

SB0024S01 compared with SB0024

~~{deleted text}~~ shows text that was in SB0024 but was deleted in SB0024S01.

inserted text shows text that was not in SB0024 but was inserted into SB0024S01.

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Representative A. Cory Maloy proposes the following substitute bill:

PHYSICIAN ASSISTANT PRACTICE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: ~~{}~~Curtis S. Bramble

House Sponsor: ~~{}~~ A. Cory Maloy

LONG TITLE

~~{Committee Note:~~

~~— The Business and Labor Interim Committee recommended this bill.~~

~~— Legislative Vote: 13 voting for 0 voting against 8 absent~~

~~{General Description:~~

This bill modifies provisions relating to physician assistants.

Highlighted Provisions:

This bill:

- ▶ clarifies the scope of practice for physician assistants.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{None}~~ This bill provides a coordination clause.

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Utah Code Sections Affected:

AMENDS:

- 26B-1-501, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-201, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-3-123, as last amended by Laws of Utah 2023, Chapter 295 and renumbered and amended by Laws of Utah 2023, Chapter 306
- 26B-4-409, as renumbered and amended by Laws of Utah 2023, Chapter 307
- 26B-4-410, as renumbered and amended by Laws of Utah 2023, Chapter 307
- 26B-7-216, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 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
- 53-3-220, as last amended by Laws of Utah 2023, Chapter 415
- 53G-6-204, as last amended by Laws of Utah 2023, Chapter 162
- 53G-6-603, as last amended by Laws of Utah 2022, Chapter 329
- 53G-9-403, as last amended by Laws of Utah 2022, Chapter 214
- 58-37c-3, as last amended by Laws of Utah 2015, Chapter 258
- 75-2a-104, as last amended by Laws of Utah 2009, Chapter 99
- 75-2a-106, as last amended by Laws of Utah 2023, Chapter 330
- 75-2a-117, as last amended by Laws of Utah 2009, Chapter 99
- 75-5-301.5, as enacted by Laws of Utah 2022, Chapter 358 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 358
- 75-5-303, as last amended by Laws of Utah 2018, Chapter 455
- 76-5-111, as last amended by Laws of Utah 2022, Chapter 181

Utah Code Sections Affected By Coordination Clause:

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

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

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

26B-1-501. Definitions.

As used in this part:

- (1) "Abuse" means the same as that term is defined in Section 80-1-102.
- (2) "Child" means the same as that term is defined in Section 80-1-102.
- (3) "Committee" means a fatality review committee that is formed under Section 26B-1-503 or 26B-1-504.
- (4) "Dependency" means the same as that term is defined in Section 80-1-102.
- (5) "Formal review" means a review of a death or a near fatality that is ordered under Subsection 26B-1-502(6).
- (6) "Near fatality" means alleged abuse or neglect that, as certified by a physician or physician assistant, places a child in serious or critical condition.
- (7) "Qualified individual" means an individual who:
 - (a) at the time that the individual dies, is a resident of a facility or program that is owned or operated by the department or a division of the department;
 - (b) (i) is in the custody of the department or a division of the department; and
(ii) is placed in a residential placement by the department or a division of the department;
 - (c) at the time that the individual dies, has an open case for the receipt of child welfare services, including:
 - (i) an investigation for abuse, neglect, or dependency;
 - (ii) foster care;
 - (iii) in-home services; or
 - (iv) substitute care;
 - (d) had an open case for the receipt of child welfare services within one year before the day on which the individual dies;
 - (e) was the subject of an accepted referral received by Adult Protective Services within one year before the day on which the individual dies, if:
 - (i) the department or a division of the department is aware of the death; and
 - (ii) the death is reported as a homicide, suicide, or an undetermined cause;

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(f) received services from, or under the direction of, the Division of Services for People with Disabilities within one year before the day on which the individual dies, unless the individual:

(i) lived in the individual's home at the time of death; and

(ii) the director of the Division of Continuous Quality and Improvement determines that the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department;

(g) dies within 60 days after the day on which the individual is discharged from the Utah State Hospital, if the department is aware of the death;

(h) is a child who:

(i) suffers a near fatality; and

(ii) is the subject of an open case for the receipt of child welfare services within one year before the day on which the child suffered the near fatality, including:

(A) an investigation for abuse, neglect, or dependency;

(B) foster care;

(C) in-home services; or

(D) substitute care; or

(i) is designated as a qualified individual by the executive director.

(8) "Neglect" means the same as that term is defined in Section 80-1-102.

(9) "Substitute care" means the same as that term is defined in Section 80-1-102.

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

26B-2-201. Definitions.

As used in this part:

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

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

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

(a) dressing;

(b) eating;

(c) grooming;

(d) bathing;

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- (e) toileting;
- (f) ambulation;
- (g) transferring; and
- (h) self-administration of medication.

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

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

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

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

(A) require protected living arrangements; and

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

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

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

(i) specified services of intermittent nursing care;

(ii) administration of medication; and

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

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

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

(b) (i) is freestanding; or

(ii) is not freestanding, but meets the requirements for an alongside midwifery unit described in Subsection 26B-2-228(7).

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

(8) "Consumer" means any person not primarily engaged in the provision of health care

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to individuals or in the administration of facilities or institutions in which such care is provided and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and does not receive, either directly or through his spouse, more than 1/10 of his gross income from any entity or activity relating to health care.

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

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

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

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

(13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, a clinic that meets the definition of hospital under Section 76-7-301 or 76-71-201, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule.

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

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

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

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

(ii) is compensated, except for copayments, for the provision of the basic health services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a

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periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; [and]

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

(iv) provides physician assistant services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

(a) "Telehealth services" means the same as that term is defined in Section 26B-4-704.

(b) "Telemedicine services" means the same as that term is defined in Section 26B-4-704.

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(c) "Telepsychiatric consultation" means a consultation between a physician or physician assistant and a board certified psychiatrist, both of whom are licensed to engage in the practice of medicine or physician assistant services in the state, that utilizes:

(i) the health records of the patient, provided from the patient or the referring physician or physician assistant;

(ii) a written, evidence-based patient questionnaire; and

(iii) telehealth services that meet industry security and privacy standards, including compliance with the:

(A) Health Insurance Portability and Accountability Act; and

(B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

(2) This section applies to:

(a) a managed care organization that contracts with the Medicaid program; and

(b) a provider who is reimbursed for health care services under the Medicaid program.

