

Representative Karianne Lisonbee proposes the following substitute bill:

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;
- ▶ repeals the statute that established a prohibition on abortions after 18 weeks and



26 incorporates its contents into existing statute, replacing language that established
27 now-superseded viability standards;
28 ▶ standardizes language between various statutes that regulate abortion;
29 ▶ requires a physician, in the case of a diagnosis of a lethal fetal anomaly, to give
30 notice of the availability of perinatal hospice and perinatal palliative care services as
31 an alternative to abortion;
32 ▶ treats an individual who becomes pregnant at a certain age as having the same
33 access to abortion services as rape or incest situations;
34 ▶ restricts the ability to receive an abortion due to rape or incest to a pregnancy where
35 the unborn child has not reached 18 weeks gestational age;
36 ▶ modifies state of mind standards for criminal act;
37 ▶ provides for severability;
38 ▶ provides for regulation of drugs that are known to be used in relation to an abortion;
39 ▶ creates a criminal offense for prescribing a drug for the purpose of causing an
40 abortion, unless the prescriber is licensed as a physician under the laws of this state;
41 and
42 ▶ makes technical changes.

43 **Money Appropriated in this Bill:**

44 None

45 **Other Special Clauses:**

46 None

47 **Utah Code Sections Affected:**

48 AMENDS:

49 26-21-6.5, as last amended by Laws of Utah 2018, Chapter 282

50 26-21-7, as last amended by Laws of Utah 2019, Chapter 349

51 26-21-8, as last amended by Laws of Utah 2016, Chapter 74

52 26-21-11, as last amended by Laws of Utah 1997, Chapter 209

53 26-21-25, as last amended by Laws of Utah 2010, Chapter 218

54 58-31b-502, as last amended by Laws of Utah 2022, Chapter 290

55 58-44a-502, as last amended by Laws of Utah 2020, Chapter 25

56 58-67-304, as last amended by Laws of Utah 2020, Chapters 12, 339

- 57 [58-67-502](#), as last amended by Laws of Utah 2021, Chapter 337
- 58 [58-68-304](#), as last amended by Laws of Utah 2020, Chapters 12, 339
- 59 [58-68-502](#), as last amended by Laws of Utah 2021, Chapter 337
- 60 [58-70a-501](#), as last amended by Laws of Utah 2021, Chapter 312
- 61 [58-77-603](#), as enacted by Laws of Utah 2005, Chapter 299
- 62 [63I-2-276](#), as last amended by Laws of Utah 2022, Chapter 117
- 63 [76-7-301](#), as last amended by Laws of Utah 2021, Chapter 262
- 64 [76-7-302](#), as last amended by Laws of Utah 2022, Chapter 335
- 65 [76-7-302.4](#), as enacted by Laws of Utah 2019, Chapter 124
- 66 [76-7-304](#), as last amended by Laws of Utah 2018, Chapter 282
- 67 [76-7-304.5](#), as last amended by Laws of Utah 2022, Chapter 287
- 68 [76-7-305](#), as last amended by Laws of Utah 2022, Chapter 181
- 69 [76-7-314](#), as last amended by Laws of Utah 2019, Chapter 208
- 70 [76-7-314.5](#), as last amended by Laws of Utah 2010, Chapter 13
- 71 [76-7-317](#), as enacted by Laws of Utah 1974, Chapter 33
- 72 [76-7a-101](#), as last amended by Laws of Utah 2021, Chapter 262
- 73 [76-7a-201](#), as enacted by Laws of Utah 2020, Chapter 279

74 ENACTS:

- 75 [76-7-332](#), Utah Code Annotated 1953

76 REPEALS:

- 77 [76-7-302.5](#), as enacted by Laws of Utah 2019, Chapter 208



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

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

81 **26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee.**

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

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

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

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

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

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

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

95 ~~(a)~~ (i) a type I abortion clinic; and

96 ~~(b)~~ (ii) a type II abortion clinic.

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

99 ~~(a)~~ (i) apply for a license on a form prescribed by the department;

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

103 ~~(c)~~ (iii) comply with the recordkeeping and reporting requirements of Section
104 [76-7-313](#);

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

107 ~~(e)~~ (v) pay the annual licensing fee; and

108 ~~(f)~~ (vi) cooperate with inspections conducted by the department.

