

Subject: [Records Center] Public Records Request :: P002705-100522
Date: Friday, October 7, 2022 at 12:43:11 PM Eastern Daylight Time
From: LDH Records Center
To: AO Records

EXTERNAL SENDER

--- Please respond above this line ---



RE: Public Records Request of October 05, 2022, Reference # P002705-100522

Dear Austin Evers,

The Louisiana Department of Health received a records request from you on October 05, 2022. Your request mentioned:

"Re: Public Records Law Request

Dear Records Custodian:

Pursuant to the Louisiana Public Records Law, La. Rev. Stat. Ann. 44:1 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that your office produce the following records within three business days:

1. All final decision memoranda, directives, policy interpretations, or guidance provided to, signed, approved, or otherwise adopted by the Department of Health regarding abortion, contraception, or reproductive health following the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health*.
2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by any of the officials listed below containing any of the following key terms:

Key Terms:

- a. Dobbs
- b. Roe
- c. Abortion
- d. Pregnancy
- e. Pregnant
- f. Terminate
- g. Fetus
- h. Unborn
- i. "Planned Parenthood"
- j. "Trigger law"
- k. "Trigger ban"
- l. Contraception
- m. "Birth control"
- n. Abortifacient
- o. Mifepristone
- p. Misoprostol
- q. Ectopic

Officials:

- i. Secretary Dr. Courtney N. Phillips
- ii. State Health Officer Dr. Joseph Kanter
- iii. Director Bethany Blackson, Governmental Relations & Community Partnerships
- iv. Legislative Liaison Shayla Cockerm, Governmental Relations & Community Partnerships
- v. Legislative Liaison Christina Ballew, Governmental Relations & Community Partnerships

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request to emails sent by the specified officials. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both Secretary Phillips' response to an email containing one of the listed key terms and the initial received message are responsive to this request and should be produced.

Please provide all responsive records from June 24, 2022, through the date the search is conducted.

Fee Waiver Request

In accordance with La. Rev. Stat. Ann. 44:32(C)(2), American Oversight requests a waiver of fees associated with processing this request for records. A waiver of fees for this request is appropriate, because American Oversight's use of the requested records "will be limited to a public purpose."

This request is made solely for a public purpose. The public has a significant interest in top state health officials' response to changes in state abortion laws. Records with the potential to shed light on this matter

would contribute significantly to public understanding of operations of the government, guidance issued by or to state health officials in the wake of the *Dobbs v. Jackson Women’s Health* decision. American Oversight is committed to transparency and makes the responses agencies provide to public records requests publicly available, and the public’s understanding of the government’s activities would be enhanced through American Oversight’s analysis and publication of these records.

Furthermore, this request is fundamentally made for non-commercial purposes. As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight’s financial interest. American Oversight’s mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website. Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records and analysis related to the organization’s investigations into misconduct and corruption in state governments; posting records and analysis of federal and state governments’ responses to the Coronavirus pandemic; posting records received as part of American Oversight’s “Audit the Wall” project to gather and analyze information related to the Trump administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal; and the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department’s process for issuing such waivers.

Accordingly, American Oversight qualifies for a fee waiver.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- ☐ Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- ☐ In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions.
- ☐ Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.

☑ Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Public business communications conducted on private email accounts and devices are public records subject to the Public Records Law.

☑ In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.

☑ Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Khahilia Shaw at records@americanoversight.org or (202) 539-6507. Also, if American Oversight's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Khahilia Shaw
Khahilia Shaw
on behalf of
American Oversight"

The Department has reviewed its files and has located responsive records to your request.

Please log in to the LDH Records Center at the following link to retrieve the appropriate responsive documents.

[Public Records Request - P002705-100522](#)

If you have any questions, or wish to discuss this further, please contact me.

Sincerely,

Michael Coleman

Louisiana Department of Health

To monitor the progress or update this request please log into the [Records Center](#)



From: Jacintha Duthu <jduthu@lsbme.la.gov>

Sent: Thursday, July 07, 2022 12:13 PM EDT

To: Joseph Kanter <Joseph.Kanter@la.gov>; Stephen Russo <Stephen.Russo@LA.GOV>; St. John, Joseph <StJohnJ@ag.louisiana.gov>; Rajiv Gala M.D. <rgala@ochsner.org>; cgambal@tulane.edu <cgambal@tulane.edu>; Morrison, Ray <rmorrison@ulm.vcom.edu>; gjackson@ulm.vcom.edu <gjackson@ulm.vcom.edu>; Hilton, Charles <chilto@lsuhsc.edu>; RDICar@lsuhsc.edu <RDICar@lsuhsc.edu>; lpeac1@lsuhsc.edu <lpeac1@lsuhsc.edu>; sholma@lsuhsc.edu <sholma@lsuhsc.edu>; ahear1@lsuhsc.edu <ahear1@lsuhsc.edu>; nfree@lsuhsc.edu <nfree@lsuhsc.edu>; Lewis, David <david.lewis@lsuhs.edu>; Sanders, Mark <msanders@ulm.vcom.edu>; Singletary, Cynthia <cynthia.singletary@lsuhs.edu>; Freehill, Nicole <nfree3@lsuhsc.edu>

CC: Lester W. Johnson, MD <ljohnson@lsbme.la.gov>; Terrie R. Thomas, MD <tthomas@lsbme.la.gov>; Roderick V. Clark, MD <rclark@lsbme.la.gov>; Leonard Weather Jr., MD <lweather@lsbme.la.gov>

Subject: Abortion Statutes in Louisiana

Attachment(s): "image001.png", "Abortion Statutes in Louisiana.pdf"

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

Good Morning All,

As promised, please see attached.

Sincerely,



Jacintha F. Duthu, MPA, Executive Staff Officer

Louisiana State Board of Medical Examiners

630 Camp Street

New Orleans, LA 70130

(504) 568-6816

www.lsbme.la.gov

CONFIDENTIAL

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Abortion Statutes in Louisiana

- **Minors and Non-Legal Custodians**

- **La. R.S. 9:975, Non-legal custodian; consent for certain services; affidavit, form:**

A. (1) A non-legal custodian, who is not a foster parent caring for a child in the custody of the Office of Community Services, shall be authorized to give legal consent for a child in his custody to receive any medical or educational services for which parental consent is usually required by executing the affidavit described in Paragraph (B)(4) of this Section. The affidavit shall not be valid for more than one year after the date on which it is executed.

(2) The decision of a non-legal custodian to consent to or to refuse medical or educational services for a child in his custody shall be superseded by any contravening decision of a parent or a person having legal custody of the child, provided the decision of the legal custodian does not jeopardize the life, health, safety, or welfare of the child.

(3) Nothing in this Section shall apply to, or give authority for, an abortion as provided in R.S. 40:1061.14.

B. (1) No person who acts in good faith reliance on a non-legal custodian properly executed affidavit, having no actual knowledge of any facts contrary to those stated in the affidavit, shall be subject to civil liability or criminal prosecution, or to professional disciplinary procedure, for any action which would have been proper if the facts had been as he believed them to be. This Paragraph shall apply even if medical or educational services are rendered to a child in contravention of the wishes of the parent or legal custodian of that child. However, the person rendering the services must not have actual knowledge of the wishes of the parent or legal custodian.

(2) A person who relies on a properly executed affidavit has no obligation to make further inquiry or investigation. Nothing herein shall relieve any person of responsibility for violations of other provisions of law, rules, or regulations.

(3) If the child ceases to live with the non-legal custodian, the non-legal custodian shall notify all parties to whom he has transmitted the affidavit or to whom he has caused the affidavit to be transmitted.

(4) A non-legal custodian's affidavit shall be invalid unless it substantially contains, in not less than ten-point boldface type, or a reasonable equivalent thereof, the warning statement beginning with the word "warning" specified in this Paragraph. The warning statement shall be enclosed in a box with three-point rule lines. The non-legal custodian's affidavit shall be in substantially the following form:

NON-LEGAL CUSTODIAN'S AFFIDAVIT

Use of this affidavit is authorized by R.S. 9:975.

INSTRUCTIONS: Completion of items 1 through 4 and the signing of the affidavit are sufficient to authorize educational services and school-related medical services for the named child. Completion of items 5 through 8 is additionally required to authorize any other medical services. Please print clearly.

The child named below lives in my home and I am 18 years of age or older.

1. Name of child:

2. Child's date of birth:

3. My name (adult giving authorization):

4. My home address:

5. I am a non-legal custodian.

6. Check one or both (for example, if one parent was advised and the other cannot be located):

I have advised the parent(s) or legal custodian(s) of the child of my intent to authorize the rendering of educational or medical services, and have received no objection.

I am unable to contact the parent(s) or legal custodian(s) of the child at this time, to notify them of my intended authorization.

7. Affiant's date of birth:

8. Affiant's Louisiana driver's license number or identification card number:

WARNING: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

I declare under penalty of perjury under the laws of Louisiana that the foregoing is true and correct.

Signed: Date:

NOTICES:

1. This declaration does not affect the rights of the child's parent or legal guardian regarding the care, custody, and control of the child, and does not mean that the non-legal custodian has legal custody of the child.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
3. This affidavit is not valid for more than one year after the date on which it is executed.

ADDITIONAL INFORMATION:

TO NON-LEGAL CUSTODIANS:

1. If the child stops living with you, you are required to notify anyone to whom you have given this affidavit as well as anyone of whom you have actual knowledge who received the affidavit from a third party.
2. If you do not have the information in item 8 (Louisiana driver's license or identification card), you must provide another form of identification such as your social security card number.

TO SCHOOL OFFICIALS:

The school district may require additional reasonable evidence that the non-legal custodian lives at the address provided in Item 4.

TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

1. No person who acts in good faith reliance upon a non-legal custodian's affidavit to render educational or medical services, without actual knowledge of facts contrary to those stated in the affidavit, is subject to criminal prosecution or civil liability to any person, or subject to any professional disciplinary action, for such reliance if the applicable portions of the form are completed.

2. This affidavit does not confer dependency for health care coverage purposes. **Added by Acts 2001, No. 410, § 1, eff. June 15, 2001.**

- **Quasi Contracts, and Offenses and Quasi Offenses**

- **La. R.S. 9:2800.12, Liability for termination of a pregnancy:**

A. Any person who performs an abortion is liable to the mother of the unborn child for any damage occasioned or precipitated by the abortion, which action survives for a period of three years from the date of discovery of the damage with a peremptive period of ten years from the date of the abortion.

B. For purposes of this Section:

(1) “Abortion” means the deliberate termination of an intrauterine human pregnancy after fertilization of a female ovum, by any person, including the pregnant woman herself, with an intention other than to produce a live birth or to remove a dead unborn child.

(2) “Damage” includes all special and general damages which are recoverable in an intentional tort, negligence, survival, or wrongful death action for injuries suffered or damages occasioned by the unborn child or mother.

(3) “Unborn child” means the unborn offspring of human beings from the moment of conception through pregnancy and until termination of the pregnancy.

C. (1) The signing of a consent form by the mother prior to the abortion does not negate this cause of action, but rather reduces the recovery of damages to the extent that the content of the consent form informed the mother of the risk of the type of injuries or loss for which she is seeking to recover.

(2) The laws governing medical malpractice or limitations of liability thereof provided in Title 40 of the Louisiana Revised Statutes of 1950 are not applicable to this Section. **Added by Acts 1997, No. 825, § 1.**

- **Evidentiary Issues**

- **La. R.S. 13:3734, Privileged communication between health care provider and patient:**

A. As used in this Part:

(1) “Communication” means the acquiring, recording or transmittal, of any information, in any manner whatsoever, concerning any facts, opinions or statements necessary to enable the health care provider to diagnose, treat, prescribe or to act for the patients; said communications may include, but are not limited to any and all medical records, office records, hospital records, charts, correspondence, memoranda, laboratory tests and results, x-rays, photographs, financial statements, diagnoses and prognoses.

(2) “Health care provider” means a hospital, as defined in this Subsection, and means a person, corporation, facility, or institution licensed by the state to provide health care or professional services as a physician, hospital, dentist, registered or licensed practical nurse, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, psychologist, social worker, or licensed professional counselor and an officer, employee, or agent thereof acting in the course and scope of his employment.

(3) “Hospital” means any hospital as defined in R.S. 40:2102; any “nursing home” or “home” as defined in R.S. 40:2009.2; or any health care provider's offices or clinics containing facilities for the examination, diagnosis, treatment or care of human illness.

(4) “Patient” means a natural person who receives health care from a licensed health care provider.

(5) “Representative” means the spouse, parent, tutor, curator, trustee, attorney or other legal agent of the patient.

(6), (7) Repealed by Acts 1986, No. 496, § 2, eff. July 2, 1986.

B. In noncriminal proceedings, testimonial privileges, exceptions, and waiver with respect to communications between a health care provider and his patient are governed by the Louisiana Code of Evidence.

C. An action or proceeding described in Louisiana Code of Evidence Article 510(B)(2) which constitutes an exception for a health care provider to testify at a trial on the merits also shall be an exception for purposes of any discovery method authorized by Article 1421 et seq. of the Louisiana Code of Civil Procedure.

D. Nothing in this Section shall preclude the health care provider from disclosing privileged information by medical report either before or after any legal proceedings are instituted, provided that he is in receipt of a written authorization executed by the patient. If the health care provider knows or reasonably believes that the patient is physically or mentally incapable of authorizing release, the health care provider may disclose privileged information provided he is in receipt of a written authorization executed by a person authorized under R.S. 40:1299.40 to consent to medical treatment for the patient. Furthermore, when a patient is represented by an attorney and that attorney provides the health care provider with written authorization executed by the patient, the health care provider may disclose to the attorney any communication which was necessary to enable him to diagnose, treat, prescribe, or act for the patient and may provide to the attorney, as agent for the patient, any medical reports, X-rays, or any other written information the health care provider has regarding the patient, all without the necessity of complying with formal discovery.

E. (1) In addition to any other provision of law permitting the subpoena of health care provider records, a party may obtain the health care provider records and communications defined by Subsection A of this Section of a patient to the extent permitted by Louisiana Code of Evidence Article 510(B)(2)(i) pursuant to a lawful subpoena, summons, or court order served upon the custodian of records of the health care provider, in accordance with the requirements of R.S. 13:3715.1.

(2) No health care provider, custodian of records, officer, employee, or agent thereof shall be held civilly or criminally liable for the disclosure of a patient's records including any communication defined by Subsection A of this Section to the extent permitted by Louisiana Code of Evidence Article 510(B)(2)(i) when that disclosure is made in accordance with R.S. 13:3715.1.

F. Notwithstanding any law to the contrary, when conducting any investigation, the coroner or his authorized agents or employees may review any medical or dental records which he deems relevant to the investigation. Such records may be made available to him by the custodian thereof without the necessity of authorization, subpoena, or court order. No health care provider, custodian of records, or officer, employee, or agent thereof shall be held civilly or criminally liable for the disclosure of a patient's records, including any communication defined herein, when that disclosure is made pursuant to a request by the coroner or his authorized agents or employees.

G. Notwithstanding any provision of this Section or any other law to the contrary, an official of another state, whose functions are comparable to those of a coroner in this state and who is conducting an investigation in which Louisiana medical or dental records are material evidence, may request authorization for the release of those records from the coroner of the parish in which the custodian of the records is located. If the coroner determines that the requested records are relevant to the out-of-state investigation and the release of those records is appropriate, then the coroner shall authorize the custodian of those records to release those records to the requesting official. No health care provider, custodian of records, or officer, employee, or agent thereof shall be held civilly or criminally liable for the disclosure of a patient's records, including any communication defined herein, pursuant to a release authorized by the coroner.

H. Notwithstanding any provision of law to the contrary, when conducting any investigation, the coroner or his authorized agents or employees may obtain any blood, urine, or other biological fluids or samples which he deems relevant to the investigation, the records of which would otherwise be available to the coroner pursuant to Subsection F of this Section. Such blood, urine, or other biological fluids or samples may be made available to him by the custodian thereof without the necessity of authorization, subpoena, or court order. No health care provider, custodian of records, or officer, employee, or agent thereof shall be held civilly or criminally liable for the release of a deceased patient's blood, urine, or other biological fluids or samples, including any communication defined herein, when that disclosure is made pursuant to a request by the coroner or his authorized agents or employees. **Added by Acts 1968, No. 499, § 1. Amended by Acts 1977, No. 670, § 1; Acts 1978, No. 430, § 1; Acts 1985, No. 477, § 1; Acts 1986, No. 496, § 1, eff. July 2, 1986; Acts 1987, No. 892, § 3, eff. July 20, 1987; Acts 1990, No. 46, § 1, eff. June 26, 1990; Acts 1991, No. 473, § 1, eff. July 15, 1991; Acts 1992, No. 376, § 4, eff. Jan. 1, 1993; Acts 1992, No. 395, § 1; Acts 1993, No. 988, § 1; Acts 1999, No. 520, § 1; Acts 1999, No. 1309, § 1, eff. Jan. 1, 2000; Acts 2018, No. 144, § 1. See *Arsenaux v. Arsenaux*, Sup.1983, 428 So.2d 427 (Where wife's physical condition was not essential element of her suit for separation on ground of abandonment, testimony of her alleged abortion was properly excluded as violative of physician-patient privilege, notwithstanding that wife contended that she was free from fault) .**

- **Criminal Offenses**

- **La. R.S. 14.32.5, Feticide defined; exceptions:**

A. Feticide is the killing of an unborn child by the act, procurement, or culpable omission of a person other than the mother of the unborn child. The offense of feticide shall not include acts which cause the death of an unborn child if those acts were committed during any abortion to which the pregnant woman or her legal guardian has consented or which was performed in an emergency as defined in R.S. 40:1061.23. Nor shall the offense of feticide include acts which are committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment.

B. Criminal feticide is of three grades:

(1) First degree feticide.

(2) Second degree feticide.

(3) Third degree feticide. **Added by Acts 1989, No. 777, § 1.**

- **La. R.S. 14.32.9, Criminal abortion:**

A. Criminal abortion is an abortion performed, with or without the consent of the pregnant woman or her legal guardian, that results in the death of an unborn child when the abortion is performed by any individual who is not a physician licensed by the state of Louisiana.

B. As used in this Section:

(1) “Abortion” means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child.

(b) Remove a dead unborn child or induce delivery of the uterine contents in case of a positive diagnosis, certified in writing in the woman's medical record along with the results of an obstetric ultrasound test, that the pregnancy has ended or is in the unavoidable and untreatable process of ending due to spontaneous miscarriage, also known in medical terminology as spontaneous abortion, missed abortion, inevitable abortion, incomplete abortion, or septic abortion.

(c) Remove an ectopic pregnancy.

(2) “Physician” means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state.

(3) “Unborn child” means the unborn offspring of human beings from the moment of conception through pregnancy and until live birth.

C. Any person who knowingly performs an abortion in violation of this Section shall be imprisoned at hard labor for not less than one nor more than five years, fined not less than five thousand nor more than fifty thousand dollars, or both.

D. Statutory Construction. None of the following shall be construed to create the crime of criminal abortion:

(1) Any action taken when a physician or other licensed medical professional is acting in the course of administering lawful medical care and an unborn child dies.

(2) Any act taken or omission by a pregnant woman with regard to her own unborn child. **Added by Acts 2012, No. 646, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 14.32.9.1, Aggravated criminal abortion by dismemberment:**

A. Aggravated criminal abortion by dismemberment is the commission of a criminal abortion, as defined in R.S. 14:32.9(A), when the unborn child is intentionally dismembered, whether the act of dismemberment was in the course of or following the death of the unborn child.

B. As used in this Section:

(1) “Abortion” means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with

knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child.

(b) Remove a dead unborn child or induce delivery of the uterine contents in case of a positive diagnosis, certified in writing in the woman's medical record along with the results of an obstetric ultrasound test, that the pregnancy has ended or is in the unavoidable and untreatable process of ending due to spontaneous miscarriage, also known in medical terminology as spontaneous abortion, missed abortion, inevitable abortion, incomplete abortion, or septic abortion.

(c) Remove an ectopic pregnancy.

(2) "Dismembered" or "dismemberment" means the use of a clamp, forceps, curette, suction cannula, or any other surgical tool or instrument with the intent to disarticulate the head or limbs from the body of the unborn child during an abortion, including but not limited to the common abortion methods known as suction curettage and dilation and evacuation.

(3) "Physician" means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state.

(4) "Unborn child" means the unborn offspring of human beings from the moment of conception through pregnancy and until live birth.

C. Any person who knowingly performs an abortion in violation of this Section shall be imprisoned at hard labor for not less than one nor more than ten years, fined not less than ten thousand nor more than one hundred thousand dollars, or both.

D. Exceptions. None of the following shall be construed to create the crime of criminal abortion:

(1) Any action taken when a physician or other licensed medical professional is acting in the course of administering lawful medical care and an unborn child dies.

(2) Any act taken or omission by a pregnant woman with regard to her own unborn child. **Added by Acts 2012, No. 646, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 14.32.10, Partial birth abortion:**

A. As used in this Section, the following definitions shall apply unless otherwise indicated:

(1) "Partial birth abortion" means an abortion in which:

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

(b) The person performing the abortion performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

(2) “Physician” means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state. For the purposes of this Paragraph, “the practice of medicine” means the holding out of one's self to the public as being engaged in the business of, or the actual engagement in, the diagnosing, treating, curing, or relieving of any bodily or mental disease, condition, infirmity, deformity, defect, ailment, or injury in any human being, other than himself, whether by the use of any drug, instrument or force, whether physical or psychic, or of what other nature, or any other agency or means; or the examining, either gratuitously or for compensation, of any person or material from any person for such purpose whether such drug, instrument, force, or other agency or means is applied to or used by the patient or by another person; or the attending of a woman in childbirth without the aid of a licensed physician or midwife.

B. This Section does not apply to a partial birth abortion that is necessary to save the life of the 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.

C. Notwithstanding any provision of law to the contrary, a woman upon whom the partial birth abortion is performed shall not be subject to prosecution for a violation of this Section as a principal, accessory, or coconspirator thereto.

D. Any person who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

E. Any physician or person who knowingly performs a partial birth abortion and thereby kills a human fetus shall be imprisoned at hard labor for not less than one nor more than ten years, fined not less than ten thousand nor more than one hundred thousand dollars, or both.

F. (1) A physician charged with an offense under this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the physician. Upon motion of the physician, the court shall delay the beginning of the trial for not more than thirty days to permit such hearing to take place. **Added by Acts 2007, No. 473, § 1, eff. July 12, 2007. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 14.32.11, Partial birth abortion:**

A. Any physician who knowingly performs a partial birth abortion and thereby kills a human fetus shall be imprisoned at hard labor for not less than one nor more than ten years, fined not less than ten thousand nor more than one hundred thousand dollars, or both. This Section shall 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.

B. For purposes of this Section, the following words have the following meanings:

(1) “Partial birth abortion” means an abortion in which:

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

(b) Performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

(2) "Physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the state in which the doctor performs such activity, or any other individual legally authorized by this state to perform abortions, provided, however, that any individual who is not a physician or not otherwise legally authorized by this state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

C. (1) A defendant charged with an offense under this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. The report of the board shall be discoverable.

(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than thirty days to permit such a hearing to take place.

D. A woman upon whom a partial birth abortion is performed shall not be subject to prosecution for a violation of this Section as a principal, accessory, or coconspirator thereto. **Added by Acts 2007, No. 477, § 1, eff. July 12, 2007.**

o **La. R.S. 14:87, Abortion:**

A. (1) Abortion is the performance of any of the following acts, with the specific intent of terminating a pregnancy:

(a) Administering or prescribing any drug, potion, medicine or any other substance to a female; or

(b) Using any instrument or external force whatsoever on a female.

(2) This Section shall not apply to the female who has an abortion.

B. It shall not be unlawful for a physician to perform any of the acts described in Subsection A of this Section if performed under the following circumstances:

(1) The physician terminates the pregnancy in order to preserve the life or health of the unborn child or to remove a stillborn child.

(2) The physician terminates a pregnancy for the express purpose of saving the life, preventing the permanent impairment of a life sustaining organ or organs, or to prevent a substantial risk of death of the mother.

(3) The physician terminates a pregnancy by performing a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman.

C. As used in this Section, the following words and phrases are defined as follows:

(1) “Physician” means any person licensed to practice medicine in this state.

(2) “Unborn child” means the unborn offspring of human beings from the moment of fertilization until birth.

<Subsec. D effective upon contingency contained in subsec. F of this section. Subsec. D repealed upon contingency in subsec. G of this section.>

D. (1) As used in this Subsection:

(a) “Abortion” means the specific intent to kill an unborn child consistent with the provisions and exceptions of R.S. 40:1061.

(b) “Gestational age” means the age of an unborn child as calculated from the first day of the last menstrual period of the pregnant woman, as determined by the use of standard medical practices and techniques.

(2) It shall be unlawful for a physician to perform any of the acts described in Subsection A of this Section after fifteen weeks gestational age.

E. (1) Whoever commits the crime of abortion shall be imprisoned at hard labor for not less than one nor more than ten years and shall be fined not less than ten thousand dollars nor more than one hundred thousand dollars.

(2) This penalty shall not apply to the female who has an abortion.

F. The provisions of Subsection D of this Section shall become effective upon final decision of the United States Court of Appeals for the Fifth Circuit upholding the Act that originated as House Bill 1510 of the 2018 Regular Session of the Mississippi Legislature, which decision would thereby provide the authority for a state within the jurisdiction of that court of appeals to restrict abortion past fifteen weeks gestational age.

G. The provisions of Subsection D of this Section are hereby repealed, in favor of the provisions of R.S. 40:1061, immediately upon and to the extent that the United States Supreme Court upholds the authority of the states to prohibit elective abortions on demand or by the adoption of an amendment to the Constitution of the United States of America that would restore to the state of Louisiana the authority to prohibit elective abortions. **Amended by Acts 1964, No. 167; Acts 1991, No. 26, § 2; Acts 2006, No. 467, § 2; Acts 2018, No. 468, § 1, eff. May 23, 2018. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 14:87.1, Killing child during delivery:**

A. Killing a child during delivery is the intentional destruction, during parturition of the mother, of the vitality or life of a child in a state of being born and before actual birth, which child would otherwise have been born alive; provided, however, that the crime of killing a child during delivery shall not be construed to include any case in which the death of a child results from the use by a physician of a procedure during delivery which is necessary to save the life of the child or of the mother and is used for the express purpose of and with the specific intent of saving the life of the child or of the mother.

B. Whoever commits the crime of killing a child during delivery shall be imprisoned at hard labor in the penitentiary for life. **Added by Acts 1973, No. 74, § 1. Amended by Acts 2014, No. 791, § 7.**

○ **La. R.S. 14:87.2, Human experimentation:**

A. Human experimentation is the use of any live born human being, without consent of that live born human being, as hereinafter defined, for any scientific or laboratory research or any other kind of experimentation or study except to protect or preserve the life and health of the live born human being, or the conduct, on a human embryo or fetus in utero, of any experimentation or study except to preserve the life or to improve the health of the human embryo or fetus.

B. A human being is live born, or there is a live birth, whenever there is the complete expulsion or extraction from its mother of a human embryo or fetus, irrespective of the duration of pregnancy, which after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

C. Whoever commits the crime of human experimentation shall be imprisoned at hard labor for not less than five nor more than twenty years, or fined not more than ten thousand dollars, or both. **Added by Acts 1973, No. 77, § 1. Amended by Acts 2014, No. 791, § 7.**

- **La. R.S. 14:87.3, Prohibited cutting, resection, excision, harvesting, removal, sale, receipt, research, commerce, or transport of fetal organs, tissues, and body parts; whistleblower account:**

A. No person may knowingly and for money, including but not limited to fees for storage or handling, any payments for reimbursement, repayments, or compensation, or any other consideration:

- (1) Buy, sell, receive, or otherwise transfer or acquire a fetal organ or body part resulting from an induced abortion.
- (2) Transport with the intent to sell or otherwise transfer a fetal organ or body part resulting from an induced abortion.
- (3) Transport a fetal organ or body part resulting from an induced abortion that has been acquired by any person via any transaction prohibited by this Section.

B. For purposes of this Section:

- (1) “Fetal body part” means a cell, tissue, organ, or other part of an unborn child who is aborted by an induced abortion.
- (2) “Induced abortion” means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if undertaken with the intent to do any of the following:
 - (a) Save the life or preserve the health of the unborn child.
 - (b) Remove an unborn child who died of natural causes.
 - (c) Remove an ectopic pregnancy.
- (3) “Miscarriage or stillbirth” means the spontaneous or accidental death of an unborn child, whether the death occurred in the womb or in the process of birth. Death of the unborn child is indicated by the lack of signs of breathing or any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(4) “Receive” includes acquiring any fetal organ or fetal body part, or the rights to any fetal organ or fetal body part, through an act of donation or sale via any transaction prohibited by this Section.

(5) “Unborn child” means any individual of the human species from fertilization and implantation until birth.

C. After an induced abortion has been completed, no person shall intentionally cut, resection, excise, harvest, or remove any body part, organ, or tissue of the aborted unborn child for any purpose prohibited by this Section, or for sale, commerce, transport, research, or profit.

D. (1) Nothing in this Section shall be construed to prohibit any transaction related to the final disposition of the bodily remains of the aborted human being in accordance with state law, or to prohibit any conduct permitted under state law that is undertaken with any of the following purposes:

(a) The purpose of providing knowledge solely to the mother, such as for pathological or diagnostic purposes.

(b) The purpose of providing knowledge solely to law enforcement officers, such as the case of an autopsy following a feticide.

(2) Nothing in this Section shall be construed to prohibit the donation of bodily remains from a human embryo or fetus whose death was caused by a natural miscarriage or stillbirth, in accordance with the guidelines and prohibitions provided in applicable state and federal law.

(3) Nothing in this Section shall be construed to affect existing federal or state law regarding the practice of abortion, or to create or recognize a right to abortion.

E. Any person who violates this Section shall be sentenced to a term of imprisonment at hard labor for not less than ten nor more than fifty years, at least ten years of which shall be served without benefit of probation or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars.

F. (1) The Fetal Organ Whistleblower Account, hereinafter referred to as “the account”, is hereby created in the state treasury.

(2) The account shall be composed of any monies derived from appropriations by the legislature and any gift, grant, devise, donation, or bequest of monies or properties of any nature or description.

(3) An award of one thousand dollars shall be paid out of the account to any person who provides evidence that results in the arrest and indictment of any other person for a violation of this Section. Eligibility for an award pursuant to this Subsection shall be determined by the district attorney or the attorney general, as appropriate.

(4) All monies deposited in the account shall be used solely to pay awards to persons as provided by Paragraph (3) of this Subsection and shall be paid by the state treasurer upon written order signed by the district attorney or the attorney general, as appropriate, except that monies deposited in the account may be used to pay reasonable costs of administering the account.

(5) The name and other identifying information of any person who is paid an award pursuant to this Subsection shall remain confidential. **Added by Acts 2016, No. 196, § 1. Amended by Acts 2017, No. 243, § 1, eff. June 14, 2017; Acts 2018, No. 645, § 1, eff. June 1, 2018. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 14:87.4, Abortion Advertising:**

A. Abortion advertising is the placing or carrying of any advertisement of abortion services by the publicizing of the availability of abortion services.

B. Whoever commits the crime of abortion advertising shall be imprisoned, with or without hard labor, for not more than one year or fined not more than five thousand dollars, or both. **Added by Acts 1973, No. 76, § 1. Amended by Acts 2014, No. 791, § 7.**

○ **La. R.S. 14:87.5, Intentional failure to sustain life and health of aborted viable infant:**

The intentional failure to sustain the life and health of an aborted viable infant shall be a crime. The intentional failure to sustain the life and health of an aborted viable infant is the intentional failure, by any physician or person performing or inducing an abortion, to exercise that degree of professional care and diligence, and to perform such measures as constitute good medical practice, necessary to sustain the life and health of an aborted viable infant, when the death of the infant results. For purposes of this Section, “viable” means that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supporting systems. Any person who commits the crime of intentional failure to sustain the life and health of an aborted viable infant shall be imprisoned at hard labor for not more than twenty-one years. **Added by Acts 1977, No. 406, § 1.**

○ **La. R.S. 14:87.6, Coerced Abortion:**

A. Coerced abortion is committed when any person intentionally engages in the use or threatened use of physical force against the person of a pregnant woman, with the intent to compel the pregnant woman to undergo an abortion against her will, whether or not the abortion procedure has been attempted or completed.

B. Whoever commits the crime of coerced abortion shall be fined not more than five thousand dollars, or imprisoned for not more than five years, or both. **Added by Acts 2018, No. 674, § 1, eff. June 1, 2018.**

○ **La. R.S. 14:88, Distribution of abortifacients:**

A. Distribution of abortifacients is the intentional:

(1) Distribution or advertisement for distribution of any drug, potion, instrument, or article for the purpose of procuring an abortion; or

(2) Publication of any advertisement or account of any secret drug or nostrum purporting to be exclusively for the use of females, for preventing conception or producing abortion or miscarriage.

B. Whoever commits the crime of distribution of abortifacients shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. **Amended by Acts 2014, No. 791, § 7.**

○ **La. R.S. 14:286, Sale of minor children and other prohibited activities; penalties:**

A. (1) It shall be unlawful for any person to sell or surrender a minor child to another person for money or anything of value, or to receive a minor child for such payment of money or anything of value, except as specifically provided in Children's Code Articles 1200 and 1223.

(2) It shall be unlawful for any person to pay or receive anything of value for the procurement, attempted procurement, or assistance in the procurement of a party to an act of voluntary surrender of a child for adoption except as specifically provided in Children's Code Articles 1200 and 1223.

(3) It shall be unlawful for any petitioner, person acting on a petitioner's behalf, agency or attorney or other intermediary to make or agree to make any disbursements in connection with the adoptive placement, surrender, or adoption of a child except as specifically provided in Children's Code Articles 1200 and 1223.

(4) It shall be unlawful to make a false statement in any adoption disclosure affidavit with the intent to deceive and with knowledge that the statement is false.

B. (1) It shall be unlawful for any person to enter into, induce, arrange, procure, knowingly advertise for, or otherwise assist in a gestational carrier contract, whether written or unwritten, that is not in compliance with the requirements provided for in R.S. 9:2718 et seq.

(2) No person who is a party to, or acting on behalf of the parties to a gestational carrier contract shall make or agree to make any disbursements in connection with the gestational carrier contract other than the following:

(a) Payment of actual medical expenses, including hospital, testing, nursing, midwifery, pharmaceutical, travel, or other similar expenses, incurred by the gestational carrier for prenatal care and those medical and hospital expenses incurred incident to birth.

(b) Payment of actual expenses incurred for mental health counseling services provided to the gestational carrier prior to the birth and up to six months after birth.

(c) Payment of actual lost wages of the gestational carrier, not covered under a disability insurance policy, when bed rest has been prescribed for the gestational carrier for some maternal or fetal complication of pregnancy and the gestational carrier, who is employed, is unable to work during the prescribed period of bed rest.

(d) Payment of actual travel costs related to the pregnancy and delivery, court costs, and attorney fees incurred by the gestational carrier.

(3) It shall be unlawful for any person to enter into, induce, arrange, procure, knowingly advertise for, or otherwise assist in an agreement for genetic gestational carrier, with or without compensation, whether written or unwritten. For purposes of this Section, "genetic gestational carrier" and "compensation" shall have the same meaning as defined in R.S. 9:2718.1.

(4) It shall be unlawful for any person to give or offer payment of money, objects, services, or anything of monetary value to induce any gestational carrier, whether or not she is party to an enforceable or unenforceable agreement for genetic gestational carrier or gestational carrier contract, to consent to an abortion as defined in R.S. 40:1061.9.

C. A person convicted of violating any of the provisions of this Section shall be punished by a fine not to exceed fifty thousand dollars or imprisonment with or without hard labor for not more than ten years, or both. **Added by Acts 1976, No. 253, § 1. Amended by Acts 1984, No. 209, § 1; Acts 1986, No. 262, § 1; Acts 1987, No. 556, § 1; Acts 1999, No. 1062, § 1, eff. Jan. 1, 2000; Acts 2016, No. 494, § 3; Acts 2018, No. 562, § 2.**

- **Criminal Procedure (Human Trafficking)**

○ **La. R.S. 15:541.1, Posting of the National Human Trafficking Resource Center hotline; content; languages; notice; civil penalty:**

A. All of the following establishments shall be required to post information regarding the National Human Trafficking Resource Center hotline:

(1) Every massage parlor, spa, or hotel that has been found to be a public nuisance for prostitution as set forth in R.S. 13:4711.

(2) Every strip club or other sexually-oriented business as set forth in R.S. 37:3558(C).

(3)(a) Every full-service fuel facility adjacent to an interstate highway.

(b) Every highway rest stop.

(4) Every outpatient abortion facility as defined by R.S. 40:2175.3.

(5)(a) Every hotel as defined in this Paragraph. Each hotel shall post the information in the same location where other employee notices required by state or federal law are posted.

(b) For purposes of this Paragraph, “hotel” shall mean and include any establishment, both public and private, engaged in the business of furnishing or providing rooms and overnight camping facilities intended or designed for dwelling, lodging, or sleeping purposes to transient guests and does not encompass any hospital, convalescent or nursing home or sanitarium, or any hotel-like facility operated by or in connection with a hospital or medical clinic providing rooms exclusively for patients and their families.

(c) For purposes of this Paragraph, “hotel” shall not include bed and breakfasts or camp and retreat facilities owned and operated by nonprofit organizations exempt from federal income tax under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3) of the Internal Revenue Code provided that the net revenue derived from the organization's property is devoted wholly to the nonprofit organization's purposes.

(d) For purposes of this Paragraph, “bed and breakfast” shall mean a lodging facility having no more than ten guest rooms where transient guests are fed and lodged for pay.

(6) Every airport as defined in R.S. 2:1 and by the Federal Aviation Administration, including private-use airports. Each airport shall post the information in the same location where other employee notices required by state or federal law are posted.

(7) Every bus terminal or station or railroad passenger station, including terminals or stations that are privately owned or owned by the state or a local governing authority. Each bus station or terminal or railroad passenger station shall post the information in the same location where other employee notices required by state or federal law are posted.

B. (1)(a) Such posting shall be no smaller than eight and one-half inches by eleven inches and shall contain the following wording in bold typed print of not less than fourteen-point font:

“If you or someone you know is being forced to engage in any activity and cannot leave, whether it is commercial sex, housework, farm work, or any other activity, call the National Human Trafficking Resource Center hotline at 1-888-373-7888 or text “Help” to 233733 (Be Free) in order to access help and services.

(b) Such posting shall also comply with any other requirements established by regulations promulgated by the commissioner of the office of alcohol and tobacco control in accordance with the Administrative Procedure Act.

(2) The language in the posting shall be printed in English, Louisiana French, Spanish, and any other languages that the commissioner of alcohol and tobacco control shall require.

C. The following departments of the state shall provide each establishment described in Subsection A of this Section over which that department exercises any regulatory control or authority with the notice required by this Section. The departments shall post on their websites a sample of the posting described in Subsection B of this Section which shall be accessible for download. The departments are as follows:

(1) Department of Revenue and the office of alcohol and tobacco control.

(2) Department of Transportation and Development.

(3) The Louisiana Department of Health.

D. (1) In addition to the posting required in Subsection B of this Section, beginning on January 1, 2020, each establishment listed in Subsection A of this Section shall affix a flyer to the inside of the door to each bathroom stall at the establishment.

(2) The flyer shall be designed by the Greater New Orleans Human Trafficking Task Force, with the approval of the commissioner of the office of alcohol and tobacco control, and shall be no larger than eight and one-half inches by eleven inches.

(3) No later than December 1, 2019, the Greater New Orleans Human Trafficking Task Force shall transfer the flyer in an electronic format to the commissioner for posting on the website for the office of alcohol and tobacco.

E. A civil penalty in accordance with R.S. 26:96(A) may be assessed for each violation of this Section. The departments listed in Subsection C of this Section or any law enforcement agency with jurisdiction are charged with the enforcement of this Section. **Added by Acts 2012, No. 154, § 1. Amended by Acts 2013, No. 430, § 1; Acts 2014, No. 565, § 1; Acts 2016, No. 298, § 1; Acts 2018, No. 361, § 1, eff. May 20, 2018; Acts 2019, No. 280, § 2.**

- **Public Education**

- **La. R.S. 17:281, Instruction in sex education:**

A. (1)(a) Any public elementary or secondary school in Louisiana may, but is not required to, offer instruction in subject matter designated as “sex education”, provided such instruction and subject matter is integrated into an existing course of study such as biology, science, physical hygiene, or physical education. When offered, such instruction shall be available also to nongraded special education students at age-appropriate levels. Except as otherwise required to comply with the provisions of Subparagraph (b) of this Paragraph, whether or not instruction in such matter is offered and at what grade level it is to be offered shall be at the option of each public local or parish school board, provided that no such instruction shall be offered in kindergarten or in grades one through six. Such instruction may be offered at times other than during the regular school day, at such times to be determined by each school board. All instruction in “sex education” shall be identified and designated “sex education”.

(b) Effective beginning with the spring semester of the 1992-1993 school year and thereafter, whenever instruction in sex education is offered by any school, such instruction shall be available also to any student in such school, regardless of the student's grade level, who is pregnant or who is a mother or father.

(2) It is the intent of the legislature that, for the purposes of this Section, "sex education" shall mean the dissemination of factual biological or pathological information that is related to the human reproduction system and may include the study of sexually transmitted disease, pregnancy, childbirth, puberty, menstruation, and menopause, as well as the dissemination of factual information about parental responsibilities under the child support laws of the state. It is the intent of the legislature that "sex education" shall not include religious beliefs, practices in human sexuality, nor the subjective moral and ethical judgments of the instructor or other persons. Students shall not be tested, quizzed, or surveyed about their personal or family beliefs or practices in sex, morality, or religion.

(3) No contraceptive or abortifacient drug, device, or other similar product shall be distributed at any public school. No sex education course offered in the public schools of the state shall utilize any sexually explicit materials depicting male or female homosexual activity.

(4) The major emphasis of any sex education instruction offered in the public schools of this state shall be to encourage sexual abstinence between unmarried persons and any such instruction shall:

(a) Emphasize abstinence from sexual activity outside of marriage as the expected standard for all school-age children.

(b) Emphasize that abstinence from sexual activity is a way to avoid unwanted pregnancy, sexually transmitted diseases, including acquired immune deficiency syndrome, and other associated health problems.

(c) Emphasize that each student has the power to control personal behavior and to encourage students to base action on reasoning, self-esteem, and respect for others.

B. Notwithstanding any other provisions of law, the qualifications for all teachers or instructors in "sex education" shall be established and the selection of all such teachers or instructors shall be made solely and exclusively by the public local or parish school board.

C. All books, films, and other materials to be used in instruction in "sex education" shall be submitted to and approved by the local or parish school board and by a parental review committee, whose membership shall be determined by such board.

D. Any child may be excused from receiving instruction in "sex education" at the option and discretion of his parent or guardian. The local or parish school board shall provide procedures for the administration of this Subsection.

E. In the event of any violation of the provisions of this Section, the public local or parish school board in charge of administering and supervising the school where said violation has occurred, after proper investigation and hearing, shall correct the violation and take appropriate action to punish the offending party or parties responsible for said violation.

F. No program offering sex education instruction shall in any way counsel or advocate abortion.

G. A city or parish school system may accept federal funds for programs offering sex education only when the use of such funds does not violate the provisions of this Section and only upon approval by the local

school board. The acceptance and use of federal funds for sex education shall in no way be construed to permit the use of any federally supplied materials that violate Louisiana law regulating sex education.

H. Notwithstanding any other provision of law, the Orleans Parish School Board may offer instruction in sex education at the third grade level or higher. **Acts 1979, No. 480, § 1. Amended by Acts 1982, No. 581, § 1, eff. Aug. 15, 1982; Acts 1987, No. 904, § 1; Acts 1988, No. 917, § 1, eff. July 26, 1988; Acts 1990, No. 1061, § 1, eff. July 27, 1990; Acts 1992, No. 842, § 1; Acts 1992, No. 1079, § 1, eff. July 14, 1992; Acts 1993, No. 921, § 1, eff. June 25, 1993.**

- **Scientific Research**

- **La. R.S. 17:2353, Persons who may receive anatomical gifts; purpose of anatomical gifts:**

A. An anatomical gift may be made to any of the following:

(1) Any hospital, accredited medical school, dental school, college, university, organ procurement organization, or other appropriate person, for research or education.

(2) Subject to the provisions of Subsection B of this Section, a person designated by a donor.

(3) An eye or tissue bank.

B. If an anatomical gift to a person in accordance with this Section cannot be transplanted into the recipient, the part passes in accordance with the provisions of Subsection G of this Section in the absence of an express, contrary indication by the donor.

C. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person in accordance with Subsection A of this Section but identifies the purpose for which an anatomical gift may be used, the following shall apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(4) If the part is an organ, eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

D. For the purposes of Subsection C of this Section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

E. If an anatomical gift of one or more specific parts is made but does not name a person in accordance with Subsection A of this Section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with the provisions of Subsection G of this Section.

F. If a document of gift specifies a general intent to make an anatomical gift by words such as “donor”, “organ donor”, or “body donor”, or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with the provisions of Subsection G of this Section.

G. For purposes of Subsections B, E, and F of this Section the following shall apply:

- (1) If the part is an eye, the gift passes to the appropriate eye bank.
- (2) If the part is tissue, the gift passes to the appropriate tissue bank.
- (3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

H. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift made in accordance with Paragraph (A)(2) of this Section, passes to the organ procurement organization as custodian of the organ.

I. If an anatomical gift does not pass pursuant to the provisions of Subsections A through H of this Section, or the body or part of the decedent is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person obligated to properly dispose of the body or part.

J. A person may not accept an anatomical gift if he knows the gift was not effectively made pursuant to the provisions of R.S. 17:2354 or 2356 or if the person knows that the decedent made a refusal in accordance with the provisions of R.S. 17:2354.1 that has not been revoked. For purposes of this Subsection, if a person knows that an anatomical gift was made on a document of gift, the person is presumed to know of any amendment, revocation, or refusal made to the same document of gift.

K. The Louisiana-designated organ procurement organization may transfer a vascular organ to an out-of-state organ procurement organization or suitable out-of-state recipient for transplantation only if a suitable recipient in the state of Louisiana cannot be found in a reasonable amount of time.

L. Except as otherwise provided in Paragraph (A)(2) of this Section, nothing in this Part affects the allocation of organs for transplantation or therapy.

M. Potential anatomical gift recipients shall be entitled to the protections against discrimination based on disability provided in R.S. 40:1170.1 et seq. **Acts 2010, No. 937, § 2, eff. July 1, 2010. Amended by Acts 2019, No. 57, § 1, eff. May 30, 2019. See *Margaret S. v. Treen*, E.D.La.1984, 597 F.Supp. 636 (Provision of R.S. 40:1299.35.13 prohibiting experimentation on aborted fetuses violates equal protection clause by infringing on rights of physicians to participate in fetal research without bearing rational relationship to achievement of legitimate state interest).**

- **Insurance**

- **La. R.S. 22:931, Life insurance policies; standard provisions:**

A. No policy of life insurance, except as stated in Subsection C of this Section, shall be delivered or issued for delivery in this state unless it contains in substance the following provision or provisions which, in the opinion of the commissioner of insurance, are more favorable to the policyholder:

- (1) Grace period. A provision that the insured is entitled to a grace period either of thirty days or, at the option of the insurer, of one month within which the payment of any premium after the first may be made,

during which period of grace the policy shall continue in full force, but if a claim arises under the policy during the period of grace before the overdue premiums or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, together with interest, not in excess of six percent per annum, on any overdue premium, may be deducted from any amount payable under the policy in settlement.

(2) Incontestability. A provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for a period of two years from its date of issue, except for nonpayment of premiums and except for the conditions of the policy relating to military or naval service, or services auxiliary thereto; and at the option of the insurer, provisions relating to benefits in the event of disability, as defined in the policy, and provisions which grant additional insurance specifically against death by accident or accidental means, may also be excepted.

(3) Entire contract. A provision that the policy shall constitute the entire contract between the parties, or if a copy of the application is endorsed upon or attached to the policy when issued, a provision that the policy and the application therefor shall constitute the entire contract between the parties.

(4) Misstatement of age. A provision that if the age of the person insured or the age of any other person whose age is considered in determining the premiums has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age, or ages.

(5) Participating policy. If the policy is a participating policy, a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy.

(6) Nonforfeiture options. A provision in accordance with R.S. 22:934 through 936 specifying the options, if any, available under the policy in the event of default in a premium payment; however, the mortality table and rate of interest used as a basis for the calculation of the options shall be designated by the policy.

(7) Policy loan. A provision that when the policy has a loan value, the insurer issuing it shall advance at the option of the person entitled thereto, a sum equal to or less than the cash surrender value of the policy at the end of the current policy year computed in accordance with the provisions of this Subpart, at any time while the policy is in force, on proper assignment or pledge of the policy or with the policy as security at a specified rate of interest not exceeding eight percent per annum on policy contracts in effect prior to September 10, 1982, or in accordance with the provisions of R.S. 22:932 on policy contracts in effect on or after September 10, 1982. The interest shall be compounded annually payable in advance. The policy shall also contain a provision that the insurer may deduct from the loan value, in addition to the indebtedness deducted in determining such value, any unpaid balance of the premium for the current policy year. The policy shall also contain a provision that, if the loan is made or repaid on a date other than the anniversary of the policy, the insurer may collect interest for the portion of the current policy year on a pro rata basis at the rate of interest specified in the policy. The policy may further provide that interest on the loan may be compounded annually and, if not paid when due, it shall be added to the existing loan and shall bear interest at the same rate. The policy may further provide that, if and when the total indebtedness on the policy, including interest due or accrued, equals, or exceeds the amount of the loan value thereof at such time, and if at least thirty days prior notice has been given in the manner provided in R.S. 22:905, then the policy shall terminate and become void. The insurer may provide in the policy that the making of any such loan, except when made to pay premiums, may be deferred for a period not to exceed six months after the application therefor has been received by it. The provision shall not apply to term policies of twenty years or less.

(8) Nonforfeiture benefits. A provision specifying the basis used in determining nonforfeiture benefits. In case the proceeds of the policy are payable in installments or as an annuity, a table showing the amounts of the installments or annuity payments.

(9) Reinstatement. A provision that the policy will be reinstated at any time within three years from the date of default, unless the cash surrender value has been exhausted by payment or unless the period of extended insurance has expired, upon the application of the insured and the production of evidence of insurability, including good health, satisfactory to the insurer and the payment of all overdue premiums and the payment or reinstatement of any other indebtedness to the insurer upon such policy with the interest at a rate not exceeding six percent per annum compounded annually.

(10)(a) Free look period. A provision, prominently printed on the life insurance policy or attached thereto, notifying the insured that ten days are allowed from the date of his receipt of the policy, to examine its provisions. If the policy is not as explained by the company, its representative, or as understood by the insured, the policy may be surrendered within the ten-day period, and any premium advanced by the insured, upon the surrender, shall be immediately returned to him. The insurer shall have the option of printing, attaching, or endorsing the notice required in this Subparagraph or a notice of equal prominence which, in the opinion of the commissioner of insurance, is not less favorable to the policyholder. This Subparagraph shall not apply to travel insurance policies which by their terms are not renewable.

(b) If the policy is delivered by a producer, a receipt shall be signed by the policyholder acknowledging delivery of the policy. The receipt shall contain the policy number and the date the delivery was completed. All delivery receipts required by this Subparagraph shall be retained by the insurer or its producer for two consecutive years. The requirement of this Subparagraph shall not apply to any insurer that markets policies under a home service marketing distribution method and that issues a majority of its policies on a weekly or monthly basis.

(c) If the policy is delivered by mail, it shall be sent by certified mail, return receipt requested, or a certificate of mailing shall be obtained showing the date the policy was mailed to the policyowner. For policy issuances verified by a certificate of mailing, it is presumed that the policy is received by the policyowner ten days from the date of mailing. The receipts and the certificate of mailing described in this Section shall be retained by the insurer or producer for two years.

(11) Lump sum payment. A provision which allows election by the beneficiary of an option to receive benefits in the form of a lump sum payment. This Paragraph shall not apply to policies of industrial life insurance or service insurance.

(12) Conversion notice. (a) A provision requiring that the insurer notify the policyholder of his option to convert his policy from term life insurance to permanent life insurance at least thirty-one days prior to the expiration of the conversion option, if such an option is applicable. Such notice shall be a separate notice or contained in either a premium notice or an annual premium summary.

(b) Evidence of a business procedure or practice to provide the required notice by mailing the notice to the policyholder at the address shown in the policy shall be sufficient to prove that the required notice was provided.

(c) This Paragraph shall not apply to a policyholder who is covered under a child term rider.

B. Exclusions and restrictions. No policy of life insurance delivered or issued for delivery in this state shall contain any provision which excludes or restricts liability for death caused in a certain specified manner or

occurring while the insured has a specified status, except the following provisions, or provisions which in the opinion of the commissioner of insurance are substantially the same or more favorable to policyholders:

(1) Provisions excluding or restricting coverage in the event of death occurring:

(a) As a result of war declared or undeclared under conditions specified in the policy.

(b) While either in:

(i) The military, naval, or air forces of any country at war, declared or undeclared.

(ii) Any ambulance, medical, hospital, or civilian noncombatant unit serving with such forces, either while serving with or within six months after termination of service in such forces or units.

(c) As a result of self-destruction while sane or insane within two years from the date of issue of the policy.

(d) As a result of aviation under conditions specified in the policy.

(e) Within two years from the date of issue of the policy as a result of a specified hazardous occupation or occupations, or while the insured is residing in a specified foreign country or countries.

(2) In the event of death as to which there is an exclusion or restriction pursuant to Subparagraph (1)(a), (c), (d), or (e) of this Subsection, the insurer shall pay an amount not less than the reserve on the face amount of the policy, together with the reserve for any paid-up additions thereto, and any dividends standing to the credit of the policy, less any indebtedness to insurer on the policy, including interest due or accrued.

(3) In the event of death as to which there is an exclusion or restriction pursuant to Subparagraph (1)(b) of this Subsection, the insurer shall pay the greater of:

(i) The amount specified in Paragraph (2) of this Subsection.

(ii) The amount of the gross premiums charged on the policy less dividends paid in cash or used in the payment of premiums thereon and less any indebtedness to the insurer on the policy, including interest due or accrued.

(4) A clause in any policy of life insurance, issued under this Code, providing that such policy shall be incontestable after a specified period shall preclude only a contest of the validity of the policy, and shall not preclude the assertion at any time of defenses based upon provisions which exclude or restrict coverage as provided in this Subsection, whether or not such restrictions or exclusions are excepted in such clause; nor upon a provision regarding misstatement of age as provided in Paragraph (4) of Subsection A of this Section, whether or not such provision is excepted in such clause.

(5) Nothing contained in this Subsection shall apply to any provision in a life insurance policy for additional benefits in the event of death by accident or accidental means.

C. Any of the provisions or portions thereof of this Section not applicable to single premium or nonparticipating or term policies shall to that extent not be incorporated therein. The provisions of this Section shall not apply to policies of industrial life insurance, service insurance, or to policies of group life insurance. **Renumbered from R.S. 22:170 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Acts 1958, No. 125. Amended by Acts 1960, No. 169, § 1; Acts 1966, No. 169, § 1; Acts 1975, No. 261, § 3; Acts 1981, No. 661, § 1; Acts 1982, No. 465, § 1; Acts 1993, No. 141, § 1; Acts 2003, No. 125, § 1. Amended by Acts 2011, No. 94, § 1, eff. Jan. 1, 2012; Acts 2012, No. 271, § 1; Acts 2014, No. 47, § 1. See *Payne v. Louisiana Indus. Life Ins. Co.*, 1948, 33 So.2d 444 (Fact that insured died as a result of a criminal**

abortion, to which she had submitted voluntarily, did not excuse insurer from liability to beneficiary, who was a third person, under life policy, on ground that public policy precludes an insurer from insuring against death from abortion).

- **La. R.S. 22:1014, Limitations on health insurance coverage of elective abortions in the state exchange prohibited:**

A. The legislature finds and declares all of the following:

(1) Federal funding for insurance plans that cover abortions is prohibited by the Hyde Amendment and the Federal Employee Health Benefits Program (FEHBP).

(2) Congress enacted and the president signed into law the Patient Protection and Affordable Care Act of 2010, P.L. 111-148.

(3) In the Patient Protection and Affordable Care Act of 2010, P.L. 111-148, states are explicitly permitted to pass laws prohibiting qualified health plans offered through an exchange in their state from offering abortion coverage.

(4) It is the longstanding policy of this state that the unborn child is a human being from the time of conception and is, therefore, a legal person for purposes of the unborn child's right to life and is entitled to the right to life from conception under the laws and constitution of this state. Further, the legislature finds and declares that the longstanding policy of this state is to protect the right to life of the unborn child from conception by prohibiting abortion impermissible only because of the decisions of the United States Supreme Court and that, therefore, if those decisions of the United States Supreme Court are ever reversed or modified or the United States Constitution is amended to allow protection of the unborn then the former policy of this state to prohibit abortions shall be enforced.

B. No health care plan required to be established in this state through an exchange pursuant to federal health reform legislation enacted by the 111th Congress shall offer coverage for abortion services. As used in this Section, "abortion" shall have the same meaning as defined in R.S. 40:1061.9(1). **Added by Acts 2010, No. 941, § 1, eff. July 2, 2010.**

- **Louisiana Pregnancy Discrimination Act**

- **La. R.S. 23:341, Application:**

A. The provisions of this Part shall apply only to an employer who employs more than twenty-five employees within this state for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.

B. (1) For purposes of this Part, pregnancy, childbirth, and related medical conditions are treated as any other temporary disability, except pregnancy-related conditions need not meet any definition of disability for the purposes of R.S. 23:342.

(2) Nothing in this Part shall be construed to require an employer to provide his employees with health insurance coverage for the medical costs of pregnancy, childbirth, or related medical conditions. The inclusion in any such health insurance coverage of any provisions or coverage relating to medical costs of pregnancy, childbirth, or related medical conditions shall not be construed to require the inclusion of any other provisions or coverage, nor shall coverage of any related medical conditions be required by virtue of coverage of any medical costs of pregnancy, childbirth, or other related medical conditions.

C. The provisions of this Chapter shall apply to the awarding of a contract or subcontract for providing goods or services.

D. Nothing in this Part shall impair any obligation an employer may have under any local ordinance or state or federal law or regulation. **Added by Acts 1997, No. 1409, § 1, eff. Aug. 1, 1997. Amended by Acts 1999, No. 1366, § 1; Acts 2021, No. 393, § 1. See *Ducharme v. Crescent City Deja Vu, L.L.C.*, E.D.La.2019, 406 F.Supp.3d 548 (The Louisiana Pregnancy Discrimination Act (LPDA) provision that prohibited an employer from discriminating on the basis of “pregnancy, childbirth, or related medical condition” included abortion as a protected characteristic; an abortion was encompassed in the language “pregnancy, childbirth, or related medical condition.”)**

- **Public Funding for Abortion Providers**

- **La. R.S. 36:21, Public funding for abortion providers; prohibition** (<Text effective until 30 days after contingency in § 6 of Acts 2018, No. 498. For text of section as amended by § 1 of Acts 2018, No. 498 and effective 30 days after contingency in § 6 of Acts 2018, No. 498, see R.S. 49:200.51. For contingency of § 6, see italic notes, post. >):

A. For purposes of this Chapter, the term “abortion” shall have the meaning ascribed in R.S. 40:1061.9.

B. (1) No institution, board, commission, department, agency, official, or employee of the state, or of any local political subdivision thereof, shall contract with, award any grant to, or otherwise bestow any funding upon, an entity or organization that performs abortions, or that contracts with an entity or organization that performs abortions, in this state. The prohibition provided in this Section shall apply to state funds, federal funds, and any other funds that may be used for purposes of contracting for services, providing reimbursements, or grant issuance.

(2) The prohibition provided in this Section shall not be construed to restrict funding to an entity that may perform the following types of abortions, exclusively:

(a) An abortion which is medically necessary to prevent the death of the mother.

(b) An abortion in a case when the mother is a victim of rape or incest.

(c) An abortion performed when the pregnancy is diagnosed as medically futile. For purposes of this Subparagraph, “medically futile” means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth. This diagnosis shall be a medical judgment certified in the pregnant woman's medical record by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved. **Added by Acts 2016, No. 304, § 1, eff. June 2, 2016.**

- **Medical Practice Act**

- **La. R.S. 37:1285, Causes for nonissuance; suspension; revocation; or the imposition of restrictions; fines; reinstatement; publication of action; stays:**

A. The board may refuse to issue, or may suspend or revoke any license or permit, or impose probationary or other restrictions on any license or permit issued pursuant to this Part for the following causes:

- (1) Conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana or of the United States.
- (2) Conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of medicine.
- (3) Fraud, deceit, or perjury in obtaining any diploma, license, or permit pertaining to this Part.
- (4) Providing false testimony before the board or providing false sworn information to the board.
- (5) Habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence.
- (6) Prescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner.
- (7) Solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading.
- (8)(a) Performing, or assisting in the performance of, or procuring or abetting in procuring an abortion or termination of pregnancy during the third trimester of pregnancy or after viability of the fetus, unless the physician determines that such abortion or termination of pregnancy is necessary, in his best medical judgment, in order to save the life or health of the pregnant woman and/or of the fetus (unborn child):
 - (b) Performing or assisting in the performance of, or procuring, or abetting in the procuring of an abortion or termination of pregnancy after the first trimester:
 - (i) When the abortion or termination of pregnancy is contrary to or unnecessary in the best medical judgment of that physician; or,
 - (ii) When the operating physician lacks the training and experience to perform the procedure; or,
 - (iii) When the procedure is performed outside of a hospital licensed by the Louisiana Department of Health, or its successor.
- (9) Performing, or assisting in the performance of, or procuring, or abetting in the procuring of an abortion or termination of pregnancy:
 - (a) When the abortion or termination of pregnancy is contrary to or unnecessary in the best medical judgment of that physician; or,
 - (b) When the operating physician lacks the training and experience to perform the procedure; or,
 - (c) When the procedure is performed outside of a hospital licensed by the Louisiana Department of Health, or its successor.
- (10) Efforts to deceive or defraud the public.
- (11) Making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value.

(12) An inability to practice medicine with reasonable skill or safety due to mental illness or deficiency, including but not limited to deterioration through the aging process or the loss of motor skills or excessive use or abuse of drugs, including alcohol.

(13) Unprofessional conduct, including but not limited to, conduct manifested as sexual misconduct, disruptive behavior, failing to cooperate with the board, failing to maintain independent medical judgment, improperly delegating or supervising, exercising undue influence, enabling the unauthorized practice of medicine, practicing or enabling practice by an impaired provider, failing to practice within the scope of education, training, and experience, intentionally falsifying or fraudulently altering records, or failing to create or maintain medical records.

(14) Medical incompetency, including but not limited to, incompetency manifested by continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state.

(15) Immoral conduct in exercising the privileges provided for by license or permit issued under this Part.

(16) Gross, willful, and continued overcharging for professional services.

(17) Abandonment of a patient.

(18) Knowingly performing any act which, in any way, assists an unlicensed person to practice medicine, or having professional connection with or lending one's name to an illegal practitioner.

(19) Soliciting, accepting, or receiving anything of economic value in return for and based on the referral of patients to another person, firm, or corporation or in return for the prescription of medications or medical devices.

(20) Persistent violation of federal or state laws relative to control of social diseases.

(21) Interdiction or commitment by due process of law.

(22) Utilizing a physician's assistant without approval and recordation as required by law or permitting a physician's assistant, within his employment, to conduct activities outside of the designated scope of the assistant's approval and registration.

(23) Knowingly employing a physician's assistant whose conduct includes any of the causes enumerated in this Section.

(24) Knowingly misstating or misrepresenting the qualifications and certification of competency of any physician's assistant in order to obtain approval and registration of such person.

(25) Inability to practice medicine with reasonable skill or safety to patients because of mental illness or deficiency; physical illness, including but not limited to deterioration through the aging process or loss of motor skills; and/or, excessive use or abuse of drugs, including alcohol.

(26) Refusing to submit to the examinations and inquiry of an examining committee of physicians appointed or designated by the board to inquire into the physician's physical and mental fitness and ability to practice medicine with reasonable skill and safety to patients.

(27) Failure, by any physician or person performing, inducing or assisting an abortion, to exercise that degree of professional care and diligence and failure to take such measures as may constitute good medical practice, necessary to encourage or sustain the life and health of an aborted viable infant, when the death

of the infant results. “Viable” means that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supporting systems.

(28) Taking the life of a viable infant aborted alive.

(29) The refusal of a licensing authority of another state to issue or renew a license, permit, or certificate to practice medicine in that state or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate.

(30) Violation of any rules and regulations of the board, or any provisions of this Part.

(31) Failure by a physician to self-report in writing to the board any personal action which constitutes a violation of this Part within thirty days of the occurrence. A report shall not be required if the violation relates to a physician's ability to practice medicine with reasonable skill and safety by reason of substance abuse or psychiatric condition, provided such physician has, since the occurrence, executed a treatment contract with the Louisiana State Medical Society's Physicians Health Program, its successor program, or such other program as may be designated by the board, and is in full compliance with the terms and conditions of such contract.

(32) Holding oneself out to the public in any manner as being certified by a public or private board including but not limited to a multidisciplinary board or “board certified”, unless all of the following criteria are satisfied:

(a) The full name of the board from which the physician is certified and the name of the specialty or subspecialty is included in the advertisement.

(b) The board meets any of the following qualifications:

(i) The board is an American Board of Medical Specialties member board or an American Osteopathic Association certifying board.

(ii) The board has been approved by the Louisiana State Board of Medical Examiners.

