

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R062-21

January 31, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§ 1-21, NRS 439.200 and 449.0302, as amended by section 16.5 of Assembly Bill No. 287, chapter 517, Statutes of Nevada 2021, at page 3437; § 22, NRS 439.150, 439.200, 449.0302, as amended by section 16.5 of Assembly Bill No. 287, chapter 517, Statutes of Nevada 2021, at page 3437, and 449.050.

A REGULATION relating to freestanding birthing centers; requiring a freestanding birthing center to obtain certain accreditation; prescribing requirements relating to the construction, equipment, operation and staffing of a freestanding birthing center; requiring a freestanding birthing center to submit plans for certain construction or remodeling to the Division of Public and Behavioral Health of the Department of Health and Human Services for review; requiring the Division to conduct an on-site inspection before issuing a license to a freestanding birthing center; requiring a freestanding birthing center to develop and implement certain policies and procedures and maintain certain records; establishing requirements governing the provision of supervised training for providers of health care at a freestanding birthing center; clarifying that certain procedures may be performed at a freestanding birthing center; requiring the reporting of certain events that occur at a freestanding birthing center; prescribing the fees to apply for the issuance or renewal of a license as a freestanding birthing center; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations governing the licensing and operation of freestanding birthing centers, which are regulated by the Division of Public and Behavioral Health of the Department of Health and Human Services. (NRS 449.0302, as amended by section 16.5 of Assembly Bill No. 287, chapter 517, Statutes of Nevada 2021, at page 3437) **Sections 2-5** of this regulation define terms relating to freestanding birthing centers. **Section 22** of this regulation prescribes the fees to apply for the issuance or renewal of such a license. **Section 22** also removes obsolete references to the licensing of a peer support recovery organization.

Section 6 of this regulation requires a freestanding birthing center to be accredited by the Commission for the Accreditation of Birth Centers within a prescribed period after applying for a license from the Division. **Section 6** also requires an application for the issuance or renewal of a license to operate a freestanding birthing center to specify the number of beds in the freestanding

birthing center. **Section 7** of this regulation prescribes requirements governing the construction and equipment of a freestanding birthing center. **Section 8** of this regulation generally requires a freestanding birthing center to submit plans for any new construction or remodeling to the Division for review before the construction or remodeling begins. **Section 8** also requires the Division to conduct an on-site inspection of a freestanding birthing center before issuing a license to the freestanding birthing center. **Section 9** of this regulation requires a freestanding birthing center to maintain a supply of oxygen that is adequate to provide oxygen supplementation to all persons receiving care at the freestanding birthing center. **Section 9** also requires the director of a freestanding birthing center to establish policies and procedures for the safe administration and storage of oxygen at the freestanding birthing center.

Section 10 of this regulation requires a freestanding birthing center to develop and implement written policies and procedures for the control of infection and train certain staff members concerning those policies and procedures. **Section 10** also requires members of the staff of a freestanding birthing center to follow the manufacturer's guidelines for the use and maintenance of all equipment, devices and supplies. **Section 10** requires a freestanding birthing center to maintain at least a 14-day supply of personal protective equipment to protect staff members from infectious diseases. **Section 11** of this regulation requires a freestanding birthing center to: (1) comply with certain laws and regulations; and (2) provide any record maintained by the freestanding birthing center to the Division upon request. **Section 12** of this regulation: (1) adopts by reference certain standards published by the Commission for the Accreditation of Birth Centers; and (2) requires a freestanding birthing center to comply with and maintain a copy of those standards.

Section 13 of this regulation establishes requirements to serve as a clinical provider at a freestanding birthing center. **Section 13** also requires the director of a freestanding birthing center to ensure that: (1) the freestanding birthing center maintains a personnel file for each member of its staff; and (2) each member of the staff of the freestanding birthing center holds the appropriate professional license, certificate or registration where required. **Section 13** further establishes requirements for the staff who must attend each birth at a freestanding birthing center and certain additional requirements governing the provision of care. **Section 14** of this regulation establishes required qualifications for a birth assistant at a freestanding birthing center, and **section 15** of this regulation prescribes requirements governing the activities of a birth assistant.

