

# PROPOSED REGULATION OF THE DIVISION OF PUBLIC AND BEHAVIORAL HEALTH

## Freestanding Birth Centers

*Italics, blue:* New proposed language

~~[Red]:~~ Removed language

AUTHORITY: Assembly Bill 287 of the 2021 Legislative Session; NRS 449.0302

**Section 1.** Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth in section 2 to 34, inclusive, of these proposed regulations.

**Sec. 2.** *“Midwife” has the meaning ascribed to it in section 1.1 of Assembly Bill 287 of the 2021 Legislative Session.*

**Sec. 3.** *“Freestanding birthing center” has the meaning ascribed to it in section 11 of Assembly Bill 287 of the 2021 Legislative Session.*

**Sec. 4.** *“Licensed advanced practice registered nurse” means an advanced practice registered nurse who is licensed pursuant to chapter 632 of NRS to practice in a role as a nurse midwife by the State Board of Nursing.*

**Sec. 5.** *“Licensed physician” means a physician licensed pursuant to chapter 630 or 633 of NRS.*

**Sec. 6. American Association of Birth Centers Standards for Birth Centers; adoption by reference.**

- 1. The State Board of Health hereby adopts by reference the most current version of the American Association of Birth Centers Standards for Birth Centers. The standards can be obtained for free on the American Association of Birth Centers website at: <https://www.birthcenters.org/page/Standards> or for \$50 by ordering a printed copy at: <https://www.birthcenters.org/store/ListProducts.aspx?catid=443852>*
- 2. A freestanding birthing center must comply with the American Association of Birth Centers Standards for Birth Centers adopted by reference pursuant to subsection 1.*

**Sec. 7. Authorized freestanding birthing center care.**

*A freestanding birthing center is limited to providing the care outlined in the American Association of Birth Centers Standards of Birth Centers outlined in the section titled, Attributes required for compliance with Standard, C. Services Provided.*

**Sec. 8. Surgery in a freestanding birthing center; prohibited.**

- 1. Surgery, including, without limitation, the use of forceps, vacuum extractions, cesarean sections and tubal ligations, must not be performed at a freestanding birthing center.*

2. *For the purposes of this section an episiotomy is not considered surgery.*

**Sec. 9. Supervised training to providers of health care, as appropriate, at a freestanding birthing center.**

1. *The director of a freestanding birthing center may develop a supervised training program for providers of health care. A supervised training in midwifery program must include, without limitation, instruction concerning:*
  - a. *The process of childbirth;*
  - b. *Care that is available in the community for a pregnant woman and her child before and after birth;*
  - c. *Family planning;*
  - d. *Laws and regulations concerning midwifery;*
  - e. *Nutrition during pregnancy and lactation;*
  - f. *Breastfeeding; and*
  - g. *Clinical midwifery skills.*
2. *If a supervised training for providers of health care is implemented, the director must assign a North American Registry of Midwives registered preceptor, a licensed advanced practice registered nurse with 5 years of midwifery experience, three years of which must be in the immediate preceding three years, or a licensed physician with 5 years of obstetric experience, three years of which must be in the immediate preceding three years, to supervise the training of any providers of health care.*
3. *The director must develop policies and procedures to carry out the supervised training for providers of health care, including, but not limited to requiring a competency evaluation. The supervised training policies and procedures must be reviewed annually by the director and revised as needed.*

**Sec. 10. Eligible pregnant persons giving birth**

*A pregnant person may give birth in a freestanding birthing center if:*

1. *The pregnant person meets the eligibility criteria outlined in the American Association of Birth Centers Standards of Birth Centers outlined in the section titled, Attributes required for compliance with Standard, C. Services Provided, subsection 1 (e);*
2. *The pregnant person is not less than 15 years of age or over 40 years of age unless the director has reviewed the pregnant person's case and approves the admission of the pregnant person on a case-by-case basis;*
3. *The pregnant person has no medical, obstetric, fetal, or neonatal condition precluding a safe labor, birth and postpartum period in a birth center including, without limitation:*
  - (a) *No major medical problems.*
  - (b) *No previous history of major uterine wall surgery, cesarean section, or other obstetrical complications which are likely to recur.*

*(c) No clinically significant signs or symptoms of:*

- (1) Pregnancy-induced hypertension;*
- (2) Polyhydramnios or oligohydramnios;*
- (3) Abruptio placenta;*
- (4) Chorioamnionitis;*
- (5) Multiple gestation;*
- (6) Intrauterine growth retardation;*
- (7) Meconium-stained amniotic fluid associated with signs of fetal intolerance of labor;*
- (8) Fetal intolerance of labor;*
- (9) Active substance use disorder;*
- (10) Placenta previa;*
- (11) Gestational diabetes that is not controlled by diet and other lifestyle changes; or*
- (12) Anemia that is not resolved with treatment.*

*4. While in active labor, the pregnant person demonstrates no clinically significant signs or symptoms of:*

- (1) Intrapartum hemorrhage;*
- (2) Active Herpes Simplex II of the genitals; or*
- (3) Malpresentation of the fetus including breech presentation.*

*5. The pregnant person is in labor and progressing normally according to the established protocols of the freestanding birthing center and the clinical staff of the freestanding birthing center;*

*6. The pregnant person's membranes were not ruptured more than 48 hours before the person's admission to the freestanding birthing center;*

*7. The pregnant person has no evidence of a significant infection, the treatment of which is beyond the midwife's scope of practice;*

*8. The pregnant person's pregnancy is appropriate for a setting where analgesia is limited; and*

