

1 **PHYSICIAN ASSISTANT PRACTICE AMENDMENTS**
2 2024 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: Curtis S. Bramble**
5 House Sponsor: A. Cory Maloy

6
7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions relating to physician assistants.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▸ clarifies the scope of practice for physician assistants.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 This bill provides a coordination clause.

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **26B-1-501**, as renumbered and amended by Laws of Utah 2023, Chapter 305

21 **26B-2-201**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and
22 amended by Laws of Utah 2023, Chapter 305

23 **26B-3-123**, as last amended by Laws of Utah 2023, Chapter 295 and renumbered and
24 amended by Laws of Utah 2023, Chapter 306

25 **26B-4-409**, as renumbered and amended by Laws of Utah 2023, Chapter 307

26 **26B-4-410**, as renumbered and amended by Laws of Utah 2023, Chapter 307

27 **26B-7-216**, as renumbered and amended by Laws of Utah 2023, Chapter 308

28 **26B-7-402**, as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-8-104, as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-115, as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-118, as renumbered and amended by Laws of Utah 2023, Chapter 306

53-2a-1601, as enacted by Laws of Utah 2022, Chapter 111

53-3-206, as last amended by Laws of Utah 2023, Chapter 391

29 **53-3-220**, as last amended by Laws of Utah 2023, Chapter 415
 30 **53G-6-204**, as last amended by Laws of Utah 2023, Chapter 162
 31 **53G-6-603**, as last amended by Laws of Utah 2022, Chapter 329
 32 **53G-9-403**, as last amended by Laws of Utah 2022, Chapter 214
 33 **58-37c-3**, as last amended by Laws of Utah 2015, Chapter 258
 34 **75-2a-104**, as last amended by Laws of Utah 2009, Chapter 99
 35 **75-2a-106**, as last amended by Laws of Utah 2023, Chapter 330
 36 **75-2a-117**, as last amended by Laws of Utah 2009, Chapter 99
 37 **75-5-301.5**, as enacted by Laws of Utah 2022, Chapter 358 and last amended by
 38 Coordination Clause, Laws of Utah 2022, Chapter 358
 39 **75-5-303**, as last amended by Laws of Utah 2018, Chapter 455
 40 **76-5-111**, as last amended by Laws of Utah 2022, Chapter 181

41 **Utah Code Sections affected by Coordination Clause:**

42 **26B-7-402**, as renumbered and amended by Laws of Utah 2023, Chapter 308

43

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

45 Section 1. Section **26B-1-501** is amended to read:

46 **26B-1-501 . Definitions.**

47 As used in this part:

- 48 (1) "Abuse" means the same as that term is defined in Section 80-1-102.
 49 (2) "Child" means the same as that term is defined in Section 80-1-102.
 50 (3) "Committee" means a fatality review committee that is formed under Section 26B-1-503
 51 or 26B-1-504.
 52 (4) "Dependency" means the same as that term is defined in Section 80-1-102.
 53 (5) "Formal review" means a review of a death or a near fatality that is ordered under
 54 Subsection 26B-1-502(6).
 55 (6) "Near fatality" means alleged abuse or neglect that, as certified by a physician or
 56 physician assistant, places a child in serious or critical condition.
 57 (7) "Qualified individual" means an individual who:
 58 (a) at the time that the individual dies, is a resident of a facility or program that is owned
 59 or operated by the department or a division of the department;
 60 (b) (i) is in the custody of the department or a division of the department; and
 61 (ii) is placed in a residential placement by the department or a division of the
 62 department;

- 63 (c) at the time that the individual dies, has an open case for the receipt of child welfare
64 services, including:
- 65 (i) an investigation for abuse, neglect, or dependency;
- 66 (ii) foster care;
- 67 (iii) in-home services; or
- 68 (iv) substitute care;
- 69 (d) had an open case for the receipt of child welfare services within one year before the
70 day on which the individual dies;
- 71 (e) was the subject of an accepted referral received by Adult Protective Services within
72 one year before the day on which the individual dies, if:
- 73 (i) the department or a division of the department is aware of the death; and
- 74 (ii) the death is reported as a homicide, suicide, or an undetermined cause;
- 75 (f) received services from, or under the direction of, the Division of Services for People
76 with Disabilities within one year before the day on which the individual dies, unless
77 the individual:
- 78 (i) lived in the individual's home at the time of death; and
- 79 (ii) the director of the Division of Continuous Quality and Improvement determines
80 that the death was not in any way related to services that were provided by, or
81 under the direction of, the department or a division of the department;
- 82 (g) dies within 60 days after the day on which the individual is discharged from the Utah
83 State Hospital, if the department is aware of the death;
- 84 (h) is a child who:
- 85 (i) suffers a near fatality; and
- 86 (ii) is the subject of an open case for the receipt of child welfare services within one
87 year before the day on which the child suffered the near fatality, including:
- 88 (A) an investigation for abuse, neglect, or dependency;
- 89 (B) foster care;
- 90 (C) in-home services; or
- 91 (D) substitute care; or
- 92 (i) is designated as a qualified individual by the executive director.
- 93 (8) "Neglect" means the same as that term is defined in Section 80-1-102.
- 94 (9) "Substitute care" means the same as that term is defined in Section 80-1-102.

95 Section 2. Section **26B-2-201** is amended to read:

96 **26B-2-201 . Definitions.**

97 As used in this part:

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

99 (b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under
100 Section 76-7-301 or Section 76-71-101.

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

102 (a) dressing;

103 (b) eating;

104 (c) grooming;

105 (d) bathing;

106 (e) toileting;

107 (f) ambulation;

108 (g) transferring; and

109 (h) self-administration of medication.

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

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

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

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

118 (A) require protected living arrangements; and

119 (B) are capable of achieving mobility sufficient to exit the facility without the
120 assistance of another person; and

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

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

127 (i) specified services of intermittent nursing care;

128 (ii) administration of medication; and

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

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

- 131 (a) receives maternal clients and provides care during pregnancy, delivery, and
132 immediately after delivery; and
- 133 (b) (i) is freestanding; or
134 (ii) is not freestanding, but meets the requirements for an alongside midwifery unit
135 described in Subsection 26B-2-228(7).
- 136 (7) "Committee" means the Health Facility Committee created in Section 26B-1-204.
- 137 (8) "Consumer" means any person not primarily engaged in the provision of health care to
138 individuals or in the administration of facilities or institutions in which such care is
139 provided and who does not hold a fiduciary position, or have a fiduciary interest in any
140 entity involved in the provision of health care, and does not receive, either directly or
141 through his spouse, more than 1/10 of his gross income from any entity or activity
142 relating to health care.
- 143 (9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney
144 dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.
- 145 (10) "Freestanding" means existing independently or physically separated from another
146 health care facility by fire walls and doors and administrated by separate staff with
147 separate records.
- 148 (11) "General acute hospital" means a facility which provides diagnostic, therapeutic, and
149 rehabilitative services to both inpatients and outpatients by or under the supervision of
150 physicians.
- 151 (12) "Governmental unit" means the state, or any county, municipality, or other political
152 subdivision or any department, division, board, or agency of the state, a county,
153 municipality, or other political subdivision.
- 154 (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home
155 health agencies, hospices, nursing care facilities, residential-assisted living facilities,
156 birthing centers, ambulatory surgical facilities, small health care facilities, abortion
157 clinics, a clinic that meets the definition of hospital under Section 76-7-301 or
158 76-71-201, facilities owned or operated by health maintenance organizations, end
159 stage renal disease facilities, and any other health care facility which the committee
160 designates by rule.
- 161 (b) "Health care facility" does not include the offices of private physicians or dentists,
162 whether for individual or group practice, except that it does include an abortion clinic.
- 163 (14) "Health maintenance organization" means an organization, organized under the laws of
164 any state which:

- 165 (a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or
166 (b) (i) provides or otherwise makes available to enrolled participants at least the
167 following basic health care services: usual physician services, hospitalization,
168 laboratory, x-ray, emergency, and preventive services and out-of-area coverage;
169 (ii) is compensated, except for copayments, for the provision of the basic health
170 services listed in Subsection (14)(b)(i) to enrolled participants by a payment
171 which is paid on a periodic basis without regard to the date the health services are
172 provided and which is fixed without regard to the frequency, extent, or kind of
173 health services actually provided;[~~and~~]
174 (iii) provides physicians' services primarily directly through physicians who are
175 either employees or partners of such organizations, or through arrangements with
176 individual physicians or one or more groups of physicians organized on a group
177 practice or individual practice basis[-] ; and
178 (iv) provides physician assistant services.
- 179 (15) (a) "Home health agency" means an agency, organization, or facility or a
180 subdivision of an agency, organization, or facility which employs two or more direct
181 care staff persons who provide licensed nursing services, therapeutic services of
182 physical therapy, speech therapy, occupational therapy, medical social services, or
183 home health aide services on a visiting basis.
- 184 (b) "Home health agency" does not mean an individual who provides services under the
185 authority of a private license.
- 186 (16) "Hospice" means a program of care for the terminally ill and their families which
187 occurs in a home or in a health care facility and which provides medical, palliative,
188 psychological, spiritual, and supportive care and treatment.
- 189 (17) "Nursing care facility" means a health care facility, other than a general acute or
190 specialty hospital, constructed, licensed, and operated to provide patient living
191 accommodations, 24-hour staff availability, and at least two of the following patient
192 services:
- 193 (a) a selection of patient care services, under the direction and supervision of a registered
194 nurse, ranging from continuous medical, skilled nursing, psychological, or other
195 professional therapies to intermittent health-related or paraprofessional personal care
196 services;
- 197 (b) a structured, supportive social living environment based on a professionally designed
198 and supervised treatment plan, oriented to the individual's habilitation or

- 199 rehabilitation needs; or
- 200 (c) a supervised living environment that provides support, training, or assistance with
- 201 individual activities of daily living.
- 202 (18) "Person" means any individual, firm, partnership, corporation, company, association,
- 203 or joint stock association, and the legal successor thereof.
- 204 (19) "Resident" means a person 21 years old or older who:
- 205 (a) as a result of physical or mental limitations or age requires or requests services
- 206 provided in an assisted living facility; and
- 207 (b) does not require intensive medical or nursing services as provided in a hospital or
- 208 nursing care facility.
- 209 (20) "Small health care facility" means a four to 16 bed facility that provides licensed
- 210 health care programs and services to residents.
- 211 (21) "Specialty hospital" means a facility which provides specialized diagnostic,
- 212 therapeutic, or rehabilitative services in the recognized specialty or specialties for which
- 213 the hospital is licensed.
- 214 (22) "Substantial compliance" means in a department survey of a licensee, the department
- 215 determines there is an absence of deficiencies which would harm the physical health,
- 216 mental health, safety, or welfare of patients or residents of a licensee.
- 217 (23) "Type I abortion clinic" means a facility, including a physician's office, but not
- 218 including a general acute or specialty hospital, that:
- 219 (a) performs abortions, as defined in Section 76-7-301, during the first trimester of
- 220 pregnancy; and
- 221 (b) does not perform abortions, as defined in Section 76-7-301, after the first trimester of
- 222 pregnancy.
- 223 (24) "Type II abortion clinic" means a facility, including a physician's office, but not
- 224 including a general acute or specialty hospital, that:
- 225 (a) performs abortions, as defined in Section 76-7-301, after the first trimester of
- 226 pregnancy; or
- 227 (b) performs abortions, as defined in Section 76-7-301, during the first trimester of
- 228 pregnancy and after the first trimester of pregnancy.

