care services
269 under supervision of the licensed nurse;

270 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
271 person to practice as a nurse;

272 (k) failure to file or record any medical report as required by law, impeding or
273 obstructing the filing or recording of such a report, or inducing another to fail to file or record
274 such a report;

275 (l) breach of a statutory, common law, regulatory, or ethical requirement of

276 confidentiality with respect to a person who is a patient, unless ordered by a court;

277 (m) failure to pay a penalty imposed by the division;

278 (n) prescribing a Schedule II controlled substance without complying with the
279 requirements in Section 58-31b-803, if applicable;

280 (o) violating Section 58-31b-801;

281 (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part
282 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if
283 applicable;

284 (q) performing or inducing an abortion in violation of the requirements of Section
285 76-7-302 or Section 76-7a-201, regardless of whether the person licensed or certified under the
286 provisions of this chapter is found guilty of a crime in connection with the violation;

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

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

291 (ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1); or

292 [~~(s)~~] (s) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis
293 Act.

294 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
295 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as
296 a limited medical provider, as those terms are defined in Section 26-61a-102, recommending
297 the use of medical cannabis.

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

301 Section 7. Section 58-44a-502 is amended to read:

302 **58-44a-502. Unprofessional conduct.**

303 "Unprofessional conduct" includes:

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

306 (2) engaging in an act, practice, or omission which when considered with the duties

307 and responsibilities of a certified nurse midwife does or could jeopardize the health, safety, or
308 welfare of a patient or the public;

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

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

314 (5) breach of a statutory, common law, regulatory, or ethical requirement of
315 confidentiality with respect to a person who is a patient, unless ordered by the court;

316 (6) failure to pay a penalty imposed by the division;

317 (7) prescribing a schedule II-III controlled substance without a consulting physician;

318 (8) performing or inducing an abortion in violation of the requirements of Section
319 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
320 is found guilty of a crime in connection with the violation;

321 [~~(8)~~] (9) (a) failure to have and maintain a safe mechanism for obtaining medical
322 consultation, collaboration, and referral with a consulting physician, including failure to
323 identify one or more consulting physicians in the written documents required by Subsection
324 58-44a-102(9)(b)(iii); or

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

328 [~~(9)~~] (10) falsely making an entry in, or altering, a medical record with the intent to
329 conceal:

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

332 (b) conduct described in Subsections (1) through [~~(8)~~] (9) or Subsection 58-1-501(1).

333 Section 8. Section 58-67-304 is amended to read:

334 **58-67-304. License renewal requirements.**

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

337 (a) complete qualified continuing professional education requirements in accordance

338 with the number of hours and standards defined by division rule made in collaboration with the
339 board;

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

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

345 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,
346 successfully complete the educational methods and programs described in Subsection
347 58-67-807(4).

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

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

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

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

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

364 (4) In order to assist the Department of Health and Human Services in fulfilling ~~[its]~~
365 the department's responsibilities relating to the licensing of ~~[an abortion clinic]~~ a health care
366 facility and the enforcement of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a,
367 Abortion Prohibition, if a physician responds positively to the question described in Subsection
368 ~~[(3)(a);]~~ (3)(a)(i) the division shall, within 30 days after the day on which ~~[it]~~ the division

369 renews the physician's license under this chapter, inform the Department of Health and Human
 370 Services in writing:

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

372 (b) that the physician responded positively to the question described in Subsection

373 ~~[(3)(a)]~~ (3)(a)(i).

374 (5) The division shall accept and apply toward the hour requirement in Subsection

375 (1)(a) any continuing education that a physician completes in accordance with Sections

376 [26-61a-106](#) and [26-61a-403](#).

