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**ABORTION REVISIONS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian S. King**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to abortion.

**Highlighted Provisions:**

This bill:

- ▶ allows for the licensing of abortion clinics and allows an abortion to be performed in an abortion clinic;
- ▶ removes the 72-hour waiting period before an abortion may be performed;
- ▶ modifies the material that must be included in an information module and website concerning abortion; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**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-2-204**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305



28 **26B-2-205**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and  
29 amended by Laws of Utah 2023, Chapter 305

30 **26B-2-206**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and  
31 amended by Laws of Utah 2023, Chapter 305

32 **26B-2-224**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and  
33 amended by Laws of Utah 2023, Chapter 305

34 **26B-2-232**, as renumbered and amended by Laws of Utah 2023, Chapter 305

35 **76-7-301**, as last amended by Laws of Utah 2023, Chapters 301, 330

36 **76-7-302**, as last amended by Laws of Utah 2023, Chapters 158, 301

37 **76-7-305**, as last amended by Laws of Utah 2023, Chapters 301, 330

38 **76-7-305.5**, as last amended by Laws of Utah 2023, Chapters 301, 330

39 **76-7a-101**, as last amended by Laws of Utah 2023, Chapters 158, 301

40 **76-7a-201**, as last amended by Laws of Utah 2023, Chapters 158, 301

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

43 Section 1. Section **26B-2-201** is amended to read:

44 **26B-2-201. Definitions.**

45 As used in this part:

46 (1) ~~[(a)]~~ "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

47 ~~[(b)] "Abortion clinic" does not mean a clinic that meets the definition of hospital under~~

48 ~~Section **76-7-301** or Section **76-71-101**.]~~

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

50 (a) dressing;

51 (b) eating;

52 (c) grooming;

53 (d) bathing;

54 (e) toileting;

55 (f) ambulation;

56 (g) transferring; and

57 (h) self-administration of medication.

58 (3) "Ambulatory surgical facility" means a freestanding facility, which provides

59 surgical services to patients not requiring hospitalization.

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

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

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

65 (A) require protected living arrangements; and

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

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

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

74 (i) specified services of intermittent nursing care;

75 (ii) administration of medication; and

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

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

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

80 (b) (i) is freestanding; or

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

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

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

89 (9) "End stage renal disease facility" means a facility which furnishes staff-assisted

90 kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

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

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

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

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

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

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

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

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

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

118 (iii) provides physicians' services primarily directly through physicians who are either  
119 employees or partners of such organizations, or through arrangements with individual  
120 physicians or one or more groups of physicians organized on a group practice or individual

121 practice basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

170 Section 2. Section 26B-2-204 is amended to read:

171 **26B-2-204. Licensing of an abortion clinic -- Rulemaking authority -- Fee --**

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

173 [~~(1)(a) No abortion clinic may operate in the state on or after January 1, 2024, or the~~  
174 ~~last valid date of an abortion clinic license issued under the requirements of this section,~~  
175 ~~whichever date is later.]~~

176 [~~(b) Notwithstanding Subsection (1)(a), a licensed abortion clinic may not perform an~~  
177 ~~abortion in violation of any provision of state law.]~~

178 [~~(2) The state may not issue a license for an abortion clinic after May 2, 2023.]~~

179 [~~(3) For any license for an abortion clinic that is issued under this section:]~~

180 [(a)] (1) A type I abortion clinic may not operate in the state without a license issued by  
181 the department to operate a type I abortion clinic.

182 [(b)] (2) A type II abortion clinic may not operate in the state without a license issued

183 by the department to operate a type II abortion clinic.

