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LICENSING MODIFICATIONS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies licensing provisions related to abortion.

Highlighted Provisions:

This bill:

- modifies definitions;
- allows the licensing of abortion clinics;
- allows abortions to be performed in licensed abortion clinics; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

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
- 26B-2-205**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-206**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-224**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305

28 76-7-301, as last amended by Laws of Utah 2023, Chapters 301, 330

29 76-7-302, as last amended by Laws of Utah 2023, Chapters 158, 301

30 76-7-305, as last amended by Laws of Utah 2023, Chapters 301, 330

31 76-7a-101, as last amended by Laws of Utah 2023, Chapters 158, 301

32 76-7a-201, as last amended by Laws of Utah 2023, Chapters 158, 301

33

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

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

36 **26B-2-201 . Definitions.**

37 As used in this part:

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

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

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

42 (a) dressing;

43 (b) eating;

44 (c) grooming;

45 (d) bathing;

46 (e) toileting;

47 (f) ambulation;

48 (g) transferring; and

49 (h) self-administration of medication.

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

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

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

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

58 (A) require protected living arrangements; and

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

61 (ii) a type II assisted living facility, which is a residential facility with a home-like

62 setting that provides an array of coordinated supportive personal and health care
63 services available 24 hours per day to residents who have been assessed under
64 department rule to need any of these services.

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

67 (i) specified services of intermittent nursing care;

68 (ii) administration of medication; and

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

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

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

73 (b) (i) is freestanding; or

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

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

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

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

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

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

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

94 (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home
95 health agencies, hospices, nursing care facilities, residential-assisted living facilities,

96 birthing centers, ambulatory surgical facilities, small health care facilities, abortion
97 clinics, ~~[a clinic that meets the definition of hospital under Section 76-7-301 or~~
98 ~~76-71-201,]~~ facilities owned or operated by health maintenance organizations, end
99 stage renal disease facilities, and any other health care facility which the committee
100 designates by rule.

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

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

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

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

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

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

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

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

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

128 (17) "Nursing care facility" means a health care facility, other than a general acute or
129 specialty hospital, constructed, licensed, and operated to provide patient living

- 130 accommodations, 24-hour staff availability, and at least two of the following patient
131 services:
- 132 (a) a selection of patient care services, under the direction and supervision of a registered
133 nurse, ranging from continuous medical, skilled nursing, psychological, or other
134 professional therapies to intermittent health-related or paraprofessional personal care
135 services;
- 136 (b) a structured, supportive social living environment based on a professionally designed
137 and supervised treatment plan, oriented to the individual's habilitation or
138 rehabilitation needs; or
- 139 (c) a supervised living environment that provides support, training, or assistance with
140 individual activities of daily living.
- 141 (18) "Person" means any individual, firm, partnership, corporation, company, association,
142 or joint stock association, and the legal successor thereof.
- 143 (19) "Resident" means a person 21 years old or older who:
- 144 (a) as a result of physical or mental limitations or age requires or requests services
145 provided in an assisted living facility; and
- 146 (b) does not require intensive medical or nursing services as provided in a hospital or
147 nursing care facility.
- 148 (20) "Small health care facility" means a four to 16 bed facility that provides licensed
149 health care programs and services to residents.
- 150 (21) "Specialty hospital" means a facility which provides specialized diagnostic,
151 therapeutic, or rehabilitative services in the recognized specialty or specialties for which
152 the hospital is licensed.
- 153 (22) "Substantial compliance" means in a department survey of a licensee, the department
154 determines there is an absence of deficiencies which would harm the physical health,
155 mental health, safety, or welfare of patients or residents of a licensee.
- 156 (23) "Type I abortion clinic" means a facility, including a physician's office, but not
157 including a general acute or specialty hospital, that:
- 158 (a) performs abortions, as defined in Section 76-7-301, during the first trimester of
159 pregnancy; and
- 160 (b) does not perform abortions, as defined in Section 76-7-301, after the first trimester of
161 pregnancy.
- 162 (24) "Type II abortion clinic" means a facility, including a physician's office, but not
163 including a general acute or specialty hospital, that:

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

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

169 **26B-2-204 . Licensing of an abortion clinic -- Rulemaking authority -- Fee.**

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

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

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

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

177 [~~(a)~~ (1) A type I abortion clinic may not operate in the state without a license issued by the
 178 department to operate a type I abortion clinic.

