A BILL TO BE ENTITLED
AN ACT ESTABLISHING A LICENSURE PROCESS AND ANNUAL LICENSE FEES FOR
BIRTH CENTERS.
The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 6 of Chapter 131E of the General Statutes is amended by
adding a new Part to read:

"Part 4A. Birth Center Licensure Act.

§ 131E-153. Title; purpose.
(a) This Part shall be known as the "Birth Center Licensure Act."
(b) The purpose of this Part is to establish licensing requirements for birth centers that
promote public health, safety, and welfare and to provide for the development, establishment,
and enforcement of basic standards for the care and treatment of mothers and infants in birth
centers.

§ 131E-153.1. Definitions.
As used in this Part, unless otherwise specified, the following terms have the following
meanings:
(1) Birth center. – A facility licensed for the primary purpose of performing
normal, uncomplicated deliveries that is not a hospital or ambulatory surgical
facility and where births are planned to occur away from the mother's usual
residence following a low-risk pregnancy.
(2) Commission. – The North Carolina Birth Center Commission established
under G.S. 131E-153.7.
(3) Low-risk pregnancy. – A normal, uncomplicated prenatal course as
determined by documentation of adequate prenatal care and the anticipation
of a normal, uncomplicated labor and birth, as defined by reasonable and
generally accepted criteria adopted by professional groups for maternal, fetal,
and neonatal health care, and generally accepted by the health care providers
to whom they apply.

§ 131E-153.5. Review of birth center fee schedule.
Every three years, the Department shall review and, as necessary, revise the Freestanding
Birth Center Fee Schedule to ensure that (i) the fees are sufficient to cover the costs of providing
intrapartum, birth, postpartum, and initial newborn care and (ii) the cost for any State-mandated
newborn screening is reimbursed at no less than the cost of the screening.

§ 131E-153.6. Inspections.
(a) The Department shall make, or cause to be made, inspections of birth centers as it deems necessary to investigate unexpected occurrences involving death or serious physical injury and reportable adverse outcomes identified in the rules adopted by the Commission under G.S. 131E-153.8. Any birth center licensed under this Part shall, at all times, be subject to inspections by the Department according to the rules of the Commission.

(b) Authorized representatives of the Department shall have, at all times, the right of proper entry upon any and all parts of the premises of any place in which entry is necessary to carry out the provisions of this Part or the rules adopted by the Commission, and it shall be unlawful for any person to resist a proper entry by such authorized representative upon any premises other than a private dwelling. However, no representative shall, by this entry onto the premises, endanger the health or well-being of any patient being treated in the birth center.

(c) To enable the Department to determine compliance with this Part and with the rules adopted by the Commission under this Part, and to investigate complaints made against a birth center licensed under this Part, the Department has the authority to investigate birth centers in the same manner as it investigates hospitals under G.S. 131E-80(d).

(d) Information received by the Commission and the Department through filed reports, license applications, or inspections that are required or authorized by the provisions of this Part may be disclosed publicly except where this disclosure would violate applicable laws concerning patient records and patient confidentiality. However, no such public disclosure shall identify the patient involved without permission of the patient or court order.

§ 131E-153.7. North Carolina Birth Center Commission; composition; powers and duties.

(a) There is created the North Carolina Birth Center Commission of the Department of Health and Human Services. The Commission has the power and duty to do the following:

(1) Adopt rules establishing standards for the licensure, operation, and regulation of birth centers within the State in a manner consistent with the provisions and purposes of this Part.

(2) Review and make recommendations to the Department about whether to approve or disapprove birth center license applications.

(b) The Commission shall consist of seven members appointed as follows:

(1) The North Carolina Obstetrical and Gynecological Society shall elect six members who are licensed physicians providing obstetric care with a minimum of two years' experience working with birth centers.

   a. The North Carolina Obstetrical and Gynecological Society shall send the names of four of the elected members to the Governor who shall appoint two members to the Commission.

   b. The North Carolina Obstetrical and Gynecological Society shall send the names of two members to the Speaker of the House of Representatives, and one member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121.

(2) The North Carolina Affiliate of the American College of Nurse-Midwives shall elect six members who are certified midwives providing obstetric care with a minimum of two years' experience working with birth centers.

   a. The North Carolina Affiliate of the American College of Nurse-Midwives shall send the names of four of the elected members to the Governor who shall appoint two members to the Commission.

   b. The North Carolina Affiliate of the American College of Nurse-Midwives shall send the names of two members to the President Pro Tempore of the Senate, and one member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121.
The Governor shall appoint one public member. The public member shall not
be eligible for appointment under subdivisions (1) and (2) of this subsection
but shall have professional experience and familiarity with the administrative
aspects of obstetrical care practices or facilities, including, but not limited to,
birth centers.

Any appointment to fill a vacancy on the Commission created by the resignation, dismissal,
death, or disability of a member shall be for the balance of the unexpired term.