(3) The Medicaid program shall reimburse for telemedicine services at the same rate that the Medicaid program reimburses for other health care services.

(4) The Medicaid program shall reimburse for audio-only telehealth services as specified by division rule.

(5) The Medicaid program shall reimburse for telepsychiatric consultations at a rate set by the Medicaid program.

Section 4. Section **26B-4-409** is amended to read:

26B-4-409. Authority to obtain and use an epinephrine auto-injector or stock albuterol.

(1) A qualified adult who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse, may obtain from the school district physician, the medical director of the local health department, or the local emergency medical services director a prescription for:

(a) epinephrine auto-injectors for use in accordance with this part; or

(b) stock albuterol for use in accordance with this part.

(2) (a) A qualified adult may obtain an epinephrine auto-injector for use in accordance with this part that is dispensed by:

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- (i) a pharmacist as provided under Section 58-17b-1004; or
- (ii) a pharmacy intern as provided under Section 58-17b-1004.

(b) A qualified adult may obtain stock albuterol for use in accordance with this part that is dispensed by:

- (i) a pharmacist as provided under Section 58-17b-1004; or
 - (ii) a pharmacy intern as provided under Section 58-17b-1004.
- (3) A qualified adult:

(a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician or physician assistant is not immediately available; and

(b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-407 after administering an epinephrine auto-injector.

(4) If a school nurse is not immediately available, a qualified adult:

(a) may immediately administer stock albuterol to an individual who:

- (i) has a diagnosis of asthma by a health care provider;
- (ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan; and

(b) shall initiate appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-408 after administering stock albuterol.

(5) (a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain a supply of epinephrine auto-injectors or stock albuterol, respectively, from a pharmacist under Section 58-17b-1004, or a pharmacy intern under Section 58-17b-1004 for:

(i) storing:

(A) the epinephrine auto-injectors on the qualified epinephrine auto-injector entity's premises; and

(B) stock albuterol on the qualified stock albuterol entity's premises; and

(ii) use by a qualified adult in accordance with Subsection (3) or (4).

(b) A qualified epinephrine auto-injector entity shall:

(i) designate an individual to complete an initial and annual refresher training program

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regarding the proper storage and emergency use of an epinephrine auto-injector available to a qualified adult; and

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

(c) A qualified stock albuterol entity shall:

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

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

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

26B-4-410. Immunity from liability.

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

(a) a qualified adult;

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

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

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

(e) a qualified stock albuterol entity.

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

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

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

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

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

(2) (a) Every licensed physician [~~and~~], surgeon, or physician assistant attending a pregnant or recently delivered woman for conditions relating to her pregnancy shall take or

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cause to be taken a sample of blood of the woman at the time of first examination or within 10 days thereafter.

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

(c) The provisions of this section do not apply to any female who objects thereto on the grounds that she is a bona fide member of a specified, well recognized religious organization whose teachings are contrary to the tests.

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

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

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

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

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

The following section is affected by a coordination clause at the end of this bill.

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

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

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

- (1) restaurants and all places where food or drink is handled, sold or served to the public;
- (2) public swimming pools;
- (3) public baths including saunas, spas, massage parlors, and suntan parlors;
- (4) public bathing beaches;
- (5) schools which are publicly or privately owned or operated;

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- (6) recreational resorts, camps, and vehicle parks;
- (7) amusement parks and all other centers and places used for public gatherings;
- (8) mobile home parks and highway rest stops;
- (9) construction or labor camps;
- (10) jails, prisons and other places of incarceration or confinement;
- (11) hotels and motels;
- (12) lodging houses and boarding houses;
- (13) service stations;
- (14) barbershops and beauty shops, including a facility in which one or more individuals are engaged in:

(a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and Associated Professions Licensing Act; or

(b) styling hair in accordance with the exemption from licensure described in ~~[Section]~~ Subsection 58-11a-304(13);

- (15) physician ~~[and]~~, physician assistant, and dentist offices;
- (16) public buildings and grounds;
- (17) public conveyances and terminals; and
- (18) commercial tanning facilities.

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

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

(1) As used in this section, "birthing facility" means a general acute hospital or birthing center as defined in Section 26B-2-201.

(2) For each live birth occurring in the state, a certificate shall be filed with the local registrar for the district in which the birth occurred within 10 days following the birth. The certificate shall be registered if it is completed and filed in accordance with this part.

(3) (a) For each live birth that occurs in a birthing facility, the administrator of the birthing facility, or his designee, shall obtain and enter the information required under this part on the certificate, securing the required signatures, and filing the certificate.

(b) (i) The date, time, place of birth, and required medical information shall be certified by the birthing facility administrator or his designee.

(ii) The attending physician, physician assistant, or nurse midwife may sign the

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certificate, but if the attending physician, physician assistant primarily responsible for providing assistance to the mother at birth, or nurse midwife has not signed the certificate within seven days of the date of birth, the birthing facility administrator or his designee shall enter the attending physician's, physician assistant's, or nurse midwife's name and transmit the certificate to the local registrar.

(iii) The information on the certificate about the parents shall be provided and certified by the mother or father or, in their incapacity or absence, by a person with knowledge of the facts.

(4) (a) For live births that occur outside a birthing facility, the birth certificate shall be completed and filed by the physician, physician assistant, nurse, midwife, or other person primarily responsible for providing assistance to the mother at the birth. If there is no such person, either the presumed or declarant father shall complete and file the certificate. In his absence, the mother shall complete and file the certificate, and in the event of her death or disability, the owner or operator of the premises where the birth occurred shall do so.

(b) The certificate shall be completed as fully as possible and shall include the date, time, and place of birth, the mother's name, and the signature of the person completing the certificate.

(5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the administrator or director of that facility, or his designee, shall:

(i) provide the birth mother and declarant father, if present, with:

(A) a voluntary declaration of paternity form published by the state registrar;

(B) oral and written notice to the birth mother and declarant father of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration; and

(C) the opportunity to sign the declaration;

(ii) witness the signature of a birth mother or declarant father in accordance with Section 78B-15-302 if the signature occurs at the facility;

(iii) enter the declarant father's information on the original birth certificate, but only if the mother and declarant father have signed a voluntary declaration of paternity or a court or administrative agency has issued an adjudication of paternity; and

(iv) file the completed declaration with the original birth certificate.