377 Section 9. Section **58-67-502** is amended to read:

378 **58-67-502. Unprofessional conduct.**

379 (1) "Unprofessional conduct" includes, in addition to the definition in Section

380 [58-1-501](#):

381 (a) using or employing the services of any individual to assist a licensee in any manner

382 not in accordance with the generally recognized practices, standards, or ethics of the

383 profession, state law, or division rule;

384 (b) making a material misrepresentation regarding the qualifications for licensure under

385 Section [58-67-302.7](#) or Section [58-67-302.8](#);

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

387 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

388 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act;

389 ~~[or]~~

390 (e) performing or inducing an abortion in violation of the requirements of Section

391 [76-7-302](#) or Section [76-7a-201](#), regardless of whether the individual licensed under this chapter

392 is found guilty of a crime in connection with the violation; or

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

394 conceal:

395 (i) a wrongful or negligent act or omission of an individual licensed under this chapter

396 or an individual under the direction or control of an individual licensed under this chapter; or

397 (ii) conduct described in Subsections (1)(a) through (d) or Subsection [58-1-501](#)(1).

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

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

- 400 (i) obtaining an investigational drug or investigational device;
- 401 (ii) administering the investigational drug to an eligible patient; or
- 402 (iii) treating an eligible patient with the investigational drug or investigational device;

403 or

- 404 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:
 - 405 (i) when registered as a qualified medical provider or acting as a limited medical
 - 406 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical
 - 407 cannabis;
 - 408 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
 - 409 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or
 - 410 (iii) when registered as a state central patient portal medical provider, as that term is
 - 411 defined in Section 26-61a-102, providing state central patient portal medical provider services.

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

415 Section 10. Section 58-68-304 is amended to read:

416 **58-68-304. License renewal requirements.**

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

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

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

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

428 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,
429 successfully complete the educational methods and programs described in Subsection
430 58-68-807(4).

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

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

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

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

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

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

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

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

457 (5) The division shall accept and apply toward the hour requirement in Subsection
458 (1)(a) any continuing education that a physician completes in accordance with Sections
459 26-61a-106 and 26-61a-403.

460 Section 11. Section 58-68-502 is amended to read:

461 **58-68-502. Unprofessional conduct.**

462 (1) "Unprofessional conduct" includes, in addition to the definition in Section
463 58-1-501:

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

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

469 (c) making a material misrepresentation regarding the qualifications for licensure under
470 Section 58-68-302.5;

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

473 (e) performing or inducing an abortion in violation of the requirements of Section
474 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
475 is found guilty of a crime in connection with the violation; or

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

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

480 (ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

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

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

483 (i) obtaining an investigational drug or investigational device;
484 (ii) administering the investigational drug to an eligible patient; or
485 (iii) treating an eligible patient with the investigational drug or investigational device;

486 or

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

488 (i) when registered as a qualified medical provider or acting as a limited medical
489 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical
490 cannabis;

491 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
492 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

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

498 Section 12. Section 58-70a-501 is amended to read:

499 **58-70a-501. Scope of practice.**

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

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

505 (a) as indicated by the patient's condition;

506 (b) based on the physician assistant's education, experience, and competencies;

507 (c) the applicable standard of care; and

508 (d) if applicable, in accordance with the requirements described in Section 58-70a-307.

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

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

512 (i) employer;

513 (ii) group;

514 (iii) hospital service; or

515 (iv) health care facility credentialing and privileging system; and

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

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

519 (a) for which the physician assistant has been trained and credentialed, privileged, or
520 authorized to perform; and

521 (b) that are within the physician assistant's practice specialty.

522 (5) A physician assistant may authenticate through a signature, certification, stamp,
523 verification, affidavit, or endorsement any document that may be authenticated by a physician

524 and that is within the physician assistant's scope of practice.

525 (6) A physician assistant is responsible for the care that the physician assistant
526 provides.

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

528 (i) "ALS/ACLS certification" means a certification:

529 (A) in advanced life support by the American Red Cross;

530 (B) in advanced cardiac life support by the American Heart Association; or

531 (C) that is equivalent to a certification described in Subsection (7)(a)(i)(A) or (B).

532 (ii) "Minimal sedation anxiolysis" means creating a drug induced state:

533 (A) during which a patient responds normally to verbal commands;

534 (B) which may impair cognitive function and physical coordination; and

535 (C) which does not affect airway, reflexes, or ventilatory and cardiovascular function.

536 (b) Except as provided in Subsections (c) through (e), a physician assistant may not
537 administer general anesthetics.

538 (c) A physician assistant may perform minimal sedation anxiolysis if the procedure is
539 within the physician assistant's scope of practice.

