

Utah

Planned Parenthood Ass'n of Utah v. Utah, No. 220903886 (Third Jud. Dist. Utah Jul. 11, 2022) (granting preliminary injunction of Utah Code § 76-7a-201).

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

- (1) An abortion may be performed in this state only by a physician.
- (2) An abortion may be performed in this state only under the following circumstances:
 - (a) the unborn child has not reached 18 weeks gestational age;
 - (b) the unborn child has reached 18 weeks gestational age, and:
 - (i) the abortion is necessary to avert:
 - (A) the death of the woman on whom the abortion is performed; or
 - (B) a serious physical risk of substantial impairment of a major bodily function of the woman on whom the abortion is performed; or
 - (ii) subject to Subsection (4), two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus has a fetal abnormality that in the physicians' reasonable medical judgment is incompatible with life; or
 - (c) the unborn child has not reached 18 weeks gestational age and:
 - (i)
 - (A) the woman is pregnant as a result of:
 - (I) rape, as described in Section 76-5-402;
 - (II) rape of a child, as described in Section 76-5-402.1; or
 - (III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; or
 - (B) the pregnant child is under the age of 14; and
 - (ii) before the abortion is performed, the physician who performs the abortion:
 - (A) for an abortion authorized under Subsection (2)(c)(i)(A), verifies that the incident described in Subsection (2)(c)(i)(A) has been reported to law enforcement; and
 - (B) if applicable, complies with the requirements of Section 80-2-602.
- (3) An abortion may be performed only in a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.
- (4) If the unborn child has been diagnosed with a fetal abnormality that is incompatible with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and in writing, that perinatal hospice and perinatal palliative care services are available and are an alternative to abortion.
- (5) A physician who performs an abortion under Subsection (2)(c) shall:
 - (a) maintain an accurate record as to the manner in which the physician conducted the verification under Subsection (2)(c)(ii)(A); and
 - (b) report the information described in Subsection (5)(a) to the department in accordance with Section 76-7-313.

Utah Code Ann. § 76-7-302

76-7-302.4. Abortion restriction of an unborn child with Down syndrome.

Notwithstanding any other provision of this part, an abortion may not be performed if the pregnant mother's sole reason for the abortion is that the unborn child has or may have Down syndrome, unless the abortion is permissible for a reason described in Section 76-7-302.

Utah Code Ann. § 76-7-302.4

76-7-304. Considerations by physician — Notice to a parent or guardian — Exceptions.

(1) To enable the physician to exercise the physician's best medical judgment, the physician shall consider all factors relevant to the well-being of a pregnant woman upon whom an abortion is to be performed, including:

- (a) her physical, emotional, and psychological health and safety;
- (b) her age; and
- (c) her familial situation.

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

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

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

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

(A) the minor's death; or

(B) a serious physical risk of substantial impairment of a major bodily function of the minor; and

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

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

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

(ii)

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

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

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

(4)

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

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

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

[Utah Code Ann. § 76-7-304](#)

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

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

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

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

(c)