*9. The pregnant person's pregnancy is appropriate for a setting where anesthesia is limited to a local infiltration of the perineum, a pudendal block, or the use of nitrous oxide for pain relief during labor.*

**Sec. 11. Denial of application for or renewal of license; revocation or suspension of license; accreditation.**

*1. An application for a license or the renewal of a license may be denied if the facility, personnel or equipment fails to meet the provisions outlined in sections 2 to 34, inclusive, or if cause or circumstance exists that may, in the opinion of the Division, threaten or present a substantial risk to threaten the safety or health of the public.*

*2. A license may be revoked or summarily suspended in accordance with NAC 449.002 to 449.99939, inclusive, and chapters 233B and 449 of NRS if the freestanding birthing center, personnel or equipment fails to meet all applicable requirements in sections 2 to 34, inclusive, or if cause or circumstance exists that may, in the opinion of the Division, threaten or present a substantial risk to threaten the safety or health of the public.*

*3. A freestanding birthing center shall maintain current accreditation by the Commission for the Accreditation of Birth Centers or its successor organization or another nationally recognized organization for accrediting freestanding birthing centers; and within 12 months after initial*

*licensure, a freestanding birthing center shall submit to the Division proof of such accreditation. If the accreditation of a freestanding birthing center becomes invalid for any reason, including, without limitation, lapse or revocation, the freestanding birthing center shall immediately terminate operations.*

**Sec. 12. Design, Construction & Compliance with regulations, laws, and codes.**

- 1. A freestanding birthing center must be designed, constructed, equipped and maintained in a manner that protects the health and safety of the pregnant persons and personnel of the freestanding birthing center and members of the general public.*
- 2. A freestanding birthing center shall comply with all applicable:*
  - (a) Federal and state laws;*
  - (b) Local ordinances, including, without limitation, zoning ordinances;*
  - (c) Environmental, health and local building codes, including, but not limited to electrical, plumbing and heating, ventilation and air conditioning systems. If the facility has an elevator it shall be installed in accordance with any applicable state or local building codes;*
  - (d) Fire and safety codes, including, without limitation, those codes relating to ingress and egress of occupants, placement of smoke alarms, fire extinguishers or sprinkler systems, and fire escape routes related to the design, construction and maintenance of the freestanding birthing center. If there is a difference between state and local requirements, the more stringent requirements apply.*
- 3. Except as otherwise provided in subsection 4, before any new construction of an freestanding birthing center or any remodeling of an existing freestanding birthing center commences, the freestanding birthing center must submit building plans for the new construction or remodeling to the entity designated to review such plans by the Division pursuant to the provisions of NAC 449.0115. The entity's review of those plans is advisory only and does not constitute approval for the licensing of the freestanding birthing center. The Division shall not approve a freestanding birthing center for licensure until all construction is completed and a survey is conducted at the site of the freestanding birthing center.*
- 4. A freestanding birthing center is not required to submit plans for remodeling to the entity designated to review such plans by the Division pursuant to the provisions of NAC 449.0115 if the remodeling is limited to refurbishing an area within the freestanding birthing center, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area, and replacing window or wall coverings in the area.*
- 5. Before issuing a license to a freestanding birthing center, the Division shall conduct an on-site inspection of the freestanding birthing center.*
- 6. The facility has an oxygen supply adequate to provide oxygen supplementation for all pregnant persons and newborns being cared for in the facility, if needed. The facility shall establish a policy and procedure for the safe administration of oxygen, including, but not limited to the safe storage of portable oxygen in accordance with a nationally recognized standard for the safe storage of a medical gas, such as those of the national fire protection association.*
- 7. The facility has a designated parking space for clients and visitors with a minimum of one space reserved for emergency vehicles.*

8. *The size of each birth room shall be a minimum of 100 square feet with one outside window, shall only have one bed per room, and have sufficient lighting in the delivery and newborn areas to safely provide care.*
9. *The minimum corridor width shall be three feet where the occupancy load is less than 50, or three feet eight inches, if the occupant load is greater than 50.*
10. *Birth rooms shall have access to a sink or hand sanitizer station, toilet, tub or shower that is in or immediately adjacent to the room.*
11. *The freestanding birthing center shall have administrative space to include a staff area and at least one staff dedicated restroom.*
12. *The freestanding birthing center shall store and dispose of solid waste in accordance with NAC 444.662 and NAC 444.664.*
13. *The freestanding birthing center shall dispose of hazardous waste in accordance with all applicable state laws and regulations and in accordance with nationally recognized infection control and prevention standards, such as those of the Centers for Disease Control and Prevention.*

**Sec. 13. Required facilities and services.**

1. *A freestanding birthing center shall provide:*
  - (a) *Services for labor, delivery, newborn and recovery care per American Association of Birth Centers Standards for Birth Centers or its successor organization.*
  - (b) *Areas for labor, delivery, newborn and recovery which are in a safe and clean environment in accordance with nationally recognized infection prevention and control standards, such as those of the Centers for Disease Control and Prevention and the American Association of Birth Center Standards for Birth Centers or its successor organization.*
  - (c) *Areas for:*
    - (1) *Maintenance and documentation of medical records of each pregnant person and newborn by the pregnant person's midwife or physician;*
    - (2) *Pregnant person and family education;*
    - (3) *Treatment and examination of a pregnant person and newborn baby;*
    - (4) *Cleaning used instruments and equipment that includes a flushing-rim clinical service sink with a bedpan washer, a hand sanitizer station, a work counter, storage area and a waste receptacle;*
    - (5) *Storage of disinfected or sterile instruments and clean equipment and supplies that is separate from and has no connection to number 4 or other clean storage or work areas, where clean linen may also be stored;*
    - (6) *Environmental supplies and equipment such as cleaning and disinfecting supplies and mops that has a sink and hand hygiene station;*
    - (7) *Secure storage of drugs; and*
    - (8) *Family visitation.*
  - (d) *Simple nourishment for the pregnant person by providing:*
    - (1) *A separate area for appropriate storage of food which may be provided to the pregnant person by their family; or*

(2) Food prepared or stored by the freestanding birthing center. If food is prepared or stored by the freestanding birthing center, the freestanding birthing center must comply with all applicable local, state and federal laws relating to the preparation and storage of food by a medical facility.