184 ~~[(e)]~~ (3) The department shall make rules establishing minimum health, safety,  
185 sanitary, and recordkeeping requirements for:

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

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

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

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

191 ~~[(ii)]~~ (b) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping  
192 requirements established ~~[under 76-7-313]~~ under Subsection (3) that relate to the type of abortion clinic  
193 licensed;

194 ~~[(iii)]~~ (c) comply with the recordkeeping and reporting requirements of Section  
195 [76-7-313](#);

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

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

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

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

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

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

211 ~~[(4)(a)]~~ ~~Notwithstanding any other provision of this section, the department may~~  
212 ~~license a clinic that meets the definition of hospital under Section [76-7-301](#) or Section~~  
213 ~~[76-7a-101](#).~~

214 ~~[(b) A clinic described in Subsection (4)(a) is not defined as an abortion clinic.]~~

215 Section 3. Section **26B-2-205** is amended to read:

216 **26B-2-205. Exempt facilities.**

217 This part does not apply to:

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

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

221 (3) the office of a physician, physician assistant, or dentist whether it is an individual  
222 or group practice, except that it does apply to an abortion clinic;

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

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

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

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

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

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

235 Section 4. Section **26B-2-206** is amended to read:

236 **26B-2-206. License required -- Not assignable or transferable -- Posting --**  
237 **Expiration and renewal -- Time for compliance by operating facilities.**

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

242 (b) This Subsection (1) does not apply to facilities that are exempt under Section  
243 [26B-2-205](#).

244 (2) A license issued under this part is not assignable or transferable.



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

247 (4) (a) The department may issue a license for a period of time not to exceed 12  
248 months from the date of issuance for an abortion clinic and not to exceed 24 months from the  
249 date of issuance for other health care facilities that meet the provisions of this part and  
250 department rules adopted pursuant to this part.

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

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

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

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

261 Section 5. Section **26B-2-224** is amended to read:

262 **26B-2-224. Patient identity protection.**

263 (1) As used in this section:

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

266 (b) "Health professional office" means:

- 267 (i) a physician's office; or
- 268 (ii) a dental office.

269 (c) "Medical facility" means:

- 270 (i) a general acute hospital;
- 271 (ii) a specialty hospital;
- 272 (iii) a home health agency;
- 273 (iv) a hospice;
- 274 (v) a nursing care facility;
- 275 (vi) a residential-assisted living facility;

- 276 (vii) a birthing center;
- 277 (viii) an ambulatory surgical facility;
- 278 (ix) a small health care facility;
- 279 (x) an abortion clinic;
- 280 [~~(xi) a clinic that meets the definition of hospital under Section 76-7-301 or Section~~
- 281 ~~76-7a-101;~~]

- 282 [~~(xii)~~] (xi) a facility owned or operated by a health maintenance organization;
- 283 [~~(xiii)~~] (xii) an end stage renal disease facility;
- 284 [~~(xiv)~~] (xiii) a health care clinic; or
- 285 [~~(xv)~~] (xiv) any other health care facility that the committee designates by rule.

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

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

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

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

297 (a) that is subject to EMTALA:

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

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

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

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

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

- 305 (i) photograph;
- 306 (ii) fingerprinting;

- 307 (iii) palm scan; or
- 308 (iv) other reasonable means.
- 309 (4) The identification described in this section:
- 310 (a) is intended to be used for medical records purposes only; and
- 311 (b) shall be kept in accordance with the requirements of the Health Insurance
- 312 Portability and Accountability Act of 1996.
- 313 Section 6. Section **26B-2-232** is amended to read:
- 314 **26B-2-232. Treatment of aborted remains.**
- 315 (1) As used in this section, "aborted fetus" means a product of human conception,
- 316 regardless of gestational age, that has died from an abortion as that term is defined in Section
- 317 [76-7-301](#).
- 318 (2) (a) A health care facility having possession of an aborted fetus shall provide for the
- 319 final disposition of the aborted fetus through:
- 320 (i) cremation as that term is defined in Section [58-9-102](#); or
- 321 (ii) interment.
- 322 (b) A health care facility may not conduct the final disposition of an aborted fetus less
- 323 than 72 hours after an abortion is performed unless:
- 324 (i) the pregnant woman authorizes the health care facility, in writing, to conduct the
- 325 final disposition of the aborted fetus less than 72 hours after the abortion is performed; or
- 326 (ii) immediate disposition is required under state or federal law.
- 327 (c) A health care facility may serve as an authorizing agent as defined in Section
- 328 [58-9-102](#) with respect to the final disposition of an aborted fetus if:
- 329 (i) the pregnant woman provides written authorization for the health care facility to act
- 330 as the authorizing agent; or
- 331 (ii) (A) more than 72 hours have passed since the abortion was performed; and
- 332 (B) the pregnant woman did not exercise her right to control the final disposition of the
- 333 aborted fetus under Subsection (4)(a).
- 334 (d) Within 120 business days after the day on which an abortion is performed, a health
- 335 care facility possessing an aborted fetus shall:
- 336 (i) conduct the final disposition of the aborted fetus in accordance with this section; or
- 337 (ii) ensure that the aborted fetus is preserved until final disposition.

