

S.18

An act relating to licensure of freestanding birth centers

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

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

CHAPTER 53. BIRTH CENTER LICENSING

§ 2351. DEFINITIONS

As used in this chapter:

(1) “Birth center” means a facility the primary purposes of which are to provide midwifery care, low-risk deliveries, and newborn care immediately after delivery, for a stay of generally less than 24 hours. The term does not include a facility that is a hospital, is part of a hospital, or is owned by a hospital; a facility that is an ambulatory surgical center; or the residence of the individual giving birth. A birth center may be located on the grounds of a hospital.

(2) “Certified nurse midwife” means a professional licensed in accordance with 26 V.S.A. chapter 28, subchapter 2.

(3) “Change of ownership” means a change in the majority or controlling interest in an established birth center to another person.

(4) “Corrective action plan” means a written strategy for correcting an issue of partial compliance, deficiency, or violation of this chapter or rules adopted pursuant to this chapter.

1 (5) “Licensed maternity care provider” means a licensed provider whose
2 professional scope of practice, as established under Vermont law, includes
3 preconception, prenatal, labor, birth, and postpartum care and early care of a
4 newborn and who may be the primary attendant during the perinatal period.

5 (6) “Licensed midwife” means a professional licensed in accordance
6 with 26 V.S.A. chapter 85.

7 (7) “Licensed provider” means an individual licensed or certified in
8 Vermont to provide specific health care-related services within a scope of
9 practice defined by licensing statutes and rules, and may include certified nurse
10 midwives, licensed midwives, advanced practice registered nurses, physician
11 assistants, naturopathic physicians with a childbirth endorsement in accordance
12 with 26 V.S.A. §§ 4122(b) and 4125(b), doctors of nursing practice, and
13 physicians.

14 § 2352. LICENSE; PROHIBITIONS

15 (a) No person shall establish, maintain, or operate a birth center in this
16 State without first obtaining a license for the birth center in accordance with
17 this chapter.

18 (b) A birth center may be independently owned and operated by a licensed
19 maternity care provider.

20 (c) No person shall represent itself as a “birth center” or use the term “birth
21 center” in its title or in its advertising, publications, or other form of

1 communication unless the person has been licensed as a birth center in
2 accordance with the provisions of this chapter.

3 (d) A license is not transferable or assignable and shall be issued only for
4 the premises and persons named in the application.

5 § 2353. APPLICATION; FEE

6 (a) An application for licensure of a birth center shall be made to the
7 Department of Health in the manner specified by the Department and shall
8 include all information required by the Department.

9 (b)(1) Each application for an initial license, renewal of a license, or a
10 change of ownership shall be accompanied by a fee of \$250.00.

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

14 § 2354. LICENSE REQUIREMENTS

15 Upon receipt of an application for a license and the licensing fee, the
16 Department of Health shall issue a license if it determines, after an inspection
17 conducted by the Department or its designee, that the applicant is able to
18 operate a birth center in accordance with rules adopted by the Department.

19 § 2355. REVOCATION OF LICENSE; HEARING

20 The Department of Health, after notice and opportunity for hearing to the
21 applicant or licensee, is authorized to condition, deny, suspend, or revoke a

1 license in any case in which it finds that there has been a substantial failure to
2 comply with the requirements established under this chapter. Such notice shall
3 be served by registered mail or by personal service, shall set forth the reasons
4 for the proposed action, and shall set a date not less than 60 days from the date
5 of the mailing or service on which the applicant or licensee shall be given
6 opportunity for a hearing. After the hearing, or upon default of the applicant or
7 licensee, the Department shall file its findings of fact and conclusions of law.
8 A copy of the findings and decision shall be sent by registered mail or served
9 personally upon the applicant or licensee. The procedure governing hearings
10 authorized by this section shall be set forth in the rules adopted pursuant to
11 section 2359 of this chapter and shall not be subject to the contested case
12 provisions of 3 V.S.A. chapter 25, subchapter 2.

13 § 2356. APPEAL

14 Any applicant or licensee, or the State acting through the Attorney General,
15 aggrieved by the decision of the Department of Health after a hearing may
16 appeal the decision in accordance with section 128 of this title. Pursuant to
17 section 129 of this title, an appeal pursuant to this section shall not stay the
18 effectiveness of an order entered in accordance with section 2355 of this
19 chapter, but any party is permitted to seek a stay order in the Superior Court in
20 which the appeal is being heard.