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

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

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

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

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

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

187 [~~(ii)~~ (b) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping
 188 requirements established [~~under~~] under Subsection (3) that relate to the type of
 189 abortion clinic licensed;

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

191 [~~(iv)~~ (d) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion, and Title
 192 76, Chapter 7a, Abortion Prohibition;

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

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

195 [~~(e)~~ (5) The department shall, at least twice per year, inspect each abortion clinic in the
 196 state to ensure that the abortion clinic is complying with all statutory and licensing
 197 requirements relating to the abortion clinic. At least one of the inspections shall be made

198 without providing notice to the abortion clinic.
 199 ~~[(f)]~~ (6) The department shall charge an annual license fee, set by the department in
 200 accordance with the procedures described in Section 63J-1-504, to an abortion clinic in
 201 an amount that will pay for the cost of the licensing requirements described in this
 202 section and the cost of inspecting abortion clinics.

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

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

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

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

210 **26B-2-205 . Exempt facilities.**

211 This part does not apply to:

- 212 (1) a dispensary or first aid facility maintained by any commercial or industrial plant,
 213 educational institution, or convent;
- 214 (2) a health care facility owned or operated by an agency of the United States;
- 215 (3) the office of a physician, physician assistant, or dentist whether it is an individual or
 216 group practice, except that it does apply to an abortion clinic;
- 217 (4) a health care facility established or operated by any recognized church or denomination
 218 for the practice of religious tenets administered by mental or spiritual means without the
 219 use of drugs, whether gratuitously or for compensation, if it complies with statutes and
 220 rules on environmental protection and life safety;
- 221 (5) any health care facility owned or operated by the Department of Corrections, created in
 222 Section 64-13-2; and
- 223 (6) a residential facility providing 24-hour care:
 - 224 (a) that does not employ direct care staff;
 - 225 (b) in which the residents of the facility contract with a licensed hospice agency to
 226 receive end-of-life medical care; and
 - 227 (c) that meets other requirements for an exemption as designated by administrative rule.

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

229 **26B-2-206 . License required -- Not assignable or transferable -- Posting --**
 230 **Expiration and renewal -- Time for compliance by operating facilities.**

- 231 (1) (a) A person or governmental unit acting severally or jointly with any other person or

232 governmental unit, may not establish, conduct, or maintain a health care facility in
233 this state without receiving a license from the department as provided by this part and
234 the rules adopted pursuant to this part .

235 (b) This Subsection (1) does not apply to facilities that are exempt under Section
236 26B-2-205.

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

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

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

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

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

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

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

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

255 **26B-2-224 . Patient identity protection.**

256 (1) As used in this section:

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

258 (b) "Health professional office" means:

259 (i) a physician's office; or

260 (ii) a dental office.

261 (c) "Medical facility" means:

262 (i) a general acute hospital;

263 (ii) a specialty hospital;

264 (iii) a home health agency;

265 (iv) a hospice;

- 266 (v) a nursing care facility;
- 267 (vi) a residential-assisted living facility;
- 268 (vii) a birthing center;
- 269 (viii) an ambulatory surgical facility;
- 270 (ix) a small health care facility;
- 271 (x) an abortion clinic;
- 272 [~~(xi) a clinic that meets the definition of hospital under Section 76-7-301 or Section~~
- 273 ~~76-7a-101;~~]
- 274 [~~(xii)~~] (xi) a facility owned or operated by a health maintenance organization;
- 275 [~~(xiii)~~] (xii) an end stage renal disease facility;
- 276 [~~(xiv)~~] (xiii) a health care clinic; or
- 277 [~~(xv)~~] (xiv) any other health care facility that the committee designates by rule.
- 278 (2) (a) In order to discourage identity theft and health insurance fraud, and to reduce the
- 279 risk of medical errors caused by incorrect medical records, a medical facility or a
- 280 health professional office shall request identification from an individual prior to
- 281 providing in-patient or out-patient services to the individual.
- 282 (b) If the individual who will receive services from the medical facility or a health
- 283 professional office lacks the legal capacity to consent to treatment, the medical
- 284 facility or a health professional office shall request identification:
- 285 (i) for the individual who lacks the legal capacity to consent to treatment; and
- 286 (ii) from the individual who consents to treatment on behalf of the individual
- 287 described in Subsection (2)(b)(i).
- 288 (3) A medical facility or a health professional office:
- 289 (a) that is subject to EMTALA:
- 290 (i) may not refuse services to an individual on the basis that the individual did not
- 291 provide identification when requested; and
- 292 (ii) shall post notice in its emergency department that informs a patient of the
- 293 patient's right to treatment for an emergency medical condition under EMTALA;
- 294 (b) may not be penalized for failing to ask for identification;
- 295 (c) is not subject to a private right of action for failing to ask for identification; and
- 296 (d) may document or confirm patient identity by:
- 297 (i) photograph;
- 298 (ii) fingerprinting;
- 299 (iii) palm scan; or