338 (e) A health care facility shall conduct the final disposition under this section in  
339 accordance with applicable state and federal law.

340 (3) Before performing an abortion, a health care facility shall[?],  
341 ~~[(a) provide the pregnant woman with the information described in Subsection~~  
342 ~~76-7-305.5(2)(w) through:]~~  
343 ~~[(i) a form approved by the department;]~~  
344 ~~[(ii) an in-person consultation with a physician; or]~~  
345 ~~[(iii) an in-person consultation with a mental health therapist as defined in Section~~  
346 ~~58-60-102; and]~~

347 ~~[(b)]~~ if the pregnant woman makes a decision under Subsection (4)(b), document the  
348 pregnant woman's decision under Subsection (4)(b) in the pregnant woman's medical record.

349 (4) A pregnant woman who has an abortion:

350 (a) except as provided in Subsection ~~[(6)]~~ (5), has the right to control the final  
351 disposition of the aborted fetus;

352 (b) if the pregnant woman has a preference for disposition of the aborted fetus, shall  
353 inform the health care facility of the pregnant woman's decision for final disposition of the  
354 aborted fetus;

355 (c) is responsible for the costs related to the final disposition of the aborted fetus at the  
356 chosen location if the pregnant woman chooses a method or location for the final disposition of  
357 the aborted fetus that is different from the method or location that is usual and customary for  
358 the health care facility; and

359 (d) for a medication-induced abortion, shall be permitted to return the aborted fetus to  
360 the health care facility in a sealed container for disposition by the health care facility in  
361 accordance with this section.

362 ~~[(5) The form described in Subsection (3)(a)(i) shall include the following~~  
363 ~~information:]~~

364 ~~["You have the right to decide what you would like to do with the aborted fetus. You~~  
365 ~~may decide for the provider to be responsible for disposition of the fetus. If you are having a~~  
366 ~~medication-induced abortion, you also have the right to bring the aborted fetus back to this~~  
367 ~~provider for disposition after the fetus is expelled. The provider may dispose of the aborted~~  
368 ~~fetus by burial or cremation. You can ask the provider if you want to know the specific method~~

369 for disposition."]

370 [~~(6)~~] (5) If the pregnant woman is a minor, the health care facility shall obtain parental  
371 consent for the disposition of the aborted fetus unless the minor is granted a court order under  
372 Subsection [76-7-304.5\(1\)\(b\)](#).

373 [~~(7)~~] (6) (a) A health care facility may not include fetal remains with other biological,  
374 infectious, or pathological waste.

375 (b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is  
376 not subject to the requirements of this section.

377 (c) (i) A health care facility is responsible for maintaining a record to demonstrate to  
378 the department that the health care facility has complied with the provisions of this section.

379 (ii) The records described in Subsection [~~(7)(c)(i)~~] [\(6\)\(c\)\(i\)](#) shall be:

380 (A) maintained for at least two years; and

381 (B) made available to the department for inspection upon request by the department.

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

383 **76-7-301. Definitions.**

384 As used in this part:

385 (1) (a) "Abortion" means the act, by a physician, of using an instrument, or prescribing  
386 a drug, with the intent to cause the death of an unborn child of a woman known to be pregnant,  
387 except as permitted under this part.

388 (b) "Abortion" does not include:

389 (i) removal of a dead unborn child;

390 (ii) removal of an ectopic pregnancy; or

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

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

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

396 (2) "Abortion clinic" means the same as that term is defined in Section [26B-2-201](#).

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

398 [~~(3)~~] (4) "Department" means the Department of Health and Human Services.