1 § 2357. INSPECTIONS

2 (a) The Department of Health or its designee shall make or cause to be
3 made such inspections and investigations as the Department or its designee
4 deems necessary.

5 (b) A birth center, including its building and grounds and, in accordance
6 with applicable law, its records, shall be subject to inspection by the
7 Department and its designee at all times.

8 (c) If a birth center is found to be out of compliance with any requirement
9 of this chapter or rules adopted pursuant to this chapter, the Department may
10 condition, deny, suspend, revoke, or refuse to renew the birth center's license
11 or may ask the birth center to develop and implement a corrective action plan.

12 (d) If the Department finds a violation as the result of an inspection or
13 investigation, the Department shall post a report on the Department's website
14 summarizing the violation and any corrective action required.

15 § 2358. RECORDS

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

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

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

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

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

6 § 2359. RULES

7 The Department of Health shall adopt rules in accordance with 3 V.S.A.
8 chapter 25 as needed to carry out the purposes of this chapter. The rules shall
9 be based on the national birth center standards published by the American
10 Association of Birth Centers and shall, at a minimum, include provisions
11 regarding:

12 (1) requirements for operating a birth center, including requirements for
13 safety, sanitation, and health;

14 (2) obtaining, storing, and dispensing pharmaceuticals consistent with
15 State and federal laws;

16 (3) requirements for notice to the Department of Health when there is a
17 change in ownership of a birth center and any additional licensing
18 requirements related to a change in ownership;

19 (4) the scope of services that may be provided at a birth center,
20 including risk factors that preclude a patient from receiving labor and delivery
21 services at a birth center;

1 (5) appropriate staffing for a birth center, including the types of licensed
2 providers who may practice at a birth center;

3 (6) birth center complaint processes;

4 (7) birth center facility, equipment, and supply requirements, including
5 requirements for the maintenance of safety, sanitation, and health;

6 (8) record retention and confidentiality;

7 (9) quality assurance and improvement;

8 (10) processes for the development, submission, approval, and
9 implementation of corrective action plans; and

10 (11) a requirement for written practice guidelines and policies that
11 include procedures for transferring a patient to a hospital if circumstances
12 warrant.

13 § 2360. NO EFFECT ON SCOPE OF SERVICES

14 (a) Nothing in this chapter or in rules adopted pursuant to this chapter shall
15 be construed to expand or limit the scope of the services that a licensed
16 midwife, certified nurse midwife, or other provider may offer at a birth center
17 or perform in a space that is shared with or adjacent to a birth center.

18 (b) A birth center may serve as a location for additional services offered in
19 shared or adjacent spaces, including outpatient gynecologic care, primary care,
20 and education and support services, provided that any licensed provider

1 providing services in those spaces shall only provide those services that are
2 within the licensed provider's authorized scope of practice.

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

4 § 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

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

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

12 (2) for prenatal, maternity, postpartum, and newborn services provided
13 at a birth center licensed pursuant to 18 V.S.A. chapter 53, including birth
14 center facility fees.

15 * * *

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

17 (a) Excluded from this subchapter are offices of physicians, dentists, or
18 other practitioners of the healing arts, meaning the physical places that are
19 occupied by such providers on a regular basis in which such providers perform
20 the range of diagnostic and treatment services usually performed by such
21 providers on an outpatient basis unless they are subject to review under

1 subdivision 9434(a)(4) of this title. The exclusion provisions of this subsection
2 shall also apply to birth centers licensed pursuant to chapter 53 of this title.

3 Sec. 4. 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, including birth center facility fees, and for professional services.

10 Sec. 5. EFFECTIVE DATES

11 (a) Sec. 1 (birth center licensing) shall take effect on January 1, 2027 or the
12 effective date of the birth center rules adopted by the Department of Health,
13 whichever comes first.

14 (b) Sec. 2 (8 V.S.A. § 4099d) shall take effect on January 1, 2027.

15 (c) Sec. 3 (18 V.S.A. § 9435a) shall take effect on July 1, 2025.

16 (d) Sec. 4 (Agency of Human Services; Medicaid; request for federal
17 approval) shall take effect on passage and the Agency of Human Services shall
18 submit its request for approval of Medicaid coverage of birth center services to
19 the Centers for Medicare and Medicaid Services on or before July 1, 2025, and
20 the Medicaid coverage shall begin on the later of the date of approval or the
21 effective date of the birth center rules adopted by the Department of Health.

- 1 (e) This section shall take effect on passage.