



STATE OF ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD

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| DOCKET ITEM NUMBER: E-01 | BOARD MEETING: December 5, 2023 | PROJECT NUMBER: NA |
| BUSINESS ITEM: Declaratory Ruling Request | | |
| SUBJECT: Birthing Centers | | |

STATE BOARD STAFF REPORT DECLARATORY RULING REQUEST

The State Board Staff is requesting a declaratory ruling that will allow the six current Birthing Centers approved by the Illinois Health Facilities and Services Review (State Board) under the Alternative Health Care Delivery Act to forgo the submittal of a certificate of need for the **licensing of six birthing centers under the Birth Center Licensing Act.**

The six birthing centers listed below were approved by the State Board under the Alternative Health Care Delivery Act. **Public Act 102-0518** (Effective 8/20/2021) created the Birth Center Licensing Act which required all Birth Centers in the State of Illinois to be approved by the State Board and licensed by the Illinois Department of Public Health. These six birthing centers approved under the Alternative Health Care Delivery Act **need to be licensed within 2-years of the adoption of the Birth Center licensing regulations.** The Birth Center licensing regulations were effective September 2023.

TABLE ONE
Illinois Birthing Centers

| Certificate of Need | Birth Centers | Locations | Bed |
|---------------------|--|-------------|-------|
| #12-084 | PCC South Family Health Center ⁽¹⁾ | Berwyn | 2-Bed |
| #15-006 | Bloomington-Normal Birthing Center | Bloomington | 3-Bed |
| #20-003 | Burr Ridge Birth Center LLC | Burr Ridge | 3-Bed |
| #20-029 | Birth Center of Chicago, LLC - DBA Birth Center of Chicago | Chicago | 2-Bed |
| #21-021 | NorthPointe Birth Center ⁽²⁾ | Roscoe | 3-Bed |
| #21-029 | Quincy Medical Group Birthing Center ⁽²⁾ | Quincy | 3-Bed |

1. Temporary Suspended Service- Staffing Issues
2. Not Operational

I. Background

Since the authorization of the birth center demonstration program in 2007, the Illinois Health Facilities and Services Review Board has received six applications to establish and operate a birth center model under the demonstration program (see above). All six applications were approval by the State Board. With the passage of **PA 102-0518** licensing

the licensing of birthing centers and the approval of administrative rules governing the need and licensing of birthing centers the demonstration program for the birthing center model will to be closed.

Going forward the State Board will be asked **to determine the need for birth centers** in the State of Illinois. The State Board will be asked to approve any new birth centers before the Illinois Department of Public Health can license the birth center. This need determination by the State Board will require the submittal of a certificate of need.

The **State Board today is being asked** should the existing six birth centers approved under the Alternative Health Care Delivery Act be required to submit a certificate of need to become a licensed birth center in the State of Illinois. The Birth Center Licensing Act is attached.

Public Act 102-0518

HB3995 Enrolled

LRB102 14648 CPF 21906 b

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Birth Center Licensing Act.

Section 5. Definitions. In this Act:

"Birth center" means a designated site, other than a hospital:

- (1) in which births are planned to occur following a normal, uncomplicated, and low-risk pregnancy;
- (2) that is not the pregnant person's usual place of residence;
- (3) that is exclusively dedicated to serving the childbirth-related needs of pregnant persons and their newborns, and has no more than 10 beds;
- (4) that offers prenatal care and community education services and coordinates these services with other health care services available in the community; and
- (5) that does not provide general anesthesia or surgery.

"Certified nurse midwife" means an advanced practice registered nurse licensed in Illinois under the Nurse Practice Act with full practice authority or who is delegated such authority as part of a written collaborative agreement with a physician who is associated with the birthing center or who has privileges at a nearby birthing hospital.

"Department" means the Illinois Department of Public Health.

"Hospital" does not include places where pregnant females are received, cared for, or treated during delivery if it is in a licensed birth center, nor include any facility required to be licensed as a birth center.

"Physician" means a physician licensed to practice medicine in all its branches in Illinois.