(iii) The board requires an Accreditation Council for Graduate Medical Education or American Osteopathic Association approved postgraduate training program that provides complete training in that specialty or subspecialty.

(c) If the physician advertises and does not meet any of the criteria articulated in this Paragraph, the physician shall list his qualifications for performing the advertised medical procedures in the advertisement.

B. The board may, in instances it deems proper, implement the above recited causes, by establishing appropriate regulations and standards pertaining thereto.

C. (1) The board may, as part of a decision, consent order, or other agreed order, require a license or permit holder or an applicant to pay all costs of the board proceedings, including but not limited to investigators', stenographers', and attorney fees, witness fees and expenses, and the per diem and expenses of the members of the board's hearing panel, and to pay a fine not to exceed the sum of five thousand dollars.

(2) If for any reason the costs or fines imposed by the board under this Section are not paid within the time specified by the board, the board may recover costs and attorney fees associated with their collection.

(3) The board may authorize any member of the board to sign an affidavit, petition, or other legal process authorized by this Part, including but not limited to a petition in any court of competent jurisdiction, for a money judgment for any and all costs and fines payable pursuant to a final decision, consent order, or other agreed order.

D. Any license or permit suspended, revoked, or otherwise restricted by the board may be reinstated by the board.

E. The board's final decision in an adjudication proceeding under this Section, other than by consent order, agreement, or other informal disposition, shall constitute a public record, and the board may disclose and provide such final decision to any person, firm, or corporation, or to the public generally. The board's disposition of an adjudication proceeding by consent order shall not constitute a public record, but the board shall have authority and discretion to disclose such disposition.

F. No judicial order staying or enjoining the effectiveness or enforcement of a final decision or order of the board in an adjudication proceeding, whether issued pursuant to R.S. 49:964(C) or otherwise, shall be effective, or be issued to be effective beyond the earlier of:

(1) One hundred twenty days from the date on which the board's decision or order was rendered.

(2) The date on which the court enters judgment in a proceeding for judicial review of the board's decision or order pursuant to R.S. 49:964.

G. Notwithstanding any other law to the contrary, no judicial order staying, enjoining, or continuing an adjudication proceeding before, or a preliminary, procedural, or intermediate decision, ruling, order, or action of, the board shall be effective or issued to be effective, whether pursuant to R.S. 49:964 or otherwise, prior to the exhaustion of all administrative remedies and issuance of a final decision or order by the board.

H. No order staying or enjoining a final decision or order of the board shall be issued unless the district court finds that the applicant or petitioner has established that the issuance of the stay does not:

(1) Threaten harm to other interested parties, including individuals for whom the applicant or petitioner may render medical services; or

(2) Constitute a threat to the health, safety, and welfare of the citizens of this state.

I. No stay of a final decision or order of the board shall be granted ex parte. The court shall schedule a hearing on a request for a stay order within ten days from filing of the request. The court's decision to either grant or deny the stay order shall be rendered within five days after the conclusion of the hearing. **Acts 1975, No. 350, § 1. Amended by Acts 1977, No. 498, § 1; Acts 1977, No. 500, § 1; Acts 1977, No. 525, § 1; Acts 1985, No. 302, § 2; Acts 1987, No. 884, § 1; Acts 1988, No. 741, § 1; Acts 1995, No. 993, § 1; Acts 1999, No. 660, § 1; Acts 1999, No. 788, § 2; Acts 2001, No. 17, § 1, eff. May 17, 2001; Acts 2004, No. 155, § 1; Acts 2010, No. 602, § 1, eff. June 25, 2010; Acts 2011, No. 337, § 1; Acts 2015, No. 441, § 1, eff. July 1, 2015.**

- **Adolescent Health Services**

- **La. R.S. 40:31.3, Adolescent school health initiative; health centers in schools:**

A. The office of public health, Louisiana Department of Health, shall establish an adolescent school health initiative to facilitate and encourage development of comprehensive health centers in public middle and secondary schools in Louisiana which shall provide preventive health services, counseling, acute health

services, and appropriate referral for acute health services. Such initiative shall be subject to the approval of the local school systems.

B. The office of public health shall:

(1) Coordinate efforts to facilitate and encourage establishment of health centers in schools by providing information, technical assistance, direction, and, to the extent appropriate, funds to locally based entities for the establishment and operation of health centers in middle and secondary schools.

(2) Convene and participate in an intergovernmental coordinating council which shall be composed of representatives from the departments of education, children and family services, health, and other governmental entities or programs related to health services to assist in implementation, oversight, and funding assistance for health centers in schools.

(3) Apply for and assist local efforts to apply for all available public and private funds to establish and operate health centers in schools.

(4) Establish procedures for allocation of funds appropriated or otherwise available to the program in a manner which prioritizes funding according to the urgency and degree of healthcare needs among the various middle and secondary school populations.

(5) Establish criteria to be considered in selection of locations for placement of health centers in schools.

C. Health centers in schools are prohibited from:

(1) Counseling or advocating abortion in any way or referring any student to any organization for counseling or advocating abortion.

(2) Distributing at any public school any contraceptive or abortifacient drug, device, or other similar product.

D. The provisions of this Section shall be applicable only to the extent that funds are made available for this purpose from public or private sources. **Added by Acts 1991, No. 1055, § 1, eff. July 29, 1991. Amended by Acts 2018, No. 206, § 4.**

- **Vital Statistics Laws**

- **La. R.S. 40:32, Definition of terms:**

As used in this Chapter, the following terms shall have the meanings ascribed to them in this Section unless otherwise provided for or unless the context otherwise indicates:

(1) “Biological parents” means a husband and wife, joined by legal marriage recognized as valid in this state, who provide sperm and egg for in vitro fertilization, performed by a licensed physician, when the resulting fetus is carried and delivered by a surrogate birth parent who is related by blood or affinity to either the husband or wife.

(2) “Dead body” means a lifeless human body or such severed parts of the human body, or the bones thereof, from the state of which it may be reasonably concluded that death has recently occurred.

(3) “Fetal death” means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after

such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(4) “File” means the presentation of a vital record provided for in this Chapter for registration by the vital records registry.

(5) “Final disposition” means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus.

(6) “Funeral director or person acting as such” is a licensed funeral director or embalmer as defined in R.S. 37:831 et seq. or persons acting under the authority of the state health officer in accordance with R.S. 40:5.

(7) “Induced termination of pregnancy” (abortion) means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and if such interruption does not result in a live birth.

(8) “Institution” means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domiciliary care, or to which persons are committed by law.

(9) “Live birth” means a birth in which the child shows evidence of life after complete birth. A birth is complete when the child is entirely outside the mother, even if the umbilical cord is uncut and the placenta still attached. The words “evidence of life” include heart action, breathing, or movement of voluntary muscles.

(10) “Person in charge of interment” means any person who places or causes to be placed a deceased or stillborn child, dead body, or, after cremation, the ashes thereof, in the earth, a grave, tomb, vault, urn, or other receptacle, either in a cemetery or at any other place, or otherwise disposes thereof.

(11) “Physician” means a person authorized under the laws of this state to practice medicine.

(12) “Public health statistics unit” means that section which codes, tabulates, analyzes, reports, and coordinates vital records and other health status indicator data for the office of public health.

(13) “Registration” as otherwise qualified in rules and regulations means the acceptance of vital records by the vital records registry and the incorporation thereof into its official records.

(14) “Removal” means the transportation of a dead human body or the remains thereof from the jurisdiction of the state of Louisiana.

(15) “Signature” or “sign(ed)” means a written signature or an electronic signature.

(16) “Spontaneous fetal death” and “stillbirth” mean the expulsion or extraction of a product of human conception resulting in other than a live birth and when the expulsion or extraction is not the result of an induced termination of pregnancy.

(17) “System of vital records” means the registration, collection, preservation, amendment, certification, and issuance of certified copies of vital records required by this Chapter and activities related thereto.

(18) “Vital records”, “certificates”, or “forms” means paper or electronic reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment, and data related thereto.

(19) “Vital records registry” means a central registry as provided for in R.S. 40:33(A) which maintains the vital records archives and operates the system of vital records. **Acts 1979, No. 776, § 1. Amended by Acts**

1986, No. 876, § 1; Acts 1997, No. 1251, § 1, eff. July 15, 1997; Acts 2000, 1st Ex.Sess., No. 136, § 1; Acts 2006, No. 377, § 1; Acts 2013, No. 220, § 17, eff. June 11, 2013; Acts 2019, No. 100, § 1.

○ **La. R.S. 40:48, Abortions (induced termination of pregnancy); birth and death certificates:**

A. Whenever an abortion procedure results in a live birth, a birth certificate shall be issued certifying the birth of said born human being even though said human being may thereafter die. For the purposes of this Section a human being is live born, or there is a live birth, whenever there is the complete expulsion or extraction from its mother of a human embryo or fetus, irrespective of the duration of pregnancy, which after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of the voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. In the event death does ensue after a short time, a death certificate shall be issued. Both the birth and the death certificates shall be issued in accordance with the provisions of this Part and of rules and regulations of the Louisiana Department of Health.

B. Each induced termination of pregnancy which occurs in this state shall be reported to the vital records registry within fifteen days by the person in charge of the institution in which the induced termination of pregnancy was performed. If the induced termination of pregnancy was performed outside an institution, the physician in attendance at or immediately after delivery shall prepare and file the report. **Acts 1979, No. 776, § 1. Amended by Acts 1986, No. 876, § 1.**

○ **La. R.S. 40:63, Abortion, induced termination of pregnancy; purpose:**

The purpose of this Part shall be the compilation of relevant maternal life and health factors and data concerning abortions which may be used in the improvement of maternal health and life. The further purpose and function of this Part shall be to serve as a monitor on all induced terminations of pregnancies performed in the state of Louisiana to assure that they are performed only in accordance with the provisions of law. **Acts 1979, No. 776, § 1.**

○ **La. R.S. 40:64, Forms for collection of data:**

The state registrar shall prescribe forms for the collection of information and statistics with respect to abortions. Such forms shall require, but not be limited to, the following information:

- (1) The age, marital status, and state and parish (county) of residence of the woman who is aborted.
- (2) The place where the abortion is performed.
- (3) The full name and address of the physician or physicians performing the abortion.
- (4) The age, marital status, and state and parish (county) of residence of the father, if known.
- (5) Medical reason for the abortion.
- (6) Medical procedure employed to procure the abortion.
- (7) The length of the aborted fetus.
- (8) The weight of the aborted fetus.
- (9) Other significant conditions of the fetus and mother.

(10) The results of pathological examinations of all aborted fetuses, as required by R.S. 40:1061.13. **Acts 1979, No. 776, § 1. Amended by Acts 1986, No. 876, § 1; Acts 2018, No. 206, § 4.**

○ **La. R.S. 40:65, Completion of forms; filing with vital records registry:**

The information required by the form for which provision is made in R.S. 40:64 shall be completed by the physician or physicians performing the abortion in each case in which an abortion is performed. Such completed form shall be transmitted by the physician or physicians to the vital records registry within fifteen days of the performing of such abortion. **Acts 1979, No. 776, § 1. Amended by Acts 1986, No. 876, § 1.**

○ **La. R.S. 40:66, Failure to complete form; penalty:**

Failure to complete such form as required in R.S. 40:65 shall be a misdemeanor punishable by imprisonment for ninety days in jail or by a five hundred dollar fine, or both. Such failure to complete such form and to timely transmit same shall be admissible as evidence that the unreported abortion was illegal. **Acts 1979, No. 776, § 1.**

○ **La. R.S. 40:94, Forms for collection of data:**

The state registrar shall prescribe forms for the collection of information and statistics with respect to enforceable gestational carrier contracts. Such forms shall require but not be limited to the following information:

- (1) The age, marital status, and state and parish of domicile of the gestational carrier.
- (2) The parish in which the in utero embryo transfer took place.
- (3) The full name and address of the physician or physicians performing or attending to the following phases of the gestational carrier:
 - (a) In utero embryo transfer.
 - (b) Prenatal and postnatal care.
 - (c) Birth.
 - (d) Miscarriage.
 - (e) Induced abortion.
- (4) The age, marital status, and state and parish of domicile of the intended parents.
- (5) The medical reason necessitating the gestational carrier.
- (6) The medical procedures employed in the birth, miscarriage, or termination of pregnancy for medical emergency as provided by R.S. 40:1061.23.
- (7) The length and weight of the child born as a result of gestational carrier.
- (8) The length and weight of an unborn child miscarried after the initiation of a gestational carrier.
- (9) Other significant conditions or health complications of the unborn child and gestational carrier.
- (10) The results of pathological examinations of any unborn child who died as a result of pregnancy complications or termination incidental to a gestational carrier. **Added by Acts 2016, No. 494, § 4.**

- **La. R.S. 40:95, Completion of forms; filing with vital records registry:**

The physician performing the in utero embryo transfer or termination of the pregnancy by birth, miscarriage, or abortion shall provide the information required by the provisions of R.S. 40:94. Such completed forms shall be transmitted by the physician to the vital records registry within fifteen days of the performance of the medical procedures and shall be confidential. **Added by Acts 2016, No. 494, § 4.**

- **Public Health Law Related to Abortion**

- **La. R.S. 40:1061, Abortion; prohibition (<Text of section contingent upon occurrence of circumstances as set forth in subsec. A of this section.>):**

A. The provisions of this Act shall become effective immediately upon, and to the extent permitted, by the occurrence of any of the following circumstances:

(1) Any decision of the United States Supreme Court which reverses, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby, restoring to the state of Louisiana the authority to prohibit abortion.

(2) Adoption of an amendment to the United States Constitution which, in whole or in part, restores to the state of Louisiana the authority to prohibit abortion.

B. The provisions of this Act shall be effective relative to the appropriation of Medicaid funds, to the extent consistent with any executive order by the President of the United States, federal statute, appropriation rider, or federal regulation that sets forth the limited circumstances in which states must fund abortion to remain eligible to receive federal Medicaid funds pursuant to 42 U.S.C. 1396 et. seq.

C. No person may knowingly administer to, prescribe for, or procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being. No person may knowingly use or employ any instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.

D. Any person in violation of this Section shall be prosecuted pursuant to the effective provisions of R.S. 14:87, and shall be subject to the penalties provided in R.S. 40:1061.29.

E. Nothing in this Section may be construed to prohibit the sale, use, prescription, or administration of a contraceptive measure, drug or chemical, if it is administered prior to the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure is sold, used, prescribed, or administered in accordance with manufacturer instructions.

F. It shall not be a violation of Subsection C of this Section for a licensed physician to perform a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of her unborn child in a manner consistent with reasonable medical practice.

G. Medical treatment provided to the mother by a licensed physician which results in the accidental or unintentional injury or death to the unborn child is not a violation of Subsection C of this Section.

H. Nothing in this Section may be construed to subject the pregnant mother upon whom any abortion is performed or attempted to any criminal conviction and penalty.

I. The following terms as used in this Section shall have the following meanings:

(1) “Fertilization” means that point in time when a male human sperm penetrates the zona pellucida of a female human ovum.

(2) “Pregnant” means the human female reproductive condition, of having a living unborn human being within her body throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth.

(3) “Unborn human being” means an individual living member of the species, homo sapiens, throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth.

J. This Section shall be known, and may be cited, as the Human Life Protection Act. **Redesignated from R.S. 40:1299.30 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2006, No. 467, § 1. Amended by Acts 2018, No. 468, § 2, eff. May 23, 2018. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.1, Pain-Capable Unborn Child Protection Act:**

A. This Section may be cited as the “Pain-Capable Unborn Child Protection Act”.

B. Legislative intent. (1) The legislature makes the following findings:

(a) Pain receptors (nociceptors) are present throughout the unborn child's entire body and nerves link these receptors to the brain's thalamus and subcortical plate by no later than twenty weeks.

(b) By eight weeks after fertilization, the unborn child reacts to touch. After twenty weeks, the unborn child reacts to stimuli that would be recognized as painful if applied to an adult human, for example, by recoiling.

(c) In the unborn child, application of such painful stimuli is associated with significant increases in stress hormones known as the stress response.

(d) Subjection to such painful stimuli is associated with long-term harmful neurodevelopmental effects, such as altered pain sensitivity and, possibly, emotional, behavioral, and learning disabilities later in life.

(e) For the purposes of surgery on unborn children, fetal anesthesia is routinely administered and is associated with a decrease in stress hormones compared to their level when painful stimuli are applied without such anesthesia.

(f) The position, asserted by some medical experts, that the unborn child is incapable of experiencing pain until a point later in pregnancy than twenty weeks after fertilization predominately rests on the assumption that the ability to experience pain depends on the cerebral cortex and requires nerve connections between the thalamus and the cortex. However, recent medical research and analysis, especially since 2007, provides strong evidence for the conclusion that a functioning cortex is not necessary to experience pain.

(g) Substantial evidence indicates that children born missing the bulk of the cerebral cortex, those with hydranencephaly, nevertheless experience pain.

(h) In adults, stimulation or ablation of the cerebral cortex does not alter pain perception, while stimulation or ablation of the thalamus does.

(i) Substantial evidence indicates that structures used for pain processing in early development differ from those of adults, using different neural elements available at specific times during development, such as the subcortical plate, to fulfill the role of pain processing.

(j) The position, asserted by some medical experts, that the unborn child remains in a coma-like sleep state that precludes the unborn child's experiencing pain is inconsistent with the documented reaction of unborn children to painful stimuli and with the experience of fetal surgeons who have found it necessary to sedate the unborn child with anesthesia to prevent the unborn child from thrashing about in reaction to invasive surgery.

(k) Consequently, there is substantial medical evidence that an unborn child is capable of experiencing pain by twenty weeks after fertilization.

(2)(a) It is the purpose of the state to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain.

(b) Louisiana's compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain is intended to be separate from and independent of Louisiana's compelling state interest in protecting the lives of unborn children from the stage of viability, and neither state interest is intended to replace the other.

(3) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the United States Supreme Court noted that an explicit statement of legislative intent specifically made applicable to a particular statute is of greater weight than a general savings or severability clause, it is the intent of the state that if any one or more provisions, sections, subsections, sentences, clauses, phrases or words of this Section or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this Section shall remain effective notwithstanding such unconstitutionality. Moreover, the state declares that it would have passed this Section, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases or words, or any of their applications, were to be declared unconstitutional.

C. Definitions. For purposes of this Section, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma, or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy.

(2) "Attempt to perform or induce an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance or induction of an abortion in this state in violation of this Section.

(3) "Department" means Louisiana Department of Health.

(4) "Fertilization" means the fusion of a human spermatozoon with a human ovum.

(5) “Medical emergency” means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates the immediate abortion of her pregnancy without first determining postfertilization age to avert her death or for which the delay necessary to determine postfertilization age will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

(6) “Medically futile” means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth.

(7) “Physician” means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in the state of Louisiana.

(8) “Postfertilization age” means the age of the unborn child as calculated from the fusion of a human spermatozoon with a human ovum.

(9) “Probable postfertilization age of the unborn child” means what, in reasonable medical judgment, will with reasonable probability be the postfertilization age of the unborn child at the time the abortion is planned to be performed or induced.

(10) “Reasonable medical judgment” means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(11) “Unborn child” or “fetus” each mean an individual organism of the species homo sapiens from fertilization until live birth.

(12) “Woman” means a female human being whether or not she has reached the age of majority.

D. Determination of postfertilization age.

(1) Except in the case of a medical emergency or when a pregnancy is diagnosed as medically futile, no abortion shall be performed or induced or be attempted to be performed or induced unless the physician performing or inducing it has first made a determination of the probable postfertilization age of the unborn child or relied upon such a determination made by another physician. In making such a determination, the physician shall make such inquiries of the woman and perform or cause to be performed such medical examinations and tests as a reasonably prudent physician, knowledgeable about the case and the medical conditions involved, would consider necessary to perform in making an accurate diagnosis with respect to postfertilization age.

(2) Failure by any physician to conform to any requirement of this Section constitutes “unprofessional conduct” pursuant to R. S. 37:1261.

E. Abortion of unborn child of twenty or more weeks postfertilization age prohibited.

(1) No person shall perform or induce or attempt to perform or induce an abortion upon a woman when it has been determined, by the physician performing or inducing or attempting to perform or induce the abortion or by another physician upon whose determination that physician relies, that the probable postfertilization age of the woman's unborn child is twenty or more weeks, unless the pregnancy is diagnosed as medically futile or, in reasonable medical judgment, she has a condition which so complicates

her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No such greater risk shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

(2) When an abortion upon a woman whose unborn child has been determined to have a probable postfertilization age of twenty or more weeks is not prohibited by Paragraph (1) of this Subsection, the physician shall terminate the pregnancy in the manner which, in reasonable medical judgment, provides the best opportunity for the unborn child to survive, unless, in reasonable medical judgment, termination of the pregnancy in that manner would pose a greater risk either of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the woman than would other available methods. No such greater risk shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

F. Penalties. Any person who intentionally or knowingly fails to comply with the requirements of this Section shall be subject to the penalties as provided for in R.S. 40:1061.29.

G. Construction. This Section shall not be construed to repeal, by implication or otherwise, R.S. 40:1061.10 or any otherwise applicable provision of Louisiana law regulating or restricting abortion. An abortion that complies with this Section, but violates the provisions of R.S. 40:1061.10 or any otherwise applicable provision of Louisiana law, shall be deemed unlawful as provided in such provision. An abortion that complies with the provisions of R.S. 40:1061.10 or any otherwise applicable provision of Louisiana law regulating or restricting abortion, but violates this Section, shall be deemed unlawful as provided in this Section. If some or all of the provisions of this Section are temporarily or permanently restrained or enjoined by judicial order, all other provisions of Louisiana law regulating or restricting abortion shall be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect. **Redesignated from R.S. 40:1299.30.1 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2012, No. 738, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.1.1, Louisiana Unborn Child Protection from Dismemberment Abortion Act:**

A. This Section shall be known and may be cited as the “Louisiana Unborn Child Protection from Dismemberment Abortion Act”.

B. As used in this Section, the following terms have the meaning ascribed in this Subsection:

(1) “Abortion” shall have the meaning ascribed in R.S. 40:1061.9.

(2) “Attempt to perform an abortion” means to do or omit to do anything that, under the circumstances as the actor believes them to be, is an act or omission constituting a substantial step in a course of conduct planned to culminate in oneself’s performing an abortion. Such substantial steps include, but are not limited to:

(a) Agreeing with an individual to perform an abortion on that individual or on some other person, whether or not the term “abortion” is used in the agreement, and whether or not the agreement is contingent on another factor such as receipt of payment or a determination of pregnancy.

(b) Scheduling or planning a time to perform an abortion on an individual, whether or not the term “abortion” is used, and whether or not the performance is contingent on another factor such as receipt of payment or a determination of pregnancy.

(c) The definition provided in this Paragraph shall not be construed to require that an abortion procedure must actually be initiated for an attempt to occur.

(3)(a) “Dismemberment abortion” means, with the purpose of causing the death of an unborn child, to purposely dismember a living unborn child and extract him or her one piece at a time from the uterus through use of clamps, grasping forceps, tongs, scissors, or a similar instrument that, through the convergence of two rigid levers, slices, crushes, or grasps a portion of the unborn child's body to cut or rip it off or apart.

(b) The term “dismemberment abortion” does not include an abortion which uses suction to dismember the body of an unborn child by vacuuming fetal parts into a collection container, although it does include an abortion in which a dismemberment abortion, as defined in this Paragraph, is used to cause the death of an unborn child and suction is subsequently used to extract fetal parts after the death of the unborn child.

(4) “Intentionally” means the person who acts either consciously desires the physical result of his act, whatever the likelihood of that result happening from his conduct; or knows that the result is substantially certain to follow from his conduct, whatever his desire may be as to that result.

(5) “Physician” means a person licensed to practice medicine in the state of Louisiana who meets the requirements of R.S. 40:1061.10.

(6) “Serious health risk to the unborn child's mother” means that in reasonable medical judgment the mother has a condition that so complicates her medical condition that it necessitates the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No such condition may be determined to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

(7) “Woman” means a female human being whether or not she has reached the age of majority.

C. (1) Notwithstanding any other provision of law, it shall be unlawful for any person to intentionally perform or attempt to perform a dismemberment abortion and thereby kill an unborn child unless necessary to prevent serious health risk to the unborn child's mother.

(2) No woman upon whom an abortion is performed or attempted to be performed shall be thereby liable for performing or attempting to perform a dismemberment abortion. No nurse, technician, secretary, receptionist, or other employee or agent who is not a physician but who acts at the direction of a physician, and no pharmacist or other individual who is not a physician but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician shall be thereby liable for performing or attempting to perform a dismemberment abortion.

D. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars per incidence or occurrence, or imprisoned for not more than two years, or both. In addition to whatever

remedies are otherwise available under the laws of this state, failure to comply with the provisions of this Section shall provide all of the following:

(1) A basis for a cause of action for civil damages for injuries and wrongful death as more fully set forth in Civil Code Articles 2315.1 and 2315.2, whether or not the unborn child was viable at the time the abortion was performed, or was born alive, except that such causes of action shall be maintained only by the following persons:

(a) The natural or biological father of the aborted infant or fetus, unless such father's criminal conduct caused the pregnancy.

(b) The mother of the aborted infant or fetus, subject to the provisions of Subsection F of this Section.

(c) The parents or guardian on behalf of the mother of the aborted infant or fetus if the mother was a minor at the time of the abortion, unless the parents or guardian consented to the dismemberment abortion.

(2) A basis for professional disciplinary action under R.S. 37:1261 et seq.

E. (1) A physician charged with an offense pursuant to this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings concerning the issue provided for in Paragraph (1) of this Subsection are admissible on that issue at the trial of the physician. Upon motion of the physician, the court shall delay the beginning of the trial for not more than thirty days to permit such hearing to take place; however, this delay may be extended for good cause.

F. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

G. Any person who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a dismemberment abortion, shall be subject to the provisions of this Section.

H. Nothing in this Section shall be construed as creating or recognizing a right to abortion, or a right to a particular method of abortion. **Added by Acts 2016, No. 264, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.1.2, Abortion based on genetic abnormality; prohibition:**

A. As used in this Section, the following terms have the meaning ascribed in this Subsection:

(1)(a) "Abortion" shall have the meaning provided in R.S. 40:1061.9.

(b)(i) For purposes of this Section, "abortion" shall not include an abortion performed when the pregnancy is diagnosed as medically futile.

(ii) For purposes of this Subparagraph, "medically futile" means that, in reasonable medical judgement, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth. This diagnosis shall be a medical judgment certified in the pregnant woman's

medical record by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(2) “Diagnosed” means a determination made by a physician based on the results obtained from any genetic screening or prenatal testing procedure to detect a genetic abnormality.

(3) “Genetic abnormality” means any defect, disease, or disorder that is inherited genetically. The term includes, without limitation, any physical disfigurement, scoliosis, dwarfism, Down syndrome, albinism, amelia, and any other type of physical, mental, or intellectual disability, abnormality, or disease.

B. Notwithstanding any other provision of law, it shall be unlawful for any person to intentionally perform or attempt to perform an abortion of an unborn child of twenty or more weeks post-fertilization age, as provided for in R.S. 40:1061.1, with knowledge that the pregnant woman is seeking the abortion solely because the unborn child has been diagnosed with either a genetic abnormality or a potential for a genetic abnormality.

C. (1) It shall be unlawful for a person to intentionally perform or attempt to perform an abortion of an unborn child of less than twenty weeks post-fertilization age without first providing the pregnant woman with an informational document including resources, programs, and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs, and services for infants and children born with disabilities. The informational document provided for in this Subsection shall be given to the pregnant woman at the same time as the requirements in R.S. 40:1061.17(B).

(2) The Louisiana Department of Health shall develop an informational document to comply with the mandate established in this Section to include resources, programs, and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs, and services for infants and children born with disabilities and shall make such information available to any requesting provider of women's health care services and shall maintain the information on a link on the department's website.

(3) No person shall be found in violation of this Subsection, and no penalty for a violation of this Subsection shall be assessed, in any instance in which the informational document required by this Subsection is not available for use.

D. Whoever violates the provisions of this Section shall be subject to the penalties provided in R.S. 40:1061.29.

E. The provisions of this Section shall not apply whenever the abortion is necessary to save the life of the mother. **Added by Acts 2016, No. 563, § 1, eff. June 17, 2016. Amended by Acts 2018, No. 77, § 1, eff. May 10, 2018. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.1.3, Abortion prohibited; detectable fetal heartbeat; ultrasound required (<Section effective upon final decision of the United States Court of Appeals for the Fifth Circuit, as provided in the italic following this section.>):**

A. (1)(a) Prior to any abortion being performed, there shall first be performed an ultrasound, in accordance with the standards set forth in R.S. 40:1061.10(D), in order to determine whether or not a fetal heartbeat is present, and the results of the ultrasound shall be included in the pregnant woman's medical records.

(b) Except as provided in Paragraph (2), (3), or (4) of this Subsection, it shall be unlawful for any person to knowingly perform an abortion with the specific intent of causing or abetting the termination of the life of an unborn human being when a fetal heartbeat has been detected. Any person who acts based on the

exceptions provided in Paragraph (2), (3), or (4) of this Subsection shall so note in the pregnant woman's medical records and shall specify in the pregnant woman's medical records which of the exceptions the person performing the abortion has invoked.

(2)(a) A person shall not be in violation of Paragraph (1) of this Subsection if the person performs a medical procedure designed to or intended, in that person's reasonable medical judgment, to prevent the death of a pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(b)(i) A person who performs a medical procedure as described in Subparagraph (a) of this Paragraph shall declare in writing, under penalty of perjury, that the medical procedure was necessary, to the best of that person's reasonable medical judgment, to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. The person shall also provide in that written statement the specific medical condition of the pregnant woman that the medical procedure was performed to address, and the medical rationale for the conclusion that the medical procedure was necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(ii) The person who performs a medical procedure as described in Subparagraph (a) of this Paragraph shall place the written documentation required by this Subparagraph in the pregnant woman's medical records, and shall maintain a copy of the written documentation for not less than seven years.

(3) A person shall not be in violation of Paragraph (1) of this Subsection if the person has performed an examination for the presence of a fetal heartbeat in the unborn human individual using standard medical practice and that examination does not reveal a fetal heartbeat, or the person has been informed by a physician who has performed the examination for a fetal heartbeat that the examination did not reveal a fetal heartbeat.

(4) For purposes of this Section, "abortion" shall not include an abortion performed when the pregnancy is diagnosed as medically futile.

B. For purposes of this Section:

(1) "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.

(2) "Medically futile" means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth. This diagnosis shall be a medical judgment certified in the pregnant woman's medical record by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(3) "Physician" means an individual licensed by the Louisiana State Board of Medical Examiners.

(4) "Unborn human being" means an individual living member of the species *Homo sapiens* throughout the entire embryonic and fetal stages, from fertilization through full gestation and birth.

C. Whoever violates this Section shall be prosecuted pursuant to the effective provisions of R.S. 14:87 and shall be subject to the penalties provided in R.S. 40:1061.29.

D. In addition to any other grounds provided by law, it shall be grounds for the nonissuance, suspension, revocation, or restriction of a license, or the denial of reinstatement or renewal of a license, issued by the

Louisiana State Board of Medical Examiners, that the applicant or licensee has performed an abortion in violation of this Section.

E. This Section shall not be construed to repeal any other provision of law that restricts or regulates the performance of an abortion by a particular method or during a particular stage of a pregnancy.

F. The provisions of this Section are hereby repealed in favor of the provisions of R.S. 40:1061 immediately upon and to the extent that either:

(1) A decision of the United States Supreme Court upholds the authority of each of the several states of the United States or of the state of Louisiana to prohibit elective abortions.

(2) An amendment to the Constitution of the United States of America is adopted that restores to each of the several states of the United States or to the state of Louisiana the authority to prohibit elective abortions.

Added by Acts 2019, No. 31, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).

○ **La. R.S. 40:1061.2, Discrimination against certain persons; prohibition:**

A. No physician, nurse, student or other person or corporation shall be held civilly or criminally liable, discriminated against, dismissed, demoted, or in any way prejudiced or damaged because of his refusal for any reason to recommend, counsel, perform, assist with or accommodate an abortion.

B. No worker or employee in any social service agency, whether public or private, shall be held civilly or criminally liable, discriminated against, dismissed, demoted, in any way prejudiced or damaged, or pressured in any way for refusal to take part in, recommend or counsel an abortion for any woman. **Redesignated from R.S. 40:1299.31 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1973, No. 72, § 1.**

○ **La. R.S. 40:1061.3, Discrimination against hospitals, clinics, etc.; prohibition:**

No hospital, clinic or other facility or institution of any kind shall be held civilly or criminally liable, discriminated against, or in any way prejudiced or damaged because of any refusal to permit or accommodate the performance of any abortion in said facility or under its auspices. **Redesignated from R.S. 40:1299.32 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1973, No. 72, § 1.**

○ **La. R.S. 40:1061.4, Governmental assistance; discrimination for refusal to participate in an abortion; prohibition:**

A. The term governmental assistance as used in this Section shall include federal, state and local grants, loans and all other forms of financial and other aid from any level of government or from any governmental agency.

B. No woman shall be denied governmental assistance or be otherwise discriminated against or pressured in any way for refusing to accept or submit to an abortion, which she may do for any reason and without explanation.

C. No hospital, clinic, or other medical or health facility, whether public or private, shall ever be denied governmental assistance or be otherwise discriminated against or otherwise be pressured in any way for refusing to permit its facilities, staff or employees to be used in any way for the purpose of performing any abortion.

D. No abortion shall be performed on any woman unless prior to the abortion she shall have been advised, orally and in writing, that she is not required to submit to the abortion and that she may refuse any abortion for any reason and without explanation and that she shall not be deprived of any governmental assistance or any other kind of benefits for refusing to submit to an abortion. This provision shall be of full force and effect notwithstanding the fact that the woman in question is a minor, in which event said minor's parents, or if a minor emancipated by marriage, the minor's husband, shall also be fully advised of their right to refuse an abortion for the minor in the same manner as the minor is advised. Compliance with this provision shall be evidenced by the written consent of the woman that she submits to the abortion voluntarily and of her own free will, and by written consent of her parents, if she is an unmarried minor, and by consent of her husband if she is a minor emancipated by marriage, such written consent to set forth the written advice given and the written consent and acknowledgment that a full explanation of the abortion procedure to be performed has been given and is understood. **Redesignated from R.S. 40:1299.33 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1973, No. 72, § 1.**

- **La. R.S. 40:1061.5, Employees of state and political subdivisions; counseling abortion prohibited:**

No person employed by the state of Louisiana, by contract or otherwise, or any subdivision or agency thereof, and no person employed in any public or private social service agency, by contract or otherwise, including workers therein, which is a recipient of any form of governmental assistance, shall require or recommend that any woman have an abortion. Notwithstanding anything contained herein to the contrary, this Section shall not apply to a doctor of medicine, currently licensed by the Louisiana State Board of Medical Examiners pursuant to R.S. 37:1261 et seq., who is acting to save or preserve the life of the pregnant woman. **Redesignated from R.S. 40:1299.34 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1973, No. 72, § 1. Amended by Acts 1978, No. 786, § 5, eff. July 17, 1978.**

- **La. R.S. 40:1061.6, Use of public funds:**

A. (1) Notwithstanding any other provision of law to the contrary, no public funds, made available to any institution, board, commission, department, agency, official, or employee of the state of Louisiana, or of any local political subdivision thereof, whether such funds are made available by the government of the United States, the state of Louisiana, or of a local governmental subdivision, or from any other public source shall be used in any way for, to assist in, or to provide facilities for an abortion, except when the abortion is medically necessary to prevent the death of the mother.

<Text of par. (A)(2) effective until 30 days after contingency in § 6 of Acts 2018, No. 498. See italic note, post.>

(2) No institution, board, commission, department, agency, official, or employee of the state, or of any local political subdivision thereof, shall contract with, award any grant to, or otherwise bestow any funding upon, an entity or organization that performs abortions, or that contracts with an entity or organization that performs abortions, in this state, as more specifically provided in Chapter 1-A of Title 36 of the Louisiana Revised Statutes of 1950.

<Text of par. (A)(2) effective 30 days after contingency in § 6 of Acts 2018, No. 498. See italic note, post.>

(2)(a) As more specifically provided in R.S. 49:200.51, the Louisiana Department of Health shall not enter into any provider agreement for medical assistance program funding, as defined in R.S. 46:437.3, with any healthcare provider, entity, or organization that does any of the following:

- (i) Performs abortions in this state.

(ii) Provides its own facilities where reimbursable medical assistance program services are performed for the use of another healthcare provider, entity, or organization for the purpose of performing abortions in this state.

(iii) Hires or retains another healthcare provider, entity, or organization for the purpose of performing abortions in this state.

(iv) Provides reimbursable medical assistance program services in the same physical facility as a licensed outpatient abortion facility.

(b)(i) The prohibitions provided in this Subsection shall apply to state funds, federal funds, and any other public funds administered by the Louisiana Department of Health through a medical assistance program provider agreement, but shall not be construed to prohibit provision of public protections, such as fire, police, or emergency medical services, public utilities, or other such services to any entity or organization in the same manner as provided to the general public.

(ii) For purposes of this Subparagraph, “medical assistance program” and “provider agreement” shall have the meaning ascribed in R.S. 46:437.3.

B. Notwithstanding any other provision of law to the contrary, no public funds made available to any institution, board, commission, department, agency, official, or employee of the state of Louisiana, or of any local political subdivision thereof, whether such funds are made available by the government of the United States, the state of Louisiana, or a local governmental subdivision, or from any other public source, shall be used in any way for, to assist in, or to provide facilities for an abortion, except for any of the following:

(1) Whenever the abortion is necessary to save the life of the mother.

(2) Whenever the abortion is being sought to terminate a pregnancy resulting from an alleged act of rape and all of the requirements of R.S. 40:1061.18(A) are met.

(3) Whenever the abortion is being sought to terminate a pregnancy resulting from an alleged act of crime against nature as defined by R.S. 14:89(A)(2) and all of the requirements of R.S. 40:1061.18(B) are met.

C. The secretary of the Louisiana Department of Health shall promulgate rules to ensure that no funding of any abortion shall be made based upon a claim of rape or crime against nature as defined by R.S. 14:89(A)(2) until the applicable requirements of R.S. 40:1061.18 have been complied with and written verification has been obtained from the physician performing the abortion and from the law enforcement official to whom the report is made, if applicable.

D. Subsection A of this Section shall be superseded and Subsections B and C and R.S. 40:1061.18 shall become effective only when the circumstances in Subparagraph (1)(a) or in Subparagraph (2)(a) occur:

(1)(a) A decision or order of a court of competent jurisdiction is rendered declaring the provisions of Subsection A unconstitutional, inconsistent with federal law, or otherwise unenforceable based on inconsistency with the Hyde Amendment, or enjoins the state or any of its officials from enforcing Subsection A while at the same time accepting federal funds pursuant to Title XIX, as modified by the Hyde Amendment, and then only if, as, and when a stay pending all appeals of the decision or order is denied, or, if a stay is granted, such stay expires or is no longer effective.

(b) If such a decision or order is rendered, the state Department of Justice, on behalf of the state, shall vigorously and expeditiously pursue judicial remedies seeking to obtain a stay pending all appeals of the decision or order and its reversal.

(2)(a) An order or decision of a court of competent jurisdiction is rendered affirming a finding of the administrator of the Health Care Financing Administration of the United States Department of Health and Human Services that Subsection A fails to substantially comply with the Hyde Amendment or denying a stay of the finding of the administrator and then only if, as, and when the state receives formal notification from the administrator that Medicaid funds, including but not limited to the federal percentage of Medicaid assistance payments pursuant to 42 U.S.C. 1396 et seq. allocated to the state from the United States government, will be withheld or terminated on a specified date.

(b) If the administrator finds that the state is in noncompliance with the Hyde Amendment as it relates to funding certain abortions, the governor, the state Department of Justice, and the state Department of Health, on behalf of the state, shall vigorously and expeditiously pursue administrative and judicial remedies to obtain a stay of the finding and its reversal.

(c) If such a decision or order is rendered by a court, the state Department of Justice, on behalf of the state, shall vigorously and expeditiously pursue judicial remedies seeking to obtain a stay of the decision or order and to seek its reversal.

E. If Subsections B and C and R.S. 40:1061.18 become effective and subsequently the federal requirement for acceptance of Medicaid funds, that public funds be made available for abortions resulting from pregnancy due to rape or crime against nature as defined by R.S. 14:89(A)(2), is no longer applicable to the state of Louisiana, then on the same day, the provisions of Subsections B and C and R.S. 40:1061.18 shall be superseded and the provisions of Subsection A shall be effective to the fullest extent allowed by law. **Redesignated from R.S. 40:1299.34.5 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 704, § 2. Amended by Acts 1994, 4th Ex.Sess., No. 1, § 1, eff. Aug. 23, 1994; Acts 2014, No. 602, § 6, eff. June 12, 2014; Acts 2016, No. 304, § 2, eff. June 2, 2016; Acts 2018, No. 498, § 2.**

○ **La. R.S. 40:1061.7, Instruction in elementary and secondary schools by abortion providers; prohibition:**

A. No employee of or representative acting on behalf of an organization, individual, or any other entity that performs elective abortion as defined in R.S. 40:1061.9, or of an affiliate as defined in Subsection B of this Section, shall engage in any of the following activities:

(1) Presenting or otherwise delivering any instruction or program on any health topic, including but not limited to human sexuality or family planning, to students at a public elementary or secondary school, or at a charter school that receives state funding.

(2) Knowingly providing any materials or media regarding human sexuality or family planning for distribution or viewing at a public elementary or secondary school, or at a charter school that receives state funding, regardless of the topic or viewpoint of such materials or media, if the materials or media are created by or bear the identifying mark of an organization, individual, or any other entity, or of an affiliate of any such organization, individual, or entity, that performs elective abortion as defined in R.S. 40:1061.9.

B. For purposes of this Section, “affiliate” means an organization, individual, or any other entity that has a legal relationship with another organization, individual, or any other entity, and such relationship is created or governed by at least one written instrument that demonstrates one or more of the following:

(1) Common ownership, management, or control.

(2) The existence of a franchise.

(3) The granting or extension of a license or other agreement that authorizes common use of a brand name, trademark, service mark, or other registered identification mark.

C. The provisions of this Section shall not apply to any hospital licensed in accordance with the Hospital Licensing Law, R.S. 40:2100 et seq.

D. Any abortion provider or affiliate of an abortion provider whose employee or representative acts in violation of this Section shall be subject to imposition of a monetary penalty established by rule by the Louisiana Department of Health, and the department shall consider such violation in any action regarding license issuance taken in accordance with R.S. 40:2175.6. **Redesignated from R.S. 40:1299.35 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2014, No. 617, § 1.**

○ **La. R.S. 40:1061.8, Legislative intent:**

It is the intention of the Legislature of the State of Louisiana to regulate abortion to the extent permitted by the decisions of the United States Supreme Court. The Legislature does solemnly declare and find in reaffirmation of the longstanding policy of this State, that the unborn child is a human being from the time of conception and is, therefore, a legal person for purposes of the unborn child's right to life and is entitled to the right to life from conception under the laws and Constitution of this State. Further, the Legislature finds and declares that the longstanding policy of this State is to protect the right to life of the unborn child from conception by prohibiting abortion impermissible only because of the decisions of the United States Supreme Court and that, therefore, if those decisions of the United States Supreme Court are ever reversed or modified or the United States Constitution is amended to allow protection of the unborn then the former policy of this State to prohibit abortions shall be enforced. **Redesignated from R.S. 40:1299.35.0 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1981, No. 774, § 1, eff. July 23, 1981. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.9, Definitions:**

As used in R.S. 40:1061.8 through 1061.29, the following words have the following meanings:

(1) "Abortion" or "induced abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child.

(b) Remove a dead unborn child or induce delivery of the uterine contents in case of a positive diagnosis, certified in writing in the woman's medical record along with the results of an obstetric ultrasound test, that the pregnancy has ended or is in the unavoidable and untreatable process of ending due to spontaneous miscarriage, also known in medical terminology as spontaneous abortion, missed abortion, inevitable abortion, incomplete abortion, or septic abortion.

(c) Remove an ectopic pregnancy.

(2) "Conception" and "fertilization" each mean the fusion of a human spermatozoon with a human ovum.

(3) “Gestational age” means the age of the unborn child as measured by the time elapsed since the first day of the last menstrual period as determined by a physician and confirmed through the use of an ultrasound test of a quality generally used in existing medical practice.

(4) “Good faith medical judgment” means a physician's use of reasonable care and diligence, along with his best judgment, in the application of his skill. The standard of care required of every health care provider, except a hospital, in rendering professional services or health care to a patient, shall be to exercise that degree of skill ordinarily employed, under similar circumstances, by the members of his profession in good standing in the same community or locality, but if the physician was performing abortion procedures that are considered to be included in the areas of a medical specialty, then the standard shall be that of the degree of skill ordinarily employed, under similar circumstances, by one practicing in good standing in that specialty.

(5) “Infant” means the offspring of human parents from the moment of live birth, regardless of the duration of gestation in the womb prior to live birth.

(6) “Live birth” or “born alive”, with respect to a member of the species homo sapiens, means the complete expulsion or extraction from its mother of that member, at any stage of development, who after that expulsion or extraction breathes or shows signs of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

(7) “Physician” means a person licensed to practice medicine in the state of Louisiana who meets the requirements of R.S. 40:1061.10.

(8) “Pregnant” means that female reproductive condition of having a developing embryo or fetus in the uterus which commences at fertilization and implantation.

(9) “Unborn child” or “fetus” means the unborn offspring of human beings from the moment of conception through pregnancy and until live birth.

(10) “Viable” and “viability” each mean that stage of fetal development when, in the judgment of the physician based upon the particular facts of the case before him, and in light of the most advanced medical technology and information available to him, there is a reasonable likelihood of sustained survival of the unborn child outside the body of his mother, with or without artificial support.

(11) “Department” means the Louisiana Department of Health. **Redesignated from R.S. 40:1299.35.1 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 1997, No. 906, § 3, eff. July 10, 1997; Acts 1999, No. 1232, § 1, eff. July 9, 1999; Acts 2001, No. 1110, § 1, eff. June 28, 2001; Acts 2011, No. 411, § 1; Acts 2013, No. 259, § 1, eff. June 10, 2013. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.10, Abortion by physician; determination of viability; ultrasound test required; exceptions; penalties:**

A. (1) Physician requirements. No person shall perform or induce an abortion unless that person is a physician licensed to practice medicine in the state of Louisiana and is currently board-certified in obstetrics and gynecology or family medicine or enrolled in a residency program for obstetrics and gynecology or family medicine, when that resident performs or induces an abortion under the direct supervision of a

physician who is board-certified in obstetrics and gynecology or family medicine. Any outpatient abortion facility that knowingly or negligently employs, contracts with, or provides any valuable consideration for the performance of an abortion in an outpatient abortion facility by any person who does not meet the requirements of this Section is subject to having its license denied, non-renewed, or revoked by the Louisiana Department of Health in accord with R.S. 40:2175.6. For the purposes of this Subsection, “direct supervision” shall mean that the physician must be present in the hospital, on the campus, or in the outpatient facility, and immediately available to furnish assistance and direction throughout the performance of the procedure. The physician need not be present in the room when the procedure is performed in order to maintain direct supervision.

(2) On the date the abortion is performed or induced, a physician performing or inducing an abortion shall:

(a) Have active admitting privileges at a hospital that is located not further than thirty miles from the location at which the abortion is performed or induced and that provides obstetrical or gynecological health care services. For purposes of this Section, “active admitting privileges” means that the physician is a member in good standing of the medical staff of a hospital that is currently licensed by the department, with the ability to admit a patient and to provide diagnostic and surgical services to such patient consistent with the requirements of Paragraph (A)(1) of this Subsection.

(b) Provide the pregnant woman with all of the following before the abortion is performed or induced:

(i) A telephone number by which the pregnant woman may reach the physician, or other health care personnel employed by the physician or facility at which the abortion was performed or induced, who has twenty-four hours per day access to the woman's relevant medical records so that the woman may request assistance related to any complication that arises from the performance or induction of the abortion, or to ask health-related questions regarding the abortion.

(ii) The name and telephone number of the hospital nearest to the home of the pregnant woman at which an emergency arising from the abortion would be treated.

(c) Whoever violates the provisions of Subparagraph (2)(a) of this Paragraph shall be fined not more than four thousand dollars per violation.

B. Viability. Except in the case of a medical emergency, before a physician performs an abortion, the physician, by use of his good faith medical judgment, shall first determine if the unborn child is viable.

C. Determination of Viability. In order to preserve the health of the woman, and in order to assist in making an accurate finding of viability considering the gestational age, weight, and lung maturity of the unborn child, the physician intending to terminate a pregnancy shall first perform or cause to be performed an ultrasound examination pursuant to the provisions of Subsection D of this Section. The physician shall enter such findings and determination of viability in the medical record of the pregnant woman, along with photographs or prints of the ultrasound evidencing the findings.

D. Ultrasound Requirements. Except in the case of a medical emergency, and in addition to the provisions of R.S. 40:1061.17, consent to an abortion of an unborn child at any stage of gestational development is voluntary and informed only if an obstetric ultrasound is performed in accordance with the provisions of this Section.

(1) Qualifications to perform ultrasound. The ultrasound shall be performed by the physician who is to perform the abortion or a qualified person who is the physician's agent. For purposes of this Section, “qualified person” means a person having documented evidence that he or she has completed a course in

the operation of ultrasound equipment and is in compliance with any other requirements of law regarding the operation of ultrasound equipment.

(2)(a) Requirements. Except as provided in Subparagraph (b) of this Paragraph, at least seventy-two hours prior to the woman's having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

(i) Perform an obstetric ultrasound on the pregnant woman; simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them; and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen.

(ii) Provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions.

(iii) Offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable.

(iv) Prior to the ultrasound, obtain from the pregnant woman a copy of a completed, signed, and dated election form. The election form shall be produced and made available by the department, and shall state as follows:

“Ultrasound Before Abortion Notice and Election Form

Louisiana law requires an ultrasound examination prior to the performance of an abortion. By signing below, I certify that I understand the following:

- (1) I have the option to look at or look away from the ultrasound display at any time.
- (2) I have the option to listen to the heartbeat of the unborn child that is required to be made audible unless I decline by initialing here: _____.
- (3) I am required by law to hear an oral explanation of the ultrasound images, unless I certify below that I am pregnant due to an act of rape or crime against nature as defined by R.S. 14:89(A)(2).
- (4) I have the option to ask and receive answers to any questions about the images of the unborn child.
- (5) I have the option to ask for an ultrasound photographic print depicting the unborn child.

Signature Date

OPTION FOR WOMEN WHO HAVE FILED LAW ENFORCEMENT REPORTS:

I certify that I have reported an act of rape or crime against nature as defined by R.S. 14:89(A)(2) to law enforcement officials, and that I decline to hear an oral explanation of the ultrasound images.

Signature Date”

(v) Orally read the following statement to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and certify by signature on a form that shall be produced and made available by the department that the following statement was delivered orally:

“During this ultrasound examination, you have the right to an oral explanation of the results. You have the option to view the images on the ultrasound screen. The heartbeat of the unborn child, if present, will be made audible, unless you declined on the election form. You have the right to receive answers to any questions you ask about your ultrasound examination. You have the right to receive an ultrasound photographic print, which will be provided at your request.”

(vi) Retain copies of the election form and certification prescribed by Items (iv) and (v) of this Subparagraph. The certification shall be placed in the medical file of the woman and shall be kept by the abortion provider for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. The woman's medical files shall be kept confidential as provided by law.

(b) If the pregnant woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the requirements of Subparagraph (a) of this Paragraph at least twenty-four hours prior to the woman having any part of an abortion performed or induced.

(3) Options to view or listen to required medical information.

(a) A pregnant woman may choose not to exercise her option to request an ultrasound photograph print as provided for under this Section.

(b) A pregnant woman may choose not to view the ultrasound images required to be provided to and reviewed with the pregnant woman as provided for under this Section.

(c) A pregnant woman may choose not to listen to the sounds detected by the fetal heart monitor required to be provided to the pregnant woman as provided for under this Section.

(d) The physician, the agent of the physician, and the pregnant woman are not subject to a penalty under this Chapter solely because the pregnant woman chooses not to request an ultrasound print, view the ultrasound images, or hear the heart auscultation.

(4) Medical Emergencies.

(a) “Medical emergency” as used in this Section, means the existence of any physical condition, not including any emotional, psychological, or mental condition, which a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy to avert the pregnant woman's death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy.

(b) Upon a determination by a physician that a medical emergency exists with respect to a pregnant woman, the provider shall certify in writing the specific medical conditions that constitute the emergency. The

certification shall be placed in the medical file of the woman and shall be kept by the abortion provider for a period of not less than seven years. If the woman is a minor, then the certification shall be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. The woman's medical files shall be kept confidential as provided by law.

(5) Penalties. Any person who intentionally or knowingly fails to comply with any requirement of this Section shall be subject to the penalties as provided for in R.S. 40:1061.29.

(6) Protection of privacy in court proceedings. In every civil or criminal proceeding or action brought under this Section, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion has been performed or attempted. This Section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

E. Pregnant rape survivors or victims of crime against nature as defined by R.S. 14:89(A)(2) who have reported the act to law enforcement officials shall have the opportunity to opt out of the oral explanation provisions of Subparagraph (D)(2)(b) of this Section, in addition to having the same options to view or listen to the required medical information as provided in Paragraph (D)(3) of this Section. **Redesignated from R.S. 40:1299.35.2 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 1999, No. 1232, § 1, eff. July 9, 1999; Acts 2001, No. 1110, § 1, eff. June 28, 2001; Acts 2010, No. 888, § 1; Acts 2011, No. 411, § 1; Acts 2012, No. 685, § 1; Acts 2013, No. 259, § 1, eff. June 10, 2013; Acts 2014, No. 602, § 6, eff. June 12, 2014; Acts 2014, No. 620, § 1, eff. Sept. 1, 2014; Acts 2016, No. 97, § 1; Acts 2016, No. 98, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.11, Drugs or chemicals used; penalties:**

A. When any drug or chemical is used for the purpose of inducing an abortion as defined in R.S. 40:1061.9, the physician who prescribed the drug or chemical shall be in the same room and in the physical presence of the pregnant woman when the drug or chemical is initially administered, dispensed, or otherwise provided to the pregnant woman.

B. The drug or chemical shall not be administered, dispensed, or otherwise provided to the pregnant woman by a physician or any person acting under the physician's direction, whether in a licensed outpatient abortion facility, private medical office or any other facility, unless the physician has obtained the voluntary and informed consent of the pregnant woman pursuant to the provisions of R.S. 40:1061.17 and the requirements set forth in that Section.

C. If a physician prescribes, dispenses, administers, or provides any drug or chemical to a pregnant woman for the purpose of inducing an abortion as defined in R.S. 40:1061.9, the physician shall report the abortion to the Louisiana Department of Health as provided in R.S. 40:1061.21.

D. In addition to the requirements of reporting complications to the Louisiana Department of Health pursuant to R.S. 40:1061.21, if the physician knows that the woman experienced a serious adverse event, as defined by the MedWatch Reporting System, during or after the administration or use of the drug, the physician shall also report the event to the United States Food and Drug Administration through the MedWatch Reporting System not later than the third day after the date the physician learns that the event occurred.

E. The Louisiana State Board of Medical Examiners may take disciplinary action as authorized in R.S. 37:1261 et seq. or any other applicable provision of law against a physician who violates any provision of this Section.

F. Any person not under the direct and immediate supervision of a physician who knowingly performs or attempts to perform an abortion using chemicals or drugs in violation of this Section shall be subject to penalties pursuant to R.S. 40:1061.29. No penalty may be assessed against the woman who undergoes the abortion. **Redesignated from R.S. 40:1299.35.2.1 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2013, No. 259, § 1, eff. June 10, 2013. Amended by Acts 2014, No. 620, § 1, eff. Sept. 1, 2014. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.11.1, Chemically-induced abortion; required disclosure:**

A. When mifepristone is administered, dispensed, or otherwise provided to a pregnant woman by a physician or any person acting under the physician's direction, whether in a licensed outpatient abortion facility, private medical office, or any other facility, then the physician or the person acting under the physician's direction shall provide the disclosure statement found in Subsection B of this Section to the pregnant woman. The disclosure statement may be provided by doing any of the following:

- (1) Stapling the disclosure statement to a bag, envelope, or other package that contains misoprostol for the pregnant woman to self-administer at home.
- (2) Attaching the disclosure statement to a written prescription for misoprostol provided by the physician or the person acting under the physician's direction.
- (3) Attaching the disclosure statement to the patient's discharge instructions if the prescription for misoprostol is sent directly to a pharmacy.

B. The disclosure statement required by this Section shall contain all of the following text:

“PLEASE READ BEFORE TAKING SECOND PILL

Research has indicated that the first pill provided, identified as mifepristone, is not always effective in ending a pregnancy. If after taking the first pill you regret your decision, please consult a physician or healthcare provider immediately to determine if there are options available to assist you in continuing your pregnancy.”

C. (1) Nothing in this Section shall be construed as creating or recognizing a right to abortion.

(2) Nothing in this Section shall be construed as requiring the disclosure statement to be provided to a woman facing a spontaneous miscarriage as defined in R.S. 40:1061.9(1)(b).

(3) Nothing in this Section shall be construed as requiring a pharmacy or any entity other than the facility where the abortion is administered to provide the disclosure statement.

D. As used in this Section, the following terms have the meanings ascribed to them:

- (1) “Abortion pill” means the use of mifepristone or misoprostol to induce a chemical abortion.
- (2) “Mifepristone” means a synthetic steroid that inhibits the action of progesterone, given orally in early pregnancy to induce a chemical abortion. Mifepristone is the first drug used in a two-drug process to induce a chemical abortion.

(3) “Misoprostol” means a synthetic prostaglandin E1 analogue that is used to induce a chemical abortion. Misoprostol is the second drug used in a two-drug process to induce a chemical abortion. **Added by Acts 2021, No. 483, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.12, Born-Alive Infant Protection Act:**

A. In determining the meaning of any statute or of any rule, regulation, or interpretation of the various administrative agencies of this state, the words “person”, “human being”, “child”, and “individual” include every infant member of the species homo sapiens who is born alive at any stage of development.

B. An infant at any stage of development who has survived an abortion procedure resulting in his or her live birth shall be given reasonable and immediate medical care as provided in R.S. 40:1061.13(C). **Redesignated from R.S. 40:1299.35.3 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2001, No. 1110, § 1, eff. June 28, 2001. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.13, Abortion after viability; second attendant physician required; duties:**

A. Before a physician may perform an abortion upon a pregnant woman whose unborn child is viable, such physician shall first certify in writing that the abortion is necessary to preserve the life or health of the woman and shall further certify in writing the medical indications for such abortion and the probable health consequences.

B. Any physician who performs an abortion upon a woman carrying a viable unborn child shall utilize the available method or technique of abortion most likely to preserve the life and health of the unborn child. In cases where the method or technique of abortion which would most likely preserve the life and health of the unborn child would present a greater risk to the life and health of the woman than another available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

C. An abortion of a viable unborn child shall be performed or induced only when there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for an infant born alive as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required by this Section to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child and born-alive infant, respectively, provided that it does not pose an increased risk to the life or health of the woman. **Redesignated from R.S. 40:1299.35.4 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 1999, No. 1232, § 1, eff. July 9, 1999; Acts 2001, No. 1110, § 1, eff. June 28, 2001. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.14, Minors:**

A. No physician shall perform or induce an abortion upon any pregnant woman who is under the age of eighteen years and who is not emancipated judicially or by marriage unless the physician or a qualified

person acting as agent of the physician pursuant to R.S. 40:1061.17(B)(4)(c) has received those documents provided for in either Paragraph (1) or (2) of this Subsection:

(1)(a) A notarized statement signed by the mother, father, legal guardian, or tutor of the unemancipated minor declaring that the affiant has been informed that the minor intends to seek an abortion and that the affiant consents to the abortion. The affiant shall provide sufficient evidence of identity that shall be expressly specified in the affidavit to establish an articulable basis for a reasonably prudent person to believe that the affiant is one of the following:

(i) The lawful mother.

(ii) The lawful father.

(iii) The legal guardian.

(iv) The lawful tutor of the minor.

(b) A copy of a valid and unexpired driver's license or a government-issued identification card of the individual giving consent on behalf of the unemancipated minor as provided for in Subparagraph (a) of this Paragraph.

(2) A court order as provided in Subsection B of this Section.

B. The following provisions shall apply to all applications for court orders by minors seeking abortions and appeals from denials of applications:

(1) Jurisdiction to hear applications shall be in the court having juvenile jurisdiction in the parish in which the minor is domiciled. Jurisdiction to hear an application or appeal shall be extended to a court having juvenile jurisdiction in a contiguous parish if either of the following conditions is met:

(a) The minor's parent or guardian is a presiding judge of the juvenile court in the parish in which the minor is domiciled.

(b) The parish in which the minor is domiciled has a population of less than ten thousand persons according to the latest federal decennial census.

(2) Each clerk of each court which has jurisdiction to hear such applications shall prepare application forms in clear and concise language which shall provide step-by-step instructions for filling out and filing the application forms. All application forms shall be submitted to the attorney general for his approval. Each clerk shall assist each minor who requests assistance in filling out or filing the application forms.

(3)(a) Each application shall be heard in chambers, anonymously, in a summary manner, within four days, excluding legal holidays, of the filing thereof.

(b)(i) Prior to such ex parte hearing, the court may require the minor to participate in an evaluation and counseling session with a mental health professional from the Louisiana Department of Health, office of behavioral health, or a staff member from the Department of Children and Family Services, office of children and family services, or both. The court may refer the petitioner, if necessary, to the appropriate Louisiana Department of Health, office of behavioral health regional office to arrange the evaluation and counseling session within the four-day period prior to the ex parte hearing, as provided in this Paragraph. This referral may be made by the clerk upon the minor's filing the application when the court has issued a standing order authorizing same and the circumstances fit the criteria of the standing order therefor.

(ii) Such evaluation and counseling session shall be for the purpose of developing trustworthy and reliable expert opinion concerning the minor's sufficiency of knowledge, insight, judgment, and maturity with regard to her abortion decision in order to aid the court in its decision and to make the state's resources available to the court for this purpose. Persons conducting such sessions shall employ the information and printed materials referred to in R.S. 40:1061.17 in examining how well the minor interviewed is informed about pregnancy, fetal development, abortion risks and consequences, the indicators of human trafficking, and abortion alternatives, and shall also endeavor to verify that the minor is seeking an abortion of her own free will and is not acting under intimidation, threats, abuse, undue pressure, or extortion by any other persons and is not a victim of a coerced abortion as defined in Children's Code Article 603.

(iii) For purposes of providing screening to protect the safety and well-being of the minor, such evaluation and counseling session shall also endeavor to ascertain whether the minor is pregnant as a result of sexual activity constituting a crime under the laws of this state, or as a result of commercial sexual exploitation of the minor, and shall inform the minor of resources available for her protection.

(iv) The results of such evaluation and counseling shall be reported to the court by the most expeditious means, commensurate with security and confidentiality, to assure receipt by the court prior to or at the ex parte hearing.

(4)(a) If the minor has not been interviewed in such evaluation and counseling session prior to the ex parte hearing, such that the court does not have the benefit of the required report, then the court may appoint a certified child advocate attorney to be present with the minor at the ex parte hearing for the purpose of assisting the minor in communicating to the court whether her abortion decision is made with sufficient maturity and free and informed consent, commensurate with the duty of confidentiality. A certified child advocate attorney shall be given sufficient time on the same day as the ex parte hearing to review with the minor the information and printed materials referred to in R.S. 40:1061.17, in evaluating how well the minor is informed about pregnancy, fetal development, abortion risks and consequences, the indicators of human trafficking, and abortion alternatives. The certified child advocate attorney shall also endeavor to assist in the court's determination of whether the minor is seeking the abortion of her own free will and is not acting under intimidation, threats, undue pressure, or extortion by other persons, is not a victim of coerced abortion as defined in Children's Code Article 603, and is not in need of assistance or protective orders if the minor is a victim of commercial sexual exploitation as defined in Children's Code Article 603, or any crime against the child as defined in Children's Code Article 603.

(b) If the court, using reasoned judgment and evidentiary evaluation, finds, by clear and convincing evidence, that the minor is sufficiently mature and well enough informed to make the decision concerning the abortion on her own, and further finds that the minor is not a victim of coerced abortion, and is seeking the abortion of her own free will, the court shall issue an order authorizing the minor to act on the matter without parental consultation or consent.

(c) Whether or not the court authorizes the abortion, if the court finds by a preponderance of the evidence that the minor is a victim of commercial sexual exploitation as defined in Children's Code Article 603, or any crime against the child as defined in Children's Code Article 603, the court may issue any appropriate protective orders or afford the minor the continued services of a court-appointed special advocate, or both.

(5) If the court finds that the minor is not sufficiently mature and well enough informed to make a decision intelligently among the alternatives, the court shall decide whether or not it would be in the best interest of the minor to notify her parents or guardian of the proceedings. If the court finds that it is in the minor's best interest to notify her parents or guardian, the court shall so notify and reconvene the proceedings within

forty-eight hours with the parents or guardian present to advise and counsel the minor and aid the court in making its determination whether or not the abortion would be in the best interest of the minor.

(6) If the court finds that the minor is not sufficiently mature and well enough informed to make the decision concerning the abortion and further finds that it would not be in the minor's best interest to notify her parents or guardian, the court shall issue an order authorizing the abortion if the court finds, by clear and convincing evidence, that the abortion would be in the best interest of the minor. However, as stated in *Bellotti v. Baird*, 443 U.S. 622, 647 (1979), "the court may deny the abortion request of an immature minor in the absence of parental consultation if it concludes that her best interests would be served thereby."