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

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

117 ~~(7)~~ (g) The department shall deposit the licensing fees described in this section in the
118 General Fund as a dedicated credit to be used solely to pay for the cost of the licensing

119 requirements described in this section and the cost of inspecting abortion clinics.

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

121 **26-21-7. Exempt facilities.**

122 This chapter does not apply to:

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

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

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

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

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

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

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

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

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

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

141 **26-21-8. License required -- Not assignable or transferable -- Posting --**

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

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

147 (b) This Subsection (1) does not apply to facilities that are exempt under Section
148 [26-21-7](#).

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

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

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

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

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

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

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

166 Section 4. Section ~~26-21-11~~ is amended to read:

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

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

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

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

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

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

177 or

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

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

181 license of a health care facility for:

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

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

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

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

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

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

190 (2) If the department finds that an abortion has been performed in violation of Section
191 76-7-314 or 76-7a-201, the department shall deny or revoke the license.

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

193 **26-21-25. Patient identity protection.**

194 (1) As used in this section:

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

197 (b) "Health professional office" means:

198 (i) a physician's office; or

199 (ii) a dental office.

200 (c) "Medical facility" means:

201 (i) a general acute hospital;

202 (ii) a specialty hospital;

203 (iii) a home health agency;

204 (iv) a hospice;

205 (v) a nursing care facility;

206 (vi) a residential-assisted living facility;

207 (vii) a birthing center;

208 (viii) an ambulatory surgical facility;

209 (ix) a small health care facility;

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

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

212 [~~(xi)~~] (xi) an end stage renal disease facility;
213 [~~(xiii)~~] (xii) a health care clinic; or
214 [~~(xiv)~~] (xiii) any other health care facility that the committee designates by rule.

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

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

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

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

226 (a) that is subject to EMTALA:

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

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

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

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

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

234 (i) photograph;

235 (ii) fingerprinting;

236 (iii) palm scan; or

237 (iv) other reasonable means.

238 (4) The identification described in this section:

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

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

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

243 **58-31b-502. Unprofessional conduct.**

244 (1) "Unprofessional conduct" includes:

245 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,
246 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
247 because of the licensee's or person with a certification's position or practice as a nurse or
248 practice as a medication aide certified;249 (b) failure to provide nursing service or service as a medication aide certified in a
250 manner that demonstrates respect for the patient's human dignity and unique personal character
251 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
252 status, age, sex, or the nature of the patient's health problem;

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

254 (i) period when a generally recognized professional relationship exists between the
255 person licensed or certified under this chapter and the patient; or256 (ii) extended period when a patient has reasonable cause to believe a professional
257 relationship exists between the person licensed or certified under the provisions of this chapter
258 and the patient;259 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
260 information about a patient or exploiting the licensee's or the person with a certification's
261 professional relationship between the licensee or holder of a certification under this chapter and
262 the patient; or263 (ii) exploiting the patient by use of the licensee's or person with a certification's
264 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

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

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

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

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

269 (i) failure to exercise appropriate supervision of persons providing patient care services
270 under supervision of the licensed nurse;271 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
272 person to practice as a nurse;

273 (k) failure to file or record any medical report as required by law, impeding or

274 obstructing the filing or recording of such a report, or inducing another to fail to file or record
275 such a report;

276 (l) breach of a statutory, common law, regulatory, or ethical requirement of
277 confidentiality with respect to a person who is a patient, unless ordered by a court;

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

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

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

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

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

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

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

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

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

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

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

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

303 **58-44a-502. Unprofessional conduct.**

304 "Unprofessional conduct" includes:

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

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

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

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

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

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

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

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

322 [(8)] (9) (a) failure to have and maintain a safe mechanism for obtaining medical
323 consultation, collaboration, and referral with a consulting physician, including failure to
324 identify one or more consulting physicians in the written documents required by Subsection
325 58-44a-102(9)(b)(iii); or

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

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

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

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

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

335 **58-67-304. License renewal requirements.**

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

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

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

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

346 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,
347 successfully complete the educational methods and programs described in Subsection
348 58-67-807(4).