Existing law requires the regulations adopted by the Board to allow the provision of supervised training to providers of health care at a freestanding birthing center. (NRS 449.0302, as amended by section 16.5 of Assembly Bill No. 287, chapter 517, Statutes of Nevada 2021, at page 3437) **Section 16** of this regulation establishes requirements governing such a program of supervised training.

Section 17 of this regulation requires the director of a freestanding birthing center to establish criteria for determining whether a pregnant person may give birth at a freestanding birthing center. **Section 18** of this regulation requires a freestanding birthing center to: (1) inform a pregnant person or a person who has given birth who seeks care from the freestanding birthing center concerning the rights of the person and the health status of the person and the fetus or newborn; and (2) allow a pregnant person or person who has given birth to inspect and purchase photocopies of the medical record of the person. **Section 18** also requires the director of a freestanding birthing center to adopt a procedure by which a person may submit a complaint concerning care provided or not provided by the freestanding birthing center.

Existing law prohibits the performance of surgery at a freestanding birthing center. (NRS 449.198, as amended by section 29.5 of Assembly Bill No. 287, chapter 517, Statutes of Nevada 2021, at page 3442) **Section 19** of this regulation provides that episiotomy or repair of lacerations sustained during delivery does not constitute surgery for that purpose and thus authorizes the performance of those procedures at a freestanding birthing center.

Section 20 of this regulation prescribes requirements governing the storage and administration of drugs at a freestanding birthing center. **Section 21** of this regulation requires the director of a freestanding birthing center or his or her designee to notify the Division not later than 24 hours after a death at the freestanding birthing center. **Section 21** also requires the director of a freestanding birthing center to establish a procedure to ensure the provision of appropriate counseling to certain persons affected by a death at the freestanding birthing center.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 21, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Birth assistant” means a member of the staff of a freestanding birthing center who performs nonclinical tasks and routine clinical tasks and procedures under supervision.*

Sec. 4. *“Certified nurse-midwife” has the meaning ascribed to it in NRS 449.198, as amended by section 29.5 of Assembly Bill No. 287, chapter 517, Statutes of Nevada 2021, at page 3442.*

Sec. 5. *“Clinical provider” means a provider on the staff of a freestanding birthing center who is ultimately responsible for the care of a pregnant person, a person who has given birth or a newborn.*

Sec. 6. 1. *Except as otherwise provided in subsection 2, a freestanding birthing center shall, not later than 6 months after submitting an application for licensure pursuant to NRS 449.040, submit to the Division proof that the freestanding birthing center holds accreditation*

as a birth center from the Commission for the Accreditation of Birth Centers, or its successor organization.

2. If the Commission for the Accreditation of Birth Centers, or its successor organization, notifies a freestanding birthing center that the Commission is not able to accredit the freestanding birthing center within the period described in subsection 1, the freestanding birthing center shall:

(a) Immediately notify the Division; and

(b) Submit to the Division proof of such accreditation not later than 12 months after submitting an application for licensure pursuant to NRS 449.040.

3. A freestanding birthing center shall maintain the accreditation described in subsection 1 for the duration of its operations. If a freestanding birthing center ceases to maintain such accreditation, the freestanding birthing center shall immediately notify the Division.

4. A freestanding birthing center shall maintain for the duration of its operations any material submitted or received as part of an application for the issuance or renewal of the accreditation described in subsection 1, including, without limitation:

(a) The application for accreditation;

(b) A report from any self-evaluation;

(c) Any letter from the Commission for the Accreditation of Birth Centers, or its successor organization, announcing a decision on an application for the issuance or renewal of accreditation; and

(d) Any report from the Commission for the Accreditation of Birth Centers, or its successor organization, concerning a site visit.

5. An application for the issuance or renewal of a license as a freestanding birthing center must specify the number of beds in the freestanding birthing center.

Sec. 7. 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, persons who have given birth and newborns who receive care at the freestanding birthing center, the staff of the freestanding birthing center and members of the general public.

2. A freestanding birthing center must have:

(a) Designated parking for pregnant persons and visitors; and

(b) At least one parking space reserved for emergency vehicles.

3. Each birth room in a freestanding birthing center must have:

(a) An area of at least 100 square feet;

(b) At least one window;

(c) Only one bed;

(d) Sufficient lighting to allow for the safe provision of care; and

(e) Except as otherwise provided in this paragraph, a sink and a toilet. A birth room is not required to have a toilet if there is a sink and a toilet in an adjacent room.

