

1 S.18

2 Introduced by Senators Gulick, Clarkson, Hardy, Harrison, Plunkett, Watson,  
3 Weeks, White and Williams

4 Referred to Committee on

5 Date:

6 Subject: Health; health care facilities; birth centers; certificate of need; health  
7 insurance; Medicaid

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

13 An act relating to licensure of freestanding birth centers

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

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

16 CHAPTER 53. BIRTH CENTER LICENSING

17 § 2351. DEFINITION

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

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

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

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

6           § 2352. LICENSE

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

10          § 2353. APPLICATION; FEE

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

14          (b)(1) Each application for a license shall be accompanied by a licensing  
15          fee of \$250.00.

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

19          (c) Notwithstanding any provision of this chapter to the contrary, for an  
20          application for renewal of a birth center's license, the Department of Health  
21          shall deem a licensed birth center that is currently accredited by the

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

5 § 2354. LICENSE REQUIREMENTS

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

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

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

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

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

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

1       (c) A birth center may be independently owned and operated by a licensed  
2       or certified health care professional whose scope of practice includes the  
3       services offered by the birth center, including a midwife licensed under  
4       26 V.S.A. chapter 85 and a nurse midwife certified under 26 V.S.A. chapter  
5       28, subchapter 2.

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

10       § 2355. REVOCATION OF LICENSE; HEARING

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

1 authorized by this section shall be in accordance with the usual and customary  
2 rules provided for such hearings.

3 § 2356. APPEAL

4 Any applicant or licensee, or the State acting through the Attorney General,  
5 aggrieved by the decision of the Department of Health after a hearing may,  
6 within 30 days after entry of the decision as provided in section 2355 of this  
7 title, appeal to the Superior Court for the district in which the appellant is  
8 located. The court may affirm, modify, or reverse the Department's decision,  
9 and either the applicant or licensee or the Department or State may appeal to  
10 the Vermont Supreme Court for such further review as is provided by law.

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

14 § 2357. INSPECTIONS

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

1     § 2358. RECORDS

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

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

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

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

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

13     § 2359. RULES

14          The Department of Health shall adopt rules in accordance with 3 V.S.A.  
15     chapter 25 as needed to carry out the purposes of this chapter. The rules shall  
16     align the regulation of birth centers in Vermont with the national birth center  
17     standards published by the American Association of Birth Centers and may  
18     include provisions regarding:

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

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

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

4           § 2360. NO EFFECT ON SCOPE OF SERVICES

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

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 26  
16          V.S.A. chapter 28 who is certified as a nurse midwife for services within the  
17          licensed midwife's or certified nurse midwife's scope of practice and provided  
18          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(a) is amended to read:

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

9 Sec. 4. AGENCY OF HUMAN SERVICES; MEDICAID; REQUEST FOR  
10 FEDERAL APPROVAL

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

16 Sec. 5. EFFECTIVE DATES

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