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(b) If there is a presumed father, the voluntary declaration will only be valid if the presumed father also signs the voluntary declaration.

(c) The state registrar shall file the information provided on the voluntary declaration of paternity form with the original birth certificate and may provide certified copies of the declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah Uniform Parentage Act.

(6) (a) The state registrar shall publish a form for the voluntary declaration of paternity, a description of the process for filing a voluntary declaration of paternity, and of the rights and responsibilities established or effected by that filing, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act.

(b) Information regarding the form and services related to voluntary paternity establishment shall be made available to birthing facilities and to any other entity or individual upon request.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section, "early term stillborn child" means a product of human conception, other than in the circumstances described in Subsection 76-7-301(1), that:

(a) is of at least 16 weeks' gestation but less than 20 weeks' gestation, calculated from the day on which the mother's last normal menstrual period began to the day of delivery; and
(b) is not born alive.

(2) The state registrar shall issue a certificate of early term stillbirth to a parent of an early term stillborn child if:

(a) the parent requests, on a form created by the state registrar, that the state registrar register and issue a certificate of early term stillbirth for the early term stillborn child; and

(b) the parent files with the state registrar:

(i) (A) a signed statement from a physician, or physician assistant if a physician is not in attendance at the delivery, confirming the delivery of the early term stillborn child; or

(B) an accurate copy of the parent's medical records related to the early term stillborn child; and

(ii) any other record the state registrar determines, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is necessary for accurate recordkeeping.

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(3) The certificate of early term stillbirth described in Subsection (2) shall meet all of the format and filing requirements of Section 26B-8-103.

(4) A person who prepares a certificate of early term stillbirth under this section shall leave blank any references to an early term stillborn child's name if the early term stillborn child's parent does not wish to provide a name for the early term stillborn child.

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

53-2a-1601. Definitions.

As used in this part:

(1) "Emergency responder" includes a:

- (a) firefighter;
- (b) structural engineer;
- (c) physician;
- (d) physician assistant;
- ~~[(d)]~~ (e) paramedic; or
- ~~[(e)]~~ (f) technical rescue specialist.

(2) "Emergency response team" means a group of emergency responders placed at the direction, control, and funding of the Division of Emergency Management, in accordance with an agreement between the Division of Emergency Management and a sponsoring agency and the provisions of this part, to assist in urban search and rescue:

- (a) in response to a disaster, emergency, or important event; or
- (b) in anticipation of a forecasted severe weather event, a flood, or a planned important event.

(3) "Emergency response team member" means an individual who is:

- (a) an emergency responder;
- (b) a member of an emergency response team; and
- (c) acting within the scope of the individual's duties for an emergency response team.

(4) "Important event" includes an event attended by one or more officials of the United States or one or more foreign dignitaries and where a large crowd has or is anticipated to gather.

(5) "Sponsoring agency" means an entity in the state that executes a written agreement to organize a National Urban Search and Rescue Response System task force as described in 44

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C.F.R. Part 208 to assist the Federal Emergency Management Agency during a disaster or emergency.

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

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

(1) The division shall examine every applicant for a license, including a test of the applicant's:

(a) eyesight either:

(i) by the division; or

(ii) by allowing the applicant to furnish to the division a statement from a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician assistant licensed under Title 58, Chapter 70A, Utah Physician Assistant Act, or an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(b) ability to read and understand highway signs regulating, warning, and directing traffic;

(c) ability to read and understand simple English used in highway traffic and directional signs;

(d) knowledge of the state traffic laws;

(e) other physical and mental abilities the division finds necessary to determine the applicant's fitness to drive a motor vehicle safely on the highways; and

(f) ability to exercise ordinary and responsible control driving a motor vehicle, as determined by actual demonstration or other indicator.

(2) (a) Subject to Subsection (2)(d), and notwithstanding the provisions of Subsection (1) or any other provision of law, the division shall allow an individual to take an examination of the individual's knowledge of the state traffic laws in the individual's preferred language:

(i) if the individual is a refugee, an approved asylee, or a covered humanitarian parolee:

(A) the first time the individual applies for a limited-term license certificate; and

(B) the first time the individual applies for a renewal of a limited-term license certificate; and

(ii) for any other individual applying for a class D license certificate:

(A) the first time the individual applies for a class D license certificate; and

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(B) the first time the individual applies for a renewal of a class D license certificate.

(b) (i) Upon the second renewal of a refugee's, an approved asylee's, or a covered humanitarian parolee's limited-term license certificate for a refugee, an approved asylee, or a covered humanitarian parolee that has taken the knowledge exam in the individual's preferred language under Subsection (2)(a), the division shall re-examine the individual's knowledge of the state traffic laws in English.

(ii) Upon the second renewal of an individual's class D license certificate of an individual who has taken the knowledge exam in the individual's preferred language under Subsection (2)(a)(ii), the division shall re-examine the individual's knowledge of the state traffic laws in English.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing the procedures and requirements for the examination of the individual's knowledge of the state traffic laws in the individual's preferred language.

(d) (i) Beginning on July 1, 2023, for a class D license certificate, except for a driving privilege card issued under Section 53-3-207, the division shall administer the written knowledge examination in as many languages as reasonably possible given budgetary and other constraints.

(ii) If the division is unable to administer the written knowledge examination in a particular language, an individual may take an examination with the assistance of a translator approved by the division.

(iii) If an individual takes the examination with the assistance of a translator, the individual is responsible for the costs of the translator.

(e) In order to provide the services described in Subsection (2)(d)(i), the division may contract with a private vendor to provide the translation services or technology.

(3) (a) For an applicant for an original or a renewal of a class D license, other than a driving privilege card or a limited term license certificate, the division shall provide the examination of an individual's knowledge of the state traffic laws in five commonly spoken languages in the state, other than English, as determined under Subsection (3)(c).

(b) An applicant for an original or a renewal of a class D license, other than a driving privilege card or a limited term license certificate, may request to take the examination of the individual's knowledge of the state traffic laws in a language other than English, if the

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requested language is one of five commonly spoken languages in the state as determined under Subsection (3)(c).

