CHAPTER 89

Birthing Center Licensure Act

**SECTION 44‑89‑10.** Short title.

 This act may be cited as the “Birthing Center Licensure Act”.

HISTORY: 1987 Act No. 99 Section 1.

CROSS REFERENCES

Standards for licensing birthing centers for deliveries by midwives, see S.C. Code of Regulations R. 61‑102.

Regulation pertaining to licensed midwives, see S.C. Code of Regulations R. 61‑24.

**SECTION 44‑89‑20.** Purpose.

 The purpose of this chapter is to promote the health and safety of women and newborns by providing for the licensing and regulation of birthing centers.

HISTORY: 1987 Act No. 99 Section 2.

**SECTION 44‑89‑30.** Definitions.

 As used in this chapter:

 (1) “Birthing center” means a facility or other place where human births are planned to occur. This 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) “Department” means the South Carolina Department of Health and Environmental Control.

 (5) “Lay midwife” means an individual so licensed by the department.

 (6) “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) “Midwifery” means the application of scientific principles in the care of “with woman” care during uncomplicated pregnancy, birth, and puerperium including care of the newborn, support of the family unit, and gynecologic health care.

 (8) “Person” means a natural individual, private or public organization, political subdivision, or other governmental agency.

 (9) “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.

HISTORY: 1987 Act No. 99 Section 3.

**SECTION 44‑89‑40.** Licensing of birthing centers.

 No person may establish, conduct, or maintain a birthing center without first obtaining a license from the department. The license is effective for a twelve‑month period following the date of issue. A license issued under this chapter is not assignable or transferable and is subject to suspension or revocation at any time for failure to comply with this chapter or the regulations promulgated thereunder.

HISTORY: 1987 Act No. 99 Section 4.

Library References

Health 236.

Westlaw Topic No. 198H.

C.J.S. Hospitals Sections 7 to 11.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Assignments Section 31, Birthing Center License.

**SECTION 44‑89‑50.** Fees.

 A fee of two hundred dollars is charged for each license. The fees must be used in the funding of this program.

HISTORY: 1987 Act No. 99 Section 5.

Library References

Health 236.

Westlaw Topic No. 198H.

C.J.S. Hospitals Sections 7 to 11.

**SECTION 44‑89‑60.** Reports from and investigations of centers; rules and regulations.

 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 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 shall make a written determination that the planned birth is low risk.

 The regulations also must provide that any birthing 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.

HISTORY: 1987 Act No. 99 Section 6.

Library References

Health 256, 257.

Westlaw Topic No. 198H.

C.J.S. Hospitals Sections 2, 20.

Attorney General’s Opinions

The plain and ordinary meaning of the terms “on call” and “available” are the same as the Department of Health and Environmental Control’s interpretation, namely that a physician must have the ability to be physically present at a birthing center to provide medical assistance. S.C. Op.Atty.Gen. (October 10, 2016) 2016 WL 6122509.

**SECTION 44‑89‑70.** Disclosure of inspection information and reports prohibited; exceptions.

 Information received by the department through inspection or as otherwise authorized must not be disclosed publicly in a manner as to identify individuals, facilities, or programs except in a proceeding involving the question of licensing or the revocation of a license or unless ordered to do so by a court of competent jurisdiction.

HISTORY: 1987 Act No. 99 Section 7.

Library References

Health 257.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 20.

**SECTION 44‑89‑80.** Denial, suspension, and revocation of license; penalties.

 (A) The department upon proper notice and opportunity for hearing in accordance with the Administrative Procedures Act and department regulations may deny, suspend, or revoke licenses or assess a monetary penalty on any of the following grounds:

 (1) failure to establish or maintain proper standards of care and service as prescribed by the department;

 (2) conduct or practice detrimental to the health or safety of patients, families, or employees of any facility or programs. This provision does not apply to any healing practices authorized by law;

 (3) violations of any provisions of this chapter or the regulations promulgated under this chapter.

 (B) If an existing facility has conditions or practices which, in the department’s judgment, provide an immediate threat to the safety and welfare of the patients served, the department may suspend immediately the license of the facility. After the suspension, proper notice and opportunity for hearing must be provided.

HISTORY: 1987 Act No. 99 Section 8.

CROSS REFERENCES

Applicant’s or licensee’s right to appeal adverse decision of the department, see Section 44‑89‑90.

Library References

Health 247.

Westlaw Topic No. 198H.

**SECTION 44‑89‑90.** Appeals.

 Any applicant or licensee who is aggrieved with a final decision of the department as a result of the hearing provided for by Section 44‑85‑80 may appeal to the appropriate court for judicial review pursuant to the Administrative Procedures Act.

HISTORY: 1987 Act No. 99 Section 9.

Library References

Health 253.

Westlaw Topic No. 198H.

**SECTION 44‑89‑100.** Enforcement actions; criminal offenses; penalties.

 The department, in accordance with the laws of the State governing injunctions and other processes, may maintain an action in the name of the State against any person for establishing, conducting, managing, or operating any birthing center without obtaining a license as provided in this chapter. In charging any defendant in a complaint in the action, it is sufficient to charge that the defendant, upon a certain day and in a certain county, did establish, conduct, manage, or operate the birthing center without a license, without averring any further or more particular facts concerning the charge.

 Any person violating the provisions of this chapter or regulations promulgated under this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars for a first offense and five hundred dollars for each subsequent offense. Each day the facility or program operates without a license after notice is considered a subsequent offense.

HISTORY: 1987 Act No. 99 Section 10.

Library References

Health 975.

Westlaw Topic No. 198H.

C.J.S. Health and Environment Section 85.