(e) Ice making equipment which is kept clean and in accordance with the manufacturer's instructions so that ice is available to staff and clients of the facility.

2. A freestanding birthing center must be equipped with those items needed to provide low-risk obstetrical care without general or regional anesthesia and initial emergency procedures for life-threatening events to a pregnant person and newborn baby, including, but not limited to:

- (a) Sterile supplies for delivering and caring for a newborn baby;
- (b) Equipment for performing pelvic examinations;
- (c) Sphygmomanometers and stethoscopes, in adult and infant sizes;
- (d) Fetoscopes and doppler fetal monitors;
- (e) Supplies for measuring glucose and protein in urine;
- (f) Needles and syringes;
- (g) Solutions and supplies for parenteral administration of fluids;
- (h) Emergency drugs and equipment for the resuscitation of an adult and a newborn baby;
- (i) Equipment for suctioning an airway, in appropriate sizes for adults and newborn babies;
- (j) Protective gear for personnel of the freestanding birthing center who may be exposed to infectious diseases of the pregnant person and the newborn baby;
- (k) Equipment or other approved methods for warming solutions and blankets;
- (l) Oxygen and apparatus for administering oxygen, in appropriate sizes for adults and newborn babies; and
- (m) An automated external defibrillator.

3. The facility must have measures in place to ensure the privacy of clients.

4. The facility must have separate containers for the disposal of infectious waste and sharps.

#### **Sec. 14. Laundry requirements.**

1. A facility must maintain:

(a) A laundry with equipment usually found in a home which is adequate for the sanitary washing and finishing of linen and other washable goods; or

(b) A written agreement with a commercial establishment to provide laundry services for the facility.

2. The laundry must be situated in an area which is separate from any area where food is stored, prepared or served. The laundry must be well-lighted, ventilated, adequate in size to house the equipment and maintained in a sanitary manner. The equipment must be kept in good repair. The area must include an area to sort and wash used linen and a separate area to dry and fold clean linen.

3. Soiled linen must be collected and transported to the laundry in washable or disposable covered containers in a sanitary manner.

4. Clean linen must be handled in a sanitary manner.

5. Clean linen must be stored in an area and manner which keeps the linen clean and prevents the contamination of the linen.

**Sec. 15. Required emergency electrical power.**

*A freestanding birthing center must have adequate emergency electrical power:*

- 1. By procuring batteries or an electricity-producing generator with sufficient fuel which is capable of providing power for 2 hours or more to support:
  - (a) Emergency lighting in the freestanding birthing center; and*
  - (b) All clinical equipment in the freestanding birthing center with the exception of the wall outlets located in a reception or waiting area.**
- 2. By having the source of emergency power serviced on a regular basis and documenting that service in the records of maintenance of the freestanding birthing center.*

**Sec. 16. Protection from fire and other disasters: Written plan; fire drills; training of staff.**

*The director of a freestanding birthing center shall ensure that the freestanding birthing center, members of its staff and pregnant persons are protected from fire and other disasters. The director of a freestanding birthing center shall:*

- 1. Prepare a written plan prescribing the actions to be taken by members of the staff and pregnant persons in the event of a fire or other disaster. This plan must be approved by the governing body of the freestanding birthing center and the local fire department within whose jurisdiction the freestanding birthing center is located and must include:
  - (a) Procedures and routes for evacuation, which must be posted prominently in the freestanding birthing center;*
  - (b) Assignments of specific tasks and responsibilities to members of the staff;*
  - (c) Instructions on how to use alarm stations and the location of alarm signals;*
  - (d) Instructions on methods for containing a fire and the location of equipment for fighting fires; and*
  - (e) Procedures for the notification of appropriate state and local governmental entities and appropriate persons, including the family members of pregnant persons and staff.**
- 2. Ensure that each shift of members of the staff conducts a fire drill at least once each quarter and maintain a written, dated report and evaluation of each fire drill for at least 4 years after the date of the fire drill.*
- 3. Ensure that each member of the staff of the freestanding birthing center is trained immediately upon hire, and annually thereafter, to execute the written plan prepared pursuant to subsection 1 and maintain records of such training for at least 4 years after the training is conducted.*
- 4. Ensure that each member of the staff fully rehearses the procedures prescribed in the written plan at least once each year for each type of disaster and maintain a written report and evaluation of each rehearsal for at least 4 years after the rehearsal.*

**Sec. 17. Requirements for birth room, hallways and doors, water supply and office-based facilities.**

- 1. Each birth room in a freestanding birthing center must:
  - (a) Be maintained in a condition which is adequate and appropriate to provide for the equipment, staff, supplies and any emergency procedures required during the period of labor, delivery and recovery for the physical and emotional care of the pregnant person, any person accompanying the pregnant person for support and the newborn baby; and**

*(b) Be located so as to provide unimpeded, rapid access to an exit of the building which will accommodate emergency transportation vehicles and equipment.*