300 (iv) other reasonable means.

301 (4) The identification described in this section:

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

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

305 Section 6. Section **76-7-301** is amended to read:

306 **76-7-301 . Definitions.**

307 As used in this part:

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

311 (b) "Abortion" does not include:

312 (i) removal of a dead unborn child;

313 (ii) removal of an ectopic pregnancy; or

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

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

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

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

321 ~~[(2)]~~ (3) "Abuse" means the same as that term is defined in Section 80-1-102.

322 ~~[(3)]~~ (4) "Department" means the Department of Health and Human Services.

323 ~~[(4)]~~ (5) "Down syndrome" means a genetic condition associated with an extra chromosome
324 21, in whole or in part, or an effective trisomy for chromosome 21.

325 ~~[(5)]~~ (6) "Gestational age" means the age of an unborn child as calculated from the first day
326 of the last menstrual period of the pregnant woman.

327 ~~[(6)]~~ (7) "Hospital" means:

328 (a) a general hospital licensed by the department according to Title 26B, Chapter 2, Part
329 2, Health Care Facility Licensing and Inspection; and

330 (b) a clinic or other medical facility ~~[that meets the following criteria:]~~ to the extent that
331 such clinic or other medical facility is certified by the department as providing
332 equipment and personnel sufficient in quantity and quality to provide the same
333 degree of safety to the pregnant woman and the unborn child as would be provided

334 for the particular medical procedures undertaken by a general hospital licensed by the
335 department.

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

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

341 [(7)] (8) "Information module" means the pregnancy termination information module
342 prepared by the department.

343 [(8)] (9) "Medical emergency" means a life threatening physical condition aggravated by,
344 caused by, or arising from a pregnancy that places the pregnant woman at risk of death,
345 or poses a serious risk of substantial impairment of a major bodily function, unless the
346 abortion is performed or induced.

347 [(9)] (10) "Minor" means an individual who is:

- 348 (a) under 18 years old;
- 349 (b) unmarried; and
- 350 (c) not emancipated.

351 [(10)] (11) (a) "Partial birth abortion" means an abortion in which the person performing
352 the abortion:

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

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

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

363 [(11)] (12) "Perinatal hospice" means comprehensive support to the mother and her family
364 from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's
365 birth, and through the postpartum period, that:

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

- 368 (b) may include counseling or medical care by:
- 369 (i) maternal-fetal medical specialists;
- 370 (ii) obstetricians;
- 371 (iii) neonatologists;
- 372 (iv) anesthesia specialists;
- 373 (v) psychiatrists, psychologists, or other mental health providers;
- 374 (vi) clergy;
- 375 (vii) social workers; or
- 376 (viii) specialty nurses.

377 ~~[(12)]~~ (13) "Physician" means:

- 378 (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter
- 379 67, Utah Medical Practice Act;
- 380 (b) an osteopathic physician licensed to practice osteopathic medicine under Title 58,
- 381 Chapter 68, Utah Osteopathic Medical Practice Act; or
- 382 (c) a physician employed by the federal government who has qualifications similar to an
- 383 individual described in Subsection ~~[(12)(a)]~~ (13)(a) or (b).

384 ~~[(13)]~~ (14) (a) "Severe brain abnormality" means a malformation or defect that causes an

385 individual to live in a mentally vegetative state.

- 386 (b) "Severe brain abnormality" does not include:
- 387 (i) Down syndrome;
- 388 (ii) spina bifida;
- 389 (iii) cerebral palsy; or
- 390 (iv) any other malformation, defect, or condition that does not cause an individual to
- 391 live in a mentally vegetative state.