(c) (i) The Division of Multicultural Affairs created in Section 9-21-201 shall recommend five commonly spoken languages in the state, other than English, for examination of an individual's knowledge of the state traffic laws.

(ii) The division shall offer the examination of an individual's knowledge of the state traffic laws in the five commonly spoken languages, other than English, recommended by the Division of Multicultural Affairs created in Section 9-21-201.

(4) The division shall determine whether any facts exist that would bar granting a license under Section 53-3-204.

(5) The division shall examine each applicant according to the class of license applied for.

(6) An applicant for a CDL shall meet all additional requirements of Part 4, Uniform Commercial Driver License Act, of this chapter.

(7) The division shall provide a report to the Transportation Interim Committee on or before October 1, 2023, regarding the written knowledge examination in languages other than English, including:

- (a) costs associated with the program;
- (b) the number of languages provided;
- (c) the likelihood of adding additional languages in the future; and
- (d) other information the division finds relevant.

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

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

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

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, negligently operating a vehicle resulting in death under Section 76-5-207, or automobile

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homicide involving using a handheld wireless communication device while driving under Section 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in

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violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2; or

(xvii) refusal of a chemical test under Subsection 41-6a-520.1(1).

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Section 80-6-701 for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) (i) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of violating any one of the following offenses while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(F) any criminal offense that prohibits possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).

(ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a

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person's driving privilege before completion of the suspension period imposed under Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

(iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(iv) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior

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adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,

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or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c)(i); and

(ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician or physician assistant that:

(I) to the physician's or physician assistant's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician or physician assistant is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege

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authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 14. Section **53G-6-204** is amended to read:

53G-6-204. School-age children exempt from school attendance.

(1) (a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:

(i) a school-age child over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age child has completed grade 8; or

(ii) on an annual basis, a school-age child may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age child has already completed the work required for graduation from high school;

(B) the school-age child is in a physical or mental condition, certified by a competent physician or physician assistant if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or

(D) the district superintendent or charter school governing board has determined that a

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school-age child over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.

(2) (a) (i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or attempted felony offense of which an individual is convicted, or to which an individual pleads guilty or no contest, for conduct that constitutes any of the following:

(A) child abuse under Section 76-5-109;

(B) aggravated child abuse under Section 76-5-109.2;

(C) child abandonment under Section 76-5-109.3;

(D) commission of domestic violence in the presence of a child under Section 76-5-114;

(E) child abuse homicide under Section 76-5-208;

(F) child kidnapping under Section 76-5-301.1;

(G) human trafficking of a child under Section 76-5-308.5;

(H) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title 76, Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;

(I) sexual exploitation of a minor under Section 76-5b-201;

(J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or

(K) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (2)(a)(i).

(ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a school-age child from attendance, if the school-age child's parent or legal guardian files a

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signed and notarized affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:

(A) the school-age child will attend a home school; and

(B) the parent or legal guardian assumes sole responsibility for the education of the school-age child, except to the extent the school-age child is dual enrolled in a public school as provided in Section 53G-6-702.

(iii) If a parent or legal guardian has been convicted of child abuse or if a court of competent jurisdiction has made a substantiated finding of child abuse against the parent or legal guardian:

(A) the parent or legal guardian may not assume responsibility for the education of a school-age child under Subsection (2)(a)(ii); and

(B) the local school board may not accept the affidavit described in Subsection (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to home school the child.

(iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit described in Subsection (2)(a)(ii).

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age child attends a home school;

(ii) the school district where the affidavit was filed remains the school-age child's district of residence; and

(iii) the parent or legal guardian who filed the signed and notarized affidavit has not been convicted of child abuse or been the subject of a substantiated finding of child abuse by a court of competent jurisdiction.

(c) A parent or legal guardian of a school-age child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

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(d) A local school board may not:

(i) require a parent or legal guardian of a school-age child who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent or legal guardian, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent or legal guardian in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age child from attendance under this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age child from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age child's parent or legal guardian under this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age child enrolls in a school within the school district;

(B) the school-age child's parent or legal guardian notifies the school district that the school-age child no longer attends a home school; or

(C) the school-age child's parent or legal guardian notifies the school district that the school-age child's school district of residence has changed.

(3) A parent or legal guardian who is eligible to file and files a signed and notarized affidavit under Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4) (a) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or legal guardian of a child attending a home school.

(b) The exemptions in this section apply regardless of whether:

(i) a parent or legal guardian provides education instruction to the parent's or legal

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guardian's child alone or in cooperation with other parents or legal guardians similarly exempted under this section; or

(ii) the parent or legal guardian makes payment for educational services the parent's or legal guardian's child receives.

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

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

Procedures.

(1) As used in this section:

(a) "Child trafficking" means human trafficking of a child in violation of Section 76-5-308.5.

(b) "Enroller" means an individual who enrolls a student in a public school.

(c) "Review team" means a team described in Subsection (4), assigned to determine a student's biological age as described in this section.

(d) "Social service provider" means the same as that term is defined in Section 53E-3-524.

(2) Except as provided in Subsection (3), upon enrollment of a student for the first time in a particular school, that school shall notify the enroller in writing that within 30 days the enroller shall provide to the school either:

(a) a certified copy of the student's birth certificate; or

(b) (i) other reliable proof of the student's:

(A) identity;

(B) biological age; and

(C) relationship to the student's legally responsible individual; and

(ii) an affidavit explaining the enroller's inability to produce a copy of the student's birth certificate.

(3) (a) If the documentation described in Subsection (2)(a) or (2)(b)(i) inaccurately reflects the student's biological age, the enroller shall provide to the school:

(i) an affidavit explaining the reasons for the inaccuracy described in Subsection (3)(a); and

(ii) except as provided in Subsection (4), supporting documentation that establishes the student's biological age.

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(b) The supporting documentation described in Subsection (3)(a)(ii) may include:

(i) a religious, hospital, [or] physician, or physician assistant certificate showing the student's date of birth;

(ii) an entry in a family religious text;

(iii) an adoption record;

(iv) previously verified school records;

(v) previously verified immunization records;

(vi) documentation from a social service provider; or

(vii) other legal documentation, including from a consulate, that reflects the student's biological age.

