

ninety percent of any tax required to be shown on the monthly deposit form or return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of seven and one-half percent of the tax due, except as provided in section 421.27. For tax due under section 423.9, the penalty shall be ~~ten~~ fifteen percent. In case of willful failure to file a monthly deposit form or return, willfully filing a false monthly deposit form or return, or willfully filing a false or fraudulent monthly deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the monthly deposit form or return seventy-five percent of the amount of the tax. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the monthly deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be collected in the same manner as the tax imposed by this chapter. The penalty imposed under this subsection is not subject to waiver.

Sec. 11. Sections 4 and 5 of this Act are effective July 1, 1988.

Sec. 12. Sections 6 and 9 of this Act are effective July 1, 1987 for requests and subpoenas for returns, schedules, and attachments to returns made on or after that date.

Sec. 13. Section 10 of this Act is retroactive to January 1, 1987 for taxes due on or after that date.

Approved June 4, 1987

CHAPTER 200

BIRTH CENTERS

H.F. 328

AN ACT relating to the licensure and regulation of birth centers and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. 135G.1 LICENSURE AND REGULATION OF BIRTH CENTERS — LEGISLATIVE INTENT.**

It is the intent of the general assembly to provide for the protection of public health and safety in the establishment, construction, maintenance, and operation of birth centers by providing for licensure of birth centers and for the development, establishment, and enforcement of minimum standards with respect to birth centers.

Sec. 2. **NEW SECTION. 135G.2 DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:

1. "Birth center" means any facility, institution, or place, which is not an ambulatory surgical center or a hospital or in a hospital, in which births are planned to occur away from the mother's usual residence following a normal, uncomplicated, low-risk pregnancy.

2. "Clinical staff" means individuals employed full time or part time by a birth center who are licensed or certified to provide care at childbirth, which includes the clinical director.

3. "Consultant" means a physician licensed under chapter 148, 150, or 150A, who agrees to provide medical and obstetrical advice and services to a birth center and clients of the birth center, and who either:

- a. Is certified or eligible for certification by the American board of obstetrics and gynecology, or
- b. Has hospital obstetrical privileges.
4. "Department" means the department of inspections and appeals.
5. "Governing body" means any individual, group, corporation, or institution which is responsible for the overall operation and maintenance of a birth center.
6. "Political subdivision" means the state or any county, municipality, or other entity or subdivision of government.
7. "Licensed birth center" means a birth center licensed in accordance with section 135G.4.
8. "Low-risk pregnancy" means a pregnancy which is expected to result in an uncomplicated birth, as determined through risk criteria developed by departmental rule, and which is accompanied by adequate prenatal care.
9. "Person" means person as defined in section 4.1, subsection 13.
10. "Premises" means those buildings, beds, and facilities located at the main address of the licensee and all other buildings, beds, and facilities for the provision of maternity care located in such reasonable proximity to the main address of the licensee as to appear to the public to be under the dominion and control of the licensee.

Sec. 3. NEW SECTION. 135G.3 LICENSURE REQUIREMENT FOR BIRTH CENTERS.

1. A person or governmental unit shall not establish, conduct, or maintain a birth center in this state without first obtaining a license under section 135G.4.
2. A person shall not use or advertise to the public, in any way or by any medium whatsoever, any facility as a birth center unless such facility has first secured a license under section 135G.4.

Sec. 4. NEW SECTION. 135G.4 LICENSURE — ISSUANCE, RENEWAL, DENIAL, SUSPENSION, REVOCATION — FEES.

1. a. The department shall not issue a birth center license to any applicant until:
 - (1) The department has ascertained that the staff and equipment of the birth center is adequate to provide the care and services required of a birth center.
 - (2) The birth center has been inspected by the state fire marshal or a deputy appointed by the fire marshal for that purpose, who may be a member of a municipal fire department, and the department has received either a certificate of compliance or a provisional certificate of compliance by the birth center with the fire-hazard and fire-safety rules and standards of the department as promulgated by the fire marshal. The state fire marshal shall adopt rules relating to fire-hazard and fire-safety standards pursuant to chapter 17A which shall not exceed the provision of smoke alarms, fire extinguishers, sprinkler systems, and fire escape routes and necessary rules which parallel state or local building code rules.