- (i) a medical condition exists that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate the abortion of her pregnancy to avert:
 - (A) the minor's death; or
 - (B) a risk described in Subsection 76-7-302(2)(b)(i)(B); and
 - (ii) there is not sufficient time to obtain the consent in the manner chosen by the minor under Subsection (2) before it is necessary to terminate the minor's pregnancy in order to avert the minor's death or impairment described in Subsection (1)(c)(i).
- (2)
- (a) A minor who wants to have an abortion may choose:
 - (i) to seek consent from the minor's parent or guardian as described in Subsection (1); or
 - (ii) to seek a court order as described in Subsection (1).
 - (b) Neither Subsection (1) nor this Subsection (2) require the minor to seek or obtain consent from the minor's parent or guardian if the circumstances described in Subsection 76-7-304(3)(b)(ii) exist.
 - (3) If a minor does not obtain the consent of the minor's parent or guardian, the minor may file a petition with the juvenile court to obtain a court order as described in Subsection (1).
- (4)
- (a) The juvenile court shall close the hearing on a petition described in Subsection (3) to the public.
 - (b) After considering the evidence presented at the hearing, the court shall order that the minor may obtain an abortion without the consent of a parent or guardian of the minor if the court finds by a preponderance of the evidence that:
 - (i) the minor:
 - (A) has given her informed consent to the abortion; and
 - (B) is mature and capable of giving informed consent to the abortion; or
 - (ii) an abortion would be in the minor's best interest.
- (5) The Judicial Council shall make rules that:
- (a) provide for the administration of the proceedings described in this section;
 - (b) provide for the appeal of a court's decision under this section;
 - (c) ensure the confidentiality of the proceedings described in this section and the records related to the proceedings; and
 - (d) establish procedures to expedite the hearing and appeal proceedings described in this section.

[Utah Code Ann. § 76-7-304.5](#)

76-7-305. Informed consent requirements for abortion — 72-hour wait mandatory — Exceptions.

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- (1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains from the woman on whom the abortion is to be performed a voluntary and informed written consent that is consistent with:
 - (a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and
 - (b) the provisions of this section.
 - (2) Except as provided in Subsection (8), consent to an abortion is voluntary and informed only if, at least 72 hours before the abortion:
 - (a) a staff member of a hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant presents the information module to the pregnant woman;
 - (b) the pregnant woman views the entire information module and presents evidence to the individual described in Subsection (2)(a) that the pregnant woman viewed the entire information module;
 - (c) after receiving the evidence described in Subsection (2)(b), the individual described in Subsection (2)(a):
 - (i) documents that the pregnant woman viewed the entire information module;
 - (ii) gives the pregnant woman, upon her request, a copy of the documentation described in Subsection (2)(c)(i); and
 - (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;
 - (d) after the pregnant woman views the entire information module, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice

registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman of:

- (i) the nature of the proposed abortion procedure;
 - (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the fetus;
 - (iii) the risks and alternatives to the abortion procedure or treatment;
 - (iv) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;
 - (v) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;
 - (vi) the medical risks associated with carrying her child to term;
 - (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon her request; and
 - (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn child has or may have Down syndrome, the department's website, which contains the information described in Section 26B-7-106, including the information on the informational support sheet; and
- (e) after the pregnant woman views the entire information module, a staff member of the hospital provides to the pregnant woman:
- (i) on a document that the pregnant woman may take home:
 - (A) the address for the department's website described in Section 76-7-305.5; and
 - (B) a statement that the woman may request, from a staff member of the hospital where the woman viewed the information module, a printed copy of the material on the department's website;
 - (ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman; and
 - (iii) a copy of the form described in Subsection 26B-2-232(3)(a)(i) regarding the disposition of the aborted fetus.

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

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

(b)

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

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

(iii) ensure that:

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

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

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

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

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

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

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

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

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

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

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

(i) the dimensions of the unborn child;

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

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

(d) provide the detailed description described in Subsection (5)(c), if the woman requests it.

- (6) The information described in Subsections (2), (3), and (5) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:
- (a) Subsection 76-7-302(2)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:
 - (i) the death of the woman on whom the abortion is performed; or
 - (ii) a risk described in Subsection 76-7-302(2)(b)(i)(B); or
 - (b) Subsection 76-7-302(2)(b)(ii).
- (7) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:
- (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and
 - (b) shall be subject to:
 - (i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and
 - (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.
- (8) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:
- (a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;
 - (b) in the physician's professional judgment, the abortion was necessary to avert:
 - (i) the death of the woman on whom the abortion is performed; or
 - (ii) a risk described in Subsection 76-7-302(2)(b)(i)(B);
 - (c) the pregnancy was the result of rape or rape of a child, as described in Sections 76-5-402 and 76-5-402.1;
 - (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and Section 76-7-102; or
 - (e) at the time of the abortion, the pregnant child was 14 years old or younger.
- (9) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.
- (10)
- (a) The department shall provide an ultrasound, in accordance with the provisions of Subsection (5)(b), at no expense to the pregnant woman.
 - (b) A local health department shall refer a pregnant woman who requests an ultrasound described in Subsection (10)(a) to the department.
- (11) A physician is not guilty of violating this section if:
- (a) the information described in Subsection (2) is provided less than 72 hours before the physician performs the abortion; and
 - (b) in the physician's professional judgment, the abortion was necessary in a case where:
 - (i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or
 - (ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.
- [Utah Code Ann. § 76-7-305](#)

