

2019 Regular Session

HOUSE BILL NO. 536

BY REPRESENTATIVE HILFERTY

1 AN ACT

2 To enact R.S. 40:1203.1(3)(z), 2006(A)(2)(s), (B)(2)(j), and (E)(2)(x), and Part VI-G of  
3 Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised  
4 of R.S. 40:2180.21 through 2180.28, relative to free-standing birth centers; to  
5 provide for definitions; to provide for licensing; to provide for rules and regulations;  
6 to provide for licensing fees; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 40:1203.1(3)(z), 2006(A)(2)(s), (B)(2)(j), and (E)(2)(x), and Part VI-  
9 G of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S.  
10 40:2180.21 through 2180.28, are hereby enacted to read as follows:

11 §1203.1. Definitions

12 For the purposes of this Part:

13 \* \* \*

14 (3) "Employer" means any of the following facilities, agencies, providers,  
15 or programs:

16 \* \* \*

17 (z) A free-standing birth center, as defined in R.S. 40:2180.23.

18 \* \* \*

19 §2006. Fees; licenses; penalties

20 A.

21 \* \* \*

1 (2) This Subsection shall apply to any licensed:

2 \* \* \*

3 (s) Free-standing birth center.

4 B.

5 \* \* \*

6 (2) This Subsection shall apply to any licensed:

7 \* \* \*

8 (j) Free-standing birth center.

9 \* \* \*

10 E.

11 \* \* \*

12 (2) This Subsection shall apply to any licensed:

13 \* \* \*

14 (x) Free-standing birth center.

15 \* \* \*

16 PART VI-G. LICENSING OF FREE-STANDING BIRTH CENTERS

17 §2180.21. Short Title

18 This Part shall be known and may be cited as the "Free-Standing Birth Center  
19 Licensing Law".

20 §2180.22. Purpose

21 The purpose of this Part is to authorize the Louisiana Department of Health  
22 to promulgate and publish rules and regulations for the licensing of free-standing  
23 birth centers; to provide for the health, safety, welfare, and well-being of persons  
24 receiving services at free-standing birth centers; and to provide for the safe operation  
25 and maintenance of free-standing birth centers.

26 §2180.23. Definitions

27 For the purposes of this Part, the following terms shall have the following  
28 meanings:

1           (1) "Department" means the Louisiana Department of Health or any agency  
2           or office thereof designated by the secretary to administer the provisions of this Part.

3           (2)(a) "Free-standing birth center" means a facility, place, center, agency,  
4           person, institution, corporation, partnership, unincorporated association, group, or  
5           other legal entity which provides free-standing birth center services and at which a  
6           person is anticipated to give birth following a low-risk pregnancy.

7           (b) For the purposes of this Part, a free-standing birth center does not include  
8           a hospital licensed pursuant to La. R.S. 40:2100 et seq., nor does it include the place  
9           of residence of the person giving birth.

10           (3) "Free-standing birth center services" means peripartum care, including  
11           prenatal, labor, delivery, and postpartum, and services for people with low-risk  
12           pregnancies provided at free-standing birth centers. This includes any ancillary  
13           ambulatory service provided to a person at low risk for pregnancy complications, if  
14           such services are within the scope of practice of the individual providing the service.

15           (4) "License" means a license issued by the Louisiana Department of Health  
16           to a free-standing birth center.

17           (5) "Low-risk pregnancy" means a normal, uncomplicated, singleton  
18           pregnancy that has vertex presentation and is at low risk for development of  
19           complications during labor and birth, as determined from an evaluation and  
20           examination conducted by a physician or other practitioner or individual acting  
21           within the scope of his or her practice.

22           (6) "Secretary" means the secretary of the Louisiana Department of Health  
23           or his designee.

24           (7) "Standards" means policies, procedures, rules, guidelines, and standards  
25           of current practice contained in this Part in addition to those rules and standards  
26           promulgated by the Louisiana Department of Health for the licensing and operation  
27           of free-standing birth centers.

1           §2180.24. Licensure of free-standing birth centers

2           A. All free-standing birth centers shall be licensed by the Louisiana  
3           Department of Health. No facility, place, center, agency, person, institution,  
4           corporation, partnership, unincorporated association, group, or other legal entity  
5           providing free-standing birth center services shall be established or operated, or be  
6           reimbursed under the Medicaid program, unless licensed as a free-standing birth  
7           center by the department to perform such services.