Section 10. License required. Except as provided by this Act, no person shall open, manage, conduct, offer, maintain, or advertise as a birth center without a valid license issued by the Department. All birth centers in existence as of the effective date of this Act shall obtain a valid license to operate within 2 years after the adoption of rules by the Department to implement this Act under Section 60.

Section 15. Issuance and renewal of license.

(a) An applicant for a license under this Act shall submit an application on forms prescribed by the Department. Each application shall be accompanied by a nonrefundable license fee, as established by rule by the Department under Section 60.

(b) The Department may grant a temporary initial license to an applicant. A temporary initial license expires on the earlier of the date the Department denies the license or the date 6 months after the temporary initial license was issued.

(c) The Department shall issue a license under this Act if, after application, inspection, and investigation, it finds the applicant meets the requirements of this Act and the rules and standards adopted pursuant to this Act.

(d) A license is renewable every year upon submission of: (i) the renewal application and fee and (ii) a report on a form prescribed by the Department that includes information related to quality of care at a birth center. The report must be in the form and documented by evidence as required by the Department by rule under Section 60.

Section 17. Certificate of need; licenses.

(a) A birth center shall obtain a certificate of need from the Health Facilities and Services Review Board under the Health Facilities Planning Act before receiving a license by the Department under this Act.

(b) If, after obtaining an initial certificate of need under subsection (a), a birth center seeks to increase the bed capacity of the birth center, the birth center must obtain a certificate of need from the Health Facilities and Services Review Board before increasing the bed capacity.

(c) A birth center in a medically underserved area, as determined by the U.S. Department of Health and Human Services, shall receive priority in obtaining a certificate of need under this Section.

Section 20. Linkages.

(a) A birth center shall link and integrate its services with at least one birthing hospital with a minimum of a Level 1 perinatal designation.

(b) A birth center shall have an established agreement with a nearby receiving birthing hospital with policies and procedures for timely transfer of maternal and neonatal patients. The agreement shall include a determination of maternal and neonatal conditions necessitating consultation and referral. This should include plans for communication with the receiving hospital before and after transfer.

Section 25. Staffing.

(a) A birth center shall have a clinical director, who may be:

(1) a physician who is either certified or eligible for certification by the American College of Obstetricians and Gynecologists or the American Board of Osteopathic Obstetricians and Gynecologists or has hospital obstetrical privileges; or

(2) a certified nurse midwife.

(b) The clinical director shall be responsible for:

(1) the development of policies and procedures for services as provided by Department rules;

(2) coordinating the clinical staff and overall provision of patient care;

(3) developing and approving policies defining the criteria to determine which pregnancies are accepted as normal, uncomplicated, and low-risk; and

(4) developing and approving policing regarding the anesthesia services available at the center.

(c) An obstetrician, family practitioner, or certified nurse midwife shall attend each person in labor from the time of admission through birth and throughout the immediate postpartum period. Attendance may be delegated only to another physician or a certified nurse midwife.

(d) A second staff person shall be present at each birth who:

(1) is licensed or certified in Illinois in a health-related field and under the supervision of a physician or a certified nurse midwife who is in attendance;

(2) has specialized training in labor and delivery techniques and care of newborns; and

(3) receives planned and ongoing training as needed to perform assigned duties effectively.

Section 30. Minimum standards.

(a) The Department's rules adopted pursuant to Section 60 of this Act shall contain minimum standards to protect the health and safety of a patient of a birth center. In adopting rules for birth centers, the Department shall consider:

(1) the Commission for the Accreditation of Birth Centers' Standards for Freestanding Birth Centers;

(2) the American Academy of Pediatrics and American College of Obstetricians and Gynecologists Guidelines for Perinatal Care; and

(3) the Regionalized Perinatal Health Care Code.

Section 35. Quality of care. The Department's rules shall provide for a time period within which each birth center must become accredited by either the Commission for the Accreditation of Freestanding Birth Centers or The Joint Commission.

