

1 S.204

2 Introduced by Senators Lyons, Hooker, Hardy, Perchlik and Ram Hinsdale

3 Referred to Committee on

4 Date:

5 Subject: Health; health care facilities; birth centers; health insurance;

6 Medicaid; certificate of need

7 Statement of purpose of bill as introduced: This bill proposes to establish a  
8 licensing structure for freestanding birth centers. It would also require  
9 prenatal, maternity, postpartum, and newborn coverage under health insurance  
10 plans and Medicaid to include birth center services and would specify that  
11 birth centers are not subject to certificate of need review.

12 An act relating to licensure of freestanding birth centers

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 18 V.S.A. chapter 53 is added to read:

15 CHAPTER 53. BIRTH CENTER LICENSING

16 § 2351. DEFINITION

17 As used in this chapter, “birth center” means a facility:

18 (1) that is not a hospital or part of a hospital;

19 (2) at which births are planned to occur away from the pregnant

20 individual’s residence following a low-risk pregnancy; and

1           (3) that provides prenatal, labor and delivery, or postpartum care, or a  
2           combination of these, as well as other related services in accordance with the  
3           scopes of practice of the health care professionals practicing at the birth center.

4           § 2352. LICENSE

5           No person shall establish, maintain, or operate a birth center in this State  
6           without first obtaining a license for the birth center in accordance with this  
7           chapter.

8           § 2353. APPLICATION; FEE

9           (a) An application for licensure of a birth center shall be made to the  
10           Department of Health on forms provided by the Department and shall include  
11           all information required by the Department.

12           (b)(1) Each application for a license shall be accompanied by a licensing  
13           fee of \$300.00.

14           (2) Fees collected under this section shall be credited to the Hospital  
15           Licensing Fees Special Fund and shall be available to the Department of  
16           Health to offset the costs of licensing birth centers.

17           (c) Notwithstanding any provision of this chapter to the contrary, for an  
18           application for renewal of a birth center's license, the Department of Health  
19           shall deem a licensed birth center that is currently accredited by the  
20           Commission for the Accreditation of Birth Centers or by another accrediting  
21           entity that complies with the national birth center standards published by the

1 American Association of Birth Centers as satisfying the requirements for  
2 renewal of the birth center's license, upon submission of a copy of the birth  
3 center's official accreditation certificate and payment of the application fee.

4 § 2354. LICENSE REQUIREMENTS

5 (a) Upon receipt of an application for a license and the licensing fee, the  
6 Department of Health shall issue a license if it determines that the applicant  
7 and the birth center facilities meet the following minimum standards:

8 (1) The applicant shall demonstrate the capacity to operate a birth center  
9 in accordance with rules adopted by the Department.

10 (2) The applicant shall demonstrate that its facilities comply fully with  
11 standards for health, safety, and sanitation as required by State law, including  
12 standards set forth by the State Fire Marshal and the Department of Health, and  
13 municipal ordinance.

14 (3) The applicant shall have a clear process for responding to patient  
15 complaints.

16 (4) The applicant shall participate in the Patient Safety Surveillance and  
17 Improvement System established pursuant to chapter 43A of this title.

18 (5) The birth center facilities, including the buildings and grounds, shall  
19 be subject to inspection by the Department, its designees, and other authorized  
20 entities at all times.

1       (b) A license is not transferable or assignable and shall be issued only for  
2       the premises and persons named in the application.

3       § 2355. REVOCATION OF LICENSE; HEARING

4       The Department of Health, after notice and opportunity for hearing to the  
5       applicant or licensee, is authorized to deny, suspend, or revoke a license in any  
6       case in which it finds that there has been a substantial failure to comply with  
7       the requirements established under this chapter. Such notice shall be served by  
8       registered mail or by personal service, shall set forth the reasons for the  
9       proposed action, and shall set a date not less than 60 days from the date of the  
10       mailing or service on which the applicant or licensee shall be given  
11       opportunity for a hearing. After the hearing, or upon default of the applicant or  
12       licensee, the Department shall file its findings of fact and conclusions of law.  
13       A copy of the findings and decision shall be sent by registered mail or served  
14       personally upon the applicant or licensee. The procedure governing hearings  
15       authorized by this section shall be in accordance with the usual and customary  
16       rules provided for such hearings.