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

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

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

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

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

365 (4) In order to assist the Department of Health and Human Services in fulfilling ~~[its]~~
366 the department's responsibilities relating to the licensing of [an abortion clinic] a health care

367 facility and the enforcement of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a,
 368 Abortion Prohibition, if a physician responds positively to the question described in Subsection
 369 [~~(3)(a)~~], (3)(a)(i) the division shall, within 30 days after the day on which ~~[it]~~ the division
 370 renews the physician's license under this chapter, inform the Department of Health and Human
 371 Services in writing:

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

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

375 (5) The division shall accept and apply toward the hour requirement in Subsection
 376 (1)(a) any continuing education that a physician completes in accordance with Sections
 377 26-61a-106 and 26-61a-403.

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

379 **58-67-502. Unprofessional conduct.**

380 (1) "Unprofessional conduct" includes, in addition to the definition in Section
 381 58-1-501:

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

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

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

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

391 (e) performing or inducing an abortion in violation of the requirements of Section
 392 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
 393 is found guilty of a crime in connection with the violation; or

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

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

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

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

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

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

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

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

404 or

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

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

409 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
410 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

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

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

417 **58-68-304. License renewal requirements.**

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

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

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

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

429 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,
430 successfully complete the educational methods and programs described in Subsection
431 58-68-807(4).

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

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

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

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

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

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

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

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

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

460 26-61a-106 and 26-61a-403.

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

462 **58-68-502. Unprofessional conduct.**

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

464 58-1-501:

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

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

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

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

473 [~~or~~]

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

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

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

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

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

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

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

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

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

487 or

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

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

490 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical

491 cannabis;

492 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
493 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

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

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

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

500 **58-70a-501. Scope of practice.**

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

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

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

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

508 (c) the applicable standard of care; and

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

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

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

513 (i) employer;

514 (ii) group;

515 (iii) hospital service; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

555 (8) (a) A physician assistant may prescribe or administer an appropriate controlled
556 substance that is within the physician assistant's scope of practice if the physician assistant
557 holds a Utah controlled substance license and a DEA registration.

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

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

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

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

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

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

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

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

571 [~~10~~] (11) A physician assistant, while practicing as a physician assistant:

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

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

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

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

578 **58-77-603. Prohibited practices.**

579 A direct-entry midwife may not:

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

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

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

584 analgesia;

585 (4) use forceps or a vacuum extractor;

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

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

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

592 **63I-2-276. Repeal dates: Title 76.**

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

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

597 ~~[(3)]~~ (2) Section 76-7-305.7 is repealed January 1, 2023.

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

599 **76-7-301. Definitions.**

600 As used in this part:

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

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

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

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

613 (b) "Abortion" does not include:

614 (i) removal of a dead unborn child;

615 (ii) removal of an ectopic pregnancy; or
616 (iii) the killing or attempted killing of an unborn child without the consent of the
617 pregnant woman, unless:

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

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

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

622 [~~(3)~~] (2) "Abuse" means the same as that term is defined in Section 80-1-102.

623 [~~(4)~~] (3) "Department" means the Department of Health and Human Services.

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

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

628 [~~(7)~~] (6) "Hospital" means:

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

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

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

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

645 [~~(10)~~] (9) "Minor" means an individual who is:

- 646 (a) under 18 years old;
- 647 (b) unmarried; and
- 648 (c) not emancipated.

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

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

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

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

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

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

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

667 (i) maternal-fetal medical specialists;

668 (ii) obstetricians;

669 (iii) neonatologists;

670 (iv) anesthesia specialists;

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

672 (vi) clergy;

673 (vii) social workers; or

674 (viii) specialty nurses.

675 (12) "Physician" means:

676 (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter

677 67, Utah Medical Practice Act;

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

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

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

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

685 (i) Down syndrome;

686 (ii) spina bifida;

687 (iii) cerebral palsy; or

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

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

691 **76-7-302. Circumstances under which abortion authorized.**

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

695 ~~[(2)]~~ (1) An abortion may be performed in this state only by a physician.