8           B. A license issued to a free-standing birth center shall be valid for one  
9           geographic location and issued to the entity or person and premises named in the  
10           license application.

11           C. A license issued pursuant to this Part shall be valid for twelve months  
12           unless revoked or otherwise suspended prior to that date, commencing with the  
13           month of issuance.

14           D. Unless otherwise renewed or stated in the rules promulgated by the  
15           department, a license issued pursuant to this Part shall expire on the last day of the  
16           twelfth month after the date of issuance.

17           E. A license issued pursuant to this Part shall be on a form prescribed by the  
18           department.

19           F. A license issued pursuant to this Part shall not be transferrable or  
20           assignable.

21           G. A license issued to a free-standing birth center shall be posted in a  
22           conspicuous place on the licensed premises.

23           §2180.25. Rules and regulations; licensing standards

24           A. The department shall prescribe, promulgate, and publish rules,  
25           regulations, and licensing standards, in accordance with the Administrative  
26           Procedure Act, and to provide for all of the following:

27                   (1) The licensure of free-standing birth centers.

28                   (2) The health, safety, welfare, and well-being of persons receiving services  
29                   at the free-standing birth centers.

30                   (3) The safe operation and maintenance of free-standing birth centers.

1            B.(1) The rules, regulations, and licensing standards shall become effective  
2            upon approval by the secretary of the department in accordance with the  
3            Administrative Procedure Act.

4            (2) The rules, regulations, and licensing standards shall have the effect of  
5            law and shall include, but not be limited to:

6            (a) Licensure application and renewal, including forms, procedures, and  
7            requirements.

8            (b) Operational requirements.

9            (c) Practice standards to assure quality of care.

10           (d) Practice standards to assure the health, safety, welfare, well-being, and  
11           comfort of persons receiving care and services.

12           (e) Confidentiality of clients' records.

13           (f) Criteria and protocols to assure uniform and quality assessment,  
14           diagnosis, evaluation, and referral to appropriate level of care.

15           (g) Administration, personnel, and staffing requirements.

16           (h) Survey and complaint investigations, including investigations into  
17           allegations that a provider is operating without a license.

18           (i) License types, including provisional licenses.

19           (j) Denial, revocation, suspension, and nonrenewal of licenses, and the  
20           appeals therefrom.

21           (k) Planning, construction, and design of the center to ensure the health,  
22           safety, welfare, well-being, and comfort of persons receiving care and services.

23           (l) The requirement that each free-standing birth center be located within a  
24           ground-travel-time distance from a general acute care hospital providing obstetric  
25           services which allows for an emergency cesarean delivery to begin within thirty  
26           minutes of the decision that a cesarean delivery is necessary.

27           (m) Requirements for each free-standing birth center to have agreements or  
28           written policies and procedures with other agencies, institutions, or individuals, for  
29           services to clients including but not limited to:

- 1                    (i) Laboratory and diagnostic services.
- 2                    (ii) Obstetric consultation services.
- 3                    (iii) Pediatric consultation services.
- 4                    (iv) Transport services.
- 5                    (v) Obstetric/newborn acute care in hospitals.
- 6                    (n) Requirements for each free-standing birth center to have an established  
 7 consultation, collaboration, or referral system, in both emergency and  
 8 non-emergency circumstances, that falls outside the scope of birth center practice,  
 9 to meet the needs of a mother or baby.
- 10                   (o) Requirements for transferring and transporting clients to hospitals;  
 11 protocols for the transfer of any patient to a licensed hospital; and arrangements with  
 12 a local ambulance for the transport of emergency patients to a licensed hospital.
- 13                   (p) Requirements for documentation of adequate prenatal care during the  
 14 pregnancy.
- 15                   (q) Requirements for documentation and evidence that the delivery is  
 16 expected to be low risk, singleton birth, and vertex presentation.
- 17                   (r) Requirements for meeting specific national standards for birth centers  
 18 published or established by the American Association of Birth Centers, as well as  
 19 requirements for accreditation by the Commission for Accreditation of Birth Centers.
- 20                   (s) Other regulations or standards that will ensure proper care and treatment  
 21 of persons receiving care and services at the free-standing birth center, that may be  
 22 deemed necessary by the department for an effective administration of this Part.
- 23                   C.(1) No free-standing birth center shall be required to obtain a license  
 24 pursuant to this Part until the initial rules, regulations, and licensing standards are  
 25 promulgated by the Louisiana Department of Health pursuant to the Administrative  
 26 Procedure Act.
- 27                   (2) Each entity that meets the definition of free-standing birth center as  
 28 defined in this Part shall submit an initial licensing application and fee to the  
 29 department within ninety days of the promulgation of the initial rules, regulations,  
 30 and licensing standards. If the entity is not licensed within one hundred twenty days