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

393 **76-7-302 . Circumstances under which abortion authorized.**

- 394 (1) An abortion may be performed in this state only by a physician.
- 395 (2) An abortion may be performed in this state only under the following circumstances:
- 396 (a) the unborn child has not reached 18 weeks gestational age;
- 397 (b) the unborn child has reached 18 weeks gestational age, and:
- 398 (i) the abortion is necessary to avert:
- 399 (A) the death of the woman on whom the abortion is performed; or
- 400 (B) a serious physical risk of substantial impairment of a major bodily function of
- 401 the woman on whom the abortion is performed; or

- 402 (ii) subject to Subsection (4), two physicians who practice maternal fetal medicine
403 concur, in writing, in the patient's medical record that the fetus has a fetal
404 abnormality that in the physicians' reasonable medical judgment is incompatible
405 with life; or
- 406 (c) the unborn child has not reached 18 weeks gestational age and:
- 407 (i) (A) the woman is pregnant as a result of:
- 408 (I) rape, as described in Section 76-5-402;
- 409 (II) rape of a child, as described in Section 76-5-402.1; or
- 410 (III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; or
- 411 (B) the pregnant child is under the age of 14; and
- 412 (ii) before the abortion is performed, the physician who performs the abortion:
- 413 (A) for an abortion authorized under Subsection (2)(c)(i)(A), verifies that the
414 incident described in Subsection (2)(c)(i)(A) has been reported to law
415 enforcement; and
- 416 (B) if applicable, complies with the requirements of Section 80-2-602.
- 417 (3) An abortion may be performed only in an abortion clinic or a hospital, unless it is
418 necessary to perform the abortion in another location due to a medical emergency.
- 419 (4) If the unborn child has been diagnosed with a fetal abnormality that is incompatible
420 with life, at the time of the diagnosis, the physician shall inform the woman, both
421 verbally and in writing, that perinatal hospice and perinatal palliative care services are
422 available and are an alternative to abortion.
- 423 (5) A physician who performs an abortion under Subsection (2)(c) shall:
- 424 (a) maintain an accurate record as to the manner in which the physician conducted the
425 verification under Subsection (2)(c)(ii)(A); and
- 426 (b) report the information described in Subsection (5)(a) to the department in accordance
427 with Section 76-7-313.

428 Section 8. Section **76-7-305** is amended to read:

429 **76-7-305 . Informed consent requirements for abortion -- 72-hour wait**
430 **mandatory -- Exceptions.**

- 431 (1) A person may not perform an abortion, unless, before performing the abortion, the
432 physician who will perform the abortion obtains from the woman on whom the abortion
433 is to be performed a voluntary and informed written consent that is consistent with:
- 434 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current
435 Opinions; and

- 436 (b) the provisions of this section.
- 437 (2) Except as provided in Subsection (8), consent to an abortion is voluntary and informed
438 only if, at least 72 hours before the abortion:
- 439 (a) a staff member of an abortion clinic or a hospital, physician, registered nurse, nurse
440 practitioner, advanced practice registered nurse, certified nurse midwife, genetic
441 counselor, or physician's assistant presents the information module to the pregnant
442 woman;
- 443 (b) the pregnant woman views the entire information module and presents evidence to
444 the individual described in Subsection (2)(a) that the pregnant woman viewed the
445 entire information module;
- 446 (c) after receiving the evidence described in Subsection (2)(b), the individual described
447 in Subsection (2)(a):
- 448 (i) documents that the pregnant woman viewed the entire information module;
- 449 (ii) gives the pregnant woman, upon her request, a copy of the documentation
450 described in Subsection (2)(c)(i); and
- 451 (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the
452 physician who is to perform the abortion, upon request of that physician or the
453 pregnant woman;
- 454 (d) after the pregnant woman views the entire information module, the physician who is
455 to perform the abortion, the referring physician, a physician, a registered nurse, nurse
456 practitioner, advanced practice registered nurse, certified nurse midwife, genetic
457 counselor, or physician's assistant, in a face-to-face consultation in any location in the
458 state, orally informs the woman of:
- 459 (i) the nature of the proposed abortion procedure;
- 460 (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the
461 fetus;
- 462 (iii) the risks and alternatives to the abortion procedure or treatment;
- 463 (iv) the options and consequences of aborting a medication-induced abortion, if the
464 proposed abortion procedure is a medication-induced abortion;
- 465 (v) the probable gestational age and a description of the development of the unborn
466 child at the time the abortion would be performed;
- 467 (vi) the medical risks associated with carrying her child to term;
- 468 (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant
469 woman, upon her request; and

