

Senator Luz Escamilla proposes the following substitute bill:

ABORTION CHANGES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Daniel McCay

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

13

14 **LONG TITLE**

15 **General Description:**

16 This bill modifies provisions related to abortion.

17 **Highlighted Provisions:**

18 This bill:

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



25 is unprofessional conduct for a physician, osteopathic physician, physician assistant, advanced
26 practice registered nurse, certified nurse midwife, and direct-entry midwife;

27 ▶ modifies provisions that govern what constitutes a medical emergency in relation to
28 an abortion;

29 ▶ modifies the conditions under which an abortion may be performed to protect the
30 life or health of the mother;

31 ▶ amends language related to medical defects of a fetus;

32 ▶ repeals the statute that established a prohibition on abortions after 18 weeks and
33 incorporates its contents into existing statute, replacing language that established
34 now-superseded viability standards;

35 ▶ standardizes language between various statutes that regulate abortion;

36 ▶ requires a physician, in the case of a diagnosis of a lethal fetal anomaly, to give
37 notice of the availability of perinatal hospice and perinatal palliative care services as
38 an alternative to abortion;

39 ▶ treats an individual who becomes pregnant at a certain age as having the same
40 access to abortion services as rape or incest situations;

41 ▶ prohibits the ability to receive an abortion due to rape or incest if the unborn child
42 has reached 18 weeks gestational age;

43 ▶ modifies provisions relating to objections and procedural opt outs for providing an
44 abortion;

45 ▶ requires updates to abortion information modules to match current law;

46 ▶ modifies state of mind standards for criminal act;

47 ▶ provides for severability;

48 ▶ provides for regulation of drugs that are known to be used in relation to an abortion;

49 ▶ creates a criminal offense for prescribing a drug for the purpose of causing an
50 abortion, unless the prescriber is licensed as a physician under the laws of this state;

51 and

52 ▶ makes technical changes.

53 **Money Appropriated in this Bill:**

54 None

55 **Other Special Clauses:**

56 None

57 **Utah Code Sections Affected:**

58 AMENDS:

59 **26-21-2**, as last amended by Laws of Utah 2022, Chapter 255

60 **26-21-6.5**, as last amended by Laws of Utah 2018, Chapter 282

61 **26-21-7**, as last amended by Laws of Utah 2019, Chapter 349

62 **26-21-8**, as last amended by Laws of Utah 2016, Chapter 74

63 **26-21-11**, as last amended by Laws of Utah 1997, Chapter 209

64 **26-21-25**, as last amended by Laws of Utah 2010, Chapter 218

65 **58-31b-502**, as last amended by Laws of Utah 2022, Chapter 290

66 **58-44a-502**, as last amended by Laws of Utah 2020, Chapter 25

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

68 **58-67-502**, as last amended by Laws of Utah 2021, Chapter 337

69 **58-68-304**, as last amended by Laws of Utah 2020, Chapters 12, 339

70 **58-68-502**, as last amended by Laws of Utah 2021, Chapter 337

71 **58-70a-501**, as last amended by Laws of Utah 2021, Chapter 312

72 **58-77-603**, as enacted by Laws of Utah 2005, Chapter 299

73 **63I-2-276**, as last amended by Laws of Utah 2022, Chapter 117

74 **76-7-301**, as last amended by Laws of Utah 2021, Chapter 262

75 **76-7-302**, as last amended by Laws of Utah 2022, Chapter 335

76 **76-7-302.4**, as enacted by Laws of Utah 2019, Chapter 124

77 **76-7-304**, as last amended by Laws of Utah 2018, Chapter 282

78 **76-7-304.5**, as last amended by Laws of Utah 2022, Chapter 287

79 **76-7-305**, as last amended by Laws of Utah 2022, Chapter 181

80 **76-7-305.5**, as last amended by Laws of Utah 2020, Chapter 251

81 **76-7-306**, as repealed and reenacted by Laws of Utah 2011, Chapter 277

82 **76-7-313**, as last amended by Laws of Utah 2019, Chapters 124, 208

83 **76-7-314**, as last amended by Laws of Utah 2019, Chapter 208

84 **76-7-314.5**, as last amended by Laws of Utah 2010, Chapter 13

85 **76-7-317**, as enacted by Laws of Utah 1974, Chapter 33

86 **76-7a-101**, as last amended by Laws of Utah 2021, Chapter 262

87 [76-7a-201](#), as enacted by Laws of Utah 2020, Chapter 279

88 ENACTS:

89 [76-7-332](#), Utah Code Annotated 1953

90 REPEALS:

91 [76-7-302.5](#), as enacted by Laws of Utah 2019, Chapter 208



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

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

94 **26-21-2. Definitions.**

95 As used in this chapter:

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

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

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

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

100 (a) dressing;

101 (b) eating;

102 (c) grooming;

103 (d) bathing;

104 (e) toileting;

105 (f) ambulation;

106 (g) transferring; and

107 (h) self-administration of medication.

108 (3) "Ambulatory surgical facility" means a freestanding facility, which provides
109 surgical services to patients not requiring hospitalization.

110 (4) "Assistance with activities of daily living" means providing of or arranging for the
111 provision of assistance with activities of daily living.

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

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

115 (A) require protected living arrangements; and

116 (B) are capable of achieving mobility sufficient to exit the facility without the
117

118 assistance of another person; and

119 (ii) a type II assisted living facility, which is a residential facility with a home-like
120 setting that provides an array of coordinated supportive personal and health care services
121 available 24 hours per day to residents who have been assessed under department rule to need
122 any of these services.

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

125 (i) specified services of intermittent nursing care;

126 (ii) administration of medication; and

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

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

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

131 (b) (i) is freestanding; or

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

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

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

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

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

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

148 (12) "Governmental unit" means the state, or any county, municipality, or other

149 political subdivision or any department, division, board, or agency of the state, a county,
150 municipality, or other political subdivision.

151 (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home
152 health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing
153 centers, ambulatory surgical facilities, small health care facilities, abortion clinics, a clinic that
154 meets the definition of hospital under Section 76-7-301 or 76-7a-201, facilities owned or
155 operated by health maintenance organizations, end stage renal disease facilities, and any other
156 health care facility which the committee designates by rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

211 (a) performs abortions, as defined in Section 76-7-301, during the first trimester of
212 pregnancy; and

213 (b) does not perform abortions, as defined in Section 76-7-301, after the first trimester
214 of pregnancy.

