

2019 Regular Session

HOUSE BILL NO. 536

BY REPRESENTATIVE HILFERTY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH CARE/FACILITIES: Provides relative to the licensing of free standing birth centers

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 2180.21 through 2180.28, relative to free-standing birth centers; to provide for
5 definitions; to provide for licensing; to provide for rules and regulations; to provide
6 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, to be comprised of
10 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, or
15 programs:

16 * * *

17 (z) A free-standing birth center, as defined in R.S. 40:2180.19.

18 * * *

19 §2006. Fees; licenses; penalties

20 A.

1 * * *

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

3 * * *

4 (s) Free-standing birth center.

5 B.

6 * * *

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

8 * * *

9 (j) Free-standing birth center.

10 * * *

11 E.

12 * * *

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

14 * * *

15 (x) Free-standing birth center.

16 * * *

17 Part VI-G. LICENSING OF FREE-STANDING BIRTH CENTERS

18 §2180.21. Short Title

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

21 §2180.22. Purpose

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

27 §2180.23. Definitions

28 For the purposes of this Part, the following terms shall have the following
29 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 a 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.

28 §2180.24. Licensure of free-standing birth centers

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

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

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

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

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

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

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

22 §2180.25. Rules and regulations; licensing standards

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

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

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

29 (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 law
5 and shall include, but are not 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, diagnosis,
14 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) 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 (14) 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 (15) 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 (16) Requirements for documentation of adequate prenatal care during the
14 pregnancy.

15 (17) Requirements for documentation and evidence that the delivery is
16 expected to be low risk, singleton birth, and vertex presentation.

17 (18) 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 (19) 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 will 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

1 and licensing standards. If the entity is not licensed within one hundred twenty days
2 after submission of its initial licensing application and fee, the entity shall cease and
3 desist operations until such time as it is licensed as a free-standing birth center by the
4 department.

5 §2180.26. License issuance; application; fees; onsite inspections

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

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

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

18 D. As a condition for renewal of license, the licensee shall submit to the
19 department, a completed annual renewal application on the forms prescribed by the
20 department, which shall contain all information required by the department.
21 Additionally, the annual renewal licensing fee shall be submitted with the annual
22 renewal application. Upon receipt of the completed annual renewal application and
23 the annual renewal fee, the department shall determine if the free-standing birth
24 center continues to meet the requirements established pursuant to this Part and the
25 licensing standards adopted pursuant to this Part. The department may perform an
26 onsite survey and inspection upon annual renewal. If the provider continues to meet
27 the requirements established pursuant to this Part and the licensing standards adopted
28 pursuant to this Part, a license shall be issued which shall be valid for up to one year,
29 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 such center receiving such a cease and desist order
15 from the department shall immediately cease operations until such time that provider
16 is 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.

1 Section 3. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 536 Original

2019 Regular Session

Hilferty

Abstract: Provides for the licensing of free-standing birth centers and authorizes the Louisiana Department of Health to publish rules and regulations for licensing standards.

Present law provides for criminal history checks on nonlicensed and licensed persons and licensed ambulance personnel.

Proposed law adds free-standing birth centers to the list of enumerated employers.

Present law provides for the fees, licensing, and penalties of any legal entity currently operating or planning to operate any of the facilities listed within the present law. Proposed law adds "free-standing birth centers" to present law.

Proposed law authorizes the Louisiana Department of Health (LDH) to promulgate and publish rules and regulations for the licensing of free-standing birth centers.

Proposed law defines "free standing birth center", "free-standing birth center services", "low risk pregnancy", and "standards".

Proposed law provides that free-standing birth centers shall be licensed by LDH and that no such center shall be established, operated, or reimbursed under the Medicaid program unless licensed to provide such services as a free-standing birth center by LDH.

Proposed law provides for specific requirements of licenses of free-standing birth centers such as: specific geographic location, the term and expiration date, the form of such license, and the location of posting such license.

Proposed law provides that the rules and regulations promulgated by LDH shall be in accordance with the Administrative Procedure Act; provides that such rules shall be in the interest of the health, safety, welfare, and well being of persons receiving services from free standing birthing centers; and that such rules are effective upon approval by the secretary of LDH and shall have the effect of law.

Proposed law provides for the process an applicant must follow to apply to be licensed as a free-standing birth center by LDH.

Proposed law provides for the penalties of any entity operating as a free-standing birth center without a license from LDH.

Proposed law provides that any licensed free-standing birth center is subject to inspection of records and reports by LDH.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 40:1203.1(3)(z), 2006(A)(2)(s), (B)(2)(j), and (E)(2)(x), and 2180.21-2180.28).