399 [~~(4)~~] (5) "Down syndrome" means a genetic condition associated with an extra

400 chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

401 ~~[(5)]~~ (6) "Gestational age" means the age of an unborn child as calculated from the first  
402 day of the last menstrual period of the pregnant woman.

403 ~~[(6)]~~ (7) "Hospital" means:

404 (a) a general hospital licensed by the department according to Title 26B, Chapter 2,  
405 Part 2, Health Care Facility Licensing and Inspection; and

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

411 ~~[(i) a clinician who performs procedures at the clinic is required to be credentialed to~~  
412 ~~perform the same procedures at a general hospital licensed by the department, and]~~

413 ~~[(ii) any procedures performed at the clinic are done with the same level of safety for~~  
414 ~~the pregnant woman and unborn child as would be available in a general hospital licensed by~~  
415 ~~the department.]~~

416 ~~[(7)]~~ (8) "Information module" means the pregnancy termination information module  
417 prepared by the department.

418 ~~[(8)]~~ (9) "Medical emergency" means a life threatening physical condition aggravated  
419 by, caused by, or arising from a pregnancy that places the pregnant woman at risk of death, or  
420 poses a serious risk of substantial impairment of a major bodily function, unless the abortion is  
421 performed or induced.

422 ~~[(9)]~~ (10) "Minor" means an individual who is:

423 (a) under 18 years old;

424 (b) unmarried; and

425 (c) not emancipated.

426 ~~[(10)]~~ (11) (a) "Partial birth abortion" means an abortion in which the person  
427 performing the abortion:

428 (i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a  
429 head first presentation, the entire fetal head is outside the body of the mother, or, in the case of  
430 breech presentation, any part of the fetal trunk past the navel is outside the body of the mother,

431 for the purpose of performing an overt act that the person knows will kill the partially delivered  
432 living fetus; and

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

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

438 ~~[(H)]~~ (12) "Perinatal hospice" means comprehensive support to the mother and her  
439 family from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's  
440 birth, and through the postpartum period, that:

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

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

444 (i) maternal-fetal medical specialists;

445 (ii) obstetricians;

446 (iii) neonatologists;

447 (iv) anesthesia specialists;

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

449 (vi) clergy;

450 (vii) social workers; or

451 (viii) specialty nurses.

452 ~~[(I2)]~~ (13) "Physician" means:

453 (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter  
454 67, Utah Medical Practice Act;

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

457 (c) a physician employed by the federal government who has qualifications similar to  
458 an individual described in Subsection ~~[(I2)(a)]~~ (13)(a) or (b).

459 ~~[(I3)]~~ (14) (a) "Severe brain abnormality" means a malformation or defect that causes  
460 an individual to live in a mentally vegetative state.

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

- 462 (i) Down syndrome;  
463 (ii) spina bifida;  
464 (iii) cerebral palsy; or  
465 (iv) any other malformation, defect, or condition that does not cause an individual to  
466 live in a mentally vegetative state.

467 Section 8. Section **76-7-302** is amended to read:

468 **76-7-302. Circumstances under which abortion authorized.**

469 (1) An abortion may be performed in this state only by a physician.

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

471 (a) the unborn child has not reached 18 weeks gestational age;

472 (b) the unborn child has reached 18 weeks gestational age, and:

473 (i) the abortion is necessary to avert:

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

475 (B) a serious physical risk of substantial impairment of a major bodily function of the  
476 woman on whom the abortion is performed; or

477 (ii) subject to Subsection (4), two physicians who practice maternal fetal medicine  
478 concur, in writing, in the patient's medical record that the fetus has a fetal abnormality that in  
479 the physicians' reasonable medical judgment is incompatible with life; or

480 (c) the unborn child has not reached 18 weeks gestational age and:

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

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

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

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

485 (B) the pregnant child is under the age of 14; and

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

487 (A) for an abortion authorized under Subsection (2)(c)(i)(A), verifies that the incident  
488 described in Subsection (2)(c)(i)(A) has been reported to law enforcement; and

489 (B) if applicable, complies with the requirements of Section [80-2-602](#).

490 (3) An abortion may be performed only in an abortion clinic or a hospital, unless it is  
491 necessary to perform the abortion in another location due to a medical emergency.