(7) In all cases, the court shall issue its final judgment and order immediately upon completion of the reconvened hearing, if there is one, or immediately upon completion of the original ex parte hearing, if there is no reconvened hearing, and in any case where unusual justification exists for taking the matter under advisement, the court shall report taking the matter under advisement to the Supreme Court of Louisiana and to the court of appeal for the circuit to which appeals lie from the court and shall issue its final judgment and order within forty-eight hours after taking the matter under advisement at the completion of such hearing. Appeals from decisions of the court hearing the application shall be by trial de novo in the court of appeal.

(8) Each clerk of each court of appeal shall prepare appeal forms in clear and concise language which shall provide step-by-step instructions for filling out and filing the appeal forms. All appeal forms shall be submitted to the attorney general for his approval. Each clerk shall assist each minor who requests assistance in filling out or filing the appeal forms.

(9) Each appeal shall be heard in chambers, anonymously, in a summary manner, and within forty-eight hours of the filing thereof.

(10) The decision of the court of appeal shall be based on the criteria provided in Paragraphs (4), (5), and (6) of this Subsection, and such court shall issue its final judgment and order within forty-eight hours of its hearing.

(11) Each minor who declares to the clerk of the court hearing the application or appeal that she does not have sufficient funds to pay for the costs of the application or the appeal shall be allowed to proceed in forma pauperis.

(12) Each minor who files an application or an appeal shall be entitled to an initial hearing and a determination by the court independently of any notice to or consultation with her parents, tutor, or guardian.

(13) Except as otherwise provided in this Section, or as otherwise provided by rule of court, hearings of applications and appeals shall be conducted in accordance with the provisions of the Louisiana Children's Code.

C. (1) Nothing in this Section shall be construed as creating or recognizing a right to abortion.

(2) It is not the intention of this Section to make lawful an abortion that is unlawful on July 10, 1997, or which later becomes unlawful.

D. Nothing in this Section shall be deemed or construed to affect or alter existing law on the confidentiality of proceedings and records related thereto, except to the extent specifically contained in this Section. **Redesignated from R.S. 40:1299.35.5 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981;**

Acts 1995, No. 1254, § 1; Acts 1997, No. 933, § 1, eff. July 10, 1997; Acts 2017, No. 165, § 1; Acts 2021, No. 482, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).

○ **La. R.S. 40:1061.14.1, Fraudulent interference with parental consent:**

A. Any person giving parental consent pursuant to R.S. 40:1061.14(A)(1) on behalf of a minor on whom an abortion was completed shall be subject to R.S. 14:70.7 providing penalties for the unlawful production, manufacturing, distribution, or possession of fraudulent documents for identification purposes.

B. Any employee of a licensed outpatient abortion facility who knowingly aids and abets a person who is not the mother, father, legal guardian, or tutor of a minor on whom an abortion was performed in the execution or acceptance of the parental consent requirements as required by R.S. 40:1061.14(A)(1), shall be subject to the penalties in R.S. 40:1061.29. **Added by Acts 2017, No. 165, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.15, Prevention of forced abortion; signage in abortion facilities:**

A. This Section shall be known and may be cited as the “Forced Abortion Prevention Sign Act”.

B. Any licensed outpatient abortion facility as defined by R.S. 40:2175. 3 shall conspicuously post a sign in a location defined in Subsection D of this Section which is clearly visible to patients, and which features the text contained in Paragraph (1) of this Subsection and the information contained in Paragraph (2) of this Subsection.

(1) The sign shall feature the following text:

“Notice: Women's Rights and Pregnancy Resources

You can't be forced.

* It is unlawful for anyone to make you have an abortion against your will, even if you are a minor.

You and the father.

* The father of your child must provide support of the child, even if he has offered to pay for an abortion.

You and adoption.

* The law allows adoptive parents to pay costs of prenatal care, childbirth and newborn care.

You are not alone.

* Many agencies are willing to help you to carry your child to term, and to assist after your child's birth.”

(2) The sign shall feature the web address of the pregnancy resources website maintained by the department pursuant to R.S. 40:1061.17, which shall be shown on the sign in a large, bold font designed to be clearly visible to patients, along with any additional information which is deemed necessary by the department and is in accordance with the provisions of R.S. 40:1061.17.

C. The department shall cause the sign provided for in this Section to be designed and produced. All signs produced shall incorporate color graphics and shall be printed on durable signage material measuring

sixteen inches by twenty inches with lettering presented in a size and style of font designed to be clearly visible to the patient.

D. The sign provided for in this Section shall be conspicuously posted in each patient admission area, waiting room, and patient consultation room used by patients on whom abortions are performed, induced, prescribed for, or who are provided with the means for an abortion. **Redesignated from R.S. 40:1299.35.5.1 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2011, No. 411, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.16, Information on psychological impacts, illegal coercion, abuse, and human trafficking required prior to abortion; task force on information resources:**

A. The legislature hereby declares that women of this state have a right to know that undergoing an abortion may have serious psychological impacts, including severe emotional distress and mental and behavioral health afflictions.

B. (1) Except as provided in Paragraph (2) of this Subsection, at least seventy-two hours prior to undergoing an elective abortion as defined in R.S. 40:1061.9, and as a condition for consent to the abortion to be deemed voluntary and informed, the woman or minor female considering abortion shall be given a copy of the printed materials described in this Section by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency as provided in R.S. 40:1061.23.

(2) If the woman or minor female considering abortion certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then she shall be given a copy of the printed materials described in this Section at least twenty-four hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency as provided in R.S. 40:1061.23.

C. (1) The physician or qualified person shall provide to the woman or minor female seeking an abortion the printed materials required by this Section individually and in a private room for the purpose of ensuring that she has an adequate opportunity to ask questions and discuss her individual circumstances.

(2) The physician or qualified person shall obtain the signature of the woman or minor female seeking an abortion on a form certifying that the printed materials were given to the woman or minor female.

(3) In the case of a minor female considering an abortion, if a parent accompanies the minor female to the appointment with the physician or qualified person described in Subsection B of this Section, then the physician or qualified person shall provide to the parent copies of the materials given to the female in accordance with Paragraph (1) of this Subsection.

(4) The signed certification form provided for in Paragraph (2) of this Subsection shall be kept within the medical record of the woman or minor female upon whom the abortion procedure was performed for a period of at least seven years.

D. The department shall create printed materials and printable Internet-based resources that provide all of the following:

(1)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors who serve women and minor females who may experience psychological distress or other mental, emotional, or behavioral health afflictions prior to undergoing an abortion.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and behavioral health effects that may occur prior to an abortion.

(ii) Is not affiliated with an abortion provider.

(2)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors who serve women and minor females who may experience psychological distress or other mental, emotional, or behavioral health afflictions after undergoing an abortion.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and behavioral health effects that may result from undergoing the abortion procedure.

(ii) Is not affiliated with an abortion provider.

(3)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors who are trained in counseling women and minor females who experience coercion to obtain an abortion concerning the psychological impacts or other mental, emotional, or behavioral health afflictions that may result from experiencing coercion to obtain an abortion.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and behavioral health effects that may result from experiencing coercion to obtain an abortion.

(ii) Is not affiliated with an abortion provider.

(c) The materials developed pursuant to this Paragraph shall clearly indicate that coerced abortion is defined in Louisiana law, Children's Code Article 603, as a form of abuse that seriously endangers the physical, mental, and emotional health and safety of a child.

(4)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors for women and minor females who are victims of the crime of human trafficking or the crime of trafficking of children for sexual purposes.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and behavioral health effects that may result from being a victim of human trafficking or a victim of trafficking of children for sexual purposes.

(ii) Is not affiliated with an abortion provider.

(c) The materials developed pursuant to this Paragraph shall clearly indicate all of the following:

(i) That victims of trafficking can be safe after their rescue from being trafficked.

(ii) That Louisiana provides for assistance to victims of human trafficking, as required by R.S. 46:2162 et seq.

(iii) That there are public and private agencies providing valuable assistance to women and minor females who have been commercially and sexually exploited; and that help available to victims of trafficking and other exploitation includes housing assistance, education, job training, and drug addiction counseling.

(iv) That legal assistance is available to women and minor females seeking to escape the sex trade, including assistance in vacating prior prostitution convictions.

(v) That the crime of trafficking of children for sexual purposes is subject to the mandatory reporting laws set forth in Children's Code Articles 603, 609, and 610.

(d) Any pamphlet developed pursuant to this Paragraph shall be known as the "Point of Rescue" pamphlet.

E. The materials provided for in Subsection D of this Section shall be printed in a typeface large enough to be clearly legible and shall be available at no cost from the department upon request and in appropriate number to any person, facility, or hospital. The department's website shall contain the content of the printed material, a printable electronic image of the printed material, and information on ordering printed materials. The department shall promulgate rules and regulations relative to the methods of distribution of printed materials.

F. Repealed by Acts 2018, No. 661, § 8.

G. Nothing in this Section shall be construed to conflict with or supercede the requirement for mandatory reporting of child abuse provided in Children's Code Article 603 et seq. **Redesignated from R.S. 40:1299.35.5.2 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2014, No. 569, § 2. Amended by Acts 2016, No. 97, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.17, Woman's right to know:**

A. Legislative findings and purposes. The Legislature of Louisiana finds that:

(1) Act No. 435 of the 1978 Regular Session of the Legislature required the obtaining of the informed consent of a pregnant woman to the performance of an abortion. This law was declared unconstitutional in the cases of *Margaret S. v. Edwards*,¹ and in *Margaret S. v. Treen*.²

(2) By Act No. 435 of the 1978 Regular Session of the Legislature (R.S. 40:1061.18) a twenty-four-hour waiting period was required between the signing of an informed consent and the performance of an abortion.

This law was repealed by Act No. 418 of the 1980 Regular Session of the Legislature because of the decision of the federal court in *Margaret S. v. Edwards*.

(3) Subsequent to the above-referenced court decisions and legislative enactments, the United States Supreme Court has rendered a decision in the case of *Planned Parenthood of Pennsylvania v. Casey*,³ which upheld the constitutionality of the Pennsylvania law which required informed consent, parental consent, and a twenty-four-hour waiting period prior to an abortion, and which decision has therefore impliedly overruled the decisions in the *Margaret S.* cases.

(4) The judicial obstacles to such legislation now having been removed by virtue of the *Casey* decision, the legislature finds that it is in the public interest and in furtherance of the general health and welfare of the citizens of this state to reenact provisions of law similar to those heretofore either declared unconstitutional or repealed for the following reasons:

(a) It is essential to the psychological and physical well-being of a woman considering an abortion that she receive complete and accurate information regarding her alternatives.

(b) The knowledgeable exercise of a woman's decision to have an abortion depends on the extent to which the woman receives sufficient information to make an informed choice between two alternatives, giving birth or having an abortion.

(c) The vast majority of all abortions are performed in clinics devoted solely to providing abortions and family planning services. Most women who seek abortions at these facilities do not have any relationship with the physician who performs the abortion, before or after the procedure. They do not return to the facility for postsurgical care. In most instances, the woman's only actual contact with the physician occurs simultaneously with the abortion procedure, with little opportunity to receive counseling concerning her decision.

(d) The decision to abort "is an important, and often a stressful one, and it is desirable and imperative that it be made with full knowledge of its nature and consequences", *Planned Parenthood v. Danforth*.⁴

(e) "The medical, emotional, and psychological consequences of an abortion are serious and can be lasting...", *H. L. v. Matheson*.⁵

(f) Abortion facilities or providers offer only limited and/or impersonal counseling opportunities.

(g) Many abortion facilities or providers hire untrained and unprofessional "counselors" whose primary goal is to sell abortion services.

(5) Based on the above findings, it is the purpose of this Act to:

(a) Ensure that every woman considering an abortion receive complete information on her alternatives and that every woman submitting to an abortion do so only after giving her voluntary and informed consent to the abortion procedure.

(b) Protect unborn children from a woman's uninformed decision to have an abortion.

(c) Reduce "the risk that a woman may elect an abortion only to discover later, with devastating psychological consequences, that her decision was not fully informed", *Planned Parenthood v. Casey*.

(d) Ensure that every woman considering an abortion receive complete information regarding the availability of anesthesia or analgesics that would eliminate or alleviate organic pain to the unborn child that could be caused by the particular method of abortion to be employed.

B. Informed consent; requirements. After a woman is determined to be pregnant, no abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

(1) The provisions of R.S. 40:1061.10 requiring an ultrasound test and determination of viability are met.

(2) The information required by this Section to be communicated orally and in person to the woman is provided to her individually and in a private room to protect her privacy, for the purpose of ensuring that the information focuses on her individual circumstances and that she has an adequate opportunity to ask questions.

(3)(a) Written information from the physician. Except as provided in Subparagraph (c) of this Paragraph, at least seventy-two hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, in writing and read orally and in person of:

(i) The name of the physician who meets the requirements of R.S. 46:1061.10(A) and who will perform the abortion, which shall be listed in the same manner as the name appears on the membership roll of the Louisiana State Board of Medical Examiners.

(ii) The location and specialty of the physician's residency and whether the residency of the physician has been completed.

(iii) Whether the physician is currently board certified and, if so, the medical specialty and the certifying organization.

(iv) Whether the physician has active admitting privileges at any hospital that provides obstetrical or gynecological healthcare services and, if so, the name of the hospital or hospitals. For purposes of this Subparagraph, "active admitting privileges" means that the physician is a member in good standing of the medical staff of a hospital that is currently licensed by the Louisiana Department of Health, with the ability to admit a patient and to provide diagnostic and surgical services to such patient.

(v) Whether the physician has malpractice insurance that would cover the abortion procedure.

(vi) Whether in the last ten years the physician has ever been placed on probation, reprimanded, or had his license suspended or revoked by any professional licensing organization and, if so, the jurisdiction in which the professional discipline was ordered. For purposes of this Subsection, the professional discipline action must be disclosed even if it was stayed or suspended. Disclosure of disciplinary action shall include but not be limited to action taken by the Louisiana State Board of Medical Examiners and the Louisiana Board of Pharmacy.

(vii) The internet address for disciplinary records of the Louisiana State Board of Medical Examiners.

(b) Oral information from the physician. Except as provided in Subparagraph (c) of this Paragraph, and in the same period of time provided for in the introductory paragraph of Subparagraph (a) of this Paragraph, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person of:

(i) A description of the proposed abortion method and of those risks (including risks to the woman's reproductive health) and alternatives to the abortion that a reasonable patient would consider material to the decision of whether or not to undergo the abortion.

(ii) The probable gestational age of the unborn child at the time the abortion is to be performed; and, if the unborn child is viable or has reached the gestational age of twenty-four weeks and the abortion may be otherwise lawfully performed under existing law, that:

(aa) The unborn child may be able to survive outside the womb.

(bb) The woman has the right to request the physician to use the method of abortion that is most likely to preserve the life of the unborn child.

(cc) If the unborn child is born alive, that attending physicians have the legal obligation to take all reasonable steps necessary to maintain the life and health of the child.

(iii) The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed.

(iv) The medical risks associated with carrying her child to term.

(v) Any need for anti-Rh immune globulin therapy, if she is Rh negative, the likely consequences of refusing such therapy, and a good faith estimate of the cost of the therapy.

(vi) The availability of anesthesia or analgesics to alleviate or eliminate organic pain to the unborn child that could be caused by the method of abortion to be employed.

(vii) The requirement that at least seventy-two hours prior to the woman's having any part of an abortion performed or induced, the physician, referring physician, or qualified person working in conjunction with either physician must perform an obstetric ultrasound under the provisions of R.S. 40:1061.10.

(viii) The inclusion in her printed materials of a comprehensive list, compiled by the department, of facilities that offer obstetric ultrasounds free of charge.

(c) If the woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then the physician who is to perform the abortion or the referring physician shall comply with all of the requirements of Subparagraphs (a) and (b) of this Paragraph at least twenty-four hours prior to the abortion.

(4) Oral information from a physician or qualified person.

(a) In the initial contact with an abortion provider by any person seeking to schedule an abortion for a minor or adult woman or for herself, whether such initial contact is by telephone, by internet communication, in person, or by any other means, the physician who is to perform the abortion or any person acting on behalf of the physician informs the person of the internet address of the department's abortion alternatives and informed consent website provided for in this Section.

(b)(i) Except as provided in Item (ii) of this Subparagraph, at least seventy-two hours before a scheduled abortion, the physician who is to perform the abortion, the referring physician, or a qualified person has informed the woman, orally and in person, that:

(aa) Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of such assistance is contained on the department's website and in the printed materials which shall be given to her as provided in this Section.

(bb) The department's website and printed materials describe the unborn child and list agencies which offer alternatives to abortion.

(cc) The father of the unborn child is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion. In the case of rape, this information may be omitted.

(dd) She is free to withhold or withdraw her consent to the abortion at any time before or during the abortion without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.

(ii) If the woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then the physician who is to perform the abortion, the referring physician, or a qualified person shall comply with all of the requirements of Item (i) of this Subparagraph at least twenty-four hours before a scheduled abortion.

(c) For purposes of this Paragraph, “qualified person” shall mean an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse, or physician.

(5)(a) Provision of printed materials. Except as provided in Subparagraph (b) of this Paragraph, at least seventy-two hours before the abortion, the woman is given a copy of the printed materials described in this Section by the physician who is to perform the abortion, the referring physician, or a qualified person as defined in Subparagraph (4)(c) of this Subsection. If the woman is unable to read the materials, they shall be read to her. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

(b) If the woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then the woman shall be given a copy of the printed materials described in this Section by the physician who is to perform the abortion, the referring physician, or a qualified person as defined in Subparagraph (4)(c) of this Subsection at least twenty-four hours before the abortion. If the woman is unable to read the materials, they shall be read to her. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

(6) Certification and reporting. The woman certifies in writing on a form provided by the department, prior to the abortion, that the information and materials required to be provided under this Section have been provided at least seventy-two hours prior to the abortion; or, if applicable, at least twenty-four hours prior to the abortion in the case of a woman who has given prior certification in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence. All physicians who perform abortions shall report the total number of certifications received monthly to the department. The department shall make the number of certifications received available to the public on an annual basis.

(7) Prior to the performance of the abortion, the physician who is to perform the abortion or his agent receives a copy of the written certification required by this Section.

(8) The woman is not required to pay any amount for the abortion procedures until the seventy-two-hour period has expired; or until expiration of the twenty-four-hour period applicable in the case of a woman who has given prior certification in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence.

C. Publication of abortion alternatives and informed consent website.

(1) The department shall cause to be published in English, within one hundred twenty days after enactment of this Act,⁶ and shall update on an annual basis, or as needed, the following easily comprehensible

information on a stable internet website that shall be developed and maintained by the department to inform the public of the public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while her child is dependent, including but not limited to the following information that shall indicate the agency's or service's physical address, telephone number, and web address if available:

- (a) Information about public and private agencies which provide medical assistance benefits that may be available for prenatal care, childbirth, and neonatal care, and easily comprehensible information on how to apply for such benefits.
- (b) Public and private pregnancy resource centers that provide information and services such as free abortion alternatives counseling, prenatal care, pantry services and parenting skills, and that do not refer, counsel, perform, induce, prescribe, or provide any means for abortion.
- (c) Information about the support obligations of the father of a child who is born alive and information about the judicial enforcement of child support.
- (d) Information on a separate and featured subpage of the department's website that lists facilities that provide free obstetric ultrasound services under the provisions of R.S. 40:1061.10 and this Section.
- (e) Information on a separate and featured webpage created and maintained by the Department of Children and Family Services linked on the department's website, accessible by redirecting from the domain name AdoptionOption.La.Gov, that lists public and private nonprofit adoption agencies that are not affiliated with an abortion provider, along with easily comprehensible first steps to aid a pregnant woman seeking to confidentially explore the option of placing her child for adoption, and indicating whether the adoption agency allows the woman to choose the adoptive parents.
- (f) Information on the anatomical and physiological characteristics of the unborn child pursuant to the provisions of this Section, including color photographs or images consistent with the most current technology depicting the unborn child at two-week gestational increments or closer.
- (g) Information describing the various methods of abortion procedures, the short-term and long-term medical risks associated with abortion, and the medical risks associated with carrying a child to term.
- (h) Information on the unborn child's ability to experience pain.
- (i) Video clips that convey objective and medically accurate information about abortion procedures, abortion risks, abortion alternative resources, and medically accurate information on the development of an unborn child. Video clips may be produced with the in-house resources of the department, or acquired for no cost to the state from third parties if the video is approved by the secretary as providing objective and medically accurate information.
- (j) Information that helps women identify unlawful abortion coercion, including but not limited to resources or hotlines that a minor or adult woman may call if she is experiencing actual or threatened physical abuse or violence, loss of employment or employment privileges, loss of eligible social assistance, loss of educational scholarship, or loss of legally protected financial support or housing.
- (k) Information to assist minors who are considering abortion, including parental consent information, and resources to help minors seek the protection of state child welfare services, temporary guardianship, or law enforcement authorities to report abuse as defined in Children's Code Article 603. The information designed to assist minors shall also include a link to pregnancy resource centers as defined in Subparagraph (1)(b) of this Subsection.

(2) The home page of the department's main website shall feature a button or other link which accesses the department's abortion alternatives and informed consent website, and the home page of such website shall feature user-friendly buttons that link to the information required in this Section. The department shall ensure that the resources described in this Section are comprehensive and user-friendly, and that they do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this Section.

(3) No information regarding who uses the website shall be collected or maintained. The department shall monitor the website to prevent and correct tampering and shall immediately notify abortion providers of any change of the website address.

(4) The search capabilities on the department's main website shall ensure that entering the term "abortion" yields the website and information required by this Section, regardless of how the information is labeled.

(5) The information on the department's abortion alternatives and informed consent website shall be printable. The printed materials required in Subsection D of this Section shall be available to download from the website in a portable document format without cost. The download of such information shall not be deemed to satisfy the requirements of Subsection B of this Section.

(6) The department's abortion alternatives and informed consent website shall be accessible to the public without requiring registration or use of a user name, a password, or any user identification.

(7) The department's abortion alternatives and informed consent website shall have the capability of detecting when it is being accessed by a mobile device and shall have the capability of converting to a platform designed to be easily viewable on mobile devices.

(8) If an abortion provider has a website, the abortion provider's internet website home page shall include a prominent link to the department's abortion alternatives and informed consent website.

D. Publication of printed materials. The department shall cause to be published, within one hundred twenty days after enactment of this Act⁴ and shall update on an annual basis or as needed, the following printed materials, which shall also be included as printable portable document format documents from the department's website:

(1) The signs provided for in the Forced Abortion Prevention Sign Act, R.S. 40:1061.15.

(2)(a) A list arranged geographically of Louisiana-based public or private nonprofit agencies, including the name, physical address, website address if available, and telephone number of each of the following:

(i) Entities that offer obstetric ultrasounds free of charge.

(ii) Entities that offer free and confidential counseling to a woman considering placing her child for adoption, along with the information provided pursuant to Subparagraph (C)(1)(e) of this Section.

(b) The lists provided for in this Subsection shall not include any facility that counsels, refers, performs, induces, prescribes, or provides any means for abortion.

(3) A printed booklet that features the web address of the department's dedicated pregnancy resource website printed in a bold large typeface. The booklet shall contain an outline of the various topics on the website as provided in Subsection C of this Section along with an explanation that more detailed information can be found at the department's website. The printed booklet shall state that it is unlawful for any individual to coerce a minor or adult woman to undergo an abortion, that any physician who performs

an abortion upon a woman without her informed consent may be liable to her for damages in a civil action at law, and that the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal care.

(a) The department's website and printed booklet shall include the following statements:

(i) "There are many public and private agencies willing and able to help you to carry your child to term, and to assist you and your child after your child is born, whether you choose to keep your child or to place her or him for adoption. The state of Louisiana strongly urges you to consult an independent physician about the risks of abortion to your physical and psychological well-being and to contact the resources provided on our website before making a final decision about abortion. The law requires that the abortion provider give you the opportunity to contact agencies like these before you undergo an abortion."

(ii) "By twenty weeks gestation, the unborn child has the physical structures necessary to experience pain. There is evidence that by twenty weeks gestation unborn children seek to evade certain stimuli in a manner which in an infant or an adult would be interpreted to be a response to pain. Anesthesia is routinely administered to unborn children who are twenty weeks gestational age or older who undergo prenatal surgery."

(b) The printed booklet shall include materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the unborn child at a minimum of two-week gestational increments from fertilization to full term, including color photographs or medical images consistent with the most current technology depicting the development of unborn children, and any relevant information on the possibility of the unborn child's survival; provided that any such color photographs or images shall contain the dimensions of the unborn child and shall be medically accurate. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures, the short-term and long-term medical risks associated with abortion as supported by peer-reviewed medical journals, and the medical risks associated with carrying a child to term.

(4) A certification form to be used by physicians or their agents as provided in this Section, which will list all the items of information which are to be given to women by physicians or their agents as required by this Section.

E. The materials provided for in Subsection D of this Section shall be printed in a typeface large enough to be clearly legible, and shall be available at no cost from the department upon request and in appropriate number to any person, facility, or hospital. The department's abortion alternatives and informed consent website shall contain information on ordering printed materials. The department shall promulgate rules and regulations relative to the methods of distribution of printed materials.

F. Medical emergency. Where a medical emergency compels the performance of an abortion, the physician shall orally inform the woman, before the abortion, if possible, of the medical indications supporting his judgment that an abortion is necessary to avert her death or to avert substantial and irreversible impairment of a major bodily function.

G. Reporting requirements. Any physician who has provided the information and materials to any woman in accordance with the requirements of this Section shall provide to the department:

(1) With respect to a woman upon whom an abortion is performed, all information as required by R.S. 40:1061.21 as well as the date upon which the information and materials required to be provided under this Section were provided, as well as an executed copy of the certification form required by this Section.

(2) With respect to any woman to whom the printed and oral information and materials have been provided in accordance with this Section, but upon whom the physician has not performed an abortion, the name and address of the facility where the required information was provided and if executed by the woman, a copy of the certification form required by this Section.

H. Criminal penalties.

(1) Any person who intentionally, knowingly, or recklessly fails to comply with all the requirements of this Section shall be subject to the penalties provided in R.S. 40:1061.29.

(2) No physician shall be guilty of violating this Section if he or she can demonstrate, by a preponderance of the evidence, that he or she reasonably believed that furnishing the required information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman, provided that the pregnancy is terminated in a licensed hospital and that it is necessary, as certified with supporting medical reasons by the physician in the woman's medical record, to avert the woman's death or avoid serious risk of substantial and irreversible impairment of a major bodily function, or to induce the premature delivery of an unborn child who is eighteen weeks gestational age or greater when the physician has made a good faith medical judgment that the unborn child's medical condition is such that there is no realistic possibility of maintaining the life of the unborn child outside the womb even if the unborn child were to be delivered after a full term pregnancy.

I. Limitation on civil liability. Any physician who complies with the provisions of this Section may not be held civilly liable to his patient for failure to obtain informed consent to the abortion under this Section. Any and all other rights and remedies are preserved to the patient.

J. Construction.

(1) Nothing in this Section shall be construed as creating or recognizing a right to abortion.

(2) It is not the intention of this Section to make lawful an abortion that is unlawful upon the effective date of this Act,⁶ or which later becomes unlawful. **Redesignated from R.S. 40:1299.35.6 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 1995, No. 648, § 1, eff. June 20, 1995; Acts 2007, No. 282, § 1; Acts 2010, No. 888, § 1; Acts 2011, No. 411, § 1; Acts 2012, No. 685, § 1; Acts 2016, No. 97, § 1; Acts 2018, No. 319, § 1; Acts 2019, No. 198, § 1, eff. June 11, 2019. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

o **La. R.S. 40:1061.17.1, Development of AdoptionOption.La.Gov website; task force:**

The legislature hereby establishes a task force within the Louisiana Department of Health to advise the secretary of the department concerning the preparation of the printed and internet materials provided for in R.S. 40:1061.17(C)(1)(e) and (D), and to develop public education initiatives to publicize the information in a manner consistent with state law. The task force shall be composed of the following members:

(1) Not more than two licensed clinical social workers licensed by the Louisiana State Board of Social Work Examiners, each of whom shall have experience in assisting birth mothers in navigating the adoption process, appointed by the governor.

- (2) Not more than two Louisiana residents who provide pre-abortion or post-abortion counseling in association with a nonprofit organization that does not counsel for or provide abortion, appointed by the governor.
- (3) Not more than two attorneys licensed in Louisiana and employed by nonprofit organizations who specialize in advocacy for women at risk of being coerced into abortion, or who specialize in navigating the adoption process, appointed by the governor.
- (4) Not more than two Louisiana residents who are employed by public or private nonprofit adoption agencies, appointed by the governor.
- (5) Not more than two executive directors of Louisiana nonprofit organizations that promote adoption as an alternative to abortion, or their designees.
- (6) Two members of the Senate appointed by the president.
- (7) Two members of the House of Representatives appointed by the speaker.
- (8) The secretary of the Louisiana Department of Health or his designee, who shall serve as a co-chairperson of the task force.
- (9) The secretary of the Department of Children and Family Services or his designee, who shall serve as a co-chairperson of the task force. **Added by Acts 2018, No. 319, § 1.**

- **La. R.S. 40:1061.18, Abortion sought due to rape or certain acts of crime against nature; reporting and certification:**

A. Whenever an abortion is being sought pursuant to R.S. 40:1061.6 to terminate a pregnancy resulting from an alleged act of rape, prior to the abortion all of the following requirements shall be met:

- (1) The rape victim shall report the rape to a law enforcement official unless the treating physician certifies in writing that in the physician's professional opinion, the victim was too physically or psychologically incapacitated to report the rape.
- (2) The victim certifies that the pregnancy is the result of rape, which certificate shall be witnessed by the treating physician.

B. Whenever an abortion is being sought pursuant to R.S. 40:1061.6 to terminate a pregnancy resulting from an alleged act of crime against nature as defined by R.S. 14:89(A)(2), prior to the abortion all of the following requirements shall be met:

- (1) The victim of crime against nature as defined by R.S. 14:89(A)(2) shall report the act to a law enforcement official unless the treating physician certifies in writing that in the physician's professional opinion the victim was too physically or psychologically incapacitated to report the act.
- (2) The victim certifies that the pregnancy is the result of crime against nature as defined by R.S. 14:89(A)(2), which certificate shall be witnessed by the treating physician.

C. The failure of the victim to comply with Subsection A or B, as applicable, shall not subject the victim to the provisions of R.S. 40:1061.28.

D. Whenever an abortion is being sought pursuant to R.S. 40:1061.6 to terminate a pregnancy resulting from an alleged act of rape or crime against nature as defined by R.S. 14:89(A)(2), the victim may request spiritual counseling and shall be offered the same informed consent information, without the seventy-two-

hour or twenty-four-hour delay, whichever may be applicable pursuant to R.S. 40:1061.17(B), prior to the performance of the abortion. **Redesignated from R.S. 40:1299.35.7 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1994, 4th Ex.Sess., No. 1, § 1, eff. Aug. 23, 1994. Amended by Acts 2005, No. 421, § 1; Acts 2014, No. 602, § 6, eff. June 12, 2014; Acts 2016, No. 97, § 1.**

○ **La. R.S. 40:1061.19, Records:**

A. In addition to any other duty that may be imposed by state law or regulations, each physician who performs or induces an abortion, the medical director of the facility where an abortion is performed or induced, the administrator of an abortion facility, each abortion facility, and each owner of an abortion facility shall have an independent duty to ensure that a designated custodian of records for the facility obtains, retains, and makes part of the medical record of each pregnant woman upon whom an abortion is performed or induced at least one copy of each of the following documents:

- (1) The certificate required by R.S. 40:1061.13.
- (2) If the pregnant woman is an unemancipated minor, one of the following:
 - (a) A notarized consent form and copies of identification as provided for in R.S. 40:1061.14(A)(1).
 - (b) A court order required by R.S. 40:1061.14(B), if applicable.
- (3) The consent form required by R.S. 40:1061.17.
- (4) The reports required by R.S. 40:1061.21.
- (5) The certificate required by R.S. 40:1061.23, if applicable.
- (6) The signed certification form provided for in R.S. 40:1061.16(C) indicating that the woman or minor female acknowledged receipt of informational materials concerning psychological impacts, illegal coercion, abuse, and human trafficking.
- (7) Any report made pursuant to Title VI of the Children's Code and any other report made to law enforcement in relation to the patient.

B. The individuals listed in Subsection A of this Section and the abortion facility shall each have an independent duty to ensure that the custodian of records for the abortion facility where the abortion was performed or induced retains the documents required in Subsection A of this Section for not less than seven years for adult patients and not less than ten years from the age of majority for minor patients. The ten-year period for minors shall begin to run when the patient attains the age of eighteen; provided, however, that in any case where the patient has reported facts that would require reporting under Title VI of the Children's Code, the retention period shall be thirty years.

C. For purposes of this Section, "owner" shall include each person with an ownership interest totaling five percent or more in an abortion facility.

- D. (1) Any person who intentionally or negligently fails to comply with the requirements of this Section or any duty recognized therein shall be subject to the penalties provided for in R.S. 40:1061.29.
- (2) Any abortion facility that fails to comply with the requirements of this Section or any duty recognized therein shall be subject to the penalties provided for in R.S. 40:1061.29.
- (3) Each medical record that does not include the documents identified in Subsection A of this Section, or which is not retained for the time specified in Subsection B of this Section, shall constitute a separate

incidence or occurrence for purposes of R.S. 40:1061.29, and shall constitute a continuing violation until the relevant retention period specified in Subsection B of this Section has expired.

E. (1) In addition to the remedies provided in this Section and any other remedies available under the laws of this state, a person listed in Subsection A of this Section who, either intentionally or with negligence, fails to obtain, make part of a medical record, or retain any document in compliance with this Section may be temporarily or permanently disqualified from performing or inducing an abortion, applying for a medical facility license, or otherwise operating or managing a medical facility in this state.

(2) For purposes of this Subsection, “operating” or “managing” shall include acting as an owner, governing board member, physician, medical director, administrator, or in any comparable role or title in which the individual has executive responsibility for the medical facility or has professional medical responsibility for patient care.

F. Each abortion facility, as a condition of obtaining and maintaining a license under R.S. 40:2175.1 et seq., shall establish a written record retention and archiving policy, which shall be submitted within thirty days of June 22, 2019, to the department. The department shall review and approve the policy within ninety days of its receipt. During the pendency of the ninety days, the facility shall be deemed in compliance with this Section and if the department fails to act within ninety days of receipt of the proposed policy, the policy shall be deemed approved. The policy shall be signed by the individuals identified in Subsection A of this Section who shall acknowledge their legal obligations and acknowledge receiving a copy of the policy.

G. A person may comply with this Section by depositing a copy of each document required by Subsection A of this Section with the department in an organized and readily accessible format. The department shall have a cause of action against the persons identified in Subsection A of this Section for the reasonably anticipated cost of storing the documents for the required period of time, for which those persons shall be liable in solido. **Redesignated from R.S. 40:1299.35.8 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 2014, No. 569, § 2; Acts 2017, No. 165, § 1; Acts 2019, No. 435, § 1, eff. June 22, 2019. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.20, Conscience in health care protection; definitions:**

A. (1) Any person has the right not to participate in, and no person shall be required to participate in any health care service that violates his conscience to the extent that patient access to health care is not compromised. No person shall be held civilly or criminally liable, discriminated against, dismissed, demoted, or in any way prejudiced or damaged for declining to participate in any health care service that violates his conscience.

(2) This Section shall not prevent an inquiry by an employer or patient regarding whether a person declines to participate in any health care service that violates its conscience. When a patient requests health care services, a person shall identify, in writing, as soon as practicable, his declination to provide a service in accordance with the provisions of this Section. All persons who have a sincerely held religious belief or moral conviction and who seek employment at a health care facility shall notify the prospective employer of the existence of any sincerely held religious belief or moral conviction. Any health care facility that employs a person with a sincerely held religious belief or moral conviction shall ensure that the health care facility has sufficient staff to provide patient care in the event an employee declines to participate in any health care service that violates his conscience.

(3) The provisions of this Section shall not be construed to relieve any health care provider from providing emergency care as required by state or federal law.

(4) A person shall notify his employer in writing as soon as practicable of any health care service that violates his conscience. A person shall notify any patient before such person provides any consultation or service to the patient of the existence of a health care service that he will decline to provide because the health care service violates his conscience.

B. For purposes of this Section:

(1) "Conscience" means sincerely held religious belief or moral conviction.

(2) "Health care service" is limited to abortion, dispensation of abortifacient drugs, human embryonic stem cell research, human embryo cloning, euthanasia, or physician-assisted suicide.

C. A suit alleging a violation of this Section shall be brought in a district court in accordance with R.S. 23:303. **Redesignated from R.S. 40:1299.35.9 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2009, No. 372, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.21, Reports:**

A. An individual abortion report for each abortion performed or induced shall be completed by the attending physician. The report shall be confidential and shall not contain the name or address of the woman. The report shall include all of the following:

(1) Patient number.

(2) Name and address of the facility at which the abortion was performed or induced.

(3) Date of abortion.

(4) The parish and zip code, if any, in which the pregnant woman resides.

(5)(a) Age of pregnant woman.

(b) If the pregnant woman is a minor, the report shall include all of the following:

(i)(aa) A notation of whether the abortion was performed pursuant to either notarized parental consent or a judicial bypass order as provided for in R.S. 40:1061.14.

(bb) If the abortion was performed pursuant to a judicial bypass order as provided for in R.S. 40:1061.14, the report shall indicate the judicial district of the court that issued the order.

(ii) A notation indicating whether or not the physician or any other staff member of the abortion facility suspected that the minor was the victim of any form of child abuse or neglect and filed a report of such abuse or neglect in accordance with Children's Code Article 610.

(c) If the pregnant woman is a minor and the abortion was performed pursuant to a judicial bypass order as provided for in R.S. 40:1061.14, the report shall include all of the following:

- (i) A notation indicating whether or not the minor was required to participate in an evaluation and counseling session with a mental health professional from the Louisiana Department of Health or a staff member from the Department of Children and Family Services as provided for in R.S. 40:1061.14(B)(3)(b).
 - (ii) A notation indicating whether or not the court issued a protective order for the minor, afforded her the continued services of a court-appointed special advocate, or did both, as authorized in R.S. 40:1061.14(B)(4)(c).
 - (iii) A notation of whether the judicial bypass was granted because of a finding that the minor girl was mature and capable of giving informed consent, as provided for in R.S. 40:1061.14(B)(4)(b).
 - (iv) A notation of whether the judicial bypass was granted because of a finding that the performance of the abortion without parental notification and consent was in the best interest of the minor, as provided for in R.S. 40:1061.14(B)(6).
 - (v) A notation of whether or not the physician or any other staff member of the abortion facility referred the woman to any licensed professional for post-abortion counseling.
 - (vi) A notation of whether or not the physician or any other staff member of the abortion facility referred the woman to the Louisiana Department of Health or the Department of Children and Family Services for any health services or other human services.
- (6) Race.
 - (7) Marital status.
 - (8) Number of previous pregnancies.
 - (9) Educational background.
 - (10) Number of living children.
 - (11) Number of previous induced abortions.
 - (12) Date of last induced abortion.
 - (13) Date of live birth.
 - (14) Method of contraception at time of conception, if any.
 - (15) Date of beginning of last menstrual period.
 - (16) Medical condition of woman at time of abortion.
 - (17) Rh type of pregnant woman.
 - (18) A photographic print or image produced as the result of the ultrasound test required by R.S. 40:1061.10(D).
 - (19) Type of abortion procedure.
 - (20) Reason for abortion.
 - (21) Complications by type.
 - (22) Type of procedure done after the abortion.

(23) Type of family planning recommended.

(24) Type of additional counseling given.

(25) Signature of attending physician.

(26) Copies, with the name and address obliterated, of the election forms, certificates, and consent forms required pursuant to the provisions of this Chapter.

B. An individual complication report for any post-abortion care performed upon a woman shall be completed by the physician providing such post-abortion care. The report shall include:

(1) The date of the abortion.

(2) The name and address of the facility where the abortion was performed or induced.

(3) The nature of the abortion complication diagnosed or treated.

(4) The name and address of the facility where the post-abortion care was performed.

C. All abortion reports shall be signed by the attending physician and submitted to the Louisiana Department of Health within thirty days after the date of the abortion. All complication reports shall be signed by the physician providing the post-abortion care and submitted to the Louisiana Department of Health within thirty days after the date of the completion of the post-abortion care.

D. (1) The Louisiana Department of Health shall be responsible for collecting all abortion reports and complication reports and collating and evaluating all data gathered therefrom, and shall annually publish a statistical report based on such data from abortions performed in the previous calendar year.

(2) The annual report required by this Subsection shall include a special section addressing abortions performed on minors. This section of the report shall feature, at minimum, a compilation of the information required by the provisions of Paragraph (A)(5) of this Section to be included in individual abortion reports.

E. The Louisiana Department of Health shall, on a quarterly basis, provide to the Department of Children and Family Services and to the attorney general copies of all abortion reports in which a minor pregnant woman under the age of thirteen received an abortion. **Redesignated from R.S. 40:1299.35.10 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 1986, No. 948, § 1; Acts 1999, No. 1232, § 1, eff. July 9, 1999; Acts 2001, No. 1110, § 1, eff. June 28, 2001; Acts 2012, No. 685, § 1; Acts 2017, No. 165, § 1; Acts 2021, No. 425, § 1; Acts 2021, No. 482, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.22, Forms:**

The Louisiana Department of Health shall make available to physicians performing abortions in this state the forms for preparing the records and reports required pursuant to the provisions of this Chapter. **Redesignated from R.S. 40:1299.35.11 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 2012, No. 685, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.23, Emergency:**

The provisions of this Chapter shall not apply when a medical emergency compels the immediate performance of an abortion because the continuation of the pregnancy poses an immediate threat and grave risk to the life or permanent physical health of the pregnant woman. Within twenty-four hours, the attending physician shall certify to the emergency need for the abortion and shall enter such certification in the medical record of the pregnant woman. **Redesignated from R.S. 40:1299.35.12 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1999, No. 1232, § 1, eff. July 9, 1999; Acts 2001, No. 1110, § 1, eff. June 28, 2001; Acts 2014, No. 569, § 2. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.24, Experimentation:**

No person shall experiment on an unborn child or on a child born as the result of an abortion, whether the unborn child or child is alive or dead, unless the experimentation is therapeutic to the unborn child or child. **Redesignated from R.S. 40:1299.35.13 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1981, No. 774, § 1, eff. July 23, 1981. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.25, Remains; disposal in accordance with applicable regulations; post-abortion harvesting of fetal organs prohibited; penalties:**

A. (1) Each physician who performs or induces an abortion which does not result in a live birth shall ensure that the remains of the child are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq., except in the case of an abortion induced by the administration of medications when the evacuation of any human remains occurs at a later time, neither in the presence of the inducing physician nor at the facility in which the physician administered the inducing medications.

(2) The department shall promulgate in accordance with the Administrative Procedure Act all rules as are necessary to facilitate the transfer and burial of aborted human remains in a manner consistent with the transfer and burial of unclaimed human remains.

B. With respect to post-abortion harvesting of fetal organs, tissues, and cells, the legislature hereby finds the following:

(1) The United States Supreme Court decision of *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), and its progeny establish a constitutionalized right of a woman to choose to terminate her pregnancy. However, the court has never endorsed a right to harvest the body parts of unborn human beings, whether for profit or donation.

(2) The protocol known commonly as the “dead donor rule” is a longstanding ethical norm that protects the integrity of human organ donation by providing that organ donors must be dead before procurement of organs begins, and that organ procurement itself must not cause the death of the donor. The harvesting of organs, tissues, and cells from unborn children whose deaths are directly caused by induced abortion, as defined in R.S. 40:1061.9, violate the dead donor rule in both respects due to the following conditions:

(a) The unborn children are alive when the fetal repositioning and crushing point decisions are made by the abortion provider with the goal of procuring intact fetal hearts, lungs, livers, brains, and other organs and tissues.

(b) The repositioning of the fetus and crushing above and below the thorax to procure intact fetal organs, tissues, and cells is itself the cause of death of the human being from whom the organs are then harvested.

(c) The human being whose fetal organs are procured does not have the capacity to consent to organ donation, and proxy consent for donation by the unborn child's mother is invalid given that the unborn child is alive at the time the consent forms are signed.

(3) The practice of presenting fetal organ donation forms to pregnant women considering their options constitutes unethical undue influence and coercion, and amounts to an incentive to actively participate in the killing of a living human being for the speculative and attenuated benefit of helping researchers.

(4) Regardless of whether prior proxy consent obtained from the mother is ethical and proper for an unborn child whose death is imminent due to natural miscarriage, it is a gross violation of ethical norms to unduly coerce a mother who is considering pregnancy options to directly participate in the decision to cause the death of her living unborn child for the speculative and attenuated benefit that may come from scientific experimentation.

(5) States are free to ban the practice of selling or donating the bodies of human beings killed by abortion because federal law does not preempt that area of law. Particularly, 42 U.S.C. 289g-1(e) allows for the conduct of fetal tissue transplantation only in accordance with applicable state and local law.

C. (1) Except as provided in Subsection D of this Section, it shall be unlawful for any person or entity to buy, sell, donate, accept, distribute, or otherwise transfer or use for any purpose the intact body of a human embryo or fetus whose death was knowingly caused by an induced abortion, or the human organs, tissues, or cells obtained from a human embryo or fetus whose death was knowingly caused by an induced abortion.

(2) Whoever violates the provisions of this Subsection shall be subject to civil penalties relative to abortion, generally, provided in R.S. 40:1061.29.

D. (1) Nothing in this Section shall be construed to prohibit final disposition of the bodily remains of the aborted human being in accordance with state law, or to prohibit any conduct permitted under state law that is undertaken with any of the following purposes:

(a) The purpose of providing knowledge solely to the mother, such as for pathological or diagnostic purposes.

(b) The purpose of providing knowledge solely to law enforcement officers, such as the case of an autopsy following a feticide.

(2) Nothing in this Section shall be construed to prohibit any transaction related to the donation of bodily remains from a human embryo or fetus whose death was caused by a natural miscarriage or stillbirth, in accordance with the guidelines and prohibitions provided in applicable state and federal law.

E. Nothing in this Section shall be construed to alter generally accepted medical standards, affect existing federal or state law regarding the practice of abortion, or to create or recognize a right to abortion.

Redesignated from R.S. 40:1299.35.14 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 2016, No. 593, § 1; Acts 2018, No. 204, § 1, eff. May 15, 2018. This provision has been amended this past legislative session through Act 545 (S.B. 342).

○ **La. R.S. 40:1061.26, Instructions to be provided subsequent to abortion:**

Any physician who shall perform or induce an abortion, shall subsequent to the abortion being performed or induced, provide his patient with specific oral and written medical instructions to be followed by that patient in order to insure her safe recovery from the abortion. **Redesignated from R.S. 40:1299.35.15 by**

H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).

○ **La. R.S. 40:1061.27, Partial birth abortion:**

A. There is hereby created a cause of action for civil damages for injuries and wrongful death, as more fully set forth in Louisiana Civil Code Articles 2315.1 and 2315.2, for a partial birth abortion procedure, except that such causes of action shall only be maintained by the following persons:

- (1) The natural or biological father of the aborted infant or fetus, unless such father is a person of the full age of majority and consented to the abortion, or unless his criminal conduct caused the pregnancy.
- (2) The mother of the aborted infant or fetus, unless the mother is a person of the full age of majority and consented to the partial birth abortion.
- (3) The parents or guardian on behalf of the mother of the aborted infant or fetus if the mother was a minor at the time of the abortion, unless the parents or guardian consented to the partial birth abortion.

B. For the purposes of this Section:

- (1) “Partial birth abortion” means an abortion in which: (a) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and (b) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.
- (2) “Physician” means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the state in which the doctor performs such activity, or any other individual legally authorized by this state to perform abortions, provided, however, that any individual who is not a physician or not otherwise legally authorized by this state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

C. This Section shall 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. **Redesignated from R.S. 40:1299.35.17 by Acts 2008, No. 220, § 14, eff. June 14, 2008; R.S. 40:1299.35.17 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2007, No. 477, § 2, eff. July 12, 2007. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.28, Partial birth abortion, civil action against abortionist:**

A. No licensed physician or any other person shall perform a partial birth abortion on a female unless the procedure performed is necessary to save the life of the female because her 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.

B. As used in this Section, the following definitions shall apply unless otherwise indicated:

(1) “Partial birth abortion” means an abortion in which:

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

(b) The person performing the abortion performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

(2) “Physician” means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state. For the purposes of this Paragraph, “the practice of medicine” means the holding out of one's self to the public as being engaged in the business of, or the actual engagement in, the diagnosing, treating, curing, or relieving of any bodily or mental disease, condition, infirmity, deformity, defect, ailment, or injury in any human being, other than himself, whether by the use of any drug, instrument or force, whether physical or psychic, or of what other nature, or any other agency or means; or the examining, either gratuitously or for compensation, of any person or material from any person for such purpose whether such drug, instrument, force, or other agency or means is applied to or used by the patient or by another person; or the attending of a woman in childbirth without the aid of a licensed physician or midwife.

C. Any person who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

D. There is hereby created a cause of action for civil damages for injuries and wrongful death as more fully set forth in Louisiana Civil Code Articles 2315.1 and 2315.2, except that such causes of action shall only be maintained by the following persons:

(1) The natural or biological father of the aborted infant or fetus, unless such father's criminal conduct caused the pregnancy.

(2) The mother of the aborted infant or fetus, unless the mother is a person of the full age of majority and consented to the partial birth abortion.

(3) The parents or guardian on behalf of the mother of the aborted infant or fetus if the mother was a minor at the time of the abortion, unless the parents or guardian consented to the partial birth abortion.

E. (1) A physician charged with an offense under this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the physician. Upon motion of the physician, the court shall delay the beginning of the trial for not more than thirty days to permit such hearing to take place. **Redesignated from R.S. 40:1299.35.18 by Acts 2008, No. 220, § 14; R.S. 40:1299.35.18 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2007, No. 473, § 2, eff. July 12, 2007. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.29, Penalties:**

A. Whoever violates the provisions of this Chapter shall be fined not more than one thousand dollars per incidence or occurrence, or imprisoned for not more than two years, or both.

B. Whoever violates the provisions of this Chapter shall be subject to a civil fine of one thousand dollars per incidence or occurrence. In addition to any other authority granted by the constitution and laws of this state, the attorney general shall have the authority to pursue the civil fines provided for in this Section.

C. In addition to whatever remedies are otherwise available under the law of this state, failure to comply with the provisions of this Chapter shall:

(1) Provide a basis for a civil malpractice action. Such an action may be brought by the woman upon whom the abortion was performed. Any intentional violation of this Chapter shall be admissible in a civil suit as prima facie evidence of a failure to comply with the requirements of this Chapter. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

(2) Provide a basis for professional disciplinary action, including but not limited to any action authorized under R.S. 37:1261 et seq.

(3) Provide a basis for recovery for the woman for the death of her unborn child under Civil Code Article 2315.2, whether or not the unborn child was viable at the time the abortion was performed, or was born alive.

(4) Provide a basis for the attorney general, the district attorney in whose jurisdiction the violation occurred, or the secretary of the department to obtain a writ of injunction, which shall not be subject to being released upon bond. The trial of the proceeding shall be summary and by the judge without a jury. **Redesignated from R.S. 40:1299.35.19 by Acts 2008, No. 220, § 14; R.S. 40:1299.35.19 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 2011, No. 411, § 1; Acts 2013, No. 259, § 1, eff. June 10, 2013; Acts 2019, No. 435, § 1, eff. June 22, 2019.**

○ **La. R.S. 40:1061.30, Standing; action to close outpatient abortion clinic:**

In addition to any violation of this Chapter, the following acts shall subject licensed outpatient abortion facilities to the provisions of R.S. 40:2175.6 regarding license suspension or revocation:

(1) Systematically, intentionally, or deliberately falsifying or destroying patient files or records in violation of R.S. 40:1061.17.

(2) Completing in advance of an appointment with a woman seeking abortion any portion of patient records or forms required by R.S. 40:1061.17 to include patient-specific data or a physician's signature. **Added by Acts 2018, No. 564, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

● **Statute Combating Certain Genetic Related Diseases**

○ **La. R.S. 40:1081.1, Programs for combating phenylketonuria, congenital hypothyroidism, galactosemia, sickle cell diseases, biotinidase deficiency, and other genetic conditions:**

A. The Louisiana Department of Health is hereby authorized and directed to establish, maintain, and carry out programs designed to reduce mortality and morbidity from sickle cell disease and to prevent central nervous system damage in children with phenylketonuria, congenital hypothyroidism, biotinidase deficiency, galactosemia and genetic conditions tested under the authority of R.S. 40:1081.2(B).

B. (1) The Louisiana Department of Health shall establish and maintain a diagnostic laboratory for each of the following purposes:

(a) Conducting experiments, projects, and other undertakings as may be necessary to develop tests for the early detection of phenylketonuria, congenital hypothyroidism, galactosemia, sickle cell diseases, biotinidase deficiency, and other genetic conditions.

(b) Developing ways or discovering methods to be used for the prevention and treatment of these diseases.

(c) Such other purposes as may be deemed necessary by the department to carry out any program adopted under the authority of this Subpart, including conducting experiments, projects, and other undertakings as may be necessary to develop tests for genetic conditions made part of the battery of tests by the Louisiana Department of Health under R.S. 40:1081.2(B).

(2) Notwithstanding the foregoing, the term “prevention” as used with respect to sickle cell anemia shall not mean mandatory sterilization or abortion.

C. The department is authorized to adopt rules and regulations necessary to carry out any program which may be established.

D. The Louisiana Department of Health shall establish a program for informing physicians and hospitals of the current medical standards for diagnosing and treating children who exhibit clinical symptoms which suggest the existence of galactosemia. This program shall be established in consultation with and shall be based on the recommendations of the Louisiana Hospital Association and the Louisiana State Medical Society. **Redesignated from R.S. 40:1299 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1964, No. 269, § 1. Amended by Acts 1978, No. 442, § 2; Acts 1978, No. 786, § 5, eff. July 17, 1978; Acts 1981, No. 430, § 1; Acts 1982, No. 375, § 1; Acts 1984, No. 265, § 2; Acts 1987, No. 598, § 1, eff. July 9, 1987; Acts 1989, No. 91, § 1; Acts 1991, No. 729, § 1; Acts 1993, No. 997, § 1; Acts 1999, No. 328, § 1.**

- **Medical Consent**

- **La. R.S. 40:1159.1, Short title:**

This Subpart shall be known as and may be cited as the “Louisiana Medical Consent Law.” **Redesignated from R.S. 40:1299.50 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1975, No. 798, § 1.**

- **La. R.S. 40:1159.2, Subpart not applicable to abortion and sterilization:**

The provisions of this Subpart shall not apply in any manner whatsoever to the subjects of abortion and sterilization, which subjects shall continue to be governed by existing law independently of the terms and provisions of this Subpart. **Redesignated from R.S. 40:1299.51 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1975, No. 798, § 1.**

- **Healthcare Facilities**

○ **La. R.S. 40:1203.1, Definitions:**

For the purposes of this Part:

- (1) “Authorized agency” means a private entity authorized by the office of state police to conduct the criminal history checks provided for in this Part. Nothing herein shall be construed as expanding the access to confidential law enforcement records of the state of Louisiana or its political subdivisions or authorizing access by said agency to the computerized records of law enforcement agencies.
- (2) “Department” means the Louisiana Department of Health.
- (3) “Educational institution” means a community college, vocational-technical program, or other educational entity offering a clinical preceptor nurse aide training program developed by the Louisiana Community and Technical College System pursuant to R.S. 40:1201.1 et seq.
- (4) “Employer” means any of the following facilities, agencies, providers, or programs:
 - (a) A nursing facility, as defined in R.S. 40:2009.2.
 - (b) An intermediate care facility for people with developmental disabilities.
 - (c) An adult residential care provider as defined in R.S. 40:2166.3.
 - (d) A pain management clinic as defined in R.S. 40:2198.11.
 - (e) A home health agency, as defined in R.S. 40:2116.31.
 - (f) A hospice, as defined in R.S. 40:2182.
 - (g) An ambulance service as defined in R.S. 40:1131.
 - (h) A home- and community-based service provider, as defined in R.S. 40:2120.2.
 - (i) An ambulatory surgical center as defined in R.S. 40:2133.
 - (j) A crisis receiving center as defined in R.S. 40:2180.12.
 - (k) A nonemergency, nonambulance medical transportation facility or entity.
 - (l) A Medicaid Personal Care Services or Section 1915(c) Home and Community-based Services Waiver Program.
 - (m) Any other direct service worker as defined in R.S. 40:2179 and 2179.1.
 - (n) A pediatric day health care facility, as defined in R.S. 40:2193.1(B)(5).
 - (o) An adult day health care provider as defined in R.S. 40:2120.42.
 - (p) A psychiatric residential treatment facility licensed pursuant to R.S. 40:2009.
 - (q) An end stage renal disease facility as defined in R.S. 40:2117.1.
 - (r) A behavioral health services provider as defined in R.S. 40:2153.
 - (s) An adult brain injury facility as defined in R.S. 40:2120.33.
 - (t) A rural health clinic as defined in R.S. 40:1185.3.

- (u) A therapeutic group home licensed pursuant to R.S. 40:2009.
 - (v) A provider of case management services.
 - (w) A forensic supervised transitional residential and aftercare facility as defined in R.S. 28:32.
 - (x) An outpatient abortion facility as defined in R.S. 40:2175.3.
 - (y) A hospital as defined in R.S. 40:2102.
 - (z) A free-standing birth center, as defined in R.S. 40:2180.23.
- (5) “Licensed ambulance personnel” means personnel who provide services, either for compensation or volunteer services, as an emergency medical service practitioner, including licensed emergency medical technicians, licensed advanced emergency medical technicians, licensed paramedics, and licensed first emergency medical responders.
- (6) “Nonlicensed person” means any person who provides for compensation nursing care or other health-related services directly related to patient care to residents in or patients of a nursing facility, intermediate care facility for people with developmental disabilities, adult residential care facility or provider, pediatric day health care facility, adult day health care center, psychiatric residential treatment facility, end stage renal disease facility, behavioral health services provider, home health agency, hospice agency, provider of ambulance services, hospital, adult brain injury facility, crisis receiving center, pain management clinic, outpatient abortion facility, rural health clinic, ambulatory surgical center, therapeutic group home, forensic supervised transitional residential and aftercare facility, case management provider, or home- and community-based service provider and who is not a licensed health provider. “Nonlicensed person” also means any person who provides such services to individuals in their own homes as an employee or contract provider of a home health agency, hospice, or home- and community-based service provider. “Nonlicensed person” also means any other direct service worker as defined in R.S. 40:2179 and 2179.1. “Nonlicensed person” also means a student or trainee applying for enrollment in a clinical preceptor training program authorized by R.S. 40:1201.1 et seq., or in a nurse aide training program approved by the department pursuant to federal and state law or regulation.
- (7) “Office” means the office of state police within the Department of Public Safety and Corrections.
- (8) “Training program” means a department-approved clinical preceptor nurse aide training program. **Redesignated from R.S. 40:1300.51 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1993, No. 594, § 1, eff. Aug. 15, 1994. Amended by Acts 1995, No. 917, § 1, eff. June 28, 1995; Acts 1997, No. 753, § 1; Acts 2004, No. 299, § 1, eff. June 18, 2004; Acts 2004, No. 797, § 1, eff. July 8, 2004; Acts 2005, No. 306, § 2, eff. June 29, 2005; Acts 2006, No. 163, § 2; Acts 2008, No. 839, § 3, eff. July 8, 2008; Acts 2009, No. 35, § 1, eff. June 15, 2009; Acts 2009, No. 381, § 1, eff. July 6, 2009; Acts 2016, No. 311, § 2, eff. June 2, 2016; Acts 2018, No. 206, § 4; Acts 2019, No. 43, § 1; Acts 2019, No. 332, § 1, eff. June 11, 2019.**

- **MRP**

- **La. R.S. 40:1231.8, Medical review panel:**

A. (1)(a) All malpractice claims against health care providers covered by this Part, other than claims validly agreed for submission to a lawfully binding arbitration procedure, shall be reviewed by a medical review panel established as hereinafter provided for in this Section. The filing of a request for review by a medical review panel as provided for in this Section shall not be reportable by any health care provider, the

Louisiana Patient's Compensation Fund, or any other entity to the Louisiana State Board of Medical Examiners, to any licensing authority, committee, or board of any other state, or to any credentialing or similar agency, committee, or board of any clinic, hospital, health insurer, or managed care company.

(b) A request for review of a malpractice claim or a malpractice complaint shall contain, at a minimum, all of the following:

(i) A request for the formation of a medical review panel.

(ii) The name of only one patient for whom, or on whose behalf, the request for review is being filed; however, if the claim involves the care of a pregnant mother and her unborn child, then naming the mother as the patient shall be sufficient.

(iii) The names of the claimants.

(iv) The names of the defendant health care providers.

(v) The dates of the alleged malpractice.

(vi) A brief description of the alleged malpractice as to each named defendant health care provider.

(vii) A brief description of the alleged injuries.

(c) A claimant shall have forty-five days from the date of receipt by the claimant of the confirmation of receipt of the request for review in accordance with Subparagraph (3)(a) of this Subsection to pay to the board a filing fee in the amount of one hundred dollars per named defendant qualified under this Part.

(d) Such filing fee may be waived only upon receipt of one of the following:

(i) An affidavit of a physician holding a valid and unrestricted license to practice his specialty in the state of his residence certifying that adequate medical records have been obtained and reviewed and that the allegations of malpractice against each defendant health care provider named in the claim constitute a claim of a breach of the applicable standard of care as to each named defendant health care provider.

(ii) An in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq. by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the medical review panel process.

(e) Failure to comply with the provisions of Subparagraph (c) or (d) of this Paragraph within the specified forty-five day time frame in Subparagraph (c) of this Paragraph shall render the request for review of a malpractice claim invalid and without effect. Such an invalid request for review of a malpractice claim shall not suspend time within which suit must be instituted in Subparagraph (2)(a) of this Subsection.

(f) All funds generated by such filing fees shall be private monies and shall be applied to the costs of the Patient's Compensation Fund Oversight Board incurred in the administration of claims.

(g) The filing fee of one hundred dollars per named defendant qualified under this Part shall be applicable in the event that a claimant identifies additional qualified health care providers as defendants. The filing fee applicable to each identified qualified health care provider shall be due forty-five days from the mailing date of the confirmation of receipt of the request for review for the additional named defendants in accordance with Subparagraph (3)(a) of this Subsection.

(2)(a) The filing of the request for a review of a claim shall suspend the time within which suit must be instituted, in accordance with this Part, until ninety days following notification, by certified mail, as

provided in Subsection J of this Section, to the claimant or his attorney of the issuance of the opinion by the medical review panel, in the case of those health care providers covered by this Part, or in the case of a health care provider against whom a claim has been filed under the provisions of this Part, but who has not qualified under this Part, until ninety days following notification by certified mail to the claimant or his attorney by the board that the health care provider is not covered by this Part. The filing of a request for review of a claim shall suspend the running of prescription against all joint and solidary obligors, and all joint tortfeasors, including but not limited to health care providers, both qualified and not qualified, to the same extent that prescription is suspended against the party or parties that are the subject of the request for review. Filing a request for review of a malpractice claim as required by this Section with any agency or entity other than the division of administration shall not suspend or interrupt the running of prescription. All requests for review of a malpractice claim identifying additional health care providers shall also be filed with the division of administration.

(b)(i) The request for review of a malpractice claim under this Section shall be deemed filed on the date the request is:

(aa) Sent, if the request is electronically sent by facsimile transmission or other authorized means, as provided by R.S. 9:2615(A), to the division of administration.

(bb) Mailed, if the request is delivered by certified or registered mail to the division of administration.

(cc) Received, if the request is delivered to the division of administration by any means other than as provided by Subitem (aa) or (bb) of this Item.

(ii) Upon receipt, the request shall be stamped with the filing date and certified by the division of administration. Filing of the request shall be complete only upon timely compliance with the provisions of Subparagraph (1)(c) or (d) of this Subsection. Upon receipt of any request, the division of administration shall forward a copy of the request to the board within five days of receipt.

(c) An attorney chairman for the medical review panel shall be appointed within one year from the date the request for review of the claim was filed. Upon appointment of the attorney chairman, the parties shall notify the board of the name and address of the attorney chairman. If the board has not received notice of the appointment of an attorney chairman within nine months from the date the request for review of the claim was filed, then the board shall send notice to the parties by certified or registered mail that the claim will be dismissed in ninety days unless an attorney chairman is appointed within one year from the date the request for review of the claim was filed. If the board has not received notice of the appointment of an attorney chairman within one year from the date the request for review of the claim was filed, then the board shall promptly send notice to the parties by certified or registered mail that the claim has been dismissed for failure to appoint an attorney chairman and the parties shall be deemed to have waived the use of the medical review panel. The filing of a request for a medical review panel shall suspend the time within which suit must be filed until ninety days after the claim has been dismissed in accordance with this Section.

(3) It shall be the duty of the board within fifteen days of the receipt of the claim by the board to:

(a) Confirm to the claimant by certified mail, return receipt requested, that the filing has been officially received and whether or not the named defendant or defendants have qualified under this Part.

(b) In the confirmation to the claimant pursuant to Subparagraph (a) of this Paragraph, notify the claimant of the amount of the filing fee due and the time frame within which such fee is due to the board, and that upon failure to comply with the provisions of Subparagraph (1)(c) or (d) of this Subsection, the request for

review of a malpractice claim is invalid and without effect and that the request shall not suspend the time within which suit must be instituted in Subparagraph (2)(a) of this Subsection.