229 Section 3. Section **26B-3-123** is amended to read:

230 **26B-3-123 . Reimbursement of telemedicine services and telepsychiatric**

231 **consultations.**

- 232 (1) As used in this section:

- 233 (a) "Telehealth services" means the same as that term is defined in Section 26B-4-704.
- 234 (b) "Telemedicine services" means the same as that term is defined in Section 26B-4-704.
- 235 (c) "Telepsychiatric consultation" means a consultation between a physician or
- 236 physician assistant and a board certified psychiatrist, both of whom are licensed to
- 237 engage in the practice of medicine or physician assistant services in the state, that
- 238 utilizes:
- 239 (i) the health records of the patient, provided from the patient or the referring
- 240 physician or physician assistant;
- 241 (ii) a written, evidence-based patient questionnaire; and
- 242 (iii) telehealth services that meet industry security and privacy standards, including
- 243 compliance with the:
- 244 (A) Health Insurance Portability and Accountability Act; and
- 245 (B) Health Information Technology for Economic and Clinical Health Act, Pub.
- 246 L. No. 111-5, 123 Stat. 226, 467, as amended.
- 247 (2) This section applies to:
- 248 (a) a managed care organization that contracts with the Medicaid program; and
- 249 (b) a provider who is reimbursed for health care services under the Medicaid program.
- 250 (3) The Medicaid program shall reimburse for telemedicine services at the same rate that
- 251 the Medicaid program reimburses for other health care services.
- 252 (4) The Medicaid program shall reimburse for audio-only telehealth services as specified by
- 253 division rule.
- 254 (5) The Medicaid program shall reimburse for telepsychiatric consultations at a rate set by
- 255 the Medicaid program.
- 256 Section 4. Section **26B-4-409** is amended to read:
- 257 **26B-4-409 . Authority to obtain and use an epinephrine auto-injector or stock**
- 258 **albuterol.**
- 259 (1) A qualified adult who is a teacher or other school employee at a public or private
- 260 primary or secondary school in the state, or a school nurse, may obtain from the school
- 261 district physician, the medical director of the local health department, or the local
- 262 emergency medical services director a prescription for:
- 263 (a) epinephrine auto-injectors for use in accordance with this part; or
- 264 (b) stock albuterol for use in accordance with this part.
- 265 (2) (a) A qualified adult may obtain an epinephrine auto-injector for use in accordance
- 266 with this part that is dispensed by:

- 267 (i) a pharmacist as provided under Section 58-17b-1004; or
268 (ii) a pharmacy intern as provided under Section 58-17b-1004.
- 269 (b) A qualified adult may obtain stock albuterol for use in accordance with this part that
270 is dispensed by:
- 271 (i) a pharmacist as provided under Section 58-17b-1004; or
272 (ii) a pharmacy intern as provided under Section 58-17b-1004.
- 273 (3) A qualified adult:
- 274 (a) may immediately administer an epinephrine auto-injector to a person exhibiting
275 potentially life-threatening symptoms of anaphylaxis when a physician or physician
276 assistant is not immediately available; and
- 277 (b) shall initiate emergency medical services or other appropriate medical follow-up in
278 accordance with the training materials retained under Section 26B-4-407 after
279 administering an epinephrine auto-injector.
- 280 (4) If a school nurse is not immediately available, a qualified adult:
- 281 (a) may immediately administer stock albuterol to an individual who:
- 282 (i) has a diagnosis of asthma by a health care provider;
283 (ii) has a current asthma action plan on file with the school; and
284 (iii) is showing symptoms of an asthma emergency as described in the student's
285 asthma action plan; and
- 286 (b) shall initiate appropriate medical follow-up in accordance with the training materials
287 retained under Section 26B-4-408 after administering stock albuterol.
- 288 (5) (a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain a
289 supply of epinephrine auto-injectors or stock albuterol, respectively, from a
290 pharmacist under Section 58-17b-1004, or a pharmacy intern under Section
291 58-17b-1004 for:
- 292 (i) storing:
- 293 (A) the epinephrine auto-injectors on the qualified epinephrine auto-injector
294 entity's premises; and
- 295 (B) stock albuterol on the qualified stock albuterol entity's premises; and
- 296 (ii) use by a qualified adult in accordance with Subsection (3) or (4).
- 297 (b) A qualified epinephrine auto-injector entity shall:
- 298 (i) designate an individual to complete an initial and annual refresher training
299 program regarding the proper storage and emergency use of an epinephrine
300 auto-injector available to a qualified adult; and

301 (ii) store epinephrine auto-injectors in accordance with the standards established by
302 the department in Section 26B-4-411.

303 (c) A qualified stock albuterol entity shall:

304 (i) designate an individual to complete an initial and annual refresher training
305 program regarding the proper storage and emergency use of stock albuterol
306 available to a qualified adult; and

307 (ii) store stock albuterol in accordance with the standards established by the
308 department in Section 26B-4-411.

309 Section 5. Section **26B-4-410** is amended to read:

310 **26B-4-410 . Immunity from liability.**

311 (1) The following, if acting in good faith, are not liable in any civil or criminal action for
312 any act taken or not taken under the authority of Sections 26B-4-406 through 26B-4-411
313 with respect to an anaphylactic reaction or asthma emergency:

314 (a) a qualified adult;

315 (b) a physician, physician assistant, pharmacist, or any other person or entity authorized
316 to prescribe or dispense prescription drugs;

317 (c) a person who conducts training described in Section 26B-4-407 or 26B-4-408;

318 (d) a qualified epinephrine auto-injector entity; and

319 (e) a qualified stock albuterol entity.

320 (2) Section 53G-9-502 does not apply to the administration of an epinephrine auto-injector
321 or stock albuterol in accordance with this part.

322 (3) This section does not eliminate, limit, or reduce any other immunity from liability or
323 defense against liability that may be available under state law.

324 Section 6. Section **26B-7-216** is amended to read:

325 **26B-7-216 . Serological testing of pregnant or recently delivered women.**

326 (1) As used in this section, a "standard serological test" means a test for syphilis approved
327 by the department and made at an approved laboratory.

328 (2) (a) Every licensed physician~~[-and]~~ , surgeon, or physician assistant attending a
329 pregnant or recently delivered woman for conditions relating to her pregnancy shall
330 take or cause to be taken a sample of blood of the woman at the time of first
331 examination or within 10 days thereafter.

332 (b) The blood sample shall be submitted to an approved laboratory for a standard
333 serological test for syphilis.

334 (c) The provisions of this section do not apply to any female who objects thereto on the

335 grounds that she is a bona fide member of a specified, well recognized religious
336 organization whose teachings are contrary to the tests.

337 (3) (a) Every other person attending a pregnant or recently delivered woman, who is not
338 permitted by law to take blood samples, shall within 10 days from the time of first
339 attendance cause a sample of blood to be taken by a licensed physician or physician
340 assistant.

341 (b) The blood sample shall be submitted to an approved laboratory for a standard
342 serological test for syphilis.

343 (4) (a) An approved laboratory is a laboratory approved by the department according to
344 its rules governing the approval of laboratories for the purpose of this title.

345 (b) In submitting the sample to the laboratory the physician or physician assistant shall
346 designate whether it is a prenatal test or a test following recent delivery.

347 (5) The laboratory shall transmit a detailed report of the standard serological test, showing
348 the result thereof to the physician or physician assistant.

349 Section 7. Section **26B-7-402** is amended to read:

350 **26B-7-402 . Minimum rules of sanitation established by department.**

351 The department shall establish and enforce, or provide for the enforcement of
352 minimum rules of sanitation necessary to protect the public health. Such rules shall
353 include, but not be limited to, rules necessary for the design, construction, operation,
354 maintenance, or expansion of:

355 (1) restaurants and all places where food or drink is handled, sold or served to the public;

356 (2) public swimming pools;

357 (3) public baths including saunas, spas, massage parlors, and suntan parlors;

358 (4) public bathing beaches;

359 (5) schools which are publicly or privately owned or operated;

360 (6) recreational resorts, camps, and vehicle parks;

361 (7) amusement parks and all other centers and places used for public gatherings;

362 (8) mobile home parks and highway rest stops;

363 (9) construction or labor camps;

364 (10) jails, prisons and other places of incarceration or confinement;

365 (11) hotels and motels;

366 (12) lodging houses and boarding houses;

367 (13) service stations;

368 (14) barbershops and beauty shops, including a facility in which one or more individuals

369 are engaged in:

- 370 (a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and
 371 Associated Professions Licensing Act; or
 372 (b) styling hair in accordance with the exemption from licensure described in [Section]
 373 Subsection 58-11a-304(13);
 374 (15) physician[-and] , physician assistant, and dentist offices;
 375 (16) public buildings and grounds;
 376 (17) public conveyances and terminals; and
 377 (18) commercial tanning facilities.

378 Section 8. Section **26B-8-104** is amended to read:

379 **26B-8-104 . Birth certificates -- Execution and registration requirements.**

- 380 (1) As used in this section, "birthing facility" means a general acute hospital or birthing
 381 center as defined in Section 26B-2-201.
 382 (2) For each live birth occurring in the state, a certificate shall be filed with the local
 383 registrar for the district in which the birth occurred within 10 days following the birth.
 384 The certificate shall be registered if it is completed and filed in accordance with this part.
 385 (3) (a) For each live birth that occurs in a birthing facility, the administrator of the
 386 birthing facility, or his designee, shall obtain and enter the information required
 387 under this part on the certificate, securing the required signatures, and filing the
 388 certificate.
 389 (b) (i) The date, time, place of birth, and required medical information shall be
 390 certified by the birthing facility administrator or his designee.
 391 (ii) The attending physician, physician assistant, or nurse midwife may sign the
 392 certificate, but if the attending physician, physician assistant primarily responsible
 393 for providing assistance to the mother at birth, or nurse midwife has not signed the
 394 certificate within seven days of the date of birth, the birthing facility administrator
 395 or his designee shall enter the attending physician's, physician assistant's, or nurse
 396 midwife's name and transmit the certificate to the local registrar.
 397 (iii) The information on the certificate about the parents shall be provided and
 398 certified by the mother or father or, in their incapacity or absence, by a person
 399 with knowledge of the facts.
 400 (4) (a) For live births that occur outside a birthing facility, the birth certificate shall be
 401 completed and filed by the physician, physician assistant, nurse, midwife, or other
 402 person primarily responsible for providing assistance to the mother at the birth. If

- 403 there is no such person, either the presumed or declarant father shall complete and
404 file the certificate. In his absence, the mother shall complete and file the certificate,
405 and in the event of her death or disability, the owner or operator of the premises
406 where the birth occurred shall do so.
- 407 (b) The certificate shall be completed as fully as possible and shall include the date,
408 time, and place of birth, the mother's name, and the signature of the person
409 completing the certificate.
- 410 (5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the
411 administrator or director of that facility, or his designee, shall:
- 412 (i) provide the birth mother and declarant father, if present, with:
- 413 (A) a voluntary declaration of paternity form published by the state registrar;
414 (B) oral and written notice to the birth mother and declarant father of the
415 alternatives to, the legal consequences of, and the rights and responsibilities
416 that arise from signing the declaration; and
417 (C) the opportunity to sign the declaration;
- 418 (ii) witness the signature of a birth mother or declarant father in accordance with
419 Section 78B-15-302 if the signature occurs at the facility;
- 420 (iii) enter the declarant father's information on the original birth certificate, but only
421 if the mother and declarant father have signed a voluntary declaration of paternity
422 or a court or administrative agency has issued an adjudication of paternity; and
423 (iv) file the completed declaration with the original birth certificate.
- 424 (b) If there is a presumed father, the voluntary declaration will only be valid if the
425 presumed father also signs the voluntary declaration.
- 426 (c) The state registrar shall file the information provided on the voluntary declaration of
427 paternity form with the original birth certificate and may provide certified copies of
428 the declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah
429 Uniform Parentage Act.
- 430 (6) (a) The state registrar shall publish a form for the voluntary declaration of paternity,
431 a description of the process for filing a voluntary declaration of paternity, and of the
432 rights and responsibilities established or effected by that filing, in accordance with
433 Title 78B, Chapter 15, Utah Uniform Parentage Act.
- 434 (b) Information regarding the form and services related to voluntary paternity
435 establishment shall be made available to birthing facilities and to any other entity or
436 individual upon request.

437 (7) The name of a declarant father may only be included on the birth certificate of a child of
438 unmarried parents if:

439 (a) the mother and declarant father have signed a voluntary declaration of paternity; or
440 (b) a court or administrative agency has issued an adjudication of paternity.

441 (8) Voluntary declarations of paternity, adjudications of paternity by judicial or
442 administrative agencies, and voluntary rescissions of paternity shall be filed with and
443 maintained by the state registrar for the purpose of comparing information with the state
444 case registry maintained by the Office of Recovery Services pursuant to Section
445 26B-9-104.