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

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

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

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

222 **26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee --**

223 **Licensing of a clinic meeting the definition of hospital.**

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

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

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

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

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

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

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

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

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

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

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

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

245 [(c)] (iii) comply with the recordkeeping and reporting requirements of Section
 246 76-7-313;

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

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

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

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

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

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

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

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

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

266 **26-21-7. Exempt facilities.**

267 This chapter does not apply to:

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

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

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

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

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

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

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

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

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

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

286 **26-21-8. License required -- Not assignable or transferable -- Posting --**

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

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

292 (b) This Subsection (1) does not apply to facilities that are exempt under Section
293 26-21-7.

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

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

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

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

303 (c) The license shall be renewed upon completion of the application requirements,

304 unless the department finds the health care facility has not complied with the provisions of this
305 chapter or the rules adopted pursuant to this chapter.

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

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

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

312 **26-21-11. Violations -- Denial or revocation of license -- Restricting or prohibiting**
313 **new admissions -- Monitor.**

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

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

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

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

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

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

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

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

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

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

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

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

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

335 (2) If the department finds that an abortion has been performed in violation of Section
336 76-7-314 or 76-7a-201, the department shall deny or revoke the license.

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

338 **26-21-25. Patient identity protection.**

339 (1) As used in this section:

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

342 (b) "Health professional office" means:

343 (i) a physician's office; or

344 (ii) a dental office.

345 (c) "Medical facility" means:

346 (i) a general acute hospital;

347 (ii) a specialty hospital;

348 (iii) a home health agency;

349 (iv) a hospice;

350 (v) a nursing care facility;

351 (vi) a residential-assisted living facility;

352 (vii) a birthing center;

353 (viii) an ambulatory surgical facility;

354 (ix) a small health care facility;

355 (x) an abortion clinic;

356 (xi) a clinic that meets the definition of hospital under Section 76-7-301 or Section
357 76-7a-101;

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

359 ~~[(xii)]~~ (xiii) an end stage renal disease facility;

360 ~~[(xiii)]~~ (xiv) a health care clinic; or

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

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

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

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

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

373 (a) that is subject to EMTALA:

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

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

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

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

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

381 (i) photograph;

382 (ii) fingerprinting;

383 (iii) palm scan; or

384 (iv) other reasonable means.

385 (4) The identification described in this section:

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

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

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

390 **58-31b-502. Unprofessional conduct.**

391 (1) "Unprofessional conduct" includes:

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

396 (b) failure to provide nursing service or service as a medication aide certified in a

397 manner that demonstrates respect for the patient's human dignity and unique personal character
398 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
399 status, age, sex, or the nature of the patient's health problem;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

426 (n) prescribing a Schedule II controlled substance without complying with the
427 requirements in Section [58-31b-803](#), if applicable;

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

429 (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part
430 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if
431 applicable;

432 (q) performing or inducing an abortion in violation of the requirements of Section
433 76-7-302 or Section 76-7a-201, regardless of whether the person licensed or certified under the
434 provisions of this chapter is found guilty of a crime in connection with the violation;

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

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

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

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

442 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
443 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as
444 a limited medical provider, as those terms are defined in Section 26-61a-102, recommending
445 the use of medical cannabis.

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

449 Section 8. Section 58-44a-502 is amended to read:

450 **58-44a-502. Unprofessional conduct.**

451 "Unprofessional conduct" includes:

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

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

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

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

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

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

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

466 (8) performing or inducing an abortion in violation of the requirements of Section
467 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
468 is found guilty of a crime in connection with the violation;

469 ~~[(8)]~~ (9) (a) failure to have and maintain a safe mechanism for obtaining medical
470 consultation, collaboration, and referral with a consulting physician, including failure to
471 identify one or more consulting physicians in the written documents required by Subsection
472 58-44a-102(9)(b)(iii); or

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

476 ~~[(9)]~~ (10) falsely making an entry in, or altering, a medical record with the intent to
477 conceal:

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

482 **58-67-304. License renewal requirements.**

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

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

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

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

493 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,
494 successfully complete the educational methods and programs described in Subsection
495 58-67-807(4).

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

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

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

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

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

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

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

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

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

522 (5) The division shall accept and apply toward the hour requirement in Subsection
523 (1)(a) any continuing education that a physician completes in accordance with Sections
524 26-61a-106 and 26-61a-403.

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

526 **58-67-502. Unprofessional conduct.**

527 (1) "Unprofessional conduct" includes, in addition to the definition in Section
528 58-1-501:

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

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

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

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

537 [or]

538 (e) performing or inducing an abortion in violation of the requirements of Section
539 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
540 is found guilty of a crime in connection with the violation; or

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

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

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

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

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

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

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

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

551 or

- 552 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:
- 553 (i) when registered as a qualified medical provider or acting as a limited medical
- 554 provider, as those terms are defined in Section 26-61a-102, recommending the use of medical
- 555 cannabis;
- 556 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
- 557 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or
- 558 (iii) when registered as a state central patient portal medical provider, as that term is
- 559 defined in Section 26-61a-102, providing state central patient portal medical provider services.
- 560 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
- 561 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
- 562 unprofessional conduct for a physician described in Subsection (2)(b).

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

564 **58-68-304. License renewal requirements.**

- 565 (1) As a condition precedent for license renewal, each licensee shall, during each
- 566 two-year licensure cycle or other cycle defined by division rule:
- 567 (a) complete qualified continuing professional education requirements in accordance
- 568 with the number of hours and standards defined by division rule in collaboration with the
- 569 board;
- 570 (b) appoint a contact person for access to medical records and an alternate contact
- 571 person for access to medical records in accordance with Subsection 58-68-302(1)(i);
- 572 (c) if the licensee practices osteopathic medicine in a location with no other persons
- 573 licensed under this chapter, provide some method of notice to the licensee's patients of the
- 574 identity and location of the contact person and alternate contact person for access to medical
- 575 records for the licensee in accordance with Subsection 58-68-302(1)(j); and
- 576 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,
- 577 successfully complete the educational methods and programs described in Subsection
- 578 58-68-807(4).
- 579 (2) If a renewal period is extended or shortened under Section 58-68-303, the
- 580 continuing education hours required for license renewal under this section are increased or
- 581 decreased proportionally.
- 582 (3) (a) An application to renew a license under this chapter shall:

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

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

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

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

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

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

605 (5) The division shall accept and apply toward the hour requirement in Subsection
606 (1)(a) any continuing education that a physician completes in accordance with Sections
607 26-61a-106 and 26-61a-403.