696 ~~[(3)]~~ (2) An abortion may be performed in this state only under the following
697 circumstances:

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

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

700 (i) the abortion is necessary to avert:

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

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

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

705 concur, in writing, in the patient's medical record that the fetus[:] has a fetal abnormality that in

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

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

708 ~~[(B) has a severe brain abnormality that is uniformly diagnosable; or]~~
709 ~~[(iii)(A)]~~
710 (c) the unborn child has not reached 18 weeks gestational age; and
711 (i) (A) the woman is pregnant as a result of:
712 (I) rape, as described in Section 76-5-402;
713 (II) rape of a child, as described in Section 76-5-402.1; or
714 (III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; ~~[and]~~ or
715 (B) the pregnant woman is under the age of 14; and
716 ~~[(B)]~~ (ii) before the abortion is performed, the physician who performs the abortion:
717 ~~[(F)]~~ (A) for an abortion authorized under Subsection (2)(c)(i)(A), verifies that the
718 incident described in Subsection ~~[(3)(b)(iii)(A)]~~ (2)(c)(i)(A) has been reported to law
719 enforcement; and
720 ~~[(H)]~~ (B) if applicable, complies with the requirements of Section 80-2-602.
721 ~~[(4)]~~ (3) An abortion may be performed only in ~~[an abortion clinic or]~~ a hospital, unless
722 it is necessary to perform the abortion in another location due to a medical emergency.
723 (4) If the unborn child has been diagnosed with a fetal abnormality that is incompatible
724 with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and
725 in writing, that perinatal hospice and perinatal palliative care services are available and are an
726 alternative to abortion.
727 Section 17. Section 76-7-302.4 is amended to read:
728 **76-7-302.4. Abortion restriction of an unborn child with Down syndrome.**
729 Notwithstanding any other provision of this part, an abortion may not be performed if
730 the pregnant mother's sole reason for the abortion is that the unborn child has or may have
731 Down syndrome, unless the abortion is permissible for a reason described in ~~[Subsection~~
732 ~~76-7-302(3)(b)]~~ Section 76-7-302.
733 Section 18. Section 76-7-304 is amended to read:
734 **76-7-304. Considerations by physician -- Notice to a parent or guardian --**
735 **Exceptions.**
736 (1) To enable the physician to exercise the physician's best medical judgment, the
737 physician shall consider all factors relevant to the well-being of a pregnant woman upon whom
738 an abortion is to be performed, including:

- 739 (a) her physical, emotional, and psychological health and safety;
- 740 (b) her age; and
- 741 (c) her familial situation.
- 742 (2) Subject to Subsection (3), at least 24 hours before a physician performs an abortion
- 743 on a minor, the physician shall notify a parent or guardian of the minor that the minor intends
- 744 to have an abortion.
- 745 (3) A physician is not required to comply with Subsection (2) if:
- 746 (a) subject to Subsection (4)(a):
- 747 (i) a medical condition exists that, on the basis of the physician's good faith clinical
- 748 judgment, so complicates the medical condition of a pregnant minor as to necessitate the
- 749 abortion of her pregnancy to avert:
- 750 (A) the minor's death; or
- 751 (B) a serious physical risk of substantial [~~and irreversible~~] impairment of a major
- 752 bodily function of the minor; and
- 753 (ii) there is not sufficient time to give the notice required under Subsection (2) before it
- 754 is necessary to terminate the minor's pregnancy in order to avert the minor's death or
- 755 impairment described in Subsection (3)(a)(i);
- 756 (b) subject to Subsection (4)(b):
- 757 (i) the physician complies with Subsection (5); and
- 758 (ii) (A) the minor is pregnant as a result of incest to which the parent or guardian was a
- 759 party; or
- 760 (B) the parent or guardian has abused the minor; or
- 761 (c) subject to Subsection (4)(b), the parent or guardian has not assumed responsibility
- 762 for the minor's care and upbringing.
- 763 (4) (a) If, for the reason described in Subsection (3)(a), a physician does not give the
- 764 24-hour notice described in Subsection (2), the physician shall give the required notice as early
- 765 as possible before the abortion, unless it is necessary to perform the abortion immediately in
- 766 order to avert the minor's death or impairment described in Subsection (3)(a)(i).
- 767 (b) If, for a reason described in Subsection (3)(b) or (c), a parent or guardian of a minor
- 768 is not notified that the minor intends to have an abortion, the physician shall notify another
- 769 parent or guardian of the minor, if the minor has another parent or guardian that is not exempt

770 from notification under Subsection (3)(b) or (c).