446 Section 9. Section **26B-8-115** is amended to read:

447 **26B-8-115 . Fetal death certificate -- Filing and registration requirements.**

448 (1) A fetal death certificate shall be filed for each fetal death which occurs in this state. The
449 certificate shall be filed within five days after delivery with the local registrar or as
450 otherwise directed by the state registrar. The certificate shall be registered if it is
451 completed and filed in accordance with this part.

452 (2) When a dead fetus is delivered in an institution, the institution administrator or his
453 designated representative shall prepare and file the fetal death certificate. The attending
454 physician or physician assistant shall state in the certificate the cause of death and sign
455 the certificate.

456 (3) When a dead fetus is delivered outside an institution, the physician in attendance at or
457 immediately after delivery shall complete, sign, and file the fetal death certificate.

458 (4) When a fetal death occurs without medical attendance at or immediately after the
459 delivery or when inquiry is required by Part 2, Utah Medical Examiner, the medical
460 examiner shall investigate the cause of death and prepare and file the certificate of fetal
461 death within five days after taking charge of the case.

462 (5) When a fetal death occurs in a moving conveyance and the dead fetus is first removed
463 from the conveyance in this state or when a dead fetus is found in this state and the place
464 of death is unknown, the death shall be registered in this state. The place where the dead
465 fetus was first removed from the conveyance or found shall be considered the place of
466 death.

467 (6) Final disposition of the dead fetus may not be made until the fetal death certificate has
468 been registered.

469 Section 10. Section **26B-8-118** is amended to read:

470 **26B-8-118 . Certificate of early term stillbirth.**

- 471 (1) As used in this section, "early term stillborn child" means a product of human
472 conception, other than in the circumstances described in Subsection 76-7-301(1), that:
473 (a) is of at least 16 weeks' gestation but less than 20 weeks' gestation, calculated from
474 the day on which the mother's last normal menstrual period began to the day of
475 delivery; and
476 (b) is not born alive.
- 477 (2) The state registrar shall issue a certificate of early term stillbirth to a parent of an early
478 term stillborn child if:
- 479 (a) the parent requests, on a form created by the state registrar, that the state registrar
480 register and issue a certificate of early term stillbirth for the early term stillborn child;
481 and
482 (b) the parent files with the state registrar:
- 483 (i) (A) a signed statement from a physician, or physician assistant if a physician is
484 not in attendance at the delivery, confirming the delivery of the early term
485 stillborn child; or
486 (B) an accurate copy of the parent's medical records related to the early term
487 stillborn child; and
488 (ii) any other record the state registrar determines, by rule made in accordance with
489 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is necessary for
490 accurate recordkeeping.
- 491 (3) The certificate of early term stillbirth described in Subsection (2) shall meet all of the
492 format and filing requirements of Section 26B-8-103.
- 493 (4) A person who prepares a certificate of early term stillbirth under this section shall leave
494 blank any references to an early term stillborn child's name if the early term stillborn
495 child's parent does not wish to provide a name for the early term stillborn child.

496 Section 11. Section **53-2a-1601** is amended to read:

497 **53-2a-1601 . Definitions.**

498 As used in this part:

- 499 (1) "Emergency responder" includes a:
- 500 (a) firefighter;
- 501 (b) structural engineer;
- 502 (c) physician;
- 503 (d) physician assistant;
- 504 [~~(d)~~] (e) paramedic; or

- 505 [(e)] (f) technical rescue specialist.
- 506 (2) "Emergency response team" means a group of emergency responders placed at the
507 direction, control, and funding of the Division of Emergency Management, in
508 accordance with an agreement between the Division of Emergency Management and a
509 sponsoring agency and the provisions of this part, to assist in urban search and rescue:
- 510 (a) in response to a disaster, emergency, or important event; or
511 (b) in anticipation of a forecasted severe weather event, a flood, or a planned important
512 event.
- 513 (3) "Emergency response team member" means an individual who is:
- 514 (a) an emergency responder;
515 (b) a member of an emergency response team; and
516 (c) acting within the scope of the individual's duties for an emergency response team.
- 517 (4) "Important event" includes an event attended by one or more officials of the United
518 States or one or more foreign dignitaries and where a large crowd has or is anticipated to
519 gather.
- 520 (5) "Sponsoring agency" means an entity in the state that executes a written agreement to
521 organize a National Urban Search and Rescue Response System task force as described
522 in 44 C.F.R. Part 208 to assist the Federal Emergency Management Agency during a
523 disaster or emergency.

524 Section 12. Section **53-3-206** is amended to read:

525 **53-3-206 . Examination of applicant's physical and mental fitness to drive a**
526 **motor vehicle.**

- 527 (1) The division shall examine every applicant for a license, including a test of the
528 applicant's:
- 529 (a) eyesight either:
- 530 (i) by the division; or
531 (ii) by allowing the applicant to furnish to the division a statement from a physician
532 licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician
533 assistant licensed under Title 58, Chapter 70A, Utah Physician Assistant Act, or
534 an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 535 (b) ability to read and understand highway signs regulating, warning, and directing
536 traffic;
- 537 (c) ability to read and understand simple English used in highway traffic and directional
538 signs;

- 539 (d) knowledge of the state traffic laws;
- 540 (e) other physical and mental abilities the division finds necessary to determine the
- 541 applicant's fitness to drive a motor vehicle safely on the highways; and
- 542 (f) ability to exercise ordinary and responsible control driving a motor vehicle, as
- 543 determined by actual demonstration or other indicator.
- 544 (2) (a) Subject to Subsection (2)(d), and notwithstanding the provisions of Subsection
- 545 (1) or any other provision of law, the division shall allow an individual to take an
- 546 examination of the individual's knowledge of the state traffic laws in the individual's
- 547 preferred language:
- 548 (i) if the individual is a refugee, an approved asylee, or a covered humanitarian
- 549 parolee:
- 550 (A) the first time the individual applies for a limited-term license certificate; and
- 551 (B) the first time the individual applies for a renewal of a limited-term license
- 552 certificate; and
- 553 (ii) for any other individual applying for a class D license certificate:
- 554 (A) the first time the individual applies for a class D license certificate; and
- 555 (B) the first time the individual applies for a renewal of a class D license
- 556 certificate.
- 557 (b) (i) Upon the second renewal of a refugee's, an approved asylee's, or a covered
- 558 humanitarian parolee's limited-term license certificate for a refugee, an approved
- 559 asylee, or a covered humanitarian parolee that has taken the knowledge exam in
- 560 the individual's preferred language under Subsection (2)(a), the division shall
- 561 re-examine the individual's knowledge of the state traffic laws in English.
- 562 (ii) Upon the second renewal of an individual's class D license certificate of an
- 563 individual who has taken the knowledge exam in the individual's preferred
- 564 language under Subsection (2)(a)(ii), the division shall re-examine the individual's
- 565 knowledge of the state traffic laws in English.
- 566 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 567 division shall make rules establishing the procedures and requirements for the
- 568 examination of the individual's knowledge of the state traffic laws in the individual's
- 569 preferred language.
- 570 (d) (i) Beginning on July 1, 2023, for a class D license certificate, except for a driving
- 571 privilege card issued under Section 53-3-207, the division shall administer the
- 572 written knowledge examination in as many languages as reasonably possible

- 573 given budgetary and other constraints.
- 574 (ii) If the division is unable to administer the written knowledge examination in a
575 particular language, an individual may take an examination with the assistance of
576 a translator approved by the division.
- 577 (iii) If an individual takes the examination with the assistance of a translator, the
578 individual is responsible for the costs of the translator.
- 579 (e) In order to provide the services described in Subsection (2)(d)(i), the division may
580 contract with a private vendor to provide the translation services or technology.
- 581 (3) (a) For an applicant for an original or a renewal of a class D license, other than a
582 driving privilege card or a limited term license certificate, the division shall provide
583 the examination of an individual's knowledge of the state traffic laws in five
584 commonly spoken languages in the state, other than English, as determined under
585 Subsection (3)(c).
- 586 (b) An applicant for an original or a renewal of a class D license, other than a driving
587 privilege card or a limited term license certificate, may request to take the
588 examination of the individual's knowledge of the state traffic laws in a language other
589 than English, if the requested language is one of five commonly spoken languages in
590 the state as determined under Subsection (3)(c).
- 591 (c) (i) The Division of Multicultural Affairs created in Section 9-21-201 shall
592 recommend five commonly spoken languages in the state, other than English, for
593 examination of an individual's knowledge of the state traffic laws.
- 594 (ii) The division shall offer the examination of an individual's knowledge of the state
595 traffic laws in the five commonly spoken languages, other than English,
596 recommended by the Division of Multicultural Affairs created in Section 9-21-201.
- 597 (4) The division shall determine whether any facts exist that would bar granting a license
598 under Section 53-3-204.
- 599 (5) The division shall examine each applicant according to the class of license applied for.
- 600 (6) An applicant for a CDL shall meet all additional requirements of Part 4, Uniform
601 Commercial Driver License Act, of this chapter.
- 602 (7) The division shall provide a report to the Transportation Interim Committee on or
603 before October 1, 2023, regarding the written knowledge examination in languages other
604 than English, including:
- 605 (a) costs associated with the program;
- 606 (b) the number of languages provided;

- 607 (c) the likelihood of adding additional languages in the future; and
608 (d) other information the division finds relevant.

609 Section 13. Section **53-3-220** is amended to read:

610 **53-3-220 . Offenses requiring mandatory revocation, denial, suspension, or**
611 **disqualification of license -- Offense requiring an extension of period -- Hearing**
612 **-- Limited driving privileges.**

613 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a,
614 Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
615 disqualification, the division shall deny, suspend, or disqualify the license of a person
616 upon receiving a record of the person's conviction for:

- 617 (i) manslaughter or negligent homicide resulting from driving a motor vehicle,
618 negligently operating a vehicle resulting in death under Section 76-5-207, or
619 automobile homicide involving using a handheld wireless communication device
620 while driving under Section 76-5-207.5;
- 621 (ii) driving or being in actual physical control of a motor vehicle while under the
622 influence of alcohol, any drug, or combination of them to a degree that renders the
623 person incapable of safely driving a motor vehicle as prohibited in Section
624 41-6a-502 or as prohibited in an ordinance that complies with the requirements of
625 Subsection 41-6a-510(1);
- 626 (iii) driving or being in actual physical control of a motor vehicle while having a
627 blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited
628 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);
- 629 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
630 41, Motor Vehicles, or any other law of this state requiring the registration of
631 motor vehicles or regulating driving on highways;
- 632 (v) any felony under the motor vehicle laws of this state;
- 633 (vi) any other felony in which a motor vehicle is used to facilitate the offense;
- 634 (vii) failure to stop and render aid as required under the laws of this state if a motor
635 vehicle accident results in the death or personal injury of another;
- 636 (viii) two charges of reckless driving, impaired driving, or any combination of
637 reckless driving and impaired driving committed within a period of 12 months;
638 but if upon a first conviction of reckless driving or impaired driving the judge or
639 justice recommends suspension of the convicted person's license, the division may
640 after a hearing suspend the license for a period of three months;

- 641 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement
642 officer as required in Section 41-6a-210;
- 643 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
644 requires disqualification;
- 645 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
646 allowing the discharge of a firearm from a vehicle;
- 647 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
648 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
- 649 (xiii) operating or being in actual physical control of a motor vehicle while having
650 any measurable controlled substance or metabolite of a controlled substance in the
651 person's body in violation of Section 41-6a-517;
- 652 (xiv) operating or being in actual physical control of a motor vehicle while having
653 any measurable or detectable amount of alcohol in the person's body in violation
654 of Section 41-6a-530;
- 655 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
656 violation of Section 41-6a-606;
- 657 (xvi) operating or being in actual physical control of a motor vehicle in this state
658 without an ignition interlock system in violation of Section 41-6a-518.2; or
- 659 (xvii) refusal of a chemical test under Subsection 41-6a-520.1(1).
- 660 (b) The division shall immediately revoke the license of a person upon receiving a
661 record of an adjudication under Section 80-6-701 for:
- 662 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
663 allowing the discharge of a firearm from a vehicle; or
- 664 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
665 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).
- 666 (c) (i) Except when action is taken under Section 53-3-219 for the same offense, upon
667 receiving a record of conviction, the division shall immediately suspend for six
668 months the license of the convicted person if the person was convicted of
669 violating any one of the following offenses while the person was an operator of a
670 motor vehicle, and the court finds that a driver license suspension is likely to
671 reduce recidivism and is in the interest of public safety:
- 672 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 673 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 674 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