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

609 **58-68-502. Unprofessional conduct.**

610 (1) "Unprofessional conduct" includes, in addition to the definition in Section
611 58-1-501:

612 (a) using or employing the services of any individual to assist a licensee in any manner
613 not in accordance with the generally recognized practices, standards, or ethics of the

614 profession, state law, or division rule;

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

617 (c) making a material misrepresentation regarding the qualifications for licensure under
618 Section [58-68-302.5](#);

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

621 (e) performing or inducing an abortion in violation of the requirements of Section
622 [76-7-302](#) or Section [76-7a-201](#), regardless of whether the individual licensed under this chapter
623 is found guilty of a crime in connection with the violation; or

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

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

628 (ii) conduct described in Subsections (1)(a) through [~~f~~] (e) or Subsection
629 [58-1-501](#)(1).

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

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

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

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

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

635 or

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

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

640 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
641 [26-61a-102](#), providing pharmacy medical provider services in a medical cannabis pharmacy; or

642 (iii) when registered as a state central patient portal medical provider, as that term is
643 defined in Section [26-61a-102](#), providing state central patient portal medical provider services.

644 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and

645 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
646 unprofessional conduct for a physician described in Subsection (2)(b).

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

648 **58-70a-501. Scope of practice.**

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

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

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

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

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

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

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

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

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

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

674 (6) A physician assistant is responsible for the care that the physician assistant
675 provides.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

706 (b) A physician assistant may prescribe, order, administer, and procure a drug or

707 medical device that is within the physician assistant's scope of practice.

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

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

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

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

714 ~~[(9)]~~ (10) A physician assistant practicing independently may only perform or provide
715 a health care service that:

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

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

719 ~~[(10)]~~ (11) A physician assistant, while practicing as a physician assistant:

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

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

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

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

726 **58-77-603. Prohibited practices.**

727 A direct-entry midwife may not:

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

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

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

733 (4) use forceps or a vacuum extractor;

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

736 (6) ~~[induce abortion]~~ perform or induce an abortion in violation of the requirements of
737 Section 76-7-302 or Section 76-7a-201, regardless of whether the direct-entry midwife is found

738 guilty of a crime in connection with the violation.

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

740 **63I-2-276. Repeal dates: Title 76.**

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

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

745 [~~(3)~~] (2) Section ~~76-7-305.7~~ is repealed January 1, 2023.

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

747 **76-7-301. Definitions.**

748 As used in this part:

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

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

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

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

761 (b) "Abortion" does not include:

762 (i) removal of a dead unborn child;

763 (ii) removal of an ectopic pregnancy; or

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

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

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

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

770 ~~[(3)]~~ (2) "Abuse" means the same as that term is defined in Section 80-1-102.

771 ~~[(4)]~~ (3) "Department" means the Department of Health and Human Services.

772 ~~[(5)]~~ (4) "Down syndrome" means a genetic condition associated with an extra
773 chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

774 ~~[(6)]~~ (5) "Gestational age" means the age of an unborn child as calculated from the first
775 day of the last menstrual period of the pregnant woman.

776 ~~[(7)]~~ (6) "Hospital" means:

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

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

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

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

789 ~~[(8)]~~ (7) "Information module" means the pregnancy termination information module
790 prepared by the department.

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

798 ~~[(10)]~~ (9) "Minor" means an individual who is:

799 (a) under 18 years old;

800 (b) unmarried; and

801 (c) not emancipated.

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

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

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

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

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

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

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

820 (i) maternal-fetal medical specialists;

821 (ii) obstetricians;

822 (iii) neonatologists;

823 (iv) anesthesia specialists;

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

825 (vi) clergy;

826 (vii) social workers; or

827 (viii) specialty nurses.

828 (12) "Physician" means:

829 (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter
830 67, Utah Medical Practice Act;

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

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

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

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

838 (i) Down syndrome;

839 (ii) spina bifida;

840 (iii) cerebral palsy; or

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

843 Section 17. Section **76-7-302** is amended to read:

844 **76-7-302. Circumstances under which abortion authorized.**

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

848 ~~[(2)]~~ (1) An abortion may be performed in this state only by a physician.

849 ~~[(3)]~~ (2) An abortion may be performed in this state only under the following
850 circumstances:

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

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

853 (i) the abortion is necessary to avert:

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

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

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

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

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

862 ~~[(iii)(A)]~~
 863 (c) the unborn child has not reached 18 weeks gestational age and:
 864 (i)(A) the woman is pregnant as a result of:
 865 (I) rape, as described in Section [76-5-402](#);
 866 (II) rape of a child, as described in Section [76-5-402.1](#); or
 867 (III) incest, as described in Subsection [76-5-406\(2\)\(j\)](#) or Section [76-7-102](#); ~~[and]~~ or
 868 (B) the pregnant child is under the age of 14; and
 869 ~~[(B)]~~ (ii) before the abortion is performed, the physician who performs the abortion:
 870 ~~[(F)]~~ (A) for an abortion authorized under Subsection (2)(c)(i)(A), verifies that the
 871 incident described in Subsection ~~[(3)(b)(iii)(A)] (2)(c)(i)(A)~~ has been reported to law
 872 enforcement; and

873 ~~[(H)]~~ (B) if applicable, complies with the requirements of Section [80-2-602](#).
 874 ~~[(4)]~~ (3) An abortion may be performed only in ~~[an abortion clinic or]~~ a hospital, unless
 875 it is necessary to perform the abortion in another location due to a medical emergency.
 876 (4) If the unborn child has been diagnosed with a fetal abnormality that is incompatible
 877 with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and
 878 in writing, that perinatal hospice and perinatal palliative care services are available and are an
 879 alternative to abortion.

880 Section 18. Section [76-7-302.4](#) is amended to read:
 881 **76-7-302.4. Abortion restriction of an unborn child with Down syndrome.**
 882 Notwithstanding any other provision of this part, an abortion may not be performed if
 883 the pregnant mother's sole reason for the abortion is that the unborn child has or may have
 884 Down syndrome, unless the abortion is permissible for a reason described in ~~[Subsection~~
 885 [76-7-302\(3\)\(b\)\]](#) [Section 76-7-302](#).

886 Section 19. Section [76-7-304](#) is amended to read:
 887 **76-7-304. Considerations by physician -- Notice to a parent or guardian --**
 888 **Exceptions.**

889 (1) To enable the physician to exercise the physician's best medical judgment, the
 890 physician shall consider all factors relevant to the well-being of a pregnant woman upon whom
 891 an abortion is to be performed, including:
 892 (a) her physical, emotional, and psychological health and safety;

893 (b) her age; and

894 (c) her familial situation.