(c) Notify all named defendants by certified mail, return receipt requested, whether or not qualified under the provisions of this Part, that a filing has been made against them and request made for the formation of a medical review panel; and forward a copy of the proposed complaint to each named defendant at his last and usual place of residence or his office.

(4) The board shall notify the claimant and all named defendants by certified mail, return receipt requested, of any of the following information:

(a) The date of receipt of the filing fee.

(b) That no filing was due because the claimant timely provided the affidavit set forth in Item (1)(d)(i) of this Subsection.

(c) That the claimant has timely complied with the provisions of Item (1)(d)(ii) of this Subsection.

(d) That the required filing fee was not timely paid pursuant to Subparagraph (1)(c) of this Subsection.

(5) In the event that the board is unable to determine after forty-five days from the date of mailing of the notification, whether notification by certified mail, return receipt requested, provided for in Paragraphs (3) and (4) of this Subsection has been received by the claimant, or the notification is not claimed or is returned undeliverable, the board shall provide such notification by regular first class mail, which date of mailing shall have the effect of receipt of notice by certified mail for purposes of Subparagraphs (1)(c) and (d) of this Subsection.

(6) In the event the board receives a filing fee that was not timely paid pursuant to Subparagraph (1)(c) of this Subsection, then the board shall return, or refund the amount of, the filing fee to the claimant within thirty days of the date the board receives the untimely filing fee.

B. (1)(a)(i) No action against a health care provider covered by this Part, or his insurer, may be commenced in any court before the claimant's proposed complaint has been presented to a medical review panel established pursuant to this Section.

(ii) A certificate of enrollment issued by the board shall be admitted in evidence.

(b) However, with respect to an act of malpractice which occurs after September 1, 1983, if an opinion is not rendered by the panel within twelve months after the date of notification of the selection of the attorney chairman by the executive director to the selected attorney and all other parties pursuant to Paragraph (1) of Subsection C of this Section, suit may be instituted against a health care provider covered by this Part. However, either party may petition a court of competent jurisdiction for an order extending the twelve month period provided in this Subsection for good cause shown. After the twelve month period provided for in this Subsection or any court-ordered extension thereof, the medical review panel established to review the claimant's complaint shall be dissolved without the necessity of obtaining a court order of dissolution.

(c) By agreement of all parties, the use of the medical review panel may be waived.

(d) By agreement of all parties and upon written request to the attorney chairman, an expedited medical review panel process may be selected. Unless otherwise specified in the provisions of Subsection N of this Section, the expedited process shall be governed by other provisions of this Section.

(2)(a) A health care provider, against whom a claim has been filed under the provisions of this Part, may raise peremptory exceptions of no right of action pursuant to Code of Civil Procedure Article 927(6) or any exception or defenses available pursuant to R.S. 9:5628 in a court of competent jurisdiction and proper venue at any time without need for completion of the review process by the medical review panel.

(b) If the court finds that the claim had prescribed or otherwise was preempted prior to being filed, the panel, if established, shall be dissolved upon the judgment becoming final. If the court grants the peremptory exception of no right of action as to all claimants, the panel, if established, shall be dissolved upon the judgment becoming final. If the court grants the peremptory exception of no right of action as to less than all claimants, the claimants as to whom the court granted the peremptory exception of no right of action shall be prohibited from participating in the panel process as a claimant.

(3) Ninety days after the notification to all parties by certified mail by the attorney chairman or the board of the dissolution of the medical review panel or ninety days after the expiration of any court-ordered extension as authorized by Paragraph (1) of this Subsection, the suspension of the running of prescription with respect to a qualified health care provider shall cease.

C. The medical review panel shall consist of three health care providers who hold unlimited licenses to practice their profession in Louisiana and one attorney. The parties may agree on the attorney member of the medical review panel. If no attorney for or representative of any health care provider named in the complaint has made an appearance in the proceedings or made written contact with the attorney for the plaintiff within forty-five days of the date of receipt of the notification to the health care provider and the insurer that the required filing fee has been received by the patient's compensation board as required by Subparagraph (A)(1)(c) of this Section, the attorney for the plaintiff may appoint the attorney member of the medical review panel for the purpose of convening the panel. Such notice to the health care provider and the insurer shall be sent by registered or certified mail, return receipt requested. If no agreement can be reached, then the attorney member of the medical review panel shall be selected in the following manner:

(1)(a) The office of the clerk of the Louisiana Supreme Court, upon receipt of notification from the board, shall draw five names at random from the list of attorneys who reside or maintain an office in the parish which would be proper venue for the action in a court of law. The names of judges, magistrates, district attorneys and assistant district attorneys shall be excluded if drawn and new names drawn in their place. After selection of the attorney names, the office of the clerk of the supreme court shall notify the board of the names so selected. It shall be the duty of the board to notify the parties of the attorney names from which the parties may choose the attorney member of the panel within five days. If no agreement can be reached within five days, the parties shall immediately initiate a procedure of selecting the attorney by each striking two names alternately, with the claimant striking first and so advising the health care provider of the name of the attorney so stricken; thereafter, the health care provider and the claimant shall alternately strike until both sides have stricken two names and the remaining name shall be the attorney member of the panel. If either the plaintiff or defendant fails to strike, the clerk of the Louisiana Supreme Court shall strike for that party within five additional days.

(b) After the striking, the office of the board shall notify the attorney and all other parties of the name of the selected attorney.

(2) The attorney shall act as chairman of the panel and in an advisory capacity but shall have no vote. It is the duty of the chairman to expedite the selection of the other panel members, to convene the panel, and expedite the panel's review of the proposed complaint. The chairman shall establish a reasonable schedule for submission of evidence to the medical review panel but must allow sufficient time for the parties to

make full and adequate presentation of related facts and authorities within ninety days following selection of the panel.

(3)(a) The plaintiff shall notify the attorney chairman and the named defendants of his choice of a health care provider member of the medical review panel within thirty days of the date of certification of his filing by the board.

(b) The named defendant shall then have fifteen days after notification by the plaintiff of the plaintiff's choice of his health care provider panelist to name the defendant's health care provider panelist.

(c) If either the plaintiff or defendant fails to make a selection of health care provider panelist within the time provided, the attorney chairman shall notify by certified mail the failing party to make such selection within five days of the receipt of the notice.

(d) If no selection is made within the five day period, then the chairman shall make the selection on behalf of the failing party. The two health care provider panel members selected by the parties or on their behalf shall be notified by the chairman to select the third health care provider panel member within fifteen days of their receipt of such notice.

(e) If the two health care provider panel members fail to make such selection within the fifteen day period allowed, the chairman shall then make the selection of the third panel member and thereby complete the panel.

(f) A physician who holds an unrestricted license to practice medicine by the Louisiana State Board of Medical Examiners and who is engaged in the active practice of medicine in this state, whether in the teaching profession or otherwise, shall be available for selection as a member of a medical review panel.

(g) Each party to the action shall have the right to select one health care provider and upon selection the health care provider shall be required to serve.

(h) When there are multiple plaintiffs or defendants, there shall be only one health care provider selected per side. The plaintiff, whether single or multiple, shall have the right to select one health care provider, and the defendant, whether single or multiple, shall have the right to select one health care provider.

(i) A panelist so selected and the attorney member selected in accordance with this Subsection shall serve unless for good cause shown may be excused. To show good cause for relief from serving, the panelist shall present an affidavit to a judge of a court of competent jurisdiction and proper venue which shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. A health care provider panelist may also be excused from serving by the attorney chairman if during the previous twelve-month period he has been appointed to four other medical review panels. In either such event, a replacement panelist shall be selected within fifteen days in the same manner as the excused panelist.

(j) If there is only one party defendant which is not a hospital, community blood center, tissue bank, or ambulance service, all panelists except the attorney shall be from the same class and specialty of practice of health care provider as the defendant. If there is only one party defendant which is a hospital, community blood center, tissue bank, or ambulance service, all panelists except the attorney shall be physicians. If there are claims against multiple defendants, one or more of whom are health care providers other than a hospital, community blood center, tissue bank, or ambulance service, the panelists selected in accordance with this Subsection may also be selected from health care providers who are from the same class and specialty of practice of health care providers as are any of the defendants other than a hospital, community blood center, tissue bank, or ambulance service.

(4) When the medical review panel is formed, the chairman shall within five days notify the board and the parties by registered or certified mail of the names and addresses of the panel members and the date on which the last member was selected.

(5)(a) Before entering upon their duties, each voting panelist shall subscribe before a notary public the following oath:

“I, (name) do solemnly swear/affirm that I will faithfully perform the duties of medical review panel member to the best of my ability and without partiality or favoritism of any kind. I acknowledge that I represent neither side and that it is my lawful duty to serve with complete impartiality and to render a decision in accordance with law and the evidence.”

(b) The attorney panel member shall subscribe to the same oath except that in lieu of the last sentence thereof the attorney's oath shall state:

“I acknowledge that I represent neither side and that it is my lawful duty to advise the panel members concerning matters of law and procedure and to serve as chairman.”

(c) The original of each oath shall be attached to the opinion rendered by the panel.

(6) The party aggrieved by the alleged failure or refusal of another to perform according to the provisions of this Section may petition any district court of proper venue over the parties for an order directing that the parties comply with the medical review panel provisions of the medical malpractice act.

(7) A panelist or a representative or attorney for any interested party shall not discuss with other members of a medical review panel on which he serves a claim which is to be reviewed by the panel until all evidence to be considered by the panel has been submitted. A panelist or a representative or attorney for any interested party shall not discuss the pending claim with the claimant or his attorney asserting the claim or with a health care provider or his attorney against whom a claim has been asserted under this Section. A panelist or the attorney chairman shall disclose in writing to the parties prior to the hearing any employment relationship or financial relationship with the claimant, the health care provider against whom a claim is asserted, or the attorneys representing the claimant or health care provider, or any other relationship that might give rise to a conflict of interest for the panelists.

D. (1) The evidence to be considered by the medical review panel shall be promptly submitted by the respective parties in written form only.

(2) The evidence may consist of medical charts, x-rays, lab tests, excerpts of treatises, depositions of witnesses including parties, interrogatories, affidavits and reports of medical experts, and any other form of evidence allowable by the medical review panel.

(3) Depositions of the parties and witnesses may be taken prior to the convening of the panel.

(4) Upon request of any party, or upon request of any two panel members, the clerk of any district court shall issue subpoenas and subpoenas duces tecum in aid of the taking of depositions and the production of documentary evidence for inspection and/or copying.

(5) The chairman of the panel shall advise the panel relative to any legal question involved in the review proceeding and shall prepare the opinion of the panel as provided in Subsection G.

(6) A copy of the evidence shall be sent to each member of the panel.

E. Either party, after submission of all evidence and upon ten days notice to the other side, shall have the right to convene the panel at a time and place agreeable to the members of the panel. Either party may question the panel concerning any matters relevant to issues to be decided by the panel before the issuance of their report. The chairman of the panel shall preside at all meetings. Meetings shall be informal.

F. The panel shall have the right and duty to request and procure all necessary information. The panel may consult with medical authorities, provided the names of such authorities are submitted to the parties with a synopsis of their opinions and provided further that the parties may then obtain their testimony by deposition. The panel may examine reports of such other health care providers necessary to fully inform itself regarding the issue to be decided. Both parties shall have full access to any material submitted to the panel.

G. The panel shall have the sole duty to express its expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care. After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty days, render one or more of the following expert opinions, which shall be in writing and signed by the panelists, together with written reasons for their conclusions:

(1) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.

(2) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.

(3) That there is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court.

(4) When Paragraph (1) of this Subsection is answered in the affirmative, that the conduct complained of was or was not a factor of the resultant damages. If such conduct was a factor, whether the plaintiff suffered: (a) any disability and the extent and duration of the disability, and (b) any permanent impairment and the percentage of the impairment.

H. Any report of the expert opinion reached by the medical review panel shall be admissible as evidence in any action subsequently brought by the claimant in a court of law, but such expert opinion shall not be conclusive and either party shall have the right to call, at his cost, any member of the medical review panel as a witness. If called, the witness shall be required to appear and testify. A panelist shall have absolute immunity from civil liability for all communications, findings, opinions and conclusions made in the course and scope of duties prescribed by this Part.

I. (1)(a) Each physician member of the medical review panel shall be paid at the rate of twenty-five dollars per diem, not to exceed a total of three hundred dollars for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in a court of law regarding the communications, findings, and conclusions made in the course and scope of duties as a member of the medical review panel, and in addition thereto, reasonable travel expenses.

(b) The attorney chairman of the medical review panel shall be paid at the rate of one hundred dollars per diem, not to exceed a total of two thousand dollars for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in a court of law regarding the communications, findings, and conclusions made in the course and scope of duties as a member of the medical review panel, and in addition thereto, reasonable travel expenses. Additionally, the attorney chairman shall be reimbursed for all reasonable out-of-pocket expenses incurred in performing his duties for each medical review panel.

The attorney chairman shall submit the amount due him for all work performed as a member of the panel by affidavit, which shall attest that he has performed in the capacity of chairman of the medical review panel and that he was personally present at all the panel's meetings or deliberations.

(2)(a) The costs of the medical review panel shall be paid by the health care provider if the opinion of the medical review panel is in favor of said defendant health care provider.

(b) The claimant shall pay the costs of the medical review panel if the opinion of the medical review panel is in favor of the claimant. However, if the claimant is unable to pay, the claimant shall submit to the attorney chairman prior to the convening of the medical review panel an in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq. by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the medical review panel process. Upon timely receipt of the in forma pauperis ruling, the costs of the medical review panel shall be paid by the health care provider, with the proviso that if the claimant subsequently receives a settlement or receives a judgment, the advance payment of the medical review panel costs will be offset.

(c) In a medical malpractice suit filed by the claimant in which a unanimous opinion was rendered in favor of the defendant health care provider as provided in the expert opinion stated in Paragraph (G)(2) of this Section, the claimant who proceeds to file such a suit shall be required to post a cash or surety bond, approved by the court, in the amount of all costs of the medical review panel. Upon the conclusion of the medical malpractice suit, the court shall order that the cash or surety bond be forfeited to the defendant health care provider for reimbursement of the costs of the medical review panel, unless a final judgment is rendered finding the defendant liable to the claimant for any damages. If a final judgment is rendered finding the defendant liable to the claimant for any damages, the court shall order that the defendant health care provider reimburse the claimant an amount equal to the cost of obtaining the cash or surety bond posted by the claimant.

(d) In the event a medical review panel renders a unanimous opinion in favor of the claimant as provided in the expert opinions stated in Paragraphs (G)(1) and (4) of this Section, and the claimant has not timely submitted an in forma pauperis ruling to the panel's attorney chairman, and thereafter the defendant health care provider failed to settle the claim with the claimant resulting in the claimant filing a malpractice suit in a court of competent jurisdiction and proper venue against the defendant health care provider based on the same claim which was the subject of the unanimously adverse medical review panel opinion against the defendant health care provider, the defendant health care provider shall be required to post a cash or surety bond, approved by the court, in the amount of all costs of the medical review panel. Upon the conclusion of the medical malpractice suit, the court shall order that the cash or surety bond be forfeited to the claimant for reimbursement of the costs of the medical review panel, unless a final judgment is rendered finding that the defendant health care provider has no liability for damages to the claimant. If a final judgment is rendered finding that the defendant health care provider has no liability for damages to the claimant, the court shall order that the claimant reimburse the defendant health care provider an amount equal to the cost of obtaining the cash or surety bond posted by the defendant health care provider.

(3) If the medical review panel decides that there is a material issue of fact bearing on liability for consideration by the court, the claimant and the health care provider shall split the costs of the medical review panel. However, in those instances in which the claimant is unable to pay his share of the costs of the medical review panel, the claimant shall submit to the attorney chairman prior to the convening of the medical review panel an in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq., by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the medical review panel process. Upon timely receipt of the in forma pauperis ruling,

the costs of the medical review panel shall be paid by the defendant health care provider with the proviso that if the claimant subsequently receives a settlement or receives a judgment, the advance payment of the claimant's share of the costs of the medical review panel will be offset.

(4) Upon the rendering of the written panel decision, if any one of the panelists finds that the evidence supports the conclusion that a defendant health care provider failed to comply with the appropriate standard of care as charged in the complaint, each defendant health care provider as to whom such a determination was made shall reimburse to the claimant that portion of the filing fee applicable to the claim against such defendant health care provider or if any one of the panelists finds that the evidence supports the conclusion that there is a material issue of fact, not requiring expert opinion, bearing on liability of such defendant health care provider for consideration by the court, each such defendant health care provider as to whom such a determination was made shall reimburse to the claimant fifty percent of that portion of the filing fee applicable to the claim against such defendant health care provider.

J. The chairman shall submit a copy of the panel's report to the board and all parties and attorneys by registered or certified mail within five days after the panel renders its opinion.

K. Repealed by Acts 2005, No. 127, § 2.

L. Where the medical review panel issues its opinion required by this Section, the suspension of the running of prescription shall not cease until ninety days following notification by certified mail to the claimant or his attorney of the issuance of the opinion as required by Subsection J of this Section.

M. Legal interest shall accrue from the date of filing of the complaint with the board on a judgment rendered by a court in a suit for medical malpractice brought after compliance with this Part.

N. (1)(a)(i) Parties seeking an expedited panel process pursuant to the provisions of Subparagraph (B)(1)(d) of this Section shall request such process in writing sixty days from the date of the letter of notification of the selection of the attorney chairman pursuant to Paragraph (C)(1) of of this Section. When a written request for an expedited medical review panel process has been made to the attorney chairman, the chairman shall establish a schedule for submission of evidence to the medical review panel within ninety days following selection of the third physician member of the panel so that a panel opinion is rendered within twelve months of the date of notification of the selection of the attorney chairman.

(ii) In accordance with Subsection J of this Section, the chairman shall submit a copy of the panel's report to the board and all parties and attorneys by registered or certified mail within five days after the panel renders its opinion. In accordance with Subsection L of this Section, where the medical review panel issues its opinion required by this Section, the suspension of the running of prescription shall not cease until ninety days following notification by certified mail to the claimant or his attorney of the issuance of the opinion as required by Subsection J of this Section.

(b)(i) No party may petition a court for an order extending the twelve month period provided in Subparagraph (B)(1)(b) of this Section. If an opinion is not rendered by the panel within the twelve month period established in this Subsection, suit may be instituted against the health care provider.

(ii) In accordance with Subparagraph (B)(1)(b) of this Section, after the twelve month period provided for in this Subsection, the medical review panel established to review the claimant's complaint shall be dissolved without the necessity of obtaining a court order of dissolution.

(iii) In accordance with Paragraph (B)(3) of this Section, ninety days after the notification to all parties by certified mail by the attorney chairman of the board of the dissolution of the medical review panel, the suspension of the running of prescription with respect to a qualified health care provider shall cease.

(2) During selection of the physician members of the medical review panel, the plaintiff shall notify the attorney chairman and the named defendants of his choice of a health care provider member of the medical review panel within ten days of the date of written request to the chairman for an expedited panel process. The named defendant shall then have five days after notification by the plaintiff of the plaintiff's choice of his health care provider panelist to name the defendant's health care provider panelist. If no selection is made within the five and ten day respective periods, then the chairman shall make the selection on behalf of the failing party. The two health care provider panel members selected by the parties or on their behalf shall be notified by the chairman to select the third health care provider panel member within fifteen days of their receipt of such notice from the chairman to make the selection. If no selection is made within the fifteen day period, then the chairman shall make the selection on behalf of the two health care provider panel members.

(3)(a) Within thirty days of the parties' written request for an expedited medical review panel process to the attorney chairman, the claimant shall provide all defendants with a list of the names and addresses of all known health care providers, including individuals and entities, who have treated the patient during the time period starting from three years prior to the date of the alleged malpractice up to and including the date that the list is provided. The claimant shall make a good faith effort to identify the treating health care providers.

(b) The claimant shall execute and provide all defendants with a HIPAA Compliant Authorization form to permit the defendants to obtain the medical records.

(c) An order to protect the medical records may be sought as provided in Code of Civil Procedure Article 1426 or the HIPAA regulations at 45 CFR 164.512(e) in a court of competent jurisdiction and proper venue.

(d) If an authorization is not provided or a protective order is not obtained within thirty days following the written request by the parties to the chairman for an expedited medical review panel process, the medical review panel shall lose its expedited status and no longer be governed by the provisions of this Subsection. The attorney chairman shall provide notice of this to the board and all parties by registered or certified mail.

(4)(a) The evidence to be considered by the medical review panel shall be promptly submitted by the respective parties in written form only, according to the schedule established by the chairman.

(b) The evidence may consist only of medical charts, x-rays or other film studies, lab tests, other diagnostic or medical tests, and a position paper submitted by or on behalf of each party.

(c) Neither interrogatories to nor depositions of the parties and witnesses may be taken prior to the convening of the panel.

(d) No party or panel member shall be permitted to request the clerk of any district court to issue subpoenas and subpoenas duces tecum in aid of the taking of depositions and the production of documentary evidence. However, if a copy of the medical record is not produced by a health care provider within a reasonable period of time, not to exceed fifteen days, following a health care provider's receipt of a medical authorization executed by the claimant pursuant to Subparagraph (3)(b) of this Subsection then the party who forwarded the authorization to the health care provider may request the clerk of any district court to issue subpoenas and subpoenas duces tecum in aid of the production of the medical records.

(5) The attorney chairman, after submission of all evidence and upon ten days notice, shall convene the panel at a time and place agreeable to the members of the panel, but in no event shall the opinion be rendered later than twelve months from the date of notification of the selection of the attorney chairman by the executive director to the selected attorney and all other parties pursuant to Paragraph (C)(1) of this Section. Either party may informally question the panel concerning any matters relevant to issues to be decided by the panel before and after the issuance of their report. The panel deliberation and the questioning of the panel shall not be recorded. The chairman of the panel shall preside at all meetings.

(6) The panel shall have the sole duty to express its expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care. After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty days, but in no event later than twelve months of the date of notification of the selection of the attorney chairman pursuant to Paragraph (C)(1) of this Section, render one or more of the following expert opinions, which shall be in writing and signed by the panelists, together with written reasons for their conclusions:

(a) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.

(b) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.

(c) That there is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court.

(7) The report of the expert opinion reached by the expedited medical review panel process pursuant to the provisions of this Subsection shall not be admissible as evidence in any action subsequently brought by the claimant in a court of law. Neither party shall have the right to call any member of the medical review panel as a witness. A panelist shall have absolute immunity from civil liability for all communications, findings, opinions and conclusions made in the course and scope of duties prescribed by this Part.

(8) The provisions of Subparagraphs (I)(2)(c) and (d) of this Section shall not apply to a medical review panel governed by the expedited medical review panel process. **Redesignated from R.S. 40:1299.47 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1975, No. 817, § 1. Amended by Acts 1976, No. 183, § 7; Acts 1977, No. 143, § 1; Acts 1979, No. 299, §§ 1, 2; Acts 1981, No. 791, § 1, eff. Sept. 1, 1981; Acts 1982, No. 235, § 1; Acts 1982, No. 236, § 1; Acts 1982, No. 674, § 1; Acts 1982, No. 768, § 1; Acts 1983, No. 402, § 1; Acts 1984, No. 435, § 5, eff. July 6, 1984; Acts 1986, No. 454, § 1, eff. July 2, 1986; Acts 1987, No. 567, § 2; Acts 1988, No. 755, § 1, eff. July 15, 1988; Acts 1990, No. 967, § 2, eff. Oct. 1, 1990; Acts 1991, No. 661, § 1; Acts 1991, No. 668, § 1; Acts 1992, No. 347, § 1, eff. June 17, 1992; Acts 1995, No. 1258, § 1; Acts 1997, No. 664, § 1; Acts 1997, No. 830, § 1; Acts 2002, 1st Ex.Sess., No. 86, § 1; Acts 2003, No. 484, § 1; Acts 2003, No. 644, § 1; Acts 2003, No. 961, § 1; Acts 2003, No. 1263, § 1, eff. July 7, 2003; Acts 2004, No. 306, § 1; Acts 2004, No. 309, § 1; Acts 2004, No. 311, § 1; Acts 2005, No. 127, § 1; Acts 2006, No. 323, § 1; Acts 2008, No. 558, § 1; Acts 2012, No. 802, § 1; Acts 2016, No. 275, § 1; Acts 2017, No. 294, § 1. See *Filogene v. Brown*, App. 4 Cir.2004, 871 So.2d 1206, 2003-1451 (La.App. 4 Cir. 3/31/04) (Minor patient and her mother were required to submit to medical review panel their claim that physician injured patient by failing to verify patient's age or obtain valid statutory consent before performing abortion, although patient and mother alleged that claim was for an intentional tort falling outside Medical Malpractice Act, given that consent claim sounded in negligence, not in battery)**

- **Licensure for Healthcare Facilities**

- **La. R.S. 40:2006, Fees; licenses; penalties:**

A. (1) Any person, partnership, corporation, unincorporated association, or other legal entity, currently operating or planning to operate any of the facilities listed in this Subsection shall be assessed a fee not to exceed six hundred dollars, payable to the Louisiana Department of Health, at the time an application is made to the department, and once a year thereafter for renewal of the license. This fee is for application and renewal of a license only, and is in addition to any other fees that may be assessed according to the laws, rules, regulations, and standards that are applicable to the individual facilities.

(2) This Subsection shall apply to any licensed:

(a) Adult day health care facility.

(b) Behavioral health services provider.

(c) Ambulatory surgery center.

(d) Case management provider.

(e) Urine drug screening provider.

(f) Home health agency.

(g) Hospice.

(h) Hospital.

(i) Nursing home.

(j) Rural health clinic.

(k) Intermediate care facility for people with developmental disabilities (ICF/DD).

(l) End stage renal disease facility.

(m) Outpatient abortion facility.

(n) Psychiatric residential treatment facility.

(o) Children's respite care center.

(p) Repealed by Acts 2005, No. 483, § 2, eff. July 12, 2005.

(q) Pediatric day health care facility.

<Implementation of subpar. (A)(2)(r) effective upon appropriation and approval pursuant to Acts 2017, No. 417, § 2. See italic note following this section.>

(r) Community-based care facility.

(s) Free-standing birth center.

B. (1) Any person, partnership, corporation, unincorporated association, or other legal entity currently operating or planning to operate any of the facilities listed in this Subsection shall be assessed an additional application and renewal fee not to exceed five dollars per unit, payable to the Louisiana Department of

Health, at the time the application or application for renewal of the license required in Subsection A of this Section is made, where applicable. For purposes of this Subsection, “unit” means a room or station.

(2) This Subsection shall apply to any licensed:

- (a) Hospice.
- (b) Hospital.
- (c) Nursing home.
- (d) Intermediate care facility for people with developmental disabilities (ICF/DD).
- (e) Behavioral health services provider.
- (f) Psychiatric residential treatment facility.
- (g) Children's respite care center.
- (h) End stage renal disease facility.

<Implementation of subpar. (B)(2)(i) effective upon appropriation and approval pursuant to Acts 2017, No. 417, § 2. See italic note following this section.>

- (i) Community-based care facility.
- (j) Free-standing birth center.

C. Any person, partnership, corporation, unincorporated association, or other legal entity currently operating or planning to operate a satellite, branch, or offsite office, as permitted in the laws, rules, regulations, and standards that are applicable to the individual facilities and are licensed or registered by the Louisiana Department of Health shall be assessed a fee not to exceed three hundred dollars per subsidiary license or registration, payable to the Louisiana Department of Health. This fee shall be assessed at the time application is made for the satellite, branch, or offsite office, and once a year thereafter for renewal of the subsidiary license or registration. This fee is for application and renewal of a subsidiary license or registration only, and is in addition to any other fees that may be assessed according to the laws, rules, regulations, and standards that are applicable to the individual facilities.

D. The fees authorized and charged to any category of provider as provided in Subsections A, B, and C of this Section shall not exceed the estimated costs of providing the services to such specified category of provider.

E. (1) Any person, partnership, corporation, unincorporated association, or other legal entity, currently operating or planning to operate any of the facilities listed in this Subsection, and who is licensed by the Louisiana Department of Health shall be assessed a delinquent fee of one hundred dollars for failure to timely renew its license and/or any subsidiary license or registration. This fee shall be in addition to any renewal or other fee applicable according to the laws, rules, regulations, and standards that are applicable to the individual facilities. The delinquent fee described in this Subsection shall be assessed and shall become due and payable to the Louisiana Department of Health at 12:01 a.m. on the first day following the expiration date of the license or subsidiary license or registration.

(2) This Subsection shall apply to any licensed:

- (a) Adult day health care facility.

- (b) Behavioral health services provider.
- (c) Ambulatory surgery center.
- (d) Case management provider.
- (e) Urine drug screening provider.
- (f) Home health agency.
- (g) Hospice.
- (h) Hospital.
- (i) Nursing home.
- (j) Intermediate care facility for people with developmental disabilities (ICF/DD).
- (k) End stage renal disease facility.
- (l) Outpatient abortion facility.
- (m) Rural health clinic.
- (n) Psychiatric residential treatment facility.
- (o) Children's respite care center.
- (p) Pediatric day health care facility.
- (q) Home- and community-based service provider.
- (r) Adult brain injury facility.
- (s) Pain management clinic.

<Implementation of subpar. (E)(2)(t) effective upon appropriation and approval pursuant to Acts 2017, No. 417, § 2. See italic note following this section.>

- (t) Community-based care facility.
- (u) Free-standing birth center.
- (v) Repealed by Acts 2008, No. 839, § 5, eff. July 8, 2008.

(w) Repealed by Acts 2008, No. 839, § 5, eff. July 8, 2008. **Added by Acts 1997, No. 1384, § 1, July 1, 1997. Amended by Acts 1999, No. 650, § 1, eff. July 1, 1999; Acts 2001, No. 391, § 1; Acts 2004, No. 332, § 1, eff. June 18, 2004; Acts 2004, No. 432, § 1, eff. June 24, 2004; Acts 2005, No. 483, § 1, eff. July 12, 2005; Acts 2006, No. 163, § 2; Acts 2006, No. 215, § 1, eff. June 2, 2006; Acts 2008, No. 839, § 3, eff. July 8, 2008; Acts 2013, No. 308, § 1, eff. upon § 3 contingency; Acts 2017, No. 417, § 1; Acts 2019, No. 332, § 1, eff. June 11, 2019.**

- **Reporting Concerning Abortion Complications**

- **La. R.S. 40:2109.1, Hospital reports on complications of surgical procedures resulting from an abortion:**

A. A hospital licensed by the Louisiana Department of Health, pursuant to this Part shall submit a report to the department on patients who present for treatment in the emergency department as a result of complications after an abortion as defined in R.S. 40:1061.9. The report shall be confidential, shall be exempt from disclosure pursuant to the Public Records Law, R.S. 44:1 et seq., and shall not contain the name or address of the patient.

B. The Louisiana Department of Health, in consultation with the Louisiana State Board of Medical Examiners, shall promulgate rules regarding the electronic coding, reporting, and tracking of complications after any abortion that is treated at any hospital.

C. (1) The report required by Subsection A of this Section shall include the following information, if known:

(a) The date of the abortion.

(b) The name and address of the facility where the abortion was performed or induced.

(c) The nature of the abortion complication diagnosed or treated.

(d) The name and address of the facility where the post-abortion care was performed.

(2) Each facility that is subject to the requirements of this Section shall ensure that a staff member of the facility attempts to obtain the information required by Paragraph (1) of this Subsection from any patient prior to the patient's discharge from the facility who presents for treatment in the emergency department of the facility as a result of complications after an abortion.

(3) The report shall be submitted on a form created by the Louisiana Department of Health. The Louisiana Department of Health shall publicly report aggregate data annually by facility where the abortion was performed or induced. **Added by Acts 2021, No. 425, § 1.**

- **Licensing of Outpatient Abortion Providers**

- **La. R.S. 40:2175.1, Short title:**

This Part may be cited as the “Outpatient Abortion Facility Licensing Law.” **Added by Acts 2001, No. 391, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:2175.2, Purpose:**

The purpose of this Part is to authorize the Louisiana Department of Health to promulgate and publish rules and regulations to provide for the health, safety, and welfare of women in outpatient abortion facilities and for the safe operation of such facilities. The rules shall be reasonably related to the purpose expressed in this Section and shall not impose a legally significant burden on a woman's freedom to decide whether to terminate her pregnancy. **Added by Acts 2001, No. 391, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:2175.3, Definitions:**

For purposes of this Part, the following definitions apply:

(1) “Abortion” shall have the meaning set forth in R.S. 40:1061.9.

- (2) “Abortion facility professional” or “outpatient abortion facility professional” means an individual who is a physician, surgeon, resident, intern, licensed nurse, nursing aide, emergency medical technician, or a paramedic who diagnoses, examines, or treats a female patient at an outpatient abortion facility.
- (3) “Abortion facility staff member” or “outpatient abortion facility staff member” means an individual who is not an abortion facility professional but who is employed by or contracts with an outpatient abortion facility to provide services and who has any contact with patients at the facility.
- (4) “First trimester” means the time period up to fourteen weeks after the first day of the last menstrual period.
- (5) “Licensee” means the person, partnership, corporation, association, organization, or professional entity on whom rests the ultimate responsibility and authority for the conduct of the outpatient abortion facility.
- (6) “Licensing agency” means the Louisiana Department of Health.
- (7) “Mandatory reporter to law enforcement” means any abortion facility staff member or any abortion facility professional.
- (8) “Outpatient abortion facility” means any outpatient facility, other than a hospital as defined in R.S. 40:2102 or an ambulatory surgical center as defined in R.S. 40:2133, in which any second trimester or five or more first trimester abortions per calendar year are performed.
- (9) “Second trimester” means the time period from fourteen to twenty-three weeks after the first day of the last menstrual period.
- (10) “Secretary” means the secretary of the Louisiana Department of Health. **Added by Acts 2001, No. 391, § 1. Amended by Acts 2014, No. 620, § 1, eff. Sept. 1, 2014; Acts 2019, No. 280, § 3; Acts 2019, No. 376, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:2175.4, License required:**

A. An outpatient abortion facility may not be established or operated in this state without an appropriate license issued under this Part.

<Text of subsec. B effective until 30 days after contingency in § 6 of Acts 2018, No. 498. See italic note, post.>

B. A license issued to an outpatient abortion facility is valid for only one location.

<Text of subsec. B effective 30 days after contingency in § 6 of Acts 2018, No. 498. See italic note, post.>

B. A license issued to an outpatient abortion facility is valid for only one location that shall be physically and financially separate from any facility where publicly funded medical assistance program services are provided, in accordance with R.S. 49:200.51.

C. A license issued to an outpatient abortion facility shall be valid for one year from the date of issuance, unless revoked prior to that date.

D. A license issued to an outpatient abortion facility is not transferable or assignable.

E. A license issued to an outpatient abortion facility shall be posted in a conspicuous place on the licensed premises. **Added by Acts 2001, No. 391, § 1. Amended by Acts 2018, No. 498, § 2. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:2175.5, Rules; regulations; licensing standards:**

The licensing agency shall promulgate and publish rules, regulations, and licensing standards to provide for the health, safety, and welfare of women in outpatient abortion facilities and for the safe operation of such facilities. The rules, regulations, and licensing standards shall become effective upon approval of the secretary of the Louisiana Department of Health in accordance with the Administrative Procedure Act. The initial rules, regulations, and licensing standards shall not become effective until approved by the House Committee on Health and Welfare and the Senate Committee on Health and Welfare. No outpatient abortion facility shall be required to obtain a license under this Part until the initial rules, regulations, and licensing standards are adopted and promulgated in accordance with the Administrative Procedure Act. **Added by Acts 2001, No. 391, § 1.**

○ **La. R.S. 40:2175.6, License issuance; application; on-site inspection:**

A. An applicant for an outpatient abortion facility license must submit an application to the licensing agency on a form prescribed by the agency.

B. Each application must be accompanied by a nonrefundable license fee in an amount set by the licensing agency in accordance with R.S. 40:2006. The fees herein levied and collected shall be paid into the general fund.

C. Following receipt of the application and licensing fee, the licensing agency shall issue a license if, after an on-site inspection, it finds that the outpatient abortion facility meets the requirements established under this Part and the licensing standards adopted in pursuance thereof. The licensing agency must perform an on-site inspection of the outpatient abortion facility prior to issuance of the initial license.

D. As a condition for renewal of a license, the licensee must submit to the licensing agency the annual renewal application along with the annual renewal licensing fee. Upon receipt of the annual renewal application and the annual renewal licensing fee, the licensing agency shall determine if the outpatient abortion facility continues to meet the requirements established under this Part and the licensing standards adopted in pursuance thereof. The licensing agency may perform an on-site inspection upon annual renewal. If the outpatient abortion facility continues to meet the requirements established under this Part and the licensing standards adopted in pursuance thereof, a license shall be issued which is valid for one year.

E. A provisional license may be issued in cases where additional time is needed for the outpatient abortion facility to comply fully with the requirements established under this Part and the licensing standards adopted in pursuance thereof. The licensing agency may issue a provisional license to an outpatient abortion facility for a period not to exceed six months only if the failure to comply is not detrimental to the health or safety of the women seeking treatment in the outpatient abortion facility. The deficiencies which preclude the outpatient abortion facility from being in full compliance must be cited at the time the provisional license is issued.

F. The licensing agency may perform an on-site inspection at reasonable times as necessary to ensure compliance with this Part.

G. The secretary of the department may deny a license, may refuse to renew a license, or may revoke an existing license, if an investigation or survey determines that the applicant or licensee is in violation of any provision of this Part, in violation of the licensing rules promulgated by the department, or in violation of any other federal or state law or regulation.

(1) The secretary shall furnish the applicant or licensee thirty calendar days' written notice specifying the reasons for the denial, nonrenewal, or revocation.

(2) The applicant or licensee shall have the right to file a suspensive appeal of the denial, nonrenewal, or revocation with the office of the secretary within thirty calendar days from the date of receipt of the written notice. The appeal request shall specify in detail the reasons why the appeal is lodged.

H. Notwithstanding any law to the contrary, the secretary of the department may issue an immediate suspension of a license if an investigation or survey determines that the applicant or licensee is in violation of any provision of this Part, in violation of the rules promulgated by the department, or in violation of any other federal or state law or regulation, and the secretary determines that the violation or violations pose an imminent or immediate threat to the health, welfare, or safety of a client or patient. The secretary shall give the licensee written notice of the immediate suspension. The suspension of the license is effective upon the receipt of the written notice.

(1) The licensee shall have the right to file a devolutive appeal of the immediate suspension notice. The appeal request shall be filed with the office of the secretary within thirty calendar days of the receipt of the written notice of the immediate suspension. The appeal request shall specify in detail the reasons why the appeal is lodged.

(2) The licensee shall have the right to file for injunctive relief from the immediate suspension of the license; such injunctive relief shall be filed with the district court for the parish of East Baton Rouge. Before injunctive relief may be granted, the licensee shall prove by clear and convincing evidence that the secretary's decision to issue the immediate suspension of the license was arbitrary and capricious.

I. If a license is revoked or renewal of a license is denied other than for cessation of business or non-operational status, or if the license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director, or administrator of the licensee may be prohibited from owning, managing, directing, or operating another outpatient abortion clinic in the state of Louisiana. **Added by Acts 2001, No. 391, § 1. Amended by Acts 2010, No. 490, § 1, eff. June 22, 2010. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:2175.7, Mandatory reports to law enforcement; human trafficking awareness and prevention training:**

A. (1) Notwithstanding any claim of privileged communication, any mandatory reporter to law enforcement who has cause to believe that a minor or adult female who presents at an outpatient abortion facility is a victim of human trafficking, trafficking of children for sexual purposes, rape, incest, or coerced abortion shall report such crime immediately, or no later than the end of the business day, to the sheriff's department in the parish or local police department where the outpatient abortion facility is located. If the victim does not reside in the parish where the outpatient abortion facility is located, the mandatory reporter to law enforcement shall also report the crime to the law enforcement agency in the parish or county in which the victim resides, if reasonably ascertainable.

(2) The Louisiana Department of Health shall promulgate a form which may be used by a mandatory reporter to law enforcement to report a crime, pursuant to Paragraph (1) of this Subsection, to the parish or local law enforcement agency.

B. (1) Beginning August 1, 2019, every mandatory reporter to law enforcement shall certify to the Louisiana Department of Health that they have participated in a training on human trafficking awareness and prevention on an annual basis. The department shall maintain the name of each mandatory reporter to law enforcement as confidential, and such information shall not be subject to disclosure pursuant to the Public Records Law.

(2) The Louisiana Department of Health shall promulgate rules to provide for compliance of this Subsection utilizing the online educational videos on human trafficking awareness and prevention provided by the United States Department of Health and Human Services, Administration for Children and Families, office on trafficking in persons or such training tools as may be adopted by the department. **Added by Acts 2019, No. 280, § 3. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **Violations for Licensed Healthcare Facilities**

- **La. R.S. 40:2199, Violations; penalties; fines; notice; hearings; appeal; licensed entities:**

A. (1) For purposes of this Part, “facility” shall mean any one or more of the following: an adult day health care facility, substance abuse/addiction treatment facility, ambulatory surgery center, case management facility, urine drug screening facility, mobile cholesterol screening facility, end stage renal disease facility, supplier of portable X-ray services, home health agency, hospice, hospital, ICF/DD facility, outpatient abortion facility, or any other healthcare provider licensed or certified by the Louisiana Department of Health.

(2) The opening or operation of a facility without a license or registration therefor shall be a misdemeanor, punishable upon conviction by a fine of not less than one thousand dollars nor more than five thousand dollars. Each day's violation shall constitute a separate offense.

(3) It shall be a violation to operate a facility which holds a current license, registration, or certificate if one of the following apply:

(a) As a result of a licensure or certification survey, it is determined by an agency to be in violation of one or more conditions of licensure or certification and has failed to correct such conditions of violation within the time prescribed by law or by the agency.

(b) As a result of one or more third-party complaints, it is determined by an agency to have been in violation of one or more conditions of licensure or certification resulting directly in the incident which gave rise to such third-party complaint.

(4) Any violation provided for in Paragraph (3) of this Subsection shall entitle both the facility and the complainant to an administrative appeal.

(5) A “facility” shall not include any individual healthcare provider who is licensed or certified by one of the boards under the Louisiana Department of Health. These boards include but are not limited to the Louisiana Board of Pharmacy, Louisiana Physical Therapy Board, Louisiana State Board of Medical Examiners, Louisiana Board of Dentistry, and the Louisiana State Board of Optometry Examiners.

B. (1) Any person or entity violating the provisions of Paragraph A(3) of this Section when such a violation poses a threat to the health, safety, rights, or welfare of a resident or client may be liable for civil fines in addition to any criminal action which may be brought under other applicable laws. The department shall adopt rules in accordance with the Administrative Procedure Act which define specific classifications of violations, articulate factors in assessing civil fines including mitigating circumstances such as an effective corporate compliance program, and explain the treatment of continuing and repeat deficiencies.

(2) A schedule of civil fines by class of violations shall be as follows:

(a) Class A-Violations that create a condition or occurrence relating to the operation and maintenance of a facility, which result in death or serious harm to a resident or client. Civil fines shall not exceed two thousand five hundred dollars for the first violation and shall not exceed five thousand dollars per day for repeat violations.

(b) Class B-Violations that create a condition or occurrence relating to the operation and maintenance of a facility which create a substantial probability that death or serious physical or mental harm to a resident or client will result from the violation. Civil fines shall not exceed one thousand five hundred dollars for the first violation and shall not exceed three thousand dollars per day for repeat violations.

(c) Class C-Violations that create a condition or occurrence relating to the operation and maintenance of a facility which create a potential for harm by directly threatening the health, safety, rights, or welfare of a resident or client. Civil fines shall not exceed one thousand dollars for the first violation and shall not exceed two thousand dollars per day for repeat violations.

(d) Class D-Violations related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a resident or client. Civil fines shall not exceed one hundred dollars for the first violation and shall not exceed two hundred fifty dollars per day for repeat violations.

(e) Class E-Violations for failure of a facility to submit a statistical or financial report in a timely manner as required by regulation. Civil fines shall not exceed fifty dollars for the first offense and shall not exceed one hundred dollars per day for repeat violations.

(3) The aggregate fines assessed for violations determined in any one month shall not exceed five thousand dollars, except that the aggregate fines assessed for Class A repeat violations shall not exceed twenty thousand dollars in any one month, and the aggregate fines assessed for Class B repeat violations shall not exceed fifteen thousand dollars in any one month.

C. The department shall adopt rules and regulations in accordance with the Administrative Procedure Act to provide for notice to the facility of any violation, for an informal reconsideration process, and for an appeal procedure including judicial review. Such appeal shall be suspensive. The facility shall have the right to a devolutive appeal.

D. The facility shall furnish, with an appeal, a bond in the minimum amount of one and one-half times the amount of the fine imposed by the department. The bond furnished shall provide in substance that it is furnished as security that the facility will prosecute its appeal, that any judgment against it, including court costs, will be paid or satisfied from the amount furnished, or that otherwise the surety is liable for the amount assessed against the facility. The appeal shall be heard in a summary proceeding which shall be given precedence over other pending matters.

E. The department may institute all necessary civil action to collect fines imposed and not timely appealed. No facility may claim imposed fines or interest as reimbursable costs, nor increase charges to residents or

clients as a result of such fines or interest. Interest shall begin to accrue at the current judicial rate on the day following the date on which any fines become due and payable.

F. (1) Except as provided in Subsection G of this Section, after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund and prior to the monies being placed in the state general fund, an amount equal to the civil fines collected under the provisions of this Section shall be credited to a special fund created in the state treasury to be known as the “Health Care Facility Fund”, hereinafter referred to as “the fund”.

(2) The monies in the fund shall be subject to annual appropriation by the legislature and shall be available exclusively for the use by the Louisiana Department of Health for:

(a) The protection of health, welfare, rights, or property of those receiving services from the healthcare facilities licensed or certified by the Louisiana Department of Health.

(b) The enforcement of sanctions against healthcare facilities licensed or certified by the Louisiana Department of Health.

(c) Education, employment, and training of employees, staff, or other personnel of healthcare facilities licensed or certified by the Louisiana Department of Health.

(d) Programs designed to improve the quality of care in healthcare facilities.

(3) The monies in the fund shall be invested by the treasurer in the same manner as the monies in the state general fund, and all interest earned from the investment of monies in the fund shall be deposited in and remain to the credit of the fund. All unexpended and unencumbered monies remaining in the fund at the end of the fiscal year shall remain in the fund.

(4) The secretary of the Louisiana Department of Health is authorized to promulgate rules and regulations in accordance with the Administrative Procedure Act to provide for the administration of the fund.

G. (1) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to the civil fines collected from home health agencies under the provisions of this Section and civil fines and monetary penalties imposed or levied by the Centers for Medicare and Medicaid Services against home health agencies and remitted to the state shall be credited to a special fund hereby created in the state treasury to be known as the “Home Health Agency Trust Fund”, hereinafter referred to as the “HHA Trust Fund”. The monies in the HHA Trust Fund shall be invested by the treasurer in the same manner as monies in the state general fund and all interest earned from the investment of the monies in the HHA Trust Fund shall be deposited to and remain to the credit of the HHA Trust Fund. All unexpended and unencumbered monies remaining in the HHA Trust Fund at the close of the fiscal year shall remain in the HHA Trust Fund.

(2) The monies in the HHA Trust Fund shall be subject to annual appropriation and shall be used solely in accordance with the provisions of 42 CFR Part 488 and subject to approval by the Centers for Medicare and Medicaid Services.

(3) The treasurer shall transfer an amount equal to any civil fines or penalties from home health agencies remitted to the state by the Centers for Medicare and Medicaid Services prior to the creation of the HHA Trust Fund into the HHA Trust Fund after the effective date of this Act.

(4) The secretary of the Louisiana Department of Health is authorized to promulgate rules in accordance with the Administrative Procedure Act to provide for the administration of the HHA Trust Fund. **Added by Acts 1997, No. 1390, § 1. Amended by Acts 1999, No. 1311, § 1; Acts 2001, No. 391, § 1; Acts 2001, No. 1185, § 4, eff. July 1, 2001; Acts 2003, No. 201, § 1; Acts 2008, No. 785, § 1, eff. July 7, 2008; Acts 2015, No. 113, § 1, eff. June 19, 2015; Acts 2018, No. 206, § 4.**

- **Public Assistance**

- **La. R.S. 46:447.1, Public assistance recipients; family planning education; contraceptives:**

A. (1) Subject to the provisions of appropriation acts, the secretary of the Louisiana Department of Health shall establish a program to provide information to public assistance recipients regarding family planning, including information regarding abstinence, but excluding abortion. The secretary shall promulgate a list of contraceptive methods and devices that have been approved by the secretary based on their safety and effectiveness. Such list shall include long-term contraceptive methods, but shall not include abortifacients.

(2) Information regarding family planning, including the use of contraceptive methods and devices and abstinence, but excluding abortion, shall be disseminated in such a manner that is reasonably calculated to make the information easily accessible to such recipients and in accordance with the provisions of Subsection C herein. For those recipients who have contact with a case worker or other such person acting on behalf of the state, dissemination shall include but not be limited to a method whereby each such recipient is provided written information concerning the effective use of contraceptive methods and devices by the case worker or other appropriate person working with the recipient on behalf of the state.

(3) The secretary shall make the approved contraceptive methods and devices available to each public assistance recipient who is receiving aid to families with dependent children or who is receiving public assistance with the cost of medical care under the medical assistance program (Medicaid).

B. The program shall provide for examinations by healthcare providers for the health and safety of public assistance recipients who elect to avail themselves of or to practice forms of family planning approved or made available by the secretary. Any recipient of Aid to Families with Dependent Children or any successor program, or recipient of public assistance with the cost of medical care through the medical assistance program (Medicaid), who elects to avail himself or herself of the services or contraceptives offered under the program shall be provided with such an examination within fourteen days of his or her initial request. If his or her choice of family planning methods involves the use of contraceptives or requires the performance of medical procedures, excluding abortions, he or she shall be provided with his or her choice of approved contraceptive or given the opportunity to undergo the appropriate medical procedure within seven days of his or her request for the contraceptive or procedure.

C. The secretary of the Louisiana Department of Health shall provide specific written descriptions of the services available in the program established under this Section to all recipients of Aid to Families with Dependent Children or any successor program, and to all recipients of public assistance with the cost of medical care through the medical assistance program (Medicaid), at least semiannually through methods that may include direct mail to all such recipients.

D. The secretary of the Louisiana Department of Health shall adopt rules and regulations for the administration of the program established under this Section, including appropriate requirements and procedures for participants to receive prompt examinations by and consultations with healthcare providers in accordance with Subsection B of this Section.

E. The provisions of this Section shall be administered in accordance with R.S. 40:1061.5 and 1061.6. **Added by Acts 1992, No. 932, § 1. Amended by Acts 2018, No. 206, § 5.**

- **Revenue and Taxation**

- **La. R.S. 47:463.61, Special prestige license plates; “Choose Life”; distribution of royalty fees:**

A. The secretary of the Department of Public Safety and Corrections shall establish a special prestige license plate to be known as the “Choose Life” plate, provided there is a minimum of one hundred applicants for such plate. The license plate shall be restricted to passenger cars, pickup trucks, vans, motorcycles, and recreational vehicles. However, there must be a minimum of one thousand applicants for motorcycle license plates. The license plate shall be of a color and design selected by the Choose Life Advisory Council provided it is in compliance with R.S. 47:463(A)(3) and shall bear the legend “Choose Life”.

B. The prestige license plate shall be issued, upon application, to any citizen of Louisiana in the same manner as any other motor vehicle license plate.

C. The annual fee for this special prestige license plate shall be a royalty fee of twenty-five dollars, in addition to the regular motor vehicle license fee provided in R.S. 47:463, to be distributed in the manner set forth in Paragraph (E)(1) of this Section and a three dollar and fifty cent handling fee to be retained by the department to offset a portion of administrative costs.

D. (1) The department shall collect the royalty fee for the prestige license plate and each quarter shall disburse the royalty fee to the Louisiana Right to Life Education Committee.

(2) In addition, the Choose Life Fund in the state treasury is hereby abolished as of July 1, 2009, and the state treasurer shall transfer any remaining money in the fund to the Escrow Fund and the money shall be appropriated or otherwise distributed to the Louisiana Right to Life Education Committee for use in accordance with this Section.

E. (1) The Louisiana Right To Life Education Committee shall distribute the money to qualified organizations according to Paragraph (2) of this Subsection. The Louisiana Right To Life Education Committee may reserve or expend up to five percent of the money received pursuant to this Section for promotion and marketing of the plate and for administrative costs relative to distribution of the money.

(2) An organization wishing to qualify for receipt of funds shall submit, to the Louisiana Right To Life Education Committee, an affidavit affirming its qualifications, which shall include a pledge to spend the money in accordance with the provisions of this Section, and shall qualify as tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended. Furthermore, an organization wishing to qualify for receipt of funds shall demonstrate that it provides counseling and other services intended to meet the needs of expectant mothers considering adoption for their unborn child. No monies shall be distributed to any organization involved in, or associated with counseling for, or referrals to, abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising.

(3) Organization receiving monies under this Section shall use at least fifty percent of such funds to provide for the material needs of expectant mothers considering adoption for their unborn child, including clothing, house, medical care, food, utilities, and transportation. Such monies may also be used to meet the needs of infants awaiting placement with adoptive parents. The remaining funds may be used for counseling, training, and providing pregnancy testing, but shall not be used for administrative, legal, or capital expenditures.

F. Repealed by Acts 2009, No. 496, § 2, eff. July 1, 2009.

G. Repealed by Acts 2009, No. 496, § 2, eff. July 1, 2009.

H. Repealed by Acts 2009, No. 496, § 2, eff. July 1, 2009. **Added by Acts 1999, No. 729, § 1. Amended by Acts 2003, No. 22, § 1; Acts 2009, No. 496, § 1, eff. July 1, 2009; Acts 2010, No. 42, § 1. This provision has been amended this past legislative session through Act 84 (S.B. 211).**

- **Public Funding**

- **La. R.S. 49:200.51, Public funding for abortion providers; prohibition (<Text of section effective 30 days after contingency in § 6 of Acts 2018, No. 498. For text of section effective until 30 days after contingency in § 6 of Acts 2018, No. 498, see R.S. 36:21. For contingency of § 6, see italic notes, post. >):**

A. For purposes of this Chapter, the term “abortion” shall have the meaning ascribed in R.S. 40:1061.9.

B. (1) The Louisiana Department of Health shall not enter into any provider agreement for medical assistance program funding, as defined in R.S. 46:437.3, with any healthcare provider, entity, or organization that does any of the following:

(a) Performs abortions in this state.

(b) Provides its own facilities where reimbursable medical assistance program services are performed for the use of another healthcare provider, entity, or organization for the purpose of performing abortions in this state.

(c) Hires or retains another healthcare provider, entity, or organization for the purpose of performing abortions in this state.

(d) Provides reimbursable medical assistance program services in the same physical facility as a licensed outpatient abortion facility.

(2)(a) The prohibition provided in this Section shall apply to state funds, federal funds, and any other public funds administered by the Louisiana Department of Health through a medical assistance program provider agreement. In the instance that a state or federal funding grant is denied to a healthcare provider, entity, or organization under this Section, such grant shall be redirected to qualified providers in the same geographical region as the healthcare provider, entity, or organization that was disqualified from such grant.

(b) For purposes of this Paragraph, “medical assistance program” and “provider agreement” shall have the meaning ascribed in R.S. 46:437.3.

(3) The prohibition provided in this Section shall not be construed to prohibit provision of public protections, such as fire, police, or emergency medical services, public utilities, or other such services to any entity or organization in the same manner as provided to the general public.

(4) The prohibition in this Section shall not be construed to restrict funding to an entity that may be engaged in performing the following types of abortions, exclusively, provided such abortions are performed in accordance with applicable state and federal laws:

(a) An abortion which is medically necessary to prevent the death of the mother.

(b) An abortion in a case when the mother is a victim of rape or incest.

(c) An abortion performed when the pregnancy is diagnosed as medically futile. For purposes of this Subparagraph, “medically futile” means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth. This diagnosis shall be a medical judgment certified in the pregnant woman's medical record by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved. **Redesignated from R.S. 36:21 by Acts 2018, No. 498, § 5. Added by Acts 2016, No. 304, § 1, eff. June 2, 2016. Amended by Acts 2018, No. 498, § 1.**

- **APA Hearings**

- **La. R.S. 49:965.1, Expenses of administrative proceedings; right to recover:**

A. When a small business files a petition seeking: (1) relief from the application or enforcement of an agency rule or regulation, (2) judicial review of the validity or applicability of an agency rule, (3) judicial review of an adverse declaratory order or ruling, or (4) judicial review of a final decision or order in an adjudication proceeding, the petition may include a claim against the agency for the recovery of reasonable litigation expenses. If the small business prevails and the court determines that the agency acted without substantial justification, the court may award such expenses, in addition to granting any other appropriate relief.

B. A small business shall be deemed to have prevailed in an action when, in the final disposition, its position with respect to the agency rule or declaratory order or ruling is maintained, or when there is no adjudication, stipulation, or acceptance of liability on its part. However, a small business shall not be deemed to have prevailed, if the action was commenced at the instance of, or on the basis of a complaint by, anyone other than an officer, agent, or employee of the agency and was dismissed by the agency on a finding of no cause for the action or settled without a finding of fault on the part of the small business.

C. An agency shall pay any award made against it pursuant to this Section from funds in its regular operating budget and shall, at the time of its submission of its proposed annual budget, submit to the division of administration and to the presiding officer of each house of the legislature a report of all such awards paid during the previous fiscal year.

D. As used in this Section:

(1) “Reasonable litigation expenses” means any expenses, not exceeding seven thousand five hundred dollars in connection with any one claim, reasonably incurred in opposing or contesting the agency action, including costs and expenses incurred in both the administrative proceeding and the judicial proceeding, fees and expenses of expert or other witnesses, and attorney fees.

(2) “Small business” means a small business as defined by the Small Business Administration, which for purposes of size eligibility or other factors, meets the applicable criteria set forth in 13 Code of Federal Regulations, Part 121, as amended. **Added by Acts 1982, No. 497, § 1. See *June Medical Services, LLC v. Louisiana Department of Health*, App. 1 Cir.2020, 300 So.3d 413, 2019-0192 (La.App. 1 Cir. 3/4/20) (Court of Appeal would vacate award of \$7,500 in litigation expenses made to reproductive health clinic that challenged Department of Health's regulations issued under Louisiana's Outpatient Abortion Facility Licensing Law after district court declared regulations invalid, as Court of Appeal reversed district court's grant of summary judgment to clinic in underlying matter).**

- **La. R.S. 49:992, Applicability; exemptions; attorney fees; court costs:**

A. (1) Prior to October 1, 1996, the provisions of the Administrative Procedure Act¹ shall apply to all adjudications as defined by that Act.

(2) On and after October 1, 1996, the division shall commence and handle all adjudications in the manner required by the Administrative Procedure Act provided that the provisions of that Act are not inconsistent with the provisions of this Chapter.

B. (1) Notwithstanding any other provision of the law to the contrary except as provided by R.S. 49:967 and the provisions of this Section, all adjudications shall be resolved exclusively as required by the provisions of this Chapter and the Administrative Procedure Act.

(2) Except in the instance of adjudications initiated pursuant to Items (D)(2)(b)(iii), (vi), and (vii) of this Section, in an adjudication commenced by the division, the administrative law judge shall issue the final decision or order, whether or not on rehearing, and the agency shall have no authority to override such decision or order. Upon the issuance of such a final decision or order, the agency or any official thereof shall comply fully with the final order or decision of the administrative law judge.

(3)(a) Nothing in this Section shall affect the right to or manner of judicial appeal in any adjudication, irrespective of whether or not such adjudication is commenced by the division or by an agency.

(b)(i) However, no agency or official thereof, or other person acting on behalf of an agency or official thereof, shall be entitled to judicial review of a decision made pursuant to this Chapter.

(ii) The provisions of Item (i) of this Subparagraph shall not apply to the Department of Children and Family Services or an official thereof or other person acting on behalf of the department or official in appeals brought pursuant to Children's Code Article 616.1.1.

C. The positions appointed by the director pursuant to this Chapter shall be in the classified service.

D. (1) Except as provided in Paragraphs (2) through (9) of this Subsection, the provisions of this Chapter shall apply to any board, commission, department, or agency of the executive branch of state government.

(2)(a) Except as otherwise provided in Subparagraph (b) of this Paragraph, any board, commission, department, or agency which is required, pursuant to a federal mandate and as a condition of federal funding, to conduct or to render a final order in an adjudication proceeding shall be exempt from the provisions of this Chapter to the extent of the federal mandate.

(b) This Subparagraph shall apply to the Louisiana Department of Health, the Department of Children and Family Services, the Department of Education, and any agency within these departments:

(i) If the department or an agency within the department is prohibited, pursuant to a federal mandate or as a condition of federal funding, from delegating by contract or other means its fair hearings function, then such fair hearings shall be exempt from the provisions of this Chapter to the extent of the federal mandate; however, if such federally mandated hearings function may be delegated by contract or other means, the department or agency shall delegate such function to the division. If the department or agency claims a federal mandate exemption, the department or agency shall have the burden of proving such exemption.

(ii) If the department or an agency within the department is prohibited, pursuant to a federal mandate or as a condition of federal funding, from delegating by contract or other means both its fair hearings function and its authority to render a final decision or order in an adjudication proceeding, then such fair hearings and adjudication proceedings shall be exempt from the provisions of this Chapter to the extent of the federal mandate; however, if such federally mandated hearings function and authority to render a final decision or

order in an adjudication proceeding may be delegated by contract or other means, the department or agency shall delegate such function and authority to the division. If the department or agency claims a federal mandate exemption, the department or agency shall have the burden of proving such exemption.

(iii)(aa) If a department or an agency within the department may delegate its fair hearings function but is required by federal mandate to render the final decision or order in an adjudication proceeding, then in those cases, the division shall conduct the hearing and issue a recommended decision. The recommended decision shall be mailed or delivered to the head of the agency, who shall have, upon receipt of the recommended decision, thirty-five days to reject, modify, or approve the decision. If he rejects or modifies the recommended decision, he shall specify in writing the findings of fact or conclusions of law which are being rejected or modified which shall be considered to be the final decision or order in the adjudication proceeding. A copy of the department or agency's rejected or modified decision shall be forwarded to the division on the day it is issued. If the agency head does not reject or modify the recommended decision within thirty-five days, or if he approves the recommended decision, then the recommended decision of the division shall be certified as the final decision or order of the department or agency in the adjudication proceeding.

(bb) In Temporary Assistance for Needy Families (TANF) cases, if the secretary of the Department of Children and Family Services approves, rejects, or modifies the recommended decision of the division, that approved, rejected, or modified decision shall be issued by the division as the final decision of the Department of Children and Family Services.

(iv) The provisions of this Subparagraph shall not apply to any board which is exempt from this Chapter pursuant to Paragraph (5) of this Subsection or to any board or commission which chooses to continue to conduct hearings pursuant to Subsection G of this Section.

(v) The division shall adjudicate within seventy-two hours of receipt all stay requests related to involuntary discharges from nursing homes. The division shall adjudicate all appeals related to involuntary discharges from nursing homes within thirty days of receipt.

(vi) Notwithstanding any provision of law to the contrary, an adjudication of a decision by the Louisiana Department of Health to deny, suspend, or revoke the license of an outpatient abortion facility, ambulatory surgical center, home health agency, hospital, or nursing home, pursuant to R.S. 40:2009.7, 2110, 2116.37, 2141, or 2175.6 shall be heard by a three member panel of division of administrative law judges. This panel shall be deemed to meet the requirements of a panel appointed by the secretary of the Louisiana Department of Health. The three member panel shall issue a final decision or order. The final decision or order shall be appealable to the district court for the parish of East Baton Rouge.

(vii) The provisions of this Subparagraph shall apply to hearings involving the Department of Education required under the Individuals with Disabilities Education Act, and the provisions of the Administrative Procedure Act shall not apply to these hearings. Hearings involving the Individuals with Disabilities Act shall proceed in accordance with regulations promulgated by the Board of Elementary and Secondary Education. Only an administrative law judge who has received training on the federal and state statutes and regulations with respect to children with disabilities and on educational placements in Louisiana's school systems shall conduct hearings pursuant to this Item. Any party aggrieved by the findings and decisions of the administrative law judge in hearings conducted pursuant to the Individuals with Disabilities Education Act, including local educational authorities, shall have a right to bring a civil action in state or federal court pursuant to federal law or regulation.

(3) The office of workers' compensation administration in the Louisiana Workforce Commission shall be exempt from the provisions of this Chapter.

(4) The office of unemployment insurance administration in the Louisiana Workforce Commission shall be exempt from this Chapter.

(5) State professional and occupational licensing boards shall be exempt from the provisions of this Chapter.

(6) The Department of Agriculture and Forestry shall be exempt from the provisions of this Chapter.

(7) All adjudications by the assistant secretary of the office of conservation pursuant to Chapters 1 and 7 of Subtitle I of Title 30 of the Louisiana Revised Statutes of 1950,² except determinations of violations of laws, rules, regulations, and orders, and determinations of penalties for such violations, shall be exempt from the provisions of this Chapter.

(8) The Public Service Commission and any entity which by law has its adjudications handled by the Public Service Commission shall be exempt from the provisions of this Chapter.

(9) Adjudications filed pursuant to R.S. 46:51.2, involving a risk evaluation panel decision, with the Department of Children and Family Services shall be exempt from the provisions of this Chapter.

E. In the event that a person files a civil action to require that a state department, division, office, agency, board, commission, or other entity of state government conduct an adjudication as required by this Chapter and judgment is rendered in his favor, he shall be entitled to an award of reasonable attorney fees to be taxed as costs in the matter.