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



493 with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and  
494 in writing, that perinatal hospice and perinatal palliative care services are available and are an  
495 alternative to abortion.

496 (5) A physician who performs an abortion under Subsection (2)(c) shall:

497 (a) maintain an accurate record as to the manner in which the physician conducted the  
498 verification under Subsection (2)(c)(ii)(A); and

499 (b) report the information described in Subsection (5)(a) to the department in  
500 accordance with Section [76-7-313](#).

501 Section 9. Section [76-7-305](#) is amended to read:

502 **[76-7-305. Informed consent requirements for abortion -- Exceptions.](#)**

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

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

508 (b) the provisions of this section.

509 (2) Except as provided in Subsection (8), consent to an abortion is voluntary and  
510 informed only if [~~at least 72 hours before the abortion~~]:

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

514 (b) the pregnant woman views the entire information module and presents evidence to  
515 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire  
516 information module;

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

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

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

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

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

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

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

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

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

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

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

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

540 (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn  
541 child has or may have Down syndrome, the department's website, which contains the  
542 information described in Section 26B-7-106, including the information on the informational  
543 support sheet; and

544 (e) after the pregnant woman views the entire information module, a staff member of  
545 the abortion clinic or hospital provides to the pregnant woman:

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

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

548 (B) a statement that the woman may request, from a staff member of the abortion clinic  
549 or hospital where the woman viewed the information module, a printed copy of the material on  
550 the department's website; and

551 (ii) a printed copy of the material on the department's website described in Section  
552 76-7-305.5, if requested by the pregnant woman[~~;~~and].

553 [~~(iii) a copy of the form described in Subsection 26B-2-232(3)(a)(i) regarding the~~  
554 ~~disposition of the aborted fetus.~~]

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

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

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

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

563 (iii) ensure that[:]

564 [~~(A) the woman has received the information described in Subsections 26B-2-232(3)~~  
565 ~~and (4); and]~~

566 [(B)] if the woman has a preference for the disposition of the aborted fetus, the woman  
567 has informed the health care facility of the woman's decision regarding the disposition of the  
568 aborted fetus.

569 (4) When a medical emergency compels the performance of an abortion, the physician  
570 shall inform the woman prior to the abortion, if possible, of the medical indications supporting  
571 the physician's judgment that an abortion is necessary.

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

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

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

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

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

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

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

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

584 (i) the dimensions of the unborn child;

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

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

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

588 requests it.

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

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

591 described in:

592 (a) Subsection 76-7-302(2)(b)(i), if the treating physician and one other physician

593 concur, in writing, that the abortion is necessary to avert:

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

595 (ii) a risk described in Subsection 76-7-302(2)(b)(i)(B); or

596 (b) Subsection 76-7-302(2)(b)(ii).

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

598 the provisions of this section:

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

600 and

601 (b) shall be subject to:

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

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

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

605 (8) A physician is not guilty of violating this section for failure to furnish any of the

606 information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

607 (a) the physician can demonstrate by a preponderance of the evidence that the

608 physician reasonably believed that furnishing the information would have resulted in a severely

609 adverse effect on the physical or mental health of the pregnant woman;

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

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

612 (ii) a risk described in Subsection 76-7-302(2)(b)(i)(B);

613 (c) the pregnancy was the result of rape or rape of a child, as described in Sections

614 76-5-402 and 76-5-402.1;

615 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and

616 Section 76-7-102; or

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

618 (9) A physician who complies with the provisions of this section and Section  
619 ~~76-7-304.5~~ may not be held civilly liable to the physician's patient for failure to obtain  
620 informed consent under Section ~~78B-3-406~~.