540 (d) A physician assistant may perform rapid sequence induction for intubation of a
541 patient if:

542 (i) the procedure is within the physician assistant's scope of practice;

543 (ii) the physician assistant holds a valid ALS/ACLS certification and is credentialed
544 and privileged at the hospital where the procedure is performed; and

545 (iii) (A) a qualified physician is not available and able to perform the procedure; or

546 (B) the procedure is performed by the physician assistant under supervision of or
547 delegation by a physician.

548 (e) Subsection (7)(b) does not apply to anesthetics administered by a physician
549 assistant:

550 (i) in an intensive care unit of a hospital;

551 (ii) for the purpose of enabling a patient to tolerate ventilator support or intubation; and

552 (iii) under supervision of or delegation by a physician whose usual scope of practice
553 includes the procedure.

554 (8) (a) A physician assistant may prescribe or administer an appropriate controlled

555 substance that is within the physician assistant's scope of practice if the physician assistant
556 holds a Utah controlled substance license and a DEA registration.

557 (b) A physician assistant may prescribe, order, administer, and procure a drug or
558 medical device that is within the physician assistant's scope of practice.

559 (c) A physician assistant may dispense a drug if dispensing the drug:

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

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

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

565 [~~9~~] (10) A physician assistant practicing independently may only perform or provide
566 a health care service that:

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

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

570 [~~10~~] (11) A physician assistant, while practicing as a physician assistant:

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

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

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

576 Section 13. Section **58-77-603** is amended to read:

577 **58-77-603. Prohibited practices.**

578 A direct-entry midwife may not:

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

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

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

584 (4) use forceps or a vacuum extractor;

585 (5) manually remove the placenta, except in an emergency that presents an immediate

586 threat to the life of the client; or

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

590 Section 14. Section **63I-2-276** is amended to read:

591 **63I-2-276. Repeal dates: Title 76.**

592 (1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an
593 owner, employee, or contractor of a health facility, is repealed January 1, 2027.

594 ~~[(2) If Section 76-7-302.4 is not in effect before January 1, 2029, Section 76-7-302.4 is~~
595 ~~repealed January 1, 2029;]~~

596 ~~[(3)]~~ (2) Section 76-7-305.7 is repealed January 1, 2023.

597 Section 15. Section **76-7-301** is amended to read:

598 **76-7-301. Definitions.**

599 As used in this part:

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

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

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

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

612 (b) "Abortion" does not include:

613 (i) removal of a dead unborn child;

614 (ii) removal of an ectopic pregnancy; or

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

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

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

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

621 [~~(3)~~] (2) "Abuse" means the same as that term is defined in Section 80-1-102.

622 [~~(4)~~] (3) "Department" means the Department of Health and Human Services.

623 [~~(5)~~] (4) "Down syndrome" means a genetic condition associated with an extra
624 chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

625 [~~(6)~~] (5) "Gestational age" means the age of an unborn child as calculated from the first
626 day of the last menstrual period of the pregnant woman.

627 [~~(7)~~] (6) "Hospital" means:

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

630 (b) a clinic or other medical facility to the extent that such clinic or other medical
631 facility is certified by the department as providing equipment and personnel sufficient in
632 quantity and quality to provide the same degree of safety to the pregnant woman and the
633 unborn child as would be provided for the particular medical procedures undertaken by a
634 general hospital licensed by the department.

635 [~~(8)~~] (7) "Information module" means the pregnancy termination information module
636 prepared by the department.

637 [~~(9)~~] (8) "Medical emergency" means [~~that condition which, on the basis of the~~
638 ~~physician's good faith clinical judgment, so threatens the life of a pregnant woman as to~~
639 ~~necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay~~
640 ~~will create serious risk of substantial and irreversible impairment of major bodily function]~~ a
641 life threatening physical condition aggravated by, caused by, or arising from a pregnancy that
642 places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of
643 a major bodily function, unless the abortion is performed or induced.

644 [~~(10)~~] (9) "Minor" means an individual who is:

645 (a) under 18 years old;

646 (b) unmarried; and

647 (c) not emancipated.