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

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

776 **76-7-304.5. Consent required for abortions performed on minors -- Division of**
777 **Child and Family Services as guardian of a minor -- Hearing to allow a minor to**
778 **self-consent -- Appeals.**

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

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

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

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

788 (A) the minor's death; or

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

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

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

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

796 or

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

798 (b) Neither Subsection (1) nor this Subsection (2) require the minor to seek or obtain
799 consent from the minor's parent or guardian if the circumstances described in Subsection
800 [76-7-304\(3\)\(b\)\(ii\)](#) exist.

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

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

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

808 (i) the minor:

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

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

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

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

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

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

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

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

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

820 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**

821 **-- Exceptions.**

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

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

827 (b) the provisions of this section.

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

830 (a) a staff member of ~~[an abortion clinic or]~~ a hospital, physician, registered nurse,
831 nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic

832 counselor, or physician's assistant presents the information module to the pregnant woman;

833 (b) the pregnant woman views the entire information module and presents evidence to
834 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire
835 information module;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

870 (ii) a printed copy of the material on the department's website described in Section
871 76-7-305.5, if requested by the pregnant woman; and

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

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

875 (a) in a face-to-face consultation, provide the information described in Subsection

876 (2)(d), unless the attending physician or referring physician is the individual who provided the
877 information required under Subsection (2)(d); and

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

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

882 (iii) ensure that:

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

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

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

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

893 (a) inform the woman that the ultrasound images will be simultaneously displayed in a

894 manner to permit her to:

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

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

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

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

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

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

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

902 including:

903 (i) the dimensions of the unborn child;

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

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

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

907 requests it.

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

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

910 described in:

911 (a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician

912 concur, in writing, that the abortion is 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; or

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

917 (7) In addition to the criminal penalties described in this part, a physician who violates

918 the provisions of this section:

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

920 and

921 (b) shall be subject to:

922 (i) suspension or revocation of the physician's license for the practice of medicine and

923 surgery in accordance with Section 58-67-401 or 58-68-401; and

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

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

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

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

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

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

934 (c) the pregnancy was the result of rape or rape of a child, as described in Sections
935 [76-5-402](#) and [76-5-402.1](#);

936 (d) the pregnancy was the result of incest, as defined in Subsection [76-5-406\(2\)\(j\)](#) and
937 Section [76-7-102](#); or

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

939 (9) A physician who complies with the provisions of this section and Section
940 [76-7-304.5](#) may not be held civilly liable to the physician's patient for failure to obtain
941 informed consent under Section [78B-3-406](#).

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

944 (b) A local health department shall refer a pregnant woman who requests an ultrasound
945 described in Subsection (10)(a) to the department.

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

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

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

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

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

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

956 **76-7-314. Violations of abortion laws -- Classifications.**

957 (1) [~~A willful~~] An intentional violation of Section [76-7-307](#), [76-7-308](#), [76-7-310](#),
958 [76-7-310.5](#), [76-7-311](#), or [76-7-312](#) is a felony of the third degree.

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

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

961 (4) A violation of any other provision of this part, including Subsections
962 [76-7-305](#)(2)(a) through (c), and (e), is a class A misdemeanor.

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

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

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

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

971 **76-7-314.5. Killing an unborn child.**

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

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

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

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

978 [76-7-302\(2\)\(b\)\(ii\)](#) or Section [76-7-305](#).

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

980 **76-7-317. Severability clause.**

981 If any one or more provision, section, subsection, sentence, clause, phrase₂ or word of
982 this part or the application thereof to any person or circumstance is found to be
983 unconstitutional, the same is hereby declared to be severable and the balance of this part shall
984 remain effective notwithstanding such unconstitutionality. The legislature hereby declares that
985 it would have passed this part, and each provision, section, subsection, sentence, clause, phrase₂
986 or word thereof, irrespective of the fact that any one or more provision, section, subsection,

987 sentence, clause, phrase, or word be declared unconstitutional. This section applies to any
 988 provision, section, subsection, sentence, clause, phrase, or word of this part, regardless of the
 989 time of enactment, amendment, or repeal.