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

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

625 ~~[(11) A physician is not guilty of violating this section if:]~~

626 ~~[(a) the information described in Subsection (2) is provided less than 72 hours before~~  
627 ~~the physician performs the abortion; and]~~

628 ~~[(b) in the physician's professional judgment, the abortion was necessary in a case~~  
629 ~~where:]~~

630 ~~[(i) a ruptured membrane, documented by the attending or referring physician, will~~  
631 ~~cause a serious infection; or]~~

632 ~~[(ii) a serious infection, documented by the attending or referring physician, will cause~~  
633 ~~a ruptured membrane.]~~

634 Section 10. Section ~~76-7-305.5~~ is amended to read:

635 **~~76-7-305.5. Requirements for information module and website.~~**

636 ~~[(1)]~~ In order to ensure that a woman's consent to an abortion is truly an informed  
637 consent, the department shall, in accordance with the requirements of this section, develop an  
638 information module and maintain a public website that is scientifically accurate,  
639 comprehensible, and presented in a truthful, nonmisleading manner.

640 ~~[(2) The information module and public website described in Subsection (1) shall:]~~

641 ~~[(a) be scientifically accurate, comprehensible, and presented in a truthful,~~  
642 ~~nonmisleading manner;]~~

643 ~~[(b) present adoption as a preferred and positive choice and alternative to abortion;]~~

644 ~~[(c) be produced in a manner that conveys the state's preference for childbirth over~~  
645 ~~abortion;]~~

646 ~~[(d) state that the state prefers childbirth over abortion;]~~

647 ~~[(e) state that it is unlawful for any person to coerce a woman to undergo an abortion;]~~

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

651 ~~[(g) provide a geographically indexed list of resources and public and private services~~  
652 ~~available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth,~~  
653 ~~and while the child is dependent, including:]~~

654 ~~[(i) medical assistance benefits for prenatal care, childbirth, and neonatal care;]~~

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

656 ~~[(iii) other financial aid that may be available during an adoption;]~~

657 ~~[(iv) services available from public adoption agencies, private adoption agencies, and~~  
658 ~~private attorneys whose practice includes adoption; and]~~

659 ~~[(v) the names, addresses, and telephone numbers of each person listed under this~~  
660 ~~Subsection (2)(g);]~~

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

662 ~~[(i) describe the persons who may pay the adoption related expenses described in~~  
663 ~~Subsection (2)(h);]~~

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

666 ~~[(k) except as provided in Subsection (4), describe the services available through the~~  
667 ~~Office of Recovery Services, within the Department of Health and Human Services, to~~  
668 ~~establish and collect the support described in Subsection (2)(j);]~~

669 ~~[(l) state that private adoption is legal;]~~

670 ~~[(m) describe and depict, with pictures or video segments, the probable anatomical and~~  
671 ~~physiological characteristics of an unborn child at two-week gestational increments from~~  
672 ~~fertilization to full term, including:]~~

673 ~~[(i) brain and heart function;]~~

674 ~~[(ii) the presence and development of external members and internal organs; and]~~

675 ~~[(iii) the dimensions of the fetus;]~~

676 ~~[(n) show an ultrasound of the heartbeat of an unborn child at:]~~

677 ~~[(i) four weeks from conception;]~~

678 ~~[(ii) six to eight weeks from conception; and]~~

679 ~~[(iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;]~~  
680 ~~[(o) describe abortion procedures used in current medical practice at the various stages~~  
681 ~~of growth of the unborn child, including:]~~  
682 ~~[(i) the medical risks associated with each procedure;]~~  
683 ~~[(ii) the risk related to subsequent childbearing that are associated with each procedure;~~  
684 ~~and]~~  
685 ~~[(iii) the consequences of each procedure to the unborn child at various stages of fetal~~  
686 ~~development;]~~  
687 ~~[(p) describe the possible detrimental psychological effects of abortion;]~~  
688 ~~[(q) describe the medical risks associated with carrying a child to term;]~~  
689 ~~[(r) include relevant information on the possibility of an unborn child's survival at the~~  
690 ~~two-week gestational increments described in Subsection (2)(m);]~~  
691 ~~[(s) except as provided in Subsection (5), include:]~~  
692 ~~[(i) information regarding substantial medical evidence from studies concluding that an~~  
693 ~~unborn child who is at least 20 weeks gestational age may be capable of experiencing pain~~  
694 ~~during an abortion procedure; and]~~  
695 ~~[(ii) the measures that will be taken in accordance with Section 76-7-308.5;]~~  
696 ~~[(t) explain the options and consequences of aborting a medication-induced abortion;]~~  
697 ~~[(u) include the following statement regarding a medication-induced abortion;~~  
698 ~~"Research indicates that mifepristone alone is not always effective in ending a pregnancy. You~~  
699 ~~may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but~~  
700 ~~have not yet taken the second drug and have questions regarding the health of your fetus or are~~  
701 ~~questioning your decision to terminate your pregnancy, you should consult a physician~~  
702 ~~immediately.";~~  
703 ~~[(v) inform a pregnant woman that she has the right to view an ultrasound of the~~  
704 ~~unborn child, at no expense to her, upon her request;]~~  
705 ~~[(w) inform a pregnant woman that she has the right to:]~~  
706 ~~[(i) determine the final disposition of the remains of the aborted fetus;]~~  
707 ~~[(ii) unless the woman waives this right in writing, wait up to 72 hours after the~~  
708 ~~abortion procedure is performed to make a determination regarding the disposition of the~~  
709 ~~aborted fetus before the health care facility may dispose of the fetal remains;]~~