648 ~~[(11)]~~ (10) (a) "Partial birth abortion" means an abortion in which the person
649 performing the abortion:

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

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

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

660 ~~[(12)]~~ (11) "Physician" means:

661 (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter
662 67, Utah Medical Practice Act;

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

665 (c) a physician employed by the federal government who has qualifications similar to
666 ~~[a person]~~ an individual described in Subsection ~~[(12)(a)]~~ (11)(a) or (b).

667 ~~[(13)]~~ (12) (a) "Severe brain abnormality" means a malformation or defect that causes
668 an individual to live in a mentally vegetative state.

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

670 (i) Down syndrome;

671 (ii) spina bifida;

672 (iii) cerebral palsy; or

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

675 Section 16. Section **76-7-302** is amended to read:

676 **76-7-302. Circumstances under which abortion authorized.**

677 ~~[(1) As used in this section, "viable" means that the unborn child has reached a stage of~~
678 ~~fetal development when the unborn child is potentially able to live outside the womb, as~~

679 ~~determined by the attending physician to a reasonable degree of medical certainty.]~~

680 ~~[(2)] (1) An abortion may be performed in this state only by a physician.~~

681 ~~[(3)] (2) An abortion may be performed in this state only under the following~~
682 ~~circumstances:~~

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

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

685 ~~(i) the abortion is necessary to avert:~~

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

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

689 ~~(ii) subject to Subsection (4), two physicians who practice maternal fetal medicine~~

690 ~~concur, in writing, in the patient's medical record that the fetus[*] has a fetal abnormality that in~~

691 ~~the physicians' reasonable medical judgment is incompatible with life; or~~

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

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

694 ~~[(iii)-(A)] (c) the unborn child has not reached 18 weeks gestational age; and~~

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

696 ~~(I) rape, as described in Section 76-5-402;~~

697 ~~(II) rape of a child, as described in Section 76-5-402.1; or~~

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

699 ~~(B) the pregnant woman is under the age of 12; and~~

700 ~~[(B)] (ii) before the abortion is performed, the physician who performs the abortion:~~

701 ~~[(F)] (A) verifies that the incident described in Subsection ~~[(3)(b)(iii)(A)]~~ (2)(c)(i)(A)~~

702 ~~has been reported to law enforcement; and~~

703 ~~[(H)] (B) if applicable, complies with the requirements of Section 80-2-602.~~

704 ~~[(4)] (3) An abortion may be performed only in [~~an abortion clinic or~~] a hospital, unless~~
705 ~~it is necessary to perform the abortion in another location due to a medical emergency.~~

706 ~~(4) If an abortion is performed under Subsection (2)(b)(ii), the abortion shall be~~

707 ~~performed by means of labor rather than in utero, unless the induction of labor poses an~~

708 ~~unacceptably higher risk to the mother than other methods.~~

709 ~~Section 17. Section 76-7-302.4 is amended to read:~~

710 **76-7-302.4. Abortion restriction of an unborn child with Down syndrome.**

711 Notwithstanding any other provision of this part, an abortion may not be performed if
712 the pregnant mother's sole reason for the abortion is that the unborn child has or may have
713 Down syndrome, unless the abortion is permissible for a reason described in [~~Subsection~~
714 ~~76-7-302(3)(b)~~] Section 76-7-302.

715 Section 18. Section ~~76-7-304~~ is amended to read:

716 **76-7-304. Considerations by physician -- Notice to a parent or guardian --**
717 **Exceptions.**

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

- 721 (a) her physical, emotional, and psychological health and safety;
- 722 (b) her age; and
- 723 (c) her familial situation.

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

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

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

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

732 (A) the minor's death; or

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

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

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

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

740 (ii) (A) the minor is pregnant as a result of incest to which the parent or guardian was a

741 party; or

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

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

745 (4) (a) If, for the reason described in Subsection (3)(a), a physician does not give the
746 24-hour notice described in Subsection (2), the physician shall give the required notice as early
747 as possible before the abortion, unless it is necessary to perform the abortion immediately in
748 order to avert the minor's death or impairment described in Subsection (3)(a)(i).

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

753 (5) If, for a reason described in Subsection (3)(b)(ii)(A) or (B), a physician does not
754 notify a parent or guardian of a minor that the minor intends to have an abortion, the physician
755 shall report the incest or abuse to the Division of Child and Family Services within the
756 Department of Health and Human Services.

