**A** **BILL**

TO AMEND SECTION 44‑89‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CHAPTER DEFINITIONS, SO AS TO CHANGE THE DEFINITIONS OF “BIRTHING CENTER” AND “LAY MIDWIFE” AND ADD A DEFINITION FOR “CONSULTANT PHYSICIAN”; AND TO AMEND SECTION 44‑89‑60, RELATING TO THE REGULATION OF BIRTH CENTERS, SO AS TO REQUIRE A CONSULTANT PHYSICIAN TO BE AVAILABLE AT ALL TIMES A BIRTH CENTER IS CONDUCTING BUSINESS TO PROVIDE CONSULTATION AND/OR ACCEPT TRANSFERS OF MOTHERS AND BABIES, TO REQUIRE BIRTHS PLANNED TO OCCUR AT A BIRTH CENTER TO BE EVALUATED BY CLINICAL STAFF TO ASSESS FOR RISK STATUS AND TO DOCUMENT EVALUATIONS IN CLIENT FILES, TO ESTABLISH LICENSING AND CERTIFICATION REQUIREMENTS OF BIRTH CENTER CLINICAL STAFF, TO REQUIRE BIRTH CENTERS TO ESTABLISH AN ADVISORY COMMITTEE AND TO PROVIDE FOR ITS MEMBERSHIP AND RESPONSIBILITIES, TO REQUIRE BIRTH CENTERS TO ADOPT POLICY AND PROCEDURES THAT ADDRESS THE TRANSFER OF CLIENTS AND NEWBORNS TO ACUTE CARE HOSPITALS, TO PROVIDE LIMITED IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY FOR CONSULTANT PHYSICIANS, AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑89‑30 of the 1976 Code is amended to read:

“Section 44‑89‑30. As used in this chapter:

(1) ‘Birth center’ or ‘birthing center’ means a facility or other place where human births are planned to occur~~. This~~ but does not include the usual residence of the mother or any facility which is licensed as a hospital.

(2) ‘Board’ means the South Carolina Board of Health and Environmental Control.

(3) ‘Certified Nurse‑Midwife (CNM)’ means a person educated in the discipline of nursing and midwifery, certified by examination by the American College of Nurse‑Midwives, and licensed by the State Board of Nursing as a Registered Nurse.

(4) ‘Consultant physician’ means a medical doctor or doctor of osteopathy licensed by the South Carolina State Board of Medical Examiners with board certification in obstetrics, maternal fetal medicine, family medicine, pediatrics, or neonatology.

(5) ‘Department’ means the South Carolina Department of Health and Environmental Control.

~~(5)~~(6) ‘~~Lay~~ Licensed midwife’ means an individual so licensed by the department who possesses a current certificate issued by a nationally recognized midwife certification organization approved by the department in consultation with the Midwifery Advisory Council.

~~(6)~~(7) ‘Low risk’ means normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal, uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health.

~~(7)~~(8) ‘Midwifery’ means the application of scientific principles in the care of ‘with woman’ care during ~~uncomplicated~~ low‑risk pregnancy, birth, and puerperium including care of the newborn, support of the family unit, and gynecologic health care.

~~(8)~~(9) ‘Person’ means a natural individual, private or public organization, political subdivision, or other governmental agency.

~~(9)~~(10) ‘Physician’ means a doctor of medicine or osteopathy with training in obstetrics or midwifery and licensed by the South Carolina State Board of Medical Examiners to practice medicine.”

SECTION. 2. Section 44‑89‑60 of the 1976 Code is amended to read:

“Section 44‑89‑60. (A) The department shall require reports from, regulate, investigate, and inspect all birthing centers and records of these facilities as necessary and promulgate regulations in accordance with the Administrative Procedures Act to carry out the purposes of this chapter. The regulations must include, but not be limited to, the following requirements:

(1) Births planned to occur at a birthing center must be restricted to low‑risk births ~~following normal, uncomplicated pregnancy~~.

(2) Birthing centers shall provide care by physicians, certified nurse‑midwives, or licensed ~~lay‑midwives~~ midwives to childbearing women during pregnancy, birth, and puerperium.

(3) ~~A physician must be on call and available to provide medical assistance at the birthing center at all times that it is serving the public.~~

~~(4)~~ A physician or certified nurse midwife shall make a written determination that the planned birth is low risk.

The regulations also must provide that ~~any birthing~~ a birth center which is in operation at the time of promulgation of these regulations is given a reasonable period of time, not to exceed one year from the date of the promulgation, within which to comply with the regulations.

(B)(1) A birth center shall have a consultant physician available in person or by telecommunication at all times the center is conducting business to provide consultation regarding medical management and/or to accept transfers of mothers and babies who require care outside of the scope of the birth center. The birth center must provide contact information for consultant physicians to the department upon request.

(2) A birth center shall establish an advisory committee comprised of the center’s clinical staff and a consultant physician to meet at least quarterly. The committee’s responsibilities include, but are not limited to, review of all transfers to acute care hospitals and approval of all birth center policy and procedures. A physician, and the administrator or the administrator’s designee of an acute care receiving hospital, providing care to a laboring woman, postpartum woman, or newborn as a result of a birth center transfer must be invited and encouraged to participate. The birth center must provide its written policy and procedures to the department upon request. The policy and procedures must:

(a) require births planned to occur at a birth center to be evaluated for risk status by a member of the center’s clinical staff. The evaluations in the health record on each client must include, but not be limited to, an evaluation of formal risk status on initial evaluation, at each trimester, and upon admission in labor;

(b) require birth center clinical staff to be licensed in this State as a certified nurse‑midwife, licensed midwife, or physician; and

(c) address knowledge, skills, and professional credentials required to provide services offered by the center.

(C)(1) A birth center shall document in its policy and procedures the process for transfer of care to an acute care hospital with obstetrical and/or newborn services.

(2) Birth center policy and procedures must include, at a minimum, the mode and procedure for both emergent and nonemergent transfer of a laboring woman, a postpartum woman, and a newborn, indications for transport, plans for communication with accepting physicians and hospital staff, and plans for ongoing post‑transport communications between the birth center and the receiving acute care hospital.

(3) Birth center transfer policy and procedures must require, at a minimum, notification of the receiving health care provider and hospital of the impending transfer, the reason for transfer, a brief relevant clinical history, the planned mode of transport, the expected time of arrival, a legible copy of relevant medical records, and the plan for postpartum follow up.

(4) Contact information for consultant physicians, transport services, acute care hospitals with obstetric and newborn services, and any other relevant emergency transport services must be posted prominently in the birth center and made available to all clients.

(D) If a consultant physician acts without malice, is not grossly negligent, has made reasonable efforts to obtain the facts relating to the issue presented to him, and acts in the belief that the action taken is warranted by the facts known to him, the physician is not liable to a birth center for civil damages or criminal penalties, and is not subject to civil suit or criminal prosecution, as a result of acts or omissions arising out of the provision of services by the consultant physician pursuant to this section or South Carolina Regulation 61‑102.”

SECTION 3. This act takes effect upon approval by the Governor.

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