The rules and standards promulgated by the fire marshal shall be substantially in keeping with the latest generally recognized safety criteria for the birth centers covered, of which the applicable criteria recommended and published from time to time by the national fire protection association shall be prima facie evidence.

The state fire marshal or the fire marshal's deputy may issue successive provisional certificates of compliance for periods of one year each to a birth center which is in substantial compliance with the applicable fire-hazard and fire-safety rules and standards, upon satisfactory evidence of an intent, in good faith, by the owner or operator of the birth center to correct the deficiencies noted upon inspection within a reasonable period of time as determined by the state fire marshal or the fire marshal's deputy. Renewal of a provisional certificate shall be based on a showing of substantial progress in eliminating deficiencies noted upon the last previous inspection of the birth center without the appearance of additional deficiencies other than those arising from changes in the fire-hazard and fire-safety rules, regulations and standards which have occurred since the last previous inspection, except that substantial progress toward achievement of a good-faith intent by the owner or operator to replace the entire

facility within a reasonable period of time, as determined by the state fire marshal or the fire marshal's deputy, may be accepted as a showing of substantial progress in eliminating deficiencies, for the purposes of this section.

b. A provisional license may be issued to any birth center that is in substantial compliance with this chapter and with the rules adopted by the department. A provisional license may be granted for a period of no more than one year from the effective date of rules adopted by the department, shall expire automatically at the end of its term, and shall not be renewed.

c. A license, unless sooner suspended or revoked, automatically expires one year from its date of issuance and is renewable upon application for renewal and payment of the fee prescribed, provided the applicant and the birth center meet the requirements established under this chapter and by rules adopted by the department. A complete application for renewal of a license shall be made ninety days prior to expiration of the license on forms provided by the department.

2. An application for a license, or renewal thereof, shall be made to the department upon forms provided by the department and shall contain information the department may require.

3. a. Each application for a birth center license, or renewal thereof, shall be accompanied by a license fee. Fees shall be established by rule of the department. Such fees shall be deposited in the general fund of the state.

b. The fees established shall be based on actual costs incurred by the department in the administration of its duties under this chapter.

4. Each license is valid only for the person or governmental unit to whom or which the license is issued and is not subject to sale, assignment, or other transfer, voluntary, or involuntary; and is not valid for any premises other than those for which the license was originally issued.

5. Each license shall be posted in a conspicuous place on the licensed premises.

6. The department may deny, suspend, or revoke a license when the department finds that there has been a substantial failure to comply with the requirements established under this chapter or by administrative rule.

Sec. 5. NEW SECTION. 135G.5 ADMINISTRATION OF BIRTH CENTER.

1. Each licensed birth center shall have a governing body which is responsible for the overall operation and maintenance of the birth center.

a. The governing body shall develop a table of organization which shows the structure of the birth center and identifies the governing body, the birth center director, the clinical director, the clinical staff, the medical consultant, and other administrative positions.

b. The governing body shall develop and make available to staff, clinicians, consultants, and licensing authorities, a manual which documents policies, procedures, and protocols, including the roles and responsibilities of all personnel.

2. There shall be an adequate number of licensed personnel as determined by departmental rule to provide clinical services needed by mothers and newborns and a sufficient number of qualified personnel as determined by departmental rule to provide services for families and to maintain the birth center.

3. All clinical staff members and consultants shall hold current and valid licenses from this state to practice their respective disciplines. All services provided to and procedures performed on a client of a birth center, which are required by statute to be performed by a licensed or certified person, shall be performed only by a person so licensed or certified.

4. The governing body shall adopt bylaws for the birth center which shall include recommendations for clinical staff or consultation appointments, delineation of clinical privileges, and the organization of the clinical staff.

Sec. 6. NEW SECTION. 135G.6 BIRTH CENTER AND EQUIPMENT — REQUIREMENTS.

1. A licensed birth center shall be so designed to assure adequate provision for birthing rooms, bath and toilet facilities, storage areas for supplies and equipment, examination areas,

and reception or family areas. Handwashing facilities shall be in, or immediately adjacent to, all examining areas and birthing rooms.

2. a. A licensed birth center shall be equipped with those items needed to provide low-risk maternity care and readily available equipment to initiate emergency procedures in life-threatening events to mother and baby, as defined by departmental rule.

b. Provisions shall be made, on or off the premises, for laundry, sterilization of supplies and equipment, laboratory examinations, and light snacks. If a food service is provided, special requirements shall be met as defined by departmental rule.

