

1 H.40

2 Introduced by Representatives Chapin of East Montpelier, Arsenault of
3 Williston, Burke of Brattleboro, Cordes of Bristol, Critchlow of
4 Colchester, Demar of Enosburgh, Goldman of Rockingham,
5 Graning of Jericho, Logan of Burlington, McCann of
6 Montpelier, Mrowicki of Putney, Pouech of Hinesburg, and
7 Priestley of Bradford

8 Referred to Committee on

9 Date:

10 Subject: Health; health care facilities; birth centers; certificate of need; health
11 insurance; Medicaid

12 Statement of purpose of bill as introduced: This bill proposes to establish a
13 licensing structure for freestanding birth centers and to exempt birth centers
14 from certificate of need review. It would also require prenatal, maternity,
15 postpartum, and newborn coverage under health insurance plans and Medicaid
16 to include birth center services.

17 An act relating to licensure of freestanding birth centers

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

19 Sec. 1. PURPOSES

20 (a) The purposes of this act are:

1 (1) to reduce health care costs;

2 (2) to protect women’s access to prenatal, maternity, birthing,

3 postpartum, and newborn care services; and

4 (3) to ensure women have a choice in how and where they give birth.

5 (b) This act would achieve those purposes by:

6 (1) removing the certificate of need requirement for establishing a

7 freestanding birth center; and

8 (2) licensing and regulating birth centers.

9 Sec. 2. FINDINGS

10 The General Assembly finds that:

11 (1) Vermonters value reproductive rights and equity in health care

12 choices, including the right to give birth in the setting of one’s choice.

13 (2) In Vermont, the only birthing settings that women and families

14 currently have are to have their babies in a hospital or at home.

15 (3) Vermont is one of the last states to ensure access to freestanding

16 birth centers.

17 (4) The American College of Obstetricians and Gynecologists, the

18 American Academy of Pediatrics, and the Society for Maternal-Fetal Medicine

19 all endorse the birth center model of care as a safe and evidence-based option

20 for individuals with low-risk pregnancies.

1 (5) In 2018, the Centers for Medicare and Medicaid Services issued a
2 report on the “Strong Start for Mothers and Newborns” initiative, which found
3 that rates of preterm birth, low birthweight, and cesarean section were lower
4 among Medicaid participants who received care and delivered their babies in a
5 freestanding birth center than those who delivered in a hospital or other non-
6 birth center setting. In addition to better outcomes, the report also found that
7 costs for Medicaid participants who delivered at a birth center were more than
8 \$2,000.00 lower per mother-infant pair during birth and the following year
9 than for the Medicaid participants who did not use a birth center.

10 (6) Birth centers are safe, supportive settings in which Vermonters can
11 receive prenatal, maternity, birthing, postpartum, and newborn care services.
12 Nationally, they have demonstrated better outcomes and reduced costs
13 compared with other birthing settings.

14 Sec. 3. 18 V.S.A. § 9435(a) is amended to read:

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

1 Sec. 4. 18 V.S.A. chapter 53 is added to read:

2 CHAPTER 53. BIRTH CENTER LICENSING

3 § 2351. DEFINITION

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

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

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

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

8 (3) that provides prenatal, labor and delivery, or postpartum care, or a

9 combination of these, as well as other related services in accordance with the

10 scopes of practice of the health care professionals practicing at the birth center.

11 § 2352. LICENSE

12 No person shall establish, maintain, or operate a birth center in this State

13 without first obtaining a license for the birth center in accordance with this

14 chapter.

15 § 2353. APPLICATION; FEE

16 (a) An application for licensure of a birth center shall be made to the

17 Department of Health on forms provided by the Department and shall include

18 all information required by the Department.

19 (b)(1) Each application for a license shall be accompanied by a licensing

20 fee of \$250.00.

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

4 (c) Notwithstanding any provision of this chapter to the contrary, for an
5 application for renewal of a birth center's license, the Department of Health
6 shall deem a licensed birth center that is currently accredited by the
7 Commission for the Accreditation of Birth Centers as satisfying the
8 requirements for renewal of the birth center's license, upon submission of a
9 copy of the birth center's official accreditation certificate and payment of the
10 application fee.

11 § 2354. LICENSE REQUIREMENTS

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

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

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

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

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

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

8 (c) A birth center may be independently owned and operated by a licensed
9 or certified health care professional whose scope of practice includes the
10 services offered by the birth center, including a midwife licensed under
11 26 V.S.A. chapter 85 and a nurse midwife certified under 26 V.S.A. chapter
12 28, subchapter 2.

13 (d) No person shall represent itself as a “birth center” or use the term “birth
14 center” in its title or in its advertising, publications, or other form of
15 communication unless the person has been licensed as a birth center in
16 accordance with the provisions of this chapter.

17 § 2355. REVOCATION OF LICENSE; HEARING

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

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

10 § 2356. APPEAL

11 Any applicant or licensee, or the State acting through the Attorney General,
12 aggrieved by the decision of the Department of Health after a hearing may,
13 within 30 days after entry of the decision as provided in section 2355 of this
14 title, appeal to the Superior Court for the district in which the appellant is
15 located. The court may affirm, modify, or reverse the Department's decision,
16 and either the applicant or licensee or the Department or State may appeal to
17 the Vermont Supreme Court for such further review as is provided by law.
18 Pending final disposition of the matter, the status quo of the applicant or
19 licensee shall be preserved, except as the court otherwise orders in the public
20 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 align the regulation of birth centers in Vermont with the national birth center
2 standards published by the American Association of Birth Centers and may
3 include 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 § 2360. NO EFFECT ON SCOPE OF SERVICES

11 Nothing in this chapter or in rules adopted pursuant to this chapter shall be
12 construed to limit the scope of the services that a licensed midwife, certified
13 nurse midwife, or other health care professional working within that health
14 care professional's scope of practice may offer or perform in a space that is
15 shared with or adjacent to a birth center.

16 Sec. 5. 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, including birth
6 center facility fees.

7 * * *

8 Sec. 6. AGENCY OF HUMAN SERVICES; MEDICAID; REQUEST FOR
9 FEDERAL APPROVAL

10 The Agency of Human Services shall seek approval from the Centers for
11 Medicare and Medicaid Services to allow Vermont Medicaid to cover prenatal,
12 maternity, postpartum, and newborn services provided at a licensed birth
13 center and to allow Vermont Medicaid to reimburse separately for birth center
14 services, including birth center facility fees, and for professional services.

15 Sec. 7. EFFECTIVE DATES

16 This act shall take effect on January 1, 2026, except that the Agency of
17 Human Services shall submit its request for approval of Medicaid coverage of
18 birth center services as set forth in Sec. 4 to the Centers for Medicare and
19 Medicaid Services on or before July 1, 2025, and the Medicaid coverage shall
20 begin on the later of the date of approval or January 1, 2026.