Utah Code § 76-7-307. Medical procedure required to save life of unborn child.

If an abortion is performed when the unborn child is sufficiently developed to have any reasonable possibility of survival outside its mother's womb, the medical procedure used must be that which, in the best medical judgment of the physician will give the unborn child the best chance of survival. No medical procedure designed to kill or injure that unborn child may be used unless necessary, in the opinion of the woman's physician, to prevent grave damage to her medical health.

Utah Code § 76-7-308. Medical skills required to preserve life of unborn child.

Consistent with the purpose of saving the life of the woman or preventing grave damage to the woman's medical health, the physician performing the abortion must use all of his medical skills to attempt to promote, preserve and maintain the life of any unborn child sufficiently developed to have any reasonable possibility of survival outside of the mother's womb.

Utah Code § 76-7-310. Experimentation with unborn children prohibited — Testing for genetic defects.

Live unborn children may not be used for experimentation, but when advisable, in the best medical judgment of the physician, may be tested for genetic defects.

Utah Code § 76-7-310.5. Prohibition of specified abortion procedures — Viability defined.

(1) As used in this section, "saline abortion procedure" means performance of amniocentesis and injection of saline into the amniotic sac within the uterine cavity.

(2)

(a) After viability has been determined in accordance with Subsection (2)(b), no person may knowingly perform a saline abortion procedure unless all other available abortion procedures would pose a risk to the life or the health of the pregnant woman.

(b) For purposes of this section determination of viability shall be made by the physician, based upon his own best clinical judgment. The physician shall determine whether, based on the particular facts of a woman's pregnancy that are known to him, and in light of medical technology and information reasonably available to him, there is a realistic possibility of maintaining and nourishing a life outside of the womb, with or without temporary, artificial life- sustaining support.

(3) Intentional, knowing, and willful violation of this section is a third degree felony.

Utah Code § 76-7-311. Selling and buying unborn children prohibited.

Selling, buying, offering to sell and offering to buy unborn children is prohibited.

Utah Code § 76-7-312. Intimidation or coercion to obtain abortion prohibited.

Utah Code s. 76-7-308.5. Administration of anesthetic or analgesic to an unborn child.

A physician who performs an abortion of an unborn child who is at least 20 weeks gestational age shall administer an anesthetic or analgesic to eliminate or alleviate organic pain to the unborn child caused by the particular method of abortion to be employed, unless:

(1) the abortion is necessary to avert:

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

- (b) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;
- (2) the abortion is performed because the fetus has a defect that is uniformly diagnosable and uniformly lethal, based on the written concurrence of two physicians who practice maternal fetal medicine; or
- (3) the treating physician and one other physician concur, in writing, that the administration of an anesthetic or analgesic would:
 - (a) cause the death of the woman on whom the abortion is performed; or
 - (b) create a serious risk of substantial or irreversible impairment of a major bodily function of the woman on whom the abortion is performed.

76-7-314. Violations of abortion laws — Classifications.

