

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred Senate Bill
3 No. 18 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. DEFINITIONS

10 As used in this chapter:

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

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

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

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

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

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

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

17 § 2352. LICENSE; PROHIBITIONS

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

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

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

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

9 § 2353. APPLICATION; FEE

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

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

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

18 § 2354. LICENSE REQUIREMENTS

19 Upon receipt of an application for a license and the licensing fee, the
20 Department of Health shall issue a license if it determines, after an inspection

1 conducted by the Department or its designee, that the applicant is able to
2 operate a birth center in accordance with rules adopted by the Department.

3 § 2355. REVOCATION OF LICENSE; HEARING

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

18 § 2356. APPEAL

19 Any applicant or licensee, or the State acting through the Attorney General,
20 aggrieved by the decision of the Department of Health after a hearing may
21 appeal the decision in accordance with section 128 of this title. Pursuant to

1 section 129 of this title, an appeal pursuant to this section shall not stay the
2 effectiveness of an order entered in accordance with section 2355 of this
3 chapter, but any party is permitted to seek a stay order in the Superior Court in
4 which the appeal is being heard.

5 § 2357. INSPECTIONS

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

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

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

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

19 § 2358. RECORDS

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

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

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

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

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

10 § 2359. RULES

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

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

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

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

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

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

9 (6) birth center complaint processes;

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

12 (8) record retention and confidentiality;

13 (9) quality assurance and improvement;

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

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

19 § 2360. NO EFFECT ON SCOPE OF SERVICES

20 (a) Nothing in this chapter or in rules adopted pursuant to this chapter shall
21 be construed to expand or limit the scope of the services that a licensed

1 midwife, certified nurse midwife, or other provider may offer at a birth center
2 or perform in a space that is shared with or adjacent to a birth center.

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

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

9 § 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

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

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

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

20 * * *

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, including birth center facility fees, and for professional services.

16 Sec. 5. EFFECTIVE DATES

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

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

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

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

7 (e) This section shall take effect on passage.

8

9

10

11

12

13

14

15 (Committee vote: _____)

16

17

Senator _____

18

FOR THE COMMITTEE