4. Each corridor and door in a freestanding birthing center must allow access by emergency medical personnel. Each corridor in a freestanding birthing center must be:

(a) At least 36 inches wide if the freestanding birthing center has a maximum occupancy of 50 persons or fewer; or

(b) At least 44 inches wide if the freestanding birthing center has a maximum occupancy of greater than 50 persons.

5. *A freestanding birthing center must have an automated external defibrillator on the premises.*

6. *A freestanding birthing center shall procure and maintain batteries sufficient to provide power to operate all emergency lighting and clinical equipment in the freestanding birthing center for at least 2 hours or an electric generator with sufficient fuel to provide such power. The director of the freestanding birthing center shall:*

(a) Ensure that the batteries or electric generator, as applicable, are serviced regularly; and

(b) Maintain records of such service for at least 3 years after the service.

7. *A freestanding birthing center must have a specific area for the storage of drugs in accordance with section 20 of this regulation, including, without limitation, locked refrigerated storage and locked storage at room temperature.*

8. *A freestanding birthing center must have:*

(a) A dirty work area for cleaning used instruments, equipment and supplies that:

(1) Is equipped with a sink and a storage area; and

(2) Is separate from all clean storage areas.

(b) A clean area for the storage of disinfected or sterile instruments, equipment and supplies.

(c) A sufficient number of handwashing or hand sanitizing stations to comply with the policies and procedures adopted pursuant to section 10 of this regulation.

9. *A freestanding birthing center that was licensed as an obstetric center before January 1, 2022, and is deemed to be licensed as a freestanding birthing center pursuant to section 36*

of Assembly Bill No. 287, chapter 517, Statutes of Nevada 2021, at page 3444, shall be deemed to be in compliance with the requirements of subparagraph 1 of paragraph (a) of subsection 8.

Sec. 8. 1. *Except as otherwise provided in subsection 2, before any new construction of a freestanding birthing center or any remodeling of an existing freestanding birthing center is begun, the freestanding birthing center must submit building plans for the new construction or remodeling to the entity designated by the Division to review such plans pursuant to the provisions of NAC 449.0115. The review of those plans conducted by the entity is advisory only and does not constitute approval for the licensing of the freestanding birthing center. The Division shall not issue a license to the freestanding birthing center or renew the license of the freestanding birthing center, as applicable, until all construction is completed and a survey is conducted at the site of the freestanding birthing center.*

2. A freestanding birthing center is not required to submit plans for remodeling to the entity designated by the Division to review such plans 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.

3. Before issuing an initial license to a freestanding birthing center, the Division shall conduct an on-site inspection of the freestanding birthing center.

Sec. 9. 1. *A freestanding birthing center must have a supply of oxygen, which may include, without limitation, portable oxygen, that is adequate to provide oxygen supplementation to all pregnant persons, persons who have given birth and newborns receiving care at the freestanding birthing center.*

2. The director of a freestanding birthing center shall establish policies and procedures for the safe administration and storage of oxygen at the freestanding birthing center. Those policies and procedures must include, without limitation, policies and procedures for the safe storage of portable oxygen in accordance with standards for the safe storage of a medical gas prescribed by a nationally recognized fire protection association or another appropriate nationally recognized organization.

Sec. 10. *1. A freestanding birthing center shall develop and implement written policies and procedures to be followed by the members of the staff of the freestanding birthing center for the control of infection that are in accordance with nationally recognized guidelines. Acceptable guidelines include, without limitation, the most recent version of the Guidelines for Environmental Infection Control in Health-Care Facilities published by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.*

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

(a) Hand hygiene;

(b) Cleaning and disinfecting surfaces and substances that pose a risk of infection to pregnant persons, persons who have given birth and newborns;

(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 member of the staff of the freestanding birthing center.

4. Each member of the staff 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 member of the staff of the freestanding birthing center who uses or maintains the equipment, devices or supplies.

5. A freestanding birthing center shall:

(a) Train each member of the staff of the freestanding birthing center who has exposure to pregnant persons, persons who have given birth or newborns, or specimens of such persons, or who 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 member of the staff described in paragraph (a) to evaluate the member of the staff on his or her knowledge and skills concerning those policies and procedures within 10 working days after beginning his or her service on the staff and at least once each year thereafter.

