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H.121

Introduced by Representatives Rogers of Waterville, Elder of Starksboro,  
Kornheiser of Brattleboro, and Wood of Waterbury

Referred to Committee on

Date:

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

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

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. DEFINITION

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

(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 \$300.00.

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 or by another accrediting  
2 entity that complies with the national birth center standards published by the  
3 American Association of Birth Centers as satisfying the requirements for  
4 renewal of the birth center's license, upon submission of a copy of the birth  
5 center's official accreditation certificate and payment of the application fee.

6 § 2354. LICENSE REQUIREMENTS

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

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

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

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

18 (4) The applicant shall participate in the Patient Safety Surveillance and  
19 Improvement System established pursuant to chapter 43A of this title.

1           (5) The birth center facilities, including the buildings and grounds, shall  
2           be subject to inspection by the Department, its designees, and other authorized  
3           entities at all times.

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

6           § 2355. REVOCATION OF LICENSE; HEARING

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

1     § 2356. APPEAL

2           Any applicant or licensee, or the State acting through the Attorney General,  
3     aggrieved by the decision of the Department of Health after a hearing may,  
4     within 30 days after entry of the decision as provided in section 2355 of this  
5     title, appeal to the Superior Court for the district in which the appellant is  
6     located. The court may affirm, modify, or reverse the Department's decision,  
7     and either the applicant or licensee or the Department or State may appeal to  
8     the Vermont Supreme Court for such further review as is provided by law.  
9     Pending final disposition of the matter, the status quo of the applicant or  
10    licensee shall be preserved, except as the court otherwise orders in the public  
11    interest.

12    § 2357. INSPECTIONS

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

18    § 2358. RECORDS

19           (a) Information received by the Department of Health through filed reports,  
20    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        regulate birth centers in accordance with national birth center standards  
14        published by the American Association of Birth Centers and may include  
15        provisions regarding:

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

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

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

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

2 § 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

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

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

10 (2) for prenatal, maternity, postpartum, and newborn services provided  
11 at a birth center licensed pursuant to 18 V.S.A. chapter 53.

12 \* \* \*

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

14 § 9435. EXCLUSIONS

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

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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 and for professional services.

Sec. 5. EFFECTIVE DATES

This act shall take effect on January 1, 2022, except that the Agency of Human Services shall submit its request for approval of Medicaid coverage of birth center services as set forth in Sec. 4 of this act to the Centers for Medicare and Medicaid Services on or before July 1, 2021, and the Medicaid coverage shall begin on the later of the date of approval or January 1, 2022.