



HOUSE BILL 575: Establish Birth Center Licensure Act.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	July 8, 2019
Introduced by:	Reps. Murphy, Lambeth, Dobson, White	Prepared by:	Trina Griffin
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: *House Bill 575 would provide the Birth Center Licensure Act establishing licensing requirements for birth centers including: the creation of a NC Birth Center Commission, limitations of services, fees, inspections, a criminal penalty for operating a birth center without a license, and requirements for rules to be adopted by the Commission.*

BILL ANALYSIS: Section 1(a) of HB 575 establishes the Birth Center Licensure Act in Part 4A, Article 6, of Chapter 131E, to provide 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. The Act includes the following broad components:

- **Definitions** (G.S. 131E-153.1) – Defines the following terms: "birth center", "commission" and "low-risk pregnancy" A birth center is defined as 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.
- **Licensure** (G.S. 131E-153.2) – A birth center in the State must obtain a license from the Department of Health and Human Services. Information required on the licensure application is specified in the bill. Upon receipt of the application, the Department will issue a license upon the recommendation of the NC Birth Center Commission. The Department may charge a \$400 nonrefundable annual license fee plus a nonrefundable annual per birthing room fee of \$17.50.¹

The licensure requirement will not become effective until one year after the rules promulgated by the NC Birth Center Commission are adopted. Accredited birth centers that are in operation on the date the act becomes effective will be permitted to continue operating while the Commission develops permanent rules for licensure. Within 90 days of the adoption of permanent rules regarding licensure applications, these birth centers must submit to the Commission a license application and the required fee.

- **NC Birth Center Commission** (G.S. 131E-153.7) – The Commission will consist of seven members (three licensed physicians providing obstetric care, three certified nurse midwives providing obstetric care, and one public member) and is charged with adopting rules establishing standards for licensure, operation and regulation of birth centers and reviewing and making recommendations to the Department about whether to approve or disapprove birth center license applications. The Governor appoints five members, the Speaker appoints one member, and the President Pro Tempore of the Senate appoints one member. **Section 1(d)** of the bill provides for the staggering of terms by setting the initial terms of office.

¹ By way of comparison, fees for other health care-related facilities are as follows: adult care homes, \$315-360 based on the number of beds, plus \$17.50 per bed; ambulatory surgical facilities, \$850, plus \$75 per operating room; general acute hospitals, ranges from \$250-950 based on the number of beds, plus \$17.50 per bed; hospices, \$400; nursing homes, \$420, plus \$17.50 per bed; other hospitals, \$500, plus \$17.50 per bed; and registered multiunit assisted housing, \$350.

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- **Adverse Action on a License** (G.S. 131E-153.3) – The Department is allowed to deny, suspend, or revoke a license when there is substantial failure to comply, and the Secretary may suspend admission of a patient if the conditions of the birth center are detrimental to the health or safety of the patient.
- **Limitations of Services** (G.S. 131E-153.4) – The following limitations apply to services at a licensed birth center:
 - Surgical procedures are limited to those normally accomplished during an uncomplicated birth, such as episiotomy and repair, as determined by the Commission.
 - No abortions may be performed.
 - No general or conduction anesthesia may be performed.
 - No Vaginal Birth After Cesarean (VBAC) or Trial of Labor After Cesarean (TOLAC) may be performed.
- **Inspections** (G.S. 131E-153.6) – The Department has 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 provision of the Part or rules adopted by the Commission. Further, the Department is authorized to inspect the birth centers as it deems necessary to investigate unexpected occurrences involving death of serious physical injury.
- **Rules** (G.S. 131E-153.8) – The NC Birth Center Commission is required to adopt rules for the following: accreditation; risk status; second trimester ultrasound; targeted ultrasound; transfer of patients to higher levels of care; sentinel events and adverse outcomes; and reporting requirements.
- **Confidential Information** (G.S. 131E-153.9) – Outlines when confidential or nonpublic information can be released.
- **Birth Center Fee Schedule** (G.S. 131E-153.5) – The Department is allowed to review and revise the Freestanding Birth Center Fee Schedule. **Section 1(b)** of the bill would require the Department of Health and Human Services by October 1, 2019, to review and revise if necessary, the Freestanding Birth Center Fee schedule to ensure fees are sufficient to cover the costs of providing care and the cost for any State-mandated newborn screening program is reimbursed at no less than the cost of the screening.
- **Penalties.** – The bill creates two new criminal offenses. It creates a Class 1 misdemeanor for a person to resist proper entry by an authorized representative of DHHS on the premises of a birth center. This provision would become effective December 1, 2019, and apply to offenses committed on or after that date. It also creates a Class 3 misdemeanor for a person to operate a birth center without a license. This provision would become effective one year after the rules are adopted by the Commission to coincide with when the licensing provision becomes effective, and apply to offenses committed on or after that date.

EFFECTIVE DATE: The licensure requirement or corresponding licensure provisions in Section 1(b) of the act would become effective one year after the rules promulgated by the Commission are adopted. The criminal offense related to refusing entry of DHHS would become effective December 1, 2019, and the criminal offense related to operating a birth center without a license would become effective one year after the rules adopted by the Commission become effective. The remainder of the act would be effective when the act becomes law.