757 Section 19. Section **76-7-304.5** is amended to read:

758 **76-7-304.5. Consent required for abortions performed on minors -- Division of**
759 **Child and Family Services as guardian of a minor -- Hearing to allow a minor to**
760 **self-consent -- Appeals.**

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

763 (a) the physician obtains the informed written consent of a parent or guardian of the
764 minor, in accordance with Sections [76-7-305](#) and [76-7-305.5](#);

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

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

770 (A) the minor's death; or

771 (B) a serious physical risk of substantial [~~and irreversible~~] impairment of a major

772 bodily function of the minor; and

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

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

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

778 or

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

780 (b) Neither Subsection (1) nor this Subsection (2) require the minor to seek or obtain
781 consent from the minor's parent or guardian if the circumstances described in Subsection
782 76-7-304(3)(b)(ii) exist.

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

785 (4) (a) The juvenile court shall close the hearing on a petition described in Subsection
786 (3) to the public.

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

790 (i) the minor:

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

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

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

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

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

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

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

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

801 Section 20. Section 76-7-305 is amended to read:

802 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**

803 -- **Exceptions.**

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

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

809 (b) the provisions of this section.

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

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

815 (b) the pregnant woman views the entire information module and presents evidence to
816 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire
817 information module;

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

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

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

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

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

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

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

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

- 834 (iv) the options and consequences of aborting a medication-induced abortion, if the
835 proposed abortion procedure is a medication-induced abortion;
- 836 (v) the probable gestational age and a description of the development of the unborn
837 child at the time the abortion would be performed;
- 838 (vi) the medical risks associated with carrying her child to term;
- 839 (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant
840 woman, upon her request; and
- 841 (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn
842 child has or may have Down syndrome, the [~~Department of Health website containing~~
843 department's website, which contains the information described in Section 26-10-14, including
844 the information on the informational support sheet; and
- 845 (e) after the pregnant woman views the entire information module, a staff member of
846 the [~~abortion clinic or~~] hospital provides to the pregnant woman:
- 847 (i) on a document that the pregnant woman may take home:
- 848 (A) the address for the department's website described in Section 76-7-305.5; and
- 849 (B) a statement that the woman may request, from a staff member of the [~~abortion~~
850 ~~clinic or~~] hospital where the woman viewed the information module, a printed copy of the
851 material on the department's website;
- 852 (ii) a printed copy of the material on the department's website described in Section
853 76-7-305.5, if requested by the pregnant woman; and
- 854 (iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the
855 disposition of the aborted fetus.
- 856 (3) Before performing an abortion, the physician who is to perform the abortion shall:
- 857 (a) in a face-to-face consultation, provide the information described in Subsection
858 (2)(d), unless the attending physician or referring physician is the individual who provided the
859 information required under Subsection (2)(d); and
- 860 (b) (i) obtain from the pregnant woman a written certification that the information
861 required to be provided under Subsection (2) and this Subsection (3) was provided in
862 accordance with the requirements of Subsection (2) and this Subsection (3);
- 863 (ii) obtain a copy of the statement described in Subsection (2)(c)(i); and
- 864 (iii) ensure that:

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

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

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

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

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

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

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

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

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

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

882 (c) inform the woman that, if she desires, the person performing the ultrasound, or
883 another qualified person shall provide a detailed description of the ultrasound images,
884 including:

885 (i) the dimensions of the unborn child;

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

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

888 (d) provide the detailed description described in Subsection (5)(c), if the woman
889 requests it.

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

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

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

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

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

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

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

902 and

903 (b) shall be subject to:

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

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

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

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

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

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

914 (ii) a serious physical risk of substantial [~~and irreversible~~] impairment of a major
915 bodily function of the woman on whom the abortion is performed;

916 (c) the pregnancy was the result of rape or rape of a child, as described in Sections
917 76-5-402 and 76-5-402.1;

918 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and
919 Section 76-7-102; or

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

921 (9) A physician who complies with the provisions of this section and Section
922 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
923 informed consent under Section 78B-3-406.

