

RS 40:1061**CHAPTER 5. HEALTH PROVISIONS: ABORTION****§1061. Abortion; prohibition**

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 Supreme Court of the United States which overrules, 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 or limit 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 or limit abortion.

(3) A decision of the Supreme Court of the United States in the case of *Dobbs v. Jackson Women's Health Organization*, Docket No. 19-1392, which overrules, 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 or limit 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. 14:87.7, 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 terms as used in this Section have the same meaning as the definitions provided in R.S. 14:87.1.

J. This Section shall be known, and may be cited, as the Human Life Protection Act.

Acts 2006, No. 467, §1; Redesignated from R.S. 40:1299.30 by HCR 84 of 2015 R.S.; Acts 2018, No. 468, §2, eff. May 23, 2018; Acts 2022, No. 545, §3; Acts 2022, No. 548, §2.

NOTE: Former R.S. 40:1061 redesignated to R.S. 40:1121.1 by HCR 84 of 2015 R.S.

RS 40:1061.1

§1061.1. Legislative intent; construction of abortion provisions law regulating abortion

A.(1) It is the intention of the Legislature of Louisiana to regulate, prohibit, or restrict abortion to the fullest extent permitted by the decisions of the Supreme Court of the United States. The legislature does solemnly declare, find, and reaffirm the longstanding public policy of this state that every unborn child is a human being from the moment of conception and is, therefore, a legal person for purposes under the laws of this state and Constitution of Louisiana.

(2) The legislature further finds and declares that the longstanding policy of this state to protect the right to life of every unborn child from conception by prohibiting abortion is impermissible only because of the decisions of the Supreme Court of the United States and that, therefore, if those decisions of the Supreme Court of the United States are ever reversed or modified or the United States Constitution is amended to allow protection of the unborn then the public policy of this state to prohibit abortions shall be enforced.

B.(1) The provisions of this Chapter that regulate the practice of abortion shall not be construed to repeal any other provision of law that restricts or prohibits abortion.

(2) The provisions of this Chapter that regulate the practice of abortion are enacted to provide for the health, safety, and welfare of women in outpatient abortion facilities until such time and to the extent that the state of Louisiana no longer regulates outpatient abortion facilities.

C. The provisions of this Chapter that regulate the practice of abortion are subject to R.S. 40:2175.10.

Added by Acts 1981, No. 774, §1, eff. July 23, 1981; Redesignated from R.S. 40:1299.35.0 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §§3, 6B; Redesignated from R.S. 40:1061.8.

NOTE: Former R.S. 40:1061.1 redesignated as R.S. 40:1061.1.2 by Acts 2022, No. 545, §6C.

RS 40:1061.1.1

§1061.1.1. Definitions

Wherever used in this Chapter, unless a different meaning clearly appears in the context, the terms, whether singular or plural, have the same meaning as the definitions provided in R.S. 14:87.1.

- (1) Repealed by Acts 2022, No. 545, §4.
- (2) Repealed by Acts 2022, No. 545, §4.
- (3) Repealed by Acts 2022, No. 545, §4.
- (4) Repealed by Acts 2022, No. 545, §4.
- (5) Repealed by Acts 2022, No. 545, §4.
- (6) Repealed by Acts 2022, No. 545, §4.
- (7) Repealed by Acts 2022, No. 545, §4.
- (8) Repealed by Acts 2022, No. 545, §4.
- (9) Repealed by Acts 2022, No. 545, §4.
- (10) Repealed by Acts 2022, No. 545, §4.
- (11) Repealed by Acts 2022, No. 545, §4.

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; Redesignated from R.S. 40:1299.35.1 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §§3, 4, 6B; Redesignated from R.S. 40:1061.9.

NOTE: Former R.S. 40:1061.1.1 redesignated as R.S. 40:1061.1.3 by Acts 2022, No. 545, §6C.

RS 40:1061.1.2

§1061.1.2. 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 post fertilization 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 post fertilization 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 post fertilization 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 post fertilization 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 post fertilization 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.

(2) When an abortion upon a woman whose unborn child has been determined to have a probable post fertilization 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.