*2. Hallways and doors which provide entry into, exit from and access within the freestanding birthing center and birth rooms must be of adequate width and configuration to accommodate the maneuvering of a stretcher from an ambulance, a wheelchair and other emergency equipment.*

*3. The freestanding birthing center must have an adequate supply of hot and cold running water under pressure for human consumption and other purposes relating to the care of the pregnant person and newborn baby.*

*4. If office-based prenatal care is provided at the freestanding birthing center, the consultation and examining rooms for that care must be separate from the birth rooms.*

### **Sec. 18. Freestanding birthing center governance**

*1. Each freestanding birthing center shall have a governing body in accordance with the American Association of Birth Centers Standards for Birth Centers standards. The governing body shall ensure:*

*(a) Each pregnant person of the freestanding birthing center receives care from a midwife, licensed advanced practice registered nurse, or licensed physician currently practicing in obstetrics;*

*(b) At least one licensed physician who is currently practicing obstetrics, licensed advanced practice registered nurse, or midwife who is approved by the director of the freestanding birthing center to provide care at the freestanding birthing center, is present at the time of delivery;*

*(c) At least one midwife, licensed physician, licensed advanced practice registered nurse or registered nurse licensed pursuant to chapter 632 of NRS whom the director of the freestanding birthing center has deemed as clinically competent to provide pre- and postdelivery care is on the premises during the time such care is provided;*

*(d) An annual operating budget and a plan for capital expenditures for the freestanding birthing center are established;*

*(e) The freestanding birthing center is adequately staffed with skilled professionals and support staff and equipped to meet all of the needs of pregnant persons and newborns;*

*(f) There is documentation in the files of the freestanding birthing center of the qualifications of each consultant under contract with and each member of the staff employed by the freestanding birthing center;*

*(g) The freestanding birthing center adopts, enforces and annually reviews written policies and procedures, which must be approved by the governing board, relating to the operation of and the provisions of care by the freestanding birthing center;*

*(h) The freestanding birthing center's protocols for treatment, assessments for risk status and criteria for the transfer of a pregnant person or a newborn baby are approved by the director of the freestanding birthing center; and*

*(i) The freestanding birthing center files the appropriate records of births and deaths.*

*2. The governing body shall establish a policy for authentication that:*

*(a) Approves a method for identifying the person making an entry in any record or chart; and*

*(b) Requires that the entry include the professional title of the person making the entry and the date and time that entry is made.*



3. *The governing body shall appoint a person to administer the freestanding birthing center who is responsible for:*

- (a) The daily operation of the freestanding birthing center;*
- (b) Reporting the pertinent activities concerning the freestanding birthing center to the governing body at regular intervals;*
- (c) Appointing a person responsible for the freestanding birthing center in the absence of the person appointed by the governing board; and*
- (d) Planning for the services provided by the freestanding birthing center and the operation of the freestanding birthing center.*

4. *The governing body shall ensure that the freestanding birthing center maintains insurance for:*

- (a) Nonmedical liability in an amount of \$50,000 or more; and*
- (b) Medical liability in an amount of \$1,000,000 or more.*

5. *The governing body shall require each licensed physician, licensed advanced practice registered nurse or midwife who practices in the freestanding birthing center to carry liability insurance in an amount of \$1,000,000 or more.*

**Sec. 19. Designation and responsibilities of director; privileges of members of clinical staff; provision of consultation services with specialists.**

1. *A freestanding birthing center must have a director who is responsible for the operation of the freestanding birthing center. The director of a freestanding birthing center must be:*

- (a) A physician;*
- (b) A person who:*
  - (1) Is certified as a Certified Professional Midwife by the North American Registry of Midwives, or its successor organization; and*
  - (2) Has successfully completed a program of education and training in midwifery that:*

*(I) Is accredited by the Midwifery Education Accreditation Council, or its successor organization; and*

*(II) Provides instruction and training in the Essential Competencies for Midwifery Practice prescribed by the International Confederation of Midwives, or its successor organization; or*

*(c) A certified nurse-midwife.*

2. *As used in this section, "certified nurse-midwife" means a person who is:*

*(a) Certified as a Certified Nurse-Midwife by the American Midwifery Certification Board, or its successor organization; and*

*(b) Licensed as an advanced practice registered nurse pursuant to NRS 632.237.*

3. *The director is responsible for:*

- (a) The development and implementation of policies related to the care of a pregnant person;*
- (b) The coordination of clinical care at the freestanding birthing center; and*
- (c) The development of, the maintenance of and the assurance of compliance with a written plan to provide, in a licensed hospital, a higher level of care to each pregnant person and newborn*

*baby under the care of the freestanding birthing center when the needs of the pregnant person or newborn baby exceed the capability of the freestanding birthing center.*

*4. The director is responsible for the quality of care provided to each pregnant person and newborn baby under the care of the freestanding birthing center and for the review of the ethical and professional practices of the clinical staff, including, but not limited to:*

*(a) The selection of members of the clinical staff;*

*(b) The delineation of the privileges accorded by the freestanding birthing center to members of the clinical staff who provide services at the freestanding birthing center;*

*(c) The reappraisal and appointment of each member of the staff; and*

*(d) The procedure to appeal the withdrawal or denial of any privilege of a member of the staff.*

*5. A roster of the privileges of each member of the clinical staff of the freestanding birthing center must be kept in the files of the freestanding birthing center specifying the privileges awarded to that member.*