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

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

(i) may include:

(A) an appropriate district administrator;

(B) the student's teacher or teachers;

(C) the school principal;

(D) a school counselor;

(E) a school social worker;

(F) a school psychologist;

(G) a culturally competent and trauma-informed community representative;

(H) a school nurse or other school health specialist;

(I) an interpreter, if necessary; or

(J) a relevant educational equity administrator; and

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

(c) In addition to any duty to comply with the mandatory reporting requirements described in Sections 53E-6-701 and 62A-4a-403, a school shall report to local law

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enforcement and to the division any sign of child trafficking that the review team identifies in carrying out the review team's duties described in Subsection (4)(a).

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

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

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

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

58-37c-3. Definitions.

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

(1) "Controlled substance precursor" includes a chemical reagent and means any of the following:

- (a) Phenyl-2-propanone;
- (b) Methylamine;
- (c) Ethylamine;
- (d) D-lysergic acid;
- (e) Ergotamine and its salts;
- (f) Diethyl malonate;
- (g) Malonic acid;
- (h) Ethyl malonate;
- (i) Barbituric acid;
- (j) Piperidine and its salts;
- (k) N-acetylanthranilic acid and its salts;
- (l) Pyrrolidine;
- (m) Phenylacetic acid and its salts;
- (n) Anthranilic acid and its salts;
- (o) Morpholine;
- (p) Ephedrine;
- (q) Pseudoephedrine;
- (r) Norpseudoephedrine;
- (s) Phenylpropanolamine;

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- (t) Benzyl cyanide;
 - (u) Ergonovine and its salts;
 - (v) 3,4-Methylenedioxyphenyl-2-propanone;
 - (w) propionic anhydride;
 - (x) Insosafrole;
 - (y) Safrole;
 - (z) Piperonal;
 - (aa) N-Methylephedrine;
 - (bb) N-ethylephedrine;
 - (cc) N-methylpseudoephedrine;
 - (dd) N-ethylpseudoephedrine;
 - (ee) Hydriotic acid;
 - (ff) gamma butyrolactone (GBL), including butyrolactone, 1,2 butanolide, 2-oxanolone, tetrahydro-2-furanone, dihydro-2(3H)-furanone, and tetramethylene glycol, but not including gamma aminobutric acid (GABA);
 - (gg) 1,4 butanediol;
 - (hh) any salt, isomer, or salt of an isomer of the chemicals listed in Subsections (1)(a) through (gg);
 - (ii) Crystal iodine;
 - (jj) Iodine at concentrations greater than 1.5% by weight in a solution or matrix;
 - (kk) Red phosphorous, except as provided in Section 58-37c-19.7;
 - (ll) anhydrous ammonia, except as provided in Section 58-37c-19.9;
 - (mm) any controlled substance precursor listed under the provisions of the Federal Controlled Substances Act which is designated by the director under the emergency listing provisions set forth in Section 58-37c-14; and
 - (nn) any chemical which is designated by the director under the emergency listing provisions set forth in Section 58-37c-14.
- (2) "Deliver," "delivery," "transfer," or "furnish" means the actual, constructive, or attempted transfer of a controlled substance precursor.
- (3) "Matrix" means something, as a substance, in which something else originates, develops, or is contained.

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(4) "Person" means any individual, group of individuals, proprietorship, partnership, joint venture, corporation, or organization of any type or kind.

(5) "Practitioner" means a physician, physician assistant, dentist, podiatric physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, pharmaceutical manufacturer, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(6) (a) "Regulated distributor" means a person within the state who provides, sells, furnishes, transfers, or otherwise supplies a listed controlled substance precursor chemical in a regulated transaction.

(b) "Regulated distributor" does not include any person excluded from regulation under this chapter.

(7) (a) "Regulated purchaser" means any person within the state who receives a listed controlled substance precursor chemical in a regulated transaction.

(b) "Regulated purchaser" does not include any person excluded from regulation under this chapter.

(8) "Regulated transaction" means any actual, constructive or attempted:

(a) transfer, distribution, delivery, or furnishing by a person within the state to another person within or outside of the state of a threshold amount of a listed precursor chemical; or

(b) purchase or acquisition by any means by a person within the state from another person within or outside the state of a threshold amount of a listed precursor chemical.

(9) "Retail distributor" means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor are limited almost exclusively to sales for personal use:

(a) in both number of sales and volume of sales; and

(b) either directly to walk-in customers or in face-to-face transactions by direct sales.

(10) "Threshold amount of a listed precursor chemical" means any amount of a controlled substance precursor or a specified amount of a controlled substance precursor in a matrix; however, the division may exempt from the provisions of this chapter a specific controlled substance precursor in a specific amount and in certain types of transactions which provisions for exemption shall be defined by the division by rule adopted pursuant to Title

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63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) "Unlawful conduct" as defined in Section 58-1-501 includes knowingly and intentionally:

(a) engaging in a regulated transaction without first being appropriately licensed or exempted from licensure under this chapter;

(b) acting as a regulated distributor and selling, transferring, or in any other way conveying a controlled substance precursor to a person within the state who is not appropriately licensed or exempted from licensure as a regulated purchaser, or selling, transferring, or otherwise conveying a controlled substance precursor to a person outside of the state and failing to report the transaction as required;

(c) acting as a regulated purchaser and purchasing or in any other way obtaining a controlled substance precursor from a person within the state who is not a licensed regulated distributor, or purchasing or otherwise obtaining a controlled substance precursor from a person outside of the state and failing to report the transaction as required;

(d) engaging in a regulated transaction and failing to submit reports and keep required records of inventories required under the provisions of this chapter or rules adopted pursuant to this chapter;

(e) making any false statement in any application for license, in any record to be kept, or on any report submitted as required under this chapter;

(f) with the intent of causing the evasion of the recordkeeping or reporting requirements of this chapter and rules related to this chapter, receiving or distributing any listed controlled substance precursor chemical in any manner designed so that the making of records or filing of reports required under this chapter is not required;

(g) failing to take immediate steps to comply with licensure, reporting, or recordkeeping requirements of this chapter because of lack of knowledge of those requirements, upon becoming informed of the requirements;

(h) presenting false or fraudulent identification where or when receiving or purchasing a listed controlled substance precursor chemical;

(i) creating a chemical mixture for the purpose of evading any licensure, reporting or recordkeeping requirement of this chapter or rules related to this chapter, or receiving a chemical mixture created for that purpose;

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(j) if the person is at least 18 years of age, employing, hiring, using, persuading, inducing, enticing, or coercing another person under 18 years of age to violate any provision of this chapter, or assisting in avoiding detection or apprehension for any violation of this chapter by any federal, state, or local law enforcement official; and

(k) obtaining or attempting to obtain or to possess any controlled substance precursor or any combination of controlled substance precursors knowing or having a reasonable cause to believe that the controlled substance precursor is intended to be used in the unlawful manufacture of any controlled substance.