- 675 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
676 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
677 (F) any criminal offense that prohibits possession, distribution, manufacture,
678 cultivation, sale, or transfer of any substance that is prohibited under the acts
679 described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy
680 to possess, distribute, manufacture, cultivate, sell, or transfer any substance that
681 is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).
- 682 (ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate
683 a person's driving privilege before completion of the suspension period imposed
684 under Subsection (1)(c)(i) if the reporting court notifies the Driver License
685 Division, in a manner specified by the division, that the defendant is participating
686 in or has successfully completed a drug court program as defined in Section
687 78A-5-201.
- 688 (iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person
689 is required to pay the license reinstatement fees under Subsection 53-3-105(26).
- 690 (iv) The court shall notify the division, in a manner specified by the division, if a
691 person fails to complete all requirements of the drug court program.
- 692 (v) Upon receiving the notification described in Subsection (1)(c)(iv), the division
693 shall suspend the person's driving privilege for a period of six months from the
694 date of the notice, and no days shall be subtracted from the six-month suspension
695 period for which a driving privilege was previously suspended under Subsection
696 (1)(c)(i).
- 697 (d) (i) The division shall immediately suspend a person's driver license for conviction
698 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the
699 division receives:
- 700 (A) an order from the sentencing court requiring that the person's driver license be
701 suspended; and
702 (B) a record of the conviction.
- 703 (ii) An order of suspension under this section is at the discretion of the sentencing
704 court, and may not be for more than 90 days for each offense.
- 705 (e) (i) The division shall immediately suspend for one year the license of a person
706 upon receiving a record of:
- 707 (A) conviction for the first time for a violation under Section 32B-4-411; or
708 (B) an adjudication under Section 80-6-701 for a violation under Section

- 709 32B-4-411.
- 710 (ii) The division shall immediately suspend for a period of two years the license of a
711 person upon receiving a record of:
- 712 (A) (I) conviction for a second or subsequent violation under Section
713 32B-4-411; and
- 714 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a
715 prior conviction for a violation under Section 32B-4-411; or
- 716 (B) (I) a second or subsequent adjudication under Section 80-6-701 for a
717 violation under Section 32B-4-411; and
- 718 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years
719 of a prior adjudication under Section 80-6-701 for a violation under Section
720 32B-4-411.
- 721 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:
- 722 (A) for a conviction or adjudication described in Subsection (1)(e)(i):
- 723 (I) impose a suspension for one year beginning on the date of conviction; or
724 (II) if the person is under the age of eligibility for a driver license, impose a
725 suspension that begins on the date of conviction and continues for one year
726 beginning on the date of eligibility for a driver license; or
- 727 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):
- 728 (I) impose a suspension for a period of two years; or
729 (II) if the person is under the age of eligibility for a driver license, impose a
730 suspension that begins on the date of conviction and continues for two years
731 beginning on the date of eligibility for a driver license.
- 732 (iv) Upon receipt of the first order suspending a person's driving privileges under
733 Section 32B-4-411, the division shall reduce the suspension period under
734 Subsection (1)(e)(i) if ordered by the court in accordance with Subsection
735 32B-4-411(3)(a).
- 736 (v) Upon receipt of the second or subsequent order suspending a person's driving
737 privileges under Section 32B-4-411, the division shall reduce the suspension
738 period under Subsection (1)(e)(ii) if ordered by the court in accordance with
739 Subsection 32B-4-411(3)(b).
- 740 (2) The division shall extend the period of the first denial, suspension, revocation, or
741 disqualification for an additional like period, to a maximum of one year for each
742 subsequent occurrence, upon receiving:

- 743 (a) a record of the conviction of any person on a charge of driving a motor vehicle while
744 the person's license is denied, suspended, revoked, or disqualified;
- 745 (b) a record of a conviction of the person for any violation of the motor vehicle law in
746 which the person was involved as a driver;
- 747 (c) a report of an arrest of the person for any violation of the motor vehicle law in which
748 the person was involved as a driver; or
- 749 (d) a report of an accident in which the person was involved as a driver.
- 750 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
751 driving while the person's license is denied, suspended, disqualified, or revoked, the
752 person is entitled to a hearing regarding the extension of the time of denial, suspension,
753 disqualification, or revocation originally imposed under Section 53-3-221.
- 754 (4) (a) The division may extend to a person the limited privilege of driving a motor
755 vehicle to and from the person's place of employment or within other specified limits
756 on recommendation of the judge in any case where a person is convicted of any of
757 the offenses referred to in Subsections (1) and (2) except:
- 758 (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b),
759 and (1)(c)(i); and
- 760 (ii) those offenses referred to in Subsection (2) when the original denial, suspension,
761 revocation, or disqualification was imposed because of a violation of Section
762 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of
763 Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207,
764 or a criminal prohibition that the person was charged with violating as a result of a
765 plea bargain after having been originally charged with violating one or more of
766 these sections or ordinances, unless:
- 767 (A) the person has had the period of the first denial, suspension, revocation, or
768 disqualification extended for a period of at least three years;
- 769 (B) the division receives written verification from the person's primary care
770 physician or physician assistant that:
- 771 (I) to the physician's or physician assistant's knowledge the person has not used
772 any narcotic drug or other controlled substance except as prescribed by a
773 licensed medical practitioner within the last three years; and
- 774 (II) the physician or physician assistant is not aware of any physical,
775 emotional, or mental impairment that would affect the person's ability to
776 operate a motor vehicle safely; and

- 777 (C) for a period of one year prior to the date of the request for a limited driving
778 privilege:
- 779 (I) the person has not been convicted of a violation of any motor vehicle law in
780 which the person was involved as the operator of the vehicle;
- 781 (II) the division has not received a report of an arrest for a violation of any
782 motor vehicle law in which the person was involved as the operator of the
783 vehicle; and
- 784 (III) the division has not received a report of an accident in which the person
785 was involved as an operator of a vehicle.
- 786 (b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege
787 authorized in this Subsection (4):
- 788 (A) is limited to when undue hardship would result from a failure to grant the
789 privilege; and
- 790 (B) may be granted only once to any person during any single period of denial,
791 suspension, revocation, or disqualification, or extension of that denial,
792 suspension, revocation, or disqualification.
- 793 (ii) The discretionary privilege authorized in Subsection (4)(a)(ii):
- 794 (A) is limited to when the limited privilege is necessary for the person to commute
795 to school or work; and
- 796 (B) may be granted only once to any person during any single period of denial,
797 suspension, revocation, or disqualification, or extension of that denial,
798 suspension, revocation, or disqualification.
- 799 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
800 Commercial Driver License Act, or whose license has been revoked, suspended,
801 cancelled, or denied under this chapter.
- 802 Section 14. Section **53G-6-204** is amended to read:
- 803 **53G-6-204 . School-age children exempt from school attendance.**
- 804 (1) (a) A local school board or charter school governing board may excuse a school-age
805 child from attendance for any of the following reasons:
- 806 (i) a school-age child over age 16 may receive a partial release from school to enter
807 employment, or attend a trade school, if the school-age child has completed grade
808 8; or
- 809 (ii) on an annual basis, a school-age child may receive a full release from attending a
810 public, regularly established private, or part-time school or class if:

- 811 (A) the school-age child has already completed the work required for graduation
812 from high school;
- 813 (B) the school-age child is in a physical or mental condition, certified by a
814 competent physician or physician assistant if required by the local school board
815 or charter school governing board, which renders attendance inexpedient and
816 impracticable;
- 817 (C) proper influences and adequate opportunities for education are provided in
818 connection with the school-age child's employment; or
- 819 (D) the district superintendent or charter school governing board has determined
820 that a school-age child over the age of 16 is unable to profit from attendance at
821 school because of inability or a continuing negative attitude toward school
822 regulations and discipline.
- 823 (b) A school-age child receiving a partial release from school under Subsection (1)(a)(i)
824 is required to attend:
- 825 (i) school part time as prescribed by the local school board or charter school
826 governing board; or
827 (ii) a home school part time.
- 828 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)
829 must be sufficient to satisfy the local school board or charter school governing board.
- 830 (d) A local school board or charter school governing board that excuses a school-age
831 child from attendance as provided by this Subsection (1) shall issue a certificate that
832 the child is excused from attendance during the time specified on the certificate.
- 833 (2) (a) (i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or
834 attempted felony offense of which an individual is convicted, or to which an
835 individual pleads guilty or no contest, for conduct that constitutes any of the
836 following:
- 837 (A) child abuse under Section 76-5-109;
- 838 (B) aggravated child abuse under Section 76-5-109.2;
- 839 (C) child abandonment under Section 76-5-109.3;
- 840 (D) commission of domestic violence in the presence of a child under Section
841 76-5-114;
- 842 (E) child abuse homicide under Section 76-5-208;
- 843 (F) child kidnapping under Section 76-5-301.1;
- 844 (G) human trafficking of a child under Section 76-5-308.5;

- 845 (H) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title
846 76, Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;
847 (I) sexual exploitation of a minor under Section 76-5b-201;
848 (J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or
849 (K) an offense in another state that, if committed in this state, would constitute an
850 offense described in this Subsection (2)(a)(i).
- 851 (ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a
852 school-age child from attendance, if the school-age child's parent or legal guardian
853 files a signed and notarized affidavit with the school-age child's school district of
854 residence, as defined in Section 53G-6-302, that:
- 855 (A) the school-age child will attend a home school; and
856 (B) the parent or legal guardian assumes sole responsibility for the education of
857 the school-age child, except to the extent the school-age child is dual enrolled
858 in a public school as provided in Section 53G-6-702.
- 859 (iii) If a parent or legal guardian has been convicted of child abuse or if a court of
860 competent jurisdiction has made a substantiated finding of child abuse against the
861 parent or legal guardian:
- 862 (A) the parent or legal guardian may not assume responsibility for the education
863 of a school-age child under Subsection (2)(a)(ii); and
864 (B) the local school board may not accept the affidavit described in Subsection
865 (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age
866 child from attendance under Subsection (2)(a)(ii) in relation to the parent's or
867 legal guardian's intent to home school the child.
- 868 (iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents
869 or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the
870 affidavit described in Subsection (2)(a)(ii).
- 871 (b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall
872 remain in effect as long as:
- 873 (i) the school-age child attends a home school;
874 (ii) the school district where the affidavit was filed remains the school-age child's
875 district of residence; and
876 (iii) the parent or legal guardian who filed the signed and notarized affidavit has not
877 been convicted of child abuse or been the subject of a substantiated finding of
878 child abuse by a court of competent jurisdiction.

- 879 (c) A parent or legal guardian of a school-age child who attends a home school is solely
880 responsible for:
- 881 (i) the selection of instructional materials and textbooks;
882 (ii) the time, place, and method of instruction; and
883 (iii) the evaluation of the home school instruction.
- 884 (d) A local school board may not:
- 885 (i) require a parent or legal guardian of a school-age child who attends a home school
886 to maintain records of instruction or attendance;
887 (ii) require credentials for individuals providing home school instruction;
888 (iii) inspect home school facilities; or
889 (iv) require standardized or other testing of home school students.
- 890 (e) Upon the request of a parent or legal guardian, a local school board shall identify the
891 knowledge, skills, and competencies a student is recommended to attain by grade
892 level and subject area to assist the parent or legal guardian in achieving college and
893 career readiness through home schooling.
- 894 (f) A local school board that excuses a school-age child from attendance under this
895 Subsection (2) shall annually issue a certificate stating that the school-age child is
896 excused from attendance for the specified school year.
- 897 (g) A local school board shall issue a certificate excusing a school-age child from
898 attendance:
- 899 (i) within 30 days after receipt of a signed and notarized affidavit filed by the
900 school-age child's parent or legal guardian under this Subsection (2); and
901 (ii) on or before August 1 each year thereafter unless:
- 902 (A) the school-age child enrolls in a school within the school district;
903 (B) the school-age child's parent or legal guardian notifies the school district that
904 the school-age child no longer attends a home school; or
905 (C) the school-age child's parent or legal guardian notifies the school district that
906 the school-age child's school district of residence has changed.
- 907 (3) A parent or legal guardian who is eligible to file and files a signed and notarized
908 affidavit under Subsection (2)(a) is exempt from the application of Subsections
909 53G-6-202(2), (5), and (6).
- 910 (4) (a) Nothing in this section may be construed to prohibit or discourage voluntary
911 cooperation, resource sharing, or testing opportunities between a school or school
912 district and a parent or legal guardian of a child attending a home school.