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

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

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

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

903 (A) the minor's death; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

941 (A) the minor's death; or

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

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

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

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

949 or

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

951 (b) Neither Subsection (1) nor this Subsection (2) require the minor to seek or obtain
952 consent from the minor's parent or guardian if the circumstances described in Subsection
953 **76-7-304(3)(b)(ii)** exist.

954 (3) If a minor does not obtain the consent of the minor's parent or guardian, the minor

955 may file a petition with the juvenile court to obtain a court order as described in Subsection (1).

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

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

961 (i) the minor:

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

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

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

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

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

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

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

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

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

973 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**
974 **-- Exceptions.**

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

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

980 (b) the provisions of this section.

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

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

986 (b) the pregnant woman views the entire information module and presents evidence to
987 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire
988 information module;

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

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

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

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

996 (d) after the pregnant woman views the entire information module, the physician who
997 is to perform the abortion, the referring physician, a physician, a registered nurse, nurse
998 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
999 physician's assistant, in a face-to-face consultation in any location in the state, orally informs
1000 the woman of:

1001 (i) the nature of the proposed abortion procedure;

1002 (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the
1003 fetus;

1004 (iii) the risks and alternatives to the abortion procedure or treatment;

1005 (iv) the options and consequences of aborting a medication-induced abortion, if the
1006 proposed abortion procedure is a medication-induced abortion;

1007 (v) the probable gestational age and a description of the development of the unborn
1008 child at the time the abortion would be performed;

1009 (vi) the medical risks associated with carrying her child to term;

1010 (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant
1011 woman, upon her request; and

1012 (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn
1013 child has or may have Down syndrome, the ~~[Department of Health website containing]~~
1014 department's website, which contains the information described in Section 26-10-14, including
1015 the information on the informational support sheet; and

1016 (e) after the pregnant woman views the entire information module, a staff member of

1017 the [~~abortion clinic or~~] hospital provides to the pregnant woman:

1018 (i) on a document that the pregnant woman may take home:

1019 (A) the address for the department's website described in Section 76-7-305.5; and

1020 (B) a statement that the woman may request, from a staff member of the [~~abortion~~
1021 ~~clinic or~~] hospital where the woman viewed the information module, a printed copy of the
1022 material on the department's website;

1023 (ii) a printed copy of the material on the department's website described in Section
1024 76-7-305.5, if requested by the pregnant woman; and

1025 (iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the
1026 disposition of the aborted fetus.

1027 (3) Before performing an abortion, the physician who is to perform the abortion shall:

1028 (a) in a face-to-face consultation, provide the information described in Subsection
1029 (2)(d), unless the attending physician or referring physician is the individual who provided the
1030 information required under Subsection (2)(d); and

1031 (b) (i) obtain from the pregnant woman a written certification that the information
1032 required to be provided under Subsection (2) and this Subsection (3) was provided in
1033 accordance with the requirements of Subsection (2) and this Subsection (3);

1034 (ii) obtain a copy of the statement described in Subsection (2)(c)(i); and

1035 (iii) ensure that:

1036 (A) the woman has received the information described in Subsections 26-21-33(3) and
1037 (4); and

1038 (B) if the woman has a preference for the disposition of the aborted fetus, the woman
1039 has informed the health care facility of the woman's decision regarding the disposition of the
1040 aborted fetus.

1041 (4) When a [~~serious~~] medical emergency compels the performance of an abortion, the
1042 physician shall inform the woman prior to the abortion, if possible, of the medical indications
1043 supporting the physician's judgment that an abortion is necessary.

1044 (5) If an ultrasound is performed on a woman before an abortion is performed, the
1045 individual who performs the ultrasound, or another qualified individual, shall:

1046 (a) inform the woman that the ultrasound images will be simultaneously displayed in a
1047 manner to permit her to:

- 1048 (i) view the images, if she chooses to view the images; or
1049 (ii) not view the images, if she chooses not to view the images;
1050 (b) simultaneously display the ultrasound images in order to permit the woman to:
1051 (i) view the images, if she chooses to view the images; or
1052 (ii) not view the images, if she chooses not to view the images;
1053 (c) inform the woman that, if she desires, the person performing the ultrasound, or
1054 another qualified person shall provide a detailed description of the ultrasound images,
1055 including:
1056 (i) the dimensions of the unborn child;
1057 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and
1058 (iii) the presence of external body parts or internal organs, if present and viewable; and
1059 (d) provide the detailed description described in Subsection (5)(c), if the woman
1060 requests it.
1061 (6) The information described in Subsections (2), (3), and (5) is not required to be
1062 provided to a pregnant woman under this section if the abortion is performed for a reason
1063 described in:
1064 (a) Subsection ~~[76-7-302(3)(b)(i)]~~ 76-7-302(2)(b)(i), if the treating physician and one
1065 other physician concur, in writing, that the abortion is necessary to avert:
1066 (i) the death of the woman on whom the abortion is performed; or
1067 (ii) a ~~[serious risk of substantial and irreversible impairment of a major bodily function~~
1068 ~~of the woman on whom the abortion is performed]~~ risk described in Subsection
1069 76-7-302(2)(b)(i)(B); or
1070 (b) Subsection ~~[76-7-302(3)(b)(ii)]~~ 76-7-302(2)(b)(ii).
1071 (7) In addition to the criminal penalties described in this part, a physician who violates
1072 the provisions of this section:
1073 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;
1074 and
1075 (b) shall be subject to:
1076 (i) suspension or revocation of the physician's license for the practice of medicine and
1077 surgery in accordance with Section 58-67-401 or 58-68-401; and
1078 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

1079 (8) A physician is not guilty of violating this section for failure to furnish any of the
1080 information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

1081 (a) the physician can demonstrate by a preponderance of the evidence that the
1082 physician reasonably believed that furnishing the information would have resulted in a severely
1083 adverse effect on the physical or mental health of the pregnant woman;

1084 (b) in the physician's professional judgment, the abortion was necessary to avert:

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

1086 (ii) a ~~[serious risk of substantial and irreversible impairment of a major bodily function~~
1087 ~~of the woman on whom the abortion is performed]~~ risk described in Subsection
1088 [76-7-302\(2\)\(b\)\(i\)\(B\)](#);

1089 (c) the pregnancy was the result of rape or rape of a child, as described in Sections
1090 [76-5-402](#) and [76-5-402.1](#);

1091 (d) the pregnancy was the result of incest, as defined in Subsection [76-5-406\(2\)\(j\)](#) and
1092 Section [76-7-102](#); or

1093 (e) at the time of the abortion, the pregnant woman was 14 years old or younger.