*6. The freestanding birthing center shall send a certified letter requesting an agreement to at least one physician certified by the American Board of Obstetrics and Gynecology, or an equivalent organization; or to at least one physician certified by the American Board of Pediatrics, or an equivalent organization, who has admitting privileges in their specialty at an appropriate licensed hospital that can provide a higher level of care to a pregnant person or newborn baby than the freestanding birthing center can provide. If the physician refuses to enter into such an agreement or does not respond to the certified letter within 15 days after the letter is mailed, the freestanding birthing center is not required to have such an agreement.*

*7. The freestanding birthing center must have policies and procedures that outline the procedure that a freestanding birthing center will take to acquire consultative or referral services when it encounters a circumstance that falls outside the ability of the birth center to meet the needs of the pregnant person or newborn, in both emergency and non-emergency cases. The policy and procedure must address, without limitation, the criteria for which consultation or referral is needed.*

*8. If the freestanding birthing center enters into agreement pursuant to subsection 5, the freestanding birthing center shall maintain a copy of each agreement.*

*9. Each member of the clinical staff of the freestanding birthing center must agree to abide by the rules of the freestanding birthing center and sections 2 to 34, inclusive.*

## **Sec. 20. Medical records**

*1. A freestanding birthing center shall maintain the records for each pregnant person admitted for care in the freestanding birthing center and newborn in accordance with accepted professional practice.*

*2. Medical records may include electronic medical records, hard copy medical records or a combination of both.*

*3. Only authorized personnel may have access to medical records of the freestanding birthing center. Information contained in a medical record of a pregnant person must not be released without the written consent of the pregnant person or guardian except:*

*(a) As required by law; or*

*(b) As otherwise provided by the agreement on admission.*

4. A medical record must be in a format that may be readily and legibly reproduced when needed or requested.

5. A licensee who ceases operation shall notify the Division of the arrangements made for access to and the safe preservation of medical records in the custody of the licensee.

6. If the medical record is in paper format, the medical record must not be removed from the freestanding birthing center except upon the issuance of an order by a court of competent jurisdiction.

7. A complete copy of the pertinent medical record for each pregnant person transferred from the freestanding birthing center must be sent with the pregnant person to the facility receiving that pregnant person.

8. The medical record of a pregnant person discharged from the freestanding birthing center must be completed within 20 days after the date that the pregnant person is discharged from the freestanding birthing center.

9. Medical records must be protected adequately from fire, theft, loss, destruction, other hazards and unauthorized access, and must be maintained in a manner that ensures proper confidentiality and security, including but not limited to, being in compliance with all applicable state and federal laws and regulations, such as the Health Insurance Portability and Accountability Act.

#### **Sec. 21. Medical records continued.**

The medical record of a pregnant person which is on file with the freestanding birthing center must be completed, authenticated, accurate and current, and must include:

1. A complete identification of the pregnant person including information about the next of kin of the pregnant person and the person or agency legally or financially responsible for the pregnant person.

2. A statement concerning the admission and diagnosis of the pregnant person.

3. The medical history of the pregnant person.

4. Evidence of informed consent given for the care of the pregnant person.

5. Any clinical observation of the pregnant person, including, but not limited to, the notes of all clinical staff in attendance.

6. A report of all prescribed tests and examinations.

7. Confirmation of the original diagnosis, or the diagnosis at the time of discharge.

8. A summary of discharge prepared in accordance with the established policy of the freestanding birthing center, and any provisions made for continuing care or follow-up of the pregnant person after discharge.

9. If the pregnant person has died while under the care of the freestanding birthing center, documentation of the death which must be signed by a licensed physician.

#### **Sec. 22. Program for review of quality of care.**

1. A freestanding birthing center shall establish a program for the review of the quality of care provided by the freestanding birthing center. The program must include, without limitation:

(a) Documentation in the medical records of each pregnant person and newborn of the care provided as appropriate to the condition of the pregnant person and newborn and the results or outcome of that care;

*(b) The time of admission and the time that the pregnant person and newborn was examined by a licensed physician, licensed advanced practice registered nurse, or a midwife;*

*(c) A statement which describes the condition of the pregnant person and newborn at the time that the pregnant person is discharged from the freestanding birthing center;*

*(d) The instructions given to the pregnant person upon discharge and documentation of the pregnant person's understanding of those instructions;*

*(e) For each pregnant person or newborn who is transferred to another hospital or medical facility, the reason for the transfer, the method of transfer, the time that the transfer was requested and the time that the pregnant person was discharged from the freestanding birthing center;*

*(f) Documentation of any incident of unusual occurrence or deviation from the usual standards of practice of pregnant person or newborn care, any error in the administration of medications, any intrapartum infection of a pregnant person, and any morbidity or mortality; and*

*(g) Documentation about the newborn babies delivered at the freestanding birthing center, including, but not limited to:*

*(1) The number of deliveries;*

*(2) Any birth weight of less than 2500 grams;*

*(3) Any Apgar scores of newborn babies delivered at the freestanding birthing center which are less than 7 after 5 minutes;*

*(4) Any congenital defect of a newborn baby;*

*(5) Any death; and*

*(6) Any perinatal complication.*

*2. A freestanding birthing center shall make available to the Division upon request any of the documentation required by subsection 1.*

### **Sec. 23. Miscellaneous requirements concerning staff, provision of service and equipment.**

*A freestanding birthing center must:*

*1. Have on the premises at least one midwife, licensed physician or registered nurse licensed pursuant to chapter 632 of NRS with experience providing pre- and postdelivery care when a pregnant person is on the premises receiving pre- and postdelivery care.*

*2. Have at least two attendants present at all times during each delivery, one of whom must be a midwife, licensed advanced practice registered nurse, or a licensed physician currently practicing obstetrics, including routinely delivering newborn babies and caring for pregnant persons. At least one of the attendants must be a member of the clinical staff of the freestanding birthing center who is approved by the director of the freestanding birthing center to serve as an attendant.*