F. The provisions of this Chapter shall apply to all adjudications as defined in the Administrative Procedure Act pursuant to the Procurement Code.³

G. Any board or commission authorized by law to conduct hearings may continue to hold such hearings.

H. (1) If an agency or official thereof, or other person acting on behalf of an agency or official thereof, files a petition for judicial review of a final decision or order in an adjudication proceeding and such agency, official, or person does not prevail in the final disposition of the judicial review, the agency shall be responsible for the payment of reasonable attorney fees and court costs of the other party.

(2) Notwithstanding any provision of R.S. 13:4521 to the contrary, an agency or official thereof, or other person acting on behalf of an agency or official thereof, which files a petition for judicial review of a final decision or order in an adjudication proceeding shall be required to pay court costs.

(3) All payments for litigation expenses required by this Subsection shall be paid from the agency's regular operating budget. Each agency which has paid such litigation expenses shall submit a detailed report of all such payments from the previous fiscal year to its legislative oversight committees and to the Joint Legislative Committee on the Budget no later than November fifteenth of each year. **Acts 2003, No. 956, § 1, eff. July 1, 2003. Amended by Acts 2003, No. 1271, § 1, eff. July 11, 2003; Acts 2005, No. 204, § 1; Acts 2009, No. 47, § 2, eff. June 15, 2009; Acts 2010, No. 683, § 1; Acts 2017, No. 348, § 4; Acts 2018, No. 90, § 1, eff. May 10, 2018; Acts 2018, No. 655, § 2; Acts 2021, No. 4, § 1, eff. Jan. 1, 2022.**

From: Joseph Kanter on behalf of Joseph Kanter <Joseph.Kanter@la.gov>
Sent: Saturday, July 09, 2022 9:35 AM EDT
To: Joe Kanter <joekanter@gmail.com>
Subject: FW: Abortion Statutes in Louisiana
Attachment(s): "Abortion Statutes in Louisiana.pdf"
Louisiana abortion laws

From: Jacintha Duthu <jduthu@lsbme.la.gov>
Date: Thursday, July 7, 2022 at 11:22 AM
To: Joseph Kanter <Joseph.Kanter@la.gov>, Stephen Russo <Stephen.Russo@LA.GOV>, "St. John, Joseph" <StJohnJ@ag.louisiana.gov>, "Rajiv Gala M.D." <rgala@ochsner.org>, "cgambal@tulane.edu" <cgambal@tulane.edu>, "Morrison, Ray" <rmorrison@ulm.vcom.edu>, "gjackson@ulm.vcom.edu" <gjackson@ulm.vcom.edu>, "Hilton, Charles" <chilto@lsuhsc.edu>, "RDiCar@lsuhsc.edu" <RDiCar@lsuhsc.edu>, "lpeac1@lsuhsc.edu" <lpeac1@lsuhsc.edu>, "sholma@lsuhsc.edu" <sholma@lsuhsc.edu>, "ahear1@lsuhsc.edu" <ahear1@lsuhsc.edu>, "nfree@lsuhsc.edu" <nfree@lsuhsc.edu>, "Lewis, David" <david.lewis@lsuhs.edu>, "Sanders, Mark" <msanders@ulm.vcom.edu>, "Singletary, Cynthia" <cynthia.singletary@lsuhs.edu>, "Freehill, Nicole" <nfree3@lsuhsc.edu>
Cc: "Lester W. Johnson, MD" <ljohnson@lsbme.la.gov>, "Terrie R. Thomas, MD" <tthomas@lsbme.la.gov>, "Roderick V. Clark, MD" <rclark@lsbme.la.gov>, "Leonard Weather Jr., MD" <lweather@lsbme.la.gov>
Subject: Abortion Statutes in Louisiana

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

Good Morning All,

As promised, please see attached.

Sincerely,



Jacintha F. Duthu, MPA, Executive Staff Officer
Louisiana State Board of Medical Examiners
630 Camp Street
New Orleans, LA 70130
(504) 568-6816
www.lsbme.la.gov

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Abortion Statutes in Louisiana

- **Minors and Non-Legal Custodians**

- **La. R.S. 9:975, Non-legal custodian; consent for certain services; affidavit, form:**

A. (1) A non-legal custodian, who is not a foster parent caring for a child in the custody of the Office of Community Services, shall be authorized to give legal consent for a child in his custody to receive any medical or educational services for which parental consent is usually required by executing the affidavit described in Paragraph (B)(4) of this Section. The affidavit shall not be valid for more than one year after the date on which it is executed.

(2) The decision of a non-legal custodian to consent to or to refuse medical or educational services for a child in his custody shall be superseded by any contravening decision of a parent or a person having legal custody of the child, provided the decision of the legal custodian does not jeopardize the life, health, safety, or welfare of the child.

(3) Nothing in this Section shall apply to, or give authority for, an abortion as provided in R.S. 40:1061.14.

B. (1) No person who acts in good faith reliance on a non-legal custodian properly executed affidavit, having no actual knowledge of any facts contrary to those stated in the affidavit, shall be subject to civil liability or criminal prosecution, or to professional disciplinary procedure, for any action which would have been proper if the facts had been as he believed them to be. This Paragraph shall apply even if medical or educational services are rendered to a child in contravention of the wishes of the parent or legal custodian of that child. However, the person rendering the services must not have actual knowledge of the wishes of the parent or legal custodian.

(2) A person who relies on a properly executed affidavit has no obligation to make further inquiry or investigation. Nothing herein shall relieve any person of responsibility for violations of other provisions of law, rules, or regulations.

(3) If the child ceases to live with the non-legal custodian, the non-legal custodian shall notify all parties to whom he has transmitted the affidavit or to whom he has caused the affidavit to be transmitted.

(4) A non-legal custodian's affidavit shall be invalid unless it substantially contains, in not less than ten-point boldface type, or a reasonable equivalent thereof, the warning statement beginning with the word "warning" specified in this Paragraph. The warning statement shall be enclosed in a box with three-point rule lines. The non-legal custodian's affidavit shall be in substantially the following form:

NON-LEGAL CUSTODIAN'S AFFIDAVIT

Use of this affidavit is authorized by R.S. 9:975.

INSTRUCTIONS: Completion of items 1 through 4 and the signing of the affidavit are sufficient to authorize educational services and school-related medical services for the named child. Completion of items 5 through 8 is additionally required to authorize any other medical services. Please print clearly.

The child named below lives in my home and I am 18 years of age or older.

1. Name of child:

2. Child's date of birth:

3. My name (adult giving authorization):

4. My home address:

5. I am a non-legal custodian.

6. Check one or both (for example, if one parent was advised and the other cannot be located):

I have advised the parent(s) or legal custodian(s) of the child of my intent to authorize the rendering of educational or medical services, and have received no objection.

I am unable to contact the parent(s) or legal custodian(s) of the child at this time, to notify them of my intended authorization.

7. Affiant's date of birth:

8. Affiant's Louisiana driver's license number or identification card number:

WARNING: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

I declare under penalty of perjury under the laws of Louisiana that the foregoing is true and correct.

Signed: Date:

NOTICES:

1. This declaration does not affect the rights of the child's parent or legal guardian regarding the care, custody, and control of the child, and does not mean that the non-legal custodian has legal custody of the child.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
3. This affidavit is not valid for more than one year after the date on which it is executed.

ADDITIONAL INFORMATION:

TO NON-LEGAL CUSTODIANS:

1. If the child stops living with you, you are required to notify anyone to whom you have given this affidavit as well as anyone of whom you have actual knowledge who received the affidavit from a third party.
2. If you do not have the information in item 8 (Louisiana driver's license or identification card), you must provide another form of identification such as your social security card number.

TO SCHOOL OFFICIALS:

The school district may require additional reasonable evidence that the non-legal custodian lives at the address provided in Item 4.

TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

1. No person who acts in good faith reliance upon a non-legal custodian's affidavit to render educational or medical services, without actual knowledge of facts contrary to those stated in the affidavit, is subject to criminal prosecution or civil liability to any person, or subject to any professional disciplinary action, for such reliance if the applicable portions of the form are completed.

2. This affidavit does not confer dependency for health care coverage purposes. **Added by Acts 2001, No. 410, § 1, eff. June 15, 2001.**

- **Quasi Contracts, and Offenses and Quasi Offenses**

- **La. R.S. 9:2800.12, Liability for termination of a pregnancy:**

A. Any person who performs an abortion is liable to the mother of the unborn child for any damage occasioned or precipitated by the abortion, which action survives for a period of three years from the date of discovery of the damage with a peremptive period of ten years from the date of the abortion.

B. For purposes of this Section:

(1) “Abortion” means the deliberate termination of an intrauterine human pregnancy after fertilization of a female ovum, by any person, including the pregnant woman herself, with an intention other than to produce a live birth or to remove a dead unborn child.

(2) “Damage” includes all special and general damages which are recoverable in an intentional tort, negligence, survival, or wrongful death action for injuries suffered or damages occasioned by the unborn child or mother.

(3) “Unborn child” means the unborn offspring of human beings from the moment of conception through pregnancy and until termination of the pregnancy.

C. (1) The signing of a consent form by the mother prior to the abortion does not negate this cause of action, but rather reduces the recovery of damages to the extent that the content of the consent form informed the mother of the risk of the type of injuries or loss for which she is seeking to recover.

(2) The laws governing medical malpractice or limitations of liability thereof provided in Title 40 of the Louisiana Revised Statutes of 1950 are not applicable to this Section. **Added by Acts 1997, No. 825, § 1.**

- **Evidentiary Issues**

- **La. R.S. 13:3734, Privileged communication between health care provider and patient:**

A. As used in this Part:

(1) “Communication” means the acquiring, recording or transmittal, of any information, in any manner whatsoever, concerning any facts, opinions or statements necessary to enable the health care provider to diagnose, treat, prescribe or to act for the patients; said communications may include, but are not limited to any and all medical records, office records, hospital records, charts, correspondence, memoranda, laboratory tests and results, x-rays, photographs, financial statements, diagnoses and prognoses.

(2) “Health care provider” means a hospital, as defined in this Subsection, and means a person, corporation, facility, or institution licensed by the state to provide health care or professional services as a physician, hospital, dentist, registered or licensed practical nurse, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, psychologist, social worker, or licensed professional counselor and an officer, employee, or agent thereof acting in the course and scope of his employment.

(3) “Hospital” means any hospital as defined in R.S. 40:2102; any “nursing home” or “home” as defined in R.S. 40:2009.2; or any health care provider's offices or clinics containing facilities for the examination, diagnosis, treatment or care of human illness.

(4) “Patient” means a natural person who receives health care from a licensed health care provider.

(5) “Representative” means the spouse, parent, tutor, curator, trustee, attorney or other legal agent of the patient.

(6), (7) Repealed by Acts 1986, No. 496, § 2, eff. July 2, 1986.

B. In noncriminal proceedings, testimonial privileges, exceptions, and waiver with respect to communications between a health care provider and his patient are governed by the Louisiana Code of Evidence.

C. An action or proceeding described in Louisiana Code of Evidence Article 510(B)(2) which constitutes an exception for a health care provider to testify at a trial on the merits also shall be an exception for purposes of any discovery method authorized by Article 1421 et seq. of the Louisiana Code of Civil Procedure.

D. Nothing in this Section shall preclude the health care provider from disclosing privileged information by medical report either before or after any legal proceedings are instituted, provided that he is in receipt of a written authorization executed by the patient. If the health care provider knows or reasonably believes that the patient is physically or mentally incapable of authorizing release, the health care provider may disclose privileged information provided he is in receipt of a written authorization executed by a person authorized under R.S. 40:1299.40 to consent to medical treatment for the patient. Furthermore, when a patient is represented by an attorney and that attorney provides the health care provider with written authorization executed by the patient, the health care provider may disclose to the attorney any communication which was necessary to enable him to diagnose, treat, prescribe, or act for the patient and may provide to the attorney, as agent for the patient, any medical reports, X-rays, or any other written information the health care provider has regarding the patient, all without the necessity of complying with formal discovery.

E. (1) In addition to any other provision of law permitting the subpoena of health care provider records, a party may obtain the health care provider records and communications defined by Subsection A of this Section of a patient to the extent permitted by Louisiana Code of Evidence Article 510(B)(2)(i) pursuant to a lawful subpoena, summons, or court order served upon the custodian of records of the health care provider, in accordance with the requirements of R.S. 13:3715.1.

(2) No health care provider, custodian of records, officer, employee, or agent thereof shall be held civilly or criminally liable for the disclosure of a patient's records including any communication defined by Subsection A of this Section to the extent permitted by Louisiana Code of Evidence Article 510(B)(2)(i) when that disclosure is made in accordance with R.S. 13:3715.1.

F. Notwithstanding any law to the contrary, when conducting any investigation, the coroner or his authorized agents or employees may review any medical or dental records which he deems relevant to the investigation. Such records may be made available to him by the custodian thereof without the necessity of authorization, subpoena, or court order. No health care provider, custodian of records, or officer, employee, or agent thereof shall be held civilly or criminally liable for the disclosure of a patient's records, including any communication defined herein, when that disclosure is made pursuant to a request by the coroner or his authorized agents or employees.

G. Notwithstanding any provision of this Section or any other law to the contrary, an official of another state, whose functions are comparable to those of a coroner in this state and who is conducting an investigation in which Louisiana medical or dental records are material evidence, may request authorization for the release of those records from the coroner of the parish in which the custodian of the records is located. If the coroner determines that the requested records are relevant to the out-of-state investigation and the release of those records is appropriate, then the coroner shall authorize the custodian of those records to release those records to the requesting official. No health care provider, custodian of records, or officer, employee, or agent thereof shall be held civilly or criminally liable for the disclosure of a patient's records, including any communication defined herein, pursuant to a release authorized by the coroner.

H. Notwithstanding any provision of law to the contrary, when conducting any investigation, the coroner or his authorized agents or employees may obtain any blood, urine, or other biological fluids or samples which he deems relevant to the investigation, the records of which would otherwise be available to the coroner pursuant to Subsection F of this Section. Such blood, urine, or other biological fluids or samples may be made available to him by the custodian thereof without the necessity of authorization, subpoena, or court order. No health care provider, custodian of records, or officer, employee, or agent thereof shall be held civilly or criminally liable for the release of a deceased patient's blood, urine, or other biological fluids or samples, including any communication defined herein, when that disclosure is made pursuant to a request by the coroner or his authorized agents or employees. **Added by Acts 1968, No. 499, § 1. Amended by Acts 1977, No. 670, § 1; Acts 1978, No. 430, § 1; Acts 1985, No. 477, § 1; Acts 1986, No. 496, § 1, eff. July 2, 1986; Acts 1987, No. 892, § 3, eff. July 20, 1987; Acts 1990, No. 46, § 1, eff. June 26, 1990; Acts 1991, No. 473, § 1, eff. July 15, 1991; Acts 1992, No. 376, § 4, eff. Jan. 1, 1993; Acts 1992, No. 395, § 1; Acts 1993, No. 988, § 1; Acts 1999, No. 520, § 1; Acts 1999, No. 1309, § 1, eff. Jan. 1, 2000; Acts 2018, No. 144, § 1. See *Arsenaux v. Arsenaux*, Sup.1983, 428 So.2d 427 (Where wife's physical condition was not essential element of her suit for separation on ground of abandonment, testimony of her alleged abortion was properly excluded as violative of physician-patient privilege, notwithstanding that wife contended that she was free from fault) .**

- **Criminal Offenses**

- **La. R.S. 14.32.5, Feticide defined; exceptions:**

A. Feticide is the killing of an unborn child by the act, procurement, or culpable omission of a person other than the mother of the unborn child. The offense of feticide shall not include acts which cause the death of an unborn child if those acts were committed during any abortion to which the pregnant woman or her legal guardian has consented or which was performed in an emergency as defined in R.S. 40:1061.23. Nor shall the offense of feticide include acts which are committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment.

B. Criminal feticide is of three grades:

(1) First degree feticide.

(2) Second degree feticide.

(3) Third degree feticide. **Added by Acts 1989, No. 777, § 1.**

- **La. R.S. 14.32.9, Criminal abortion:**

A. Criminal abortion is an abortion performed, with or without the consent of the pregnant woman or her legal guardian, that results in the death of an unborn child when the abortion is performed by any individual who is not a physician licensed by the state of Louisiana.

B. As used in this Section:

(1) “Abortion” means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child.

(b) Remove a dead unborn child or induce delivery of the uterine contents in case of a positive diagnosis, certified in writing in the woman's medical record along with the results of an obstetric ultrasound test, that the pregnancy has ended or is in the unavoidable and untreatable process of ending due to spontaneous miscarriage, also known in medical terminology as spontaneous abortion, missed abortion, inevitable abortion, incomplete abortion, or septic abortion.

(c) Remove an ectopic pregnancy.

(2) “Physician” means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state.

(3) “Unborn child” means the unborn offspring of human beings from the moment of conception through pregnancy and until live birth.

C. Any person who knowingly performs an abortion in violation of this Section shall be imprisoned at hard labor for not less than one nor more than five years, fined not less than five thousand nor more than fifty thousand dollars, or both.

D. Statutory Construction. None of the following shall be construed to create the crime of criminal abortion:

(1) Any action taken when a physician or other licensed medical professional is acting in the course of administering lawful medical care and an unborn child dies.

(2) Any act taken or omission by a pregnant woman with regard to her own unborn child. **Added by Acts 2012, No. 646, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 14.32.9.1, Aggravated criminal abortion by dismemberment:**

A. Aggravated criminal abortion by dismemberment is the commission of a criminal abortion, as defined in R.S. 14:32.9(A), when the unborn child is intentionally dismembered, whether the act of dismemberment was in the course of or following the death of the unborn child.

B. As used in this Section:

(1) “Abortion” means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with

knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child.

(b) Remove a dead unborn child or induce delivery of the uterine contents in case of a positive diagnosis, certified in writing in the woman's medical record along with the results of an obstetric ultrasound test, that the pregnancy has ended or is in the unavoidable and untreatable process of ending due to spontaneous miscarriage, also known in medical terminology as spontaneous abortion, missed abortion, inevitable abortion, incomplete abortion, or septic abortion.

(c) Remove an ectopic pregnancy.

(2) "Dismembered" or "dismemberment" means the use of a clamp, forceps, curette, suction cannula, or any other surgical tool or instrument with the intent to disarticulate the head or limbs from the body of the unborn child during an abortion, including but not limited to the common abortion methods known as suction curettage and dilation and evacuation.

(3) "Physician" means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state.

(4) "Unborn child" means the unborn offspring of human beings from the moment of conception through pregnancy and until live birth.

C. Any person who knowingly performs an abortion in violation of this Section shall be imprisoned at hard labor for not less than one nor more than ten years, fined not less than ten thousand nor more than one hundred thousand dollars, or both.

D. Exceptions. None of the following shall be construed to create the crime of criminal abortion:

(1) Any action taken when a physician or other licensed medical professional is acting in the course of administering lawful medical care and an unborn child dies.

(2) Any act taken or omission by a pregnant woman with regard to her own unborn child. **Added by Acts 2012, No. 646, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 14.32.10, Partial birth abortion:**

A. As used in this Section, the following definitions shall apply unless otherwise indicated:

(1) "Partial birth abortion" means an abortion in which:

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

(b) The person performing the abortion performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

(2) “Physician” means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state. For the purposes of this Paragraph, “the practice of medicine” means the holding out of one's self to the public as being engaged in the business of, or the actual engagement in, the diagnosing, treating, curing, or relieving of any bodily or mental disease, condition, infirmity, deformity, defect, ailment, or injury in any human being, other than himself, whether by the use of any drug, instrument or force, whether physical or psychic, or of what other nature, or any other agency or means; or the examining, either gratuitously or for compensation, of any person or material from any person for such purpose whether such drug, instrument, force, or other agency or means is applied to or used by the patient or by another person; or the attending of a woman in childbirth without the aid of a licensed physician or midwife.

B. This Section does not apply to a partial birth abortion that is necessary to save the life of the 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.

C. Notwithstanding any provision of law to the contrary, a woman upon whom the partial birth abortion is performed shall not be subject to prosecution for a violation of this Section as a principal, accessory, or coconspirator thereto.

D. Any person who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

E. Any physician or person who knowingly performs a partial birth abortion and thereby kills a human fetus shall be imprisoned at hard labor for not less than one nor more than ten years, fined not less than ten thousand nor more than one hundred thousand dollars, or both.

F. (1) A physician charged with an offense under this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the physician. Upon motion of the physician, the court shall delay the beginning of the trial for not more than thirty days to permit such hearing to take place. **Added by Acts 2007, No. 473, § 1, eff. July 12, 2007. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 14.32.11, Partial birth abortion:**

A. Any physician who knowingly performs a partial birth abortion and thereby kills a human fetus shall be imprisoned at hard labor for not less than one nor more than ten years, fined not less than ten thousand nor more than one hundred thousand dollars, or both. This Section shall 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.

B. For purposes of this Section, the following words have the following meanings:

(1) “Partial birth abortion” means an abortion in which:

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

(b) Performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

(2) "Physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the state in which the doctor performs such activity, or any other individual legally authorized by this state to perform abortions, provided, however, that any individual who is not a physician or not otherwise legally authorized by this state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

C. (1) A defendant charged with an offense under this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. The report of the board shall be discoverable.

(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than thirty days to permit such a hearing to take place.

D. A woman upon whom a partial birth abortion is performed shall not be subject to prosecution for a violation of this Section as a principal, accessory, or coconspirator thereto. **Added by Acts 2007, No. 477, § 1, eff. July 12, 2007.**

○ **La. R.S. 14:87, Abortion:**

A. (1) Abortion is the performance of any of the following acts, with the specific intent of terminating a pregnancy:

(a) Administering or prescribing any drug, potion, medicine or any other substance to a female; or

(b) Using any instrument or external force whatsoever on a female.

(2) This Section shall not apply to the female who has an abortion.

B. It shall not be unlawful for a physician to perform any of the acts described in Subsection A of this Section if performed under the following circumstances:

(1) The physician terminates the pregnancy in order to preserve the life or health of the unborn child or to remove a stillborn child.

(2) The physician terminates a pregnancy for the express purpose of saving the life, preventing the permanent impairment of a life sustaining organ or organs, or to prevent a substantial risk of death of the mother.

(3) The physician terminates a pregnancy by performing a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman.

C. As used in this Section, the following words and phrases are defined as follows:

(1) “Physician” means any person licensed to practice medicine in this state.

(2) “Unborn child” means the unborn offspring of human beings from the moment of fertilization until birth.

<Subsec. D effective upon contingency contained in subsec. F of this section. Subsec. D repealed upon contingency in subsec. G of this section.>

D. (1) As used in this Subsection:

(a) “Abortion” means the specific intent to kill an unborn child consistent with the provisions and exceptions of R.S. 40:1061.

(b) “Gestational age” means the age of an unborn child as calculated from the first day of the last menstrual period of the pregnant woman, as determined by the use of standard medical practices and techniques.

(2) It shall be unlawful for a physician to perform any of the acts described in Subsection A of this Section after fifteen weeks gestational age.

E. (1) Whoever commits the crime of abortion shall be imprisoned at hard labor for not less than one nor more than ten years and shall be fined not less than ten thousand dollars nor more than one hundred thousand dollars.

(2) This penalty shall not apply to the female who has an abortion.

F. The provisions of Subsection D of this Section shall become effective upon final decision of the United States Court of Appeals for the Fifth Circuit upholding the Act that originated as House Bill 1510 of the 2018 Regular Session of the Mississippi Legislature, which decision would thereby provide the authority for a state within the jurisdiction of that court of appeals to restrict abortion past fifteen weeks gestational age.

G. The provisions of Subsection D of this Section are hereby repealed, in favor of the provisions of R.S. 40:1061, immediately upon and to the extent that the United States Supreme Court upholds the authority of the states to prohibit elective abortions on demand or by the adoption of an amendment to the Constitution of the United States of America that would restore to the state of Louisiana the authority to prohibit elective abortions. **Amended by Acts 1964, No. 167; Acts 1991, No. 26, § 2; Acts 2006, No. 467, § 2; Acts 2018, No. 468, § 1, eff. May 23, 2018. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 14:87.1, Killing child during delivery:**

A. Killing a child during delivery is the intentional destruction, during parturition of the mother, of the vitality or life of a child in a state of being born and before actual birth, which child would otherwise have been born alive; provided, however, that the crime of killing a child during delivery shall not be construed to include any case in which the death of a child results from the use by a physician of a procedure during delivery which is necessary to save the life of the child or of the mother and is used for the express purpose of and with the specific intent of saving the life of the child or of the mother.

B. Whoever commits the crime of killing a child during delivery shall be imprisoned at hard labor in the penitentiary for life. **Added by Acts 1973, No. 74, § 1. Amended by Acts 2014, No. 791, § 7.**

○ **La. R.S. 14:87.2, Human experimentation:**

A. Human experimentation is the use of any live born human being, without consent of that live born human being, as hereinafter defined, for any scientific or laboratory research or any other kind of experimentation or study except to protect or preserve the life and health of the live born human being, or the conduct, on a human embryo or fetus in utero, of any experimentation or study except to preserve the life or to improve the health of the human embryo or fetus.

B. A human being is live born, or there is a live birth, whenever there is the complete expulsion or extraction from its mother of a human embryo or fetus, irrespective of the duration of pregnancy, which after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

C. Whoever commits the crime of human experimentation shall be imprisoned at hard labor for not less than five nor more than twenty years, or fined not more than ten thousand dollars, or both. **Added by Acts 1973, No. 77, § 1. Amended by Acts 2014, No. 791, § 7.**

- **La. R.S. 14:87.3, Prohibited cutting, resection, excision, harvesting, removal, sale, receipt, research, commerce, or transport of fetal organs, tissues, and body parts; whistleblower account:**

A. No person may knowingly and for money, including but not limited to fees for storage or handling, any payments for reimbursement, repayments, or compensation, or any other consideration:

- (1) Buy, sell, receive, or otherwise transfer or acquire a fetal organ or body part resulting from an induced abortion.
- (2) Transport with the intent to sell or otherwise transfer a fetal organ or body part resulting from an induced abortion.
- (3) Transport a fetal organ or body part resulting from an induced abortion that has been acquired by any person via any transaction prohibited by this Section.

B. For purposes of this Section:

- (1) “Fetal body part” means a cell, tissue, organ, or other part of an unborn child who is aborted by an induced abortion.
- (2) “Induced abortion” means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if undertaken with the intent to do any of the following:
 - (a) Save the life or preserve the health of the unborn child.
 - (b) Remove an unborn child who died of natural causes.
 - (c) Remove an ectopic pregnancy.
- (3) “Miscarriage or stillbirth” means the spontaneous or accidental death of an unborn child, whether the death occurred in the womb or in the process of birth. Death of the unborn child is indicated by the lack of signs of breathing or any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(4) “Receive” includes acquiring any fetal organ or fetal body part, or the rights to any fetal organ or fetal body part, through an act of donation or sale via any transaction prohibited by this Section.

(5) “Unborn child” means any individual of the human species from fertilization and implantation until birth.

C. After an induced abortion has been completed, no person shall intentionally cut, resection, excise, harvest, or remove any body part, organ, or tissue of the aborted unborn child for any purpose prohibited by this Section, or for sale, commerce, transport, research, or profit.

D. (1) Nothing in this Section shall be construed to prohibit any transaction related to the final disposition of the bodily remains of the aborted human being in accordance with state law, or to prohibit any conduct permitted under state law that is undertaken with any of the following purposes:

(a) The purpose of providing knowledge solely to the mother, such as for pathological or diagnostic purposes.

(b) The purpose of providing knowledge solely to law enforcement officers, such as the case of an autopsy following a feticide.

(2) Nothing in this Section shall be construed to prohibit the donation of bodily remains from a human embryo or fetus whose death was caused by a natural miscarriage or stillbirth, in accordance with the guidelines and prohibitions provided in applicable state and federal law.

(3) Nothing in this Section shall be construed to affect existing federal or state law regarding the practice of abortion, or to create or recognize a right to abortion.

E. Any person who violates this Section shall be sentenced to a term of imprisonment at hard labor for not less than ten nor more than fifty years, at least ten years of which shall be served without benefit of probation or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars.

F. (1) The Fetal Organ Whistleblower Account, hereinafter referred to as “the account”, is hereby created in the state treasury.

(2) The account shall be composed of any monies derived from appropriations by the legislature and any gift, grant, devise, donation, or bequest of monies or properties of any nature or description.

(3) An award of one thousand dollars shall be paid out of the account to any person who provides evidence that results in the arrest and indictment of any other person for a violation of this Section. Eligibility for an award pursuant to this Subsection shall be determined by the district attorney or the attorney general, as appropriate.

(4) All monies deposited in the account shall be used solely to pay awards to persons as provided by Paragraph (3) of this Subsection and shall be paid by the state treasurer upon written order signed by the district attorney or the attorney general, as appropriate, except that monies deposited in the account may be used to pay reasonable costs of administering the account.

(5) The name and other identifying information of any person who is paid an award pursuant to this Subsection shall remain confidential. **Added by Acts 2016, No. 196, § 1. Amended by Acts 2017, No. 243, § 1, eff. June 14, 2017; Acts 2018, No. 645, § 1, eff. June 1, 2018. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 14:87.4, Abortion Advertising:**

A. Abortion advertising is the placing or carrying of any advertisement of abortion services by the publicizing of the availability of abortion services.

B. Whoever commits the crime of abortion advertising shall be imprisoned, with or without hard labor, for not more than one year or fined not more than five thousand dollars, or both. **Added by Acts 1973, No. 76, § 1. Amended by Acts 2014, No. 791, § 7.**

○ **La. R.S. 14:87.5, Intentional failure to sustain life and health of aborted viable infant:**

The intentional failure to sustain the life and health of an aborted viable infant shall be a crime. The intentional failure to sustain the life and health of an aborted viable infant is the intentional failure, by any physician or person performing or inducing an abortion, to exercise that degree of professional care and diligence, and to perform such measures as constitute good medical practice, necessary to sustain the life and health of an aborted viable infant, when the death of the infant results. For purposes of this Section, “viable” means that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supporting systems. Any person who commits the crime of intentional failure to sustain the life and health of an aborted viable infant shall be imprisoned at hard labor for not more than twenty-one years. **Added by Acts 1977, No. 406, § 1.**

○ **La. R.S. 14:87.6, Coerced Abortion:**

A. Coerced abortion is committed when any person intentionally engages in the use or threatened use of physical force against the person of a pregnant woman, with the intent to compel the pregnant woman to undergo an abortion against her will, whether or not the abortion procedure has been attempted or completed.

B. Whoever commits the crime of coerced abortion shall be fined not more than five thousand dollars, or imprisoned for not more than five years, or both. **Added by Acts 2018, No. 674, § 1, eff. June 1, 2018.**

○ **La. R.S. 14:88, Distribution of abortifacients:**

A. Distribution of abortifacients is the intentional:

(1) Distribution or advertisement for distribution of any drug, potion, instrument, or article for the purpose of procuring an abortion; or

(2) Publication of any advertisement or account of any secret drug or nostrum purporting to be exclusively for the use of females, for preventing conception or producing abortion or miscarriage.

B. Whoever commits the crime of distribution of abortifacients shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. **Amended by Acts 2014, No. 791, § 7.**

○ **La. R.S. 14:286, Sale of minor children and other prohibited activities; penalties:**

A. (1) It shall be unlawful for any person to sell or surrender a minor child to another person for money or anything of value, or to receive a minor child for such payment of money or anything of value, except as specifically provided in Children's Code Articles 1200 and 1223.

(2) It shall be unlawful for any person to pay or receive anything of value for the procurement, attempted procurement, or assistance in the procurement of a party to an act of voluntary surrender of a child for adoption except as specifically provided in Children's Code Articles 1200 and 1223.

(3) It shall be unlawful for any petitioner, person acting on a petitioner's behalf, agency or attorney or other intermediary to make or agree to make any disbursements in connection with the adoptive placement, surrender, or adoption of a child except as specifically provided in Children's Code Articles 1200 and 1223.

(4) It shall be unlawful to make a false statement in any adoption disclosure affidavit with the intent to deceive and with knowledge that the statement is false.

B. (1) It shall be unlawful for any person to enter into, induce, arrange, procure, knowingly advertise for, or otherwise assist in a gestational carrier contract, whether written or unwritten, that is not in compliance with the requirements provided for in R.S. 9:2718 et seq.

(2) No person who is a party to, or acting on behalf of the parties to a gestational carrier contract shall make or agree to make any disbursements in connection with the gestational carrier contract other than the following:

(a) Payment of actual medical expenses, including hospital, testing, nursing, midwifery, pharmaceutical, travel, or other similar expenses, incurred by the gestational carrier for prenatal care and those medical and hospital expenses incurred incident to birth.

(b) Payment of actual expenses incurred for mental health counseling services provided to the gestational carrier prior to the birth and up to six months after birth.

(c) Payment of actual lost wages of the gestational carrier, not covered under a disability insurance policy, when bed rest has been prescribed for the gestational carrier for some maternal or fetal complication of pregnancy and the gestational carrier, who is employed, is unable to work during the prescribed period of bed rest.

(d) Payment of actual travel costs related to the pregnancy and delivery, court costs, and attorney fees incurred by the gestational carrier.

(3) It shall be unlawful for any person to enter into, induce, arrange, procure, knowingly advertise for, or otherwise assist in an agreement for genetic gestational carrier, with or without compensation, whether written or unwritten. For purposes of this Section, "genetic gestational carrier" and "compensation" shall have the same meaning as defined in R.S. 9:2718.1.

(4) It shall be unlawful for any person to give or offer payment of money, objects, services, or anything of monetary value to induce any gestational carrier, whether or not she is party to an enforceable or unenforceable agreement for genetic gestational carrier or gestational carrier contract, to consent to an abortion as defined in R.S. 40:1061.9.

C. A person convicted of violating any of the provisions of this Section shall be punished by a fine not to exceed fifty thousand dollars or imprisonment with or without hard labor for not more than ten years, or both. **Added by Acts 1976, No. 253, § 1. Amended by Acts 1984, No. 209, § 1; Acts 1986, No. 262, § 1; Acts 1987, No. 556, § 1; Acts 1999, No. 1062, § 1, eff. Jan. 1, 2000; Acts 2016, No. 494, § 3; Acts 2018, No. 562, § 2.**

- **Criminal Procedure (Human Trafficking)**

○ **La. R.S. 15:541.1, Posting of the National Human Trafficking Resource Center hotline; content; languages; notice; civil penalty:**

A. All of the following establishments shall be required to post information regarding the National Human Trafficking Resource Center hotline:

(1) Every massage parlor, spa, or hotel that has been found to be a public nuisance for prostitution as set forth in R.S. 13:4711.

(2) Every strip club or other sexually-oriented business as set forth in R.S. 37:3558(C).

(3)(a) Every full-service fuel facility adjacent to an interstate highway.

(b) Every highway rest stop.

(4) Every outpatient abortion facility as defined by R.S. 40:2175.3.

(5)(a) Every hotel as defined in this Paragraph. Each hotel shall post the information in the same location where other employee notices required by state or federal law are posted.

(b) For purposes of this Paragraph, “hotel” shall mean and include any establishment, both public and private, engaged in the business of furnishing or providing rooms and overnight camping facilities intended or designed for dwelling, lodging, or sleeping purposes to transient guests and does not encompass any hospital, convalescent or nursing home or sanitarium, or any hotel-like facility operated by or in connection with a hospital or medical clinic providing rooms exclusively for patients and their families.

(c) For purposes of this Paragraph, “hotel” shall not include bed and breakfasts or camp and retreat facilities owned and operated by nonprofit organizations exempt from federal income tax under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3) of the Internal Revenue Code provided that the net revenue derived from the organization's property is devoted wholly to the nonprofit organization's purposes.

(d) For purposes of this Paragraph, “bed and breakfast” shall mean a lodging facility having no more than ten guest rooms where transient guests are fed and lodged for pay.

(6) Every airport as defined in R.S. 2:1 and by the Federal Aviation Administration, including private-use airports. Each airport shall post the information in the same location where other employee notices required by state or federal law are posted.

(7) Every bus terminal or station or railroad passenger station, including terminals or stations that are privately owned or owned by the state or a local governing authority. Each bus station or terminal or railroad passenger station shall post the information in the same location where other employee notices required by state or federal law are posted.

B. (1)(a) Such posting shall be no smaller than eight and one-half inches by eleven inches and shall contain the following wording in bold typed print of not less than fourteen-point font:

“If you or someone you know is being forced to engage in any activity and cannot leave, whether it is commercial sex, housework, farm work, or any other activity, call the National Human Trafficking Resource Center hotline at 1-888-373-7888 or text “Help” to 233733 (Be Free) in order to access help and services.

(b) Such posting shall also comply with any other requirements established by regulations promulgated by the commissioner of the office of alcohol and tobacco control in accordance with the Administrative Procedure Act.

(2) The language in the posting shall be printed in English, Louisiana French, Spanish, and any other languages that the commissioner of alcohol and tobacco control shall require.

C. The following departments of the state shall provide each establishment described in Subsection A of this Section over which that department exercises any regulatory control or authority with the notice required by this Section. The departments shall post on their websites a sample of the posting described in Subsection B of this Section which shall be accessible for download. The departments are as follows:

(1) Department of Revenue and the office of alcohol and tobacco control.

(2) Department of Transportation and Development.

(3) The Louisiana Department of Health.

D. (1) In addition to the posting required in Subsection B of this Section, beginning on January 1, 2020, each establishment listed in Subsection A of this Section shall affix a flyer to the inside of the door to each bathroom stall at the establishment.

(2) The flyer shall be designed by the Greater New Orleans Human Trafficking Task Force, with the approval of the commissioner of the office of alcohol and tobacco control, and shall be no larger than eight and one-half inches by eleven inches.

(3) No later than December 1, 2019, the Greater New Orleans Human Trafficking Task Force shall transfer the flyer in an electronic format to the commissioner for posting on the website for the office of alcohol and tobacco.

E. A civil penalty in accordance with R.S. 26:96(A) may be assessed for each violation of this Section. The departments listed in Subsection C of this Section or any law enforcement agency with jurisdiction are charged with the enforcement of this Section. **Added by Acts 2012, No. 154, § 1. Amended by Acts 2013, No. 430, § 1; Acts 2014, No. 565, § 1; Acts 2016, No. 298, § 1; Acts 2018, No. 361, § 1, eff. May 20, 2018; Acts 2019, No. 280, § 2.**

- **Public Education**

- **La. R.S. 17:281, Instruction in sex education:**

A. (1)(a) Any public elementary or secondary school in Louisiana may, but is not required to, offer instruction in subject matter designated as “sex education”, provided such instruction and subject matter is integrated into an existing course of study such as biology, science, physical hygiene, or physical education. When offered, such instruction shall be available also to nongraded special education students at age-appropriate levels. Except as otherwise required to comply with the provisions of Subparagraph (b) of this Paragraph, whether or not instruction in such matter is offered and at what grade level it is to be offered shall be at the option of each public local or parish school board, provided that no such instruction shall be offered in kindergarten or in grades one through six. Such instruction may be offered at times other than during the regular school day, at such times to be determined by each school board. All instruction in “sex education” shall be identified and designated “sex education”.

(b) Effective beginning with the spring semester of the 1992-1993 school year and thereafter, whenever instruction in sex education is offered by any school, such instruction shall be available also to any student in such school, regardless of the student's grade level, who is pregnant or who is a mother or father.

(2) It is the intent of the legislature that, for the purposes of this Section, "sex education" shall mean the dissemination of factual biological or pathological information that is related to the human reproduction system and may include the study of sexually transmitted disease, pregnancy, childbirth, puberty, menstruation, and menopause, as well as the dissemination of factual information about parental responsibilities under the child support laws of the state. It is the intent of the legislature that "sex education" shall not include religious beliefs, practices in human sexuality, nor the subjective moral and ethical judgments of the instructor or other persons. Students shall not be tested, quizzed, or surveyed about their personal or family beliefs or practices in sex, morality, or religion.

(3) No contraceptive or abortifacient drug, device, or other similar product shall be distributed at any public school. No sex education course offered in the public schools of the state shall utilize any sexually explicit materials depicting male or female homosexual activity.

(4) The major emphasis of any sex education instruction offered in the public schools of this state shall be to encourage sexual abstinence between unmarried persons and any such instruction shall:

(a) Emphasize abstinence from sexual activity outside of marriage as the expected standard for all school-age children.

(b) Emphasize that abstinence from sexual activity is a way to avoid unwanted pregnancy, sexually transmitted diseases, including acquired immune deficiency syndrome, and other associated health problems.

(c) Emphasize that each student has the power to control personal behavior and to encourage students to base action on reasoning, self-esteem, and respect for others.

B. Notwithstanding any other provisions of law, the qualifications for all teachers or instructors in "sex education" shall be established and the selection of all such teachers or instructors shall be made solely and exclusively by the public local or parish school board.

C. All books, films, and other materials to be used in instruction in "sex education" shall be submitted to and approved by the local or parish school board and by a parental review committee, whose membership shall be determined by such board.

D. Any child may be excused from receiving instruction in "sex education" at the option and discretion of his parent or guardian. The local or parish school board shall provide procedures for the administration of this Subsection.

E. In the event of any violation of the provisions of this Section, the public local or parish school board in charge of administering and supervising the school where said violation has occurred, after proper investigation and hearing, shall correct the violation and take appropriate action to punish the offending party or parties responsible for said violation.

F. No program offering sex education instruction shall in any way counsel or advocate abortion.

G. A city or parish school system may accept federal funds for programs offering sex education only when the use of such funds does not violate the provisions of this Section and only upon approval by the local

school board. The acceptance and use of federal funds for sex education shall in no way be construed to permit the use of any federally supplied materials that violate Louisiana law regulating sex education.

H. Notwithstanding any other provision of law, the Orleans Parish School Board may offer instruction in sex education at the third grade level or higher. **Acts 1979, No. 480, § 1. Amended by Acts 1982, No. 581, § 1, eff. Aug. 15, 1982; Acts 1987, No. 904, § 1; Acts 1988, No. 917, § 1, eff. July 26, 1988; Acts 1990, No. 1061, § 1, eff. July 27, 1990; Acts 1992, No. 842, § 1; Acts 1992, No. 1079, § 1, eff. July 14, 1992; Acts 1993, No. 921, § 1, eff. June 25, 1993.**

- **Scientific Research**

- **La. R.S. 17:2353, Persons who may receive anatomical gifts; purpose of anatomical gifts:**

A. An anatomical gift may be made to any of the following:

(1) Any hospital, accredited medical school, dental school, college, university, organ procurement organization, or other appropriate person, for research or education.

(2) Subject to the provisions of Subsection B of this Section, a person designated by a donor.

(3) An eye or tissue bank.

B. If an anatomical gift to a person in accordance with this Section cannot be transplanted into the recipient, the part passes in accordance with the provisions of Subsection G of this Section in the absence of an express, contrary indication by the donor.

C. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person in accordance with Subsection A of this Section but identifies the purpose for which an anatomical gift may be used, the following shall apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(4) If the part is an organ, eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

D. For the purposes of Subsection C of this Section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

E. If an anatomical gift of one or more specific parts is made but does not name a person in accordance with Subsection A of this Section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with the provisions of Subsection G of this Section.

F. If a document of gift specifies a general intent to make an anatomical gift by words such as “donor”, “organ donor”, or “body donor”, or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with the provisions of Subsection G of this Section.

G. For purposes of Subsections B, E, and F of this Section the following shall apply:

- (1) If the part is an eye, the gift passes to the appropriate eye bank.
- (2) If the part is tissue, the gift passes to the appropriate tissue bank.
- (3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

H. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift made in accordance with Paragraph (A)(2) of this Section, passes to the organ procurement organization as custodian of the organ.

I. If an anatomical gift does not pass pursuant to the provisions of Subsections A through H of this Section, or the body or part of the decedent is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person obligated to properly dispose of the body or part.

J. A person may not accept an anatomical gift if he knows the gift was not effectively made pursuant to the provisions of R.S. 17:2354 or 2356 or if the person knows that the decedent made a refusal in accordance with the provisions of R.S. 17:2354.1 that has not been revoked. For purposes of this Subsection, if a person knows that an anatomical gift was made on a document of gift, the person is presumed to know of any amendment, revocation, or refusal made to the same document of gift.

K. The Louisiana-designated organ procurement organization may transfer a vascular organ to an out-of-state organ procurement organization or suitable out-of-state recipient for transplantation only if a suitable recipient in the state of Louisiana cannot be found in a reasonable amount of time.

L. Except as otherwise provided in Paragraph (A)(2) of this Section, nothing in this Part affects the allocation of organs for transplantation or therapy.

M. Potential anatomical gift recipients shall be entitled to the protections against discrimination based on disability provided in R.S. 40:1170.1 et seq. **Acts 2010, No. 937, § 2, eff. July 1, 2010. Amended by Acts 2019, No. 57, § 1, eff. May 30, 2019. See *Margaret S. v. Treen*, E.D.La.1984, 597 F.Supp. 636 (Provision of R.S. 40:1299.35.13 prohibiting experimentation on aborted fetuses violates equal protection clause by infringing on rights of physicians to participate in fetal research without bearing rational relationship to achievement of legitimate state interest).**

- **Insurance**

- **La. R.S. 22:931, Life insurance policies; standard provisions:**

A. No policy of life insurance, except as stated in Subsection C of this Section, shall be delivered or issued for delivery in this state unless it contains in substance the following provision or provisions which, in the opinion of the commissioner of insurance, are more favorable to the policyholder:

- (1) Grace period. A provision that the insured is entitled to a grace period either of thirty days or, at the option of the insurer, of one month within which the payment of any premium after the first may be made,

during which period of grace the policy shall continue in full force, but if a claim arises under the policy during the period of grace before the overdue premiums or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, together with interest, not in excess of six percent per annum, on any overdue premium, may be deducted from any amount payable under the policy in settlement.

(2) Incontestability. A provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for a period of two years from its date of issue, except for nonpayment of premiums and except for the conditions of the policy relating to military or naval service, or services auxiliary thereto; and at the option of the insurer, provisions relating to benefits in the event of disability, as defined in the policy, and provisions which grant additional insurance specifically against death by accident or accidental means, may also be excepted.

(3) Entire contract. A provision that the policy shall constitute the entire contract between the parties, or if a copy of the application is endorsed upon or attached to the policy when issued, a provision that the policy and the application therefor shall constitute the entire contract between the parties.

(4) Misstatement of age. A provision that if the age of the person insured or the age of any other person whose age is considered in determining the premiums has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age, or ages.

(5) Participating policy. If the policy is a participating policy, a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy.

(6) Nonforfeiture options. A provision in accordance with R.S. 22:934 through 936 specifying the options, if any, available under the policy in the event of default in a premium payment; however, the mortality table and rate of interest used as a basis for the calculation of the options shall be designated by the policy.

(7) Policy loan. A provision that when the policy has a loan value, the insurer issuing it shall advance at the option of the person entitled thereto, a sum equal to or less than the cash surrender value of the policy at the end of the current policy year computed in accordance with the provisions of this Subpart, at any time while the policy is in force, on proper assignment or pledge of the policy or with the policy as security at a specified rate of interest not exceeding eight percent per annum on policy contracts in effect prior to September 10, 1982, or in accordance with the provisions of R.S. 22:932 on policy contracts in effect on or after September 10, 1982. The interest shall be compounded annually payable in advance. The policy shall also contain a provision that the insurer may deduct from the loan value, in addition to the indebtedness deducted in determining such value, any unpaid balance of the premium for the current policy year. The policy shall also contain a provision that, if the loan is made or repaid on a date other than the anniversary of the policy, the insurer may collect interest for the portion of the current policy year on a pro rata basis at the rate of interest specified in the policy. The policy may further provide that interest on the loan may be compounded annually and, if not paid when due, it shall be added to the existing loan and shall bear interest at the same rate. The policy may further provide that, if and when the total indebtedness on the policy, including interest due or accrued, equals, or exceeds the amount of the loan value thereof at such time, and if at least thirty days prior notice has been given in the manner provided in R.S. 22:905, then the policy shall terminate and become void. The insurer may provide in the policy that the making of any such loan, except when made to pay premiums, may be deferred for a period not to exceed six months after the application therefor has been received by it. The provision shall not apply to term policies of twenty years or less.

(8) Nonforfeiture benefits. A provision specifying the basis used in determining nonforfeiture benefits. In case the proceeds of the policy are payable in installments or as an annuity, a table showing the amounts of the installments or annuity payments.

(9) Reinstatement. A provision that the policy will be reinstated at any time within three years from the date of default, unless the cash surrender value has been exhausted by payment or unless the period of extended insurance has expired, upon the application of the insured and the production of evidence of insurability, including good health, satisfactory to the insurer and the payment of all overdue premiums and the payment or reinstatement of any other indebtedness to the insurer upon such policy with the interest at a rate not exceeding six percent per annum compounded annually.

(10)(a) Free look period. A provision, prominently printed on the life insurance policy or attached thereto, notifying the insured that ten days are allowed from the date of his receipt of the policy, to examine its provisions. If the policy is not as explained by the company, its representative, or as understood by the insured, the policy may be surrendered within the ten-day period, and any premium advanced by the insured, upon the surrender, shall be immediately returned to him. The insurer shall have the option of printing, attaching, or endorsing the notice required in this Subparagraph or a notice of equal prominence which, in the opinion of the commissioner of insurance, is not less favorable to the policyholder. This Subparagraph shall not apply to travel insurance policies which by their terms are not renewable.

(b) If the policy is delivered by a producer, a receipt shall be signed by the policyholder acknowledging delivery of the policy. The receipt shall contain the policy number and the date the delivery was completed. All delivery receipts required by this Subparagraph shall be retained by the insurer or its producer for two consecutive years. The requirement of this Subparagraph shall not apply to any insurer that markets policies under a home service marketing distribution method and that issues a majority of its policies on a weekly or monthly basis.

(c) If the policy is delivered by mail, it shall be sent by certified mail, return receipt requested, or a certificate of mailing shall be obtained showing the date the policy was mailed to the policyowner. For policy issuances verified by a certificate of mailing, it is presumed that the policy is received by the policyowner ten days from the date of mailing. The receipts and the certificate of mailing described in this Section shall be retained by the insurer or producer for two years.

(11) Lump sum payment. A provision which allows election by the beneficiary of an option to receive benefits in the form of a lump sum payment. This Paragraph shall not apply to policies of industrial life insurance or service insurance.

(12) Conversion notice. (a) A provision requiring that the insurer notify the policyholder of his option to convert his policy from term life insurance to permanent life insurance at least thirty-one days prior to the expiration of the conversion option, if such an option is applicable. Such notice shall be a separate notice or contained in either a premium notice or an annual premium summary.

(b) Evidence of a business procedure or practice to provide the required notice by mailing the notice to the policyholder at the address shown in the policy shall be sufficient to prove that the required notice was provided.

(c) This Paragraph shall not apply to a policyholder who is covered under a child term rider.

B. Exclusions and restrictions. No policy of life insurance delivered or issued for delivery in this state shall contain any provision which excludes or restricts liability for death caused in a certain specified manner or

occurring while the insured has a specified status, except the following provisions, or provisions which in the opinion of the commissioner of insurance are substantially the same or more favorable to policyholders:

(1) Provisions excluding or restricting coverage in the event of death occurring:

(a) As a result of war declared or undeclared under conditions specified in the policy.

(b) While either in:

(i) The military, naval, or air forces of any country at war, declared or undeclared.

(ii) Any ambulance, medical, hospital, or civilian noncombatant unit serving with such forces, either while serving with or within six months after termination of service in such forces or units.

(c) As a result of self-destruction while sane or insane within two years from the date of issue of the policy.

(d) As a result of aviation under conditions specified in the policy.

(e) Within two years from the date of issue of the policy as a result of a specified hazardous occupation or occupations, or while the insured is residing in a specified foreign country or countries.

(2) In the event of death as to which there is an exclusion or restriction pursuant to Subparagraph (1)(a), (c), (d), or (e) of this Subsection, the insurer shall pay an amount not less than the reserve on the face amount of the policy, together with the reserve for any paid-up additions thereto, and any dividends standing to the credit of the policy, less any indebtedness to insurer on the policy, including interest due or accrued.

(3) In the event of death as to which there is an exclusion or restriction pursuant to Subparagraph (1)(b) of this Subsection, the insurer shall pay the greater of:

(i) The amount specified in Paragraph (2) of this Subsection.

(ii) The amount of the gross premiums charged on the policy less dividends paid in cash or used in the payment of premiums thereon and less any indebtedness to the insurer on the policy, including interest due or accrued.

(4) A clause in any policy of life insurance, issued under this Code, providing that such policy shall be incontestable after a specified period shall preclude only a contest of the validity of the policy, and shall not preclude the assertion at any time of defenses based upon provisions which exclude or restrict coverage as provided in this Subsection, whether or not such restrictions or exclusions are excepted in such clause; nor upon a provision regarding misstatement of age as provided in Paragraph (4) of Subsection A of this Section, whether or not such provision is excepted in such clause.

(5) Nothing contained in this Subsection shall apply to any provision in a life insurance policy for additional benefits in the event of death by accident or accidental means.

C. Any of the provisions or portions thereof of this Section not applicable to single premium or nonparticipating or term policies shall to that extent not be incorporated therein. The provisions of this Section shall not apply to policies of industrial life insurance, service insurance, or to policies of group life insurance. **Renumbered from R.S. 22:170 by Acts 2008, No. 415, § 1, eff. Jan. 1, 2009. Acts 1958, No. 125. Amended by Acts 1960, No. 169, § 1; Acts 1966, No. 169, § 1; Acts 1975, No. 261, § 3; Acts 1981, No. 661, § 1; Acts 1982, No. 465, § 1; Acts 1993, No. 141, § 1; Acts 2003, No. 125, § 1. Amended by Acts 2011, No. 94, § 1, eff. Jan. 1, 2012; Acts 2012, No. 271, § 1; Acts 2014, No. 47, § 1. See *Payne v. Louisiana Indus. Life Ins. Co.*, 1948, 33 So.2d 444 (Fact that insured died as a result of a criminal**

abortion, to which she had submitted voluntarily, did not excuse insurer from liability to beneficiary, who was a third person, under life policy, on ground that public policy precludes an insurer from insuring against death from abortion).

- **La. R.S. 22:1014, Limitations on health insurance coverage of elective abortions in the state exchange prohibited:**

A. The legislature finds and declares all of the following:

(1) Federal funding for insurance plans that cover abortions is prohibited by the Hyde Amendment and the Federal Employee Health Benefits Program (FEHBP).

(2) Congress enacted and the president signed into law the Patient Protection and Affordable Care Act of 2010, P.L. 111-148.

(3) In the Patient Protection and Affordable Care Act of 2010, P.L. 111-148, states are explicitly permitted to pass laws prohibiting qualified health plans offered through an exchange in their state from offering abortion coverage.

(4) It is the longstanding policy of this state that the unborn child is a human being from the time of conception and is, therefore, a legal person for purposes of the unborn child's right to life and is entitled to the right to life from conception under the laws and constitution of this state. Further, the legislature finds and declares that the longstanding policy of this state is to protect the right to life of the unborn child from conception by prohibiting abortion impermissible only because of the decisions of the United States Supreme Court and that, therefore, if those decisions of the United States Supreme Court are ever reversed or modified or the United States Constitution is amended to allow protection of the unborn then the former policy of this state to prohibit abortions shall be enforced.

B. No health care plan required to be established in this state through an exchange pursuant to federal health reform legislation enacted by the 111th Congress shall offer coverage for abortion services. As used in this Section, "abortion" shall have the same meaning as defined in R.S. 40:1061.9(1). **Added by Acts 2010, No. 941, § 1, eff. July 2, 2010.**

- **Louisiana Pregnancy Discrimination Act**

- **La. R.S. 23:341, Application:**

A. The provisions of this Part shall apply only to an employer who employs more than twenty-five employees within this state for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.

B. (1) For purposes of this Part, pregnancy, childbirth, and related medical conditions are treated as any other temporary disability, except pregnancy-related conditions need not meet any definition of disability for the purposes of R.S. 23:342.

(2) Nothing in this Part shall be construed to require an employer to provide his employees with health insurance coverage for the medical costs of pregnancy, childbirth, or related medical conditions. The inclusion in any such health insurance coverage of any provisions or coverage relating to medical costs of pregnancy, childbirth, or related medical conditions shall not be construed to require the inclusion of any other provisions or coverage, nor shall coverage of any related medical conditions be required by virtue of coverage of any medical costs of pregnancy, childbirth, or other related medical conditions.

C. The provisions of this Chapter shall apply to the awarding of a contract or subcontract for providing goods or services.

D. Nothing in this Part shall impair any obligation an employer may have under any local ordinance or state or federal law or regulation. **Added by Acts 1997, No. 1409, § 1, eff. Aug. 1, 1997. Amended by Acts 1999, No. 1366, § 1; Acts 2021, No. 393, § 1. See *Ducharme v. Crescent City Deja Vu, L.L.C.*, E.D.La.2019, 406 F.Supp.3d 548 (The Louisiana Pregnancy Discrimination Act (LPDA) provision that prohibited an employer from discriminating on the basis of “pregnancy, childbirth, or related medical condition” included abortion as a protected characteristic; an abortion was encompassed in the language “pregnancy, childbirth, or related medical condition.”)**

- **Public Funding for Abortion Providers**

- **La. R.S. 36:21, Public funding for abortion providers; prohibition** (<Text effective until 30 days after contingency in § 6 of Acts 2018, No. 498. For text of section as amended by § 1 of Acts 2018, No. 498 and effective 30 days after contingency in § 6 of Acts 2018, No. 498, see R.S. 49:200.51. For contingency of § 6, see italic notes, post. >):

A. For purposes of this Chapter, the term “abortion” shall have the meaning ascribed in R.S. 40:1061.9.

B. (1) No institution, board, commission, department, agency, official, or employee of the state, or of any local political subdivision thereof, shall contract with, award any grant to, or otherwise bestow any funding upon, an entity or organization that performs abortions, or that contracts with an entity or organization that performs abortions, in this state. The prohibition provided in this Section shall apply to state funds, federal funds, and any other funds that may be used for purposes of contracting for services, providing reimbursements, or grant issuance.

(2) The prohibition provided in this Section shall not be construed to restrict funding to an entity that may perform the following types of abortions, exclusively:

(a) An abortion which is medically necessary to prevent the death of the mother.

(b) An abortion in a case when the mother is a victim of rape or incest.

(c) An abortion performed when the pregnancy is diagnosed as medically futile. For purposes of this Subparagraph, “medically futile” means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth. This diagnosis shall be a medical judgment certified in the pregnant woman's medical record by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved. **Added by Acts 2016, No. 304, § 1, eff. June 2, 2016.**

- **Medical Practice Act**

- **La. R.S. 37:1285, Causes for nonissuance; suspension; revocation; or the imposition of restrictions; fines; reinstatement; publication of action; stays:**

A. The board may refuse to issue, or may suspend or revoke any license or permit, or impose probationary or other restrictions on any license or permit issued pursuant to this Part for the following causes:

- (1) Conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana or of the United States.
- (2) Conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of medicine.
- (3) Fraud, deceit, or perjury in obtaining any diploma, license, or permit pertaining to this Part.
- (4) Providing false testimony before the board or providing false sworn information to the board.
- (5) Habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence.
- (6) Prescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner.
- (7) Solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading.
- (8)(a) Performing, or assisting in the performance of, or procuring or abetting in procuring an abortion or termination of pregnancy during the third trimester of pregnancy or after viability of the fetus, unless the physician determines that such abortion or termination of pregnancy is necessary, in his best medical judgment, in order to save the life or health of the pregnant woman and/or of the fetus (unborn child):
 - (b) Performing or assisting in the performance of, or procuring, or abetting in the procuring of an abortion or termination of pregnancy after the first trimester:
 - (i) When the abortion or termination of pregnancy is contrary to or unnecessary in the best medical judgment of that physician; or,
 - (ii) When the operating physician lacks the training and experience to perform the procedure; or,
 - (iii) When the procedure is performed outside of a hospital licensed by the Louisiana Department of Health, or its successor.
- (9) Performing, or assisting in the performance of, or procuring, or abetting in the procuring of an abortion or termination of pregnancy:
 - (a) When the abortion or termination of pregnancy is contrary to or unnecessary in the best medical judgment of that physician; or,
 - (b) When the operating physician lacks the training and experience to perform the procedure; or,
 - (c) When the procedure is performed outside of a hospital licensed by the Louisiana Department of Health, or its successor.
- (10) Efforts to deceive or defraud the public.
- (11) Making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value.

(12) An inability to practice medicine with reasonable skill or safety due to mental illness or deficiency, including but not limited to deterioration through the aging process or the loss of motor skills or excessive use or abuse of drugs, including alcohol.

(13) Unprofessional conduct, including but not limited to, conduct manifested as sexual misconduct, disruptive behavior, failing to cooperate with the board, failing to maintain independent medical judgment, improperly delegating or supervising, exercising undue influence, enabling the unauthorized practice of medicine, practicing or enabling practice by an impaired provider, failing to practice within the scope of education, training, and experience, intentionally falsifying or fraudulently altering records, or failing to create or maintain medical records.

(14) Medical incompetency, including but not limited to, incompetency manifested by continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state.

(15) Immoral conduct in exercising the privileges provided for by license or permit issued under this Part.

(16) Gross, willful, and continued overcharging for professional services.

(17) Abandonment of a patient.

(18) Knowingly performing any act which, in any way, assists an unlicensed person to practice medicine, or having professional connection with or lending one's name to an illegal practitioner.

(19) Soliciting, accepting, or receiving anything of economic value in return for and based on the referral of patients to another person, firm, or corporation or in return for the prescription of medications or medical devices.

(20) Persistent violation of federal or state laws relative to control of social diseases.

(21) Interdiction or commitment by due process of law.

(22) Utilizing a physician's assistant without approval and recordation as required by law or permitting a physician's assistant, within his employment, to conduct activities outside of the designated scope of the assistant's approval and registration.

(23) Knowingly employing a physician's assistant whose conduct includes any of the causes enumerated in this Section.

(24) Knowingly misstating or misrepresenting the qualifications and certification of competency of any physician's assistant in order to obtain approval and registration of such person.

(25) Inability to practice medicine with reasonable skill or safety to patients because of mental illness or deficiency; physical illness, including but not limited to deterioration through the aging process or loss of motor skills; and/or, excessive use or abuse of drugs, including alcohol.

(26) Refusing to submit to the examinations and inquiry of an examining committee of physicians appointed or designated by the board to inquire into the physician's physical and mental fitness and ability to practice medicine with reasonable skill and safety to patients.

(27) Failure, by any physician or person performing, inducing or assisting an abortion, to exercise that degree of professional care and diligence and failure to take such measures as may constitute good medical practice, necessary to encourage or sustain the life and health of an aborted viable infant, when the death

of the infant results. “Viable” means that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supporting systems.

(28) Taking the life of a viable infant aborted alive.

(29) The refusal of a licensing authority of another state to issue or renew a license, permit, or certificate to practice medicine in that state or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate.

(30) Violation of any rules and regulations of the board, or any provisions of this Part.

(31) Failure by a physician to self-report in writing to the board any personal action which constitutes a violation of this Part within thirty days of the occurrence. A report shall not be required if the violation relates to a physician's ability to practice medicine with reasonable skill and safety by reason of substance abuse or psychiatric condition, provided such physician has, since the occurrence, executed a treatment contract with the Louisiana State Medical Society's Physicians Health Program, its successor program, or such other program as may be designated by the board, and is in full compliance with the terms and conditions of such contract.

(32) Holding oneself out to the public in any manner as being certified by a public or private board including but not limited to a multidisciplinary board or “board certified”, unless all of the following criteria are satisfied:

(a) The full name of the board from which the physician is certified and the name of the specialty or subspecialty is included in the advertisement.

(b) The board meets any of the following qualifications:

(i) The board is an American Board of Medical Specialties member board or an American Osteopathic Association certifying board.

(ii) The board has been approved by the Louisiana State Board of Medical Examiners.

(iii) The board requires an Accreditation Council for Graduate Medical Education or American Osteopathic Association approved postgraduate training program that provides complete training in that specialty or subspecialty.

(c) If the physician advertises and does not meet any of the criteria articulated in this Paragraph, the physician shall list his qualifications for performing the advertised medical procedures in the advertisement.

B. The board may, in instances it deems proper, implement the above recited causes, by establishing appropriate regulations and standards pertaining thereto.

C. (1) The board may, as part of a decision, consent order, or other agreed order, require a license or permit holder or an applicant to pay all costs of the board proceedings, including but not limited to investigators', stenographers', and attorney fees, witness fees and expenses, and the per diem and expenses of the members of the board's hearing panel, and to pay a fine not to exceed the sum of five thousand dollars.

(2) If for any reason the costs or fines imposed by the board under this Section are not paid within the time specified by the board, the board may recover costs and attorney fees associated with their collection.

(3) The board may authorize any member of the board to sign an affidavit, petition, or other legal process authorized by this Part, including but not limited to a petition in any court of competent jurisdiction, for a money judgment for any and all costs and fines payable pursuant to a final decision, consent order, or other agreed order.

D. Any license or permit suspended, revoked, or otherwise restricted by the board may be reinstated by the board.

E. The board's final decision in an adjudication proceeding under this Section, other than by consent order, agreement, or other informal disposition, shall constitute a public record, and the board may disclose and provide such final decision to any person, firm, or corporation, or to the public generally. The board's disposition of an adjudication proceeding by consent order shall not constitute a public record, but the board shall have authority and discretion to disclose such disposition.

F. No judicial order staying or enjoining the effectiveness or enforcement of a final decision or order of the board in an adjudication proceeding, whether issued pursuant to R.S. 49:964(C) or otherwise, shall be effective, or be issued to be effective beyond the earlier of:

(1) One hundred twenty days from the date on which the board's decision or order was rendered.