1 after submission of its initial licensing application and fee, the entity shall cease  
2 operations until such time as it is licensed as a free-standing birth center by the  
3 department.

4 §2180.26. License issuance; application; fees; onsite inspections

5 A. Each application for licensure as a free-standing birth center shall be  
6 submitted to the department on forms prescribed by the department and shall contain  
7 such information as the department may require. Additional information required by  
8 the department shall be provided by the applicant as requested.

9 B. Each application for licensure and each license renewal application shall  
10 be accompanied by a nonrefundable license fee in the amount required pursuant to  
11 R.S. 40:2006.

12 C. Following receipt of the completed initial licensing application and fee,  
13 the department shall perform an onsite survey and inspection. If, after the onsite  
14 survey and inspection, the Louisiana Department of Health finds that the  
15 free-standing birth center meets the requirements of this Part and the licensing  
16 standards adopted pursuant to this Part, a license shall be issued.

17 D. As a condition for renewal of license, the licensee shall submit to the  
18 department a completed annual renewal application on the forms prescribed by the  
19 department, which shall contain all information required by the department.  
20 Additionally, the annual renewal licensing fee shall be submitted with the annual  
21 renewal application. Upon receipt of the completed annual renewal application and  
22 the annual renewal fee, the department shall determine if the free-standing birth  
23 center continues to meet the requirements established pursuant to this Part and the  
24 licensing standards adopted pursuant to this Part. The department may perform an  
25 onsite survey and inspection upon annual renewal. If the provider continues to meet  
26 the requirements established pursuant to this Part and the licensing standards adopted  
27 pursuant to this Part, a license shall be issued which shall be valid for up to one year,  
28 unless otherwise revoked or suspended.

1           E. The department may perform an onsite survey or inspection at reasonable  
 2           times as necessary to ensure compliance with this Part and the licensing standards  
 3           adopted pursuant to this Part.

4           §2180.27. Operation without license; penalty

5           A. A free-standing birth center shall not operate without a license issued by  
 6           the department. Any center or facility operating without a license in violation of  
 7           these provisions shall be charged with a misdemeanor. Upon conviction, that center  
 8           shall be fined no less than two hundred fifty dollars and no more than one thousand  
 9           dollars. Each day of violation shall constitute a separate offense. It shall be the  
 10          responsibility of the department to inform the appropriate district attorney of the  
 11          alleged violation to ensure enforcement.

12          B. If a free-standing birth center is operating without a license issued by the  
 13          department, the department shall have the authority to issue an immediate cease and  
 14          desist order to the center. Any center receiving a cease and desist order from the  
 15          department shall immediately cease operations until such time as that provider is  
 16          issued a license by the department.

17          C. The department shall seek an injunction in the Nineteenth Judicial District  
 18          Court against any provider or center who receives a cease and desist order from the  
 19          department, as provided in Subsection B of this Section, and who does not  
 20          immediately cease operations. Any provider or center against whom an injunction  
 21          is granted shall be liable to the department for attorney fees, costs, and damages.

22          §2180.28. Right of inspection; records; reports

23          A. Each free-standing birth center that has applied for a license or that is  
 24          licensed pursuant to this Part shall be open at reasonable times for inspection by the  
 25          department, the state fire marshal, and any other authorized governmental entity.

26          B. Every applicant or licensee shall keep all records and make all reports as  
 27          the department shall prescribe, and all necessary records shall be available for  
 28          inspection by the department or other authorized governmental entity.

29          Section 3. This Act shall become effective upon signature by the governor or, if not  
 30          signed by the governor, upon expiration of the time for bills to become law without signature



1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
3 effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_