1094 (9) A physician who complies with the provisions of this section and Section
1095 [76-7-304.5](#) may not be held civilly liable to the physician's patient for failure to obtain
1096 informed consent under Section [78B-3-406](#).

1097 (10) (a) The department shall provide an ultrasound, in accordance with the provisions
1098 of Subsection (5)(b), at no expense to the pregnant woman.

1099 (b) A local health department shall refer a pregnant woman who requests an ultrasound
1100 described in Subsection (10)(a) to the department.

1101 (11) A physician is not guilty of violating this section if:

1102 (a) the information described in Subsection (2) is provided less than 72 hours before
1103 the physician performs the abortion; and

1104 (b) in the physician's professional judgment, the abortion was necessary in a case
1105 where:

1106 (i) a ruptured membrane, documented by the attending or referring physician, will
1107 cause a serious infection; or

1108 (ii) a serious infection, documented by the attending or referring physician, will cause a
1109 ruptured membrane.

1110 Section 22. Section **76-7-305.5** is amended to read:

1111 **76-7-305.5. Requirements for information module and website.**

1112 (1) In order to ensure that a woman's consent to an abortion is truly an informed
1113 consent, the department shall, in accordance with the requirements of this section, develop an
1114 information module and maintain a public website.

1115 (2) The information module and public website described in Subsection (1) shall:

1116 (a) be scientifically accurate, comprehensible, and presented in a truthful,
1117 nonmisleading manner;

1118 (b) present adoption as a preferred and positive choice and alternative to abortion;

1119 (c) be produced in a manner that conveys the state's preference for childbirth over
1120 abortion;

1121 (d) state that the state prefers childbirth over abortion;

1122 (e) state that it is unlawful for any person to coerce a woman to undergo an abortion;

1123 (f) state that any physician who performs an abortion without obtaining the woman's
1124 informed consent or without providing her a private medical consultation in accordance with
1125 the requirements of this section, may be liable to her for damages in a civil action at law;

1126 (g) provide a geographically indexed list of resources and public and private services
1127 available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth,
1128 and while the child is dependent, including:

1129 (i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

1130 (ii) services and supports available under Section [35A-3-308](#);

1131 (iii) other financial aid that may be available during an adoption;

1132 (iv) services available from public adoption agencies, private adoption agencies, and
1133 private attorneys whose practice includes adoption; and

1134 (v) the names, addresses, and telephone numbers of each person listed under this
1135 Subsection (2)(g);

1136 (h) describe the adoption-related expenses that may be paid under Section [76-7-203](#);

1137 (i) describe the persons who may pay the adoption related expenses described in
1138 Subsection (2)(h);

1139 (j) except as provided in Subsection (4), describe the legal responsibility of the father
1140 of a child to assist in child support, even if the father has agreed to pay for an abortion;

- 1141 (k) except as provided in Subsection (4), describe the services available through the
1142 Office of Recovery Services, within the Department of Human Services, to establish and
1143 collect the support described in Subsection (2)(j);
- 1144 (l) state that private adoption is legal;
- 1145 (m) describe and depict, with pictures or video segments, the probable anatomical and
1146 physiological characteristics of an unborn child at two-week gestational increments from
1147 fertilization to full term, including:
- 1148 (i) brain and heart function;
- 1149 (ii) the presence and development of external members and internal organs; and
- 1150 (iii) the dimensions of the fetus;
- 1151 (n) show an ultrasound of the heartbeat of an unborn child at:
- 1152 (i) four weeks from conception;
- 1153 (ii) six to eight weeks from conception; and
- 1154 (iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;
- 1155 (o) describe abortion procedures used in current medical practice at the various stages
1156 of growth of the unborn child, including:
- 1157 (i) the medical risks associated with each procedure;
- 1158 (ii) the risk related to subsequent childbearing that are associated with each procedure;
- 1159 and
- 1160 (iii) the consequences of each procedure to the unborn child at various stages of fetal
1161 development;
- 1162 (p) describe the possible detrimental psychological effects of abortion;
- 1163 (q) describe the medical risks associated with carrying a child to term;
- 1164 (r) include relevant information on the possibility of an unborn child's survival at the
1165 two-week gestational increments described in Subsection (2)(m);
- 1166 (s) except as provided in Subsection (5), include:
- 1167 (i) information regarding substantial medical evidence from studies concluding that an
1168 unborn child who is at least 20 weeks gestational age may be capable of experiencing pain
1169 during an abortion procedure; and
- 1170 (ii) the measures that will be taken in accordance with Section [76-7-308.5](#);
- 1171 (t) explain the options and consequences of aborting a medication-induced abortion;

1172 (u) include the following statement regarding a medication-induced abortion,
1173 "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You
1174 may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but
1175 have not yet taken the second drug and have questions regarding the health of your fetus or are
1176 questioning your decision to terminate your pregnancy, you should consult a physician
1177 immediately.";

1178 (v) inform a pregnant woman that she has the right to view an ultrasound of the unborn
1179 child, at no expense to her, upon her request;

1180 (w) inform a pregnant woman that she has the right to:

1181 (i) determine the final disposition of the remains of the aborted fetus;

1182 (ii) unless the woman waives this right in writing, wait up to 72 hours after the
1183 abortion procedure is performed to make a determination regarding the disposition of the
1184 aborted fetus before the health care facility may dispose of the fetal remains;

1185 (iii) receive information about options for disposition of the aborted fetus, including
1186 the method of disposition that is usual and customary for a health care facility; and

1187 (iv) for a medication-induced abortion, return the aborted fetus to the health care
1188 facility for disposition; and

1189 (x) provide a digital copy of the form described in Subsection 26-21-33(3)(a)(i); and

1190 (y) be in a typeface large enough to be clearly legible.

1191 (3) The information module and website described in Subsection (1) may include a
1192 toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and
1193 description of services, agencies, and adoption attorneys in the locality of the caller.

1194 (4) The department may develop a version of the information module and website that
1195 omits the information in Subsections (2)(j) and (k) for a viewer who is pregnant as the result of
1196 rape.