*3. Have the capacity of providing initial evaluation of risk status, appropriateness of admission and support of pregnant persons in labor.*

*4. Maintain on-site equipment, drugs, oxygen and appropriately trained and educated personnel needed to provide obstetric care to a pregnant person and newborn baby.*

*5. Have appropriate clinical laboratory services available for use to provide safe obstetric care according to the needs of the pregnant person and clinical staff of the freestanding birthing center.*

6. *Have at least two persons who are currently certified in basic life support and are a current neonatal resuscitation program provider trained in the techniques of administering neonatal resuscitation issued by an instructor certified by the American Academy of Pediatrics, or its successor organization, on the premises and immediately available during each delivery.*

**Sec. 24. Policies and procedures for control of infection: Manufacturer's guidelines; training and evaluation of employees; notification to employees upon adoption.**

1. *A freestanding birthing center shall develop and implement written policies and procedures to be followed by the employees of the freestanding birthing center for the prevention and control of infection that are in accordance with nationally recognized guidelines, such as those of the Centers for Disease Control and Prevention.*

2. *The policies and procedures developed pursuant to subsection 1 must prescribe the procedures for:*

*(a) Hand hygiene;*

*(b) The disposal of all waste that constitutes a biohazard, including, without limitation, needles, syringes, medical waste, microbial waste and specimens in accordance with section 12, subsections 12 and 13;*

*(c) The proper use of syringes, needles, vials and lancets; and*

*(d) The proper sterilization and disinfection of all reusable equipment.*

3. *The director of a freestanding birthing center shall make a copy of the policies and procedures developed by the freestanding birthing center pursuant to subsection 1 available to each employee of the freestanding birthing center.*

4. *Each employee of a freestanding birthing center shall follow the manufacturer's guidelines for the use and maintenance of equipment, devices and supplies. The director of a freestanding birthing center shall make the manufacturer's guidelines for equipment, devices or supplies available to each employee of the freestanding birthing center who uses or maintains the equipment, devices or supplies.*

5. *A freestanding birthing center shall:*

*(a) Train each employee of the freestanding birthing center who has exposure to pregnant persons or newborns or specimens of pregnant persons or newborns or participates in the disinfection or sterilization of equipment at the freestanding birthing center on the policies and procedures for the control of infection developed pursuant to subsection 1; and*

*(b) Require a supervisor of each such employee to evaluate the employee on the employee's knowledge and skills concerning those policies and procedures within 10 working days after beginning their employment and at least once each year thereafter.*

6. *If an freestanding birthing center that has developed policies and procedures for the control of infection pursuant to subsection 1 revises those policies and procedures, the freestanding birthing center shall notify each employee of the freestanding birthing center who has exposure to pregnant persons or newborns or specimens of pregnant persons or newborns or participates in the disinfection or sterilization of equipment at the freestanding birthing center of the change and train each such employee concerning the revised policies and procedures within 10 working days after adopting the revised policies and procedures.*

7. *As used in this section, "employee" includes, without limitation, any person providing services at the freestanding birthing center pursuant to a contract.*

**Sec. 25. Requirements for transfer or discharge of pregnant person.**

1. A pregnant person or newborn baby may not be transferred from a freestanding birthing center unless the transfer is appropriate based on the risk assessment of the pregnant person or newborn baby and the member of the clinical staff determines that:

(a) The pregnant person is at high risk for a complicated labor or delivery and does not meet the criteria for a low-risk, uncomplicated labor and delivery; or

(b) The medical needs of the pregnant person or newborn baby exceed the capability of the freestanding birthing center to provide the necessary care.

2. A pregnant person or newborn baby may not be discharged from the freestanding birthing center unless the discharge is appropriate based on the risk assessment of the pregnant person or newborn baby and a member of the clinical staff determines that:

(a) If the pregnant person has not given birth, the pregnant person is not in active labor; or

(b) The pregnant person has had a normal low-risk, uncomplicated birth and that further medical problems or complications resulting from the birth are not anticipated.

3. The criteria for the transfer of a pregnant person or newborn baby must be written and included in the manual for the policy and procedure of the freestanding birthing center.

4. If a pregnant person or newborn baby must be transferred, the pregnant person or newborn baby must be transferred to a licensed hospital which is capable of providing a higher level of obstetrical and neonatal care.

**Sec. 26. Written protocol for discharge of pregnant person.**

A freestanding birthing center shall establish written protocols for the discharge of a pregnant person and newborn from the freestanding birthing center which must include, without limitation:

1. Instructions to the pregnant person regarding care and feeding of the newborn baby.

2. Examination of the pregnant person and newborn baby after discharge from the freestanding birthing center.

3. Instructions regarding the availability of consultation services by telephone as needed or desired by the pregnant person.

**Sec. 27 - Program to monitor health of employees.**

A freestanding birthing center shall establish a program to monitor the health of each employee of the freestanding birthing center. The program must include, but not be limited to:

1. Maintaining a separate personnel file for each employee of the freestanding birthing center that must include documentation that the employee has had the tests or obtained the certificates required by NAC 441A.375; and

2. Documentation as to whether the employee has had or has not had:

(a) Rubella and, if so, when the employee had rubella.

(b) A vaccination for Hepatitis B.

(c) A vaccination for Measles, Mumps, and Rubella (MMR) and, if so, when the employee had the vaccination.

(d) A vaccination for COVID-19, if so, when the employee had the vaccination.