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.

H. The provisions of R.S. 40:1061.1 shall apply to this Section.

Acts 2012, No. 738, §1; Redesignated from R.S. 40:1299.30.1 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §§3, 6C; Redesignated from R.S. 40:1061.1.

NOTE: Former R.S. 40:1061.1.2 redesignated as R.S. 40:1061.1.4 by Acts 2022, No. 545, §6C.

RS 40:1061.1.3

§1061.1.3. 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. Repealed by Acts 2022, No. 545, §4.

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.

I. The provisions of R.S. 40:1061.1 shall apply to this Section.

Acts 2016, No. 264, §1; Acts 2022, No. 545, §§3, 4, 6C; Redesignated from R.S. 40:1061.1.1.

NOTE: Former R.S. 40:1061.1.3 redesignated as R.S. 40:1061.1.5 by Acts 2022, No. 545, §6C.

RS 40:1061.1.4

§1061.1.4. Abortion based on genetic abnormality; prohibition

A. Repealed by Acts 2022, No. 545, §4.

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. 40:1061.1.2, 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.

Acts 2016, No. 563, §1, eff. June 17, 2016; Acts 2018, No. 77, §1, eff. May 10, 2018; Acts 2022, No. 545, §4; Redesignated from R.S. 40:1061.1.2.

RS 40:1061.1.5

NOTE: §1061.1.5 eff. upon final decision of the U.S. Court of Appeals of the 5th Circuit upholding the Act that originated as SB 2116 of the 2019 R.S. of the Mississippi Legislature.

§1061.1.5. Abortion prohibited; detectable fetal heartbeat; ultrasound required

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. Repealed by Acts 2022, No. 545, §4.

C. Whoever violates this Section shall be prosecuted pursuant to the effective provisions of R.S. 14:87.7 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.

Acts 2019, No. 31, §1, special eff. date; Acts 2022, No. 545, §§3, 4; Redesignated from R.S. 40:1061.1.3.

RS 40:1061.2

§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.

Added by Acts 1973, No. 72, §1; Redesignated from R.S. 40:1299.31 by HCR 84 of 2015 R.S.

RS 40:1061.3

§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.

Added by Acts 1973, No. 72, §1; Redesignated from R.S. 40:1299.32 by HCR 84 of 2015 R.S.

RS 40:1061.4

§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.

Added by Acts 1973, No. 72, §1; Redesignated from R.S. 40:1299.33 by HCR 84 of 2015 R.S.

RS 40:1061.5

§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.

Added by Acts 1973, No. 72, §1. Amended by Acts 1978, No. 786, §5, eff. July 17, 1978;
Redesignated from R.S. 40:1299.34 by HCR 84 of 2015 R.S.

RS 40:1061.6

§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.

NOTE: Paragraph (A)(2) eff. until conditions per Acts 2018, No. 498.

(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.

NOTE: Paragraph (A)(2) eff. upon conditions per Acts 2018, No. 498.

(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.

Added by Acts 1978, No. 704, §2; Acts 1994, 4th Ex. Sess., No. 1, §1, eff. Aug. 23, 1994; Acts 2014, No. 602, §6, eff. June 12, 2014; Redesignated from R.S. 40:1299.34.5 by HCR 84 of 2015 R.S.; Acts 2016, No. 304, §2, eff. June 2, 2016; Acts 2018, No. 498, §2, See Act.

RS 40:1061.7**§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, 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.

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.

Acts 2014, No. 617, §1; Redesignated from R.S. 40:1299.35 by HCR 84 of 2015 R.S.

RS 40:1061.8

§1061.8. Redesignated as R.S. 40:1061.1 by Acts 2022, No. 545, §6B.

RS 40:1061.9

§1061.9. Redesignated as R.S. 40:1061.1.1 by Acts 2022, No. 545, §6B.

RS 40:1061.10

§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.

F. The provisions of R.S. 40:1061.1 shall apply to this Section.

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; Redesignated from R.S. 40:1299.35.2 by HCR 84 of 2015 R.S.; Acts 2016, No. 97, §1; Acts 2016, No. 98, §1; Acts 2022, No. 545, §3.