- 470 (viii) when the result of a prenatal screening or diagnostic test indicates that the
471 unborn child has or may have Down syndrome, the department's website, which
472 contains the information described in Section 26B-7-106, including the
473 information on the informational support sheet; and
- 474 (e) after the pregnant woman views the entire information module, a staff member of the
475 abortion clinic or hospital provides to the pregnant woman:
- 476 (i) on a document that the pregnant woman may take home:
- 477 (A) the address for the department's website described in Section 76-7-305.5; and
478 (B) a statement that the woman may request, from a staff member of the abortion
479 clinic or hospital where the woman viewed the information module, a printed
480 copy of the material on the department's website;
- 481 (ii) a printed copy of the material on the department's website described in Section
482 76-7-305.5, if requested by the pregnant woman; and
- 483 (iii) a copy of the form described in Subsection 26B-2-232(3)(a)(i) regarding the
484 disposition of the aborted fetus.
- 485 (3) Before performing an abortion, the physician who is to perform the abortion shall:
- 486 (a) in a face-to-face consultation, provide the information described in Subsection (2)(d),
487 unless the attending physician or referring physician is the individual who provided
488 the information required under Subsection (2)(d); and
- 489 (b) (i) obtain from the pregnant woman a written certification that the information
490 required to be provided under Subsection (2) and this Subsection (3) was provided
491 in accordance with the requirements of Subsection (2) and this Subsection (3);
492 (ii) obtain a copy of the statement described in Subsection (2)(c)(i); and
493 (iii) ensure that:
- 494 (A) the woman has received the information described in Subsections 26B-2-232
495 (3) and (4); and
- 496 (B) if the woman has a preference for the disposition of the aborted fetus, the
497 woman has informed the health care facility of the woman's decision regarding
498 the disposition of the aborted fetus.
- 499 (4) When a medical emergency compels the performance of an abortion, the physician shall
500 inform the woman prior to the abortion, if possible, of the medical indications
501 supporting the physician's judgment that an abortion is necessary.
- 502 (5) If an ultrasound is performed on a woman before an abortion is performed, the
503 individual who performs the ultrasound, or another qualified individual, shall:

- 504 (a) inform the woman that the ultrasound images will be simultaneously displayed in a
505 manner to permit her to:
- 506 (i) view the images, if she chooses to view the images; or
507 (ii) not view the images, if she chooses not to view the images;
- 508 (b) simultaneously display the ultrasound images in order to permit the woman to:
- 509 (i) view the images, if she chooses to view the images; or
510 (ii) not view the images, if she chooses not to view the images;
- 511 (c) inform the woman that, if she desires, the person performing the ultrasound, or
512 another qualified person shall provide a detailed description of the ultrasound images,
513 including:
- 514 (i) the dimensions of the unborn child;
515 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and
516 (iii) the presence of external body parts or internal organs, if present and viewable;
517 and
- 518 (d) provide the detailed description described in Subsection (5)(c), if the woman
519 requests it.
- 520 (6) The information described in Subsections (2), (3), and (5) is not required to be provided
521 to a pregnant woman under this section if the abortion is performed for a reason
522 described in:
- 523 (a) Subsection 76-7-302(2)(b)(i), if the treating physician and one other physician
524 concur, in writing, that the abortion is necessary to avert:
- 525 (i) the death of the woman on whom the abortion is performed; or
526 (ii) a risk described in Subsection 76-7-302(2)(b)(i)(B); or
527 (b) Subsection 76-7-302(2)(b)(ii).
- 528 (7) In addition to the criminal penalties described in this part, a physician who violates the
529 provisions of this section:
- 530 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and
531 (b) shall be subject to:
- 532 (i) suspension or revocation of the physician's license for the practice of medicine and
533 surgery in accordance with Section 58-67-401 or 58-68-401; and
534 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.
- 535 (8) A physician is not guilty of violating this section for failure to furnish any of the
536 information described in Subsection (2) or (3), or for failing to comply with Subsection
537 (5), if:

- 538 (a) the physician can demonstrate by a preponderance of the evidence that the physician
539 reasonably believed that furnishing the information would have resulted in a severely
540 adverse effect on the physical or mental health of the pregnant woman;
- 541 (b) in the physician's professional judgment, the abortion was necessary to avert:
542 (i) the death of the woman on whom the abortion is performed; or
543 (ii) a risk described in Subsection 76-7-302(2)(b)(i)(B);
- 544 (c) the pregnancy was the result of rape or rape of a child, as described in Sections
545 76-5-402 and 76-5-402.1;
- 546 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and
547 Section 76-7-102; or
- 548 (e) at the time of the abortion, the pregnant child was 14 years old or younger.
- 549 (9) A physician who complies with the provisions of this section and Section 76-7-304.5
550 may not be held civilly liable to the physician's patient for failure to obtain informed
551 consent under Section 78B-3-406.
- 552 (10) (a) The department shall provide an ultrasound, in accordance with the provisions
553 of Subsection (5)(b), at no expense to the pregnant woman.
- 554 (b) A local health department shall refer a pregnant woman who requests an ultrasound
555 described in Subsection (10)(a) to the department.
- 556 (11) A physician is not guilty of violating this section if:
557 (a) the information described in Subsection (2) is provided less than 72 hours before the
558 physician performs the abortion; and
559 (b) in the physician's professional judgment, the abortion was necessary in a case where:
560 (i) a ruptured membrane, documented by the attending or referring physician, will
561 cause a serious infection; or
562 (ii) a serious infection, documented by the attending or referring physician, will cause
563 a ruptured membrane.

564 Section 9. Section **76-7a-101** is amended to read:

565 **76-7a-101 . Definitions.**

566 As used in this chapter:

- 567 (1) (a) "Abortion" means the act, by a physician, of using an instrument, or prescribing a
568 drug, with the intent to cause the death of an unborn child of a woman known to be
569 pregnant, except as permitted under this chapter.
- 570 (b) "Abortion" does not include:
571 (i) removal of a dead unborn child;

- 572 (ii) removal of an ectopic pregnancy; or
- 573 (iii) the killing or attempted killing of an unborn child without the consent of the
- 574 pregnant woman, unless:
- 575 (A) the killing or attempted killing is done through a medical procedure carried
- 576 out by a physician or through a substance used under the direction of a
- 577 physician; and
- 578 (B) the physician is unable to obtain the consent due to a medical emergency.
- 579 (2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II
- 580 abortion clinic licensed by the state.
- 581 (3) "Department" means the Department of Health and Human Services.
- 582 ~~[(3)]~~ (4) "Down syndrome" means a genetic condition associated with an extra chromosome
- 583 21, in whole or in part, or an effective trisomy for chromosome 21.
- 584 ~~[(4)]~~ (5) "Hospital" means:
- 585 (a) a general hospital licensed by the department; ~~[and]~~ or
- 586 (b) a clinic or other medical facility ~~[that meets the following criteria:]~~ to the extent the
- 587 clinic or other medical facility is certified by the department as providing equipment
- 588 and personnel sufficient in quantity and quality to provide the same degree of safety
- 589 to a pregnant woman and an unborn child as would be provided for the particular
- 590 medical procedure undertaken by a general hospital licensed by the department.
- 591 ~~[(i) a clinician who performs procedures at the clinic is required to be credentialed to~~
- 592 ~~perform the same procedures at a general hospital licensed by the department; and]~~
- 593 ~~[(ii) any procedures performed at the clinic are done with the same level of safety for~~
- 594 ~~the pregnant woman and unborn child as would be available in a general hospital~~
- 595 ~~licensed by the department.]~~
- 596 ~~[(5)]~~ (6) "Medical emergency" means a life threatening physical condition aggravated by,
- 597 caused by, or arising from a pregnancy that places the pregnant woman at risk of death,
- 598 or poses a serious risk of substantial impairment of a major bodily function, unless the
- 599 abortion is performed or induced.
- 600 ~~[(6)]~~ (7) "Perinatal hospice" means comprehensive support to the mother and her family
- 601 from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's
- 602 birth, and through the postpartum period, that:
- 603 (a) focuses on alleviating fear and ensuring that the woman and her family experience
- 604 the life and death of a child in a comfortable and supportive environment; and
- 605 (b) may include counseling or medical care by:

- 606 (i) maternal-fetal medical specialists;
- 607 (ii) obstetricians;
- 608 (iii) neonatologists;
- 609 (iv) anesthesia specialists;
- 610 (v) psychiatrists, psychologists, or other mental health providers;
- 611 (vi) clergy;
- 612 (vii) social workers; or
- 613 (viii) specialty nurses.
- 614 [~~(7)~~] (8) "Physician" means:
- 615 (a) a medical doctor licensed to practice medicine and surgery in the state;
- 616 (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or
- 617 (c) a physician employed by the federal government who has qualifications similar to an
- 618 individual described in Subsection (7)(a) or (b).
- 619 [~~(8)~~] (9) (a) "Severe brain abnormality" means a malformation or defect that causes an
- 620 individual to live in a mentally vegetative state.
- 621 (b) "Severe brain abnormality" does not include:
- 622 (i) Down syndrome;
- 623 (ii) spina bifida;
- 624 (iii) cerebral palsy; or
- 625 (iv) any other malformation, defect, or condition that does not cause an individual to
- 626 live in a mentally vegetative state.
- 627 Section 10. Section **76-7a-201** is amended to read:
- 628 **76-7a-201 . Abortion prohibition -- Exceptions -- Penalties.**
- 629 (1) An abortion may be performed in this state only under the following circumstances:
- 630 (a) the abortion is necessary to avert:
- 631 (i) the death of the woman on whom the abortion is performed; or
- 632 (ii) a serious physical risk of substantial impairment of a major bodily function of the
- 633 woman on whom the abortion is performed;
- 634 (b) subject to Subsection (3), two physicians who practice maternal fetal medicine
- 635 concur, in writing, in the patient's medical record that the fetus has a fetal
- 636 abnormality that in the physicians' reasonable medical judgment is incompatible with
- 637 life; or
- 638 (c) the unborn child has not reached 18 weeks gestational age and:
- 639 (i) (A) the woman is pregnant as a result of:

- 640 (I) rape, as described in Section 76-5-402;
- 641 (II) rape of a child, as described in Section 76-5-402.1; or
- 642 (III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; or
- 643 (B) the pregnant child is under the age of 14; and
- 644 (ii) before the abortion is performed, the physician who performs the abortion:
- 645 (A) for an abortion authorized under Subsection (1)(c)(i)(A), verifies that the
- 646 incident described in Subsection (1)(c)(i)(A) has been reported to law
- 647 enforcement; and
- 648 (B) if applicable, complies with requirements related to reporting suspicions of or
- 649 known child abuse.
- 650 (2) An abortion may be performed only:
- 651 (a) by a physician; and
- 652 (b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in
- 653 another location due to a medical emergency.
- 654 (3) If the unborn child has been diagnosed with a fetal abnormality that is incompatible
- 655 with life, at the time of the diagnosis, the physician shall inform the woman, both
- 656 verbally and in writing, that perinatal hospice services and perinatal palliative care are
- 657 available and are an alternative to abortion.
- 658 (4) A person who performs an abortion in violation of this section is guilty of a second
- 659 degree felony.
- 660 (5) In addition to the penalty described in Subsection (4), the department may take
- 661 appropriate corrective action against a health care facility, including revoking the health
- 662 care facility's license, if a violation of this chapter occurs at the health care facility.
- 663 (6) The department shall report a physician's violation of any provision of this section to the
- 664 state entity that regulates the licensing of a physician.
- 665 (7) A physician who performs an abortion under Subsection (1)(c) shall:
- 666 (a) maintain an accurate record as to the manner in which the physician conducted the
- 667 verification under Subsection (1)(c)(ii)(A); and
- 668 (b) report the information described in Subsection (7)(a) to the department in accordance
- 669 with Section 76-7-313.

670 Section 11. **Effective date.**

- 671 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
- 672 elected to each house, this bill takes effect upon approval by the governor, or the day
- 673 following the constitutional time limit of Utah Constitution, Article VII, Section 8,

674 without the governor's signature, or in the case of a veto, the date of veto override.
675 (2) If this bill is not approved by two-thirds of all members elected to each house, this bill
676 takes effect May 1, 2024.