(e) An annual influenza vaccine.

*(f) A vaccination for varicella.*

*(g) A vaccination for tetanus, diphtheria, and pertussis, if so, when the employee had the vaccination.*

**Sec. 28 - Laboratory services; transfer of pregnant person who needs blood or blood products.**

*1. A freestanding birthing center must maintain or have available adequate laboratory services to meet the needs of its pregnant persons and newborn babies. The freestanding birthing center shall ensure that all laboratory services provided to its pregnant persons and newborn babies are provided by a medical laboratory licensed pursuant to chapter 652 of NRS.*

*2. Laboratory services must be available during all hours of operation of the freestanding birthing center as necessary to meet the needs of the pregnant persons and newborn babies. Laboratory services may be provided:*

*(a) By the freestanding birthing center if it is licensed as a medical laboratory in accordance with NRS Chapter 652 and has the appropriate Centers for Medicare and Medicaid Services Clinical Laboratory Improvement Amendments Certification, if performing testing;*

*(b) By collecting specimens and sending them to a reference laboratory that is licensed as a medical laboratory in accordance with NRS Chapter 652. If the individuals collecting the specimens are listed in NRS 652.210 a medical laboratory license pursuant to NRS Chapter 652 is not required. If an individual collecting the specimens is not listed in NRS 652.210, then the freestanding birthing center is required to obtain a medical laboratory license pursuant to NRS Chapter 652;*

*(c) On contract with a medical laboratory licensed pursuant to NRS Chapter 652; or*

*(d) A combination of the above.*

*3. If work is performed by an outside laboratory, the original report must be from a laboratory licensed pursuant to chapter 652 of NRS and contained in the medical record of the pregnant person or newborn, as applicable. If services are provided by an outside laboratory, the conditions, procedures and availability of work performed must be in writing and available within the freestanding birthing center.*

*4. Upon the receipt of a laboratory report, a freestanding birthing center shall promptly:*

*(a) File a laboratory report in the appropriate medical record; and*

*(b) Notify the midwife, licensed advanced practice registered nurse or physician who requested the report that the report has been received and filed in the medical record of the pregnant person or newborn, as applicable.*

*5. A report of a tissue specimen must be signed by a pathologist. The clinical staff of the freestanding birthing center and a pathologist must determine whether a tissue specimen requires a macroscopic examination, or a macroscopic and microscopic examination.*

*6. If a pregnant person needs blood or blood products, the pregnant person must be transferred to a licensed hospital which has the capability of providing the appropriate level of services.*

**Sec. 29. Possession, distribution, administration and storage of drugs and controlled substances.**

1. *A freestanding birthing center shall ensure that all drugs are possessed, distributed and administered by members of the clinical staff in the freestanding birthing center in conformance with all applicable federal, state and local laws.*

2. *All drugs, including intravenous fluids and gases, distributed at a freestanding birthing center must be possessed and distributed by a midwife, licensed advanced practice registered nurse, or a licensed physician in accordance with applicable state laws and regulations. The director of the freestanding birthing center shall establish and maintain a list of drugs which are available for use by the licensed physician, licensed advanced practice registered nurse or registered nurse licensed pursuant to NRS Chapter 632, or midwife for pregnant persons and newborn babies in the freestanding birthing center.*

3. *The list of drugs established and maintained in accordance with subsection 2 of this section may include the drugs and agents listed in this subsection. The following agents may be stored and administered in a freestanding birthing center by a midwife, licensed advanced practice registered nurse or registered nurse licensed pursuant to NRS Chapter 632 or a licensed physician:*

- a. *Oxytocin;*
- b. *Misoprostol;*
- c. *Methylergonovine;*
- d. *Tranexamic acid;*
- e. *Lidocaine;*
- f. *Penicillin;*
- g. *Ampicillin;*
- h. *Cefazolin;*
- i. *Clindamycin;*
- j. *Epinephrine;*
- k. *Diphenhydramine;*
- l. *Ondansetron;*
- m. *Phylloquinone;*
- n. *Erythromycin ointment;*
- o. *Terbutaline;*
- p. *nitrous oxide;*
- q. *Influenza vaccine;*
- r. *Hepatitis B vaccine;*
- s. *COVID-19 vaccine;*
- t. *Diphtheria, tetanus and pertussis vaccine;*
- u. *Rho (D) immune globulin;*
- v. *Hepatitis B immune globulin;*
- w. *Epinephrine;*
- x. *Oxygen;*
- y. *Lactated Ringers solution;*
- z. *5 percent dextrose in lactated Ringers solution;*
- aa. *0.9 percent sodium chloride solution;*



*bb. Sterile water; and*

*cc. Any other drugs or vaccines approved by the Division.*

*4. A freestanding birthing center shall establish a policy to ensure quality control for the storage, dispensing and administration of drugs including intravenous fluids, and vaccinations. The freestanding birthing center must have a specific area for storing the drugs, intravenous fluids and vaccinations which include, without limitation, locked storage for drugs and locked refrigerated storage.*

*5. The freestanding birthing center shall provide a separate refrigerator for the storage of drugs and vaccinations. The temperature in the refrigerator must be maintained in accordance with the temperature ranges required by the manufacturer of each drug and vaccination stored in the refrigerator. The temperature of the room in which the drugs that are not refrigerated are stored must not be less than or exceed the temperature range established by the drugs manufacturer.*

**Sec. 30. Anesthesia.**

*1. A freestanding birthing center may have the capability of providing anesthesia limited to local anesthesia for pudendal blocks and episiotomy repair.*

*2. A local anesthetic may be administered only by a licensed physician, licensed advanced practice registered nurse or midwife.*

