

House Proposal of Amendment

S. 18

An act relating to licensure of freestanding birth centers

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

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 an advanced practice registered nurse licensed in accordance with 26 V.S.A. chapter 28, subchapter 2 who has specialized training in childbirth, newborn care, and reproductive health care services.

(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.

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

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

(7) “Licensed provider” means an individual licensed or certified in Vermont to provide specific health care-related services within a scope of practice defined by licensing statutes and rules, and may include advanced practice registered nurses, including certified nurse midwives; licensed midwives; physician assistants; naturopathic physicians with a childbirth

endorsement in accordance with 26 V.S.A. §§ 4122(b) and 4125(b); and physicians.

§ 2352. LICENSE; PROHIBITIONS

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

(b) A birth center may be independently owned and operated by a licensed maternity care provider or any other person who complies with the requirements of this chapter.

(c) A birth center shall not offer or provide epidural anesthesia or a cesarean delivery.

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

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

§ 2353. APPLICATION; FEE

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

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

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

§ 2354. LICENSE REQUIREMENTS

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

§ 2355. REVOCATION OF LICENSE; HEARING

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

for the proposed action, and shall set a date not less than 60 days from the date of the mailing or service on which the applicant or licensee shall be given opportunity for a hearing. After the hearing, or upon default of the applicant or licensee, the Department shall file its findings of fact and conclusions of law. A copy of the findings and decision shall be sent by registered mail or served personally upon the applicant or licensee. The procedure governing hearings authorized by this section shall be set forth in the rules adopted pursuant to section 2359 of this chapter and shall not be subject to the contested case provisions of 3 V.S.A. chapter 25, subchapter 2.

§ 2356. APPEAL

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

§ 2357. INSPECTIONS

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

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

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

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

§ 2358. RECORDS

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

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

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

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

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

§ 2359. RULES

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

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

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

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

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

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

(6) birth center complaint processes;

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

(8) record retention and confidentiality;

(9) quality assurance and improvement;

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

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

(12)(A) requirements for written policies and procedures for collaboration with hospitals, other agencies and facilities, and individuals to provide services to patients as appropriate, including:

(i) laboratory and diagnostic services;

- (ii) childbirth education and parenting education support services;
- (iii) obstetric consultation services;
- (iv) pediatric consultation services;
- (v) transport services;
- (vi) obstetric and newborn acute care in licensed hospitals; and
- (vii) home health care services;

(B) a requirement that the policies and procedures established pursuant to subdivision (A) of this subdivision (12) are provided to the relevant service providers upon request; and

(C) a requirement that the birth center provide the health record of the patient or the newborn, or both, to the receiving service provider upon referral or transfer, in accordance with applicable privacy laws.

§ 2360. NO EFFECT ON SCOPE OF SERVICES

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

(b) A birth center may serve as a location for additional services offered in shared or adjacent spaces, including outpatient gynecologic care, primary care, and education and support services, provided that any licensed provider providing services in those spaces shall only provide those services that are within the licensed provider's authorized scope of practice.

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

§ 4099d. MIDWIFERY COVERAGE; ~~HOME BIRTHS~~

(a) A health insurance plan or health benefit plan providing maternity benefits shall also provide coverage for services rendered by a midwife licensed pursuant to 26 V.S.A. chapter 85 or an advanced practice registered nurse licensed pursuant to 26 V.S.A. chapter 28 who is certified as a nurse midwife for services within the licensed midwife's or certified nurse midwife's scope of practice and provided in a hospital, birth center, or other health care facility or at home.

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

§ 9435. EXCLUSIONS

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(i) Excluded from this subchapter are birth centers that are licensed pursuant to chapter 53 of this title or are proposed to be established and licensed pursuant to chapter 53 of this title.

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

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

Sec. 5. EFFECTIVE DATES

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

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

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

(d) Sec. 4 (Agency of Human Services; Medicaid; request for federal approval) shall take effect on passage, and the Medicaid coverage shall begin on the later of the date of approval or the effective date of the birth center rules adopted by the Department of Health.

(e) This section shall take effect on passage.