6. If a freestanding birthing center revises the policies and procedures for the control of infection developed pursuant to subsection 1, the freestanding birthing center shall:

(a) Give notice of the change to each member of the staff of the freestanding birthing center who has exposure to pregnant persons, persons who have given birth or newborns, or specimens of such persons, or who participates in the disinfection or sterilization of equipment at the freestanding birthing center; and

(b) Train each member of the staff described in paragraph (a) concerning the revised policies and procedures within 10 working days after adopting the revised policies and procedures.

7. A freestanding birthing center shall maintain at least a 14-day supply of personal protective equipment to protect members of the staff of the freestanding birthing center from infectious diseases.

Sec. 11. 1. 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; and

(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.

2. A freestanding birthing center shall comply with:

(a) The provisions of NAC 444.662 and 444.664 governing the storage and disposal of solid waste.

(b) All applicable federal and state laws and regulations governing the disposal of hazardous waste and nationally recognized guidelines selected by the director of the freestanding birthing center governing the disposal of hazardous waste. Appropriate

guidelines include, without limitation, guidelines prescribed by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

(c) The provisions of chapter 440 of NRS and chapter 440 of NAC concerning the registration of births and deaths.

(d) The provisions of chapter 446 of NRS and chapter 446 of NAC concerning the preparation and storage of food.

3. A freestanding birthing center shall participate in the National Healthcare Safety Network, or any successor in interest to the Network, and comply with the provisions of NRS 439.800 to 439.890, inclusive, and any regulations adopted pursuant thereto governing the reporting of sentinel events.

4. The director of a freestanding birthing center shall ensure that any laboratory services provided to pregnant persons, persons who have given birth or newborns who are patients at the freestanding birthing center are performed in compliance with all applicable federal and state laws and regulations, including, without limitation:

(a) The Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a; and

(b) Chapter 652 of NRS and chapter 652 of NAC.

5. Upon the request of the Division, a freestanding birthing center shall provide to the Division any record maintained by the freestanding birthing center, including, without limitation, any record maintained pursuant to section 6 of this regulation.

Sec. 12. 1. Indicators of Compliance with Standards for Birth Centers is hereby adopted by reference in the form most recently published by the Commission for the Accreditation of Birth Centers, unless the Board gives notice that the most recent revision is

not suitable for this State pursuant to subsection 2. A copy of the publication may be obtained at no cost at the Internet address <https://birthcenteraccreditation.org/go-get-cabc-indicators/> or, if that Internet website ceases to exist, from the Board.

2. The Board will review each revision of the publication adopted by reference in subsection 1 to ensure its suitability for this State. If the Board determines that a revision is not suitable for this State, the Board will hold a public hearing to review its determination within 12 months after the date of the publication of the revision and give notice of that hearing. If, after the hearing, the Board does not revise its determination, the Board will give notice within 30 days after the hearing that the revision is not suitable for this State. If the Board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

3. A freestanding birthing center shall:

(a) Provide care during labor and delivery, care for newborns and care during recovery;
(b) Comply with the standards prescribed in the publication adopted by reference in subsection 1 to the extent those standards do not conflict with the provisions of this chapter and chapter 449 of NRS; and

(c) Maintain a copy of the most recent version of the publication adopted by reference in subsection 1 on the premises of the freestanding birthing center and make the copy available to all members of the staff of the freestanding birthing center.

Sec. 13. 1. A clinical provider at a freestanding birthing center must be:

(a) A physician licensed pursuant to chapter 630 or 633 of NRS;

(b) A certified nurse-midwife; or

(c) A midwife who meets the requirements prescribed in the publication adopted by reference in section 12 of this regulation for serving on the professional midwifery staff of a freestanding birthing center.

2. The director of a freestanding birthing center shall ensure that the freestanding birthing center maintains a personnel file for each member of the staff of the freestanding birthing center. The personnel file must include, without limitation, a statement of whether the member of the staff to whom the personnel file pertains has received an immunization for COVID-19 and, if the person has not received such an immunization, the reason that the person has not received the immunization.

