

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 disciplinary 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.

- (7) The internet address for disciplinary records of the Louisiana Board of Medical Examiners.

Proposed law provides the following legislative intent:

- (1) Louisiana patients considering a medical procedure customarily do research and rely upon the qualifications and background information of the physician who would potentially perform the patient's procedure. Such information is relevant and necessary to determine if the patient should undergo the procedure, the risk of complications, and to the patient's choice of physician.
- (2) Louisiana physicians commonly make information about their background and qualifications available to current and potential patients and by posting such information on the physicians' websites. More information about physicians improves the market for medical services in La. by enabling informed decisions by patients and by encouraging physicians and medical facilities to maintain high professional standards.
- (3) Abortion carries the known risk of serious complications for the mother including infection, injury, hemorrhaging, sepsis, permanent loss of childbearing capacity, and death. Such risks are documented as occurring in Louisiana as a result of procedures at Louisiana abortion clinics.
- (4) La. outpatient abortion facilities do not publicly disclose the identities and professional qualifications of physicians who perform abortions there. Unlike other La. medical practices, outpatient abortion facilities do not customarily post the identities or qualifications of their physicians on their websites; therefore, the women considering an abortion may have difficulty obtaining information about an abortion facility's doctors.
- (5) Louisiana has a long history of outpatient abortion facilities operated by out-of-state businessmen, and those clinics appear to perform little or no review of the credentials or disciplinary history of the physicians who perform abortions at the facility. *See, e.g., June Medical Servs., LLC v. Gee*, 905 F.3d 787, 799 (5th Cir. 2018).
- (6) Louisiana outpatient abortion facilities actively work to conceal the identities and misconduct of abortion providers. For example, in a pending litigation, plaintiff abortion providers repeatedly insisted that publicly available information regarding misconduct by abortion doctors be filed under seal. *Compare* Emergency Motion to Strike (ECF 202), *June Medical Servs. LLC v. Gee*, No. 3:16-cv-444 (M.D. La.) with Mem. (ECF 207-1) at 4, 7-8, *June Medical Servs. LLC v. Gee*, No. 3:16-cv-444 (M.D. La.) (noting that the documents sealed at plaintiffs' request include a grand jury report that is for sale as a book and publicly

available Louisiana State Board of Medical Examiners disciplinary records); *see also, e.g.*, Reply (ECF 135-2) at 5, *June Medical Servs. LLC v. Gee*, No. 3:16-cv-444 (M.D. La.) (noting that plaintiffs had redacted the name of a deceased Louisiana abortion provider from a public record). In another case, a state court was induced to seal the *existence* of a malpractice case against two abortion providers, although the providers repeatedly used the patient's name in federal litigation.

- (7) Current law requires that a woman, in order to give informed consent to an abortion, must receive the name of the physician who will perform the abortion. La. abortion facilities are not currently required to provide information about the physician's background and qualifications or to direct the woman to a website where she may find information relevant to her decision about her physician.
- (8) The lack of transparency surrounding the medical operations of outpatient abortion facilities makes it difficult for women to fully evaluate whether to obtain an abortion or whether to obtain it from a particular physician at a given abortion facility. Such lack of transparency makes it difficult for women to make important decisions about their health and safety and creates obstacles to women exercising their informed consent and, therefore, such lack of transparency is contrary to the public interest.
- (9) A significant number of physicians who have performed abortions at La. outpatient abortion facilities in recent years have been subject to professional discipline and malpractice claims. The abortion facilities at which these physicians perform abortions have received a significant number of noncompliance actions related to violations of health and safety regulations which have been documented by deficiency reports filed with the La. Dept. of Health.
- (10) If a woman who is considering an abortion is to be treated by a physician who has been subject to professional discipline, it is in the best interest of that woman that she be afforded the opportunity to consider that professional discipline, in advance of undergoing the abortion procedure.
- (11) There is empirical evidence correlating nonboard certified physicians with an increased likelihood of professional discipline. Susan H. Allen, et al, *Training Matters: A Retrospective Study of Physician Disciplinary Matters by the Louisiana State Board of Medical Examiners, 1990-2010*, 102(4) J. MED. REG. 7 (2016).
- (12) The information to be disclosed under the requirements under proposed law is truthful information that is nonmisleading and relevant to the decision to obtain an abortion. It is therefore within the scope of information that Louisiana may require to be disclosed as part of a woman's informed consent before an abortion.

Proposed law provides the legislature finds and declares that the purpose of proposed law is to improve the ability of La. women to determine whether to obtain an abortion, to choose the appropriate facility and physician and thereby, make an informed consent for such an abortion if the

woman chooses to have the procedure. Such informed consent is needed so that the state of La. may adequately provide reasonable protections for public health.

Proposed law clarifies that, even though amendments are being added to the section of present law which contains the number of hours for the waiting period required between the time of the pre-abortion counseling and the actual abortion, proposed law is not intended to be construed to affect the outcome of the court case which was filed in response to a change in the waiting period in 2016 from 24 hours (prior law) to 72 hours (present law).

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 40:1061.17(B)(3))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Makes technical corrections.
2. Removes instruction to the Louisiana State Law Institute to re-designate the subsections of R.S. 40:1061.17 into individual sections.