3. a. A licensed birth center shall be maintained in a safe, clean, and orderly manner.

b. The governing body shall ensure that there is compliance with fire safety provisions required by the state.

Sec. 7. NEW SECTION. 135G.7 MINIMUM STANDARDS FOR BIRTH CENTERS — RULES AND ENFORCEMENT.

The department shall adopt rules pursuant to chapter 17A to administer this chapter. The rules shall be subject to approval by the board of health prior to adoption by the department of inspections and appeals. The department shall adopt and enforce rules setting minimum standards for birth centers. However, the standards shall parallel and shall not exceed standards adopted by the maternity center association, and state and local building codes where applicable, including:

1. Sufficient numbers and qualified types of personnel and occupational disciplines are available at all times to provide necessary and adequate patient care and safety.

2. Infection control, housekeeping, sanitary conditions, disaster plan, and medical record procedures which adequately protect patient care and provide safety are established and implemented.

3. Licensed birth centers are established, organized, and operated consistent with established programmatic standards in accordance with the maternity center association.

Sec. 8. NEW SECTION. 135G.8 SELECTION OF CLIENTS — INFORMED CONSENT.

1. a. A licensed birth center may accept only those patients who are expected to have normal pregnancies, labors, and deliveries.

b. The criteria for the selection of clients and the establishment of risk status shall be defined by departmental rule, which shall reflect risk status standards adopted by the maternity center association.

2. a. A patient may not be accepted for care until the patient has signed a client informed-consent form.

b. The department shall develop a client informed-consent form to be used by the center to inform the client of the benefits and risk related to childbirth outside a hospital.

Sec. 9. NEW SECTION. 135G.9 EDUCATION AND ORIENTATION FOR BIRTH CENTER CLIENTS AND THEIR FAMILIES.

1. The clients and their families shall be fully informed of the policies and procedures of the licensed birth center, including, but not limited to, policies and procedures on:

a. The selection of clients.

b. The expectation of self-help and family/client relationships.

c. The qualifications of the clinical staff.

d. The transfer to a licensed hospital.

e. The philosophy of childbirth care and the scope of services.

f. The customary length of stay after delivery.

2. The clients shall be prepared for childbirth and childbearing by education in:

a. The course of pregnancy and normal changes occurring during pregnancy.

b. The need for prenatal care.

c. Nutrition.

d. The effects of smoking and substance abuse.

- e. Labor and delivery.
- f. The care of the newborn.

Sec. 10. NEW SECTION. 135G.10 PRENATAL CARE OF BIRTH CENTER CLIENTS.

1. A licensed birth center shall ensure that its clients have adequate prenatal care, as defined by the department, and shall ensure that serological tests are administered as required by this chapter.
2. Records of prenatal care shall be maintained for each client and shall be available during labor and delivery.

Sec. 11. NEW SECTION. 135G.11 PERFORMANCE OF LABORATORY AND SURGICAL SERVICES — USE OF ANESTHETIC AND CHEMICAL AGENTS.

1. LABORATORY SERVICES. A licensed birth center may collect specimens for those tests that are required under protocol. A licensed birth center staff member may perform simple laboratory tests, as defined by administrative rule.
2. SURGICAL SERVICES. Surgical procedures shall be limited to those normally performed during uncomplicated childbirths, such as episiotomies and repairs and shall not include operative obstetrics or caesarean sections.
3. ADMINISTRATION OF ANALGESIA AND ANESTHESIA. General and conduction anesthesia may not be administered at a licensed birth center. Systemic analgesia may be administered, and local anesthesia for pudendal block and episiotomy repair may be performed if procedures are outlined by the clinical staff.
4. INTRAPARTAL USE OF CHEMICAL AGENTS. Labor may not be inhibited, stimulated, or augmented with chemical agents during the first or second stage of labor unless prescribed by personnel with statutory authority to do so and unless in connection with and prior to emergency transport.

Sec. 12. NEW SECTION. 135G.12 AGREEMENTS WITH CONSULTANTS FOR ADVICE OR SERVICES — MAINTENANCE.