924 (10) (a) The department shall provide an ultrasound, in accordance with the provisions
925 of Subsection (5)(b), at no expense to the pregnant woman.

926 (b) A local health department shall refer a pregnant woman who requests an ultrasound

927 described in Subsection (10)(a) to the department.

928 (11) A physician is not guilty of violating this section if:

929 (a) the information described in Subsection (2) is provided less than 72 hours before
930 the physician performs the abortion; and

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

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

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

937 Section 21. Section **76-7-314** is amended to read:

938 **76-7-314. Violations of abortion laws -- Classifications.**

939 (1) [~~A willful~~] An intentional violation of Section **76-7-307**, **76-7-308**, **76-7-310**,
940 **76-7-310.5**, **76-7-311**, or **76-7-312** is a felony of the third degree.

941 (2) A violation of Section **76-7-326** is a felony of the third degree.

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

943 (4) A violation of any other provision of this part, including Subsections
944 **76-7-305**(2)(a) through (c), and (e), is a class A misdemeanor.

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

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

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

952 Section 22. Section **76-7-314.5** is amended to read:

953 **76-7-314.5. Killing an unborn child.**

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

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

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

959 (b) a physician's failure to comply with Subsection [~~76-7-302(3)(b)(ii)~~]

960 76-7-302(2)(b)(ii) or Section 76-7-305.

961 Section 23. Section **76-7-317** is amended to read:

962 **76-7-317. Severability clause.**

963 If any one or more provision, section, subsection, sentence, clause, phrase, or word of
 964 this part or the application thereof to any person or circumstance is found to be
 965 unconstitutional, the same is hereby declared to be severable and the balance of this part shall
 966 remain effective notwithstanding such unconstitutionality. The legislature hereby declares that
 967 it would have passed this part, and each provision, section, subsection, sentence, clause, phrase,
 968 or word thereof, irrespective of the fact that any one or more provision, section, subsection,
 969 sentence, clause, phrase, or word be declared unconstitutional. This section applies to any
 970 provision, section, subsection, sentence, clause, phrase, or word of this part, regardless of the
 971 time of enactment, amendment, or repeal.

972 Section 24. Section **76-7-332** is enacted to read:

973 **76-7-332. Drugs known to be used for abortion -- Prescriber limitation --**

974 **Criminal penalties.**

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

977 (a) methotrexate, or methotrexate with misoprostol;

978 (b) mifepristone, also known as mifeprex;

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

980 (d) RU-486.

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

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

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

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

986 Section 25. Section **76-7a-101** is amended to read:

987 **76-7a-101. Definitions.**

988 As used in this chapter:

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

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

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

998 ~~[(iii) the intentional causing or attempted causing of a miscarriage through a medical~~
999 ~~procedure carried out by a physician or through a substance used under the direction of a~~
1000 ~~physician.]~~

1001 (b) "Abortion" does not include:

1002 (i) removal of a dead unborn child;

1003 (ii) removal of an ectopic pregnancy; or

1004 (iii) the killing or attempted killing of an unborn child without the consent of the
1005 pregnant woman, unless:

1006 (A) the killing or attempted killing is done through a medical procedure carried out by
1007 a physician or through a substance used under the direction of a physician; and

1008 (B) the physician is unable to obtain the consent due to a medical emergency.

1009 ~~[(2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II~~
1010 ~~abortion clinic licensed by the state.]~~

1011 ~~[(3)]~~ (2) "Department" means the Department of Health and Human Services.

1012 ~~[(4)]~~ (3) "Down syndrome" means a genetic condition associated with an extra
1013 chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

1014 ~~[(5)]~~ (4) "Hospital" means:

1015 (a) a general hospital licensed by the department; or

1016 (b) a clinic or other medical facility to the extent the clinic or other medical facility is
1017 certified by the department as providing equipment and personnel sufficient in quantity and
1018 quality to provide the same degree of safety to a pregnant woman and an unborn child as would
1019 be provided for the particular medical procedure undertaken by a general hospital licensed by

1020 the department.