- 913 (b) The exemptions in this section apply regardless of whether:
- 914 (i) a parent or legal guardian provides education instruction to the parent's or legal
- 915 guardian's child alone or in cooperation with other parents or legal guardians
- 916 similarly exempted under this section; or
- 917 (ii) the parent or legal guardian makes payment for educational services the parent's
- 918 or legal guardian's child receives.

919 Section 15. Section **53G-6-603** is amended to read:

920 **53G-6-603 . Requirement of birth certificate for enrollment of students --**

921 **Procedures.**

- 922 (1) As used in this section:
- 923 (a) "Child trafficking" means human trafficking of a child in violation of Section
- 924 76-5-308.5.
- 925 (b) "Enroller" means an individual who enrolls a student in a public school.
- 926 (c) "Review team" means a team described in Subsection (4), assigned to determine a
- 927 student's biological age as described in this section.
- 928 (d) "Social service provider" means the same as that term is defined in Section
- 929 53E-3-524.
- 930 (2) Except as provided in Subsection (3), upon enrollment of a student for the first time in a
- 931 particular school, that school shall notify the enroller in writing that within 30 days the
- 932 enroller shall provide to the school either:
- 933 (a) a certified copy of the student's birth certificate; or
- 934 (b) (i) other reliable proof of the student's:
- 935 (A) identity;
- 936 (B) biological age; and
- 937 (C) relationship to the student's legally responsible individual; and
- 938 (ii) an affidavit explaining the enroller's inability to produce a copy of the student's
- 939 birth certificate.
- 940 (3) (a) If the documentation described in Subsection (2)(a) or (2)(b)(i) inaccurately
- 941 reflects the student's biological age, the enroller shall provide to the school:
- 942 (i) an affidavit explaining the reasons for the inaccuracy described in Subsection
- 943 (3)(a); and
- 944 (ii) except as provided in Subsection (4), supporting documentation that establishes
- 945 the student's biological age.
- 946 (b) The supporting documentation described in Subsection (3)(a)(ii) may include:

- 947 (i) a religious, hospital, [~~or~~]physician, or physician assistant certificate showing the
948 student's date of birth;
- 949 (ii) an entry in a family religious text;
- 950 (iii) an adoption record;
- 951 (iv) previously verified school records;
- 952 (v) previously verified immunization records;
- 953 (vi) documentation from a social service provider; or
- 954 (vii) other legal documentation, including from a consulate, that reflects the student's
955 biological age.

956 (4) (a) If the supporting documentation described in Subsection (3)(b) is not available,
957 the school shall assign a review team to work with the enroller to determine the
958 student's biological age for an LEA to use for a student's enrollment and appropriate
959 placement in a public school.

960 (b) The review team described in Subsection (4)(a):

961 (i) may include:

- 962 (A) an appropriate district administrator;
- 963 (B) the student's teacher or teachers;
- 964 (C) the school principal;
- 965 (D) a school counselor;
- 966 (E) a school social worker;
- 967 (F) a school psychologist;
- 968 (G) a culturally competent and trauma-informed community representative;
- 969 (H) a school nurse or other school health specialist;
- 970 (I) an interpreter, if necessary; or
- 971 (J) a relevant educational equity administrator; and

972 (ii) shall include at least three members, at least one of which has completed the
973 instruction described in Subsection 53G-9-207(3)(a), no more than two years prior
974 to the member's appointment to the review team.

975 (c) In addition to any duty to comply with the mandatory reporting requirements
976 described in Sections 53E-6-701 and 62A-4a-403, a school shall report to local law
977 enforcement and to the division any sign of child trafficking that the review team
978 identifies in carrying out the review team's duties described in Subsection (4)(a).

979 Section 16. Section **53G-9-403** is amended to read:

980 **53G-9-403 . Personnel to perform health examination.**

981 A local school board may use teachers or school nurses to conduct examinations
982 required under this part and licensed physicians or physician assistants as needed for
983 medical consultation related to those examinations.

984 Section 17. Section **58-37c-3** is amended to read:

985 **58-37c-3 . Definitions.**

986 In addition to the definitions in Section 58-1-102, as used in this chapter:

- 987 (1) "Controlled substance precursor" includes a chemical reagent and means any of the
988 following:
- 989 (a) Phenyl-2-propanone;
 - 990 (b) Methylamine;
 - 991 (c) Ethylamine;
 - 992 (d) D-lysergic acid;
 - 993 (e) Ergotamine and its salts;
 - 994 (f) Diethyl malonate;
 - 995 (g) Malonic acid;
 - 996 (h) Ethyl malonate;
 - 997 (i) Barbituric acid;
 - 998 (j) Piperidine and its salts;
 - 999 (k) N-acetylanthranilic acid and its salts;
 - 1000 (l) Pyrrolidine;
 - 1001 (m) Phenylacetic acid and its salts;
 - 1002 (n) Anthranilic acid and its salts;
 - 1003 (o) Morpholine;
 - 1004 (p) Ephedrine;
 - 1005 (q) Pseudoephedrine;
 - 1006 (r) Norpseudoephedrine;
 - 1007 (s) Phenylpropanolamine;
 - 1008 (t) Benzyl cyanide;
 - 1009 (u) Ergonovine and its salts;
 - 1010 (v) 3,4-Methylenedioxyphenyl-2-propanone;
 - 1011 (w) propionic anhydride;
 - 1012 (x) Insosafrole;
 - 1013 (y) Safrole;
 - 1014 (z) Piperonal;

- 1015 (aa) N-Methylephedrine;
- 1016 (bb) N-ethylephedrine;
- 1017 (cc) N-methylpseudoephedrine;
- 1018 (dd) N-ethylpseudoephedrine;
- 1019 (ee) Hydriotic acid;
- 1020 (ff) gamma butyrolactone (GBL), including butyrolactone, 1,2 butanolide, 2-oxanolone,
- 1021 tetrahydro-2-furanone, dihydro-2(3H)-furanone, and tetramethylene glycol, but not
- 1022 including gamma aminobutric acid (GABA);
- 1023 (gg) 1,4 butanediol;
- 1024 (hh) any salt, isomer, or salt of an isomer of the chemicals listed in Subsections (1)(a)
- 1025 through (gg);
- 1026 (ii) Crystal iodine;
- 1027 (jj) Iodine at concentrations greater than 1.5% by weight in a solution or matrix;
- 1028 (kk) Red phosphorous, except as provided in Section 58-37c-19.7;
- 1029 (ll) anhydrous ammonia, except as provided in Section 58-37c-19.9;
- 1030 (mm) any controlled substance precursor listed under the provisions of the Federal
- 1031 Controlled Substances Act which is designated by the director under the emergency
- 1032 listing provisions set forth in Section 58-37c-14; and
- 1033 (nn) any chemical which is designated by the director under the emergency listing
- 1034 provisions set forth in Section 58-37c-14.
- 1035 (2) "Deliver," "delivery," "transfer," or "furnish" means the actual, constructive, or
- 1036 attempted transfer of a controlled substance precursor.
- 1037 (3) "Matrix" means something, as a substance, in which something else originates,
- 1038 develops, or is contained.
- 1039 (4) "Person" means any individual, group of individuals, proprietorship, partnership, joint
- 1040 venture, corporation, or organization of any type or kind.
- 1041 (5) "Practitioner" means a physician, physician assistant, dentist, podiatric physician,
- 1042 veterinarian, pharmacist, scientific investigator, pharmacy, hospital, pharmaceutical
- 1043 manufacturer, or other person licensed, registered, or otherwise permitted to distribute,
- 1044 dispense, conduct research with respect to, administer, or use in teaching or chemical
- 1045 analysis a controlled substance in the course of professional practice or research in this
- 1046 state.
- 1047 (6) (a) "Regulated distributor" means a person within the state who provides, sells,
- 1048 furnishes, transfers, or otherwise supplies a listed controlled substance precursor

- 1049 chemical in a regulated transaction.
- 1050 (b) "Regulated distributor" does not include any person excluded from regulation under
1051 this chapter.
- 1052 (7) (a) "Regulated purchaser" means any person within the state who receives a listed
1053 controlled substance precursor chemical in a regulated transaction.
- 1054 (b) "Regulated purchaser" does not include any person excluded from regulation under
1055 this chapter.
- 1056 (8) "Regulated transaction" means any actual, constructive or attempted:
- 1057 (a) transfer, distribution, delivery, or furnishing by a person within the state to another
1058 person within or outside of the state of a threshold amount of a listed precursor
1059 chemical; or
- 1060 (b) purchase or acquisition by any means by a person within the state from another
1061 person within or outside the state of a threshold amount of a listed precursor chemical.
- 1062 (9) "Retail distributor" means a grocery store, general merchandise store, drug store, or
1063 other entity or person whose activities as a distributor are limited almost exclusively to
1064 sales for personal use:
- 1065 (a) in both number of sales and volume of sales; and
- 1066 (b) either directly to walk-in customers or in face-to-face transactions by direct sales.
- 1067 (10) "Threshold amount of a listed precursor chemical" means any amount of a controlled
1068 substance precursor or a specified amount of a controlled substance precursor in a
1069 matrix; however, the division may exempt from the provisions of this chapter a specific
1070 controlled substance precursor in a specific amount and in certain types of transactions
1071 which provisions for exemption shall be defined by the division by rule adopted
1072 pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1073 (11) "Unlawful conduct" as defined in Section 58-1-501 includes knowingly and
1074 intentionally:
- 1075 (a) engaging in a regulated transaction without first being appropriately licensed or
1076 exempted from licensure under this chapter;
- 1077 (b) acting as a regulated distributor and selling, transferring, or in any other way
1078 conveying a controlled substance precursor to a person within the state who is not
1079 appropriately licensed or exempted from licensure as a regulated purchaser, or
1080 selling, transferring, or otherwise conveying a controlled substance precursor to a
1081 person outside of the state and failing to report the transaction as required;
- 1082 (c) acting as a regulated purchaser and purchasing or in any other way obtaining a

- 1083 controlled substance precursor from a person within the state who is not a licensed
1084 regulated distributor, or purchasing or otherwise obtaining a controlled substance
1085 precursor from a person outside of the state and failing to report the transaction as
1086 required;
- 1087 (d) engaging in a regulated transaction and failing to submit reports and keep required
1088 records of inventories required under the provisions of this chapter or rules adopted
1089 pursuant to this chapter;
- 1090 (e) making any false statement in any application for license, in any record to be kept, or
1091 on any report submitted as required under this chapter;
- 1092 (f) with the intent of causing the evasion of the recordkeeping or reporting requirements
1093 of this chapter and rules related to this chapter, receiving or distributing any listed
1094 controlled substance precursor chemical in any manner designed so that the making
1095 of records or filing of reports required under this chapter is not required;
- 1096 (g) failing to take immediate steps to comply with licensure, reporting, or recordkeeping
1097 requirements of this chapter because of lack of knowledge of those requirements,
1098 upon becoming informed of the requirements;
- 1099 (h) presenting false or fraudulent identification where or when receiving or purchasing a
1100 listed controlled substance precursor chemical;
- 1101 (i) creating a chemical mixture for the purpose of evading any licensure, reporting or
1102 recordkeeping requirement of this chapter or rules related to this chapter, or receiving
1103 a chemical mixture created for that purpose;
- 1104 (j) if the person is at least 18 years of age, employing, hiring, using, persuading,
1105 inducing, enticing, or coercing another person under 18 years of age to violate any
1106 provision of this chapter, or assisting in avoiding detection or apprehension for any
1107 violation of this chapter by any federal, state, or local law enforcement official; and
- 1108 (k) obtaining or attempting to obtain or to possess any controlled substance precursor or
1109 any combination of controlled substance precursors knowing or having a reasonable
1110 cause to believe that the controlled substance precursor is intended to be used in the
1111 unlawful manufacture of any controlled substance.
- 1112 (12) "Unprofessional conduct" as defined in Section 58-1-102 and as may be further
1113 defined by rule includes the following:
- 1114 (a) violation of any provision of this chapter, the Controlled Substance Act of this state
1115 or any other state, or the Federal Controlled Substance Act; and
- 1116 (b) refusing to allow agents or representatives of the division or authorized law

1117 enforcement personnel to inspect inventories or controlled substance precursors or
 1118 records or reports relating to purchases and sales or distribution of controlled
 1119 substance precursors as such records and reports are required under this chapter.