1. A licensed birth center shall maintain in writing a consultation agreement, signed within the current license year, with each consultant who has agreed to provide advice and services to the birth center and clients of the birth center, as requested, which shall include emergency backup services.
2. Consultation may be provided on-site or by telecommunication as required by clinical and geographic conditions.
3. The consultation agreement shall provide for a minimum of two prenatal visits between each patient and a consultant.

Sec. 13. NEW SECTION. 135G.13 TRANSFER AND TRANSPORT OF CLIENTS TO HOSPITALS.

1. If complications arise during labor, the client shall be transferred to a hospital.
2. Each licensed birth center shall make arrangements with a local ambulance service for the transport of emergency patients to a hospital. Such arrangements shall be documented in the policy and procedures manual of the birth center if the birth center does not own or operate a licensed ambulance. The policy and procedures manual shall also contain specific protocols for the transfer of any patient to a licensed hospital.
3. A licensed birth center shall identify neonatal/specific transportation services, including ground and air ambulances, list particular qualifications of such services, and have the telephone numbers for access to these services clearly listed and immediately available.
4. Annual assessments of the transportation services and transfer protocols shall be made and documented and kept on file at the licensed birth center.

Sec. 14. NEW SECTION. 135G.14 POSTPARTUM CARE FOR BIRTH CENTER CLIENTS AND INFANTS.

1. A mother and her infant shall be dismissed from the licensed birth center within twenty-four hours after the birth of the infant except in unusual circumstances as defined by administrative rule. If a mother or infant is retained at the birth center for more than twenty-four hours after the birth, a report shall be filed with the department within forty-eight hours of the birth describing the circumstances and the reasons for the decision.

2. A prophylactic shall be instilled in the eyes of each newborn in accordance with section 140.13.

3. Postpartum evaluation and follow-up care shall be provided, which shall include:

- a. Physical examination of the infant.
- b. Metabolic screening tests required by statute or administrative rule.
- c. Referral to sources for pediatric care.
- d. Maternal postpartum assessment.
- e. Instruction in child care, including immunization.
- f. Family planning services.
- g. Referral to a licensed hospital.

Sec. 15. NEW SECTION. 135G.15 CLINICAL RECORDS.

1. Clinical records shall contain information prescribed by rule, including, but not limited to:

- a. Identifying information.
- b. Risk assessments.
- c. Information relating to prenatal visits.
- d. Information relating to course of labor and intrapartum care.
- e. Information relating to consultation, referral, and transport to a hospital.
- f. Newborn assessment, apgar score, treatments as required, and follow-up.
- g. Postpartum follow-up.

2. Clinical records shall be immediately available at the birth center:

- a. At the time of admission.
- b. When transfer of care is necessary.
- c. For audit by licensure personnel.

3. a. Clinical records shall be kept confidential in accordance with chapter 22.

b. A client's clinical records are considered confidential documents and shall be open to inspection only under the following conditions:

- (1) If a consent to release information has been signed by the client; or
- (2) The review is made by the department for a licensure survey or complaint investigation.

4. a. Clinical records shall be audited periodically, but no less frequently than every three months, to evaluate the process and outcome of care.

b. Statistics on maternal and perinatal morbidity and mortality, maternal risk, consultant referrals, and transfers of care shall be analyzed at least semiannually.

c. The governing body shall examine the results of the record audits and statistical analyses and shall make such reports available for inspection by the public and licensing authorities.

Sec. 16. NEW SECTION. 135G.16 INSPECTIONS AND INVESTIGATIONS — INSPECTION FEES.

1. The department shall make or cause to be made such inspections and investigations as the department deems necessary.

2. Each licensed birth center shall pay to the department, at the time of inspection, an inspection fee established by administrative rule, in an amount to cover the cost of the inspection. The fees collected shall be deposited into the general fund of the state.

3. The department shall coordinate all periodic inspections for licensure made by the department to ensure that the cost to the birth center of such inspections and the disruption of services by such inspections is minimized.

Sec. 17. NEW SECTION. 135G.17 INSPECTION REPORTS.

1. Each licensed birth center shall maintain as public information, available upon request, records of all inspection reports pertaining to that birth center which has been filed with, or issued by, any governmental agency. Copies of such reports shall be retained in the records of the birth center for no less than five years from the date the reports are filed and issued.

2. Any record, report, or document which, by state or federal law or regulation, is deemed confidential shall not be distributed or made available for purposes of compliance with this section unless or until such confidential status expires, except as pursuant to section 135G.15.