- (1) An intentional violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311, or 76-7-312 is a felony of the third degree.
- (2) A violation of Section 76-7-326 is a felony of the third degree.
- (3) A violation of Section 76-7-314.5 is a felony of the second degree.
- (4) A violation of any other provision of this part, including Subsections 76-7-305(2)(a) through (c), and (e), is a class A misdemeanor.
- (5) The Department of Health and Human Services shall report a physician's violation of any provision of this part to the Physicians Licensing Board, described in Section 58-67-201.
- (6) Any person with knowledge of a physician's violation of any provision of this part may report the violation to the Physicians Licensing Board, described in Section 58-67-201.
- (7) In addition to the penalties described in this section, the department may take any action described in Section 26B-2-208 against a health care facility if a violation of this chapter occurs at the health care facility.

[Utah Code Ann. § 76-7-314](#)

76-7-314.5. Killing an unborn child.

- (1) A person is guilty of killing an unborn child if the person intentionally causes the death of an unborn child by performing an abortion of the unborn child in violation of the provisions of Subsection 76-7-302(2).
- (2) A woman is not criminally liable for:
 - (a) seeking to obtain, or obtaining, an abortion that is permitted by this part; or
 - (b) a physician's failure to comply with Subsection 76-7-302(2)(b)(ii) or Section 76-7-305.

[Utah Code Ann. § 76-7-314.5](#)

Utah Code s. 76-7-315. Exceptions to certain requirements in serious medical emergencies

When due to a serious medical emergency, time does not permit compliance with Section [76-7-302](#), [76-7-305](#), [76-7-305.5](#), [76-7-308.5](#), or [76-7-310.5](#) the provisions of those sections do not apply.

Utah Code § 76-7-325. Notice to parent or guardian of minor requesting contraceptive — Definition of contraceptives — Penalty for violation

- (1) Any person before providing contraceptives to a minor shall notify, whenever possible, the minor's parents or guardian of the service requested to be provided to such minor. Contraceptives shall be defined as appliances (including but not limited to intrauterine devices),

drugs, or medicinal preparations intended or having special utility for prevention of conception.

(2) Any person in violation of this section shall be guilty of a class C misdemeanor.

Utah Code § 76-7-326. Partial birth abortions prohibited

Any physician who knowingly performs a partial birth abortion and thereby kills a human fetus shall be fined or imprisoned, or both, as provided under this part. This section does not apply to a partial birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life endangering physical condition caused by or arising from the pregnancy itself.

76-7a-101. Definitions

As used in this chapter:

(1)

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

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

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

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

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

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

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

(4) "Hospital" means:

(a) a general hospital licensed by the department; and

(b) a clinic or other medical facility that meets the following criteria:

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

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

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

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

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

(b) may include counseling or medical care by:

(i) maternal-fetal medical specialists;

(ii) obstetricians;

(iii) neonatologists;

(iv) anesthesia specialists;

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

(vi) clergy;

(vii) social workers; or

(viii) specialty nurses.

(7) "Physician" means:

- (a) a medical doctor licensed to practice medicine and surgery in the state;
- (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or
- (c) a physician employed by the federal government who has qualifications similar to an individual described in Subsection (7)(a) or (b).

(8)

(a) “Severe brain abnormality” means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) “Severe brain abnormality” does not include:

(i) Down syndrome;

(ii) spina bifida;

(iii) cerebral palsy; or

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

[Utah Code Ann. § 76-7a-101](#)

76-7a-201. Abortion prohibition — Exceptions — Penalties.

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

(a) the abortion is necessary to avert:

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

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

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

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

(i)

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

(I) rape, as described in Section 76-5-402;

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

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

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

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

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

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

(2) An abortion may be performed only:

(a) by a physician; and

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

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

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

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

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

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

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

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

[Utah Code Ann. § 76-7a-201](#)

26B-2-204. Licensing of an abortion clinic — Rulemaking authority — Fee — Licensing of a clinic meeting the definition of hospital.

(1)

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

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

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

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

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

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

(c) The department shall make rules establishing minimum health, safety, sanitary, and recordkeeping requirements for:

(i) a type I abortion clinic; and

(ii) a type II abortion clinic.