(12) "Unprofessional conduct" as defined in Section 58-1-102 and as may be further defined by rule includes the following:

(a) violation of any provision of this chapter, the Controlled Substance Act of this state or any other state, or the Federal Controlled Substance Act; and

(b) refusing to allow agents or representatives of the division or authorized law enforcement personnel to inspect inventories or controlled substance precursors or records or reports relating to purchases and sales or distribution of controlled substance precursors as such records and reports are required under this chapter.

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

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

(1) An adult is presumed to have:

(a) health care decision making capacity; and

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

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

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

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

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

(i) the adult;

(ii) other health care providers or health care facilities that the person who makes the

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finding would routinely inform of such a finding; and

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

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

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

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

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

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

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

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

(d) Unless otherwise ordered by a court, a finding, under Subsection (2), that the adult lacks health care decision making capacity, is not in effect if the adult challenges the finding under Subsection (3)(a).

(e) If an adult does not challenge the finding described in Subsection (2), the health care provider and health care facility may rely on a surrogate, pursuant to the provisions of this chapter, to make health care decisions for the adult.

(4) A health care provider or health care facility that relies on a surrogate to make decisions on behalf of an adult has an ongoing obligation to consider whether the adult continues to lack health care decision making capacity.

(5) If at any time a health care provider finds, based on an examination and assessment, that the adult has regained health care decision making capacity, the health care provider shall record the results of the assessment in the adult's medical record, and the adult can direct the adult's own health care.

~~[(6) A physician assistant may not make a finding described in Subsection (2), unless the physician assistant is permitted to make the finding under the physician assistant's delegation of services agreement, as defined in Section 58-70a-102.]~~

Section 19. Section **75-2a-106** is amended to read:

75-2a-106. Emergency medical services -- POLST order.

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(1) A POLST order may be created by or on behalf of a person as described in this section.

(2) A POLST order shall, in consultation with the person authorized to consent to the order pursuant to this section, be prepared by:

(a) the physician, APRN, or~~[, subject to Subsection (11),]~~ physician assistant of the person to whom the POLST order relates; or

(b) a health care provider who:

(i) is acting under the supervision of a person described in Subsection (2)(a); and

(ii) is:

(A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; or

(D) another health care provider, designated by rule as described in Subsection (10).

(3) A POLST order shall be signed:

(a) personally, by the physician, APRN, or~~[, subject to Subsection (11),]~~ physician assistant of the person to whom the POLST order relates; and

(b) (i) if the person to whom the POLST order relates is an adult with health care decision making capacity, by:

(A) the person; or

(B) an adult who is directed by the person to sign the POLST order on behalf of the person;

(ii) if the person to whom the POLST order relates is an adult who lacks health care decision making capacity, by:

(A) the surrogate with the highest priority under Section 75-2a-111;

(B) the majority of the class of surrogates with the highest priority under Section 75-2a-111; or

(C) a person directed to sign the POLST order by, and on behalf of, the persons described in Subsection (3)(b)(ii)(A) or (B); or

(iii) if the person to whom the POLST order relates is a minor, by a parent or guardian

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of the minor.

(4) If a POLST order relates to a minor and directs that life sustaining treatment be withheld or withdrawn from the minor, the order shall include a certification by two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in the best interest of the minor.

(5) A POLST order:

(a) shall be in writing, on a form designated by the Department of Health and Human Services;

(b) shall state the date on which the POLST order was made;

(c) may specify the level of life sustaining care to be provided to the person to whom the order relates; and

(d) may direct that life sustaining care be withheld or withdrawn from the person to whom the order relates.

(6) A health care provider or emergency medical service provider, licensed or certified under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, is immune from civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:

(a) complying with a POLST order in good faith; or

(b) providing life sustaining treatment to a person when a POLST order directs that the life sustaining treatment be withheld or withdrawn.

(7) To the extent that the provisions of a POLST order described in this section conflict with the provisions of an advance health care directive made under Section 75-2a-107, the provisions of the POLST order take precedence.

(8) An adult, or a parent or guardian of a minor, may revoke a POLST order by:

(a) orally informing emergency service personnel;

(b) writing "void" across the POLST order form;

(c) burning, tearing, or otherwise destroying or defacing:

(i) the POLST order form; or

(ii) a bracelet or other evidence of the POLST order;

(d) asking another adult to take the action described in this Subsection (8) on the person's behalf;

(e) signing or directing another adult to sign a written revocation on the person's

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behalf;

(f) stating, in the presence of an adult witness, that the person wishes to revoke the order; or

(g) completing a new POLST order.

(9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks health care decision making capacity may only revoke a POLST order if the revocation is consistent with the substituted judgment standard.

(b) Except as provided in Subsection (9)(c), a surrogate who has authority under this section to sign a POLST order may revoke a POLST order, in accordance with Subsection (9)(a), by:

(i) signing a written revocation of the POLST order; or

(ii) completing and signing a new POLST order.

(c) A surrogate may not revoke a POLST order during the period of time beginning when an emergency service provider is contacted for assistance, and ending when the emergency ends.

(10) (a) The Department of Health and Human Services shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) create the forms and systems described in this section; and

(ii) develop uniform instructions for the form established in Section 75-2a-117.

(b) The Department of Health and Human Services may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate health care professionals, in addition to those described in Subsection (2)(b)(ii), who may prepare a POLST order.

(c) The Department of Health and Human Services may assist others with training of health care professionals regarding this chapter.

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

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

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

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

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

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

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

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

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

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

75-2a-117. Optional form.

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

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

Utah Advance Health Care Directive

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

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

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

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

Part IV: Makes your directive legal.