RS 40:1061.11**§1061.11. Drugs or chemicals used; penalties**

A. When any drug or chemical is used for the purpose of inducing an abortion, 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, 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.

G. The provisions of R.S. 40:1061.1 shall apply to this Section.

Acts 2013, No. 259, §1, eff. June 10, 2013; Acts 2014, No. 620, §1, eff. Sept. 1, 2014; Redesignated from R.S. 40:1299.35.2.1 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §3.

RS 40:1061.11.1**§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. 14:87.1(1)(b)(ii).

(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.

E. The provisions of R.S. 40:1061.1 shall apply to this Section.

Acts 2021, No. 483, §1; Acts 2022, No. 545, §3.

RS 40:1061.12**§1061.12. Born-Alive Infant Protection Act**

A. 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), whether the abortion was considered legal or illegal under the law at the time that the abortion was performed.

B. The provisions of R.S. 40:1061.1 shall apply to this Section.

Acts 2001, No. 1110, §1, eff. June 28, 2001; Redesignated from R.S. 40:1299.35.3 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §3.

RS 40:1061.13

§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.

D. The provisions of this Section shall apply to an infant born alive, and the infant born alive shall be given immediate medical care regardless of whether the abortion was considered legal or illegal under the law at the time the abortion was performed.

E. The provisions of R.S. 40:1061.1 shall apply to this Section.

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; Redesignated from R.S. 40:1299.35.4 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §3.

RS 40:1061.14**§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.

E. The provisions of R.S. 40:1061.1 shall apply to this Section.

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 2009, No. 384, §5, eff. July 1, 2010; Redesignated from R.S. 40:1299.35.5 by HCR 84 of 2015 R.S; Acts 2017, No. 165, §1; Acts 2021, No. 482, §1; Acts 2022, No. 545, §3.

NOTE: See Acts 1995, No. 1254, §2, re: severability.

NOTE: See Acts 1997, No. 933, §§2, 4, re: intent and severability.

RS 40:1061.15

§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.

E. The provisions of R.S. 40:1061.1 shall apply to this Section.

Acts 2011, No. 411, §1; Redesignated from R.S. 40:1299.35.5.1 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §3.

RS 40:1061.16

§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, 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. The provisions of R.S. 40:1061.1 shall apply to this Section.

G. Nothing in this Section shall be construed to conflict with or supersede the requirement for mandatory reporting of child abuse provided in Children's Code Article 603 et seq.

Acts 2014, No. 569, §2, special eff. date; Redesignated from R.S. 40:1299.35.5.2 by HCR 84 of 2015 R.S.; Acts 2016, No. 97, §1; Acts 2018, No. 661, §8; Acts 2022, No. 545, §3.

NOTE: See Acts 2014, No. 569, §3, regarding effectiveness.

RS 40:1061.17

§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*, and in *Margaret S. v. Treen*.

(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*, 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*.

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

(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, 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 Act 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, or which later becomes unlawful.

(3) The provisions of R.S. 40:1061.1 shall apply to this Section.

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; Redesignated from R.S. 40:1299.35.6 by HCR 84 of 2015 R.S.; Acts 2016, No. 97, §1; Acts 2018, No. 319, §1; Acts 2019, No. 198, §1, eff. June 11, 2019; Acts 2022, No. 271, §4; Acts 2022, No. 545, §3.

RS 40:1061.17.1**§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.

Acts 2018, No. 319, §1.

RS 40:1061.18

§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.

Acts 1994, 4th Ex. Sess., No. 1, §1, eff. Aug. 23, 1994; Acts 2005, No. 421, §1; Acts 2014, No. 602, §6, eff. June 12, 2014; Redesignated from R.S. 40:1299.35.7 by HCR 84 of 2015 R.S.; Acts 2016, No. 97, §1.

RS 40:1061.19

§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.

H. The provisions of R.S. 40:1061.1 shall apply to this Section.

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, special eff. date; Redesignated from R.S. 40:1299.35.8 by HCR 84 of 2015 R.S; Acts 2017, No. 165, §1; Acts 2019, No. 435, §1, eff. June 22, 2019; Acts 2022, No. 545, §3.

