

1 H.859

2 Introduced by Representatives Kornheiser of Brattleboro, Campbell of St.
3 Johnsbury, Colburn of Burlington, Cordes of Lincoln, Killacky
4 of South Burlington, O'Sullivan of Burlington, Reed of
5 Braintree, Strong of Albany, White of Hartford, and Wood of
6 Waterbury

7 Referred to Committee on

8 Date:

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

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

16 An act relating to licensure of freestanding birth centers

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

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

19 CHAPTER 53. BIRTH CENTER LICENSING

20 § 2351. DEFINITION

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

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

3 (2) at which births are planned to occur away from the pregnant

4 individual’s residence following a low-risk pregnancy; and

5 (3) that provides prenatal, labor and delivery, or postpartum care, or a

6 combination of these, as well as other related services in accordance with the

7 scopes of practice of the health care professionals practicing at the birth center.

8 § 2352. LICENSE

9 No person shall establish, maintain, or operate a birth center in this State

10 without first obtaining a license for the birth center in accordance with this

11 chapter.

12 § 2353. APPLICATION; FEE

13 (a) An application for licensure of a birth center shall be made to the

14 Department of Health on forms provided by the Department and shall include

15 all information required by the Department.

16 (b)(1) Each application for a license shall be accompanied by a licensing

17 fee of \$300.00.

18 (2) Fees collected under this section shall be credited to the Hospital

19 Licensing Fees Special Fund and shall be available to the Department of

20 Health to offset the costs of licensing birth centers.

1 (c) Notwithstanding any provision of this chapter to the contrary, for an
2 application for renewal of a birth center's license, the Department of Health
3 shall deem a licensed birth center that is currently accredited by the
4 Commission for the Accreditation of Birth Centers or by another accrediting
5 entity that complies with the national birth center standards published by the
6 American Association of Birth Centers as satisfying the requirements for
7 renewal of the birth center's license, upon submission of a copy of the birth
8 center's official accreditation certificate and payment of the application fee.

9 § 2354. LICENSE REQUIREMENTS

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

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

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

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

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

3 (5) 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 § 2355. REVOCATION OF LICENSE; HEARING

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

The Agency of Human Services shall submit to the Centers for Medicare and Medicaid Services an amendment to Vermont's Medicaid State Plan to specify that, beginning on January 1, 2021, Vermont Medicaid will cover prenatal, maternity, postpartum, and newborn services provided at a licensed birth center and that Vermont Medicaid will reimburse separately for birth center services and for professional services.

Sec. 5. EFFECTIVE DATE

This act shall take effect on January 1, 2021, except that the Agency of Human Services may submit its State Plan amendment to the Centers for Medicare and Medicaid Services prior to that date to ensure that Medicaid coverage for birth center services will be available beginning on January 1, 2021.