Members appointed pursuant to subsection (b) of this section shall serve for a term of
four years, and no member shall serve more than two consecutive terms.

The Governor may remove any member of the Commission from office for
misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of

A vacancy on the Commission created by death, resignation, or otherwise, shall be
filled in the same manner as the original appointment, except that all unexpired terms of
Commission members appointed by the General Assembly shall be filled in accordance with
G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and
until their successors are appointed and qualified.

The members of the Commission shall receive per diem and necessary travel and
subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of
business.

All clerical and other services required by the Commission shall be supplied by the
Secretary of Health and Human Services.

(a) The North Carolina Birth Center Commission shall adopt rules establishing the
following requirements for all birth centers seeking a license to operate in the State:

(1) Accreditation. – A requirement that the birth center obtain and maintain
accreditation with the Commission for the Accreditation of Birth Centers
(CABC) and provide the following related information to the Department:

a. All documentation required for accreditation by the CABC shall be
submitted as part of a licensure application.

b. Copies of interim status reports provided to the CABC shall be
submitted within 15 days after the reports are provided to the CABC.

c. Copies of all reports and responses from CABC regarding
reaccreditation site visits shall be submitted within 15 days after
receipt.

d. Information about root cause analysis, remedial action, or training
associated with unexpected occurrences involving death or serious
physical injury and reportable adverse outcomes shall be submitted
within 15 days after completion of the analysis, remedial action, or
training.

e. A notification of loss of CABC accreditation shall be immediately
reported to the Department.

(2) Risk status. – A requirement that the birth center establish procedures
specifying the criteria by which each pregnant person's risk status will be
evaluated at admission and during labor, pursuant to CABC standards.

(3) Second trimester ultrasound. – A requirement that the birth center recommend
an ultrasound during the second trimester of pregnancy, ideally when the
pregnant person is between 18 and 22 weeks pregnant, consistent with
recommendations of the American College of Obstetricians and
Gynecologists concerning ultrasound in pregnancy. If a pregnant person
declines this screening test, the birth center shall document the informed refusal in the medical record.

(4) Targeted ultrasound. – A requirement that the birth center conduct a targeted ultrasound for further evaluation of maternal-fetal health consistent with those indications included in the recommendations of the American College of Obstetricians and Gynecologists concerning ultrasound practice in pregnancy. If a pregnant person receiving care at a licensed birth center and intending to give birth out-of-hospital declines a targeted ultrasound for maternal or fetal indications, the birth center shall deem the pregnant person ineligible for intrapartum care at the birth center, inform the patient of this determination in writing, and refer the person for a hospital birth.

(5) Transfer of patients to higher levels of care. – A requirement that the birth center develop and submit as part of the licensure application process a plan for complying with the standards of the Commission for Accreditation of Birth Centers with respect to transfer of care procedures.

(6) Sentinel events and adverse outcomes. – Each licensed birth center shall report unexpected occurrences involving death or serious physical injury and any other adverse outcomes identified by the Commission to the CABC and the Department within a time frame established by the Commission. For each occurrence, the birth center shall conduct root cause analysis, remedial action, training, or a combination of these, to address these occurrences as per CABC guidelines. The Department shall investigate all unexpected occurrences involving death or serious physical injury and all reportable adverse outcomes identified by the Commission in the rules.

(7) Reporting requirements. – A requirement and standards for licensed birth centers to regularly report outcome and other data that the Commission shall analyze and distribute on a regular basis.

(b) The Department shall enforce this Part and any rules adopted by the Commission under this Part.

"§ 131E-153.9. Confidential information."

The Commission, its members, and staff may release confidential or nonpublic information to any health care licensure board in this State or another state, or to authorized North Carolina Department of Health and Human Services personnel with enforcement or investigative responsibilities concerning issuance, denial, annulment, suspension, or revocation of a license, or the voluntary surrender of a license by a licensee of the Commission, including the reasons for the action, or an investigative report made by the Commission."

SECTION 1.(b) Article 6 of Chapter 131E, Part 4A of the General Statutes is amended by adding new sections to read:

"§ 131E-153.2. Licensure requirement."

(a) No person shall establish or operate a birth center in this State without obtaining a license from the Department under this Part.

(b) The Department shall provide applications for birth center licensure. Each application filed with the Department shall contain all of the following information:

(1) The name of the applicant.

(2) The site and location of the birth center.

(3) Documentation that the birth center meets the licensure standards adopted by the Commission pursuant to G.S. 131E-153.8.

(4) Any other information the Department deems necessary.

