



Sub. H.B. 287

126th General Assembly
(As Passed by the General Assembly)

Reps. Aslanides, Kearns, Carmichael, Gibbs, McGregor, J., Dolan, Collier, Hood, Reidelbach, Barrett, Daniels, Evans, D., Flowers, Hagan, Hughes, Law, Schlichter, Schneider, Stewart, J., Uecker, Wagoner

Sens. Coughlin, Gardner, Jacobson, Clancy, Amstutz, Cates, Grendell, Harris, Hottinger, Jordan, Mumper, Padgett, Schuler, Schuring, Spada, Wachtmann

Effective date: *

ACT SUMMARY

FREESTANDING BIRTHING CENTERS

- Exempts a freestanding birthing center owned and operated by a religious denomination, sect, or group from the requirement that it be licensed by the Director of Health if (1) requiring licensure significantly abridges or infringes on the religious practices or beliefs of the denomination, sect, or group and (2) the center provides care only during low-risk pregnancy, delivery, and the immediate postpartum period exclusively to women who are members of the denomination, sect, or group.
- Specifies the following additional conditions for remaining exempt from the licensing requirement: (1) the freestanding birthing center must monitor and evaluate the care provided to its patients in accordance with at least minimum patient safety monitoring and evaluation requirements, and (2) the center must meet quality assessment and improvement standards.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- Authorizes the Director of Health, when a freestanding birthing center ceases to comply with the additional conditions for remaining exempt from licensure, to issue an order requiring the center to come into compliance.
- Permits the Director to issue a second order requiring the freestanding birthing center to cease operations until it obtains a license, if the center has failed to take the action required by the previous order.

MEDICAL CLAIMS FOR ABORTIONS NOT PERFORMED

- Provides that no person has a civil action or may receive an award of damages in a civil action, and that no other person is liable in a civil action, upon a medical claim that because of an act or omission by the other person either (1) the person was not aborted or (2) a child was not aborted.
- Specifies that the provisions regarding medical claims for abortions not performed do not preclude a person from bringing a civil action or receiving an award of damages in a medical claim based upon an intentional or willful misrepresentation or omission of information related to medical diagnosis, care, or treatment.

CONTENT AND OPERATION

FREESTANDING BIRTHING CENTERS

Exemption from licensing requirement

(R.C. 3702.30(E)(1) and 3702.301(A))

Law generally unchanged by the act prohibits certain health care facilities from operating without a license issued by the Director of Health. Among the health care facilities for which a license is required are freestanding birthing centers. Although continuing law governing the licensing of health care facilities does not define the term "freestanding birthing center," unchanged law governing the Certificate of Need program defines the term as any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of

another health care facility, and that is not licensed as a level one, two, or three maternity unit or a limited maternity unit.¹

The act establishes an exception to the requirement that each freestanding birthing center obtain a license from the Director of Health. Under the act, a freestanding birthing center is not required to obtain a license if all of the following are the case:

- (1) A religious denomination, sect, or group owns and operates the center;
- (2) Requiring that the center be licensed significantly abridges or infringes on the religious practices or beliefs of that religious denomination, sect, or group;
- (3) The center provides care only during low-risk pregnancy, delivery, and the immediate postpartum period and patients are exclusively women who are members of that religious denomination, sect, or group;
- (4) The center monitors and evaluates the care provided to its patients in accordance with at least the minimum patient safety monitoring and evaluation requirements established in rules the act requires the Director of Health to adopt;
- (5) The center meets the quality assessment and improvement standards established in the Director's rules.

Compliance orders

(R.C. 3702.301(B) and (C))

The act authorizes the Director of Health to take action against a freestanding birthing center that fails to continue to comply with the requirement that it monitor and evaluate the care provided to its patients in accordance with at least the minimum patient safety monitoring and evaluation requirements established in the rules or the requirement that the rules' quality assessment and improvement standards be met. The action the Director is authorized to take is to issue an order requiring the center to come into compliance.

¹ *The Certificate of Need program no longer applies to freestanding birthing centers and the other types of facilities that are licensed through the Department's health care facility licensing program (R.C. 3702.51 and 3702.511, not changed in the act). The other facilities included in the licensing program are (1) ambulatory surgical facilities, (2) freestanding dialysis centers, (3) freestanding inpatient rehabilitation facilities, (4) freestanding radiation therapy centers, and (5) freestanding or mobile diagnostic imaging centers (R.C. 3702.30(A)(4)).*

In the order, the Director may identify what the center has failed to do and what the center needs to do and require that the center take the required action within a time specified in the order. The Director also may require the center to provide the Director with written notice within a time specified in the order that contains (1) certification that the center has taken the required action, (2) the signature of the center's administrator or medical director and certification that the administrator or medical director, whichever signs the notice, is the center's authorized representative, (3) certification that the information in the notice and in any accompanying documentation is true and accurate, and (4) any other information or documentation that the Director may require to verify that the center has taken the required action.

If the Director issues an order to come into compliance and the center fails to take the required action within the required time, the Director is permitted to issue a second order. In the second order, the Director must require the center to cease operations until it obtains a license from the Director.

Rules

(R.C. 3702.301(D))

The Director is required to adopt rules as necessary to implement the exemption from the requirement that freestanding birthing centers obtain a license. The rules are to be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.). In addition to the rules discussed above regarding minimum patient safety monitoring and evaluation requirements and quality assessment and improvement standards, the rules must establish procedures for determining whether a center is in compliance with the rules.

Quality Monitoring and Inspection Fund

(R.C. 3702.31)

The Quality Monitoring and Inspection Fund is an existing fund in the state treasury. The Director of Health is required to use the fund to administer and enforce certain of the Director's statutory duties, including the licensing of freestanding birthing centers and other health care facilities. The act adds a new use for the fund: administering and enforcing the act's exemption of freestanding birthing centers from licensing requirements.

MEDICAL CLAIMS FOR ABORTIONS NOT PERFORMED

No cause of action or liability

(R.C. 2305.113 (not in the act) and 2305.116)

The act provides that no person has a civil action or may receive an award of damages in a civil action, and that no other person is liable in a civil action, upon a medical claim that because of an act or omission by the other person the person was not aborted. The act also provides that no person has a civil action or may receive an award of damages in a civil action, and that no other person is liable in a civil action, upon a medical claim that because of an act or omission by the other person a child was not aborted.

The act specifies that its provisions pertaining to civil actions do not preclude a person from bringing a civil action or from receiving an award of damages in a medical claim based upon an intentional or willful misrepresentation or omission of information related to medical diagnosis, care, or treatment.

For purposes of its civil action provisions, the act specifies that a "medical claim" is any claim that is asserted in a civil action against a physician, certain other health care providers,² or the agents or employees of certain health care providers, and arises out of the medical diagnosis, care, or treatment of any person.

HISTORY

ACTION	DATE
Introduced	06-01-05
Reported, H. Health	12-14-05
Passed House (92-0)	12-14-05
Reported, S. Health, Human Services & Aging	02-16-06
Passed Senate (23-9)	02-28-06
House concurred in Senate amendments (76-18)	03-14-06

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² *These other health care providers are (1) podiatrists, nurses, physical therapists, and emergency medical technicians and (2) hospitals, nursing homes, and certain residential facilities.*