A birth center shall implement a quality improvement program consistent with the requirements of the accrediting body and is encouraged to participate in quality improvement projects implemented by the Department's Administrative Perinatal Centers and other Department-supported perinatal quality improvement projects. Clinicians, or their clinical representative, attending persons in labor at the birth center shall attend morbidity and mortality reviews that occur at the receiving birthing hospital on their patients, when invited, at a mutually agreeable time. This includes, but is not limited to, maternal and neonatal patients transferred to the receiving birthing hospital.

Section 40. Reimbursement requirements.

(a) A birth center shall seek certification under Titles XVIII and XIX of the federal Social Security Act.

(b) Reimbursement rates set by the Department of Healthcare and Family Services should be based on all types of medically necessary covered services provided to both the birthing person and the baby, including:

(1) a professional fee for both the birthing person and baby;

(2) a facility fee for the birthing person that is no less than 75% of the statewide average facility payment rate made to a hospital for an uncomplicated vaginal birth;

(3) a facility fee for the baby that is no less than 75% of the statewide average facility payment rate made to a hospital for a normal baby; and

(4) additional fees for other services, medications, laboratory tests, and supplies provided.

(c) A birth center shall provide charitable care consistent with that provided by comparable health care providers in the geographic area.

(d) A birth center may not discriminate against any patient requiring treatment because of the source of payment for services, including Medicare and Medicaid recipients.

Section 45. Reporting requirements. The Department shall by rule require each birth center to report information every year that is consistent with the birth center's license renewal schedule, which the Department shall make publicly available and which shall include the following:

- (1) utilization data involving patient length of stay;
- (2) admissions and discharges;
- (3) complications;
- (4) transfers;
- (5) deaths;
- (6) any other publicly reported data required under the Consumer Guide to Health Care; and
- (7) post-discharge patient status data where patients are followed for 14 days after discharge from the birth center to determine whether the mother or baby developed a complication or infection.

Section 50. Training. A birth center shall, in consultation with the clinical director, establish and implement a policy to ensure appropriate training and competency of individuals employed within the birth center. The policy shall, at a minimum, define the acts and practices that are allowed or prohibited for such employees, establish how training will be conducted, and illustrate how initial competency will be established.

Section 55. Inspections; special inspections; reports.

(a) The Department, whenever it determines necessary, may conduct a special inspection, survey, or evaluation of a birth center to assess compliance with licensure requirements and standards or a plan of correction submitted as a result of deficiencies cited by the Department or an accrediting body.

(b) Upon the Department's completion of any special inspection, survey, or evaluation, the appropriate Department personnel who conducted the special inspection, survey, or evaluation shall submit a copy of his or her report to the licensee upon exiting the birth center, and shall submit the actual report to the appropriate regional office.

(c) The Department's report and any recommendation for action under this Act shall be sent to the Department's central office together with a plan of correction from the birth center.

(d) The plan of correction may contain related comments or documentation provided by the birth center that may refute findings in the report, explain extenuating circumstances that the birth center could not reasonably have prevented, or indicate methods and timetables for correction of deficiencies described in the report.

(e) A birth center has 10 days after the date of the Department's special inspection, survey, or evaluation to submit a plan of correction. The Department shall determine whether a birth center is in violation of this Section no later than 60 days after completion of each special inspection, survey, evaluation, or plan of correction.

(f) The Department shall maintain all special inspection, survey, or evaluation reports for at least 5 years in a manner accessible to the public.

Section 60. Rules.

(a) The Department shall adopt rules for the administration and enforcement of this Act.

(b) Rules adopted by the Department under this Act shall stipulate:

- (1) the eligibility criteria for birth center

admission that are consistent with accreditation standards and the certified nurse midwife's or physician's scope of practice;

(2) the necessary equipment for emergency care according to the Commission for Accreditation of Birth Centers' standards;

(3) the minimum elements required in the transfer agreement between a birth center and a receiving birth hospital with at least a Level 1 perinatal designation, including the amount of travel time between facilities in rural and nonrural areas, the staff required to transfer patients, and the mode of emergency transportation between facilities; and

(4) the equipment used by the birth center to ensure that it is compatible with the health and safety of the patients.

Section 99. Effective date. This Act takes effect upon becoming law.

Effective Date: 8/20/2021