(c) Upon receipt of an application for a birth center license, the Department shall issue a license upon the recommendation of the Commission if the Department finds that the applicant is in compliance with the provisions of this Part and any rules adopted by the Commission under
this Part. The license is valid for a period of one year from the date of issuance and must designate
the number and types of beds and the number of rooms on the licensed premises. The Department
shall charge the applicant a nonrefundable annual license fee in the amount of four hundred
dollars ($400.00) plus a nonrefundable annual per-birthing room fee of seventeen dollars and
fifty cents ($17.50). This fee shall be credited to the Department as a departmental receipt and
applied to offset costs for licensing and inspecting birth centers.
(d) The Department shall renew each license in accordance with rules adopted by the
Commission under G.S. 131E-153.8.
(e) The Department shall issue a birth center license only for the premises and persons
named in the license. A birth center license is not transferable or assignable except with the
written approval of the Department.
(f) The operator shall post the license on the licensed premises in an area accessible to
the public.
(g) Notwithstanding subsection (a) of this section, birth centers that (i) are operating in
this State on the date this act becomes effective, (ii) are accredited by the Commission for the
Accreditation of Birth Centers (CABC), and (iii) remain continually accredited, shall be allowed
to continue operations as the Commission is constituted and promulgates permanent rules. Within
90 days after the effective date of the Commission's permanent rules regarding licensure
applications, such unlicensed birth centers operating in this State shall submit a completed
licensure application, together with the requisite fee, to the Division of Health Service
Regulation. The application and fee shall be received or postmarked no later than 90 days after
the rules promulgated by the Commission are adopted.
§ 131E-153.3. Adverse action on a license.
(a) The Department may deny, suspend, or revoke a license in any case when it finds a
substantial failure to comply with the provisions of this Part or any rule adopted under this Part.
(b) The Secretary or a designee may suspend the admission of any new patients to a birth
center if the conditions of the birth center are detrimental to the health or safety of any patient.
This suspension shall remain in effect until the Secretary, or the Secretary's designee, is satisfied
that conditions or circumstances merit the removal of the suspension. The authority under this
subsection is in addition to the authority to suspend or revoke the license of a birth center.
(c) A birth center may contest any adverse action on its license under this section in
accordance with Chapter 150B of the General Statutes.
§ 131E-153.4. Limitations of services.
(a) A birth center licensed under this Part shall not assert, represent, offer, provide, or
imply that the center is rendering or may render care or services other than the services it is
permitted to render within the scope of the license issued.
(b) The following limitations apply to the services performed at a licensed birth center:
(1) Surgical procedures are limited to those normally accomplished during an
uncomplicated birth, such as episiotomy and repair, as determined by the
Commission.
(2) No abortions may be performed.
(3) No general or conduction anesthesia may be performed.
(4) No vaginal birth after cesarean (VBAC) or trial of labor after cesarean
(TOLAC) may be performed.
SECTION 1.(c) Article 6 of Chapter 131E, Part 4A of the General Statutes is
amended by adding a new section to read:
A person who owns, in whole or in part, or operates a birth center without a license is guilty
of a Class 3 misdemeanor and upon conviction is subject only to a fine of not more than fifty
dollars ($50.00) for the first offense and not more than five hundred dollars ($500.00) for each
subsequent offense. Each day of continuing violation after conviction is considered a separate

SECTION 1.(d) By October 1, 2021, the Department of Health and Human Services
shall review and, as necessary, revise its current Freestanding Birth Center Fee Schedule to
to ensure that (i) the fees are sufficient to cover the costs of providing intrapartum, birth,
postpartum, and initial newborn care and (ii) the cost for any State-mandated newborn screening
is reimbursed at no less than the cost of the screening. The Department shall also develop a birth
center licensure application containing the elements outlined in G.S. 131E-153.2(b) and shall
make it available upon adoption of the rules by the North Carolina Birth Center Commission.

SECTION 1.(e) The initial appointments to the North Carolina Birth Center
Commission under G.S. 131E-153.7(b) shall be made not later than 60 days after the effective
date of this act. In order to provide for staggering of terms under G.S. 131E-153.7(b), the initial
term of office for each member appointed under G.S. 131E-153.7(b)(1)a. and (b)(2)b. shall be
two years. The initial term of office for each member appointed under G.S. 131E-153.7(b)(1)b.
and (b)(2)a. shall be three years, and the initial term for the member appointed under
G.S. 131E-153.7(b)(3) shall be one year. Subsequent appointments shall be for the full four-year
term in accordance with G.S. 131E-153.7(c). The partial terms to provide for the initial
staggering of terms shall not count as full terms for purposes of the limitation in
G.S. 131E-153.7(c).

SECTION 2. The criminal offense in G.S. 131E-153.6(b), as enacted by Section 1(a)
of this act, becomes effective December 1, 2021, and applies to offenses committed on or after
that date. Section 1(b) of this act becomes effective one year after the rules promulgated by the
North Carolina Birth Center Commission are adopted and applies to licenses granted on or after
that date. Section 1(c) of this act becomes effective one year after the rules promulgated by the
North Carolina Birth Center Commission are adopted and applies to criminal offenses committed
on or after that date. The Codifier of Rules shall notify the Revisor of Statutes of the effective
date of rules adopted as required by this act. Except as otherwise provided, this act is effective
when it becomes law.