710 ~~[(iii) receive information about options for disposition of the aborted fetus, including~~  
711 ~~the method of disposition that is usual and customary for a health care facility; and]~~

712 ~~[(iv) for a medication-induced abortion, return the aborted fetus to the health care~~  
713 ~~facility for disposition; and]~~

714 ~~[(x) provide a digital copy of the form described in Subsection 26B-2-232(3)(a)(i);~~  
715 ~~and]~~

716 ~~[(y) be in a typeface large enough to be clearly legible.]~~

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

720 ~~[(4) The department may develop a version of the information module and website that~~  
721 ~~omits the information in Subsections (2)(j) and (k) for a viewer who is pregnant as the result of~~  
722 ~~rape.]~~

723 ~~[(5) The department may develop a version of the information module and website that~~  
724 ~~omits the information described in Subsection (2)(s) for a viewer who will have an abortion~~  
725 ~~performed:]~~

726 ~~[(a) on an unborn child who is less than 20 weeks gestational age at the time of the~~  
727 ~~abortion; or]~~

728 ~~[(b) on an unborn child who is at least 20 weeks gestational age at the time of the~~  
729 ~~abortion, if:]~~

730 ~~[(i) the abortion is being performed for a reason described in Subsection~~  
731 ~~76-7-302(2)(b)(i) or (ii); and]~~

732 ~~[(ii) due to a serious medical emergency, time does not permit compliance with the~~  
733 ~~requirement to provide the information described in Subsection (2)(s).]~~

734 ~~[(6) The department and each local health department shall make the information~~  
735 ~~module and the website described in Subsection (1) available at no cost to any person.]~~

736 ~~[(7) The department shall make the website described in Subsection (1) available for~~  
737 ~~viewing on the department's website by clicking on a conspicuous link on the home page of the~~  
738 ~~website.]~~

739 ~~[(8) The department shall ensure that the information module is:]~~

740 ~~[(a) available to be viewed at all facilities where an abortion may be performed;]~~



741 ~~[(b) interactive for the individual viewing the module, including the provision of~~  
 742 ~~opportunities to answer questions and manually engage with the module before the module~~  
 743 ~~transitions from one substantive section to the next;]~~

744 ~~[(c) produced in English and may include subtitles in Spanish or another language;~~  
 745 ~~and]~~

746 ~~[(d) capable of being viewed on a tablet or other portable device.]~~

747 ~~[(9) After the department releases the initial version of the information module, for the~~  
 748 ~~use described in Section ~~76-7-305~~, the department shall:]~~

749 ~~[(a) update the information module, as required by law; and]~~

750 ~~[(b) present an updated version of the information module to the Health and Human~~  
 751 ~~Services Interim Committee for the committee's review and recommendation before releasing~~  
 752 ~~the updated version for the use described in Section ~~76-7-305~~.]~~

753 Section 11. Section **76-7a-101** is amended to read:

754 **76-7a-101. Definitions.**

755 As used in this chapter:

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

759 (b) "Abortion" does not include:

760 (i) removal of a dead unborn child;

761 (ii) removal of an ectopic pregnancy; or

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

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

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

767 (2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II  
 768 abortion clinic licensed by the state.