1120 Section 18. Section **75-2a-104** is amended to read:

1121 **75-2a-104 . Capacity to make health care decisions -- Presumption -- Overcoming**
 1122 **presumption.**

1123 (1) An adult is presumed to have:

1124 (a) health care decision making capacity; and

1125 (b) capacity to make or revoke an advance health care directive.

1126 (2) To overcome the presumption of capacity described in Subsection (1)(a), a physician, an
 1127 APRN, or ~~subject to Subsection (6),~~ a physician assistant who has personally
 1128 examined the adult and assessed the adult's health care decision making capacity must:

1129 (a) find that the adult lacks health care decision making capacity;

1130 (b) record the finding in the adult's medical chart including an indication of whether the
 1131 adult is likely to regain health care decision making capacity; and

1132 (c) make a reasonable effort to communicate the determination to:

1133 (i) the adult;

1134 (ii) other health care providers or health care facilities that the person who makes the
 1135 finding would routinely inform of such a finding; and

1136 (iii) if the adult has a surrogate, any known surrogate.

1137 (3) (a) An adult who is found to lack health care decision making capacity in accordance
 1138 with Subsection (2) may, at any time, challenge the finding by:

1139 (i) submitting to a health care provider a written notice stating that the adult disagrees
 1140 with the physician's or physician assistant's finding; or

1141 (ii) orally informing the health care provider that the adult disagrees with the finding.

1142 (b) A health care provider who is informed of a challenge under Subsection (3)(a), shall,
 1143 if the adult has a surrogate, promptly inform the surrogate of the adult's challenge.

1144 (c) A surrogate informed of a challenge to a finding under this section, or the adult if no
 1145 surrogate is acting on the adult's behalf, shall inform the following of the adult's
 1146 challenge:

1147 (i) any other health care providers involved in the adult's care; and

1148 (ii) the health care facility, if any, in which the adult is receiving care.

1149 (d) Unless otherwise ordered by a court, a finding, under Subsection (2), that the adult
 1150 lacks health care decision making capacity, is not in effect if the adult challenges the

- 1151 finding under Subsection (3)(a).
- 1152 (e) If an adult does not challenge the finding described in Subsection (2), the health care
1153 provider and health care facility may rely on a surrogate, pursuant to the provisions
1154 of this chapter, to make health care decisions for the adult.
- 1155 (4) A health care provider or health care facility that relies on a surrogate to make decisions
1156 on behalf of an adult has an ongoing obligation to consider whether the adult continues
1157 to lack health care decision making capacity.
- 1158 (5) If at any time a health care provider finds, based on an examination and assessment, that
1159 the adult has regained health care decision making capacity, the health care provider
1160 shall record the results of the assessment in the adult's medical record, and the adult can
1161 direct the adult's own health care.
- 1162 [~~(6) A physician assistant may not make a finding described in Subsection (2), unless the
1163 physician assistant is permitted to make the finding under the physician assistant's
1164 delegation of services agreement, as defined in Section 58-70a-102.]~~
- 1165 Section 19. Section **75-2a-106** is amended to read:
- 1166 **75-2a-106 . Emergency medical services -- POLST order.**
- 1167 (1) A POLST order may be created by or on behalf of a person as described in this section.
- 1168 (2) A POLST order shall, in consultation with the person authorized to consent to the order
1169 pursuant to this section, be prepared by:
- 1170 (a) the physician, APRN, or~~[, subject to Subsection (11);]~~ physician assistant of the
1171 person to whom the POLST order relates; or
- 1172 (b) a health care provider who:
- 1173 (i) is acting under the supervision of a person described in Subsection (2)(a); and
1174 (ii) is:
- 1175 (A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;
1176 (B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician
1177 Assistant Act;
1178 (C) a mental health professional, licensed under Title 58, Chapter 60, Mental
1179 Health Professional Practice Act; or
1180 (D) another health care provider, designated by rule as described in Subsection
1181 (10).
- 1182 (3) A POLST order shall be signed:
- 1183 (a) personally, by the physician, APRN, or~~[, subject to Subsection (11);]~~ physician
1184 assistant of the person to whom the POLST order relates; and

- 1185 (b) (i) if the person to whom the POLST order relates is an adult with health care
1186 decision making capacity, by:
- 1187 (A) the person; or
1188 (B) an adult who is directed by the person to sign the POLST order on behalf of
1189 the person;
- 1190 (ii) if the person to whom the POLST order relates is an adult who lacks health care
1191 decision making capacity, by:
- 1192 (A) the surrogate with the highest priority under Section 75-2a-111;
1193 (B) the majority of the class of surrogates with the highest priority under Section
1194 75-2a-111; or
1195 (C) a person directed to sign the POLST order by, and on behalf of, the persons
1196 described in Subsection (3)(b)(ii)(A) or (B); or
1197 (iii) if the person to whom the POLST order relates is a minor, by a parent or
1198 guardian of the minor.
- 1199 (4) If a POLST order relates to a minor and directs that life sustaining treatment be
1200 withheld or withdrawn from the minor, the order shall include a certification by two
1201 physicians that, in their clinical judgment, an order to withhold or withdraw life
1202 sustaining treatment is in the best interest of the minor.
- 1203 (5) A POLST order:
- 1204 (a) shall be in writing, on a form designated by the Department of Health and Human
1205 Services;
1206 (b) shall state the date on which the POLST order was made;
1207 (c) may specify the level of life sustaining care to be provided to the person to whom the
1208 order relates; and
1209 (d) may direct that life sustaining care be withheld or withdrawn from the person to
1210 whom the order relates.
- 1211 (6) A health care provider or emergency medical service provider, licensed or certified
1212 under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, is
1213 immune from civil or criminal liability, and is not subject to discipline for
1214 unprofessional conduct, for:
- 1215 (a) complying with a POLST order in good faith; or
1216 (b) providing life sustaining treatment to a person when a POLST order directs that the
1217 life sustaining treatment be withheld or withdrawn.
- 1218 (7) To the extent that the provisions of a POLST order described in this section conflict

- 1219 with the provisions of an advance health care directive made under Section 75-2a-107,
1220 the provisions of the POLST order take precedence.
- 1221 (8) An adult, or a parent or guardian of a minor, may revoke a POLST order by:
- 1222 (a) orally informing emergency service personnel;
- 1223 (b) writing "void" across the POLST order form;
- 1224 (c) burning, tearing, or otherwise destroying or defacing:
- 1225 (i) the POLST order form; or
- 1226 (ii) a bracelet or other evidence of the POLST order;
- 1227 (d) asking another adult to take the action described in this Subsection (8) on the
1228 person's behalf;
- 1229 (e) signing or directing another adult to sign a written revocation on the person's behalf;
- 1230 (f) stating, in the presence of an adult witness, that the person wishes to revoke the
1231 order; or
- 1232 (g) completing a new POLST order.
- 1233 (9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks health
1234 care decision making capacity may only revoke a POLST order if the revocation is
1235 consistent with the substituted judgment standard.
- 1236 (b) Except as provided in Subsection (9)(c), a surrogate who has authority under this
1237 section to sign a POLST order may revoke a POLST order, in accordance with
1238 Subsection (9)(a), by:
- 1239 (i) signing a written revocation of the POLST order; or
- 1240 (ii) completing and signing a new POLST order.
- 1241 (c) A surrogate may not revoke a POLST order during the period of time beginning
1242 when an emergency service provider is contacted for assistance, and ending when the
1243 emergency ends.
- 1244 (10) (a) The Department of Health and Human Services shall make rules, in accordance
1245 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
- 1246 (i) create the forms and systems described in this section; and
- 1247 (ii) develop uniform instructions for the form established in Section 75-2a-117.
- 1248 (b) The Department of Health and Human Services may make rules, in accordance with
1249 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate health care
1250 professionals, in addition to those described in Subsection (2)(b)(ii), who may
1251 prepare a POLST order.
- 1252 (c) The Department of Health and Human Services may assist others with training of

1253 health care professionals regarding this chapter.

1254 ~~[(11) A physician assistant may not prepare or sign a POLST order, unless the physician~~
 1255 ~~assistant is permitted to prepare or sign the POLST order under the physician assistant's~~
 1256 ~~delegation of services agreement, as defined in Section 58-70a-102.]~~

1257 ~~[(12)]~~ (11) (a) Notwithstanding any other provision of this section:

1258 (i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply
 1259 to any signature required on the POLST order; and

1260 (ii) a verbal confirmation satisfies the requirement for a signature from an individual
 1261 under Subsection (3)(b)(ii) or (iii), if:

1262 (A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to
 1263 sign the POLST order in person or electronically would require significant
 1264 difficulty or expense; and

1265 (B) a licensed health care provider witnesses the verbal confirmation and signs the
 1266 POLST order attesting that the health care provider witnessed the verbal
 1267 confirmation.

1268 (b) The health care provider described in Subsection ~~[(12)(a)(ii)(B)]~~ (11)(a)(ii)(B):

1269 (i) may not be the same individual who signs the POLST order under Subsection
 1270 (3)(a); and

1271 (ii) shall verify, in accordance with HIPAA as defined in Section 26B-3-126, the
 1272 identity of the individual who is providing the verbal confirmation.

1273 Section 20. Section **75-2a-117** is amended to read:

1274 **75-2a-117 . Optional form.**

1275 (1) The form created in Subsection (2), or a substantially similar form, is presumed valid
 1276 under this chapter.

1277 (2) The following form is presumed valid under Subsection (1):

1278 Utah Advance Health Care Directive

1279 (Pursuant to Utah Code Section 75-2a-117)

1280 Part I: Allows you to name another person to make health care decisions for you when you
 1281 cannot make decisions or speak for yourself.

1282 Part II: Allows you to record your wishes about health care in writing.

1283 Part III: Tells you how to revoke or change this directive.

1284 Part IV: Makes your directive legal.

1285

1286

My Personal Information

1287 Name: _____

1288 Street Address: _____

1289 City, State, Zip Code:

1290 _____

1291 Telephone: _____ Cell Phone: _____

1292 Birth date: _____

1293 _____

1294 Part I: My Agent (Health Care Power of Attorney)

1295 A. No Agent

1296 If you do not want to name an agent: initial the box below, then go to Part II; do not name an
1297 agent in B or C below. No one can force you to name an agent.

1298 _____ I do not want to choose an agent.

1299 B. My Agent

1300 Agent's Name:

1301 _____

1302 Street Address:

1303 _____

1304 City, State, Zip Code:

1305 _____

1306 Home Phone: () _____ Cell Phone: () _____ Work Phone: () _____

1307 C. My Alternate Agent

1308 This person will serve as your agent if your agent, named above, is unable or unwilling to
1309 serve.

1310 Alternate Agent's Name:

1311 _____

1312 Street Address:

1313 _____

1314 City, State, Zip Code:

1315 _____

1316 Home Phone: () _____ Cell Phone: () _____ Work Phone: () _____

1317 D. Agent's Authority

1318 If I cannot make decisions or speak for myself (in other words, after my physician or another
1319 authorized provider finds that I lack health care decision making capacity under Section
1320 75-2a-104 of the Advance Health Care Directive Act), my agent has the power to make any

1321 health care decision I could have made such as, but not limited to:

1322 • Consent to, refuse, or withdraw any health care. This may include care to prolong my life
1323 such as food and fluids by tube, use of antibiotics, CPR (cardiopulmonary resuscitation), and
1324 dialysis, and mental health care, such as convulsive therapy and psychoactive medications.

1325 This authority is subject to any limits in paragraph F of Part I or in Part II of this directive.

1326 • Hire and fire health care providers.

1327 • Ask questions and get answers from health care providers.

1328 • Consent to admission or transfer to a health care provider or health care facility, including a
1329 mental health facility, subject to any limits in paragraphs E and F of Part I.

