

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred Senate Bill
3 No. 204 entitled “An act relating to licensure of freestanding birth centers”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

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

8 CHAPTER 53. BIRTH CENTER LICENSING

9 § 2351. DEFINITION

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

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

12 (2) at which births are planned to occur away from the pregnant
13 individual’s residence following a low-risk pregnancy; and

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

17 § 2352. LICENSE

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

1 § 2353. APPLICATION; FEE

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

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

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

10 (c) Notwithstanding any provision of this chapter to the contrary, for an
11 application for renewal of a birth center’s license, the Department of Health
12 shall deem a licensed birth center that is currently accredited by the
13 Commission for the Accreditation of Birth Centers or by another accrediting
14 entity that complies with the national birth center standards published by the
15 American Association of Birth Centers as satisfying the requirements for
16 renewal of the birth center’s license, upon submission of a copy of the birth
17 center’s official accreditation certificate and payment of the application fee.

18 § 2354. LICENSE REQUIREMENTS

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

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

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

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

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

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

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

16 § 2355. REVOCATION OF LICENSE; HEARING

17 The Department of Health, after notice and opportunity for hearing to the
18 applicant or licensee, is authorized to deny, suspend, or revoke a license in any
19 case in which it finds that there has been a substantial failure to comply with
20 the requirements established under this chapter. Such notice shall be served by
21 registered mail or by personal service, shall set forth the reasons for the

1 proposed action, and shall set a date not less than 60 days from the date of the
2 mailing or service on which the applicant or licensee shall be given
3 opportunity for a hearing. After the hearing, or upon default of the applicant or
4 licensee, the Department shall file its findings of fact and conclusions of law.
5 A copy of the findings and decision shall be sent by registered mail or served
6 personally upon the applicant or licensee. The procedure governing hearings
7 authorized by this section shall be in accordance with the usual and customary
8 rules provided for such hearings.

9 § 2356. APPEAL

10 Any applicant or licensee, or the State acting through the Attorney General,
11 aggrieved by the decision of the Department of Health after a hearing may,
12 within 30 days after entry of the decision as provided in section 2355 of this
13 title, appeal to the Superior Court for the district in which the appellant is
14 located. The court may affirm, modify, or reverse the Department’s decision,
15 and either the applicant or licensee or the Department or State may appeal to
16 the Vermont Supreme Court for such further review as is provided by law.
17 Pending final disposition of the matter, the status quo of the applicant or
18 licensee shall be preserved, except as the court otherwise orders in the public
19 interest.

1 § 2357. INSPECTIONS

2 The Department of Health shall make or cause to be made such inspections
3 and investigations as it deems necessary. If the Department finds a violation as
4 the result of an inspection or investigation, the Department shall post a report
5 on the Department’s website summarizing the violation and any corrective
6 action required.

7 § 2358. RECORDS

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

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

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

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

16 (b) The provisions of subsection (a) of this section shall not apply to the
17 summary reports of violations required to be posted on the Department’s
18 website pursuant to section 2357 of this chapter.

19 § 2359. RULES

20 The Department of Health shall adopt rules in accordance with 3 V.S.A.
21 chapter 25 as needed to carry out the purposes of this chapter. The rules shall

1 regulate birth centers in accordance with national birth center standards
2 published by the American Association of Birth Centers and may include
3 provisions regarding:

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

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

7 (3) a requirement for written practice guidelines and policies that
8 include procedures for transferring a patient to a hospital if circumstances
9 warrant.

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

11 § 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

12 (a) A health insurance plan or health benefit plan providing maternity
13 benefits shall also provide coverage:

14 (1) for services rendered by a midwife licensed pursuant to 26 V.S.A.
15 chapter 85 or an advanced practice registered nurse licensed pursuant to
16 26 V.S.A. chapter 28 who is certified as a nurse midwife for services within
17 the licensed midwife’s or certified nurse midwife’s scope of practice and
18 provided in a hospital, birth center, or other health care facility or at home; and

19 (2) for prenatal, maternity, postpartum, and newborn services provided
20 at a birth center licensed pursuant to 18 V.S.A. chapter 53.