1197 (5) The department may develop a version of the information module and website that
1198 omits the information described in Subsection (2)(s) for a viewer who will have an abortion
1199 performed:

1200 (a) on an unborn child who is less than 20 weeks gestational age at the time of the
1201 abortion; or

1202 (b) on an unborn child who is at least 20 weeks gestational age at the time of the

1203 abortion, if:

1204 (i) the abortion is being performed for a reason described in Subsection

1205 ~~[76-7-302(3)(b)(i)]~~ 76-7-302(2)(b)(i) or (ii); and

1206 (ii) due to a serious medical emergency, time does not permit compliance with the
1207 requirement to provide the information described in Subsection (2)(s).

1208 (6) The department and each local health department shall make the information
1209 module and the website described in Subsection (1) available at no cost to any person.

1210 (7) The department shall make the website described in Subsection (1) available for
1211 viewing on the department's website by clicking on a conspicuous link on the home page of the
1212 website.

1213 (8) The department shall ensure that the information module is:

1214 (a) available to be viewed at all facilities where an abortion may be performed;

1215 (b) interactive for the individual viewing the module, including the provision of
1216 opportunities to answer questions and manually engage with the module before the module
1217 transitions from one substantive section to the next;

1218 (c) produced in English and may include subtitles in Spanish or another language; and

1219 (d) capable of being viewed on a tablet or other portable device.

1220 (9) After the department releases the initial version of the information module, for the
1221 use described in Section 76-7-305, the department shall:

1222 (a) update the information module, as required by law; and

1223 (b) present an updated version of the information module to the Health and Human
1224 Services Interim Committee for the committee's review and recommendation before releasing
1225 the updated version for the use described in Section 76-7-305.

1226 Section 23. Section **76-7-306** is amended to read:

1227 **76-7-306. Refusal to participate, admit, or treat for abortion based on religious or**
1228 **moral grounds -- Cause of action.**

1229 (1) As used in this section:

1230 (a) "Health care facility" is as defined in Section 26-21-2.

1231 (b) "Health care provider" means an individual who is an employee of, has practice
1232 privileges at, or is otherwise associated with a health care facility.

1233 (2) (a) ~~[A]~~ Notwithstanding Subsection (2)(b), a health care provider may, on religious

1234 or moral grounds, refuse to perform or participate in any way, in:

1235 ~~[(a)]~~ (i) an abortion; or

1236 ~~[(b)]~~ (ii) a procedure that is intended to, or likely to, result in the termination of a
1237 pregnancy.

1238 (b) Subsection (2)(a) does not apply in a medical emergency as defined in Sections
1239 76-7-301 and 76-7a-201.

1240 ~~[(3) Except as otherwise required by law, a health care facility may refuse, on religious~~
1241 ~~or moral grounds, to:]~~

1242 ~~[(a) admit a patient for an abortion procedure or another procedure that is intended to,~~
1243 ~~or likely to, result in the termination of a pregnancy; or]~~

1244 ~~[(b) perform for a patient an abortion procedure or another procedure that is intended~~
1245 ~~to, or likely to, result in the termination of a pregnancy.]~~

1246 ~~[(4)]~~ (3) A health care provider's refusal under Subsection (2) ~~[and a health care~~
1247 ~~facility's refusal under Subsection (3)]~~ may not be the basis for civil liability or other
1248 recriminatory action.

1249 ~~[(5)]~~ (4) (a) A health care facility, employer, or other person may not take an adverse
1250 action against a health care provider for exercising the health care provider's right of refusal
1251 described in Subsection (2), or for bringing or threatening to bring an action described in
1252 Subsection ~~[(6), including:]~~ (5).

1253 (b) An adverse action in Subsection (4)(a) includes:

1254 ~~[(a)]~~ (i) dismissal;

1255 ~~[(b)]~~ (ii) demotion;

1256 ~~[(c)]~~ (iii) suspension;

1257 ~~[(d)]~~ (iv) discipline;

1258 ~~[(e)]~~ (v) discrimination;

1259 ~~[(f)]~~ (vi) harassment;

1260 ~~[(g)]~~ (vii) retaliation;

1261 ~~[(h)]~~ (viii) adverse change in status;

1262 ~~[(i)]~~ (ix) termination of, adverse alteration of, or refusal to renew an association or
1263 agreement; ~~[or]~~ and

1264 ~~[(j)]~~ (x) refusal to provide a benefit, privilege, raise, promotion, tenure, or increased

1265 status that the health care provider would have otherwise received.

1266 ~~[(6)]~~ (5) (a) A person who is adversely impacted by conduct prohibited in Subsection
1267 ~~[(5)]~~ (4) may bring a civil action for equitable relief, including reinstatement, and for damages.

1268 (b) A person who brings an action under ~~[this section]~~ Subsection (5)(a) must
1269 commence the action within three years after the day on which the cause of action arises.

1270 Section 24. Section **76-7-313** is amended to read:

1271 **76-7-313. Department's enforcement responsibility -- Physician's report to**
1272 **department.**

1273 (1) In order for the department to maintain necessary statistical information and ensure
1274 enforcement of the provisions of this part:

1275 (a) any physician performing an abortion must obtain and record in writing:

1276 (i) the age, marital status, and county of residence of the woman on whom the abortion
1277 was performed;

1278 (ii) the number of previous abortions performed on the woman described in Subsection
1279 (1)(a)(i);

1280 (iii) the hospital or other facility where the abortion was performed;

1281 (iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;

1282 (v) the pathological description of the unborn child;

1283 (vi) the given gestational age of the unborn child;

1284 (vii) the date the abortion was performed;

1285 (viii) the measurements of the unborn child, if possible to ascertain; and

1286 (ix) the medical procedure used to abort the unborn child; and

1287 (b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah
1288 Administrative Rulemaking Act.