(2) The date on which the court enters judgment in a proceeding for judicial review of the board's decision or order pursuant to R.S. 49:964.

G. Notwithstanding any other law to the contrary, no judicial order staying, enjoining, or continuing an adjudication proceeding before, or a preliminary, procedural, or intermediate decision, ruling, order, or action of, the board shall be effective or issued to be effective, whether pursuant to R.S. 49:964 or otherwise, prior to the exhaustion of all administrative remedies and issuance of a final decision or order by the board.

H. No order staying or enjoining a final decision or order of the board shall be issued unless the district court finds that the applicant or petitioner has established that the issuance of the stay does not:

(1) Threaten harm to other interested parties, including individuals for whom the applicant or petitioner may render medical services; or

(2) Constitute a threat to the health, safety, and welfare of the citizens of this state.

I. No stay of a final decision or order of the board shall be granted ex parte. The court shall schedule a hearing on a request for a stay order within ten days from filing of the request. The court's decision to either grant or deny the stay order shall be rendered within five days after the conclusion of the hearing. **Acts 1975, No. 350, § 1. Amended by Acts 1977, No. 498, § 1; Acts 1977, No. 500, § 1; Acts 1977, No. 525, § 1; Acts 1985, No. 302, § 2; Acts 1987, No. 884, § 1; Acts 1988, No. 741, § 1; Acts 1995, No. 993, § 1; Acts 1999, No. 660, § 1; Acts 1999, No. 788, § 2; Acts 2001, No. 17, § 1, eff. May 17, 2001; Acts 2004, No. 155, § 1; Acts 2010, No. 602, § 1, eff. June 25, 2010; Acts 2011, No. 337, § 1; Acts 2015, No. 441, § 1, eff. July 1, 2015.**

- **Adolescent Health Services**

- **La. R.S. 40:31.3, Adolescent school health initiative; health centers in schools:**

A. The office of public health, Louisiana Department of Health, shall establish an adolescent school health initiative to facilitate and encourage development of comprehensive health centers in public middle and secondary schools in Louisiana which shall provide preventive health services, counseling, acute health

services, and appropriate referral for acute health services. Such initiative shall be subject to the approval of the local school systems.

B. The office of public health shall:

(1) Coordinate efforts to facilitate and encourage establishment of health centers in schools by providing information, technical assistance, direction, and, to the extent appropriate, funds to locally based entities for the establishment and operation of health centers in middle and secondary schools.

(2) Convene and participate in an intergovernmental coordinating council which shall be composed of representatives from the departments of education, children and family services, health, and other governmental entities or programs related to health services to assist in implementation, oversight, and funding assistance for health centers in schools.

(3) Apply for and assist local efforts to apply for all available public and private funds to establish and operate health centers in schools.

(4) Establish procedures for allocation of funds appropriated or otherwise available to the program in a manner which prioritizes funding according to the urgency and degree of healthcare needs among the various middle and secondary school populations.

(5) Establish criteria to be considered in selection of locations for placement of health centers in schools.

C. Health centers in schools are prohibited from:

(1) Counseling or advocating abortion in any way or referring any student to any organization for counseling or advocating abortion.

(2) Distributing at any public school any contraceptive or abortifacient drug, device, or other similar product.

D. The provisions of this Section shall be applicable only to the extent that funds are made available for this purpose from public or private sources. **Added by Acts 1991, No. 1055, § 1, eff. July 29, 1991. Amended by Acts 2018, No. 206, § 4.**

- **Vital Statistics Laws**

- **La. R.S. 40:32, Definition of terms:**

As used in this Chapter, the following terms shall have the meanings ascribed to them in this Section unless otherwise provided for or unless the context otherwise indicates:

(1) “Biological parents” means a husband and wife, joined by legal marriage recognized as valid in this state, who provide sperm and egg for in vitro fertilization, performed by a licensed physician, when the resulting fetus is carried and delivered by a surrogate birth parent who is related by blood or affinity to either the husband or wife.

(2) “Dead body” means a lifeless human body or such severed parts of the human body, or the bones thereof, from the state of which it may be reasonably concluded that death has recently occurred.

(3) “Fetal death” means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after

such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(4) “File” means the presentation of a vital record provided for in this Chapter for registration by the vital records registry.

(5) “Final disposition” means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus.

(6) “Funeral director or person acting as such” is a licensed funeral director or embalmer as defined in R.S. 37:831 et seq. or persons acting under the authority of the state health officer in accordance with R.S. 40:5.

(7) “Induced termination of pregnancy” (abortion) means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and if such interruption does not result in a live birth.

(8) “Institution” means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domiciliary care, or to which persons are committed by law.

(9) “Live birth” means a birth in which the child shows evidence of life after complete birth. A birth is complete when the child is entirely outside the mother, even if the umbilical cord is uncut and the placenta still attached. The words “evidence of life” include heart action, breathing, or movement of voluntary muscles.

(10) “Person in charge of interment” means any person who places or causes to be placed a deceased or stillborn child, dead body, or, after cremation, the ashes thereof, in the earth, a grave, tomb, vault, urn, or other receptacle, either in a cemetery or at any other place, or otherwise disposes thereof.

(11) “Physician” means a person authorized under the laws of this state to practice medicine.

(12) “Public health statistics unit” means that section which codes, tabulates, analyzes, reports, and coordinates vital records and other health status indicator data for the office of public health.

(13) “Registration” as otherwise qualified in rules and regulations means the acceptance of vital records by the vital records registry and the incorporation thereof into its official records.

(14) “Removal” means the transportation of a dead human body or the remains thereof from the jurisdiction of the state of Louisiana.

(15) “Signature” or “sign(ed)” means a written signature or an electronic signature.

(16) “Spontaneous fetal death” and “stillbirth” mean the expulsion or extraction of a product of human conception resulting in other than a live birth and when the expulsion or extraction is not the result of an induced termination of pregnancy.

(17) “System of vital records” means the registration, collection, preservation, amendment, certification, and issuance of certified copies of vital records required by this Chapter and activities related thereto.

(18) “Vital records”, “certificates”, or “forms” means paper or electronic reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment, and data related thereto.

(19) “Vital records registry” means a central registry as provided for in R.S. 40:33(A) which maintains the vital records archives and operates the system of vital records. **Acts 1979, No. 776, § 1. Amended by Acts**

1986, No. 876, § 1; Acts 1997, No. 1251, § 1, eff. July 15, 1997; Acts 2000, 1st Ex.Sess., No. 136, § 1; Acts 2006, No. 377, § 1; Acts 2013, No. 220, § 17, eff. June 11, 2013; Acts 2019, No. 100, § 1.

○ **La. R.S. 40:48, Abortions (induced termination of pregnancy); birth and death certificates:**

A. Whenever an abortion procedure results in a live birth, a birth certificate shall be issued certifying the birth of said born human being even though said human being may thereafter die. For the purposes of this Section a human being is live born, or there is a live birth, whenever there is the complete expulsion or extraction from its mother of a human embryo or fetus, irrespective of the duration of pregnancy, which after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of the voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. In the event death does ensue after a short time, a death certificate shall be issued. Both the birth and the death certificates shall be issued in accordance with the provisions of this Part and of rules and regulations of the Louisiana Department of Health.

B. Each induced termination of pregnancy which occurs in this state shall be reported to the vital records registry within fifteen days by the person in charge of the institution in which the induced termination of pregnancy was performed. If the induced termination of pregnancy was performed outside an institution, the physician in attendance at or immediately after delivery shall prepare and file the report. **Acts 1979, No. 776, § 1. Amended by Acts 1986, No. 876, § 1.**

○ **La. R.S. 40:63, Abortion, induced termination of pregnancy; purpose:**

The purpose of this Part shall be the compilation of relevant maternal life and health factors and data concerning abortions which may be used in the improvement of maternal health and life. The further purpose and function of this Part shall be to serve as a monitor on all induced terminations of pregnancies performed in the state of Louisiana to assure that they are performed only in accordance with the provisions of law. **Acts 1979, No. 776, § 1.**

○ **La. R.S. 40:64, Forms for collection of data:**

The state registrar shall prescribe forms for the collection of information and statistics with respect to abortions. Such forms shall require, but not be limited to, the following information:

- (1) The age, marital status, and state and parish (county) of residence of the woman who is aborted.
- (2) The place where the abortion is performed.
- (3) The full name and address of the physician or physicians performing the abortion.
- (4) The age, marital status, and state and parish (county) of residence of the father, if known.
- (5) Medical reason for the abortion.
- (6) Medical procedure employed to procure the abortion.
- (7) The length of the aborted fetus.
- (8) The weight of the aborted fetus.
- (9) Other significant conditions of the fetus and mother.

(10) The results of pathological examinations of all aborted fetuses, as required by R.S. 40:1061.13. **Acts 1979, No. 776, § 1. Amended by Acts 1986, No. 876, § 1; Acts 2018, No. 206, § 4.**

○ **La. R.S. 40:65, Completion of forms; filing with vital records registry:**

The information required by the form for which provision is made in R.S. 40:64 shall be completed by the physician or physicians performing the abortion in each case in which an abortion is performed. Such completed form shall be transmitted by the physician or physicians to the vital records registry within fifteen days of the performing of such abortion. **Acts 1979, No. 776, § 1. Amended by Acts 1986, No. 876, § 1.**

○ **La. R.S. 40:66, Failure to complete form; penalty:**

Failure to complete such form as required in R.S. 40:65 shall be a misdemeanor punishable by imprisonment for ninety days in jail or by a five hundred dollar fine, or both. Such failure to complete such form and to timely transmit same shall be admissible as evidence that the unreported abortion was illegal. **Acts 1979, No. 776, § 1.**

○ **La. R.S. 40:94, Forms for collection of data:**

The state registrar shall prescribe forms for the collection of information and statistics with respect to enforceable gestational carrier contracts. Such forms shall require but not be limited to the following information:

- (1) The age, marital status, and state and parish of domicile of the gestational carrier.
- (2) The parish in which the in utero embryo transfer took place.
- (3) The full name and address of the physician or physicians performing or attending to the following phases of the gestational carrier:
 - (a) In utero embryo transfer.
 - (b) Prenatal and postnatal care.
 - (c) Birth.
 - (d) Miscarriage.
 - (e) Induced abortion.
- (4) The age, marital status, and state and parish of domicile of the intended parents.
- (5) The medical reason necessitating the gestational carrier.
- (6) The medical procedures employed in the birth, miscarriage, or termination of pregnancy for medical emergency as provided by R.S. 40:1061.23.
- (7) The length and weight of the child born as a result of gestational carrier.
- (8) The length and weight of an unborn child miscarried after the initiation of a gestational carrier.
- (9) Other significant conditions or health complications of the unborn child and gestational carrier.
- (10) The results of pathological examinations of any unborn child who died as a result of pregnancy complications or termination incidental to a gestational carrier. **Added by Acts 2016, No. 494, § 4.**

- **La. R.S. 40:95, Completion of forms; filing with vital records registry:**

The physician performing the in utero embryo transfer or termination of the pregnancy by birth, miscarriage, or abortion shall provide the information required by the provisions of R.S. 40:94. Such completed forms shall be transmitted by the physician to the vital records registry within fifteen days of the performance of the medical procedures and shall be confidential. **Added by Acts 2016, No. 494, § 4.**

- **Public Health Law Related to Abortion**

- **La. R.S. 40:1061, Abortion; prohibition (<Text of section contingent upon occurrence of circumstances as set forth in subsec. A of this section.>):**

A. The provisions of this Act shall become effective immediately upon, and to the extent permitted, by the occurrence of any of the following circumstances:

(1) Any decision of the United States Supreme Court which reverses, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby, restoring to the state of Louisiana the authority to prohibit abortion.

(2) Adoption of an amendment to the United States Constitution which, in whole or in part, restores to the state of Louisiana the authority to prohibit abortion.

B. The provisions of this Act shall be effective relative to the appropriation of Medicaid funds, to the extent consistent with any executive order by the President of the United States, federal statute, appropriation rider, or federal regulation that sets forth the limited circumstances in which states must fund abortion to remain eligible to receive federal Medicaid funds pursuant to 42 U.S.C. 1396 et. seq.

C. No person may knowingly administer to, prescribe for, or procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being. No person may knowingly use or employ any instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.

D. Any person in violation of this Section shall be prosecuted pursuant to the effective provisions of R.S. 14:87, and shall be subject to the penalties provided in R.S. 40:1061.29.

E. Nothing in this Section may be construed to prohibit the sale, use, prescription, or administration of a contraceptive measure, drug or chemical, if it is administered prior to the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure is sold, used, prescribed, or administered in accordance with manufacturer instructions.

F. It shall not be a violation of Subsection C of this Section for a licensed physician to perform a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of her unborn child in a manner consistent with reasonable medical practice.

G. Medical treatment provided to the mother by a licensed physician which results in the accidental or unintentional injury or death to the unborn child is not a violation of Subsection C of this Section.

H. Nothing in this Section may be construed to subject the pregnant mother upon whom any abortion is performed or attempted to any criminal conviction and penalty.

I. The following terms as used in this Section shall have the following meanings:

(1) “Fertilization” means that point in time when a male human sperm penetrates the zona pellucida of a female human ovum.

(2) “Pregnant” means the human female reproductive condition, of having a living unborn human being within her body throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth.

(3) “Unborn human being” means an individual living member of the species, homo sapiens, throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth.

J. This Section shall be known, and may be cited, as the Human Life Protection Act. **Redesignated from R.S. 40:1299.30 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2006, No. 467, § 1. Amended by Acts 2018, No. 468, § 2, eff. May 23, 2018. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.1, Pain-Capable Unborn Child Protection Act:**

A. This Section may be cited as the “Pain-Capable Unborn Child Protection Act”.

B. Legislative intent. (1) The legislature makes the following findings:

(a) Pain receptors (nociceptors) are present throughout the unborn child's entire body and nerves link these receptors to the brain's thalamus and subcortical plate by no later than twenty weeks.

(b) By eight weeks after fertilization, the unborn child reacts to touch. After twenty weeks, the unborn child reacts to stimuli that would be recognized as painful if applied to an adult human, for example, by recoiling.

(c) In the unborn child, application of such painful stimuli is associated with significant increases in stress hormones known as the stress response.

(d) Subjection to such painful stimuli is associated with long-term harmful neurodevelopmental effects, such as altered pain sensitivity and, possibly, emotional, behavioral, and learning disabilities later in life.

(e) For the purposes of surgery on unborn children, fetal anesthesia is routinely administered and is associated with a decrease in stress hormones compared to their level when painful stimuli are applied without such anesthesia.

(f) The position, asserted by some medical experts, that the unborn child is incapable of experiencing pain until a point later in pregnancy than twenty weeks after fertilization predominately rests on the assumption that the ability to experience pain depends on the cerebral cortex and requires nerve connections between the thalamus and the cortex. However, recent medical research and analysis, especially since 2007, provides strong evidence for the conclusion that a functioning cortex is not necessary to experience pain.

(g) Substantial evidence indicates that children born missing the bulk of the cerebral cortex, those with hydranencephaly, nevertheless experience pain.

(h) In adults, stimulation or ablation of the cerebral cortex does not alter pain perception, while stimulation or ablation of the thalamus does.

(i) Substantial evidence indicates that structures used for pain processing in early development differ from those of adults, using different neural elements available at specific times during development, such as the subcortical plate, to fulfill the role of pain processing.

(j) The position, asserted by some medical experts, that the unborn child remains in a coma-like sleep state that precludes the unborn child's experiencing pain is inconsistent with the documented reaction of unborn children to painful stimuli and with the experience of fetal surgeons who have found it necessary to sedate the unborn child with anesthesia to prevent the unborn child from thrashing about in reaction to invasive surgery.

(k) Consequently, there is substantial medical evidence that an unborn child is capable of experiencing pain by twenty weeks after fertilization.

(2)(a) It is the purpose of the state to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain.

(b) Louisiana's compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain is intended to be separate from and independent of Louisiana's compelling state interest in protecting the lives of unborn children from the stage of viability, and neither state interest is intended to replace the other.

(3) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the United States Supreme Court noted that an explicit statement of legislative intent specifically made applicable to a particular statute is of greater weight than a general savings or severability clause, it is the intent of the state that if any one or more provisions, sections, subsections, sentences, clauses, phrases or words of this Section or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this Section shall remain effective notwithstanding such unconstitutionality. Moreover, the state declares that it would have passed this Section, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases or words, or any of their applications, were to be declared unconstitutional.

C. Definitions. For purposes of this Section, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma, or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy.

(2) "Attempt to perform or induce an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance or induction of an abortion in this state in violation of this Section.

(3) "Department" means Louisiana Department of Health.

(4) "Fertilization" means the fusion of a human spermatozoon with a human ovum.

(5) “Medical emergency” means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates the immediate abortion of her pregnancy without first determining postfertilization age to avert her death or for which the delay necessary to determine postfertilization age will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

(6) “Medically futile” means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth.

(7) “Physician” means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in the state of Louisiana.

(8) “Postfertilization age” means the age of the unborn child as calculated from the fusion of a human spermatozoon with a human ovum.

(9) “Probable postfertilization age of the unborn child” means what, in reasonable medical judgment, will with reasonable probability be the postfertilization age of the unborn child at the time the abortion is planned to be performed or induced.

(10) “Reasonable medical judgment” means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(11) “Unborn child” or “fetus” each mean an individual organism of the species homo sapiens from fertilization until live birth.

(12) “Woman” means a female human being whether or not she has reached the age of majority.

D. Determination of postfertilization age.

(1) Except in the case of a medical emergency or when a pregnancy is diagnosed as medically futile, no abortion shall be performed or induced or be attempted to be performed or induced unless the physician performing or inducing it has first made a determination of the probable postfertilization age of the unborn child or relied upon such a determination made by another physician. In making such a determination, the physician shall make such inquiries of the woman and perform or cause to be performed such medical examinations and tests as a reasonably prudent physician, knowledgeable about the case and the medical conditions involved, would consider necessary to perform in making an accurate diagnosis with respect to postfertilization age.

(2) Failure by any physician to conform to any requirement of this Section constitutes “unprofessional conduct” pursuant to R. S. 37:1261.

E. Abortion of unborn child of twenty or more weeks postfertilization age prohibited.

(1) No person shall perform or induce or attempt to perform or induce an abortion upon a woman when it has been determined, by the physician performing or inducing or attempting to perform or induce the abortion or by another physician upon whose determination that physician relies, that the probable postfertilization age of the woman's unborn child is twenty or more weeks, unless the pregnancy is diagnosed as medically futile or, in reasonable medical judgment, she has a condition which so complicates

her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No such greater risk shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

(2) When an abortion upon a woman whose unborn child has been determined to have a probable postfertilization age of twenty or more weeks is not prohibited by Paragraph (1) of this Subsection, the physician shall terminate the pregnancy in the manner which, in reasonable medical judgment, provides the best opportunity for the unborn child to survive, unless, in reasonable medical judgment, termination of the pregnancy in that manner would pose a greater risk either of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the woman than would other available methods. No such greater risk shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

F. Penalties. Any person who intentionally or knowingly fails to comply with the requirements of this Section shall be subject to the penalties as provided for in R.S. 40:1061.29.

G. Construction. This Section shall not be construed to repeal, by implication or otherwise, R.S. 40:1061.10 or any otherwise applicable provision of Louisiana law regulating or restricting abortion. An abortion that complies with this Section, but violates the provisions of R.S. 40:1061.10 or any otherwise applicable provision of Louisiana law, shall be deemed unlawful as provided in such provision. An abortion that complies with the provisions of R.S. 40:1061.10 or any otherwise applicable provision of Louisiana law regulating or restricting abortion, but violates this Section, shall be deemed unlawful as provided in this Section. If some or all of the provisions of this Section are temporarily or permanently restrained or enjoined by judicial order, all other provisions of Louisiana law regulating or restricting abortion shall be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect. **Redesignated from R.S. 40:1299.30.1 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2012, No. 738, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.1.1, Louisiana Unborn Child Protection from Dismemberment Abortion Act:**

A. This Section shall be known and may be cited as the “Louisiana Unborn Child Protection from Dismemberment Abortion Act”.

B. As used in this Section, the following terms have the meaning ascribed in this Subsection:

(1) “Abortion” shall have the meaning ascribed in R.S. 40:1061.9.

(2) “Attempt to perform an abortion” means to do or omit to do anything that, under the circumstances as the actor believes them to be, is an act or omission constituting a substantial step in a course of conduct planned to culminate in oneself’s performing an abortion. Such substantial steps include, but are not limited to:

(a) Agreeing with an individual to perform an abortion on that individual or on some other person, whether or not the term “abortion” is used in the agreement, and whether or not the agreement is contingent on another factor such as receipt of payment or a determination of pregnancy.

(b) Scheduling or planning a time to perform an abortion on an individual, whether or not the term “abortion” is used, and whether or not the performance is contingent on another factor such as receipt of payment or a determination of pregnancy.

(c) The definition provided in this Paragraph shall not be construed to require that an abortion procedure must actually be initiated for an attempt to occur.

(3)(a) “Dismemberment abortion” means, with the purpose of causing the death of an unborn child, to purposely dismember a living unborn child and extract him or her one piece at a time from the uterus through use of clamps, grasping forceps, tongs, scissors, or a similar instrument that, through the convergence of two rigid levers, slices, crushes, or grasps a portion of the unborn child's body to cut or rip it off or apart.

(b) The term “dismemberment abortion” does not include an abortion which uses suction to dismember the body of an unborn child by vacuuming fetal parts into a collection container, although it does include an abortion in which a dismemberment abortion, as defined in this Paragraph, is used to cause the death of an unborn child and suction is subsequently used to extract fetal parts after the death of the unborn child.

(4) “Intentionally” means the person who acts either consciously desires the physical result of his act, whatever the likelihood of that result happening from his conduct; or knows that the result is substantially certain to follow from his conduct, whatever his desire may be as to that result.

(5) “Physician” means a person licensed to practice medicine in the state of Louisiana who meets the requirements of R.S. 40:1061.10.

(6) “Serious health risk to the unborn child's mother” means that in reasonable medical judgment the mother has a condition that so complicates her medical condition that it necessitates the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No such condition may be determined to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

(7) “Woman” means a female human being whether or not she has reached the age of majority.

C. (1) Notwithstanding any other provision of law, it shall be unlawful for any person to intentionally perform or attempt to perform a dismemberment abortion and thereby kill an unborn child unless necessary to prevent serious health risk to the unborn child's mother.

(2) No woman upon whom an abortion is performed or attempted to be performed shall be thereby liable for performing or attempting to perform a dismemberment abortion. No nurse, technician, secretary, receptionist, or other employee or agent who is not a physician but who acts at the direction of a physician, and no pharmacist or other individual who is not a physician but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician shall be thereby liable for performing or attempting to perform a dismemberment abortion.

D. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars per incidence or occurrence, or imprisoned for not more than two years, or both. In addition to whatever

remedies are otherwise available under the laws of this state, failure to comply with the provisions of this Section shall provide all of the following:

(1) A basis for a cause of action for civil damages for injuries and wrongful death as more fully set forth in Civil Code Articles 2315.1 and 2315.2, whether or not the unborn child was viable at the time the abortion was performed, or was born alive, except that such causes of action shall be maintained only by the following persons:

(a) The natural or biological father of the aborted infant or fetus, unless such father's criminal conduct caused the pregnancy.

(b) The mother of the aborted infant or fetus, subject to the provisions of Subsection F of this Section.

(c) The parents or guardian on behalf of the mother of the aborted infant or fetus if the mother was a minor at the time of the abortion, unless the parents or guardian consented to the dismemberment abortion.

(2) A basis for professional disciplinary action under R.S. 37:1261 et seq.

E. (1) A physician charged with an offense pursuant to this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings concerning the issue provided for in Paragraph (1) of this Subsection are admissible on that issue at the trial of the physician. Upon motion of the physician, the court shall delay the beginning of the trial for not more than thirty days to permit such hearing to take place; however, this delay may be extended for good cause.

F. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

G. Any person who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a dismemberment abortion, shall be subject to the provisions of this Section.

H. Nothing in this Section shall be construed as creating or recognizing a right to abortion, or a right to a particular method of abortion. **Added by Acts 2016, No. 264, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.1.2, Abortion based on genetic abnormality; prohibition:**

A. As used in this Section, the following terms have the meaning ascribed in this Subsection:

(1)(a) "Abortion" shall have the meaning provided in R.S. 40:1061.9.

(b)(i) For purposes of this Section, "abortion" shall not include an abortion performed when the pregnancy is diagnosed as medically futile.

(ii) For purposes of this Subparagraph, "medically futile" means that, in reasonable medical judgement, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth. This diagnosis shall be a medical judgment certified in the pregnant woman's

medical record by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(2) “Diagnosed” means a determination made by a physician based on the results obtained from any genetic screening or prenatal testing procedure to detect a genetic abnormality.

(3) “Genetic abnormality” means any defect, disease, or disorder that is inherited genetically. The term includes, without limitation, any physical disfigurement, scoliosis, dwarfism, Down syndrome, albinism, amelia, and any other type of physical, mental, or intellectual disability, abnormality, or disease.

B. Notwithstanding any other provision of law, it shall be unlawful for any person to intentionally perform or attempt to perform an abortion of an unborn child of twenty or more weeks post-fertilization age, as provided for in R.S. 40:1061.1, with knowledge that the pregnant woman is seeking the abortion solely because the unborn child has been diagnosed with either a genetic abnormality or a potential for a genetic abnormality.

C. (1) It shall be unlawful for a person to intentionally perform or attempt to perform an abortion of an unborn child of less than twenty weeks post-fertilization age without first providing the pregnant woman with an informational document including resources, programs, and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs, and services for infants and children born with disabilities. The informational document provided for in this Subsection shall be given to the pregnant woman at the same time as the requirements in R.S. 40:1061.17(B).

(2) The Louisiana Department of Health shall develop an informational document to comply with the mandate established in this Section to include resources, programs, and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs, and services for infants and children born with disabilities and shall make such information available to any requesting provider of women's health care services and shall maintain the information on a link on the department's website.

(3) No person shall be found in violation of this Subsection, and no penalty for a violation of this Subsection shall be assessed, in any instance in which the informational document required by this Subsection is not available for use.

D. Whoever violates the provisions of this Section shall be subject to the penalties provided in R.S. 40:1061.29.

E. The provisions of this Section shall not apply whenever the abortion is necessary to save the life of the mother. **Added by Acts 2016, No. 563, § 1, eff. June 17, 2016. Amended by Acts 2018, No. 77, § 1, eff. May 10, 2018. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.1.3, Abortion prohibited; detectable fetal heartbeat; ultrasound required (<Section effective upon final decision of the United States Court of Appeals for the Fifth Circuit, as provided in the italic following this section.>):**

A. (1)(a) Prior to any abortion being performed, there shall first be performed an ultrasound, in accordance with the standards set forth in R.S. 40:1061.10(D), in order to determine whether or not a fetal heartbeat is present, and the results of the ultrasound shall be included in the pregnant woman's medical records.

(b) Except as provided in Paragraph (2), (3), or (4) of this Subsection, it shall be unlawful for any person to knowingly perform an abortion with the specific intent of causing or abetting the termination of the life of an unborn human being when a fetal heartbeat has been detected. Any person who acts based on the

exceptions provided in Paragraph (2), (3), or (4) of this Subsection shall so note in the pregnant woman's medical records and shall specify in the pregnant woman's medical records which of the exceptions the person performing the abortion has invoked.

(2)(a) A person shall not be in violation of Paragraph (1) of this Subsection if the person performs a medical procedure designed to or intended, in that person's reasonable medical judgment, to prevent the death of a pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(b)(i) A person who performs a medical procedure as described in Subparagraph (a) of this Paragraph shall declare in writing, under penalty of perjury, that the medical procedure was necessary, to the best of that person's reasonable medical judgment, to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. The person shall also provide in that written statement the specific medical condition of the pregnant woman that the medical procedure was performed to address, and the medical rationale for the conclusion that the medical procedure was necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(ii) The person who performs a medical procedure as described in Subparagraph (a) of this Paragraph shall place the written documentation required by this Subparagraph in the pregnant woman's medical records, and shall maintain a copy of the written documentation for not less than seven years.

(3) A person shall not be in violation of Paragraph (1) of this Subsection if the person has performed an examination for the presence of a fetal heartbeat in the unborn human individual using standard medical practice and that examination does not reveal a fetal heartbeat, or the person has been informed by a physician who has performed the examination for a fetal heartbeat that the examination did not reveal a fetal heartbeat.

(4) For purposes of this Section, "abortion" shall not include an abortion performed when the pregnancy is diagnosed as medically futile.

B. For purposes of this Section:

(1) "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.

(2) "Medically futile" means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth. This diagnosis shall be a medical judgment certified in the pregnant woman's medical record by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(3) "Physician" means an individual licensed by the Louisiana State Board of Medical Examiners.

(4) "Unborn human being" means an individual living member of the species *Homo sapiens* throughout the entire embryonic and fetal stages, from fertilization through full gestation and birth.

C. Whoever violates this Section shall be prosecuted pursuant to the effective provisions of R.S. 14:87 and shall be subject to the penalties provided in R.S. 40:1061.29.

D. In addition to any other grounds provided by law, it shall be grounds for the nonissuance, suspension, revocation, or restriction of a license, or the denial of reinstatement or renewal of a license, issued by the

Louisiana State Board of Medical Examiners, that the applicant or licensee has performed an abortion in violation of this Section.

E. This Section shall not be construed to repeal any other provision of law that restricts or regulates the performance of an abortion by a particular method or during a particular stage of a pregnancy.

F. The provisions of this Section are hereby repealed in favor of the provisions of R.S. 40:1061 immediately upon and to the extent that either:

(1) A decision of the United States Supreme Court upholds the authority of each of the several states of the United States or of the state of Louisiana to prohibit elective abortions.

(2) An amendment to the Constitution of the United States of America is adopted that restores to each of the several states of the United States or to the state of Louisiana the authority to prohibit elective abortions.

Added by Acts 2019, No. 31, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).

○ **La. R.S. 40:1061.2, Discrimination against certain persons; prohibition:**

A. No physician, nurse, student or other person or corporation shall be held civilly or criminally liable, discriminated against, dismissed, demoted, or in any way prejudiced or damaged because of his refusal for any reason to recommend, counsel, perform, assist with or accommodate an abortion.

B. No worker or employee in any social service agency, whether public or private, shall be held civilly or criminally liable, discriminated against, dismissed, demoted, in any way prejudiced or damaged, or pressured in any way for refusal to take part in, recommend or counsel an abortion for any woman. **Redesignated from R.S. 40:1299.31 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1973, No. 72, § 1.**

○ **La. R.S. 40:1061.3, Discrimination against hospitals, clinics, etc.; prohibition:**

No hospital, clinic or other facility or institution of any kind shall be held civilly or criminally liable, discriminated against, or in any way prejudiced or damaged because of any refusal to permit or accommodate the performance of any abortion in said facility or under its auspices. **Redesignated from R.S. 40:1299.32 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1973, No. 72, § 1.**

○ **La. R.S. 40:1061.4, Governmental assistance; discrimination for refusal to participate in an abortion; prohibition:**

A. The term governmental assistance as used in this Section shall include federal, state and local grants, loans and all other forms of financial and other aid from any level of government or from any governmental agency.

B. No woman shall be denied governmental assistance or be otherwise discriminated against or pressured in any way for refusing to accept or submit to an abortion, which she may do for any reason and without explanation.

C. No hospital, clinic, or other medical or health facility, whether public or private, shall ever be denied governmental assistance or be otherwise discriminated against or otherwise be pressured in any way for refusing to permit its facilities, staff or employees to be used in any way for the purpose of performing any abortion.

D. No abortion shall be performed on any woman unless prior to the abortion she shall have been advised, orally and in writing, that she is not required to submit to the abortion and that she may refuse any abortion for any reason and without explanation and that she shall not be deprived of any governmental assistance or any other kind of benefits for refusing to submit to an abortion. This provision shall be of full force and effect notwithstanding the fact that the woman in question is a minor, in which event said minor's parents, or if a minor emancipated by marriage, the minor's husband, shall also be fully advised of their right to refuse an abortion for the minor in the same manner as the minor is advised. Compliance with this provision shall be evidenced by the written consent of the woman that she submits to the abortion voluntarily and of her own free will, and by written consent of her parents, if she is an unmarried minor, and by consent of her husband if she is a minor emancipated by marriage, such written consent to set forth the written advice given and the written consent and acknowledgment that a full explanation of the abortion procedure to be performed has been given and is understood. **Redesignated from R.S. 40:1299.33 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1973, No. 72, § 1.**

- **La. R.S. 40:1061.5, Employees of state and political subdivisions; counseling abortion prohibited:**

No person employed by the state of Louisiana, by contract or otherwise, or any subdivision or agency thereof, and no person employed in any public or private social service agency, by contract or otherwise, including workers therein, which is a recipient of any form of governmental assistance, shall require or recommend that any woman have an abortion. Notwithstanding anything contained herein to the contrary, this Section shall not apply to a doctor of medicine, currently licensed by the Louisiana State Board of Medical Examiners pursuant to R.S. 37:1261 et seq., who is acting to save or preserve the life of the pregnant woman. **Redesignated from R.S. 40:1299.34 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1973, No. 72, § 1. Amended by Acts 1978, No. 786, § 5, eff. July 17, 1978.**

- **La. R.S. 40:1061.6, Use of public funds:**

A. (1) Notwithstanding any other provision of law to the contrary, no public funds, made available to any institution, board, commission, department, agency, official, or employee of the state of Louisiana, or of any local political subdivision thereof, whether such funds are made available by the government of the United States, the state of Louisiana, or of a local governmental subdivision, or from any other public source shall be used in any way for, to assist in, or to provide facilities for an abortion, except when the abortion is medically necessary to prevent the death of the mother.

<Text of par. (A)(2) effective until 30 days after contingency in § 6 of Acts 2018, No. 498. See italic note, post.>

(2) No institution, board, commission, department, agency, official, or employee of the state, or of any local political subdivision thereof, shall contract with, award any grant to, or otherwise bestow any funding upon, an entity or organization that performs abortions, or that contracts with an entity or organization that performs abortions, in this state, as more specifically provided in Chapter 1-A of Title 36 of the Louisiana Revised Statutes of 1950.

<Text of par. (A)(2) effective 30 days after contingency in § 6 of Acts 2018, No. 498. See italic note, post.>

(2)(a) As more specifically provided in R.S. 49:200.51, the Louisiana Department of Health shall not enter into any provider agreement for medical assistance program funding, as defined in R.S. 46:437.3, with any healthcare provider, entity, or organization that does any of the following:

- (i) Performs abortions in this state.

(ii) Provides its own facilities where reimbursable medical assistance program services are performed for the use of another healthcare provider, entity, or organization for the purpose of performing abortions in this state.

(iii) Hires or retains another healthcare provider, entity, or organization for the purpose of performing abortions in this state.

(iv) Provides reimbursable medical assistance program services in the same physical facility as a licensed outpatient abortion facility.

(b)(i) The prohibitions provided in this Subsection shall apply to state funds, federal funds, and any other public funds administered by the Louisiana Department of Health through a medical assistance program provider agreement, but shall not be construed to prohibit provision of public protections, such as fire, police, or emergency medical services, public utilities, or other such services to any entity or organization in the same manner as provided to the general public.

(ii) For purposes of this Subparagraph, “medical assistance program” and “provider agreement” shall have the meaning ascribed in R.S. 46:437.3.

B. Notwithstanding any other provision of law to the contrary, no public funds made available to any institution, board, commission, department, agency, official, or employee of the state of Louisiana, or of any local political subdivision thereof, whether such funds are made available by the government of the United States, the state of Louisiana, or a local governmental subdivision, or from any other public source, shall be used in any way for, to assist in, or to provide facilities for an abortion, except for any of the following:

(1) Whenever the abortion is necessary to save the life of the mother.

(2) Whenever the abortion is being sought to terminate a pregnancy resulting from an alleged act of rape and all of the requirements of R.S. 40:1061.18(A) are met.

(3) Whenever the abortion is being sought to terminate a pregnancy resulting from an alleged act of crime against nature as defined by R.S. 14:89(A)(2) and all of the requirements of R.S. 40:1061.18(B) are met.

C. The secretary of the Louisiana Department of Health shall promulgate rules to ensure that no funding of any abortion shall be made based upon a claim of rape or crime against nature as defined by R.S. 14:89(A)(2) until the applicable requirements of R.S. 40:1061.18 have been complied with and written verification has been obtained from the physician performing the abortion and from the law enforcement official to whom the report is made, if applicable.

D. Subsection A of this Section shall be superseded and Subsections B and C and R.S. 40:1061.18 shall become effective only when the circumstances in Subparagraph (1)(a) or in Subparagraph (2)(a) occur:

(1)(a) A decision or order of a court of competent jurisdiction is rendered declaring the provisions of Subsection A unconstitutional, inconsistent with federal law, or otherwise unenforceable based on inconsistency with the Hyde Amendment, or enjoins the state or any of its officials from enforcing Subsection A while at the same time accepting federal funds pursuant to Title XIX, as modified by the Hyde Amendment, and then only if, as, and when a stay pending all appeals of the decision or order is denied, or, if a stay is granted, such stay expires or is no longer effective.

(b) If such a decision or order is rendered, the state Department of Justice, on behalf of the state, shall vigorously and expeditiously pursue judicial remedies seeking to obtain a stay pending all appeals of the decision or order and its reversal.

(2)(a) An order or decision of a court of competent jurisdiction is rendered affirming a finding of the administrator of the Health Care Financing Administration of the United States Department of Health and Human Services that Subsection A fails to substantially comply with the Hyde Amendment or denying a stay of the finding of the administrator and then only if, as, and when the state receives formal notification from the administrator that Medicaid funds, including but not limited to the federal percentage of Medicaid assistance payments pursuant to 42 U.S.C. 1396 et seq. allocated to the state from the United States government, will be withheld or terminated on a specified date.

(b) If the administrator finds that the state is in noncompliance with the Hyde Amendment as it relates to funding certain abortions, the governor, the state Department of Justice, and the state Department of Health, on behalf of the state, shall vigorously and expeditiously pursue administrative and judicial remedies to obtain a stay of the finding and its reversal.

(c) If such a decision or order is rendered by a court, the state Department of Justice, on behalf of the state, shall vigorously and expeditiously pursue judicial remedies seeking to obtain a stay of the decision or order and to seek its reversal.

E. If Subsections B and C and R.S. 40:1061.18 become effective and subsequently the federal requirement for acceptance of Medicaid funds, that public funds be made available for abortions resulting from pregnancy due to rape or crime against nature as defined by R.S. 14:89(A)(2), is no longer applicable to the state of Louisiana, then on the same day, the provisions of Subsections B and C and R.S. 40:1061.18 shall be superseded and the provisions of Subsection A shall be effective to the fullest extent allowed by law. **Redesignated from R.S. 40:1299.34.5 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 704, § 2. Amended by Acts 1994, 4th Ex.Sess., No. 1, § 1, eff. Aug. 23, 1994; Acts 2014, No. 602, § 6, eff. June 12, 2014; Acts 2016, No. 304, § 2, eff. June 2, 2016; Acts 2018, No. 498, § 2.**

○ **La. R.S. 40:1061.7, Instruction in elementary and secondary schools by abortion providers; prohibition:**

A. No employee of or representative acting on behalf of an organization, individual, or any other entity that performs elective abortion as defined in R.S. 40:1061.9, or of an affiliate as defined in Subsection B of this Section, shall engage in any of the following activities:

(1) Presenting or otherwise delivering any instruction or program on any health topic, including but not limited to human sexuality or family planning, to students at a public elementary or secondary school, or at a charter school that receives state funding.

(2) Knowingly providing any materials or media regarding human sexuality or family planning for distribution or viewing at a public elementary or secondary school, or at a charter school that receives state funding, regardless of the topic or viewpoint of such materials or media, if the materials or media are created by or bear the identifying mark of an organization, individual, or any other entity, or of an affiliate of any such organization, individual, or entity, that performs elective abortion as defined in R.S. 40:1061.9.

B. For purposes of this Section, “affiliate” means an organization, individual, or any other entity that has a legal relationship with another organization, individual, or any other entity, and such relationship is created or governed by at least one written instrument that demonstrates one or more of the following:

(1) Common ownership, management, or control.

(2) The existence of a franchise.

(3) The granting or extension of a license or other agreement that authorizes common use of a brand name, trademark, service mark, or other registered identification mark.

C. The provisions of this Section shall not apply to any hospital licensed in accordance with the Hospital Licensing Law, R.S. 40:2100 et seq.

D. Any abortion provider or affiliate of an abortion provider whose employee or representative acts in violation of this Section shall be subject to imposition of a monetary penalty established by rule by the Louisiana Department of Health, and the department shall consider such violation in any action regarding license issuance taken in accordance with R.S. 40:2175.6. **Redesignated from R.S. 40:1299.35 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2014, No. 617, § 1.**

○ **La. R.S. 40:1061.8, Legislative intent:**

It is the intention of the Legislature of the State of Louisiana to regulate abortion to the extent permitted by the decisions of the United States Supreme Court. The Legislature does solemnly declare and find in reaffirmation of the longstanding policy of this State, that the unborn child is a human being from the time of conception and is, therefore, a legal person for purposes of the unborn child's right to life and is entitled to the right to life from conception under the laws and Constitution of this State. Further, the Legislature finds and declares that the longstanding policy of this State is to protect the right to life of the unborn child from conception by prohibiting abortion impermissible only because of the decisions of the United States Supreme Court and that, therefore, if those decisions of the United States Supreme Court are ever reversed or modified or the United States Constitution is amended to allow protection of the unborn then the former policy of this State to prohibit abortions shall be enforced. **Redesignated from R.S. 40:1299.35.0 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1981, No. 774, § 1, eff. July 23, 1981. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.9, Definitions:**

As used in R.S. 40:1061.8 through 1061.29, the following words have the following meanings:

(1) "Abortion" or "induced abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child.

(b) Remove a dead unborn child or induce delivery of the uterine contents in case of a positive diagnosis, certified in writing in the woman's medical record along with the results of an obstetric ultrasound test, that the pregnancy has ended or is in the unavoidable and untreatable process of ending due to spontaneous miscarriage, also known in medical terminology as spontaneous abortion, missed abortion, inevitable abortion, incomplete abortion, or septic abortion.

(c) Remove an ectopic pregnancy.

(2) "Conception" and "fertilization" each mean the fusion of a human spermatozoon with a human ovum.

(3) “Gestational age” means the age of the unborn child as measured by the time elapsed since the first day of the last menstrual period as determined by a physician and confirmed through the use of an ultrasound test of a quality generally used in existing medical practice.

(4) “Good faith medical judgment” means a physician's use of reasonable care and diligence, along with his best judgment, in the application of his skill. The standard of care required of every health care provider, except a hospital, in rendering professional services or health care to a patient, shall be to exercise that degree of skill ordinarily employed, under similar circumstances, by the members of his profession in good standing in the same community or locality, but if the physician was performing abortion procedures that are considered to be included in the areas of a medical specialty, then the standard shall be that of the degree of skill ordinarily employed, under similar circumstances, by one practicing in good standing in that specialty.

(5) “Infant” means the offspring of human parents from the moment of live birth, regardless of the duration of gestation in the womb prior to live birth.

(6) “Live birth” or “born alive”, with respect to a member of the species homo sapiens, means the complete expulsion or extraction from its mother of that member, at any stage of development, who after that expulsion or extraction breathes or shows signs of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

(7) “Physician” means a person licensed to practice medicine in the state of Louisiana who meets the requirements of R.S. 40:1061.10.

(8) “Pregnant” means that female reproductive condition of having a developing embryo or fetus in the uterus which commences at fertilization and implantation.

(9) “Unborn child” or “fetus” means the unborn offspring of human beings from the moment of conception through pregnancy and until live birth.

(10) “Viable” and “viability” each mean that stage of fetal development when, in the judgment of the physician based upon the particular facts of the case before him, and in light of the most advanced medical technology and information available to him, there is a reasonable likelihood of sustained survival of the unborn child outside the body of his mother, with or without artificial support.

(11) “Department” means the Louisiana Department of Health. **Redesignated from R.S. 40:1299.35.1 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 1997, No. 906, § 3, eff. July 10, 1997; Acts 1999, No. 1232, § 1, eff. July 9, 1999; Acts 2001, No. 1110, § 1, eff. June 28, 2001; Acts 2011, No. 411, § 1; Acts 2013, No. 259, § 1, eff. June 10, 2013. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.10, Abortion by physician; determination of viability; ultrasound test required; exceptions; penalties:**

A. (1) Physician requirements. No person shall perform or induce an abortion unless that person is a physician licensed to practice medicine in the state of Louisiana and is currently board-certified in obstetrics and gynecology or family medicine or enrolled in a residency program for obstetrics and gynecology or family medicine, when that resident performs or induces an abortion under the direct supervision of a

physician who is board-certified in obstetrics and gynecology or family medicine. Any outpatient abortion facility that knowingly or negligently employs, contracts with, or provides any valuable consideration for the performance of an abortion in an outpatient abortion facility by any person who does not meet the requirements of this Section is subject to having its license denied, non-renewed, or revoked by the Louisiana Department of Health in accord with R.S. 40:2175.6. For the purposes of this Subsection, “direct supervision” shall mean that the physician must be present in the hospital, on the campus, or in the outpatient facility, and immediately available to furnish assistance and direction throughout the performance of the procedure. The physician need not be present in the room when the procedure is performed in order to maintain direct supervision.

(2) On the date the abortion is performed or induced, a physician performing or inducing an abortion shall:

(a) Have active admitting privileges at a hospital that is located not further than thirty miles from the location at which the abortion is performed or induced and that provides obstetrical or gynecological health care services. For purposes of this Section, “active admitting privileges” means that the physician is a member in good standing of the medical staff of a hospital that is currently licensed by the department, with the ability to admit a patient and to provide diagnostic and surgical services to such patient consistent with the requirements of Paragraph (A)(1) of this Subsection.

(b) Provide the pregnant woman with all of the following before the abortion is performed or induced:

(i) A telephone number by which the pregnant woman may reach the physician, or other health care personnel employed by the physician or facility at which the abortion was performed or induced, who has twenty-four hours per day access to the woman's relevant medical records so that the woman may request assistance related to any complication that arises from the performance or induction of the abortion, or to ask health-related questions regarding the abortion.

(ii) The name and telephone number of the hospital nearest to the home of the pregnant woman at which an emergency arising from the abortion would be treated.

(c) Whoever violates the provisions of Subparagraph (2)(a) of this Paragraph shall be fined not more than four thousand dollars per violation.

B. Viability. Except in the case of a medical emergency, before a physician performs an abortion, the physician, by use of his good faith medical judgment, shall first determine if the unborn child is viable.

C. Determination of Viability. In order to preserve the health of the woman, and in order to assist in making an accurate finding of viability considering the gestational age, weight, and lung maturity of the unborn child, the physician intending to terminate a pregnancy shall first perform or cause to be performed an ultrasound examination pursuant to the provisions of Subsection D of this Section. The physician shall enter such findings and determination of viability in the medical record of the pregnant woman, along with photographs or prints of the ultrasound evidencing the findings.

D. Ultrasound Requirements. Except in the case of a medical emergency, and in addition to the provisions of R.S. 40:1061.17, consent to an abortion of an unborn child at any stage of gestational development is voluntary and informed only if an obstetric ultrasound is performed in accordance with the provisions of this Section.

(1) Qualifications to perform ultrasound. The ultrasound shall be performed by the physician who is to perform the abortion or a qualified person who is the physician's agent. For purposes of this Section, “qualified person” means a person having documented evidence that he or she has completed a course in

the operation of ultrasound equipment and is in compliance with any other requirements of law regarding the operation of ultrasound equipment.

(2)(a) Requirements. Except as provided in Subparagraph (b) of this Paragraph, at least seventy-two hours prior to the woman's having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

(i) Perform an obstetric ultrasound on the pregnant woman; simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them; and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen.

(ii) Provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions.

(iii) Offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable.

(iv) Prior to the ultrasound, obtain from the pregnant woman a copy of a completed, signed, and dated election form. The election form shall be produced and made available by the department, and shall state as follows:

“Ultrasound Before Abortion Notice and Election Form

Louisiana law requires an ultrasound examination prior to the performance of an abortion. By signing below, I certify that I understand the following:

(1) I have the option to look at or look away from the ultrasound display at any time.

(2) I have the option to listen to the heartbeat of the unborn child that is required to be made audible unless I decline by initialing here: _____.

(3) I am required by law to hear an oral explanation of the ultrasound images, unless I certify below that I am pregnant due to an act of rape or crime against nature as defined by R.S. 14:89(A)(2).

(4) I have the option to ask and receive answers to any questions about the images of the unborn child.

(5) I have the option to ask for an ultrasound photographic print depicting the unborn child.

Signature Date

OPTION FOR WOMEN WHO HAVE FILED LAW ENFORCEMENT REPORTS:

I certify that I have reported an act of rape or crime against nature as defined by R.S. 14:89(A)(2) to law enforcement officials, and that I decline to hear an oral explanation of the ultrasound images.

Signature Date”

(v) Orally read the following statement to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and certify by signature on a form that shall be produced and made available by the department that the following statement was delivered orally:

“During this ultrasound examination, you have the right to an oral explanation of the results. You have the option to view the images on the ultrasound screen. The heartbeat of the unborn child, if present, will be made audible, unless you declined on the election form. You have the right to receive answers to any questions you ask about your ultrasound examination. You have the right to receive an ultrasound photographic print, which will be provided at your request.”

(vi) Retain copies of the election form and certification prescribed by Items (iv) and (v) of this Subparagraph. The certification shall be placed in the medical file of the woman and shall be kept by the abortion provider for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. The woman's medical files shall be kept confidential as provided by law.

(b) If the pregnant woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the requirements of Subparagraph (a) of this Paragraph at least twenty-four hours prior to the woman having any part of an abortion performed or induced.

(3) Options to view or listen to required medical information.

(a) A pregnant woman may choose not to exercise her option to request an ultrasound photograph print as provided for under this Section.

(b) A pregnant woman may choose not to view the ultrasound images required to be provided to and reviewed with the pregnant woman as provided for under this Section.

(c) A pregnant woman may choose not to listen to the sounds detected by the fetal heart monitor required to be provided to the pregnant woman as provided for under this Section.

(d) The physician, the agent of the physician, and the pregnant woman are not subject to a penalty under this Chapter solely because the pregnant woman chooses not to request an ultrasound print, view the ultrasound images, or hear the heart auscultation.

(4) Medical Emergencies.

(a) “Medical emergency” as used in this Section, means the existence of any physical condition, not including any emotional, psychological, or mental condition, which a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy to avert the pregnant woman's death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy.

(b) Upon a determination by a physician that a medical emergency exists with respect to a pregnant woman, the provider shall certify in writing the specific medical conditions that constitute the emergency. The

certification shall be placed in the medical file of the woman and shall be kept by the abortion provider for a period of not less than seven years. If the woman is a minor, then the certification shall be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. The woman's medical files shall be kept confidential as provided by law.

(5) Penalties. Any person who intentionally or knowingly fails to comply with any requirement of this Section shall be subject to the penalties as provided for in R.S. 40:1061.29.

(6) Protection of privacy in court proceedings. In every civil or criminal proceeding or action brought under this Section, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion has been performed or attempted. This Section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

E. Pregnant rape survivors or victims of crime against nature as defined by R.S. 14:89(A)(2) who have reported the act to law enforcement officials shall have the opportunity to opt out of the oral explanation provisions of Subparagraph (D)(2)(b) of this Section, in addition to having the same options to view or listen to the required medical information as provided in Paragraph (D)(3) of this Section. **Redesignated from R.S. 40:1299.35.2 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 1999, No. 1232, § 1, eff. July 9, 1999; Acts 2001, No. 1110, § 1, eff. June 28, 2001; Acts 2010, No. 888, § 1; Acts 2011, No. 411, § 1; Acts 2012, No. 685, § 1; Acts 2013, No. 259, § 1, eff. June 10, 2013; Acts 2014, No. 602, § 6, eff. June 12, 2014; Acts 2014, No. 620, § 1, eff. Sept. 1, 2014; Acts 2016, No. 97, § 1; Acts 2016, No. 98, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.11, Drugs or chemicals used; penalties:**

A. When any drug or chemical is used for the purpose of inducing an abortion as defined in R.S. 40:1061.9, the physician who prescribed the drug or chemical shall be in the same room and in the physical presence of the pregnant woman when the drug or chemical is initially administered, dispensed, or otherwise provided to the pregnant woman.

B. The drug or chemical shall not be administered, dispensed, or otherwise provided to the pregnant woman by a physician or any person acting under the physician's direction, whether in a licensed outpatient abortion facility, private medical office or any other facility, unless the physician has obtained the voluntary and informed consent of the pregnant woman pursuant to the provisions of R.S. 40:1061.17 and the requirements set forth in that Section.

C. If a physician prescribes, dispenses, administers, or provides any drug or chemical to a pregnant woman for the purpose of inducing an abortion as defined in R.S. 40:1061.9, the physician shall report the abortion to the Louisiana Department of Health as provided in R.S. 40:1061.21.

D. In addition to the requirements of reporting complications to the Louisiana Department of Health pursuant to R.S. 40:1061.21, if the physician knows that the woman experienced a serious adverse event, as defined by the MedWatch Reporting System, during or after the administration or use of the drug, the physician shall also report the event to the United States Food and Drug Administration through the MedWatch Reporting System not later than the third day after the date the physician learns that the event occurred.

E. The Louisiana State Board of Medical Examiners may take disciplinary action as authorized in R.S. 37:1261 et seq. or any other applicable provision of law against a physician who violates any provision of this Section.

F. Any person not under the direct and immediate supervision of a physician who knowingly performs or attempts to perform an abortion using chemicals or drugs in violation of this Section shall be subject to penalties pursuant to R.S. 40:1061.29. No penalty may be assessed against the woman who undergoes the abortion. **Redesignated from R.S. 40:1299.35.2.1 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2013, No. 259, § 1, eff. June 10, 2013. Amended by Acts 2014, No. 620, § 1, eff. Sept. 1, 2014. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.11.1, Chemically-induced abortion; required disclosure:**

A. When mifepristone is administered, dispensed, or otherwise provided to a pregnant woman by a physician or any person acting under the physician's direction, whether in a licensed outpatient abortion facility, private medical office, or any other facility, then the physician or the person acting under the physician's direction shall provide the disclosure statement found in Subsection B of this Section to the pregnant woman. The disclosure statement may be provided by doing any of the following:

- (1) Stapling the disclosure statement to a bag, envelope, or other package that contains misoprostol for the pregnant woman to self-administer at home.
- (2) Attaching the disclosure statement to a written prescription for misoprostol provided by the physician or the person acting under the physician's direction.
- (3) Attaching the disclosure statement to the patient's discharge instructions if the prescription for misoprostol is sent directly to a pharmacy.

B. The disclosure statement required by this Section shall contain all of the following text:

“PLEASE READ BEFORE TAKING SECOND PILL

Research has indicated that the first pill provided, identified as mifepristone, is not always effective in ending a pregnancy. If after taking the first pill you regret your decision, please consult a physician or healthcare provider immediately to determine if there are options available to assist you in continuing your pregnancy.”

C. (1) Nothing in this Section shall be construed as creating or recognizing a right to abortion.

(2) Nothing in this Section shall be construed as requiring the disclosure statement to be provided to a woman facing a spontaneous miscarriage as defined in R.S. 40:1061.9(1)(b).

(3) Nothing in this Section shall be construed as requiring a pharmacy or any entity other than the facility where the abortion is administered to provide the disclosure statement.

D. As used in this Section, the following terms have the meanings ascribed to them:

- (1) “Abortion pill” means the use of mifepristone or misoprostol to induce a chemical abortion.
- (2) “Mifepristone” means a synthetic steroid that inhibits the action of progesterone, given orally in early pregnancy to induce a chemical abortion. Mifepristone is the first drug used in a two-drug process to induce a chemical abortion.

(3) “Misoprostol” means a synthetic prostaglandin E1 analogue that is used to induce a chemical abortion. Misoprostol is the second drug used in a two-drug process to induce a chemical abortion. **Added by Acts 2021, No. 483, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.12, Born-Alive Infant Protection Act:**

A. In determining the meaning of any statute or of any rule, regulation, or interpretation of the various administrative agencies of this state, the words “person”, “human being”, “child”, and “individual” include every infant member of the species homo sapiens who is born alive at any stage of development.

B. An infant at any stage of development who has survived an abortion procedure resulting in his or her live birth shall be given reasonable and immediate medical care as provided in R.S. 40:1061.13(C). **Redesignated from R.S. 40:1299.35.3 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2001, No. 1110, § 1, eff. June 28, 2001. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.13, Abortion after viability; second attendant physician required; duties:**

A. Before a physician may perform an abortion upon a pregnant woman whose unborn child is viable, such physician shall first certify in writing that the abortion is necessary to preserve the life or health of the woman and shall further certify in writing the medical indications for such abortion and the probable health consequences.

B. Any physician who performs an abortion upon a woman carrying a viable unborn child shall utilize the available method or technique of abortion most likely to preserve the life and health of the unborn child. In cases where the method or technique of abortion which would most likely preserve the life and health of the unborn child would present a greater risk to the life and health of the woman than another available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

C. An abortion of a viable unborn child shall be performed or induced only when there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for an infant born alive as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required by this Section to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child and born-alive infant, respectively, provided that it does not pose an increased risk to the life or health of the woman. **Redesignated from R.S. 40:1299.35.4 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 1999, No. 1232, § 1, eff. July 9, 1999; Acts 2001, No. 1110, § 1, eff. June 28, 2001. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.14, Minors:**

A. No physician shall perform or induce an abortion upon any pregnant woman who is under the age of eighteen years and who is not emancipated judicially or by marriage unless the physician or a qualified

person acting as agent of the physician pursuant to R.S. 40:1061.17(B)(4)(c) has received those documents provided for in either Paragraph (1) or (2) of this Subsection:

(1)(a) A notarized statement signed by the mother, father, legal guardian, or tutor of the unemancipated minor declaring that the affiant has been informed that the minor intends to seek an abortion and that the affiant consents to the abortion. The affiant shall provide sufficient evidence of identity that shall be expressly specified in the affidavit to establish an articulable basis for a reasonably prudent person to believe that the affiant is one of the following:

(i) The lawful mother.

(ii) The lawful father.

(iii) The legal guardian.

(iv) The lawful tutor of the minor.

(b) A copy of a valid and unexpired driver's license or a government-issued identification card of the individual giving consent on behalf of the unemancipated minor as provided for in Subparagraph (a) of this Paragraph.

(2) A court order as provided in Subsection B of this Section.

B. The following provisions shall apply to all applications for court orders by minors seeking abortions and appeals from denials of applications:

(1) Jurisdiction to hear applications shall be in the court having juvenile jurisdiction in the parish in which the minor is domiciled. Jurisdiction to hear an application or appeal shall be extended to a court having juvenile jurisdiction in a contiguous parish if either of the following conditions is met:

(a) The minor's parent or guardian is a presiding judge of the juvenile court in the parish in which the minor is domiciled.

(b) The parish in which the minor is domiciled has a population of less than ten thousand persons according to the latest federal decennial census.

(2) Each clerk of each court which has jurisdiction to hear such applications shall prepare application forms in clear and concise language which shall provide step-by-step instructions for filling out and filing the application forms. All application forms shall be submitted to the attorney general for his approval. Each clerk shall assist each minor who requests assistance in filling out or filing the application forms.

(3)(a) Each application shall be heard in chambers, anonymously, in a summary manner, within four days, excluding legal holidays, of the filing thereof.

(b)(i) Prior to such ex parte hearing, the court may require the minor to participate in an evaluation and counseling session with a mental health professional from the Louisiana Department of Health, office of behavioral health, or a staff member from the Department of Children and Family Services, office of children and family services, or both. The court may refer the petitioner, if necessary, to the appropriate Louisiana Department of Health, office of behavioral health regional office to arrange the evaluation and counseling session within the four-day period prior to the ex parte hearing, as provided in this Paragraph. This referral may be made by the clerk upon the minor's filing the application when the court has issued a standing order authorizing same and the circumstances fit the criteria of the standing order therefor.

(ii) Such evaluation and counseling session shall be for the purpose of developing trustworthy and reliable expert opinion concerning the minor's sufficiency of knowledge, insight, judgment, and maturity with regard to her abortion decision in order to aid the court in its decision and to make the state's resources available to the court for this purpose. Persons conducting such sessions shall employ the information and printed materials referred to in R.S. 40:1061.17 in examining how well the minor interviewed is informed about pregnancy, fetal development, abortion risks and consequences, the indicators of human trafficking, and abortion alternatives, and shall also endeavor to verify that the minor is seeking an abortion of her own free will and is not acting under intimidation, threats, abuse, undue pressure, or extortion by any other persons and is not a victim of a coerced abortion as defined in Children's Code Article 603.

(iii) For purposes of providing screening to protect the safety and well-being of the minor, such evaluation and counseling session shall also endeavor to ascertain whether the minor is pregnant as a result of sexual activity constituting a crime under the laws of this state, or as a result of commercial sexual exploitation of the minor, and shall inform the minor of resources available for her protection.

(iv) The results of such evaluation and counseling shall be reported to the court by the most expeditious means, commensurate with security and confidentiality, to assure receipt by the court prior to or at the ex parte hearing.

(4)(a) If the minor has not been interviewed in such evaluation and counseling session prior to the ex parte hearing, such that the court does not have the benefit of the required report, then the court may appoint a certified child advocate attorney to be present with the minor at the ex parte hearing for the purpose of assisting the minor in communicating to the court whether her abortion decision is made with sufficient maturity and free and informed consent, commensurate with the duty of confidentiality. A certified child advocate attorney shall be given sufficient time on the same day as the ex parte hearing to review with the minor the information and printed materials referred to in R.S. 40:1061.17, in evaluating how well the minor is informed about pregnancy, fetal development, abortion risks and consequences, the indicators of human trafficking, and abortion alternatives. The certified child advocate attorney shall also endeavor to assist in the court's determination of whether the minor is seeking the abortion of her own free will and is not acting under intimidation, threats, undue pressure, or extortion by other persons, is not a victim of coerced abortion as defined in Children's Code Article 603, and is not in need of assistance or protective orders if the minor is a victim of commercial sexual exploitation as defined in Children's Code Article 603, or any crime against the child as defined in Children's Code Article 603.

(b) If the court, using reasoned judgment and evidentiary evaluation, finds, by clear and convincing evidence, that the minor is sufficiently mature and well enough informed to make the decision concerning the abortion on her own, and further finds that the minor is not a victim of coerced abortion, and is seeking the abortion of her own free will, the court shall issue an order authorizing the minor to act on the matter without parental consultation or consent.

(c) Whether or not the court authorizes the abortion, if the court finds by a preponderance of the evidence that the minor is a victim of commercial sexual exploitation as defined in Children's Code Article 603, or any crime against the child as defined in Children's Code Article 603, the court may issue any appropriate protective orders or afford the minor the continued services of a court-appointed special advocate, or both.

(5) If the court finds that the minor is not sufficiently mature and well enough informed to make a decision intelligently among the alternatives, the court shall decide whether or not it would be in the best interest of the minor to notify her parents or guardian of the proceedings. If the court finds that it is in the minor's best interest to notify her parents or guardian, the court shall so notify and reconvene the proceedings within

forty-eight hours with the parents or guardian present to advise and counsel the minor and aid the court in making its determination whether or not the abortion would be in the best interest of the minor.

(6) If the court finds that the minor is not sufficiently mature and well enough informed to make the decision concerning the abortion and further finds that it would not be in the minor's best interest to notify her parents or guardian, the court shall issue an order authorizing the abortion if the court finds, by clear and convincing evidence, that the abortion would be in the best interest of the minor. However, as stated in *Bellotti v. Baird*, 443 U.S. 622, 647 (1979), “the court may deny the abortion request of an immature minor in the absence of parental consultation if it concludes that her best interests would be served thereby.”

(7) In all cases, the court shall issue its final judgment and order immediately upon completion of the reconvened hearing, if there is one, or immediately upon completion of the original ex parte hearing, if there is no reconvened hearing, and in any case where unusual justification exists for taking the matter under advisement, the court shall report taking the matter under advisement to the Supreme Court of Louisiana and to the court of appeal for the circuit to which appeals lie from the court and shall issue its final judgment and order within forty-eight hours after taking the matter under advisement at the completion of such hearing. Appeals from decisions of the court hearing the application shall be by trial de novo in the court of appeal.

(8) Each clerk of each court of appeal shall prepare appeal forms in clear and concise language which shall provide step-by-step instructions for filling out and filing the appeal forms. All appeal forms shall be submitted to the attorney general for his approval. Each clerk shall assist each minor who requests assistance in filling out or filing the appeal forms.

(9) Each appeal shall be heard in chambers, anonymously, in a summary manner, and within forty-eight hours of the filing thereof.

(10) The decision of the court of appeal shall be based on the criteria provided in Paragraphs (4), (5), and (6) of this Subsection, and such court shall issue its final judgment and order within forty-eight hours of its hearing.

(11) Each minor who declares to the clerk of the court hearing the application or appeal that she does not have sufficient funds to pay for the costs of the application or the appeal shall be allowed to proceed in forma pauperis.

(12) Each minor who files an application or an appeal shall be entitled to an initial hearing and a determination by the court independently of any notice to or consultation with her parents, tutor, or guardian.

(13) Except as otherwise provided in this Section, or as otherwise provided by rule of court, hearings of applications and appeals shall be conducted in accordance with the provisions of the Louisiana Children's Code.

C. (1) Nothing in this Section shall be construed as creating or recognizing a right to abortion.

(2) It is not the intention of this Section to make lawful an abortion that is unlawful on July 10, 1997, or which later becomes unlawful.