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

991 **76-7-332. Drugs known to be used for abortion -- Prescriber limitation --**
 992 **Criminal penalties -- Pharmacy presumption for other use.**

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

995 (a) methotrexate, or methotrexate with misoprostol;

996 (b) mifepristone, also known as mifeprex;

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

998 (d) RU-486.

999 (2) An individual may not prescribe an abortion-related drug for the purpose of causing
 1000 an abortion, unless the individual is licensed as a physician in this state under:

1001 (a) Title 58, Chapter 67, Utah Medical Practice Act; or

1002 (b) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

1003 (3) A violation of Subsection (2) is a class B misdemeanor.

1004 (4) (a) Any prescription or medical order for a drug that is known to possibly cause an
 1005 abortion shall be presumed by a pharmacy to be for an indication other than for the termination
 1006 of a pregnancy.

1007 (b) A pharmacy dispensing a prescription or medical order for a drug that is known to
 1008 possibly cause an abortion shall not be required to verify whether or not the prescription or
 1009 medical order violates any provision of this chapter.

1010 Section 25. Section **76-7a-101** is amended to read:

1011 **76-7a-101. Definitions.**

1012 As used in this chapter:

1013 (1) (a) "Abortion" means[:] the act, by a physician, of using an instrument, or
 1014 prescribing a drug, with the intent to cause the death of an unborn child of a woman known to
 1015 be pregnant, except as permitted under this chapter.

1016 ~~[(i) the intentional termination or attempted termination of human pregnancy after~~
 1017 ~~implantation of a fertilized ovum through a medical procedure carried out by a physician or~~

1018 ~~through a substance used under the direction of a physician;]~~

1019 ~~[(ii) the intentional killing or attempted killing of a live unborn child through a medical~~
1020 ~~procedure carried out by a physician or through a substance used under the direction of a~~
1021 ~~physician; or]~~

1022 ~~[(iii) the intentional causing or attempted causing of a miscarriage through a medical~~
1023 ~~procedure carried out by a physician or through a substance used under the direction of a~~
1024 ~~physician.]~~

1025 (b) "Abortion" does not include:

1026 (i) removal of a dead unborn child;

1027 (ii) removal of an ectopic pregnancy; or

1028 (iii) the killing or attempted killing of an unborn child without the consent of the
1029 pregnant woman, unless:

1030 (A) the killing or attempted killing is done through a medical procedure carried out by
1031 a physician or through a substance used under the direction of a physician; and

1032 (B) the physician is unable to obtain the consent due to a medical emergency.

1033 ~~[(2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II~~
1034 ~~abortion clinic licensed by the state.]~~

1035 ~~[(3)]~~ (2) "Department" means the Department of Health and Human Services.

1036 ~~[(4)]~~ (3) "Down syndrome" means a genetic condition associated with an extra
1037 chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

1038 ~~[(5)]~~ (4) "Hospital" means:

1039 (a) a general hospital licensed by the department; or

1040 (b) a clinic or other medical facility to the extent the clinic or other medical facility is
1041 certified by the department as providing equipment and personnel sufficient in quantity and
1042 quality to provide the same degree of safety to a pregnant woman and an unborn child as would
1043 be provided for the particular medical procedure undertaken by a general hospital licensed by
1044 the department.

1045 ~~[(6) "Incest" means the same as that term is defined in Section 80-1-102.]~~

1046 ~~[(7)]~~ (5) "Medical emergency" means a ~~[condition which, on the basis of the~~
1047 ~~physician's good faith clinical judgment, so threatens the life of a pregnant woman as to~~
1048 ~~necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay~~

1049 ~~will create serious risk of substantial and irreversible impairment of major bodily function]~~ life
 1050 threatening physical condition aggravated by, caused by, or arising from a pregnancy that
 1051 places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of
 1052 a major bodily function, unless the abortion is performed or induced.

