

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. DEFINITION

10 As used in this chapter:

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

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

18 ~~(2) at which births are planned to occur away from the pregnant~~  
19 ~~individual’s residence following a low risk pregnancy; and~~

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

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

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

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

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

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

18 **(7) “Licensed provider” means an individual licensed or certified in**  
19 **Vermont to provide specific health care-related services within a scope of**  
20 **practice defined by licensing statutes and rules, and may include certified**  
21 **nurse midwives, licensed midwives, advanced practice registered nurses,**

1 **physician assistants, naturopathic physicians with a childbirth**  
2 **endorsement in accordance with 26 V.S.A. §§ 4122(b) and 4125(b), doctors**  
3 **of nursing practice, and physicians.**

4 **§ 2352. LICENSE; PROHIBITIONS**

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

8 **(b) A birth center may be independently owned and operated by a**  
9 **licensed maternity care provider.**

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

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

16 **§ 2353. APPLICATION; FEE**

17 **(a) An application for licensure of a birth center shall be made to the**  
18 **Department of Health ~~on forms provided~~ in the manner specified by the**  
19 **Department and shall include all information required by the Department.**

20 **(b)(1) Each application for a ~~a~~ an initial license, renewal of a license, or a**  
21 **change of ownership shall be accompanied by a ~~licensing~~ 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, after an inspection  
14           conducted by the Department or its designee, that the applicant and the birth  
15           center facilities meet the following minimum standards:

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

18                   (2) The applicant shall demonstrate that its facilities comply fully with  
19           standards for health, safety, and sanitation as required by State law, including  
20           standards set forth by the State Fire Marshal and the Department of Health, and  
21           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 **condition**, deny, suspend, or revoke a  
20           license in any case in which it finds that there has been a substantial failure to  
21           comply with the requirements established under this chapter. Such notice shall

1 be served by registered mail or by personal service, shall set forth the reasons  
2 for the proposed action, and shall set a date not less than 60 days from the date  
3 of the 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 **set forth in the rules adopted pursuant to**  
10 **section 2359 of this chapter and shall not be subject to the contested case**  
11 **provisions of 3 V.S.A. chapter 25, subchapter 2.**

12 § 2356. APPEAL

13 Any applicant or licensee, or the State acting through the Attorney General,  
14 aggrieved by the decision of the Department of Health after a hearing may:  
15 **appeal the decision in accordance with section 128 of this title. Pursuant**  
16 **to section 129 of this title, an appeal pursuant to this section shall not stay**  
17 **the effectiveness of an order entered in accordance with section 2355 of**  
18 **this chapter, but any party is permitted to seek a stay order in the**  
19 **Superior Court in which the appeal is being heard. ~~within 30 days after~~**  
20 **entry of the decision as provided in section 2355 of this title, appeal to the**  
21 **Superior Court for the district in which the appellant is located. The court may**

1 ~~affirm, modify, or reverse the Department's decision, and either the applicant~~  
2 ~~or licensee or the Department or State may appeal to the Vermont Supreme~~  
3 ~~Court for such further review as is provided by law. Pending final disposition~~  
4 ~~of the matter, the status quo of the applicant or licensee shall be preserved,~~  
5 ~~except as the court otherwise orders in the public interest.~~

6 § 2357. INSPECTIONS

7 **(a) The Department of Health or its designee shall make or cause to be**  
8 **made such inspections and investigations as ~~it~~ the Department or its designee**  
9 **deems necessary. ~~If the Department finds a violation as the result of an~~**  
10 **~~inspection or investigation, the Department shall post a report on the~~**  
11 **~~Department's website summarizing the violation and any corrective action~~**  
12 **~~required.~~**

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

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

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

4 § 2358. RECORDS

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

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

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

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

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

16 § 2359. RULES

17 The Department of Health shall adopt rules in accordance with 3 V.S.A.  
18 chapter 25 as needed to carry out the purposes of this chapter. The rules shall  
19 ~~align the regulation of birth centers in Vermont with~~ **be based on** the national  
20 birth center standards published by the American Association of Birth Centers  
21 and ~~may~~ **shall, at a minimum,** include provisions regarding:



- 1           **(1) requirements for operating a birth center, including**
- 2           **requirements for safety, sanitation, and health;**
- 3           **(2) obtaining, storing, and dispensing pharmaceuticals consistent**
- 4           **with State and federal laws;**
- 5           **(3) requirements for notice to the Department of Health when there**
- 6           **is a change in ownership of a birth center and any additional licensing**
- 7           **requirements related to a change in ownership;**
- 8           **(4) the scope of services that may be provided at a birth center,**
- 9           **including risk factors that preclude a patient from receiving labor and**
- 10           **delivery services at a birth center;**
- 11           **(5) appropriate staffing for a birth center, including the types of licensed**
- 12           **health care professionals providers who may practice at a birth center;**
- 13           **(6) birth center complaint processes;**
- 14           **(7) birth center facility, equipment, and supply requirements,**
- 15           **including requirements for the maintenance of safety, sanitation, and**
- 16           **health;**
- 17           **(8) record retention and confidentiality;**
- 18           **(9) quality assurance and improvement;**
- 19           **(10) processes for the development, submission, approval, and**
- 20           **implementation of corrective action plans; and**

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

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

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

18           § 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

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



1 maternity, postpartum, and newborn services provided at a licensed birth  
2 center and to allow Vermont Medicaid to reimburse separately for birth center  
3 services, **including birth center facility fees,** and for professional services.

4 Sec. 5. EFFECTIVE DATES

5 This act shall take effect on January 1, 2027 **or the effective date of the**  
6 **birth center rules adopted by the Department of Health, whichever comes**  
7 **first,** except that the Agency of Human Services shall submit its request for  
8 approval of Medicaid coverage of birth center services as set forth in Sec. 4 to  
9 the Centers for Medicare and Medicaid Services on or before July 1, 2025, and  
10 the Medicaid coverage shall begin on the later of the date of approval or  
11 January 1, 2026.

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17 (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

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FOR THE COMMITTEE