New law establishes findings concerning barriers that terminally ill patients may face in access to potentially life-preserving treatments.

New law provides the following definitions for purposes of new law:

(1) "Eligible patient" means a person who meets all of the following criteria:

(a) Has a terminal illness.

(b) As determined by the person's physician, has no comparable or satisfactory treatment options that are approved by the U.S. Food and Drug Administration and available to diagnose, monitor, or treat the person's disease or condition, and the probable risk to the person from the investigational drug, biological product, or device is not greater than the probable risk from the person's disease or condition.

(c) Has received a prescription or recommendation from his physician for an investigational drug, biological product, or device.

(d) Has given his consent in writing for the use of the investigational drug, biological product, or device; or, if he is a minor or lacks the mental capacity to provide consent, a parent or legal guardian has given consent in writing on his behalf.

(e) Has documentation from his physician indicating that he has met the requirements provided in new law.

(2) "Investigational drug, biological product, or device" means a drug, biological product, or device that has successfully completed phase one of a U.S. Food and Drug Administration approved clinical trial, but has not been approved for general use by the U.S. Food and Drug Administration and remains under investigation in a clinical trial.

(3) "Terminal illness" means a disease that, without life-sustaining procedures, will result in death in the near future or a state of permanent unconsciousness from which recovery is unlikely. Provides that this diagnosis shall be confirmed by a second independent evaluation by a board-certified physician in an appropriate speciality.

New law authorizes manufacturers of investigational drugs, biological products, and devices to make available those drugs, products, and devices to eligible patients. Provides, however, that nothing in new law shall be construed to require provision of any drug, product, or device by a manufacturer.

New law authorizes a manufacturer to provide an investigational drug, biological product, or device to an eligible patient with or without compensation.

New law authorizes health insurers to provide coverage for the cost of an investigational drug, biological product, or device. Specifies that nothing in new law shall be construed to require such coverage by health insurers.

New law provides that a physician who prescribes an investigational drug, biological product, or device pursuant to new law shall be immune from civil liability, including but not limited to any cause of action arising under medical malpractice provisions of existing law, for any adverse outcome resulting from a patient's use of the investigational drug, biological product, or device pursuant to new law.

New law prohibits the La. State Board of Medical Examiners from revoking, failing to renew, or taking any other action against the license of a physician based solely upon his recommendation to an eligible patient regarding or prescription for or treatment with an investigational drug, biological product, or device when such recommendation, prescription, or treatment is undertaken in strict conformance with new law.

New law provides that new law shall be known and may be cited as the Right To Try Act.

Effective Aug. 1, 2014.

(Adds R.S. 40:1300.381-1300.386)