1289 (2) Each physician who performs an abortion shall provide the following to the
1290 department within 30 days after the day on which the abortion is performed:

1291 (a) the information described in Subsection (1);

1292 (b) a copy of the pathologist's report described in Section [76-7-309](#);

1293 (c) an affidavit:

1294 (i) indicating whether the required consent was obtained pursuant to Sections [76-7-305](#)
1295 and [76-7-305.5](#);

- 1296 (ii) described in Subsection (3), if applicable; and
- 1297 (iii) indicating whether at the time the physician performed the abortion, the physician
- 1298 had any knowledge that the pregnant woman sought the abortion solely because the unborn
- 1299 child had or may have had Down syndrome; and
- 1300 (d) a certificate indicating:
- 1301 ~~[(i) whether the unborn child was or was not viable, as defined in Subsection~~
- 1302 ~~76-7-302(1), at the time of the abortion;]~~
- 1303 ~~[(ii)]~~ (i) whether the unborn child was older or younger than 18 weeks gestational age
- 1304 at the time of the abortion; and
- 1305 ~~[(iii)]~~ (ii) ~~[if the unborn child was viable, as defined in Subsection 76-7-302(1), or~~
- 1306 ~~older than 18 weeks gestational age at the time of the abortion;]~~ the reason for the abortion.
- 1307 (3) If the information module or the address to the website is not provided to a
- 1308 pregnant woman, the physician who performs the abortion on the woman shall, within 10 days
- 1309 after the day on which the abortion is performed, provide to the department an affidavit that:
- 1310 (a) specifies the information that was not provided to the woman; and
- 1311 (b) states the reason that the information was not provided to the woman.
- 1312 (4) All information supplied to the department shall be confidential and privileged
- 1313 pursuant to Title 26, Chapter 25, Confidential Information Release.
- 1314 (5) The department shall pursue all administrative and legal remedies when the
- 1315 department determines that a physician or a facility has not complied with the provisions of this
- 1316 part.
- 1317 Section 25. Section **76-7-314** is amended to read:
- 1318 **76-7-314. Violations of abortion laws -- Classifications.**
- 1319 (1) ~~[A willful]~~ An intentional violation of Section ~~76-7-307, 76-7-308, 76-7-310,~~
- 1320 ~~76-7-310.5, 76-7-311, or 76-7-312~~ is a felony of the third degree.
- 1321 (2) A violation of Section ~~76-7-326~~ is a felony of the third degree.
- 1322 (3) A violation of Section ~~[76-7-302.5 or]~~ ~~76-7-314.5~~ is a felony of the second degree.
- 1323 (4) A violation of any other provision of this part, including Subsections
- 1324 ~~76-7-305(2)(a) through (c), and (e),~~ is a class A misdemeanor.
- 1325 (5) The ~~[Department of Health]~~ department shall report a physician's violation of any
- 1326 provision of this part to the Physicians Licensing Board, described in Section ~~58-67-201~~.

1327 (6) Any person with knowledge of a physician's violation of any provision of this part
1328 may report the violation to the Physicians Licensing Board, described in Section 58-67-201.

1329 (7) In addition to the penalties described in this section, the department may take any
1330 action described in Section 26-21-11 against ~~[an abortion clinic]~~ a health care facility if a
1331 violation of this chapter occurs at the ~~[abortion clinic]~~ health care facility.

1332 Section 26. Section 76-7-314.5 is amended to read:

1333 **76-7-314.5. Killing an unborn child.**

1334 (1) A person is guilty of killing an unborn child if the person intentionally causes the
1335 death of an unborn child by performing an abortion of the unborn child in violation of the
1336 provisions of Subsection ~~[76-7-302(3)]~~ 76-7-302(2).

1337 (2) A woman is not criminally liable for:

1338 (a) seeking to obtain, or obtaining, an abortion that is permitted by this part; or

1339 (b) a physician's failure to comply with Subsection ~~[76-7-302(3)(b)(ii)]~~

1340 76-7-302(2)(b)(ii) or Section 76-7-305.

1341 Section 27. Section 76-7-317 is amended to read:

1342 **76-7-317. Severability clause.**

1343 If any one or more provision, section, subsection, sentence, clause, phrase, or word of
1344 this part or the application thereof to any person or circumstance is found to be
1345 unconstitutional, the same is hereby declared to be severable and the balance of this part shall
1346 remain effective notwithstanding such unconstitutionality. The legislature hereby declares that
1347 it would have passed this part, and each provision, section, subsection, sentence, clause, phrase,
1348 or word thereof, irrespective of the fact that any one or more provision, section, subsection,
1349 sentence, clause, phrase, or word be declared unconstitutional. This section applies to any
1350 provision, section, subsection, sentence, clause, phrase, or word of this part, regardless of the
1351 time of enactment, amendment, or repeal.

1352 Section 28. Section 76-7-332 is enacted to read:

1353 **76-7-332. Drugs known to be used for abortion -- Prescriber limitation --**

1354 **Criminal penalties -- Pharmacy presumption for other use.**

1355 (1) As used in the section, "abortion-related drug" means a drug or medication that is
1356 known to be used for the purpose of performing an abortion, and includes:

1357 (a) methotrexate, or methotrexate with misoprostol;

1358 (b) mifepristone, also known as mifeprex;

1359 (c) misoprostol, also known as cytotec; and

1360 (d) RU-486.

1361 (2) An individual may not prescribe an abortion-related drug for the purpose of causing
1362 an abortion, unless the individual is licensed as a physician in this state under:

1363 (a) Title 58, Chapter 67, Utah Medical Practice Act; or

1364 (b) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

1365 (3) A violation of Subsection (2) is a class B misdemeanor.

1366 (4) (a) Any prescription or medical order for a drug that is known to possibly cause an
1367 abortion shall be presumed by a pharmacy to be for an indication other than for the termination
1368 of a pregnancy.

1369 (b) A pharmacy dispensing a prescription or medical order for a drug that is known to
1370 possibly cause an abortion shall not be required to verify whether the prescription or medical
1371 order violates any provision of this chapter.

1372 Section 29. Section **76-7a-101** is amended to read:

1373 **76-7a-101. Definitions.**

1374 As used in this chapter:

1375 (1) (a) "Abortion" means[~~:~~] the act, by a physician, of using an instrument, or
1376 prescribing a drug, with the intent to cause the death of an unborn child of a woman known to
1377 be pregnant, except as permitted under this chapter.

1378 [~~(i) the intentional termination or attempted termination of human pregnancy after~~
1379 ~~implantation of a fertilized ovum through a medical procedure carried out by a physician or~~
1380 ~~through a substance used under the direction of a physician;]~~

1381 [~~(ii) the intentional killing or attempted killing of a live unborn child through a medical~~
1382 ~~procedure carried out by a physician or through a substance used under the direction of a~~
1383 ~~physician; or]~~

1384 [~~(iii) the intentional causing or attempted causing of a miscarriage through a medical~~
1385 ~~procedure carried out by a physician or through a substance used under the direction of a~~
1386 ~~physician.]~~

1387 (b) "Abortion" does not include:

1388 (i) removal of a dead unborn child;

1389 (ii) removal of an ectopic pregnancy; or
1390 (iii) the killing or attempted killing of an unborn child without the consent of the
1391 pregnant woman, unless:

1392 (A) the killing or attempted killing is done through a medical procedure carried out by
1393 a physician or through a substance used under the direction of a physician; and

1394 (B) the physician is unable to obtain the consent due to a medical emergency.