1330 • Get copies of my medical records.

1331 • Ask for consultations or second opinions.

1332 My agent cannot force health care against my will, even if a physician has found that I lack
1333 health care decision making capacity.

1334 E. Other Authority

1335 My agent has the powers below ONLY IF I initial the "yes" option that precedes the statement.

1336 I authorize my agent to:

1337 YES _____ NO _____ Get copies of my medical records at any time, even when I can
1338 speak for myself.

1339 YES _____ NO _____ Admit me to a licensed health care facility, such as a hospital,
1340 nursing home, assisted living, or other facility for long-term placement other than convalescent
1341 or recuperative care.

1342 F. Limits/Expansion of Authority

1343 I wish to limit or expand the powers of my health care agent as follows:

1344 _____
1345 _____

1346 G. Nomination of Guardian

1347 Even though appointing an agent should help you avoid a guardianship, a guardianship may
1348 still be necessary. Initial the "YES" option if you want the court to appoint your agent or, if
1349 your agent is unable or unwilling to serve, your alternate agent, to serve as your guardian, if a
1350 guardianship is ever necessary.

1351 YES _____ NO _____

1352 I, being of sound mind and not acting under duress, fraud, or other undue influence, do hereby
1353 nominate my agent, or if my agent is unable or unwilling to serve, I hereby nominate my
1354 alternate agent, to serve as my guardian in the event that, after the date of this instrument, I

1355 become incapacitated.

1356 H. Consent to Participate in Medical Research

1357 YES _____ NO _____ I authorize my agent to consent to my participation in medical
1358 research or clinical trials, even if I may not benefit from the results.

1359 I. Organ Donation

1360 YES _____ NO _____ If I have not otherwise agreed to organ donation, my agent may
1361 consent to the donation of my organs for the purpose of organ transplantation.

1362

1363 Part II: My Health Care Wishes (Living Will)

1364 I want my health care providers to follow the instructions I give them when I am being treated,
1365 even if my instructions conflict with these or other advance directives. My health care
1366 providers should always provide health care to keep me as comfortable and functional as
1367 possible.

1368 Choose only one of the following options, numbered Option 1 through Option 4, by placing
1369 your initials before the numbered statement. Do not initial more than one option. If you do
1370 not wish to document end-of-life wishes, initial Option 4. You may choose to draw a line
1371 through the options that you are not choosing.

1372 Option 1

1373 _____ Initial

1374 I choose to let my agent decide. I have chosen my agent carefully. I have talked with my
1375 agent about my health care wishes. I trust my agent to make the health care decisions for me
1376 that I would make under the circumstances.

1377 Additional Comments:

1378

1379 Option 2

1380 _____ Initial

1381 I choose to prolong life. Regardless of my condition or prognosis, I want my health care team
1382 to try to prolong my life as long as possible within the limits of generally accepted health care
1383 standards.

1384 Other:

1385

1386 Option 3

1387 _____ Initial

1388 I choose not to receive care for the purpose of prolonging life, including food and fluids by

1389 tube, antibiotics, CPR, or dialysis being used to prolong my life. I always want comfort care
1390 and routine medical care that will keep me as comfortable and functional as possible, even if
1391 that care may prolong my life.

1392 If you choose this option, you must also choose either (a) or (b), below.

1393 _____ Initial

1394 (a) I put no limit on the ability of my health care provider or agent to withhold or withdraw
1395 life-sustaining care.

1396 If you selected (a), above, do not choose any options under (b).

1397 _____ Initial

1398 (b) My health care provider should withhold or withdraw life-sustaining care if at least one of
1399 the following initialed conditions is met:

1400 _____ I have a progressive illness that will cause death.

1401 _____ I am close to death and am unlikely to recover.

1402 _____ I cannot communicate and it is unlikely that my condition will improve.

1403 _____ I do not recognize my friends or family and it is unlikely that my condition will
1404 improve.

1405 _____ I am in a persistent vegetative state.

1406 Other:

1407 _____

1408 Option 4

1409 _____ Initial

1410 I do not wish to express preferences about health care wishes in this directive.

1411 Other:

1412 _____

1413 Additional instructions about your health care wishes:

1414 _____

1416 _____

1417 If you do not want emergency medical service providers to provide CPR or other life
1418 sustaining measures, you must work with a physician, physician assistant, or APRN to
1419 complete an order that reflects your wishes on a form approved by the Utah Department of
1420 Health and Human Services.

1421 Part III: Revoking or Changing a Directive

1422 I may revoke or change this directive by:

- 1423 1. Writing "void" across the form, or burning, tearing, or otherwise destroying or defacing this

- 1424 document or directing another person to do the same on my behalf;
- 1425 2. Signing a written revocation of the directive, or directing another person to sign a
- 1426 revocation on my behalf;
- 1427 3. Stating that I wish to revoke the directive in the presence of a witness who: is 18 years of
- 1428 age or older; will not be appointed as my agent in a substitute directive; will not become a
- 1429 default surrogate if the directive is revoked; and signs and dates a written document
- 1430 confirming my statement; or
- 1431 4. Signing a new directive. (If you sign more than one Advance Health Care Directive, the
- 1432 most recent one applies.)

Part IV: Making My Directive Legal

1434 I sign this directive voluntarily. I understand the choices I have made and declare that I am
1435 emotionally and mentally competent to make this directive. My signature on this form revokes
1436 any living will or power of attorney form, naming a health care agent, that I have completed in
1437 the past.

1438 _____

1439 Date

1440 _____

1441 Signature

1442 _____

1443 City, County, and State of Residence

1444 I have witnessed the signing of this directive, I am 18 years of age or older, and I am not:

- 1445 1. related to the declarant by blood or marriage;
- 1446 2. entitled to any portion of the declarant's estate according to the laws of intestate succession
- 1447 of any state or jurisdiction or under any will or codicil of the declarant;
- 1448 3. a beneficiary of a life insurance policy, trust, qualified plan, pay on death account, or
- 1449 transfer on death deed that is held, owned, made, or established by, or on behalf of, the
- 1450 declarant;
- 1451 4. entitled to benefit financially upon the death of the declarant;
- 1452 5. entitled to a right to, or interest in, real or personal property upon the death of the declarant;
- 1453 6. directly financially responsible for the declarant's medical care;
- 1454 7. a health care provider who is providing care to the declarant or an administrator at a health
- 1455 care facility in which the declarant is receiving care; or
- 1456 8. the appointed agent or alternate agent.

1457 _____

1458 Signature of Witness Printed Name of Witness
 1459 _____

1460 Street Address City State Zip Code

1461 If the witness is signing to confirm an oral directive, describe below the circumstances under
 1462 which the directive was made.

1463 _____

1465 Section 21. Section **75-5-301.5** is amended to read:

1466 **75-5-301.5 . Rights of a person alleged to be incapacitated -- Rights of an**
 1467 **incapacitated person.**

1468 (1) Except as otherwise provided by this chapter or any other law, a person alleged to be
 1469 incapacitated has the right to:

1470 (a) be represented by counsel before a guardianship is imposed and have counsel
 1471 represent the person during the guardianship proceeding;

1472 (b) receive a copy of all documents filed in a guardianship proceeding;

1473 (c) have a relative, [a-]physician, physician assistant, or any interested person speak
 1474 about or raise any issue of concern on behalf of the person during the guardianship
 1475 proceeding;

1476 (d) receive information about guardianships from the court; and

1477 (e) be treated with respect and dignity.

1478 (2) Except as otherwise provided by this chapter or any other law, an incapacitated person
 1479 for whom a guardian is appointed has right to:

1480 (a) have counsel represent the incapacitated person at any time after the guardian is
 1481 appointed;

1482 (b) have a relative, [a-]physician, physician assistant, or any interested person speak
 1483 about or raise any issue of concern on behalf of the person in any court hearing about
 1484 the guardianship;

1485 (c) receive a copy of all documents filed in court regarding the guardianship;

1486 (d) receive information about guardianships from the court;

1487 (e) ask questions and express concerns or complaints about a guardian and the actions of
 1488 a guardian to the court;

1489 (f) participate in developing an individualized plan for the incapacitated person's care,
 1490 including:

1491 (i) managing the incapacitated person's assets and property;

1492 (ii) determining the incapacitated person's residence; and

- 1493 (iii) determining the services to be received by the incapacitated person;
- 1494 (g) be given consideration in regards to the incapacitated person's current and previously
1495 stated desires, preferences for health care and medical treatment, and religious and
1496 moral beliefs;
- 1497 (h) remain as independent as possible, including giving deference to the incapacitated
1498 person's preference for the incapacitated person's residence and standard of living:
- 1499 (i) as expressed or demonstrated before a determination of capacity was made; or
1500 (ii) as currently expressed or demonstrated by the incapacitated person if the
1501 preference is reasonable under the circumstances;
- 1502 (i) be granted the greatest degree of freedom possible that is consistent with the reasons
1503 for the guardianship;
- 1504 (j) be able to exercise control over all aspects of the incapacitated person's life that are
1505 not granted to the guardian in the order of appointment;
- 1506 (k) engage in any activity that the court has not expressly reserved for the guardian,
1507 including marriage or domestic partnership, traveling, working, or having a driver
1508 license;
- 1509 (l) be treated with respect and dignity;
- 1510 (m) be treated fairly by the incapacitated person's guardian;
- 1511 (n) maintain privacy and confidentiality in personal matters;
- 1512 (o) receive telephone calls and personal mail and associate with relatives and
1513 acquaintances unless the guardian and the court determine that the association should
1514 be restricted or prohibited in accordance with Section 75-5-312.5;
- 1515 (p) receive timely, effective, and appropriate health care and medical treatment that does
1516 not violate the incapacitated person's rights;
- 1517 (q) have all services provided by a guardian at a reasonable rate of compensation;
- 1518 (r) have a court review any request for payment by a guardian to avoid excessive or
1519 unnecessary fees or duplicative billing;
- 1520 (s) receive prudent financial management of the incapacitated person's property;
- 1521 (t) subject to Subsections 75-5-312(4)(h) and 75-5-417(4), receive a copy of an
1522 accounting report regarding the incapacitated person's estate that is submitted to the
1523 court by the guardian under Section 75-5-312 or the conservator under Section
1524 75-5-417 if a conservator is appointed for the incapacitated person;
- 1525 (u) receive and control the incapacitated person's salary;
- 1526 (v) maintain a bank account and manage the incapacitated person's personal money; and

- 1527 (w) ask the court to:
- 1528 (i) review the management activity of a guardian if a dispute cannot be resolved
- 1529 regarding the guardian's management;
- 1530 (ii) continue to review the need for a guardianship or to modify or terminate a
- 1531 guardianship; and
- 1532 (iii) enter an order restoring the incapacitated person's capacity at the earliest possible
- 1533 time.
- 1534 (3) The rights of an incapacitated person under this section do not abrogate any remedy
- 1535 provided by law.
- 1536 (4) Any right described in this section may be:
- 1537 (a) addressed in a guardianship proceeding; or
- 1538 (b) enforced through a private cause of action.
- 1539 Section 22. Section **75-5-303** is amended to read:
- 1540 **75-5-303 . Procedure for court appointment of a guardian of an incapacitated**
- 1541 **person.**
- 1542 (1) An incapacitated person or any person interested in the incapacitated person's welfare
- 1543 may petition for a finding of incapacity and appointment of a guardian.
- 1544 (2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of
- 1545 incapacity.
- 1546 (b) Unless the allegedly incapacitated person has counsel of the person's own choice, the
- 1547 court shall appoint an attorney to represent the person in the proceeding the cost of
- 1548 which shall be paid by the person alleged to be incapacitated, unless the allegedly
- 1549 incapacitated person and the allegedly incapacitated person's parents are indigent.
- 1550 (c) If the court determines that the petition is without merit, the attorney fees and court
- 1551 costs shall be paid by the person filing the petition.
- 1552 (d) If the court appoints the petitioner or the petitioner's nominee as guardian of the
- 1553 incapacitated person, regardless of whether the nominee is specified in the moving
- 1554 petition or nominated during the proceedings, the petitioner shall be entitled to
- 1555 receive from the incapacitated person reasonable attorney fees and court costs
- 1556 incurred in bringing, prosecuting, or defending the petition.
- 1557 (3) The legal representation of the incapacitated person by an attorney shall terminate upon
- 1558 the appointment of a guardian, unless:
- 1559 (a) there are separate conservatorship proceedings still pending before the court
- 1560 subsequent to the appointment of a guardian;