**Sec. 31. Transfer of pregnant person to hospital capable of providing higher level of obstetrical and neonatal care; policies and procedures concerning transfer and availability of physician or designee during labor and delivery.**

*1. A freestanding birthing center must:*

*(a) Provide sufficient space for members of the family of the pregnant person and other persons chosen by the pregnant person to assist with the birth;*

*(b) Have obstetrical services available to meet the needs of an acute pregnant person ; and*

*(c) Be located within 30 miles of a hospital that offers obstetric, neonatal and emergency services relating to pregnancy.*

*2. A freestanding birthing center shall develop and implement policies and procedures:*

*(a) For the emergency transfer of a pregnant person to a licensed hospital; and*

*(b) To determine the level of care and the mode of transportation required to ensure that the pregnant person and newborn baby receive expeditious and safe care appropriate to the needs of the pregnant person or newborn baby during the transfer.*

*3. The director of the freestanding birthing center shall:*

*(a) Determine the criteria and conditions under which a pregnant person or newborn baby should be considered for transfer. The criteria and conditions must be included in the written policy and procedures for the freestanding birthing center.*

*(b) Annually review those criteria and conditions.*

**Sec. 32. Death of pregnant person; notification of Division; provision of counseling.**

1. *A freestanding birthing center shall notify the Division of the death of any pregnant person or newborn baby which occurs at the freestanding birthing center. The notification must be made not later than 24 hours after the death of a pregnant person or newborn baby.*

2. *A freestanding birthing center shall establish a process pursuant to which appropriate counseling will be provided to staff of the freestanding birthing center, a pregnant person and the family of a pregnant person when a death occurs within the freestanding birthing center.*

**Sec. 33. Required information to be provided or made available to pregnant person; complaints.**

1. *The freestanding birthing center shall take such action as is necessary to inform the pregnant person, both orally and in writing, in language which the pregnant person understands, of the rights of the pregnant person as listed in NRS 449A.100, 449A.106, 449A.112, and NRS 449.101 to NRS 449.104, and the risks, alternatives of care and benefits in using the freestanding birthing center based on research by a nationally recognized sources on birth centers, such as the American Association of Birth Centers, the Journal of Midwifery & Women's Health, or other evidence based research.*

2. *The pregnant person has a right to be fully informed in a language the pregnant person understands about the person's health status, medical conditions, the health status of the baby, and the existence of any known complications or risks.*

3. *A pregnant person may inspect the person's medical record, or any portion of the record, and, upon request, purchase standard photocopies of the record at a cost not to exceed 60 cents per page.*

4. *A freestanding birthing center shall provide, within its written policies, a procedure for the registration of complaints by the pregnant person without threat of discrimination or reprisal. A complaint may include, but is not limited to, a grievance concerning the treatment that was received by the pregnant person and a grievance concerning treatment that was not provided.*

5. *The freestanding birthing center must inform the pregnant person that the person has the right to file a complaint relating to the care which the pregnant person receives from the freestanding birthing center with the Division.*

6. *The freestanding birthing center shall provide the pregnant person with names, addresses and telephone numbers of the agencies listed in subsection 5.*

**Sec. 34. NAC 449.013 is hereby amended to read as follows:**

1. Except as otherwise provided in [NAC 449.0168](#), an applicant for a license to operate any of the following facilities, programs of hospice care or agencies must pay to the Division of Public and Behavioral Health the following nonrefundable fees:

(a) An ambulatory surgical center	\$9,784
(b) A home office or subunit agency of a home health agency	5,168
(c) A branch office of a home health agency	5,358
(d) A rural clinic	4,058
(e) A <del>n-obstetric center</del> freestanding birthing center	1,564

(f) A program of hospice care	7,054
(g) An independent center for emergency medical care	4,060
(h) A nursing pool	4,602
(i) A facility for treatment with narcotics	5,046
(j) A medication unit	1,200
(k) A referral agency	2,708
(l) A facility for refractive surgery	6,700
(m) A mobile unit	2,090
(n) An agency to provide personal care services in the home	1,374
(o) A facility for the care of adults during the day allowed to be occupied by not more than 50 clients at one time	1,164
(p) A facility for the care of adults during the day allowed to be occupied by more than 50 clients at one time	1,753
(q) A peer support recovery organization	1,000
(r) A community health worker pool	1,000

2. An applicant for the renewal of such a license must pay to the Division of Public and Behavioral Health the following nonrefundable fees:

(a) An ambulatory surgical center	\$4,892
(b) A home office or subunit agency of a home health agency	2,584
(c) A branch office of a home health agency	2,679
(d) A rural clinic	2,029
(e) A <del>[n-obstetric center]</del> <i>freestanding birthing center</i>	782
(f) A program of hospice care	3,527
(g) An independent center for emergency medical care	2,030
(h) A nursing pool	2,301
(i) A facility for treatment with narcotics	2,523
(j) A medication unit	600
(k) A referral agency	1,354
(l) A facility for refractive surgery	3,350
(m) A mobile unit	1,045
(n) An agency to provide personal care services in the home	687
(o) A facility for the care of adults during the day allowed to be occupied by not more than 50 clients at one time	814
(p) A facility for the care of adults during the day allowed to be occupied by more than 50 clients at one time	1,227
(q) A peer support recovery organization	500
(r) A community health worker pool	500

3. An application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by [chapter 449](#) of NRS or the regulations adopted pursuant thereto within 1 year after the date on which the applicant submits ~~his or her~~ *their* application, the applicant must submit a new application and pay the required fee to be considered for licensure.