21 * * *

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

2 ~~§ 9435. EXCLUSIONS~~

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

10 * * *

11 Sec. 3. 18 V.S.A. § 9432 is amended to read: **(NEW)**

12 § 9432. DEFINITIONS

13 As used in this subchapter:

14 * * *

15 (15) “Freestanding birth center” has the same meaning as “birth center”
16 in section 2351 of this title.

17 Sec. 4. 18 V.S.A. § 9434 is amended to read:

18 § 9434. CERTIFICATE OF NEED; GENERAL RULES **(NEW)**

19 (a) A health care facility other than a hospital shall not develop or have
20 developed on its behalf a new health care project without issuance of a

1 certificate of need by the Board. For purposes of this subsection, a “new
2 health care project” includes the following:

3 * * *

4 (6) The construction, development, purchase, lease, or other
5 establishment of an ambulatory surgical center or a freestanding birth center.

6 * * *

7 Sec. 5. GREEN MOUNTAIN CARE BOARD; NEEDS ASSESSMENT;
8 HEALTH RESOURCE ALLOCATION PLAN; REPORT **(NEW)**

9 (a) In connection with its responsibility for developing and maintaining the
10 State’s Health Resource Allocation Plan pursuant to 18 V.S.A. § 9405, the
11 Green Mountain Care Board, in consultation with the Department of Health’s
12 Maternal and Child Health Division and the Blueprint for Health’s Women’s
13 Health Initiative, shall conduct an assessment of the need in this State for the
14 obstetric and midwifery services offered by freestanding birth centers. The
15 assessment shall include evaluating the need for the services in particular
16 regions of the State and for certain populations of Vermont residents.

17 (b) On or before April 1, 2023, the Board shall provide to the House
18 Committee on Health Care and the Senate Committee on Health and Welfare
19 its findings and recommendations regarding the need for the services of
20 freestanding birth centers in Vermont, along with a recommendation for

1 whether persons seeking to establish a birth center should be required to obtain
2 a certificate of need pursuant to 18 V.S.A. chapter 221, subchapter 5.

3 Sec. **6**. AGENCY OF HUMAN SERVICES; MEDICAID; REQUEST FOR
4 FEDERAL APPROVAL

5 The Agency of Human Services shall seek approval from the Centers for
6 Medicare and Medicaid Services to allow Vermont Medicaid to cover prenatal,
7 maternity, postpartum, and newborn services provided at a licensed birth
8 center and to allow Vermont Medicaid to reimburse separately for birth center
9 services and for professional services.

10 Sec. **7**. EFFECTIVE DATES

11 ~~This act shall take effect on January 1, 2023, except~~

12 ~~(a) Secs. 1 (18 V.S.A. chapter 53) and 2 (8 V.S.A. § 4099d) shall take~~
13 ~~effect on January 1, 2024.~~

14 ~~(b) Secs. 3 and 4 (18 V.S.A. §§ 9432 and 9434) shall take effect on~~
15 ~~July 1, 2023.~~

16 ~~(c) Sec. 5 (Green Mountain Care Board; needs assessment; Health~~
17 ~~Resource Allocation Plan; report) and this section shall take effect on~~
18 ~~passage.~~

19 ~~(d) Sec. 6 (Agency of Human Services; Medicaid; request for federal~~
20 ~~approval) shall take effect on January 1, 2023, and the Agency of Human~~
21 ~~Services shall submit its request for approval of Medicaid coverage of~~

1 **birth center services to the Centers for Medicare and Medicaid Services**
2 **on or before July 1, 2023, with Medicaid coverage to begin on the later of**
3 **the date of approval or January 1, 2024.**
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15 (Committee vote: _____)

16 _____

17 Senator _____

18 FOR THE COMMITTEE