D. Nothing in this Section shall be deemed or construed to affect or alter existing law on the confidentiality of proceedings and records related thereto, except to the extent specifically contained in this Section. **Redesignated from R.S. 40:1299.35.5 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981;**

Acts 1995, No. 1254, § 1; Acts 1997, No. 933, § 1, eff. July 10, 1997; Acts 2017, No. 165, § 1; Acts 2021, No. 482, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).

○ **La. R.S. 40:1061.14.1, Fraudulent interference with parental consent:**

A. Any person giving parental consent pursuant to R.S. 40:1061.14(A)(1) on behalf of a minor on whom an abortion was completed shall be subject to R.S. 14:70.7 providing penalties for the unlawful production, manufacturing, distribution, or possession of fraudulent documents for identification purposes.

B. Any employee of a licensed outpatient abortion facility who knowingly aids and abets a person who is not the mother, father, legal guardian, or tutor of a minor on whom an abortion was performed in the execution or acceptance of the parental consent requirements as required by R.S. 40:1061.14(A)(1), shall be subject to the penalties in R.S. 40:1061.29. **Added by Acts 2017, No. 165, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.15, Prevention of forced abortion; signage in abortion facilities:**

A. This Section shall be known and may be cited as the “Forced Abortion Prevention Sign Act”.

B. Any licensed outpatient abortion facility as defined by R.S. 40:2175. 3 shall conspicuously post a sign in a location defined in Subsection D of this Section which is clearly visible to patients, and which features the text contained in Paragraph (1) of this Subsection and the information contained in Paragraph (2) of this Subsection.

(1) The sign shall feature the following text:

“Notice: Women's Rights and Pregnancy Resources

You can't be forced.

* It is unlawful for anyone to make you have an abortion against your will, even if you are a minor.

You and the father.

* The father of your child must provide support of the child, even if he has offered to pay for an abortion.

You and adoption.

* The law allows adoptive parents to pay costs of prenatal care, childbirth and newborn care.

You are not alone.

* Many agencies are willing to help you to carry your child to term, and to assist after your child's birth.”

(2) The sign shall feature the web address of the pregnancy resources website maintained by the department pursuant to R.S. 40:1061.17, which shall be shown on the sign in a large, bold font designed to be clearly visible to patients, along with any additional information which is deemed necessary by the department and is in accordance with the provisions of R.S. 40:1061.17.

C. The department shall cause the sign provided for in this Section to be designed and produced. All signs produced shall incorporate color graphics and shall be printed on durable signage material measuring

sixteen inches by twenty inches with lettering presented in a size and style of font designed to be clearly visible to the patient.

D. The sign provided for in this Section shall be conspicuously posted in each patient admission area, waiting room, and patient consultation room used by patients on whom abortions are performed, induced, prescribed for, or who are provided with the means for an abortion. **Redesignated from R.S. 40:1299.35.5.1 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2011, No. 411, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.16, Information on psychological impacts, illegal coercion, abuse, and human trafficking required prior to abortion; task force on information resources:**

A. The legislature hereby declares that women of this state have a right to know that undergoing an abortion may have serious psychological impacts, including severe emotional distress and mental and behavioral health afflictions.

B. (1) Except as provided in Paragraph (2) of this Subsection, at least seventy-two hours prior to undergoing an elective abortion as defined in R.S. 40:1061.9, and as a condition for consent to the abortion to be deemed voluntary and informed, the woman or minor female considering abortion shall be given a copy of the printed materials described in this Section by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency as provided in R.S. 40:1061.23.

(2) If the woman or minor female considering abortion certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then she shall be given a copy of the printed materials described in this Section at least twenty-four hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency as provided in R.S. 40:1061.23.

C. (1) The physician or qualified person shall provide to the woman or minor female seeking an abortion the printed materials required by this Section individually and in a private room for the purpose of ensuring that she has an adequate opportunity to ask questions and discuss her individual circumstances.

(2) The physician or qualified person shall obtain the signature of the woman or minor female seeking an abortion on a form certifying that the printed materials were given to the woman or minor female.

(3) In the case of a minor female considering an abortion, if a parent accompanies the minor female to the appointment with the physician or qualified person described in Subsection B of this Section, then the physician or qualified person shall provide to the parent copies of the materials given to the female in accordance with Paragraph (1) of this Subsection.

(4) The signed certification form provided for in Paragraph (2) of this Subsection shall be kept within the medical record of the woman or minor female upon whom the abortion procedure was performed for a period of at least seven years.

D. The department shall create printed materials and printable Internet-based resources that provide all of the following:

(1)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors who serve women and minor females who may experience psychological distress or other mental, emotional, or behavioral health afflictions prior to undergoing an abortion.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and behavioral health effects that may occur prior to an abortion.

(ii) Is not affiliated with an abortion provider.

(2)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors who serve women and minor females who may experience psychological distress or other mental, emotional, or behavioral health afflictions after undergoing an abortion.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and behavioral health effects that may result from undergoing the abortion procedure.

(ii) Is not affiliated with an abortion provider.

(3)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors who are trained in counseling women and minor females who experience coercion to obtain an abortion concerning the psychological impacts or other mental, emotional, or behavioral health afflictions that may result from experiencing coercion to obtain an abortion.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and behavioral health effects that may result from experiencing coercion to obtain an abortion.

(ii) Is not affiliated with an abortion provider.

(c) The materials developed pursuant to this Paragraph shall clearly indicate that coerced abortion is defined in Louisiana law, Children's Code Article 603, as a form of abuse that seriously endangers the physical, mental, and emotional health and safety of a child.

(4)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors for women and minor females who are victims of the crime of human trafficking or the crime of trafficking of children for sexual purposes.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and behavioral health effects that may result from being a victim of human trafficking or a victim of trafficking of children for sexual purposes.

(ii) Is not affiliated with an abortion provider.

(c) The materials developed pursuant to this Paragraph shall clearly indicate all of the following:

(i) That victims of trafficking can be safe after their rescue from being trafficked.

(ii) That Louisiana provides for assistance to victims of human trafficking, as required by R.S. 46:2162 et seq.

(iii) That there are public and private agencies providing valuable assistance to women and minor females who have been commercially and sexually exploited; and that help available to victims of trafficking and other exploitation includes housing assistance, education, job training, and drug addiction counseling.

(iv) That legal assistance is available to women and minor females seeking to escape the sex trade, including assistance in vacating prior prostitution convictions.

(v) That the crime of trafficking of children for sexual purposes is subject to the mandatory reporting laws set forth in Children's Code Articles 603, 609, and 610.

(d) Any pamphlet developed pursuant to this Paragraph shall be known as the "Point of Rescue" pamphlet.

E. The materials provided for in Subsection D of this Section shall be printed in a typeface large enough to be clearly legible and shall be available at no cost from the department upon request and in appropriate number to any person, facility, or hospital. The department's website shall contain the content of the printed material, a printable electronic image of the printed material, and information on ordering printed materials. The department shall promulgate rules and regulations relative to the methods of distribution of printed materials.

F. Repealed by Acts 2018, No. 661, § 8.

G. Nothing in this Section shall be construed to conflict with or supercede the requirement for mandatory reporting of child abuse provided in Children's Code Article 603 et seq. **Redesignated from R.S. 40:1299.35.5.2 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2014, No. 569, § 2. Amended by Acts 2016, No. 97, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.17, Woman's right to know:**

A. Legislative findings and purposes. The Legislature of Louisiana finds that:

(1) Act No. 435 of the 1978 Regular Session of the Legislature required the obtaining of the informed consent of a pregnant woman to the performance of an abortion. This law was declared unconstitutional in the cases of *Margaret S. v. Edwards*,¹ and in *Margaret S. v. Treen*.²

(2) By Act No. 435 of the 1978 Regular Session of the Legislature (R.S. 40:1061.18) a twenty-four-hour waiting period was required between the signing of an informed consent and the performance of an abortion.

This law was repealed by Act No. 418 of the 1980 Regular Session of the Legislature because of the decision of the federal court in *Margaret S. v. Edwards*.

(3) Subsequent to the above-referenced court decisions and legislative enactments, the United States Supreme Court has rendered a decision in the case of *Planned Parenthood of Pennsylvania v. Casey*,³ which upheld the constitutionality of the Pennsylvania law which required informed consent, parental consent, and a twenty-four-hour waiting period prior to an abortion, and which decision has therefore impliedly overruled the decisions in the *Margaret S.* cases.

(4) The judicial obstacles to such legislation now having been removed by virtue of the *Casey* decision, the legislature finds that it is in the public interest and in furtherance of the general health and welfare of the citizens of this state to reenact provisions of law similar to those heretofore either declared unconstitutional or repealed for the following reasons:

(a) It is essential to the psychological and physical well-being of a woman considering an abortion that she receive complete and accurate information regarding her alternatives.

(b) The knowledgeable exercise of a woman's decision to have an abortion depends on the extent to which the woman receives sufficient information to make an informed choice between two alternatives, giving birth or having an abortion.

(c) The vast majority of all abortions are performed in clinics devoted solely to providing abortions and family planning services. Most women who seek abortions at these facilities do not have any relationship with the physician who performs the abortion, before or after the procedure. They do not return to the facility for postsurgical care. In most instances, the woman's only actual contact with the physician occurs simultaneously with the abortion procedure, with little opportunity to receive counseling concerning her decision.

(d) The decision to abort "is an important, and often a stressful one, and it is desirable and imperative that it be made with full knowledge of its nature and consequences", *Planned Parenthood v. Danforth*.⁴

(e) "The medical, emotional, and psychological consequences of an abortion are serious and can be lasting...", *H. L. v. Matheson*.⁵

(f) Abortion facilities or providers offer only limited and/or impersonal counseling opportunities.

(g) Many abortion facilities or providers hire untrained and unprofessional "counselors" whose primary goal is to sell abortion services.

(5) Based on the above findings, it is the purpose of this Act to:

(a) Ensure that every woman considering an abortion receive complete information on her alternatives and that every woman submitting to an abortion do so only after giving her voluntary and informed consent to the abortion procedure.

(b) Protect unborn children from a woman's uninformed decision to have an abortion.

(c) Reduce "the risk that a woman may elect an abortion only to discover later, with devastating psychological consequences, that her decision was not fully informed", *Planned Parenthood v. Casey*.

(d) Ensure that every woman considering an abortion receive complete information regarding the availability of anesthesia or analgesics that would eliminate or alleviate organic pain to the unborn child that could be caused by the particular method of abortion to be employed.

B. Informed consent; requirements. After a woman is determined to be pregnant, no abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

(1) The provisions of R.S. 40:1061.10 requiring an ultrasound test and determination of viability are met.

(2) The information required by this Section to be communicated orally and in person to the woman is provided to her individually and in a private room to protect her privacy, for the purpose of ensuring that the information focuses on her individual circumstances and that she has an adequate opportunity to ask questions.

(3)(a) Written information from the physician. Except as provided in Subparagraph (c) of this Paragraph, at least seventy-two hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, in writing and read orally and in person of:

(i) The name of the physician who meets the requirements of R.S. 46:1061.10(A) and who will perform the abortion, which shall be listed in the same manner as the name appears on the membership roll of the Louisiana State Board of Medical Examiners.

(ii) The location and specialty of the physician's residency and whether the residency of the physician has been completed.

(iii) Whether the physician is currently board certified and, if so, the medical specialty and the certifying organization.

(iv) Whether the physician has active admitting privileges at any hospital that provides obstetrical or gynecological healthcare services and, if so, the name of the hospital or hospitals. For purposes of this Subparagraph, "active admitting privileges" means that the physician is a member in good standing of the medical staff of a hospital that is currently licensed by the Louisiana Department of Health, with the ability to admit a patient and to provide diagnostic and surgical services to such patient.

(v) Whether the physician has malpractice insurance that would cover the abortion procedure.

(vi) Whether in the last ten years the physician has ever been placed on probation, reprimanded, or had his license suspended or revoked by any professional licensing organization and, if so, the jurisdiction in which the professional discipline was ordered. For purposes of this Subsection, the professional discipline action must be disclosed even if it was stayed or suspended. Disclosure of disciplinary action shall include but not be limited to action taken by the Louisiana State Board of Medical Examiners and the Louisiana Board of Pharmacy.

(vii) The internet address for disciplinary records of the Louisiana State Board of Medical Examiners.

(b) Oral information from the physician. Except as provided in Subparagraph (c) of this Paragraph, and in the same period of time provided for in the introductory paragraph of Subparagraph (a) of this Paragraph, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person of:

(i) A description of the proposed abortion method and of those risks (including risks to the woman's reproductive health) and alternatives to the abortion that a reasonable patient would consider material to the decision of whether or not to undergo the abortion.

(ii) The probable gestational age of the unborn child at the time the abortion is to be performed; and, if the unborn child is viable or has reached the gestational age of twenty-four weeks and the abortion may be otherwise lawfully performed under existing law, that:

(aa) The unborn child may be able to survive outside the womb.

(bb) The woman has the right to request the physician to use the method of abortion that is most likely to preserve the life of the unborn child.

(cc) If the unborn child is born alive, that attending physicians have the legal obligation to take all reasonable steps necessary to maintain the life and health of the child.

(iii) The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed.

(iv) The medical risks associated with carrying her child to term.

(v) Any need for anti-Rh immune globulin therapy, if she is Rh negative, the likely consequences of refusing such therapy, and a good faith estimate of the cost of the therapy.

(vi) The availability of anesthesia or analgesics to alleviate or eliminate organic pain to the unborn child that could be caused by the method of abortion to be employed.

(vii) The requirement that at least seventy-two hours prior to the woman's having any part of an abortion performed or induced, the physician, referring physician, or qualified person working in conjunction with either physician must perform an obstetric ultrasound under the provisions of R.S. 40:1061.10.

(viii) The inclusion in her printed materials of a comprehensive list, compiled by the department, of facilities that offer obstetric ultrasounds free of charge.

(c) If the woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then the physician who is to perform the abortion or the referring physician shall comply with all of the requirements of Subparagraphs (a) and (b) of this Paragraph at least twenty-four hours prior to the abortion.

(4) Oral information from a physician or qualified person.

(a) In the initial contact with an abortion provider by any person seeking to schedule an abortion for a minor or adult woman or for herself, whether such initial contact is by telephone, by internet communication, in person, or by any other means, the physician who is to perform the abortion or any person acting on behalf of the physician informs the person of the internet address of the department's abortion alternatives and informed consent website provided for in this Section.

(b)(i) Except as provided in Item (ii) of this Subparagraph, at least seventy-two hours before a scheduled abortion, the physician who is to perform the abortion, the referring physician, or a qualified person has informed the woman, orally and in person, that:

(aa) Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of such assistance is contained on the department's website and in the printed materials which shall be given to her as provided in this Section.

(bb) The department's website and printed materials describe the unborn child and list agencies which offer alternatives to abortion.

(cc) The father of the unborn child is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion. In the case of rape, this information may be omitted.

(dd) She is free to withhold or withdraw her consent to the abortion at any time before or during the abortion without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.

(ii) If the woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then the physician who is to perform the abortion, the referring physician, or a qualified person shall comply with all of the requirements of Item (i) of this Subparagraph at least twenty-four hours before a scheduled abortion.

(c) For purposes of this Paragraph, “qualified person” shall mean an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse, or physician.

(5)(a) Provision of printed materials. Except as provided in Subparagraph (b) of this Paragraph, at least seventy-two hours before the abortion, the woman is given a copy of the printed materials described in this Section by the physician who is to perform the abortion, the referring physician, or a qualified person as defined in Subparagraph (4)(c) of this Subsection. If the woman is unable to read the materials, they shall be read to her. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

(b) If the woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then the woman shall be given a copy of the printed materials described in this Section by the physician who is to perform the abortion, the referring physician, or a qualified person as defined in Subparagraph (4)(c) of this Subsection at least twenty-four hours before the abortion. If the woman is unable to read the materials, they shall be read to her. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

(6) Certification and reporting. The woman certifies in writing on a form provided by the department, prior to the abortion, that the information and materials required to be provided under this Section have been provided at least seventy-two hours prior to the abortion; or, if applicable, at least twenty-four hours prior to the abortion in the case of a woman who has given prior certification in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence. All physicians who perform abortions shall report the total number of certifications received monthly to the department. The department shall make the number of certifications received available to the public on an annual basis.

(7) Prior to the performance of the abortion, the physician who is to perform the abortion or his agent receives a copy of the written certification required by this Section.

(8) The woman is not required to pay any amount for the abortion procedures until the seventy-two-hour period has expired; or until expiration of the twenty-four-hour period applicable in the case of a woman who has given prior certification in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence.

C. Publication of abortion alternatives and informed consent website.

(1) The department shall cause to be published in English, within one hundred twenty days after enactment of this Act,⁶ and shall update on an annual basis, or as needed, the following easily comprehensible

information on a stable internet website that shall be developed and maintained by the department to inform the public of the public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while her child is dependent, including but not limited to the following information that shall indicate the agency's or service's physical address, telephone number, and web address if available:

- (a) Information about public and private agencies which provide medical assistance benefits that may be available for prenatal care, childbirth, and neonatal care, and easily comprehensible information on how to apply for such benefits.
- (b) Public and private pregnancy resource centers that provide information and services such as free abortion alternatives counseling, prenatal care, pantry services and parenting skills, and that do not refer, counsel, perform, induce, prescribe, or provide any means for abortion.
- (c) Information about the support obligations of the father of a child who is born alive and information about the judicial enforcement of child support.
- (d) Information on a separate and featured subpage of the department's website that lists facilities that provide free obstetric ultrasound services under the provisions of R.S. 40:1061.10 and this Section.
- (e) Information on a separate and featured webpage created and maintained by the Department of Children and Family Services linked on the department's website, accessible by redirecting from the domain name AdoptionOption.La.Gov, that lists public and private nonprofit adoption agencies that are not affiliated with an abortion provider, along with easily comprehensible first steps to aid a pregnant woman seeking to confidentially explore the option of placing her child for adoption, and indicating whether the adoption agency allows the woman to choose the adoptive parents.
- (f) Information on the anatomical and physiological characteristics of the unborn child pursuant to the provisions of this Section, including color photographs or images consistent with the most current technology depicting the unborn child at two-week gestational increments or closer.
- (g) Information describing the various methods of abortion procedures, the short-term and long-term medical risks associated with abortion, and the medical risks associated with carrying a child to term.
- (h) Information on the unborn child's ability to experience pain.
- (i) Video clips that convey objective and medically accurate information about abortion procedures, abortion risks, abortion alternative resources, and medically accurate information on the development of an unborn child. Video clips may be produced with the in-house resources of the department, or acquired for no cost to the state from third parties if the video is approved by the secretary as providing objective and medically accurate information.
- (j) Information that helps women identify unlawful abortion coercion, including but not limited to resources or hotlines that a minor or adult woman may call if she is experiencing actual or threatened physical abuse or violence, loss of employment or employment privileges, loss of eligible social assistance, loss of educational scholarship, or loss of legally protected financial support or housing.
- (k) Information to assist minors who are considering abortion, including parental consent information, and resources to help minors seek the protection of state child welfare services, temporary guardianship, or law enforcement authorities to report abuse as defined in Children's Code Article 603. The information designed to assist minors shall also include a link to pregnancy resource centers as defined in Subparagraph (1)(b) of this Subsection.

(2) The home page of the department's main website shall feature a button or other link which accesses the department's abortion alternatives and informed consent website, and the home page of such website shall feature user-friendly buttons that link to the information required in this Section. The department shall ensure that the resources described in this Section are comprehensive and user-friendly, and that they do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this Section.

(3) No information regarding who uses the website shall be collected or maintained. The department shall monitor the website to prevent and correct tampering and shall immediately notify abortion providers of any change of the website address.

(4) The search capabilities on the department's main website shall ensure that entering the term "abortion" yields the website and information required by this Section, regardless of how the information is labeled.

(5) The information on the department's abortion alternatives and informed consent website shall be printable. The printed materials required in Subsection D of this Section shall be available to download from the website in a portable document format without cost. The download of such information shall not be deemed to satisfy the requirements of Subsection B of this Section.

(6) The department's abortion alternatives and informed consent website shall be accessible to the public without requiring registration or use of a user name, a password, or any user identification.

(7) The department's abortion alternatives and informed consent website shall have the capability of detecting when it is being accessed by a mobile device and shall have the capability of converting to a platform designed to be easily viewable on mobile devices.

(8) If an abortion provider has a website, the abortion provider's internet website home page shall include a prominent link to the department's abortion alternatives and informed consent website.

D. Publication of printed materials. The department shall cause to be published, within one hundred twenty days after enactment of this Act⁴ and shall update on an annual basis or as needed, the following printed materials, which shall also be included as printable portable document format documents from the department's website:

(1) The signs provided for in the Forced Abortion Prevention Sign Act, R.S. 40:1061.15.

(2)(a) A list arranged geographically of Louisiana-based public or private nonprofit agencies, including the name, physical address, website address if available, and telephone number of each of the following:

(i) Entities that offer obstetric ultrasounds free of charge.

(ii) Entities that offer free and confidential counseling to a woman considering placing her child for adoption, along with the information provided pursuant to Subparagraph (C)(1)(e) of this Section.

(b) The lists provided for in this Subsection shall not include any facility that counsels, refers, performs, induces, prescribes, or provides any means for abortion.

(3) A printed booklet that features the web address of the department's dedicated pregnancy resource website printed in a bold large typeface. The booklet shall contain an outline of the various topics on the website as provided in Subsection C of this Section along with an explanation that more detailed information can be found at the department's website. The printed booklet shall state that it is unlawful for any individual to coerce a minor or adult woman to undergo an abortion, that any physician who performs

an abortion upon a woman without her informed consent may be liable to her for damages in a civil action at law, and that the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal care.

(a) The department's website and printed booklet shall include the following statements:

(i) "There are many public and private agencies willing and able to help you to carry your child to term, and to assist you and your child after your child is born, whether you choose to keep your child or to place her or him for adoption. The state of Louisiana strongly urges you to consult an independent physician about the risks of abortion to your physical and psychological well-being and to contact the resources provided on our website before making a final decision about abortion. The law requires that the abortion provider give you the opportunity to contact agencies like these before you undergo an abortion."

(ii) "By twenty weeks gestation, the unborn child has the physical structures necessary to experience pain. There is evidence that by twenty weeks gestation unborn children seek to evade certain stimuli in a manner which in an infant or an adult would be interpreted to be a response to pain. Anesthesia is routinely administered to unborn children who are twenty weeks gestational age or older who undergo prenatal surgery."

(b) The printed booklet shall include materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the unborn child at a minimum of two-week gestational increments from fertilization to full term, including color photographs or medical images consistent with the most current technology depicting the development of unborn children, and any relevant information on the possibility of the unborn child's survival; provided that any such color photographs or images shall contain the dimensions of the unborn child and shall be medically accurate. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures, the short-term and long-term medical risks associated with abortion as supported by peer-reviewed medical journals, and the medical risks associated with carrying a child to term.

(4) A certification form to be used by physicians or their agents as provided in this Section, which will list all the items of information which are to be given to women by physicians or their agents as required by this Section.

E. The materials provided for in Subsection D of this Section shall be printed in a typeface large enough to be clearly legible, and shall be available at no cost from the department upon request and in appropriate number to any person, facility, or hospital. The department's abortion alternatives and informed consent website shall contain information on ordering printed materials. The department shall promulgate rules and regulations relative to the methods of distribution of printed materials.

F. Medical emergency. Where a medical emergency compels the performance of an abortion, the physician shall orally inform the woman, before the abortion, if possible, of the medical indications supporting his judgment that an abortion is necessary to avert her death or to avert substantial and irreversible impairment of a major bodily function.

G. Reporting requirements. Any physician who has provided the information and materials to any woman in accordance with the requirements of this Section shall provide to the department:

(1) With respect to a woman upon whom an abortion is performed, all information as required by R.S. 40:1061.21 as well as the date upon which the information and materials required to be provided under this Section were provided, as well as an executed copy of the certification form required by this Section.

(2) With respect to any woman to whom the printed and oral information and materials have been provided in accordance with this Section, but upon whom the physician has not performed an abortion, the name and address of the facility where the required information was provided and if executed by the woman, a copy of the certification form required by this Section.

H. Criminal penalties.

(1) Any person who intentionally, knowingly, or recklessly fails to comply with all the requirements of this Section shall be subject to the penalties provided in R.S. 40:1061.29.

(2) No physician shall be guilty of violating this Section if he or she can demonstrate, by a preponderance of the evidence, that he or she reasonably believed that furnishing the required information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman, provided that the pregnancy is terminated in a licensed hospital and that it is necessary, as certified with supporting medical reasons by the physician in the woman's medical record, to avert the woman's death or avoid serious risk of substantial and irreversible impairment of a major bodily function, or to induce the premature delivery of an unborn child who is eighteen weeks gestational age or greater when the physician has made a good faith medical judgment that the unborn child's medical condition is such that there is no realistic possibility of maintaining the life of the unborn child outside the womb even if the unborn child were to be delivered after a full term pregnancy.

I. Limitation on civil liability. Any physician who complies with the provisions of this Section may not be held civilly liable to his patient for failure to obtain informed consent to the abortion under this Section. Any and all other rights and remedies are preserved to the patient.

J. Construction.

(1) Nothing in this Section shall be construed as creating or recognizing a right to abortion.

(2) It is not the intention of this Section to make lawful an abortion that is unlawful upon the effective date of this Act,⁶ or which later becomes unlawful. **Redesignated from R.S. 40:1299.35.6 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 1995, No. 648, § 1, eff. June 20, 1995; Acts 2007, No. 282, § 1; Acts 2010, No. 888, § 1; Acts 2011, No. 411, § 1; Acts 2012, No. 685, § 1; Acts 2016, No. 97, § 1; Acts 2018, No. 319, § 1; Acts 2019, No. 198, § 1, eff. June 11, 2019. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.17.1, Development of AdoptionOption.La.Gov website; task force:**

The legislature hereby establishes a task force within the Louisiana Department of Health to advise the secretary of the department concerning the preparation of the printed and internet materials provided for in R.S. 40:1061.17(C)(1)(e) and (D), and to develop public education initiatives to publicize the information in a manner consistent with state law. The task force shall be composed of the following members:

(1) Not more than two licensed clinical social workers licensed by the Louisiana State Board of Social Work Examiners, each of whom shall have experience in assisting birth mothers in navigating the adoption process, appointed by the governor.

- (2) Not more than two Louisiana residents who provide pre-abortion or post-abortion counseling in association with a nonprofit organization that does not counsel for or provide abortion, appointed by the governor.
- (3) Not more than two attorneys licensed in Louisiana and employed by nonprofit organizations who specialize in advocacy for women at risk of being coerced into abortion, or who specialize in navigating the adoption process, appointed by the governor.
- (4) Not more than two Louisiana residents who are employed by public or private nonprofit adoption agencies, appointed by the governor.
- (5) Not more than two executive directors of Louisiana nonprofit organizations that promote adoption as an alternative to abortion, or their designees.
- (6) Two members of the Senate appointed by the president.
- (7) Two members of the House of Representatives appointed by the speaker.
- (8) The secretary of the Louisiana Department of Health or his designee, who shall serve as a co-chairperson of the task force.
- (9) The secretary of the Department of Children and Family Services or his designee, who shall serve as a co-chairperson of the task force. **Added by Acts 2018, No. 319, § 1.**

- **La. R.S. 40:1061.18, Abortion sought due to rape or certain acts of crime against nature; reporting and certification:**

A. Whenever an abortion is being sought pursuant to R.S. 40:1061.6 to terminate a pregnancy resulting from an alleged act of rape, prior to the abortion all of the following requirements shall be met:

- (1) The rape victim shall report the rape to a law enforcement official unless the treating physician certifies in writing that in the physician's professional opinion, the victim was too physically or psychologically incapacitated to report the rape.
- (2) The victim certifies that the pregnancy is the result of rape, which certificate shall be witnessed by the treating physician.

B. Whenever an abortion is being sought pursuant to R.S. 40:1061.6 to terminate a pregnancy resulting from an alleged act of crime against nature as defined by R.S. 14:89(A)(2), prior to the abortion all of the following requirements shall be met:

- (1) The victim of crime against nature as defined by R.S. 14:89(A)(2) shall report the act to a law enforcement official unless the treating physician certifies in writing that in the physician's professional opinion the victim was too physically or psychologically incapacitated to report the act.
- (2) The victim certifies that the pregnancy is the result of crime against nature as defined by R.S. 14:89(A)(2), which certificate shall be witnessed by the treating physician.

C. The failure of the victim to comply with Subsection A or B, as applicable, shall not subject the victim to the provisions of R.S. 40:1061.28.

D. Whenever an abortion is being sought pursuant to R.S. 40:1061.6 to terminate a pregnancy resulting from an alleged act of rape or crime against nature as defined by R.S. 14:89(A)(2), the victim may request spiritual counseling and shall be offered the same informed consent information, without the seventy-two-

hour or twenty-four-hour delay, whichever may be applicable pursuant to R.S. 40:1061.17(B), prior to the performance of the abortion. **Redesignated from R.S. 40:1299.35.7 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1994, 4th Ex.Sess., No. 1, § 1, eff. Aug. 23, 1994. Amended by Acts 2005, No. 421, § 1; Acts 2014, No. 602, § 6, eff. June 12, 2014; Acts 2016, No. 97, § 1.**

○ **La. R.S. 40:1061.19, Records:**

A. In addition to any other duty that may be imposed by state law or regulations, each physician who performs or induces an abortion, the medical director of the facility where an abortion is performed or induced, the administrator of an abortion facility, each abortion facility, and each owner of an abortion facility shall have an independent duty to ensure that a designated custodian of records for the facility obtains, retains, and makes part of the medical record of each pregnant woman upon whom an abortion is performed or induced at least one copy of each of the following documents:

- (1) The certificate required by R.S. 40:1061.13.
- (2) If the pregnant woman is an unemancipated minor, one of the following:
 - (a) A notarized consent form and copies of identification as provided for in R.S. 40:1061.14(A)(1).
 - (b) A court order required by R.S. 40:1061.14(B), if applicable.
- (3) The consent form required by R.S. 40:1061.17.
- (4) The reports required by R.S. 40:1061.21.
- (5) The certificate required by R.S. 40:1061.23, if applicable.
- (6) The signed certification form provided for in R.S. 40:1061.16(C) indicating that the woman or minor female acknowledged receipt of informational materials concerning psychological impacts, illegal coercion, abuse, and human trafficking.
- (7) Any report made pursuant to Title VI of the Children's Code and any other report made to law enforcement in relation to the patient.

B. The individuals listed in Subsection A of this Section and the abortion facility shall each have an independent duty to ensure that the custodian of records for the abortion facility where the abortion was performed or induced retains the documents required in Subsection A of this Section for not less than seven years for adult patients and not less than ten years from the age of majority for minor patients. The ten-year period for minors shall begin to run when the patient attains the age of eighteen; provided, however, that in any case where the patient has reported facts that would require reporting under Title VI of the Children's Code, the retention period shall be thirty years.

C. For purposes of this Section, "owner" shall include each person with an ownership interest totaling five percent or more in an abortion facility.

- D. (1) Any person who intentionally or negligently fails to comply with the requirements of this Section or any duty recognized therein shall be subject to the penalties provided for in R.S. 40:1061.29.
- (2) Any abortion facility that fails to comply with the requirements of this Section or any duty recognized therein shall be subject to the penalties provided for in R.S. 40:1061.29.
- (3) Each medical record that does not include the documents identified in Subsection A of this Section, or which is not retained for the time specified in Subsection B of this Section, shall constitute a separate

incidence or occurrence for purposes of R.S. 40:1061.29, and shall constitute a continuing violation until the relevant retention period specified in Subsection B of this Section has expired.

E. (1) In addition to the remedies provided in this Section and any other remedies available under the laws of this state, a person listed in Subsection A of this Section who, either intentionally or with negligence, fails to obtain, make part of a medical record, or retain any document in compliance with this Section may be temporarily or permanently disqualified from performing or inducing an abortion, applying for a medical facility license, or otherwise operating or managing a medical facility in this state.

(2) For purposes of this Subsection, “operating” or “managing” shall include acting as an owner, governing board member, physician, medical director, administrator, or in any comparable role or title in which the individual has executive responsibility for the medical facility or has professional medical responsibility for patient care.

F. Each abortion facility, as a condition of obtaining and maintaining a license under R.S. 40:2175.1 et seq., shall establish a written record retention and archiving policy, which shall be submitted within thirty days of June 22, 2019, to the department. The department shall review and approve the policy within ninety days of its receipt. During the pendency of the ninety days, the facility shall be deemed in compliance with this Section and if the department fails to act within ninety days of receipt of the proposed policy, the policy shall be deemed approved. The policy shall be signed by the individuals identified in Subsection A of this Section who shall acknowledge their legal obligations and acknowledge receiving a copy of the policy.

G. A person may comply with this Section by depositing a copy of each document required by Subsection A of this Section with the department in an organized and readily accessible format. The department shall have a cause of action against the persons identified in Subsection A of this Section for the reasonably anticipated cost of storing the documents for the required period of time, for which those persons shall be liable in solido. **Redesignated from R.S. 40:1299.35.8 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 2014, No. 569, § 2; Acts 2017, No. 165, § 1; Acts 2019, No. 435, § 1, eff. June 22, 2019. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.20, Conscience in health care protection; definitions:**

A. (1) Any person has the right not to participate in, and no person shall be required to participate in any health care service that violates his conscience to the extent that patient access to health care is not compromised. No person shall be held civilly or criminally liable, discriminated against, dismissed, demoted, or in any way prejudiced or damaged for declining to participate in any health care service that violates his conscience.

(2) This Section shall not prevent an inquiry by an employer or patient regarding whether a person declines to participate in any health care service that violates its conscience. When a patient requests health care services, a person shall identify, in writing, as soon as practicable, his declination to provide a service in accordance with the provisions of this Section. All persons who have a sincerely held religious belief or moral conviction and who seek employment at a health care facility shall notify the prospective employer of the existence of any sincerely held religious belief or moral conviction. Any health care facility that employs a person with a sincerely held religious belief or moral conviction shall ensure that the health care facility has sufficient staff to provide patient care in the event an employee declines to participate in any health care service that violates his conscience.

(3) The provisions of this Section shall not be construed to relieve any health care provider from providing emergency care as required by state or federal law.

(4) A person shall notify his employer in writing as soon as practicable of any health care service that violates his conscience. A person shall notify any patient before such person provides any consultation or service to the patient of the existence of a health care service that he will decline to provide because the health care service violates his conscience.

B. For purposes of this Section:

(1) “Conscience” means sincerely held religious belief or moral conviction.

(2) “Health care service” is limited to abortion, dispensation of abortifacient drugs, human embryonic stem cell research, human embryo cloning, euthanasia, or physician-assisted suicide.

C. A suit alleging a violation of this Section shall be brought in a district court in accordance with R.S. 23:303. **Redesignated from R.S. 40:1299.35.9 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2009, No. 372, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.21, Reports:**

A. An individual abortion report for each abortion performed or induced shall be completed by the attending physician. The report shall be confidential and shall not contain the name or address of the woman. The report shall include all of the following:

(1) Patient number.

(2) Name and address of the facility at which the abortion was performed or induced.

(3) Date of abortion.

(4) The parish and zip code, if any, in which the pregnant woman resides.

(5)(a) Age of pregnant woman.

(b) If the pregnant woman is a minor, the report shall include all of the following:

(i)(aa) A notation of whether the abortion was performed pursuant to either notarized parental consent or a judicial bypass order as provided for in R.S. 40:1061.14.

(bb) If the abortion was performed pursuant to a judicial bypass order as provided for in R.S. 40:1061.14, the report shall indicate the judicial district of the court that issued the order.

(ii) A notation indicating whether or not the physician or any other staff member of the abortion facility suspected that the minor was the victim of any form of child abuse or neglect and filed a report of such abuse or neglect in accordance with Children's Code Article 610.

(c) If the pregnant woman is a minor and the abortion was performed pursuant to a judicial bypass order as provided for in R.S. 40:1061.14, the report shall include all of the following:

- (i) A notation indicating whether or not the minor was required to participate in an evaluation and counseling session with a mental health professional from the Louisiana Department of Health or a staff member from the Department of Children and Family Services as provided for in R.S. 40:1061.14(B)(3)(b).
 - (ii) A notation indicating whether or not the court issued a protective order for the minor, afforded her the continued services of a court-appointed special advocate, or did both, as authorized in R.S. 40:1061.14(B)(4)(c).
 - (iii) A notation of whether the judicial bypass was granted because of a finding that the minor girl was mature and capable of giving informed consent, as provided for in R.S. 40:1061.14(B)(4)(b).
 - (iv) A notation of whether the judicial bypass was granted because of a finding that the performance of the abortion without parental notification and consent was in the best interest of the minor, as provided for in R.S. 40:1061.14(B)(6).
 - (v) A notation of whether or not the physician or any other staff member of the abortion facility referred the woman to any licensed professional for post-abortion counseling.
 - (vi) A notation of whether or not the physician or any other staff member of the abortion facility referred the woman to the Louisiana Department of Health or the Department of Children and Family Services for any health services or other human services.
- (6) Race.
 - (7) Marital status.
 - (8) Number of previous pregnancies.
 - (9) Educational background.
 - (10) Number of living children.
 - (11) Number of previous induced abortions.
 - (12) Date of last induced abortion.
 - (13) Date of live birth.
 - (14) Method of contraception at time of conception, if any.
 - (15) Date of beginning of last menstrual period.
 - (16) Medical condition of woman at time of abortion.
 - (17) Rh type of pregnant woman.
 - (18) A photographic print or image produced as the result of the ultrasound test required by R.S. 40:1061.10(D).
 - (19) Type of abortion procedure.
 - (20) Reason for abortion.
 - (21) Complications by type.
 - (22) Type of procedure done after the abortion.

(23) Type of family planning recommended.

(24) Type of additional counseling given.

(25) Signature of attending physician.

(26) Copies, with the name and address obliterated, of the election forms, certificates, and consent forms required pursuant to the provisions of this Chapter.

B. An individual complication report for any post-abortion care performed upon a woman shall be completed by the physician providing such post-abortion care. The report shall include:

(1) The date of the abortion.

(2) The name and address of the facility where the abortion was performed or induced.

(3) The nature of the abortion complication diagnosed or treated.

(4) The name and address of the facility where the post-abortion care was performed.

C. All abortion reports shall be signed by the attending physician and submitted to the Louisiana Department of Health within thirty days after the date of the abortion. All complication reports shall be signed by the physician providing the post-abortion care and submitted to the Louisiana Department of Health within thirty days after the date of the completion of the post-abortion care.

D. (1) The Louisiana Department of Health shall be responsible for collecting all abortion reports and complication reports and collating and evaluating all data gathered therefrom, and shall annually publish a statistical report based on such data from abortions performed in the previous calendar year.

(2) The annual report required by this Subsection shall include a special section addressing abortions performed on minors. This section of the report shall feature, at minimum, a compilation of the information required by the provisions of Paragraph (A)(5) of this Section to be included in individual abortion reports.

E. The Louisiana Department of Health shall, on a quarterly basis, provide to the Department of Children and Family Services and to the attorney general copies of all abortion reports in which a minor pregnant woman under the age of thirteen received an abortion. **Redesignated from R.S. 40:1299.35.10 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 1986, No. 948, § 1; Acts 1999, No. 1232, § 1, eff. July 9, 1999; Acts 2001, No. 1110, § 1, eff. June 28, 2001; Acts 2012, No. 685, § 1; Acts 2017, No. 165, § 1; Acts 2021, No. 425, § 1; Acts 2021, No. 482, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.22, Forms:**

The Louisiana Department of Health shall make available to physicians performing abortions in this state the forms for preparing the records and reports required pursuant to the provisions of this Chapter. **Redesignated from R.S. 40:1299.35.11 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 2012, No. 685, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.23, Emergency:**

The provisions of this Chapter shall not apply when a medical emergency compels the immediate performance of an abortion because the continuation of the pregnancy poses an immediate threat and grave risk to the life or permanent physical health of the pregnant woman. Within twenty-four hours, the attending physician shall certify to the emergency need for the abortion and shall enter such certification in the medical record of the pregnant woman. **Redesignated from R.S. 40:1299.35.12 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1999, No. 1232, § 1, eff. July 9, 1999; Acts 2001, No. 1110, § 1, eff. June 28, 2001; Acts 2014, No. 569, § 2. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.24, Experimentation:**

No person shall experiment on an unborn child or on a child born as the result of an abortion, whether the unborn child or child is alive or dead, unless the experimentation is therapeutic to the unborn child or child. **Redesignated from R.S. 40:1299.35.13 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1981, No. 774, § 1, eff. July 23, 1981. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.25, Remains; disposal in accordance with applicable regulations; post-abortion harvesting of fetal organs prohibited; penalties:**

A. (1) Each physician who performs or induces an abortion which does not result in a live birth shall ensure that the remains of the child are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq., except in the case of an abortion induced by the administration of medications when the evacuation of any human remains occurs at a later time, neither in the presence of the inducing physician nor at the facility in which the physician administered the inducing medications.

(2) The department shall promulgate in accordance with the Administrative Procedure Act all rules as are necessary to facilitate the transfer and burial of aborted human remains in a manner consistent with the transfer and burial of unclaimed human remains.

B. With respect to post-abortion harvesting of fetal organs, tissues, and cells, the legislature hereby finds the following:

(1) The United States Supreme Court decision of *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), and its progeny establish a constitutionalized right of a woman to choose to terminate her pregnancy. However, the court has never endorsed a right to harvest the body parts of unborn human beings, whether for profit or donation.

(2) The protocol known commonly as the “dead donor rule” is a longstanding ethical norm that protects the integrity of human organ donation by providing that organ donors must be dead before procurement of organs begins, and that organ procurement itself must not cause the death of the donor. The harvesting of organs, tissues, and cells from unborn children whose deaths are directly caused by induced abortion, as defined in R.S. 40:1061.9, violate the dead donor rule in both respects due to the following conditions:

(a) The unborn children are alive when the fetal repositioning and crushing point decisions are made by the abortion provider with the goal of procuring intact fetal hearts, lungs, livers, brains, and other organs and tissues.

(b) The repositioning of the fetus and crushing above and below the thorax to procure intact fetal organs, tissues, and cells is itself the cause of death of the human being from whom the organs are then harvested.

(c) The human being whose fetal organs are procured does not have the capacity to consent to organ donation, and proxy consent for donation by the unborn child's mother is invalid given that the unborn child is alive at the time the consent forms are signed.

(3) The practice of presenting fetal organ donation forms to pregnant women considering their options constitutes unethical undue influence and coercion, and amounts to an incentive to actively participate in the killing of a living human being for the speculative and attenuated benefit of helping researchers.

(4) Regardless of whether prior proxy consent obtained from the mother is ethical and proper for an unborn child whose death is imminent due to natural miscarriage, it is a gross violation of ethical norms to unduly coerce a mother who is considering pregnancy options to directly participate in the decision to cause the death of her living unborn child for the speculative and attenuated benefit that may come from scientific experimentation.

(5) States are free to ban the practice of selling or donating the bodies of human beings killed by abortion because federal law does not preempt that area of law. Particularly, 42 U.S.C. 289g-1(e) allows for the conduct of fetal tissue transplantation only in accordance with applicable state and local law.

C. (1) Except as provided in Subsection D of this Section, it shall be unlawful for any person or entity to buy, sell, donate, accept, distribute, or otherwise transfer or use for any purpose the intact body of a human embryo or fetus whose death was knowingly caused by an induced abortion, or the human organs, tissues, or cells obtained from a human embryo or fetus whose death was knowingly caused by an induced abortion.

(2) Whoever violates the provisions of this Subsection shall be subject to civil penalties relative to abortion, generally, provided in R.S. 40:1061.29.

D. (1) Nothing in this Section shall be construed to prohibit final disposition of the bodily remains of the aborted human being in accordance with state law, or to prohibit any conduct permitted under state law that is undertaken with any of the following purposes:

(a) The purpose of providing knowledge solely to the mother, such as for pathological or diagnostic purposes.

(b) The purpose of providing knowledge solely to law enforcement officers, such as the case of an autopsy following a feticide.

(2) Nothing in this Section shall be construed to prohibit any transaction related to the donation of bodily remains from a human embryo or fetus whose death was caused by a natural miscarriage or stillbirth, in accordance with the guidelines and prohibitions provided in applicable state and federal law.

E. Nothing in this Section shall be construed to alter generally accepted medical standards, affect existing federal or state law regarding the practice of abortion, or to create or recognize a right to abortion.

Redesignated from R.S. 40:1299.35.14 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1980, No. 418, § 1; Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 2016, No. 593, § 1; Acts 2018, No. 204, § 1, eff. May 15, 2018. This provision has been amended this past legislative session through Act 545 (S.B. 342).

○ **La. R.S. 40:1061.26, Instructions to be provided subsequent to abortion:**

Any physician who shall perform or induce an abortion, shall subsequent to the abortion being performed or induced, provide his patient with specific oral and written medical instructions to be followed by that patient in order to insure her safe recovery from the abortion. **Redesignated from R.S. 40:1299.35.15 by**

H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).

○ **La. R.S. 40:1061.27, Partial birth abortion:**

A. There is hereby created a cause of action for civil damages for injuries and wrongful death, as more fully set forth in Louisiana Civil Code Articles 2315.1 and 2315.2, for a partial birth abortion procedure, except that such causes of action shall only be maintained by the following persons:

- (1) The natural or biological father of the aborted infant or fetus, unless such father is a person of the full age of majority and consented to the abortion, or unless his criminal conduct caused the pregnancy.
- (2) The mother of the aborted infant or fetus, unless the mother is a person of the full age of majority and consented to the partial birth abortion.
- (3) The parents or guardian on behalf of the mother of the aborted infant or fetus if the mother was a minor at the time of the abortion, unless the parents or guardian consented to the partial birth abortion.

B. For the purposes of this Section:

- (1) “Partial birth abortion” means an abortion in which: (a) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and (b) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.
- (2) “Physician” means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the state in which the doctor performs such activity, or any other individual legally authorized by this state to perform abortions, provided, however, that any individual who is not a physician or not otherwise legally authorized by this state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

C. This Section shall 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. **Redesignated from R.S. 40:1299.35.17 by Acts 2008, No. 220, § 14, eff. June 14, 2008; R.S. 40:1299.35.17 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2007, No. 477, § 2, eff. July 12, 2007. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:1061.28, Partial birth abortion, civil action against abortionist:**

A. No licensed physician or any other person shall perform a partial birth abortion on a female unless the procedure performed is necessary to save the life of the female because her 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.

B. As used in this Section, the following definitions shall apply unless otherwise indicated:

(1) “Partial birth abortion” means an abortion in which:

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

(b) The person performing the abortion performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

(2) “Physician” means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state. For the purposes of this Paragraph, “the practice of medicine” means the holding out of one's self to the public as being engaged in the business of, or the actual engagement in, the diagnosing, treating, curing, or relieving of any bodily or mental disease, condition, infirmity, deformity, defect, ailment, or injury in any human being, other than himself, whether by the use of any drug, instrument or force, whether physical or psychic, or of what other nature, or any other agency or means; or the examining, either gratuitously or for compensation, of any person or material from any person for such purpose whether such drug, instrument, force, or other agency or means is applied to or used by the patient or by another person; or the attending of a woman in childbirth without the aid of a licensed physician or midwife.

C. Any person who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

D. There is hereby created a cause of action for civil damages for injuries and wrongful death as more fully set forth in Louisiana Civil Code Articles 2315.1 and 2315.2, except that such causes of action shall only be maintained by the following persons:

(1) The natural or biological father of the aborted infant or fetus, unless such father's criminal conduct caused the pregnancy.

(2) The mother of the aborted infant or fetus, unless the mother is a person of the full age of majority and consented to the partial birth abortion.

(3) The parents or guardian on behalf of the mother of the aborted infant or fetus if the mother was a minor at the time of the abortion, unless the parents or guardian consented to the partial birth abortion.

E. (1) A physician charged with an offense under this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the physician. Upon motion of the physician, the court shall delay the beginning of the trial for not more than thirty days to permit such hearing to take place. **Redesignated from R.S. 40:1299.35.18 by Acts 2008, No. 220, § 14; R.S. 40:1299.35.18 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 2007, No. 473, § 2, eff. July 12, 2007. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:1061.29, Penalties:**

A. Whoever violates the provisions of this Chapter shall be fined not more than one thousand dollars per incidence or occurrence, or imprisoned for not more than two years, or both.

B. Whoever violates the provisions of this Chapter shall be subject to a civil fine of one thousand dollars per incidence or occurrence. In addition to any other authority granted by the constitution and laws of this state, the attorney general shall have the authority to pursue the civil fines provided for in this Section.

C. In addition to whatever remedies are otherwise available under the law of this state, failure to comply with the provisions of this Chapter shall:

(1) Provide a basis for a civil malpractice action. Such an action may be brought by the woman upon whom the abortion was performed. Any intentional violation of this Chapter shall be admissible in a civil suit as prima facie evidence of a failure to comply with the requirements of this Chapter. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

(2) Provide a basis for professional disciplinary action, including but not limited to any action authorized under R.S. 37:1261 et seq.

(3) Provide a basis for recovery for the woman for the death of her unborn child under Civil Code Article 2315.2, whether or not the unborn child was viable at the time the abortion was performed, or was born alive.

(4) Provide a basis for the attorney general, the district attorney in whose jurisdiction the violation occurred, or the secretary of the department to obtain a writ of injunction, which shall not be subject to being released upon bond. The trial of the proceeding shall be summary and by the judge without a jury. **Redesignated from R.S. 40:1299.35.19 by Acts 2008, No. 220, § 14; R.S. 40:1299.35.19 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1978, No. 435, § 1. Amended by Acts 1981, No. 774, § 1, eff. July 23, 1981; Acts 2011, No. 411, § 1; Acts 2013, No. 259, § 1, eff. June 10, 2013; Acts 2019, No. 435, § 1, eff. June 22, 2019.**

○ **La. R.S. 40:1061.30, Standing; action to close outpatient abortion clinic:**

In addition to any violation of this Chapter, the following acts shall subject licensed outpatient abortion facilities to the provisions of R.S. 40:2175.6 regarding license suspension or revocation:

(1) Systematically, intentionally, or deliberately falsifying or destroying patient files or records in violation of R.S. 40:1061.17.

(2) Completing in advance of an appointment with a woman seeking abortion any portion of patient records or forms required by R.S. 40:1061.17 to include patient-specific data or a physician's signature. **Added by Acts 2018, No. 564, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

● **Statute Combating Certain Genetic Related Diseases**

○ **La. R.S. 40:1081.1, Programs for combating phenylketonuria, congenital hypothyroidism, galactosemia, sickle cell diseases, biotinidase deficiency, and other genetic conditions:**

A. The Louisiana Department of Health is hereby authorized and directed to establish, maintain, and carry out programs designed to reduce mortality and morbidity from sickle cell disease and to prevent central nervous system damage in children with phenylketonuria, congenital hypothyroidism, biotinidase deficiency, galactosemia and genetic conditions tested under the authority of R.S. 40:1081.2(B).

B. (1) The Louisiana Department of Health shall establish and maintain a diagnostic laboratory for each of the following purposes:

(a) Conducting experiments, projects, and other undertakings as may be necessary to develop tests for the early detection of phenylketonuria, congenital hypothyroidism, galactosemia, sickle cell diseases, biotinidase deficiency, and other genetic conditions.

(b) Developing ways or discovering methods to be used for the prevention and treatment of these diseases.

(c) Such other purposes as may be deemed necessary by the department to carry out any program adopted under the authority of this Subpart, including conducting experiments, projects, and other undertakings as may be necessary to develop tests for genetic conditions made part of the battery of tests by the Louisiana Department of Health under R.S. 40:1081.2(B).

(2) Notwithstanding the foregoing, the term “prevention” as used with respect to sickle cell anemia shall not mean mandatory sterilization or abortion.

C. The department is authorized to adopt rules and regulations necessary to carry out any program which may be established.

D. The Louisiana Department of Health shall establish a program for informing physicians and hospitals of the current medical standards for diagnosing and treating children who exhibit clinical symptoms which suggest the existence of galactosemia. This program shall be established in consultation with and shall be based on the recommendations of the Louisiana Hospital Association and the Louisiana State Medical Society. **Redesignated from R.S. 40:1299 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1964, No. 269, § 1. Amended by Acts 1978, No. 442, § 2; Acts 1978, No. 786, § 5, eff. July 17, 1978; Acts 1981, No. 430, § 1; Acts 1982, No. 375, § 1; Acts 1984, No. 265, § 2; Acts 1987, No. 598, § 1, eff. July 9, 1987; Acts 1989, No. 91, § 1; Acts 1991, No. 729, § 1; Acts 1993, No. 997, § 1; Acts 1999, No. 328, § 1.**

- **Medical Consent**

- **La. R.S. 40:1159.1, Short title:**

This Subpart shall be known as and may be cited as the “Louisiana Medical Consent Law.” **Redesignated from R.S. 40:1299.50 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1975, No. 798, § 1.**

- **La. R.S. 40:1159.2, Subpart not applicable to abortion and sterilization:**

The provisions of this Subpart shall not apply in any manner whatsoever to the subjects of abortion and sterilization, which subjects shall continue to be governed by existing law independently of the terms and provisions of this Subpart. **Redesignated from R.S. 40:1299.51 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1975, No. 798, § 1.**

- **Healthcare Facilities**

○ **La. R.S. 40:1203.1, Definitions:**

For the purposes of this Part:

- (1) “Authorized agency” means a private entity authorized by the office of state police to conduct the criminal history checks provided for in this Part. Nothing herein shall be construed as expanding the access to confidential law enforcement records of the state of Louisiana or its political subdivisions or authorizing access by said agency to the computerized records of law enforcement agencies.
- (2) “Department” means the Louisiana Department of Health.
- (3) “Educational institution” means a community college, vocational-technical program, or other educational entity offering a clinical preceptor nurse aide training program developed by the Louisiana Community and Technical College System pursuant to R.S. 40:1201.1 et seq.
- (4) “Employer” means any of the following facilities, agencies, providers, or programs:
 - (a) A nursing facility, as defined in R.S. 40:2009.2.
 - (b) An intermediate care facility for people with developmental disabilities.
 - (c) An adult residential care provider as defined in R.S. 40:2166.3.
 - (d) A pain management clinic as defined in R.S. 40:2198.11.
 - (e) A home health agency, as defined in R.S. 40:2116.31.
 - (f) A hospice, as defined in R.S. 40:2182.
 - (g) An ambulance service as defined in R.S. 40:1131.
 - (h) A home- and community-based service provider, as defined in R.S. 40:2120.2.
 - (i) An ambulatory surgical center as defined in R.S. 40:2133.
 - (j) A crisis receiving center as defined in R.S. 40:2180.12.
 - (k) A nonemergency, nonambulance medical transportation facility or entity.
 - (l) A Medicaid Personal Care Services or Section 1915(c) Home and Community-based Services Waiver Program.
 - (m) Any other direct service worker as defined in R.S. 40:2179 and 2179.1.
 - (n) A pediatric day health care facility, as defined in R.S. 40:2193.1(B)(5).
 - (o) An adult day health care provider as defined in R.S. 40:2120.42.
 - (p) A psychiatric residential treatment facility licensed pursuant to R.S. 40:2009.
 - (q) An end stage renal disease facility as defined in R.S. 40:2117.1.
 - (r) A behavioral health services provider as defined in R.S. 40:2153.
 - (s) An adult brain injury facility as defined in R.S. 40:2120.33.
 - (t) A rural health clinic as defined in R.S. 40:1185.3.

- (u) A therapeutic group home licensed pursuant to R.S. 40:2009.
 - (v) A provider of case management services.
 - (w) A forensic supervised transitional residential and aftercare facility as defined in R.S. 28:32.
 - (x) An outpatient abortion facility as defined in R.S. 40:2175.3.
 - (y) A hospital as defined in R.S. 40:2102.
 - (z) A free-standing birth center, as defined in R.S. 40:2180.23.
- (5) “Licensed ambulance personnel” means personnel who provide services, either for compensation or volunteer services, as an emergency medical service practitioner, including licensed emergency medical technicians, licensed advanced emergency medical technicians, licensed paramedics, and licensed first emergency medical responders.
- (6) “Nonlicensed person” means any person who provides for compensation nursing care or other health-related services directly related to patient care to residents in or patients of a nursing facility, intermediate care facility for people with developmental disabilities, adult residential care facility or provider, pediatric day health care facility, adult day health care center, psychiatric residential treatment facility, end stage renal disease facility, behavioral health services provider, home health agency, hospice agency, provider of ambulance services, hospital, adult brain injury facility, crisis receiving center, pain management clinic, outpatient abortion facility, rural health clinic, ambulatory surgical center, therapeutic group home, forensic supervised transitional residential and aftercare facility, case management provider, or home- and community-based service provider and who is not a licensed health provider. “Nonlicensed person” also means any person who provides such services to individuals in their own homes as an employee or contract provider of a home health agency, hospice, or home- and community-based service provider. “Nonlicensed person” also means any other direct service worker as defined in R.S. 40:2179 and 2179.1. “Nonlicensed person” also means a student or trainee applying for enrollment in a clinical preceptor training program authorized by R.S. 40:1201.1 et seq., or in a nurse aide training program approved by the department pursuant to federal and state law or regulation.
- (7) “Office” means the office of state police within the Department of Public Safety and Corrections.
- (8) “Training program” means a department-approved clinical preceptor nurse aide training program. **Redesignated from R.S. 40:1300.51 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1993, No. 594, § 1, eff. Aug. 15, 1994. Amended by Acts 1995, No. 917, § 1, eff. June 28, 1995; Acts 1997, No. 753, § 1; Acts 2004, No. 299, § 1, eff. June 18, 2004; Acts 2004, No. 797, § 1, eff. July 8, 2004; Acts 2005, No. 306, § 2, eff. June 29, 2005; Acts 2006, No. 163, § 2; Acts 2008, No. 839, § 3, eff. July 8, 2008; Acts 2009, No. 35, § 1, eff. June 15, 2009; Acts 2009, No. 381, § 1, eff. July 6, 2009; Acts 2016, No. 311, § 2, eff. June 2, 2016; Acts 2018, No. 206, § 4; Acts 2019, No. 43, § 1; Acts 2019, No. 332, § 1, eff. June 11, 2019.**

- **MRP**

- **La. R.S. 40:1231.8, Medical review panel:**

A. (1)(a) All malpractice claims against health care providers covered by this Part, other than claims validly agreed for submission to a lawfully binding arbitration procedure, shall be reviewed by a medical review panel established as hereinafter provided for in this Section. The filing of a request for review by a medical review panel as provided for in this Section shall not be reportable by any health care provider, the

Louisiana Patient's Compensation Fund, or any other entity to the Louisiana State Board of Medical Examiners, to any licensing authority, committee, or board of any other state, or to any credentialing or similar agency, committee, or board of any clinic, hospital, health insurer, or managed care company.

(b) A request for review of a malpractice claim or a malpractice complaint shall contain, at a minimum, all of the following:

(i) A request for the formation of a medical review panel.

(ii) The name of only one patient for whom, or on whose behalf, the request for review is being filed; however, if the claim involves the care of a pregnant mother and her unborn child, then naming the mother as the patient shall be sufficient.

(iii) The names of the claimants.

(iv) The names of the defendant health care providers.

(v) The dates of the alleged malpractice.

(vi) A brief description of the alleged malpractice as to each named defendant health care provider.

(vii) A brief description of the alleged injuries.

(c) A claimant shall have forty-five days from the date of receipt by the claimant of the confirmation of receipt of the request for review in accordance with Subparagraph (3)(a) of this Subsection to pay to the board a filing fee in the amount of one hundred dollars per named defendant qualified under this Part.

(d) Such filing fee may be waived only upon receipt of one of the following:

(i) An affidavit of a physician holding a valid and unrestricted license to practice his specialty in the state of his residence certifying that adequate medical records have been obtained and reviewed and that the allegations of malpractice against each defendant health care provider named in the claim constitute a claim of a breach of the applicable standard of care as to each named defendant health care provider.

(ii) An in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq. by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the medical review panel process.

(e) Failure to comply with the provisions of Subparagraph (c) or (d) of this Paragraph within the specified forty-five day time frame in Subparagraph (c) of this Paragraph shall render the request for review of a malpractice claim invalid and without effect. Such an invalid request for review of a malpractice claim shall not suspend time within which suit must be instituted in Subparagraph (2)(a) of this Subsection.

(f) All funds generated by such filing fees shall be private monies and shall be applied to the costs of the Patient's Compensation Fund Oversight Board incurred in the administration of claims.

(g) The filing fee of one hundred dollars per named defendant qualified under this Part shall be applicable in the event that a claimant identifies additional qualified health care providers as defendants. The filing fee applicable to each identified qualified health care provider shall be due forty-five days from the mailing date of the confirmation of receipt of the request for review for the additional named defendants in accordance with Subparagraph (3)(a) of this Subsection.

(2)(a) The filing of the request for a review of a claim shall suspend the time within which suit must be instituted, in accordance with this Part, until ninety days following notification, by certified mail, as

provided in Subsection J of this Section, to the claimant or his attorney of the issuance of the opinion by the medical review panel, in the case of those health care providers covered by this Part, or in the case of a health care provider against whom a claim has been filed under the provisions of this Part, but who has not qualified under this Part, until ninety days following notification by certified mail to the claimant or his attorney by the board that the health care provider is not covered by this Part. The filing of a request for review of a claim shall suspend the running of prescription against all joint and solidary obligors, and all joint tortfeasors, including but not limited to health care providers, both qualified and not qualified, to the same extent that prescription is suspended against the party or parties that are the subject of the request for review. Filing a request for review of a malpractice claim as required by this Section with any agency or entity other than the division of administration shall not suspend or interrupt the running of prescription. All requests for review of a malpractice claim identifying additional health care providers shall also be filed with the division of administration.

(b)(i) The request for review of a malpractice claim under this Section shall be deemed filed on the date the request is:

(aa) Sent, if the request is electronically sent by facsimile transmission or other authorized means, as provided by R.S. 9:2615(A), to the division of administration.

(bb) Mailed, if the request is delivered by certified or registered mail to the division of administration.

(cc) Received, if the request is delivered to the division of administration by any means other than as provided by Subitem (aa) or (bb) of this Item.

(ii) Upon receipt, the request shall be stamped with the filing date and certified by the division of administration. Filing of the request shall be complete only upon timely compliance with the provisions of Subparagraph (1)(c) or (d) of this Subsection. Upon receipt of any request, the division of administration shall forward a copy of the request to the board within five days of receipt.

(c) An attorney chairman for the medical review panel shall be appointed within one year from the date the request for review of the claim was filed. Upon appointment of the attorney chairman, the parties shall notify the board of the name and address of the attorney chairman. If the board has not received notice of the appointment of an attorney chairman within nine months from the date the request for review of the claim was filed, then the board shall send notice to the parties by certified or registered mail that the claim will be dismissed in ninety days unless an attorney chairman is appointed within one year from the date the request for review of the claim was filed. If the board has not received notice of the appointment of an attorney chairman within one year from the date the request for review of the claim was filed, then the board shall promptly send notice to the parties by certified or registered mail that the claim has been dismissed for failure to appoint an attorney chairman and the parties shall be deemed to have waived the use of the medical review panel. The filing of a request for a medical review panel shall suspend the time within which suit must be filed until ninety days after the claim has been dismissed in accordance with this Section.

(3) It shall be the duty of the board within fifteen days of the receipt of the claim by the board to:

(a) Confirm to the claimant by certified mail, return receipt requested, that the filing has been officially received and whether or not the named defendant or defendants have qualified under this Part.

(b) In the confirmation to the claimant pursuant to Subparagraph (a) of this Paragraph, notify the claimant of the amount of the filing fee due and the time frame within which such fee is due to the board, and that upon failure to comply with the provisions of Subparagraph (1)(c) or (d) of this Subsection, the request for

review of a malpractice claim is invalid and without effect and that the request shall not suspend the time within which suit must be instituted in Subparagraph (2)(a) of this Subsection.

(c) Notify all named defendants by certified mail, return receipt requested, whether or not qualified under the provisions of this Part, that a filing has been made against them and request made for the formation of a medical review panel; and forward a copy of the proposed complaint to each named defendant at his last and usual place of residence or his office.

(4) The board shall notify the claimant and all named defendants by certified mail, return receipt requested, of any of the following information:

(a) The date of receipt of the filing fee.

(b) That no filing was due because the claimant timely provided the affidavit set forth in Item (1)(d)(i) of this Subsection.

(c) That the claimant has timely complied with the provisions of Item (1)(d)(ii) of this Subsection.

(d) That the required filing fee was not timely paid pursuant to Subparagraph (1)(c) of this Subsection.

(5) In the event that the board is unable to determine after forty-five days from the date of mailing of the notification, whether notification by certified mail, return receipt requested, provided for in Paragraphs (3) and (4) of this Subsection has been received by the claimant, or the notification is not claimed or is returned undeliverable, the board shall provide such notification by regular first class mail, which date of mailing shall have the effect of receipt of notice by certified mail for purposes of Subparagraphs (1)(c) and (d) of this Subsection.

(6) In the event the board receives a filing fee that was not timely paid pursuant to Subparagraph (1)(c) of this Subsection, then the board shall return, or refund the amount of, the filing fee to the claimant within thirty days of the date the board receives the untimely filing fee.

B. (1)(a)(i) No action against a health care provider covered by this Part, or his insurer, may be commenced in any court before the claimant's proposed complaint has been presented to a medical review panel established pursuant to this Section.

(ii) A certificate of enrollment issued by the board shall be admitted in evidence.