- 1561 (b) there is a timely filed appeal of the appointment of the guardian or the determination
1562 of incapacity; or
- 1563 (c) upon an express finding of good cause, the court orders otherwise.
- 1564 (4) The person alleged to be incapacitated may be examined by a physician or physician
1565 assistant appointed by the court who shall submit a report in writing to the court and
1566 may be interviewed by a visitor sent by the court. The visitor also may interview the
1567 person seeking appointment as guardian, visit the present place of abode of the person
1568 alleged to be incapacitated and the place it is proposed that the person will be detained
1569 or reside if the requested appointment is made, conduct other investigations or
1570 observations as directed by the court, and submit a report in writing to the court.
- 1571 (5) (a) The person alleged to be incapacitated shall be present at the hearing in person
1572 and see or hear all evidence bearing upon the person's condition. If the person
1573 seeking the guardianship requests a waiver of presence of the person alleged to be
1574 incapacitated, the court shall order an investigation by a court visitor, the costs of
1575 which shall be paid by the person seeking the guardianship.
- 1576 (b) The investigation by a court visitor is not required if there is clear and convincing
1577 evidence from a physician that the person alleged to be incapacitated has:
- 1578 (i) fourth stage Alzheimer's Disease;
- 1579 (ii) extended comatosis; or
- 1580 (iii) (A) an intellectual disability; and
- 1581 (B) an intelligence quotient score under 25.
- 1582 (c) The person alleged to be incapacitated is entitled to be represented by counsel, to
1583 present evidence, to cross-examine witnesses, including the court-appointed
1584 physician and the visitor, and to trial by jury. The issue may be determined at a
1585 closed hearing without a jury if the person alleged to be incapacitated or the person's
1586 counsel so requests.
- 1587 (d) Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-201
1588 (22), is not required if:
- 1589 (i) the person is the biological or adopted child of the petitioner;
- 1590 (ii) the value of the person's entire estate does not exceed \$20,000 as established by
1591 an affidavit of the petitioner in accordance with Section 75-3-1201;
- 1592 (iii) the person appears in court with the petitioner;
- 1593 (iv) the person is given the opportunity to communicate, to the extent possible, the
1594 person's acceptance of the appointment of petitioner;

1595 (v) no attorney from the state court's list of attorneys who have volunteered to
 1596 represent respondents in guardianship proceedings is able to provide counsel to
 1597 the person within 60 days of the date of the appointment described in Subsection
 1598 (2);

1599 (vi) the court is satisfied that counsel is not necessary in order to protect the interests
 1600 of the person; and

1601 (vii) the court appoints a visitor under Subsection (4).

1602 Section 23. Section **76-5-111** is amended to read:

1603 **76-5-111 . Abuse of a vulnerable adult -- Penalties.**

1604 (1) (a) As used in this section:

1605 (i) "Abandonment" means a knowing or intentional action or inaction, including
 1606 desertion, by a person acting as a caretaker for a vulnerable adult that leaves the
 1607 vulnerable adult without the means or ability to obtain necessary food, clothing,
 1608 shelter, or medical or other health care.

1609 (ii) "Abuse" means:

1610 (A) attempting to cause harm, intentionally or knowingly causing harm, or
 1611 intentionally or knowingly placing another in fear of imminent harm;

1612 (B) causing physical injury by knowing or intentional acts or omissions;

1613 (C) unreasonable or inappropriate use of physical restraint, medication, or
 1614 isolation that causes or is likely to cause harm to a vulnerable adult that is in
 1615 conflict with a physician's or physician assistant's orders or used as an
 1616 unauthorized substitute for treatment, unless that conduct furthers the health
 1617 and safety of the vulnerable adult; or

1618 (D) deprivation of life-sustaining treatment, except:

1619 (I) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

1620 (II) when informed consent, as defined in this section, has been obtained.

1621 (iii) "Caretaker" means a person or public institution that is entrusted with or assumes
 1622 the responsibility to provide a vulnerable adult with care, food, shelter, clothing,
 1623 supervision, medical or other health care, or other necessities for pecuniary gain,
 1624 by contract, or as a result of friendship, or in a position of trust and confidence
 1625 with a vulnerable adult, including a relative, a household member, an
 1626 attorney-in-fact, a neighbor, a person who is employed or who provides volunteer
 1627 work, a court-appointed or voluntary guardian, or a person who contracts or is
 1628 under court order to provide care.

- 1629 (iv) (A) "Dependent adult" means an individual 18 years old or older, who has a
1630 physical or mental impairment that restricts the individual's ability to carry out
1631 normal activities or to protect the individual's rights.
- 1632 (B) "Dependent adult" includes an individual who has physical or developmental
1633 disabilities or whose physical or mental capacity has substantially diminished
1634 because of age.
- 1635 (v) "Elder adult" means an individual 65 years old or older.
- 1636 (vi) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or
1637 76-5b-202.
- 1638 (vii) "Harm" means pain, mental anguish, emotional distress, hurt, physical or
1639 psychological damage, physical injury, suffering, or distress inflicted knowingly
1640 or intentionally.
- 1641 (viii) "Informed consent" means:
- 1642 (A) a written expression by the individual or authorized by the individual, stating
1643 that the individual fully understands the potential risks and benefits of the
1644 withdrawal of food, water, medication, medical services, shelter, cooling,
1645 heating, or other services necessary to maintain minimum physical or mental
1646 health, and that the individual desires that the services be withdrawn, except
1647 that a written expression is valid only if the individual is of sound mind when
1648 the consent is given, and the consent is witnessed by at least two individuals
1649 who do not benefit from the withdrawal of services; or
- 1650 (B) consent to withdraw food, water, medication, medical services, shelter,
1651 cooling, heating, or other services necessary to maintain minimum physical or
1652 mental health, as permitted by court order.
- 1653 (ix) (A) "Isolation" means knowingly or intentionally preventing a vulnerable
1654 adult from having contact with another person, unless the restriction of
1655 personal rights is authorized by court order, by:
- 1656 (I) preventing the vulnerable adult from communicating, visiting, interacting,
1657 or initiating interaction with others, including receiving or inviting visitors,
1658 mail, or telephone calls, contrary to the express wishes of the vulnerable
1659 adult, or communicating to a visitor that the vulnerable adult is not present
1660 or does not want to meet with or talk to the visitor, knowing that
1661 communication to be false;
- 1662 (II) physically restraining the vulnerable adult in order to prevent the

- 1663 vulnerable adult from meeting with a visitor; or
- 1664 (III) making false or misleading statements to the vulnerable adult in order to
- 1665 induce the vulnerable adult to refuse to receive communication from visitors
- 1666 or other family members.
- 1667 (B) "Isolation" does not include an act:
- 1668 (I) intended in good faith to protect the physical or mental welfare of the
- 1669 vulnerable adult; or
- 1670 (II) performed pursuant to the treatment plan or instructions of a physician,
- 1671 physician assistant, or other professional advisor of the vulnerable adult.
- 1672 (x) "Neglect" means:
- 1673 (A) failure of a caretaker to provide nutrition, clothing, shelter, supervision,
- 1674 personal care, or dental or other health care, or failure to provide protection
- 1675 from health and safety hazards or maltreatment;
- 1676 (B) failure of a caretaker to provide care to a vulnerable adult in a timely manner
- 1677 and with the degree of care that a reasonable person in a like position would
- 1678 exercise;
- 1679 (C) a pattern of conduct by a caretaker, without the vulnerable adult's informed
- 1680 consent, resulting in deprivation of food, water, medication, health care,
- 1681 shelter, cooling, heating, or other services necessary to maintain the vulnerable
- 1682 adult's well being;
- 1683 (D) intentional failure by a caretaker to carry out a prescribed treatment plan that
- 1684 results or could result in physical injury or physical harm; or
- 1685 (E) abandonment by a caretaker.
- 1686 (xi) (A) "Physical injury" includes damage to any bodily tissue caused by
- 1687 nontherapeutic conduct, to the extent that the tissue must undergo a healing
- 1688 process in order to be restored to a sound and healthy condition, or damage to
- 1689 any bodily tissue to the extent that the tissue cannot be restored to a sound and
- 1690 healthy condition.
- 1691 (B) "Physical injury" includes skin bruising, a dislocation, physical pain, illness,
- 1692 impairment of physical function, a pressure sore, bleeding, malnutrition,
- 1693 dehydration, a burn, a bone fracture, a subdural hematoma, soft tissue swelling,
- 1694 injury to any internal organ, or any other physical condition that imperils the
- 1695 health or welfare of the vulnerable adult and is not a serious physical injury as
- 1696 defined in this section.

- 1697 (xii) "Position of trust and confidence" means the position of a person who:
- 1698 (A) is a parent, spouse, adult child, or other relative of a vulnerable adult;
- 1699 (B) is a joint tenant or tenant in common with a vulnerable adult;
- 1700 (C) has a legal or fiduciary relationship with a vulnerable adult, including a
- 1701 court-appointed or voluntary guardian, trustee, attorney, attorney-in-fact, or
- 1702 conservator; or
- 1703 (D) is a caretaker of a vulnerable adult.
- 1704 (xiii) "Serious physical injury" means any physical injury or set of physical injuries
- 1705 that:
- 1706 (A) seriously impairs a vulnerable adult's health;
- 1707 (B) was caused by use of a dangerous weapon;
- 1708 (C) involves physical torture or causes serious emotional harm to a vulnerable
- 1709 adult; or
- 1710 (D) creates a reasonable risk of death.
- 1711 (xiv) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental
- 1712 or physical impairment which substantially affects that individual's ability to:
- 1713 (A) provide personal protection;
- 1714 (B) provide necessities such as food, shelter, clothing, or medical or other health
- 1715 care;
- 1716 (C) obtain services necessary for health, safety, or welfare;
- 1717 (D) carry out the activities of daily living;
- 1718 (E) manage the adult's own resources; or
- 1719 (F) comprehend the nature and consequences of remaining in a situation of abuse,
- 1720 neglect, or exploitation.
- 1721 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1722 (2) An actor, including a caretaker, commits abuse of a vulnerable adult if the actor, under
- 1723 circumstances other than those likely to produce death or serious physical injury:
- 1724 (a) causes a vulnerable adult to suffer harm, abuse, or neglect;
- 1725 (b) having the care or custody of a vulnerable adult, causes or permits that vulnerable
- 1726 adult's person or health to be injured, abused, or neglected; or
- 1727 (c) causes or permits a vulnerable adult to be placed in a situation in which the
- 1728 vulnerable adult's person or health is endangered.
- 1729 (3) (a) A violation of Subsection (2):
- 1730 (i) is a class A misdemeanor if done intentionally or knowingly;

- 1731 (ii) is a class B misdemeanor if done recklessly; or
1732 (iii) is a class C misdemeanor if done with criminal negligence.
- 1733 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) that is based on
1734 isolation of a vulnerable adult is a third degree felony.
- 1735 (4) (a) It does not constitute a defense to a prosecution for a violation of this section that
1736 the actor did not know the age of the vulnerable adult.
- 1737 (b) An adult is not considered abused, neglected, or a vulnerable adult for the reason that
1738 the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu
1739 of medical care.
- 1740 (5) If an actor, including a caretaker, violates this section by willfully isolating a vulnerable
1741 adult, in addition to the penalties under Subsection (3), the court may require that the
1742 actor:
- 1743 (a) undergo appropriate counseling as a condition of the sentence; and
1744 (b) pay for the costs of the ordered counseling.

1745 Section 24. **Effective date.**

1746 This bill takes effect on May 1, 2024.

1747 Section 25. **Coordinating S.B. 24 with H.B. 403.**

1748 If S.B. 24, Physician Assistant Practice Amendments, and H.B. 403, Body Art
1749 Facility Amendments, both pass and become law, the Legislature intends that, on
1750 May 1, 2024, Subsection 26B-7-402(15) be amended to read:

1751 "(15) [~~physician and dentist offices~~] an office of a physician, physician assistant,
1752 or dentist;".