NOTE: See Acts 2014, No. 569, §3, regarding effective date.

RS 40:1061.20

§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.

D. The provisions of R.S. 40:1061.1 shall apply to this Section.

Acts 2009, No. 372, §1; Redesignated from R.S. 40:1299.35.9 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §3.

RS 40:1061.21**§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.

F. The provisions of R.S. 40:1061.1 shall apply to this Section.

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; Redesignated from R.S. 40:1299.35.10 by HCR 84 of 2015 R.S.; Acts 2017, No. 165, §1; Acts 2021, No. 425, §1; Acts 2021, No. 482, §1; Acts 2022, No. 545, §3.

RS 40:1061.22

§1061.22. Forms

A. 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.

B. The provisions of R.S. 40:1061.1 shall apply to this Section.

Added by Acts 1978, No. 435, §1. Amended by Acts 1981, No. 774, §1, eff. July 23, 1981; Acts 2012, No. 685, §1; Redesignated from R.S. 40:1299.35.11 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §3.

RS 40:1061.23**§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 serious health risk to the unborn child's mother. Within twenty-four hours, the attending physician shall certify to the medical emergency for the abortion and shall enter such certification in the medical record of the pregnant woman.

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, special eff. date; Redesignated from R.S. 40:1299.35.12 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §3.

NOTE: See Acts 2014, No. 569, §3, regarding effectiveness.

RS 40:1061.24

§1061.24. Experimentation

A. 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.

B. The provisions of R.S. 40:1061.1 shall apply to this Section.

Added by Acts 1978, No. 435, §1. Amended by Acts 1981, No. 774, §1, eff. July 23, 1981;
Redesignated from R.S. 40:1299.35.13 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §3.

RS 40:1061.25

§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 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.

F. The provisions of R.S. 40:1061.1 shall apply to this Section.

Added by Acts 1978, No. 435, §1. Amended by Acts 1980, No. 418, §1; Acts 1981, No. 774, §1, eff. July 23, 1981; Redesignated from R.S. 40:1299.35.14 by HCR 84 of 2015 R.S.; Acts 2016, No. 593, §1; Acts 2018, No. 204, §1, eff. May 15, 2018; Acts 2022, No. 545, §3.

RS 40:1061.26

§1061.26. Instructions to be provided subsequent to abortion

A. 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 ensure her safe recovery from the abortion.

B. The provisions of R.S. 40:1061.1 shall apply to this Section.

Added by Acts 1978, No. 435, §1; Redesignated from R.S. 40:1299.35.15 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §3.

RS 40:1061.27

§1061.27. Repealed by Acts 2022, No. 545, §4.

RS 40:1061.28**§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 because of a medical emergency or to save the life of the mother.

B. Repealed by Acts 2022, No. 545, §4.

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.

Acts 2007, No. 473, §2, eff. July 12, 2007; Redesignated from R.S. 40:1299.35.17 by Acts 2008, No. 220, §14; Redesignated from R.S. 40:1299.35.18 by HCR 84 of 2015 R.S.; Acts 2022, No. 545, §§3, 4.

RS 40:1061.29

§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.

Added by Acts 1978, No. 435, §1; Acts 1981, No. 774, §1, eff. July 23, 1981; Redesignated from R.S. 40:1299.35.18 by Acts 2008, No. 220, §14; Acts 2011, No. 411, §1, eff. Aug. 15, 2011; Acts 2013, No. 259, §1, eff. June 10, 2013; Redesignated from R.S. 40:1299.35.19 by HCR 84 of 2015 R.S.; Acts 2019, No. 435, §1, eff. June 22, 2019.

RS 40:1061.30

§1061.30. Suspension or revocation of license; grounds; action to close outpatient abortion clinic

A. 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.

B. The provisions of R.S. 40:2175.9 and R.S. 40:2175.10 shall apply to this Chapter.

Acts 2018, No. 564, §1; Acts 2022, No. 545, §3.