3. A licensed birth center shall, upon the request of any person who has completed a written application with intent to be admitted to such birth center or any person who is a patient of such birth center, or any relative, spouse, or guardian of any such person, furnish to the requestor a copy of the last inspection report issued by the department or an accrediting organization, whichever is most recent, pertaining to the licensed birth center, as provided in subsection 1, provided the person requesting such report agrees to pay a reasonable charge to cover copying costs.

Sec. 18. NEW SECTION. 135G.18 BIRTH AND DEATH RECORDS — REPORTS.

1. A completed certificate of birth shall be filed pursuant to section 144.13, and the registration fee pursuant to section 144.13A shall be charged and remitted.

2. Each newborn death and stillbirth shall be reported pursuant to section 144.29.

3. The licensee shall comply with all requirements of this chapter and administrative rules.

4. A report shall be submitted annually to the department by the licensee. The contents of the report shall be prescribed by administrative rule.

Sec. 19. NEW SECTION. 135G.19 ADMINISTRATIVE PENALTIES — EMERGENCY ORDERS — MORATORIUM ON ADMISSIONS.

1. a. The department may deny, revoke, or suspend a license, or impose an administrative fine not to exceed five hundred dollars per violation per day, for the violation of this chapter or any administrative rule. Each day of violation constitutes a separate violation and is subject to a separate fine.

b. In determining the amount of the fine to be levied for a violation, as provided in paragraph "a", the following factors shall be considered:

(1) The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted; the severity of the actual or potential harm; and the extent to which the provisions of this chapter and administrative rules were violated.

(2) Actions taken by the licensee to correct the violations or to remedy complaints.

(3) Any previous violations by the licensee.

c. All amounts collected pursuant to this section shall be deposited into the general fund of the state.

2. The department may issue an emergency order immediately suspending or revoking a license when the department determines that any condition in the licensed birth center presents a clear and present danger to the public health and safety.

3. The department may impose an immediate moratorium on elective admissions to any licensed birth center, building or portion thereof, or service when the department determines that any condition in the birth center presents a threat to the public health or safety.

Sec. 20. NEW SECTION. 135G.20 INJUNCTIVE RELIEF.

Notwithstanding the existence or pursuit of any other remedy, the department may maintain an action in the name of the state for injunction or other process to enforce this chapter and administrative rules.

Sec. 21. NEW SECTION. 135G.21 ESTABLISHING, MANAGING, OR OPERATING A BIRTH CENTER WITHOUT A LICENSE — PENALTY.

Any person who establishes, conducts, manages, or operates any birth center without a license is guilty of a simple misdemeanor. Each week of continuing violation after conviction shall be considered a separate offense.

Approved June 4, 1987

CHAPTER 201

PREGNANCY AND CHILDBIRTH LEAVES OF ABSENCE

H.F. 580

AN ACT relating to the granting of leaves of absence to persons disabled by pregnancy.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 601A.6, Code 1987, is amended by adding the following new subsection after subsection 1 and renumbering the subsequent subsections:

NEW SUBSECTION. 2. Employment policies relating to pregnancy and childbirth shall be governed by the following:

a. A written or unwritten employment policy or practice which excludes from employment applicants or employees because of the employee's pregnancy is a prima facie violation of this chapter.

b. Disabilities caused or contributed to by the employee's pregnancy, miscarriage, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to the employee's pregnancy or giving birth, on the same terms and conditions as they are applied to other temporary disabilities.

c. Disabilities caused or contributed to by legal abortion and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any temporary disability or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to legal abortion on the same terms and conditions as they are applied to other temporary disabilities. The employer may elect to exclude health insurance coverage for abortion from a plan provided by the employer, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

d. An employer shall not terminate the employment of a person disabled by pregnancy because of the employee's pregnancy.

e. Where a leave is not available or a sufficient leave is not available under any health or temporary disability insurance or sick leave plan available in connection with employment, the employer of the pregnant employee shall not refuse to grant to the employee who is disabled by the pregnancy a leave of absence if the leave of absence is for the period that the employee is disabled because of the employee's pregnancy, childbirth, or related medical conditions, or for eight weeks, whichever is less. However, the employee must provide timely notice of the period of leave requested and the employer must approve any change in the period