17       § 2356. APPEAL

18       Any applicant or licensee, or the State acting through the Attorney General,  
19       aggrieved by the decision of the Department of Health after a hearing may,  
20       within 30 days after entry of the decision as provided in section 2355 of this  
21       title, appeal to the Superior Court for the district in which the appellant is

1 located. The court may affirm, modify, or reverse the Department's decision,  
2 and either the applicant or licensee or the Department or State may appeal to  
3 the Vermont Supreme Court for such further review as is provided by law.

4 Pending final disposition of the matter, the status quo of the applicant or  
5 licensee shall be preserved, except as the court otherwise orders in the public  
6 interest.

7 § 2357. INSPECTIONS

8 The Department of Health shall make or cause to be made such inspections  
9 and investigations as it deems necessary. If the Department finds a violation as  
10 the result of an inspection or investigation, the Department shall post a report  
11 on the Department's website summarizing the violation and any corrective  
12 action required.

13 § 2358. RECORDS

14 (a) Information received by the Department of Health through filed reports,  
15 inspections, or as otherwise authorized by law shall:

16 (1) not be disclosed publicly in a manner that identifies or may lead to  
17 the identification of one or more individuals or birth centers;

18 (2) be exempt from public inspection and copying under the Public  
19 Records Act; and

20 (3) be kept confidential except as it relates to a proceeding regarding  
21 licensure of a birth center.

1        (b) The provisions of subsection (a) of this section shall not apply to the  
2        summary reports of violations required to be posted on the Department's  
3        website pursuant to section 2357 of this chapter.

4        § 2359. RULES

5        The Department of Health shall adopt rules in accordance with 3 V.S.A.  
6        chapter 25 as needed to carry out the purposes of this chapter. The rules shall  
7        regulate birth centers in accordance with national birth center standards  
8        published by the American Association of Birth Centers and may include  
9        provisions regarding:

10        (1) the scope of services that may be provided at a birth center;

11        (2) appropriate staffing for a birth center, including the types of licensed  
12        health care professionals who may practice at a birth center; and

13        (3) a requirement for written practice guidelines and policies that  
14        include procedures for transferring a patient to a hospital if circumstances  
15        warrant.

16        Sec. 2. 8 V.S.A. § 4099d is amended to read:

17        § 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

18        (a) A health insurance plan or health benefit plan providing maternity  
19        benefits shall also provide coverage;

20        (1) for services rendered by a midwife licensed pursuant to 26 V.S.A.  
21        chapter 85 or an advanced practice registered nurse licensed pursuant to

1 26 V.S.A. chapter 28 who is certified as a nurse midwife for services within  
2 the licensed midwife's or certified nurse midwife's scope of practice and  
3 provided in a hospital, birth center, or other health care facility or at home; and  
4 (2) for prenatal, maternity, postpartum, and newborn services provided  
5 at a birth center licensed pursuant to 18 V.S.A. chapter 53.

6 \* \* \*

7 Sec. 3. 18 V.S.A. § 9435 is amended to read:

8 § 9435. EXCLUSIONS

9 (a) Excluded from this subchapter are offices of physicians, dentists, or  
10 other practitioners of the healing arts, meaning the physical places that are  
11 occupied by such providers on a regular basis in which such providers perform  
12 the range of diagnostic and treatment services usually performed by such  
13 providers on an outpatient basis unless they are subject to review under  
14 subdivision 9434(a)(4) of this title. The exclusion provisions of this subsection  
15 shall also apply to birth centers licensed pursuant to chapter 53 of this title.

16 \* \* \*

17 Sec. 4. AGENCY OF HUMAN SERVICES; MEDICAID; REQUEST FOR  
18 FEDERAL APPROVAL

19 The Agency of Human Services shall seek approval from the Centers for  
20 Medicare and Medicaid Services to allow Vermont Medicaid to cover prenatal,  
21 maternity, postpartum, and newborn services provided at a licensed birth

1 center and to allow Vermont Medicaid to reimburse separately for birth center  
2 services and for professional services.

3 Sec. 5. EFFECTIVE DATES

4 This act shall take effect on January 1, 2023, except that the Agency of  
5 Human Services shall submit its request for approval of Medicaid coverage of  
6 birth center services as set forth in Sec. 4 to the Centers for Medicare and  
7 Medicaid Services on or before July 1, 2022, and the Medicaid coverage shall  
8 begin on the later of the date of approval or January 1, 2023.