1053 (6) "Perinatal hospice" means comprehensive support to the mother and her family
 1054 from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's birth,
 1055 and through the postpartum period, that:

1056 (a) focuses on alleviating fear and ensuring that the woman and her family experience
 1057 the life and death of a child in a comfortable and supportive environment; and

1058 (b) may include counseling or medical care by:

1059 (i) maternal-fetal medical specialists;

1060 (ii) obstetricians;

1061 (iii) neonatologists;

1062 (iv) anesthesia specialists;

1063 (v) psychiatrists, psychologists, or other mental health providers;

1064 (vi) clergy;

1065 (vii) social workers; or

1066 (viii) specialty nurses

1067 ~~[(8)]~~ (7) "Physician" means:

1068 (a) a medical doctor licensed to practice medicine and surgery in the state;

1069 (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

1070 (c) a physician employed by the federal government who has qualifications similar to
 1071 an individual described in Subsection ~~[(8)(a) or (b)]~~ (6)(a) or (b).

1072 ~~[(9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.]~~

1073 ~~[(10)]~~ (8) (a) "Severe brain abnormality" means a malformation or defect that causes an
 1074 individual to live in a mentally vegetative state.

1075 (b) "Severe brain abnormality" does not include:

1076 (i) Down syndrome;

1077 (ii) spina bifida;

1078 (iii) cerebral palsy; or

1079 (iv) any other malformation, defect, or condition that does not cause an individual to

1080 live in a mentally vegetative state.

1081 Section 26. Section **76-7a-201** is amended to read:

1082 **76-7a-201. Abortion prohibition -- Exceptions -- Penalties.**

1083 (1) An abortion may be performed in this state only under the following circumstances:

1084 (a) the abortion is necessary to avert:

1085 (i) the death of the woman on whom the abortion is performed; or

1086 (ii) a serious physical risk of substantial [~~and irreversible~~] impairment of a major
1087 bodily function of the woman on whom the abortion is performed;

1088 (b) subject to Subsection (3), two physicians who practice maternal fetal medicine

1089 concur, in writing, in the patient's medical record that the fetus[+] has a fetal abnormality that in

1090 the physicians' reasonable medical judgment is incompatible with life; or

1091 [~~(i) has a defect that is uniformly diagnosable and uniformly lethal; or~~]

1092 [~~(ii) has a severe brain abnormality that is uniformly diagnosable; or~~]

1093 (c) [~~(i)~~] the unborn child has not reached 18 weeks gestational age; and

1094 (i) (A) the woman is pregnant as a result of:

1095 [~~(A)~~] (I) rape, as described in Section [76-5-402](#);

1096 [~~(B)~~] (II) rape of a child, as described in Section [76-5-402.1](#); or

1097 [~~(C)~~] (III) incest[; ~~and~~], as described in Subsection [76-5-406\(2\)\(j\)](#) or Section [76-7-102](#);

1098 or

1099 (B) the pregnant woman is under the age of 14; and

1100 (ii) before the abortion is performed, the physician who performs the abortion:

1101 (A) for an abortion authorized under Subsection (1)(c)(i)(A), verifies that the incident

1102 described in Subsection [~~(1)(c)(i)~~] (1)(c)(i)(A) has been reported to law enforcement; and

1103 (B) if applicable, complies with requirements related to reporting suspicions of or

1104 known child abuse.

1105 (2) An abortion may be performed only:

1106 (a) by a physician; and

1107 (b) in [~~an abortion clinic or~~] a hospital, unless it is necessary to perform the abortion in
1108 another location due to a medical emergency.

1109 (3) If the unborn child has been diagnosed with a fetal abnormality that is incompatible

1110 with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and

1111 in writing, that perinatal hospice services and perinatal palliative care are available and are an
1112 alternative to abortion.

1113 ~~[(3)]~~ (4) A person who performs an abortion in violation of this section is guilty of a
1114 second degree felony.

1115 ~~[(4)]~~ (5) In addition to the penalty described in Subsection ~~[(3)]~~ (4), the department
1116 may take appropriate corrective action against ~~[an abortion clinic]~~ a health care facility,
1117 including revoking the ~~[abortion clinic's]~~ health care facility's license, if a violation of this
1118 chapter occurs at the ~~[abortion clinic]~~ health care facility.

1119 ~~[(5)]~~ (6) The department shall report a physician's violation of any provision of this
1120 section to the state entity that regulates the licensing of a physician.

1121 Section 27. **Repealer.**

1122 This bill repeals:

1123 Section **76-7-302.5, Circumstances under which abortion prohibited.**