1021 [~~(6)~~ "Incest" means the same as that term is defined in Section ~~80-1-102.~~]

1022 [~~(7)~~ (5) "Medical emergency" means a [~~condition which, on the basis of the~~
1023 ~~physician's good faith clinical judgment, so threatens the life of a pregnant woman as to~~
1024 ~~necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay~~
1025 ~~will create serious risk of substantial and irreversible impairment of major bodily function]~~ life
1026 threatening physical condition aggravated by, caused by, or arising from a pregnancy that
1027 places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of
1028 a major bodily function, unless the abortion is performed or induced.

1029 [~~(8)~~ (6) "Physician" means:

- 1030 (a) a medical doctor licensed to practice medicine and surgery in the state;
1031 (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or
1032 (c) a physician employed by the federal government who has qualifications similar to
1033 an individual described in Subsection [~~(8)(a) or (b)~~] (6)(a) or (b).

1034 [~~(9)~~ "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.]

1035 [~~(10)~~ (7) (a) "Severe brain abnormality" means a malformation or defect that causes an
1036 individual to live in a mentally vegetative state.

1037 (b) "Severe brain abnormality" does not include:

- 1038 (i) Down syndrome;
1039 (ii) spina bifida;
1040 (iii) cerebral palsy; or
1041 (iv) any other malformation, defect, or condition that does not cause an individual to
1042 live in a mentally vegetative state.

1043 Section 26. Section **76-7a-201** is amended to read:

1044 **76-7a-201. Abortion prohibition -- Exceptions -- Penalties.**

1045 (1) An abortion may be performed in this state only under the following circumstances:

- 1046 (a) the abortion is necessary to avert:
1047 (i) the death of the woman on whom the abortion is performed; or
1048 (ii) a serious physical risk of substantial [~~and irreversible~~] impairment of a major
1049 bodily function of the woman on whom the abortion is performed;
1050 (b) subject to Subsection (3), two physicians who practice maternal fetal medicine

1051 concur, in writing, in the patient's medical record that the fetus[+] has a fetal abnormality that in
 1052 the physicians' reasonable medical judgment is incompatible with life; or

1053 [~~i~~] ~~has a defect that is uniformly diagnosable and uniformly lethal; or~~

1054 [~~ii~~] ~~has a severe brain abnormality that is uniformly diagnosable; or~~

1055 (c) [~~+~~] the unborn child has not reached 18 weeks gestational age; and

1056 (i) (A) the woman is pregnant as a result of:

1057 [~~A~~] (I) rape, as described in Section 76-5-402;

1058 [~~B~~] (II) rape of a child, as described in Section 76-5-402.1; or

1059 [~~C~~] (III) incest[;and], as described in Subsection 76-5-406(2)(j) or Section 76-7-102;

1060 or

1061 (B) the pregnant woman is under the age of 12; and

1062 (ii) before the abortion is performed, the physician who performs the abortion:

1063 (A) verifies that the incident described in Subsection [~~+~~](c)(i) (1)(c)(i)(A) has been
 1064 reported to law enforcement; and

1065 (B) if applicable, complies with requirements related to reporting suspicions of or
 1066 known child abuse.

1067 (2) An abortion may be performed only:

1068 (a) by a physician; and

1069 (b) in [~~an abortion clinic or~~] a hospital, unless it is necessary to perform the abortion in
 1070 another location due to a medical emergency.

1071 (3) If an abortion is performed under Subsection (1)(b), the abortion shall be performed
 1072 by means of labor rather than in utero, unless the induction of labor poses an unacceptably
 1073 higher risk to the mother than other methods.

1074 [~~3~~] (4) A person who performs an abortion in violation of this section is guilty of a
 1075 second degree felony.

1076 [~~4~~] (5) In addition to the penalty described in Subsection [~~3~~] (4), the department
 1077 may take appropriate corrective action against [~~an abortion clinic~~] a health care facility,
 1078 including revoking the [~~abortion clinic's~~] health care facility's license, if a violation of this
 1079 chapter occurs at the [~~abortion clinic~~] health care facility.

1080 [~~5~~] (6) The department shall report a physician's violation of any provision of this
 1081 section to the state entity that regulates the licensing of a physician.

1082 Section 27. **Repealer.**

1083 This bill repeals:

1084 Section **76-7-302.5**, **Circumstances under which abortion prohibited.**