(b) However, with respect to an act of malpractice which occurs after September 1, 1983, if an opinion is not rendered by the panel within twelve months after the date of notification of the selection of the attorney chairman by the executive director to the selected attorney and all other parties pursuant to Paragraph (1) of Subsection C of this Section, suit may be instituted against a health care provider covered by this Part. However, either party may petition a court of competent jurisdiction for an order extending the twelve month period provided in this Subsection for good cause shown. After the twelve month period provided for in this Subsection or any court-ordered extension thereof, the medical review panel established to review the claimant's complaint shall be dissolved without the necessity of obtaining a court order of dissolution.

(c) By agreement of all parties, the use of the medical review panel may be waived.

(d) By agreement of all parties and upon written request to the attorney chairman, an expedited medical review panel process may be selected. Unless otherwise specified in the provisions of Subsection N of this Section, the expedited process shall be governed by other provisions of this Section.

(2)(a) A health care provider, against whom a claim has been filed under the provisions of this Part, may raise peremptory exceptions of no right of action pursuant to Code of Civil Procedure Article 927(6) or any exception or defenses available pursuant to R.S. 9:5628 in a court of competent jurisdiction and proper venue at any time without need for completion of the review process by the medical review panel.

(b) If the court finds that the claim had prescribed or otherwise was preempted prior to being filed, the panel, if established, shall be dissolved upon the judgment becoming final. If the court grants the peremptory exception of no right of action as to all claimants, the panel, if established, shall be dissolved upon the judgment becoming final. If the court grants the peremptory exception of no right of action as to less than all claimants, the claimants as to whom the court granted the peremptory exception of no right of action shall be prohibited from participating in the panel process as a claimant.

(3) Ninety days after the notification to all parties by certified mail by the attorney chairman or the board of the dissolution of the medical review panel or ninety days after the expiration of any court-ordered extension as authorized by Paragraph (1) of this Subsection, the suspension of the running of prescription with respect to a qualified health care provider shall cease.

C. The medical review panel shall consist of three health care providers who hold unlimited licenses to practice their profession in Louisiana and one attorney. The parties may agree on the attorney member of the medical review panel. If no attorney for or representative of any health care provider named in the complaint has made an appearance in the proceedings or made written contact with the attorney for the plaintiff within forty-five days of the date of receipt of the notification to the health care provider and the insurer that the required filing fee has been received by the patient's compensation board as required by Subparagraph (A)(1)(c) of this Section, the attorney for the plaintiff may appoint the attorney member of the medical review panel for the purpose of convening the panel. Such notice to the health care provider and the insurer shall be sent by registered or certified mail, return receipt requested. If no agreement can be reached, then the attorney member of the medical review panel shall be selected in the following manner:

(1)(a) The office of the clerk of the Louisiana Supreme Court, upon receipt of notification from the board, shall draw five names at random from the list of attorneys who reside or maintain an office in the parish which would be proper venue for the action in a court of law. The names of judges, magistrates, district attorneys and assistant district attorneys shall be excluded if drawn and new names drawn in their place. After selection of the attorney names, the office of the clerk of the supreme court shall notify the board of the names so selected. It shall be the duty of the board to notify the parties of the attorney names from which the parties may choose the attorney member of the panel within five days. If no agreement can be reached within five days, the parties shall immediately initiate a procedure of selecting the attorney by each striking two names alternately, with the claimant striking first and so advising the health care provider of the name of the attorney so stricken; thereafter, the health care provider and the claimant shall alternately strike until both sides have stricken two names and the remaining name shall be the attorney member of the panel. If either the plaintiff or defendant fails to strike, the clerk of the Louisiana Supreme Court shall strike for that party within five additional days.

(b) After the striking, the office of the board shall notify the attorney and all other parties of the name of the selected attorney.

(2) The attorney shall act as chairman of the panel and in an advisory capacity but shall have no vote. It is the duty of the chairman to expedite the selection of the other panel members, to convene the panel, and expedite the panel's review of the proposed complaint. The chairman shall establish a reasonable schedule for submission of evidence to the medical review panel but must allow sufficient time for the parties to

make full and adequate presentation of related facts and authorities within ninety days following selection of the panel.

(3)(a) The plaintiff shall notify the attorney chairman and the named defendants of his choice of a health care provider member of the medical review panel within thirty days of the date of certification of his filing by the board.

(b) The named defendant shall then have fifteen days after notification by the plaintiff of the plaintiff's choice of his health care provider panelist to name the defendant's health care provider panelist.

(c) If either the plaintiff or defendant fails to make a selection of health care provider panelist within the time provided, the attorney chairman shall notify by certified mail the failing party to make such selection within five days of the receipt of the notice.

(d) If no selection is made within the five day period, then the chairman shall make the selection on behalf of the failing party. The two health care provider panel members selected by the parties or on their behalf shall be notified by the chairman to select the third health care provider panel member within fifteen days of their receipt of such notice.

(e) If the two health care provider panel members fail to make such selection within the fifteen day period allowed, the chairman shall then make the selection of the third panel member and thereby complete the panel.

(f) A physician who holds an unrestricted license to practice medicine by the Louisiana State Board of Medical Examiners and who is engaged in the active practice of medicine in this state, whether in the teaching profession or otherwise, shall be available for selection as a member of a medical review panel.

(g) Each party to the action shall have the right to select one health care provider and upon selection the health care provider shall be required to serve.

(h) When there are multiple plaintiffs or defendants, there shall be only one health care provider selected per side. The plaintiff, whether single or multiple, shall have the right to select one health care provider, and the defendant, whether single or multiple, shall have the right to select one health care provider.

(i) A panelist so selected and the attorney member selected in accordance with this Subsection shall serve unless for good cause shown may be excused. To show good cause for relief from serving, the panelist shall present an affidavit to a judge of a court of competent jurisdiction and proper venue which shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. A health care provider panelist may also be excused from serving by the attorney chairman if during the previous twelve-month period he has been appointed to four other medical review panels. In either such event, a replacement panelist shall be selected within fifteen days in the same manner as the excused panelist.

(j) If there is only one party defendant which is not a hospital, community blood center, tissue bank, or ambulance service, all panelists except the attorney shall be from the same class and specialty of practice of health care provider as the defendant. If there is only one party defendant which is a hospital, community blood center, tissue bank, or ambulance service, all panelists except the attorney shall be physicians. If there are claims against multiple defendants, one or more of whom are health care providers other than a hospital, community blood center, tissue bank, or ambulance service, the panelists selected in accordance with this Subsection may also be selected from health care providers who are from the same class and specialty of practice of health care providers as are any of the defendants other than a hospital, community blood center, tissue bank, or ambulance service.

(4) When the medical review panel is formed, the chairman shall within five days notify the board and the parties by registered or certified mail of the names and addresses of the panel members and the date on which the last member was selected.

(5)(a) Before entering upon their duties, each voting panelist shall subscribe before a notary public the following oath:

“I, (name) do solemnly swear/affirm that I will faithfully perform the duties of medical review panel member to the best of my ability and without partiality or favoritism of any kind. I acknowledge that I represent neither side and that it is my lawful duty to serve with complete impartiality and to render a decision in accordance with law and the evidence.”

(b) The attorney panel member shall subscribe to the same oath except that in lieu of the last sentence thereof the attorney's oath shall state:

“I acknowledge that I represent neither side and that it is my lawful duty to advise the panel members concerning matters of law and procedure and to serve as chairman.”

(c) The original of each oath shall be attached to the opinion rendered by the panel.

(6) The party aggrieved by the alleged failure or refusal of another to perform according to the provisions of this Section may petition any district court of proper venue over the parties for an order directing that the parties comply with the medical review panel provisions of the medical malpractice act.

(7) A panelist or a representative or attorney for any interested party shall not discuss with other members of a medical review panel on which he serves a claim which is to be reviewed by the panel until all evidence to be considered by the panel has been submitted. A panelist or a representative or attorney for any interested party shall not discuss the pending claim with the claimant or his attorney asserting the claim or with a health care provider or his attorney against whom a claim has been asserted under this Section. A panelist or the attorney chairman shall disclose in writing to the parties prior to the hearing any employment relationship or financial relationship with the claimant, the health care provider against whom a claim is asserted, or the attorneys representing the claimant or health care provider, or any other relationship that might give rise to a conflict of interest for the panelists.

D. (1) The evidence to be considered by the medical review panel shall be promptly submitted by the respective parties in written form only.

(2) The evidence may consist of medical charts, x-rays, lab tests, excerpts of treatises, depositions of witnesses including parties, interrogatories, affidavits and reports of medical experts, and any other form of evidence allowable by the medical review panel.

(3) Depositions of the parties and witnesses may be taken prior to the convening of the panel.

(4) Upon request of any party, or upon request of any two panel members, the clerk of any district court shall issue subpoenas and subpoenas duces tecum in aid of the taking of depositions and the production of documentary evidence for inspection and/or copying.

(5) The chairman of the panel shall advise the panel relative to any legal question involved in the review proceeding and shall prepare the opinion of the panel as provided in Subsection G.

(6) A copy of the evidence shall be sent to each member of the panel.

E. Either party, after submission of all evidence and upon ten days notice to the other side, shall have the right to convene the panel at a time and place agreeable to the members of the panel. Either party may question the panel concerning any matters relevant to issues to be decided by the panel before the issuance of their report. The chairman of the panel shall preside at all meetings. Meetings shall be informal.

F. The panel shall have the right and duty to request and procure all necessary information. The panel may consult with medical authorities, provided the names of such authorities are submitted to the parties with a synopsis of their opinions and provided further that the parties may then obtain their testimony by deposition. The panel may examine reports of such other health care providers necessary to fully inform itself regarding the issue to be decided. Both parties shall have full access to any material submitted to the panel.

G. The panel shall have the sole duty to express its expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care. After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty days, render one or more of the following expert opinions, which shall be in writing and signed by the panelists, together with written reasons for their conclusions:

(1) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.

(2) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.

(3) That there is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court.

(4) When Paragraph (1) of this Subsection is answered in the affirmative, that the conduct complained of was or was not a factor of the resultant damages. If such conduct was a factor, whether the plaintiff suffered: (a) any disability and the extent and duration of the disability, and (b) any permanent impairment and the percentage of the impairment.

H. Any report of the expert opinion reached by the medical review panel shall be admissible as evidence in any action subsequently brought by the claimant in a court of law, but such expert opinion shall not be conclusive and either party shall have the right to call, at his cost, any member of the medical review panel as a witness. If called, the witness shall be required to appear and testify. A panelist shall have absolute immunity from civil liability for all communications, findings, opinions and conclusions made in the course and scope of duties prescribed by this Part.

I. (1)(a) Each physician member of the medical review panel shall be paid at the rate of twenty-five dollars per diem, not to exceed a total of three hundred dollars for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in a court of law regarding the communications, findings, and conclusions made in the course and scope of duties as a member of the medical review panel, and in addition thereto, reasonable travel expenses.

(b) The attorney chairman of the medical review panel shall be paid at the rate of one hundred dollars per diem, not to exceed a total of two thousand dollars for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in a court of law regarding the communications, findings, and conclusions made in the course and scope of duties as a member of the medical review panel, and in addition thereto, reasonable travel expenses. Additionally, the attorney chairman shall be reimbursed for all reasonable out-of-pocket expenses incurred in performing his duties for each medical review panel.

The attorney chairman shall submit the amount due him for all work performed as a member of the panel by affidavit, which shall attest that he has performed in the capacity of chairman of the medical review panel and that he was personally present at all the panel's meetings or deliberations.

(2)(a) The costs of the medical review panel shall be paid by the health care provider if the opinion of the medical review panel is in favor of said defendant health care provider.

(b) The claimant shall pay the costs of the medical review panel if the opinion of the medical review panel is in favor of the claimant. However, if the claimant is unable to pay, the claimant shall submit to the attorney chairman prior to the convening of the medical review panel an in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq. by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the medical review panel process. Upon timely receipt of the in forma pauperis ruling, the costs of the medical review panel shall be paid by the health care provider, with the proviso that if the claimant subsequently receives a settlement or receives a judgment, the advance payment of the medical review panel costs will be offset.

(c) In a medical malpractice suit filed by the claimant in which a unanimous opinion was rendered in favor of the defendant health care provider as provided in the expert opinion stated in Paragraph (G)(2) of this Section, the claimant who proceeds to file such a suit shall be required to post a cash or surety bond, approved by the court, in the amount of all costs of the medical review panel. Upon the conclusion of the medical malpractice suit, the court shall order that the cash or surety bond be forfeited to the defendant health care provider for reimbursement of the costs of the medical review panel, unless a final judgment is rendered finding the defendant liable to the claimant for any damages. If a final judgment is rendered finding the defendant liable to the claimant for any damages, the court shall order that the defendant health care provider reimburse the claimant an amount equal to the cost of obtaining the cash or surety bond posted by the claimant.

(d) In the event a medical review panel renders a unanimous opinion in favor of the claimant as provided in the expert opinions stated in Paragraphs (G)(1) and (4) of this Section, and the claimant has not timely submitted an in forma pauperis ruling to the panel's attorney chairman, and thereafter the defendant health care provider failed to settle the claim with the claimant resulting in the claimant filing a malpractice suit in a court of competent jurisdiction and proper venue against the defendant health care provider based on the same claim which was the subject of the unanimously adverse medical review panel opinion against the defendant health care provider, the defendant health care provider shall be required to post a cash or surety bond, approved by the court, in the amount of all costs of the medical review panel. Upon the conclusion of the medical malpractice suit, the court shall order that the cash or surety bond be forfeited to the claimant for reimbursement of the costs of the medical review panel, unless a final judgment is rendered finding that the defendant health care provider has no liability for damages to the claimant. If a final judgment is rendered finding that the defendant health care provider has no liability for damages to the claimant, the court shall order that the claimant reimburse the defendant health care provider an amount equal to the cost of obtaining the cash or surety bond posted by the defendant health care provider.

(3) If the medical review panel decides that there is a material issue of fact bearing on liability for consideration by the court, the claimant and the health care provider shall split the costs of the medical review panel. However, in those instances in which the claimant is unable to pay his share of the costs of the medical review panel, the claimant shall submit to the attorney chairman prior to the convening of the medical review panel an in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq., by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the medical review panel process. Upon timely receipt of the in forma pauperis ruling,

the costs of the medical review panel shall be paid by the defendant health care provider with the proviso that if the claimant subsequently receives a settlement or receives a judgment, the advance payment of the claimant's share of the costs of the medical review panel will be offset.

(4) Upon the rendering of the written panel decision, if any one of the panelists finds that the evidence supports the conclusion that a defendant health care provider failed to comply with the appropriate standard of care as charged in the complaint, each defendant health care provider as to whom such a determination was made shall reimburse to the claimant that portion of the filing fee applicable to the claim against such defendant health care provider or if any one of the panelists finds that the evidence supports the conclusion that there is a material issue of fact, not requiring expert opinion, bearing on liability of such defendant health care provider for consideration by the court, each such defendant health care provider as to whom such a determination was made shall reimburse to the claimant fifty percent of that portion of the filing fee applicable to the claim against such defendant health care provider.

J. The chairman shall submit a copy of the panel's report to the board and all parties and attorneys by registered or certified mail within five days after the panel renders its opinion.

K. Repealed by Acts 2005, No. 127, § 2.

L. Where the medical review panel issues its opinion required by this Section, the suspension of the running of prescription shall not cease until ninety days following notification by certified mail to the claimant or his attorney of the issuance of the opinion as required by Subsection J of this Section.

M. Legal interest shall accrue from the date of filing of the complaint with the board on a judgment rendered by a court in a suit for medical malpractice brought after compliance with this Part.

N. (1)(a)(i) Parties seeking an expedited panel process pursuant to the provisions of Subparagraph (B)(1)(d) of this Section shall request such process in writing sixty days from the date of the letter of notification of the selection of the attorney chairman pursuant to Paragraph (C)(1) of of this Section. When a written request for an expedited medical review panel process has been made to the attorney chairman, the chairman shall establish a schedule for submission of evidence to the medical review panel within ninety days following selection of the third physician member of the panel so that a panel opinion is rendered within twelve months of the date of notification of the selection of the attorney chairman.

(ii) In accordance with Subsection J of this Section, the chairman shall submit a copy of the panel's report to the board and all parties and attorneys by registered or certified mail within five days after the panel renders its opinion. In accordance with Subsection L of this Section, where the medical review panel issues its opinion required by this Section, the suspension of the running of prescription shall not cease until ninety days following notification by certified mail to the claimant or his attorney of the issuance of the opinion as required by Subsection J of this Section.

(b)(i) No party may petition a court for an order extending the twelve month period provided in Subparagraph (B)(1)(b) of this Section. If an opinion is not rendered by the panel within the twelve month period established in this Subsection, suit may be instituted against the health care provider.

(ii) In accordance with Subparagraph (B)(1)(b) of this Section, after the twelve month period provided for in this Subsection, the medical review panel established to review the claimant's complaint shall be dissolved without the necessity of obtaining a court order of dissolution.

(iii) In accordance with Paragraph (B)(3) of this Section, ninety days after the notification to all parties by certified mail by the attorney chairman of the board of the dissolution of the medical review panel, the suspension of the running of prescription with respect to a qualified health care provider shall cease.

(2) During selection of the physician members of the medical review panel, the plaintiff shall notify the attorney chairman and the named defendants of his choice of a health care provider member of the medical review panel within ten days of the date of written request to the chairman for an expedited panel process. The named defendant shall then have five days after notification by the plaintiff of the plaintiff's choice of his health care provider panelist to name the defendant's health care provider panelist. If no selection is made within the five and ten day respective periods, then the chairman shall make the selection on behalf of the failing party. The two health care provider panel members selected by the parties or on their behalf shall be notified by the chairman to select the third health care provider panel member within fifteen days of their receipt of such notice from the chairman to make the selection. If no selection is made within the fifteen day period, then the chairman shall make the selection on behalf of the two health care provider panel members.

(3)(a) Within thirty days of the parties' written request for an expedited medical review panel process to the attorney chairman, the claimant shall provide all defendants with a list of the names and addresses of all known health care providers, including individuals and entities, who have treated the patient during the time period starting from three years prior to the date of the alleged malpractice up to and including the date that the list is provided. The claimant shall make a good faith effort to identify the treating health care providers.

(b) The claimant shall execute and provide all defendants with a HIPAA Compliant Authorization form to permit the defendants to obtain the medical records.

(c) An order to protect the medical records may be sought as provided in Code of Civil Procedure Article 1426 or the HIPAA regulations at 45 CFR 164.512(e) in a court of competent jurisdiction and proper venue.

(d) If an authorization is not provided or a protective order is not obtained within thirty days following the written request by the parties to the chairman for an expedited medical review panel process, the medical review panel shall lose its expedited status and no longer be governed by the provisions of this Subsection. The attorney chairman shall provide notice of this to the board and all parties by registered or certified mail.

(4)(a) The evidence to be considered by the medical review panel shall be promptly submitted by the respective parties in written form only, according to the schedule established by the chairman.

(b) The evidence may consist only of medical charts, x-rays or other film studies, lab tests, other diagnostic or medical tests, and a position paper submitted by or on behalf of each party.

(c) Neither interrogatories to nor depositions of the parties and witnesses may be taken prior to the convening of the panel.

(d) No party or panel member shall be permitted to request the clerk of any district court to issue subpoenas and subpoenas duces tecum in aid of the taking of depositions and the production of documentary evidence. However, if a copy of the medical record is not produced by a health care provider within a reasonable period of time, not to exceed fifteen days, following a health care provider's receipt of a medical authorization executed by the claimant pursuant to Subparagraph (3)(b) of this Subsection then the party who forwarded the authorization to the health care provider may request the clerk of any district court to issue subpoenas and subpoenas duces tecum in aid of the production of the medical records.

(5) The attorney chairman, after submission of all evidence and upon ten days notice, shall convene the panel at a time and place agreeable to the members of the panel, but in no event shall the opinion be rendered later than twelve months from the date of notification of the selection of the attorney chairman by the executive director to the selected attorney and all other parties pursuant to Paragraph (C)(1) of this Section. Either party may informally question the panel concerning any matters relevant to issues to be decided by the panel before and after the issuance of their report. The panel deliberation and the questioning of the panel shall not be recorded. The chairman of the panel shall preside at all meetings.

(6) The panel shall have the sole duty to express its expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care. After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty days, but in no event later than twelve months of the date of notification of the selection of the attorney chairman pursuant to Paragraph (C)(1) of this Section, render one or more of the following expert opinions, which shall be in writing and signed by the panelists, together with written reasons for their conclusions:

(a) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.

(b) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.

(c) That there is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court.

(7) The report of the expert opinion reached by the expedited medical review panel process pursuant to the provisions of this Subsection shall not be admissible as evidence in any action subsequently brought by the claimant in a court of law. Neither party shall have the right to call any member of the medical review panel as a witness. A panelist shall have absolute immunity from civil liability for all communications, findings, opinions and conclusions made in the course and scope of duties prescribed by this Part.

(8) The provisions of Subparagraphs (I)(2)(c) and (d) of this Section shall not apply to a medical review panel governed by the expedited medical review panel process. **Redesignated from R.S. 40:1299.47 by H.C.R. No. 84 of the 2015 Regular Session. Added by Acts 1975, No. 817, § 1. Amended by Acts 1976, No. 183, § 7; Acts 1977, No. 143, § 1; Acts 1979, No. 299, §§ 1, 2; Acts 1981, No. 791, § 1, eff. Sept. 1, 1981; Acts 1982, No. 235, § 1; Acts 1982, No. 236, § 1; Acts 1982, No. 674, § 1; Acts 1982, No. 768, § 1; Acts 1983, No. 402, § 1; Acts 1984, No. 435, § 5, eff. July 6, 1984; Acts 1986, No. 454, § 1, eff. July 2, 1986; Acts 1987, No. 567, § 2; Acts 1988, No. 755, § 1, eff. July 15, 1988; Acts 1990, No. 967, § 2, eff. Oct. 1, 1990; Acts 1991, No. 661, § 1; Acts 1991, No. 668, § 1; Acts 1992, No. 347, § 1, eff. June 17, 1992; Acts 1995, No. 1258, § 1; Acts 1997, No. 664, § 1; Acts 1997, No. 830, § 1; Acts 2002, 1st Ex.Sess., No. 86, § 1; Acts 2003, No. 484, § 1; Acts 2003, No. 644, § 1; Acts 2003, No. 961, § 1; Acts 2003, No. 1263, § 1, eff. July 7, 2003; Acts 2004, No. 306, § 1; Acts 2004, No. 309, § 1; Acts 2004, No. 311, § 1; Acts 2005, No. 127, § 1; Acts 2006, No. 323, § 1; Acts 2008, No. 558, § 1; Acts 2012, No. 802, § 1; Acts 2016, No. 275, § 1; Acts 2017, No. 294, § 1. See *Filogene v. Brown*, App. 4 Cir.2004, 871 So.2d 1206, 2003-1451 (La.App. 4 Cir. 3/31/04) (Minor patient and her mother were required to submit to medical review panel their claim that physician injured patient by failing to verify patient's age or obtain valid statutory consent before performing abortion, although patient and mother alleged that claim was for an intentional tort falling outside Medical Malpractice Act, given that consent claim sounded in negligence, not in battery)**

- **Licensure for Healthcare Facilities**

- **La. R.S. 40:2006, Fees; licenses; penalties:**

A. (1) Any person, partnership, corporation, unincorporated association, or other legal entity, currently operating or planning to operate any of the facilities listed in this Subsection shall be assessed a fee not to exceed six hundred dollars, payable to the Louisiana Department of Health, at the time an application is made to the department, and once a year thereafter for renewal of the license. This fee is for application and renewal of a license only, and is in addition to any other fees that may be assessed according to the laws, rules, regulations, and standards that are applicable to the individual facilities.

(2) This Subsection shall apply to any licensed:

(a) Adult day health care facility.

(b) Behavioral health services provider.

(c) Ambulatory surgery center.

(d) Case management provider.

(e) Urine drug screening provider.

(f) Home health agency.

(g) Hospice.

(h) Hospital.

(i) Nursing home.

(j) Rural health clinic.

(k) Intermediate care facility for people with developmental disabilities (ICF/DD).

(l) End stage renal disease facility.

(m) Outpatient abortion facility.

(n) Psychiatric residential treatment facility.

(o) Children's respite care center.

(p) Repealed by Acts 2005, No. 483, § 2, eff. July 12, 2005.

(q) Pediatric day health care facility.

<Implementation of subpar. (A)(2)(r) effective upon appropriation and approval pursuant to Acts 2017, No. 417, § 2. See italic note following this section.>

(r) Community-based care facility.

(s) Free-standing birth center.

B. (1) Any person, partnership, corporation, unincorporated association, or other legal entity currently operating or planning to operate any of the facilities listed in this Subsection shall be assessed an additional application and renewal fee not to exceed five dollars per unit, payable to the Louisiana Department of

Health, at the time the application or application for renewal of the license required in Subsection A of this Section is made, where applicable. For purposes of this Subsection, “unit” means a room or station.

(2) This Subsection shall apply to any licensed:

- (a) Hospice.
- (b) Hospital.
- (c) Nursing home.
- (d) Intermediate care facility for people with developmental disabilities (ICF/DD).
- (e) Behavioral health services provider.
- (f) Psychiatric residential treatment facility.
- (g) Children's respite care center.
- (h) End stage renal disease facility.

<Implementation of subpar. (B)(2)(i) effective upon appropriation and approval pursuant to Acts 2017, No. 417, § 2. See italic note following this section.>

- (i) Community-based care facility.
- (j) Free-standing birth center.

C. Any person, partnership, corporation, unincorporated association, or other legal entity currently operating or planning to operate a satellite, branch, or offsite office, as permitted in the laws, rules, regulations, and standards that are applicable to the individual facilities and are licensed or registered by the Louisiana Department of Health shall be assessed a fee not to exceed three hundred dollars per subsidiary license or registration, payable to the Louisiana Department of Health. This fee shall be assessed at the time application is made for the satellite, branch, or offsite office, and once a year thereafter for renewal of the subsidiary license or registration. This fee is for application and renewal of a subsidiary license or registration only, and is in addition to any other fees that may be assessed according to the laws, rules, regulations, and standards that are applicable to the individual facilities.

D. The fees authorized and charged to any category of provider as provided in Subsections A, B, and C of this Section shall not exceed the estimated costs of providing the services to such specified category of provider.

E. (1) Any person, partnership, corporation, unincorporated association, or other legal entity, currently operating or planning to operate any of the facilities listed in this Subsection, and who is licensed by the Louisiana Department of Health shall be assessed a delinquent fee of one hundred dollars for failure to timely renew its license and/or any subsidiary license or registration. This fee shall be in addition to any renewal or other fee applicable according to the laws, rules, regulations, and standards that are applicable to the individual facilities. The delinquent fee described in this Subsection shall be assessed and shall become due and payable to the Louisiana Department of Health at 12:01 a.m. on the first day following the expiration date of the license or subsidiary license or registration.

(2) This Subsection shall apply to any licensed:

- (a) Adult day health care facility.

- (b) Behavioral health services provider.
- (c) Ambulatory surgery center.
- (d) Case management provider.
- (e) Urine drug screening provider.
- (f) Home health agency.
- (g) Hospice.
- (h) Hospital.
- (i) Nursing home.
- (j) Intermediate care facility for people with developmental disabilities (ICF/DD).
- (k) End stage renal disease facility.
- (l) Outpatient abortion facility.
- (m) Rural health clinic.
- (n) Psychiatric residential treatment facility.
- (o) Children's respite care center.
- (p) Pediatric day health care facility.
- (q) Home- and community-based service provider.
- (r) Adult brain injury facility.
- (s) Pain management clinic.

<Implementation of subpar. (E)(2)(t) effective upon appropriation and approval pursuant to Acts 2017, No. 417, § 2. See italic note following this section.>

- (t) Community-based care facility.
- (u) Free-standing birth center.
- (v) Repealed by Acts 2008, No. 839, § 5, eff. July 8, 2008.

(w) Repealed by Acts 2008, No. 839, § 5, eff. July 8, 2008. **Added by Acts 1997, No. 1384, § 1, July 1, 1997. Amended by Acts 1999, No. 650, § 1, eff. July 1, 1999; Acts 2001, No. 391, § 1; Acts 2004, No. 332, § 1, eff. June 18, 2004; Acts 2004, No. 432, § 1, eff. June 24, 2004; Acts 2005, No. 483, § 1, eff. July 12, 2005; Acts 2006, No. 163, § 2; Acts 2006, No. 215, § 1, eff. June 2, 2006; Acts 2008, No. 839, § 3, eff. July 8, 2008; Acts 2013, No. 308, § 1, eff. upon § 3 contingency; Acts 2017, No. 417, § 1; Acts 2019, No. 332, § 1, eff. June 11, 2019.**

- **Reporting Concerning Abortion Complications**

- **La. R.S. 40:2109.1, Hospital reports on complications of surgical procedures resulting from an abortion:**

A. A hospital licensed by the Louisiana Department of Health, pursuant to this Part shall submit a report to the department on patients who present for treatment in the emergency department as a result of complications after an abortion as defined in R.S. 40:1061.9. The report shall be confidential, shall be exempt from disclosure pursuant to the Public Records Law, R.S. 44:1 et seq., and shall not contain the name or address of the patient.

B. The Louisiana Department of Health, in consultation with the Louisiana State Board of Medical Examiners, shall promulgate rules regarding the electronic coding, reporting, and tracking of complications after any abortion that is treated at any hospital.

C. (1) The report required by Subsection A of this Section shall include the following information, if known:

(a) The date of the abortion.

(b) The name and address of the facility where the abortion was performed or induced.

(c) The nature of the abortion complication diagnosed or treated.

(d) The name and address of the facility where the post-abortion care was performed.

(2) Each facility that is subject to the requirements of this Section shall ensure that a staff member of the facility attempts to obtain the information required by Paragraph (1) of this Subsection from any patient prior to the patient's discharge from the facility who presents for treatment in the emergency department of the facility as a result of complications after an abortion.

(3) The report shall be submitted on a form created by the Louisiana Department of Health. The Louisiana Department of Health shall publicly report aggregate data annually by facility where the abortion was performed or induced. **Added by Acts 2021, No. 425, § 1.**

- **Licensing of Outpatient Abortion Providers**

- **La. R.S. 40:2175.1, Short title:**

This Part may be cited as the “Outpatient Abortion Facility Licensing Law.” **Added by Acts 2001, No. 391, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:2175.2, Purpose:**

The purpose of this Part is to authorize the Louisiana Department of Health to promulgate and publish rules and regulations to provide for the health, safety, and welfare of women in outpatient abortion facilities and for the safe operation of such facilities. The rules shall be reasonably related to the purpose expressed in this Section and shall not impose a legally significant burden on a woman's freedom to decide whether to terminate her pregnancy. **Added by Acts 2001, No. 391, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **La. R.S. 40:2175.3, Definitions:**

For purposes of this Part, the following definitions apply:

(1) “Abortion” shall have the meaning set forth in R.S. 40:1061.9.

- (2) “Abortion facility professional” or “outpatient abortion facility professional” means an individual who is a physician, surgeon, resident, intern, licensed nurse, nursing aide, emergency medical technician, or a paramedic who diagnoses, examines, or treats a female patient at an outpatient abortion facility.
- (3) “Abortion facility staff member” or “outpatient abortion facility staff member” means an individual who is not an abortion facility professional but who is employed by or contracts with an outpatient abortion facility to provide services and who has any contact with patients at the facility.
- (4) “First trimester” means the time period up to fourteen weeks after the first day of the last menstrual period.
- (5) “Licensee” means the person, partnership, corporation, association, organization, or professional entity on whom rests the ultimate responsibility and authority for the conduct of the outpatient abortion facility.
- (6) “Licensing agency” means the Louisiana Department of Health.
- (7) “Mandatory reporter to law enforcement” means any abortion facility staff member or any abortion facility professional.
- (8) “Outpatient abortion facility” means any outpatient facility, other than a hospital as defined in R.S. 40:2102 or an ambulatory surgical center as defined in R.S. 40:2133, in which any second trimester or five or more first trimester abortions per calendar year are performed.
- (9) “Second trimester” means the time period from fourteen to twenty-three weeks after the first day of the last menstrual period.
- (10) “Secretary” means the secretary of the Louisiana Department of Health. **Added by Acts 2001, No. 391, § 1. Amended by Acts 2014, No. 620, § 1, eff. Sept. 1, 2014; Acts 2019, No. 280, § 3; Acts 2019, No. 376, § 1. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:2175.4, License required:**

A. An outpatient abortion facility may not be established or operated in this state without an appropriate license issued under this Part.

<Text of subsec. B effective until 30 days after contingency in § 6 of Acts 2018, No. 498. See italic note, post.>

B. A license issued to an outpatient abortion facility is valid for only one location.

<Text of subsec. B effective 30 days after contingency in § 6 of Acts 2018, No. 498. See italic note, post.>

B. A license issued to an outpatient abortion facility is valid for only one location that shall be physically and financially separate from any facility where publicly funded medical assistance program services are provided, in accordance with R.S. 49:200.51.

C. A license issued to an outpatient abortion facility shall be valid for one year from the date of issuance, unless revoked prior to that date.

D. A license issued to an outpatient abortion facility is not transferable or assignable.

E. A license issued to an outpatient abortion facility shall be posted in a conspicuous place on the licensed premises. **Added by Acts 2001, No. 391, § 1. Amended by Acts 2018, No. 498, § 2. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:2175.5, Rules; regulations; licensing standards:**

The licensing agency shall promulgate and publish rules, regulations, and licensing standards to provide for the health, safety, and welfare of women in outpatient abortion facilities and for the safe operation of such facilities. The rules, regulations, and licensing standards shall become effective upon approval of the secretary of the Louisiana Department of Health in accordance with the Administrative Procedure Act. The initial rules, regulations, and licensing standards shall not become effective until approved by the House Committee on Health and Welfare and the Senate Committee on Health and Welfare. No outpatient abortion facility shall be required to obtain a license under this Part until the initial rules, regulations, and licensing standards are adopted and promulgated in accordance with the Administrative Procedure Act. **Added by Acts 2001, No. 391, § 1.**

○ **La. R.S. 40:2175.6, License issuance; application; on-site inspection:**

A. An applicant for an outpatient abortion facility license must submit an application to the licensing agency on a form prescribed by the agency.

B. Each application must be accompanied by a nonrefundable license fee in an amount set by the licensing agency in accordance with R.S. 40:2006. The fees herein levied and collected shall be paid into the general fund.

C. Following receipt of the application and licensing fee, the licensing agency shall issue a license if, after an on-site inspection, it finds that the outpatient abortion facility meets the requirements established under this Part and the licensing standards adopted in pursuance thereof. The licensing agency must perform an on-site inspection of the outpatient abortion facility prior to issuance of the initial license.

D. As a condition for renewal of a license, the licensee must submit to the licensing agency the annual renewal application along with the annual renewal licensing fee. Upon receipt of the annual renewal application and the annual renewal licensing fee, the licensing agency shall determine if the outpatient abortion facility continues to meet the requirements established under this Part and the licensing standards adopted in pursuance thereof. The licensing agency may perform an on-site inspection upon annual renewal. If the outpatient abortion facility continues to meet the requirements established under this Part and the licensing standards adopted in pursuance thereof, a license shall be issued which is valid for one year.

E. A provisional license may be issued in cases where additional time is needed for the outpatient abortion facility to comply fully with the requirements established under this Part and the licensing standards adopted in pursuance thereof. The licensing agency may issue a provisional license to an outpatient abortion facility for a period not to exceed six months only if the failure to comply is not detrimental to the health or safety of the women seeking treatment in the outpatient abortion facility. The deficiencies which preclude the outpatient abortion facility from being in full compliance must be cited at the time the provisional license is issued.

F. The licensing agency may perform an on-site inspection at reasonable times as necessary to ensure compliance with this Part.

G. The secretary of the department may deny a license, may refuse to renew a license, or may revoke an existing license, if an investigation or survey determines that the applicant or licensee is in violation of any provision of this Part, in violation of the licensing rules promulgated by the department, or in violation of any other federal or state law or regulation.

(1) The secretary shall furnish the applicant or licensee thirty calendar days' written notice specifying the reasons for the denial, nonrenewal, or revocation.

(2) The applicant or licensee shall have the right to file a suspensive appeal of the denial, nonrenewal, or revocation with the office of the secretary within thirty calendar days from the date of receipt of the written notice. The appeal request shall specify in detail the reasons why the appeal is lodged.

H. Notwithstanding any law to the contrary, the secretary of the department may issue an immediate suspension of a license if an investigation or survey determines that the applicant or licensee is in violation of any provision of this Part, in violation of the rules promulgated by the department, or in violation of any other federal or state law or regulation, and the secretary determines that the violation or violations pose an imminent or immediate threat to the health, welfare, or safety of a client or patient. The secretary shall give the licensee written notice of the immediate suspension. The suspension of the license is effective upon the receipt of the written notice.

(1) The licensee shall have the right to file a devolutive appeal of the immediate suspension notice. The appeal request shall be filed with the office of the secretary within thirty calendar days of the receipt of the written notice of the immediate suspension. The appeal request shall specify in detail the reasons why the appeal is lodged.

(2) The licensee shall have the right to file for injunctive relief from the immediate suspension of the license; such injunctive relief shall be filed with the district court for the parish of East Baton Rouge. Before injunctive relief may be granted, the licensee shall prove by clear and convincing evidence that the secretary's decision to issue the immediate suspension of the license was arbitrary and capricious.

I. If a license is revoked or renewal of a license is denied other than for cessation of business or non-operational status, or if the license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director, or administrator of the licensee may be prohibited from owning, managing, directing, or operating another outpatient abortion clinic in the state of Louisiana. **Added by Acts 2001, No. 391, § 1. Amended by Acts 2010, No. 490, § 1, eff. June 22, 2010. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

○ **La. R.S. 40:2175.7, Mandatory reports to law enforcement; human trafficking awareness and prevention training:**

A. (1) Notwithstanding any claim of privileged communication, any mandatory reporter to law enforcement who has cause to believe that a minor or adult female who presents at an outpatient abortion facility is a victim of human trafficking, trafficking of children for sexual purposes, rape, incest, or coerced abortion shall report such crime immediately, or no later than the end of the business day, to the sheriff's department in the parish or local police department where the outpatient abortion facility is located. If the victim does not reside in the parish where the outpatient abortion facility is located, the mandatory reporter to law enforcement shall also report the crime to the law enforcement agency in the parish or county in which the victim resides, if reasonably ascertainable.

(2) The Louisiana Department of Health shall promulgate a form which may be used by a mandatory reporter to law enforcement to report a crime, pursuant to Paragraph (1) of this Subsection, to the parish or local law enforcement agency.

B. (1) Beginning August 1, 2019, every mandatory reporter to law enforcement shall certify to the Louisiana Department of Health that they have participated in a training on human trafficking awareness and prevention on an annual basis. The department shall maintain the name of each mandatory reporter to law enforcement as confidential, and such information shall not be subject to disclosure pursuant to the Public Records Law.

(2) The Louisiana Department of Health shall promulgate rules to provide for compliance of this Subsection utilizing the online educational videos on human trafficking awareness and prevention provided by the United States Department of Health and Human Services, Administration for Children and Families, office on trafficking in persons or such training tools as may be adopted by the department. **Added by Acts 2019, No. 280, § 3. This provision has been amended this past legislative session through Act 545 (S.B. 342).**

- **Violations for Licensed Healthcare Facilities**

- **La. R.S. 40:2199, Violations; penalties; fines; notice; hearings; appeal; licensed entities:**

A. (1) For purposes of this Part, “facility” shall mean any one or more of the following: an adult day health care facility, substance abuse/addiction treatment facility, ambulatory surgery center, case management facility, urine drug screening facility, mobile cholesterol screening facility, end stage renal disease facility, supplier of portable X-ray services, home health agency, hospice, hospital, ICF/DD facility, outpatient abortion facility, or any other healthcare provider licensed or certified by the Louisiana Department of Health.

(2) The opening or operation of a facility without a license or registration therefor shall be a misdemeanor, punishable upon conviction by a fine of not less than one thousand dollars nor more than five thousand dollars. Each day's violation shall constitute a separate offense.

(3) It shall be a violation to operate a facility which holds a current license, registration, or certificate if one of the following apply:

(a) As a result of a licensure or certification survey, it is determined by an agency to be in violation of one or more conditions of licensure or certification and has failed to correct such conditions of violation within the time prescribed by law or by the agency.

(b) As a result of one or more third-party complaints, it is determined by an agency to have been in violation of one or more conditions of licensure or certification resulting directly in the incident which gave rise to such third-party complaint.

(4) Any violation provided for in Paragraph (3) of this Subsection shall entitle both the facility and the complainant to an administrative appeal.

(5) A “facility” shall not include any individual healthcare provider who is licensed or certified by one of the boards under the Louisiana Department of Health. These boards include but are not limited to the Louisiana Board of Pharmacy, Louisiana Physical Therapy Board, Louisiana State Board of Medical Examiners, Louisiana Board of Dentistry, and the Louisiana State Board of Optometry Examiners.

B. (1) Any person or entity violating the provisions of Paragraph A(3) of this Section when such a violation poses a threat to the health, safety, rights, or welfare of a resident or client may be liable for civil fines in addition to any criminal action which may be brought under other applicable laws. The department shall adopt rules in accordance with the Administrative Procedure Act which define specific classifications of violations, articulate factors in assessing civil fines including mitigating circumstances such as an effective corporate compliance program, and explain the treatment of continuing and repeat deficiencies.

(2) A schedule of civil fines by class of violations shall be as follows:

(a) Class A-Violations that create a condition or occurrence relating to the operation and maintenance of a facility, which result in death or serious harm to a resident or client. Civil fines shall not exceed two thousand five hundred dollars for the first violation and shall not exceed five thousand dollars per day for repeat violations.

(b) Class B-Violations that create a condition or occurrence relating to the operation and maintenance of a facility which create a substantial probability that death or serious physical or mental harm to a resident or client will result from the violation. Civil fines shall not exceed one thousand five hundred dollars for the first violation and shall not exceed three thousand dollars per day for repeat violations.

(c) Class C-Violations that create a condition or occurrence relating to the operation and maintenance of a facility which create a potential for harm by directly threatening the health, safety, rights, or welfare of a resident or client. Civil fines shall not exceed one thousand dollars for the first violation and shall not exceed two thousand dollars per day for repeat violations.

(d) Class D-Violations related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a resident or client. Civil fines shall not exceed one hundred dollars for the first violation and shall not exceed two hundred fifty dollars per day for repeat violations.

(e) Class E-Violations for failure of a facility to submit a statistical or financial report in a timely manner as required by regulation. Civil fines shall not exceed fifty dollars for the first offense and shall not exceed one hundred dollars per day for repeat violations.

(3) The aggregate fines assessed for violations determined in any one month shall not exceed five thousand dollars, except that the aggregate fines assessed for Class A repeat violations shall not exceed twenty thousand dollars in any one month, and the aggregate fines assessed for Class B repeat violations shall not exceed fifteen thousand dollars in any one month.

C. The department shall adopt rules and regulations in accordance with the Administrative Procedure Act to provide for notice to the facility of any violation, for an informal reconsideration process, and for an appeal procedure including judicial review. Such appeal shall be suspensive. The facility shall have the right to a devolutive appeal.

D. The facility shall furnish, with an appeal, a bond in the minimum amount of one and one-half times the amount of the fine imposed by the department. The bond furnished shall provide in substance that it is furnished as security that the facility will prosecute its appeal, that any judgment against it, including court costs, will be paid or satisfied from the amount furnished, or that otherwise the surety is liable for the amount assessed against the facility. The appeal shall be heard in a summary proceeding which shall be given precedence over other pending matters.

E. The department may institute all necessary civil action to collect fines imposed and not timely appealed. No facility may claim imposed fines or interest as reimbursable costs, nor increase charges to residents or

clients as a result of such fines or interest. Interest shall begin to accrue at the current judicial rate on the day following the date on which any fines become due and payable.

F. (1) Except as provided in Subsection G of this Section, after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund and prior to the monies being placed in the state general fund, an amount equal to the civil fines collected under the provisions of this Section shall be credited to a special fund created in the state treasury to be known as the “Health Care Facility Fund”, hereinafter referred to as “the fund”.

(2) The monies in the fund shall be subject to annual appropriation by the legislature and shall be available exclusively for the use by the Louisiana Department of Health for:

(a) The protection of health, welfare, rights, or property of those receiving services from the healthcare facilities licensed or certified by the Louisiana Department of Health.

(b) The enforcement of sanctions against healthcare facilities licensed or certified by the Louisiana Department of Health.

(c) Education, employment, and training of employees, staff, or other personnel of healthcare facilities licensed or certified by the Louisiana Department of Health.

(d) Programs designed to improve the quality of care in healthcare facilities.

(3) The monies in the fund shall be invested by the treasurer in the same manner as the monies in the state general fund, and all interest earned from the investment of monies in the fund shall be deposited in and remain to the credit of the fund. All unexpended and unencumbered monies remaining in the fund at the end of the fiscal year shall remain in the fund.

(4) The secretary of the Louisiana Department of Health is authorized to promulgate rules and regulations in accordance with the Administrative Procedure Act to provide for the administration of the fund.

G. (1) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to the civil fines collected from home health agencies under the provisions of this Section and civil fines and monetary penalties imposed or levied by the Centers for Medicare and Medicaid Services against home health agencies and remitted to the state shall be credited to a special fund hereby created in the state treasury to be known as the “Home Health Agency Trust Fund”, hereinafter referred to as the “HHA Trust Fund”. The monies in the HHA Trust Fund shall be invested by the treasurer in the same manner as monies in the state general fund and all interest earned from the investment of the monies in the HHA Trust Fund shall be deposited to and remain to the credit of the HHA Trust Fund. All unexpended and unencumbered monies remaining in the HHA Trust Fund at the close of the fiscal year shall remain in the HHA Trust Fund.

(2) The monies in the HHA Trust Fund shall be subject to annual appropriation and shall be used solely in accordance with the provisions of 42 CFR Part 488 and subject to approval by the Centers for Medicare and Medicaid Services.

(3) The treasurer shall transfer an amount equal to any civil fines or penalties from home health agencies remitted to the state by the Centers for Medicare and Medicaid Services prior to the creation of the HHA Trust Fund into the HHA Trust Fund after the effective date of this Act.

(4) The secretary of the Louisiana Department of Health is authorized to promulgate rules in accordance with the Administrative Procedure Act to provide for the administration of the HHA Trust Fund. **Added by Acts 1997, No. 1390, § 1. Amended by Acts 1999, No. 1311, § 1; Acts 2001, No. 391, § 1; Acts 2001, No. 1185, § 4, eff. July 1, 2001; Acts 2003, No. 201, § 1; Acts 2008, No. 785, § 1, eff. July 7, 2008; Acts 2015, No. 113, § 1, eff. June 19, 2015; Acts 2018, No. 206, § 4.**

- **Public Assistance**

- **La. R.S. 46:447.1, Public assistance recipients; family planning education; contraceptives:**

A. (1) Subject to the provisions of appropriation acts, the secretary of the Louisiana Department of Health shall establish a program to provide information to public assistance recipients regarding family planning, including information regarding abstinence, but excluding abortion. The secretary shall promulgate a list of contraceptive methods and devices that have been approved by the secretary based on their safety and effectiveness. Such list shall include long-term contraceptive methods, but shall not include abortifacients.

(2) Information regarding family planning, including the use of contraceptive methods and devices and abstinence, but excluding abortion, shall be disseminated in such a manner that is reasonably calculated to make the information easily accessible to such recipients and in accordance with the provisions of Subsection C herein. For those recipients who have contact with a case worker or other such person acting on behalf of the state, dissemination shall include but not be limited to a method whereby each such recipient is provided written information concerning the effective use of contraceptive methods and devices by the case worker or other appropriate person working with the recipient on behalf of the state.

(3) The secretary shall make the approved contraceptive methods and devices available to each public assistance recipient who is receiving aid to families with dependent children or who is receiving public assistance with the cost of medical care under the medical assistance program (Medicaid).

B. The program shall provide for examinations by healthcare providers for the health and safety of public assistance recipients who elect to avail themselves of or to practice forms of family planning approved or made available by the secretary. Any recipient of Aid to Families with Dependent Children or any successor program, or recipient of public assistance with the cost of medical care through the medical assistance program (Medicaid), who elects to avail himself or herself of the services or contraceptives offered under the program shall be provided with such an examination within fourteen days of his or her initial request. If his or her choice of family planning methods involves the use of contraceptives or requires the performance of medical procedures, excluding abortions, he or she shall be provided with his or her choice of approved contraceptive or given the opportunity to undergo the appropriate medical procedure within seven days of his or her request for the contraceptive or procedure.

C. The secretary of the Louisiana Department of Health shall provide specific written descriptions of the services available in the program established under this Section to all recipients of Aid to Families with Dependent Children or any successor program, and to all recipients of public assistance with the cost of medical care through the medical assistance program (Medicaid), at least semiannually through methods that may include direct mail to all such recipients.

D. The secretary of the Louisiana Department of Health shall adopt rules and regulations for the administration of the program established under this Section, including appropriate requirements and procedures for participants to receive prompt examinations by and consultations with healthcare providers in accordance with Subsection B of this Section.

E. The provisions of this Section shall be administered in accordance with R.S. 40:1061.5 and 1061.6. **Added by Acts 1992, No. 932, § 1. Amended by Acts 2018, No. 206, § 5.**

- **Revenue and Taxation**

- **La. R.S. 47:463.61, Special prestige license plates; “Choose Life”; distribution of royalty fees:**

A. The secretary of the Department of Public Safety and Corrections shall establish a special prestige license plate to be known as the “Choose Life” plate, provided there is a minimum of one hundred applicants for such plate. The license plate shall be restricted to passenger cars, pickup trucks, vans, motorcycles, and recreational vehicles. However, there must be a minimum of one thousand applicants for motorcycle license plates. The license plate shall be of a color and design selected by the Choose Life Advisory Council provided it is in compliance with R.S. 47:463(A)(3) and shall bear the legend “Choose Life”.

B. The prestige license plate shall be issued, upon application, to any citizen of Louisiana in the same manner as any other motor vehicle license plate.

C. The annual fee for this special prestige license plate shall be a royalty fee of twenty-five dollars, in addition to the regular motor vehicle license fee provided in R.S. 47:463, to be distributed in the manner set forth in Paragraph (E)(1) of this Section and a three dollar and fifty cent handling fee to be retained by the department to offset a portion of administrative costs.

D. (1) The department shall collect the royalty fee for the prestige license plate and each quarter shall disburse the royalty fee to the Louisiana Right to Life Education Committee.

(2) In addition, the Choose Life Fund in the state treasury is hereby abolished as of July 1, 2009, and the state treasurer shall transfer any remaining money in the fund to the Escrow Fund and the money shall be appropriated or otherwise distributed to the Louisiana Right to Life Education Committee for use in accordance with this Section.

E. (1) The Louisiana Right To Life Education Committee shall distribute the money to qualified organizations according to Paragraph (2) of this Subsection. The Louisiana Right To Life Education Committee may reserve or expend up to five percent of the money received pursuant to this Section for promotion and marketing of the plate and for administrative costs relative to distribution of the money.

(2) An organization wishing to qualify for receipt of funds shall submit, to the Louisiana Right To Life Education Committee, an affidavit affirming its qualifications, which shall include a pledge to spend the money in accordance with the provisions of this Section, and shall qualify as tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended. Furthermore, an organization wishing to qualify for receipt of funds shall demonstrate that it provides counseling and other services intended to meet the needs of expectant mothers considering adoption for their unborn child. No monies shall be distributed to any organization involved in, or associated with counseling for, or referrals to, abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising.

(3) Organization receiving monies under this Section shall use at least fifty percent of such funds to provide for the material needs of expectant mothers considering adoption for their unborn child, including clothing, house, medical care, food, utilities, and transportation. Such monies may also be used to meet the needs of infants awaiting placement with adoptive parents. The remaining funds may be used for counseling, training, and providing pregnancy testing, but shall not be used for administrative, legal, or capital expenditures.

F. Repealed by Acts 2009, No. 496, § 2, eff. July 1, 2009.

G. Repealed by Acts 2009, No. 496, § 2, eff. July 1, 2009.

H. Repealed by Acts 2009, No. 496, § 2, eff. July 1, 2009. **Added by Acts 1999, No. 729, § 1. Amended by Acts 2003, No. 22, § 1; Acts 2009, No. 496, § 1, eff. July 1, 2009; Acts 2010, No. 42, § 1. This provision has been amended this past legislative session through Act 84 (S.B. 211).**

- **Public Funding**

- **La. R.S. 49:200.51, Public funding for abortion providers; prohibition (<Text of section effective 30 days after contingency in § 6 of Acts 2018, No. 498. For text of section effective until 30 days after contingency in § 6 of Acts 2018, No. 498, see R.S. 36:21. For contingency of § 6, see italic notes, post. >):**

A. For purposes of this Chapter, the term “abortion” shall have the meaning ascribed in R.S. 40:1061.9.

B. (1) The Louisiana Department of Health shall not enter into any provider agreement for medical assistance program funding, as defined in R.S. 46:437.3, with any healthcare provider, entity, or organization that does any of the following:

(a) Performs abortions in this state.

(b) Provides its own facilities where reimbursable medical assistance program services are performed for the use of another healthcare provider, entity, or organization for the purpose of performing abortions in this state.

(c) Hires or retains another healthcare provider, entity, or organization for the purpose of performing abortions in this state.

(d) Provides reimbursable medical assistance program services in the same physical facility as a licensed outpatient abortion facility.

(2)(a) The prohibition provided in this Section shall apply to state funds, federal funds, and any other public funds administered by the Louisiana Department of Health through a medical assistance program provider agreement. In the instance that a state or federal funding grant is denied to a healthcare provider, entity, or organization under this Section, such grant shall be redirected to qualified providers in the same geographical region as the healthcare provider, entity, or organization that was disqualified from such grant.

(b) For purposes of this Paragraph, “medical assistance program” and “provider agreement” shall have the meaning ascribed in R.S. 46:437.3.

(3) The prohibition provided in this Section shall not be construed to prohibit provision of public protections, such as fire, police, or emergency medical services, public utilities, or other such services to any entity or organization in the same manner as provided to the general public.

(4) The prohibition in this Section shall not be construed to restrict funding to an entity that may be engaged in performing the following types of abortions, exclusively, provided such abortions are performed in accordance with applicable state and federal laws:

(a) An abortion which is medically necessary to prevent the death of the mother.

(b) An abortion in a case when the mother is a victim of rape or incest.

(c) An abortion performed when the pregnancy is diagnosed as medically futile. For purposes of this Subparagraph, “medically futile” means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth. This diagnosis shall be a medical judgment certified in the pregnant woman's medical record by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved. **Redesignated from R.S. 36:21 by Acts 2018, No. 498, § 5. Added by Acts 2016, No. 304, § 1, eff. June 2, 2016. Amended by Acts 2018, No. 498, § 1.**

- **APA Hearings**

- **La. R.S. 49:965.1, Expenses of administrative proceedings; right to recover:**

A. When a small business files a petition seeking: (1) relief from the application or enforcement of an agency rule or regulation, (2) judicial review of the validity or applicability of an agency rule, (3) judicial review of an adverse declaratory order or ruling, or (4) judicial review of a final decision or order in an adjudication proceeding, the petition may include a claim against the agency for the recovery of reasonable litigation expenses. If the small business prevails and the court determines that the agency acted without substantial justification, the court may award such expenses, in addition to granting any other appropriate relief.

B. A small business shall be deemed to have prevailed in an action when, in the final disposition, its position with respect to the agency rule or declaratory order or ruling is maintained, or when there is no adjudication, stipulation, or acceptance of liability on its part. However, a small business shall not be deemed to have prevailed, if the action was commenced at the instance of, or on the basis of a complaint by, anyone other than an officer, agent, or employee of the agency and was dismissed by the agency on a finding of no cause for the action or settled without a finding of fault on the part of the small business.

C. An agency shall pay any award made against it pursuant to this Section from funds in its regular operating budget and shall, at the time of its submission of its proposed annual budget, submit to the division of administration and to the presiding officer of each house of the legislature a report of all such awards paid during the previous fiscal year.

D. As used in this Section:

(1) “Reasonable litigation expenses” means any expenses, not exceeding seven thousand five hundred dollars in connection with any one claim, reasonably incurred in opposing or contesting the agency action, including costs and expenses incurred in both the administrative proceeding and the judicial proceeding, fees and expenses of expert or other witnesses, and attorney fees.

(2) “Small business” means a small business as defined by the Small Business Administration, which for purposes of size eligibility or other factors, meets the applicable criteria set forth in 13 Code of Federal Regulations, Part 121, as amended. **Added by Acts 1982, No. 497, § 1. See *June Medical Services, LLC v. Louisiana Department of Health*, App. 1 Cir.2020, 300 So.3d 413, 2019-0192 (La.App. 1 Cir. 3/4/20) (Court of Appeal would vacate award of \$7,500 in litigation expenses made to reproductive health clinic that challenged Department of Health's regulations issued under Louisiana's Outpatient Abortion Facility Licensing Law after district court declared regulations invalid, as Court of Appeal reversed district court's grant of summary judgment to clinic in underlying matter).**

- **La. R.S. 49:992, Applicability; exemptions; attorney fees; court costs:**

A. (1) Prior to October 1, 1996, the provisions of the Administrative Procedure Act¹ shall apply to all adjudications as defined by that Act.

(2) On and after October 1, 1996, the division shall commence and handle all adjudications in the manner required by the Administrative Procedure Act provided that the provisions of that Act are not inconsistent with the provisions of this Chapter.

B. (1) Notwithstanding any other provision of the law to the contrary except as provided by R.S. 49:967 and the provisions of this Section, all adjudications shall be resolved exclusively as required by the provisions of this Chapter and the Administrative Procedure Act.

(2) Except in the instance of adjudications initiated pursuant to Items (D)(2)(b)(iii), (vi), and (vii) of this Section, in an adjudication commenced by the division, the administrative law judge shall issue the final decision or order, whether or not on rehearing, and the agency shall have no authority to override such decision or order. Upon the issuance of such a final decision or order, the agency or any official thereof shall comply fully with the final order or decision of the administrative law judge.

(3)(a) Nothing in this Section shall affect the right to or manner of judicial appeal in any adjudication, irrespective of whether or not such adjudication is commenced by the division or by an agency.

(b)(i) However, no agency or official thereof, or other person acting on behalf of an agency or official thereof, shall be entitled to judicial review of a decision made pursuant to this Chapter.

(ii) The provisions of Item (i) of this Subparagraph shall not apply to the Department of Children and Family Services or an official thereof or other person acting on behalf of the department or official in appeals brought pursuant to Children's Code Article 616.1.1.

C. The positions appointed by the director pursuant to this Chapter shall be in the classified service.

D. (1) Except as provided in Paragraphs (2) through (9) of this Subsection, the provisions of this Chapter shall apply to any board, commission, department, or agency of the executive branch of state government.

(2)(a) Except as otherwise provided in Subparagraph (b) of this Paragraph, any board, commission, department, or agency which is required, pursuant to a federal mandate and as a condition of federal funding, to conduct or to render a final order in an adjudication proceeding shall be exempt from the provisions of this Chapter to the extent of the federal mandate.

(b) This Subparagraph shall apply to the Louisiana Department of Health, the Department of Children and Family Services, the Department of Education, and any agency within these departments:

(i) If the department or an agency within the department is prohibited, pursuant to a federal mandate or as a condition of federal funding, from delegating by contract or other means its fair hearings function, then such fair hearings shall be exempt from the provisions of this Chapter to the extent of the federal mandate; however, if such federally mandated hearings function may be delegated by contract or other means, the department or agency shall delegate such function to the division. If the department or agency claims a federal mandate exemption, the department or agency shall have the burden of proving such exemption.

(ii) If the department or an agency within the department is prohibited, pursuant to a federal mandate or as a condition of federal funding, from delegating by contract or other means both its fair hearings function and its authority to render a final decision or order in an adjudication proceeding, then such fair hearings and adjudication proceedings shall be exempt from the provisions of this Chapter to the extent of the federal mandate; however, if such federally mandated hearings function and authority to render a final decision or

order in an adjudication proceeding may be delegated by contract or other means, the department or agency shall delegate such function and authority to the division. If the department or agency claims a federal mandate exemption, the department or agency shall have the burden of proving such exemption.

(iii)(aa) If a department or an agency within the department may delegate its fair hearings function but is required by federal mandate to render the final decision or order in an adjudication proceeding, then in those cases, the division shall conduct the hearing and issue a recommended decision. The recommended decision shall be mailed or delivered to the head of the agency, who shall have, upon receipt of the recommended decision, thirty-five days to reject, modify, or approve the decision. If he rejects or modifies the recommended decision, he shall specify in writing the findings of fact or conclusions of law which are being rejected or modified which shall be considered to be the final decision or order in the adjudication proceeding. A copy of the department or agency's rejected or modified decision shall be forwarded to the division on the day it is issued. If the agency head does not reject or modify the recommended decision within thirty-five days, or if he approves the recommended decision, then the recommended decision of the division shall be certified as the final decision or order of the department or agency in the adjudication proceeding.

(bb) In Temporary Assistance for Needy Families (TANF) cases, if the secretary of the Department of Children and Family Services approves, rejects, or modifies the recommended decision of the division, that approved, rejected, or modified decision shall be issued by the division as the final decision of the Department of Children and Family Services.

(iv) The provisions of this Subparagraph shall not apply to any board which is exempt from this Chapter pursuant to Paragraph (5) of this Subsection or to any board or commission which chooses to continue to conduct hearings pursuant to Subsection G of this Section.

(v) The division shall adjudicate within seventy-two hours of receipt all stay requests related to involuntary discharges from nursing homes. The division shall adjudicate all appeals related to involuntary discharges from nursing homes within thirty days of receipt.

(vi) Notwithstanding any provision of law to the contrary, an adjudication of a decision by the Louisiana Department of Health to deny, suspend, or revoke the license of an outpatient abortion facility, ambulatory surgical center, home health agency, hospital, or nursing home, pursuant to R.S. 40:2009.7, 2110, 2116.37, 2141, or 2175.6 shall be heard by a three member panel of division of administrative law judges. This panel shall be deemed to meet the requirements of a panel appointed by the secretary of the Louisiana Department of Health. The three member panel shall issue a final decision or order. The final decision or order shall be appealable to the district court for the parish of East Baton Rouge.

(vii) The provisions of this Subparagraph shall apply to hearings involving the Department of Education required under the Individuals with Disabilities Education Act, and the provisions of the Administrative Procedure Act shall not apply to these hearings. Hearings involving the Individuals with Disabilities Act shall proceed in accordance with regulations promulgated by the Board of Elementary and Secondary Education. Only an administrative law judge who has received training on the federal and state statutes and regulations with respect to children with disabilities and on educational placements in Louisiana's school systems shall conduct hearings pursuant to this Item. Any party aggrieved by the findings and decisions of the administrative law judge in hearings conducted pursuant to the Individuals with Disabilities Education Act, including local educational authorities, shall have a right to bring a civil action in state or federal court pursuant to federal law or regulation.

(3) The office of workers' compensation administration in the Louisiana Workforce Commission shall be exempt from the provisions of this Chapter.

(4) The office of unemployment insurance administration in the Louisiana Workforce Commission shall be exempt from this Chapter.

(5) State professional and occupational licensing boards shall be exempt from the provisions of this Chapter.

(6) The Department of Agriculture and Forestry shall be exempt from the provisions of this Chapter.

(7) All adjudications by the assistant secretary of the office of conservation pursuant to Chapters 1 and 7 of Subtitle I of Title 30 of the Louisiana Revised Statutes of 1950,² except determinations of violations of laws, rules, regulations, and orders, and determinations of penalties for such violations, shall be exempt from the provisions of this Chapter.

(8) The Public Service Commission and any entity which by law has its adjudications handled by the Public Service Commission shall be exempt from the provisions of this Chapter.

(9) Adjudications filed pursuant to R.S. 46:51.2, involving a risk evaluation panel decision, with the Department of Children and Family Services shall be exempt from the provisions of this Chapter.

E. In the event that a person files a civil action to require that a state department, division, office, agency, board, commission, or other entity of state government conduct an adjudication as required by this Chapter and judgment is rendered in his favor, he shall be entitled to an award of reasonable attorney fees to be taxed as costs in the matter.

F. The provisions of this Chapter shall apply to all adjudications as defined in the Administrative Procedure Act pursuant to the Procurement Code.³

G. Any board or commission authorized by law to conduct hearings may continue to hold such hearings.

H. (1) If an agency or official thereof, or other person acting on behalf of an agency or official thereof, files a petition for judicial review of a final decision or order in an adjudication proceeding and such agency, official, or person does not prevail in the final disposition of the judicial review, the agency shall be responsible for the payment of reasonable attorney fees and court costs of the other party.

(2) Notwithstanding any provision of R.S. 13:4521 to the contrary, an agency or official thereof, or other person acting on behalf of an agency or official thereof, which files a petition for judicial review of a final decision or order in an adjudication proceeding shall be required to pay court costs.

(3) All payments for litigation expenses required by this Subsection shall be paid from the agency's regular operating budget. Each agency which has paid such litigation expenses shall submit a detailed report of all such payments from the previous fiscal year to its legislative oversight committees and to the Joint Legislative Committee on the Budget no later than November fifteenth of each year. **Acts 2003, No. 956, § 1, eff. July 1, 2003. Amended by Acts 2003, No. 1271, § 1, eff. July 11, 2003; Acts 2005, No. 204, § 1; Acts 2009, No. 47, § 2, eff. June 15, 2009; Acts 2010, No. 683, § 1; Acts 2017, No. 348, § 4; Acts 2018, No. 90, § 1, eff. May 10, 2018; Acts 2018, No. 655, § 2; Acts 2021, No. 4, § 1, eff. Jan. 1, 2022.**