My Personal Information

Name: _____

Street Address: _____

City, State, Zip Code: _____

Telephone: _____ Cell Phone: _____

Birth date: _____

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

A. No Agent

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

_____ I do not want to choose an agent.

B. My Agent

Agent's Name:

Street Address:

City, State, Zip Code:

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

C. My Alternate Agent

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

Alternate Agent's Name:

Street Address:

City, State, Zip Code:

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

D. Agent's Authority

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

- Consent to, refuse, or withdraw any health care. This may include care to prolong my life such as food and fluids by tube, use of antibiotics, CPR (cardiopulmonary resuscitation), and

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dialysis, and mental health care, such as convulsive therapy and psychoactive medications.

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

- Hire and fire health care providers.
- Ask questions and get answers from health care providers.
- Consent to admission or transfer to a health care provider or health care facility, including a mental health facility, subject to any limits in paragraphs E and F of Part I.
- Get copies of my medical records.
- Ask for consultations or second opinions.

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

E. Other Authority

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

I authorize my agent to:

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

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

F. Limits/Expansion of Authority

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

G. Nomination of Guardian

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

YES _____ NO _____

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

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become incapacitated.

H. Consent to Participate in Medical Research

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

I. Organ Donation

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

Part II: My Health Care Wishes (Living Will)

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

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

Option 1

_____ Initial

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

Additional Comments:

Option 2

_____ Initial

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

Other:

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Option 3

_____ Initial

I choose not to receive care for the purpose of prolonging life, including food and fluids by tube, antibiotics, CPR, or dialysis being used to prolong my life. I always want comfort care and routine medical care that will keep me as comfortable and functional as possible, even if that care may prolong my life.

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

_____ Initial

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

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

_____ Initial

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

_____ I have a progressive illness that will cause death.

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

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

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

_____ I am in a persistent vegetative state.

Other:

Option 4

_____ Initial

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

Other:

Additional instructions about your health care wishes:

If you do not want emergency medical service providers to provide CPR or other life sustaining

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measures, you must work with a physician, physician assistant, or APRN to complete an order that reflects your wishes on a form approved by the Utah Department of Health and Human Services.

Part III: Revoking or Changing a Directive

I may revoke or change this directive by:

1. Writing "void" across the form, or burning, tearing, or otherwise destroying or defacing this document or directing another person to do the same on my behalf;
2. Signing a written revocation of the directive, or directing another person to sign a revocation on my behalf;
3. Stating that I wish to revoke the directive in the presence of a witness who: is 18 years of age or older; will not be appointed as my agent in a substitute directive; will not become a default surrogate if the directive is revoked; and signs and dates a written document confirming my statement; or
4. Signing a new directive. (If you sign more than one Advance Health Care Directive, the most recent one applies.)

Part IV: Making My Directive Legal

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

Date

Signature

City, County, and State of Residence

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

1. related to the declarant by blood or marriage;
2. entitled to any portion of the declarant's estate according to the laws of intestate succession of any state or jurisdiction or under any will or codicil of the declarant;
3. a beneficiary of a life insurance policy, trust, qualified plan, pay on death account, or

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transfer on death deed that is held, owned, made, or established by, or on behalf of, the declarant;

- 4. entitled to benefit financially upon the death of the declarant;
- 5. entitled to a right to, or interest in, real or personal property upon the death of the declarant;
- 6. directly financially responsible for the declarant's medical care;
- 7. a health care provider who is providing care to the declarant or an administrator at a health care facility in which the declarant is receiving care; or
- 8. the appointed agent or alternate agent.

Signature of Witness	Printed Name of Witness
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Street Address	City	State	Zip Code
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If the witness is signing to confirm an oral directive, describe below the circumstances under which the directive was made.

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

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

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

- (a) be represented by counsel before a guardianship is imposed and have counsel represent the person during the guardianship proceeding;
- (b) receive a copy of all documents filed in a guardianship proceeding;
- (c) have a relative, [a] physician, physician assistant, or any interested person speak about or raise any issue of concern on behalf of the person during the guardianship proceeding;
- (d) receive information about guardianships from the court; and
- (e) be treated with respect and dignity.

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

- (a) have counsel represent the incapacitated person at any time after the guardian is

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appointed;

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

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

(d) receive information about guardianships from the court;

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

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

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

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

(iii) determining the services to be received by the incapacitated person;

(g) be given consideration in regards to the incapacitated person's current and previously stated desires, preferences for health care and medical treatment, and religious and moral beliefs;

(h) remain as independent as possible, including giving deference to the incapacitated person's preference for the incapacitated person's residence and standard of living:

(i) as expressed or demonstrated before a determination of capacity was made; or

(ii) as currently expressed or demonstrated by the incapacitated person if the preference is reasonable under the circumstances;

(i) be granted the greatest degree of freedom possible that is consistent with the reasons for the guardianship;

(j) be able to exercise control over all aspects of the incapacitated person's life that are not granted to the guardian in the order of appointment;

(k) engage in any activity that the court has not expressly reserved for the guardian, including marriage or domestic partnership, traveling, working, or having a driver license;

(l) be treated with respect and dignity;

(m) be treated fairly by the incapacitated person's guardian;

(n) maintain privacy and confidentiality in personal matters;

(o) receive telephone calls and personal mail and associate with relatives and

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acquaintances unless the guardian and the court determine that the association should be restricted or prohibited in accordance with Section 75-5-312.5;

(p) receive timely, effective, and appropriate health care and medical treatment that does not violate the incapacitated person's rights;

(q) have all services provided by a guardian at a reasonable rate of compensation;

(r) have a court review any request for payment by a guardian to avoid excessive or unnecessary fees or duplicative billing;

(s) receive prudent financial management of the incapacitated person's property;

(t) subject to Subsections 75-5-312(4)(h) and 75-5-417(4), receive a copy of an accounting report regarding the incapacitated person's estate that is submitted to the court by the guardian under Section 75-5-312 or the conservator under Section 75-5-417 if a conservator is appointed for the incapacitated person;

(u) receive and control the incapacitated person's salary;

(v) maintain a bank account and manage the incapacitated person's personal money;

and

(w) ask the court to:

(i) review the management activity of a guardian if a dispute cannot be resolved regarding the guardian's management;

(ii) continue to review the need for a guardianship or to modify or terminate a guardianship; and

(iii) enter an order restoring the incapacitated person's capacity at the earliest possible time.

(3) The rights of an incapacitated person under this section do not abrogate any remedy provided by law.

(4) Any right described in this section may be:

(a) addressed in a guardianship proceeding; or

(b) enforced through a private cause of action.