1395 ~~[(2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II~~
1396 ~~abortion clinic licensed by the state.]~~

1397 ~~[(3)]~~ (2) "Department" means the Department of Health and Human Services.

1398 ~~[(4)]~~ (3) "Down syndrome" means a genetic condition associated with an extra
1399 chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

1400 ~~[(5)]~~ (4) "Hospital" means:

1401 (a) a general hospital licensed by the department; or

1402 (b) a clinic or other medical facility ~~[to the extent the clinic or other medical facility is~~
1403 ~~certified by the department as providing equipment and personnel sufficient in quantity and~~
1404 ~~quality to provide the same degree of safety to a pregnant woman and an unborn child as would~~
1405 ~~be provided for the particular medical procedure undertaken by a general hospital licensed by~~
1406 ~~the department.]~~ that meets the following criteria:

1407 (i) a clinician who performs procedures at the clinic is required to be credentialed to
1408 perform the same procedures at a general hospital licensed by the department; and

1409 (ii) any procedures performed at the clinic are done with the same level of safety for
1410 the pregnant woman and unborn child as would be available in a general hospital licensed by
1411 the department.

1412 ~~[(6) "Incest" means the same as that term is defined in Section 80-1-102.]~~

1413 ~~[(7)]~~ (5) "Medical emergency" means a ~~[condition which, on the basis of the~~
1414 ~~physician's good faith clinical judgment, so threatens the life of a pregnant woman as to~~
1415 ~~necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay~~
1416 ~~will create serious risk of substantial and irreversible impairment of major bodily function]~~ life
1417 threatening physical condition aggravated by, caused by, or arising from a pregnancy that
1418 places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of
1419 a major bodily function, unless the abortion is performed or induced.

1420 (6) "Perinatal hospice" means comprehensive support to the mother and her family
 1421 from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's birth,
 1422 and through the postpartum period, that:

1423 (a) focuses on alleviating fear and ensuring that the woman and her family experience
 1424 the life and death of a child in a comfortable and supportive environment; and

1425 (b) may include counseling or medical care by:

1426 (i) maternal-fetal medical specialists;

1427 (ii) obstetricians;

1428 (iii) neonatologists;

1429 (iv) anesthesia specialists;

1430 (v) psychiatrists, psychologists, or other mental health providers;

1431 (vi) clergy;

1432 (vii) social workers; or

1433 (viii) specialty nurses

1434 ~~[(8)]~~ (7) "Physician" means:

1435 (a) a medical doctor licensed to practice medicine and surgery in the state;

1436 (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

1437 (c) a physician employed by the federal government who has qualifications similar to
 1438 an individual described in Subsection ~~[(8)(a) or (b)]~~ (7)(a) or (b).

1439 ~~[(9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.]~~

1440 ~~[(10)]~~ (8) (a) "Severe brain abnormality" means a malformation or defect that causes an
 1441 individual to live in a mentally vegetative state.

1442 (b) "Severe brain abnormality" does not include:

1443 (i) Down syndrome;

1444 (ii) spina bifida;

1445 (iii) cerebral palsy; or

1446 (iv) any other malformation, defect, or condition that does not cause an individual to
 1447 live in a mentally vegetative state.

1448 Section 30. Section **76-7a-201** is amended to read:

1449 **76-7a-201. Abortion prohibition -- Exceptions -- Penalties.**

1450 (1) An abortion may be performed in this state only under the following circumstances:

1451 (a) the abortion is necessary to avert:
1452 (i) the death of the woman on whom the abortion is performed; or
1453 (ii) a serious physical risk of substantial [~~and irreversible~~] impairment of a major
1454 bodily function of the woman on whom the abortion is performed;
1455 (b) subject to Subsection (3), two physicians who practice maternal fetal medicine
1456 concur, in writing, in the patient's medical record that the fetus[:] has a fetal abnormality that in
1457 the physicians' reasonable medical judgment is incompatible with life; or
1458 [~~(i) has a defect that is uniformly diagnosable and uniformly lethal; or~~]
1459 [~~(ii) has a severe brain abnormality that is uniformly diagnosable; or~~]
1460 (c) [~~(i)~~] the unborn child has not reached 18 weeks gestational age and:
1461 (i) (A) the woman is pregnant as a result of:
1462 [~~(A)~~] (I) rape, as described in Section [76-5-402](#);
1463 [~~(B)~~] (II) rape of a child, as described in Section [76-5-402.1](#); or
1464 [~~(C)~~] (III) incest[~~; and~~], as described in Subsection [76-5-406\(2\)\(j\)](#) or Section [76-7-102](#);
1465 or
1466 (B) the pregnant child is under the age of 14; and
1467 (ii) before the abortion is performed, the physician who performs the abortion:
1468 (A) for an abortion authorized under Subsection (1)(c)(i)(A), verifies that the incident
1469 described in Subsection [~~(1)(c)(i)~~] (1)(c)(i)(A) has been reported to law enforcement; and
1470 (B) if applicable, complies with requirements related to reporting suspicions of or
1471 known child abuse.
1472 (2) An abortion may be performed only:
1473 (a) by a physician; and
1474 (b) in [~~an abortion clinic or~~] a hospital, unless it is necessary to perform the abortion in
1475 another location due to a medical emergency.
1476 (3) If the unborn child has been diagnosed with a fetal abnormality that is incompatible
1477 with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and
1478 in writing, that perinatal hospice services and perinatal palliative care are available and are an
1479 alternative to abortion.
1480 [~~(3)~~] (4) A person who performs an abortion in violation of this section is guilty of a
1481 second degree felony.

1482 [(4)] (5) In addition to the penalty described in Subsection [(3)] (4), the department
1483 may take appropriate corrective action against [~~an abortion clinic~~] a health care facility,
1484 including revoking the [~~abortion clinic's~~] health care facility's license, if a violation of this
1485 chapter occurs at the [~~abortion clinic~~] health care facility.

1486 [(5)] (6) The department shall report a physician's violation of any provision of this
1487 section to the state entity that regulates the licensing of a physician.

1488 Section 31. **Repealer.**

1489 This bill repeals:

1490 Section **76-7-302.5, Circumstances under which abortion prohibited.**