769 (3) "Department" means the Department of Health and Human Services.

770 ~~[(3)]~~ (4) "Down syndrome" means a genetic condition associated with an extra  
 771 chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

772           ~~[(4)]~~ (5) "Hospital" means:

773           (a) a general hospital licensed by the department; ~~[and]~~ or

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

779           ~~[(i) a clinician who performs procedures at the clinic is required to be credentialed to~~  
780 ~~perform the same procedures at a general hospital licensed by the department; and]~~

781           ~~[(ii) any procedures performed at the clinic are done with the same level of safety for~~  
782 ~~the pregnant woman and unborn child as would be available in a general hospital licensed by~~  
783 ~~the department.]~~

784           ~~[(5)]~~ (6) "Medical emergency" means a life threatening physical condition aggravated  
785 by, caused by, or arising from a pregnancy that places the pregnant woman at risk of death, or  
786 poses a serious risk of substantial impairment of a major bodily function, unless the abortion is  
787 performed or induced.

788           ~~[(6)]~~ (7) "Perinatal hospice" means comprehensive support to the mother and her  
789 family from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's  
790 birth, and through the postpartum period, that:

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

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

794           (i) maternal-fetal medical specialists;

795           (ii) obstetricians;

796           (iii) neonatologists;

797           (iv) anesthesia specialists;

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

799           (vi) clergy;

800           (vii) social workers; or

801           (viii) specialty nurses.

802           ~~[(7)]~~ (8) "Physician" means:

803 (a) a medical doctor licensed to practice medicine and surgery in the state;  
804 (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or  
805 (c) a physician employed by the federal government who has qualifications similar to  
806 an individual described in Subsection ~~[(7)(a)]~~ (8)(a) or (b).

807 ~~[(8)]~~ (9) (a) "Severe brain abnormality" means a malformation or defect that causes an  
808 individual to live in a mentally vegetative state.

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

810 (i) Down syndrome;

811 (ii) spina bifida;

812 (iii) cerebral palsy; or

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

815 Section 12. Section **76-7a-201** is amended to read:

816 **76-7a-201. Abortion prohibition -- Exceptions -- Penalties.**

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

818 (a) the abortion is necessary to avert:

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

820 (ii) a serious physical risk of substantial impairment of a major bodily function of the  
821 woman on whom the abortion is performed;

822 (b) subject to Subsection (3), two physicians who practice maternal fetal medicine  
823 concur, in writing, in the patient's medical record that the fetus has a fetal abnormality that in  
824 the physicians' reasonable medical judgment is incompatible with life; or

825 (c) the unborn child has not reached 18 weeks gestational age and:

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

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

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

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

830 (B) the pregnant child is under the age of 14; and

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

832 (A) for an abortion authorized under Subsection (1)(c)(i)(A), verifies that the incident  
833 described in Subsection (1)(c)(i)(A) has been reported to law enforcement; and

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

836 (2) An abortion may be performed only:

837 (a) by a physician; and

838 (b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in  
839 another location due to a medical emergency.

840 (3) If the unborn child has been diagnosed with a fetal abnormality that is incompatible  
841 with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and  
842 in writing, that perinatal hospice services and perinatal palliative care are available and are an  
843 alternative to abortion.

844 (4) A person who performs an abortion in violation of this section is guilty of a second  
845 degree felony.

846 (5) In addition to the penalty described in Subsection (4), the department may take  
847 appropriate corrective action against a health care facility, including revoking the health care  
848 facility's license, if a violation of this chapter occurs at the health care facility.

849 (6) The department shall report a physician's violation of any provision of this section  
850 to the state entity that regulates the licensing of a physician.

851 (7) A physician who performs an abortion under Subsection (1)(c) shall:

852 (a) maintain an accurate record as to the manner in which the physician conducted the  
853 verification under Subsection (1)(c)(ii)(A); and

854 (b) report the information described in Subsection (7)(a) to the department in  
855 accordance with Section [76-7-313](#).

856 **Section 13. Effective date.**

857 This bill takes effect on May 1, 2024.