Section 22. Section **75-5-303** is amended to read:

75-5-303. Procedure for court appointment of a guardian of an incapacitated person.

(1) An incapacitated person or any person interested in the incapacitated person's

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welfare may petition for a finding of incapacity and appointment of a guardian.

(2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity.

(b) Unless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding the cost of which shall be paid by the person alleged to be incapacitated, unless the allegedly incapacitated person and the allegedly incapacitated person's parents are indigent.

(c) If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the person filing the petition.

(d) If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.

(3) The legal representation of the incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless:

(a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian;

(b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or

(c) upon an express finding of good cause, the court orders otherwise.

(4) The person alleged to be incapacitated may be examined by a physician or physician assistant appointed by the court who shall submit a report in writing to the court and may be interviewed by a visitor sent by the court. The visitor also may interview the person seeking appointment as guardian, visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made, conduct other investigations or observations as directed by the court, and submit a report in writing to the court.

(5) (a) The person alleged to be incapacitated shall be present at the hearing in person and see or hear all evidence bearing upon the person's condition. If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated, the court

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shall order an investigation by a court visitor, the costs of which shall be paid by the person seeking the guardianship.

(b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has:

- (i) fourth stage Alzheimer's Disease;
- (ii) extended comatosis; or
- (iii) (A) an intellectual disability; and
(B) an intelligence quotient score under 25.

(c) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.

(d) Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-201(22), is not required if:

(i) the person is the biological or adopted child of the petitioner;

(ii) the value of the person's entire estate does not exceed \$20,000 as established by an affidavit of the petitioner in accordance with Section 75-3-1201;

(iii) the person appears in court with the petitioner;

(iv) the person is given the opportunity to communicate, to the extent possible, the person's acceptance of the appointment of petitioner;

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

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

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

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

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

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

(i) "Abandonment" means a knowing or intentional action or inaction, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable

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adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.

(ii) "Abuse" means:

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

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

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

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

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

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

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

(iv) (A) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

(B) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

(v) "Elder adult" means an individual 65 years old or older.

(vi) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or 76-5b-202.

(vii) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, suffering, or distress inflicted knowingly or intentionally.

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(viii) "Informed consent" means:

(A) a written expression by the individual or authorized by the individual, stating that the individual fully understands the potential risks and benefits of the withdrawal of food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, and that the individual desires that the services be withdrawn, except that a written expression is valid only if the individual is of sound mind when the consent is given, and the consent is witnessed by at least two individuals who do not benefit from the withdrawal of services; or

(B) consent to withdraw food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, as permitted by court order.

(ix) (A) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

(I) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the express wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(II) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(III) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(B) "Isolation" does not include an act:

(I) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

(II) performed pursuant to the treatment plan or instructions of a physician, physician assistant, or other professional advisor of the vulnerable adult.

(x) "Neglect" means:

(A) failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal care, or dental or other health care, or failure to provide protection from health and safety

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hazards or maltreatment;

(B) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(C) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

(D) intentional failure by a caretaker to carry out a prescribed treatment plan that results or could result in physical injury or physical harm; or

(E) abandonment by a caretaker.

(xi) (A) "Physical injury" includes damage to any bodily tissue caused by nontherapeutic conduct, to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition.

(B) "Physical injury" includes skin bruising, a dislocation, physical pain, illness, impairment of physical function, a pressure sore, bleeding, malnutrition, dehydration, a burn, a bone fracture, a subdural hematoma, soft tissue swelling, injury to any internal organ, or any other physical condition that imperils the health or welfare of the vulnerable adult and is not a serious physical injury as defined in this section.

(xii) "Position of trust and confidence" means the position of a person who:

(A) is a parent, spouse, adult child, or other relative of a vulnerable adult;

(B) is a joint tenant or tenant in common with a vulnerable adult;

(C) has a legal or fiduciary relationship with a vulnerable adult, including a court-appointed or voluntary guardian, trustee, attorney, attorney-in-fact, or conservator; or

(D) is a caretaker of a vulnerable adult.

(xiii) "Serious physical injury" means any physical injury or set of physical injuries that:

(A) seriously impairs a vulnerable adult's health;

(B) was caused by use of a dangerous weapon;

(C) involves physical torture or causes serious emotional harm to a vulnerable adult; or

(D) creates a reasonable risk of death.

(xiv) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental

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or physical impairment which substantially affects that individual's ability to:

- (A) provide personal protection;
- (B) provide necessities such as food, shelter, clothing, or medical or other health care;
- (C) obtain services necessary for health, safety, or welfare;
- (D) carry out the activities of daily living;
- (E) manage the adult's own resources; or
- (F) comprehend the nature and consequences of remaining in a situation of abuse,

neglect, or exploitation.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor, including a caretaker, commits abuse of a vulnerable adult if the actor, under circumstances other than those likely to produce death or serious physical injury:

- (a) causes a vulnerable adult to suffer harm, abuse, or neglect;
- (b) having the care or custody of a vulnerable adult, causes or permits that vulnerable adult's person or health to be injured, abused, or neglected; or

(c) causes or permits a vulnerable adult to be placed in a situation in which the vulnerable adult's person or health is endangered.

(3) (a) A violation of Subsection (2):

- (i) is a class A misdemeanor if done intentionally or knowingly;
- (ii) is a class B misdemeanor if done recklessly; or
- (iii) is a class C misdemeanor if done with criminal negligence.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) that is based on isolation of a vulnerable adult is a third degree felony.

(4) (a) It does not constitute a defense to a prosecution for a violation of this section that the actor did not know the age of the vulnerable adult.

(b) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

(5) If an actor, including a caretaker, violates this section by willfully isolating a vulnerable adult, in addition to the penalties under Subsection (3), the court may require that the actor:

- (a) undergo appropriate counseling as a condition of the sentence; and

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(b) pay for the costs of the ordered counseling.

Section 24. **Effective date.**

This bill takes effect on May 1, 2024.

Section 25. Coordinating S.B. 24 with H.B. 403 – Technical amendment.

If S.B. 24, Physician Assistant Practice Amendments, and H.B. 403, Body Art Facility Amendments, both pass and become law, the Legislature intends that, on May 1, 2024,

Subsection 26B-7-402(15) be amended to read:

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