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

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

(ii) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping requirements established under Subsection (3) that relate to the type of abortion clinic licensed;

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

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

(v) pay the annual licensing fee; and

(vi) cooperate with inspections conducted by the department.

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

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

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

(4)

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

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

[Utah Code Ann. § 26B-2-204](#)

Utah Code 26B-2-232 Treatment of aborted remains.

(1) As used in this section, "aborted fetus" means a product of human conception, regardless of gestational age, that has died from an abortion as that term is defined in Section 76-7-301. (2) (a) A health care facility having possession of an aborted fetus shall provide for the final disposition of the aborted fetus through: (i) cremation as that term is defined in Section 58-9-102; or (ii) interment. (b) A health care facility may not conduct the final disposition of an aborted fetus less than 72 hours after an abortion is performed unless: (i) the pregnant woman authorizes the health care facility, in writing, to conduct the final disposition of the aborted fetus less than 72 hours after

the abortion is performed; or (ii) immediate disposition is required under state or federal law. (c) A health care facility may serve as an authorizing agent as defined in Section 58-9-102 with respect to the final disposition of an aborted fetus if: (i) the pregnant woman provides written authorization for the health care facility to act as the authorizing agent; or (ii) (A) more than 72 hours have passed since the abortion was performed; and (B) the pregnant woman did not exercise her right to control the final disposition of the aborted fetus under Subsection (4)(a). (d) Within 120 business days after the day on which an abortion is performed, a health care facility possessing an aborted fetus shall: (i) conduct the final disposition of the aborted fetus in accordance with this section; or (ii) ensure that the aborted fetus is preserved until final disposition. (e) A health care facility shall conduct the final disposition under this section in accordance with applicable state and federal law. (3) Before performing an abortion, a health care facility shall: (a) provide the pregnant woman with the information described in Subsection 76-7-305.5(2)(w) through: (i) a form approved by the department; (ii) an in-person consultation with a physician; or (iii) an in-person consultation with a mental health therapist as defined in Section 58-60-102; and (b) if the pregnant woman makes a decision under Subsection (4)(b), document the pregnant woman's decision under Subsection (4)(b) in the pregnant woman's medical record. (4) A pregnant woman who has an abortion: (a) except as provided in Subsection (6), has the right to control the final disposition of the aborted fetus; Utah Code Page 163 (b) if the pregnant woman has a preference for disposition of the aborted fetus, shall inform the health care facility of the pregnant woman's decision for final disposition of the aborted fetus; (c) is responsible for the costs related to the final disposition of the aborted fetus at the chosen location if the pregnant woman chooses a method or location for the final disposition of the aborted fetus that is different from the method or location that is usual and customary for the health care facility; and (d) for a medication-induced abortion, shall be permitted to return the aborted fetus to the health care facility in a sealed container for disposition by the health care facility in accordance with this section. (5) The form described in Subsection (3)(a)(i) shall include the following information: "You have the right to decide what you would like to do with the aborted fetus. You may decide for the provider to be responsible for disposition of the fetus. If you are having a medication-induced abortion, you also have the right to bring the aborted fetus back to this provider for disposition after the fetus is expelled. The provider may dispose of the aborted fetus by burial or cremation. You can ask the provider if you want to know the specific method for disposition." (6) If the pregnant woman is a minor, the health care facility shall obtain parental consent for the disposition of the aborted fetus unless the minor is granted a court order under Subsection 76-7-304.5(1)(b). (7) (a) A health care facility may not include fetal remains with other biological, infectious, or pathological waste. (b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is not subject to the requirements of this section. (c) (i) A health care facility is responsible for maintaining a record to demonstrate to the department that the health care facility has complied with the provisions of this section. (ii) The records described in Subsection (7)(c)(i) shall be: (A) maintained for at least two years; and (B) made available to the department for inspection upon request by the department.