3. The director of a freestanding birthing center shall ensure that each member of the staff of the freestanding birthing center who performs a task for which a license, certificate or registration is required by title 54 of NRS holds the applicable license, certificate or registration.

4. Each delivery of a newborn at a freestanding birthing center must be attended by at least two members of the staff of the freestanding birthing center approved by the director of the freestanding birthing center to attend a delivery. At least one of those attendants must be a clinical provider who is authorized under federal and state law to possess and administer dangerous drugs.

5. Each pregnant person, person who has given birth or newborn at a freestanding birthing center must be assigned a clinical provider who is primarily responsible for the care of the pregnant person, person who has given birth or newborn, as applicable.

6. A member of the staff of a freestanding birthing center may only provide care that he or she is competent to provide. While care is being provided at a freestanding birthing center,

at least one member of the staff of the freestanding birthing center who is competent to provide that care and, except as otherwise provided in subsection 7, is authorized under federal and state law to administer dangerous drugs must be present on the premises of the freestanding birthing center.

7. A member of the staff of a freestanding birthing center who is authorized under federal and state law to administer dangerous drugs is not required to be on the premises of a freestanding birthing center while care is being provided under the circumstances identified in the publication adopted by reference in section 12 of this regulation under which a non-licensed birth assistant may be the only staff member present.

8. As used in this section, “dangerous drug” has the meaning ascribed to it in NRS 454.201.

Sec. 14. *A birth assistant in a freestanding birthing center must:*

1. Hold a certification in basic life support issued by the American Heart Association, or its successor organization, or hold an equivalent certification, and have successfully completed training in the techniques of administering neonatal resuscitation provided through the Neonatal Resuscitation Program of the American Academy of Pediatrics, or any successor to that program; and

2. Have successfully completed:

(a) A program of training for birth assistants offered by:

(1) A nationally recognized organization for training birth assistants, including, without limitation, the American Association of Birth Centers, or its successor organization; or

(2) An accredited college or university;

(b) Phase 2: Clinicals as Assistant Under Supervision of the entry-level portfolio evaluation process of the North American Registry of Midwives, or its successor organization;

(c) The Clinicals as Assistant Under Supervision component of a program provided by a school accredited by the Midwifery Education Accreditation Council, or its successor organization;

(d) A program of supervised training for providers of health care that meets the requirements of section 16 of this regulation; or

(e) A program of training for birth assistants that:

(1) Issues a certificate to persons who have successfully completed the program;

(2) Is administered by a freestanding birthing center; and

(3) Includes, without limitation, training in accordance with an evidence-based curriculum, an assessment of skills and requirements concerning attendance of births outside of a hospital setting. The evidence-based curriculum must include, without limitation, training concerning:

(I) Medical terminology;

(II) The anatomy and physiology of pregnant persons and newborns;

(III) The ability to find, understand and use information and services to inform decisions concerning pregnant persons, persons who have given birth and newborns;

(IV) Vital signs;

(V) The process of labor and birth;

(VI) Care for a person who has given birth and the newborn after birth;

(VII) Medications relevant to the practice of a birth assistant;

(VIII) Breastfeeding;

(IX) Minor deviations from what is normal during labor, birth and the postpartum period; and

(X) Major complications during labor.

Sec. 15. 1. *A birth assistant at a freestanding birthing center must be supervised at all times by the director of the freestanding birthing center or a clinical provider at the freestanding birthing center.*

2. The supervisor of a birth assistant may only delegate to the birth assistant tasks that the birth assistant has been trained and is competent to perform, as documented in the personnel file of the birth assistant pursuant to subsection 3. Such tasks may include, without limitation:

(a) Checking vital signs and fetal heart tones;

(b) Educating and providing support to pregnant persons and their supporters;

(c) Nonclinical tasks including, without limitation, cleaning, laundry, organization, and ordering and stocking supplies;

(d) Assisting clinical providers with required documentation, including, without limitation, the documentation of data relating to vital signs;

(e) Assisting pregnant persons or persons who have given birth with activities of daily living, including, without limitation, getting dressed, bathing and mobility;

(f) Assisting a clinical provider or other member of the staff of the freestanding birthing center in an emergency; and

(g) Ensuring that equipment and supplies are cleaned, disinfected or sterilized, as applicable, in the manner prescribed by the policies and procedures developed pursuant to section 10 of this regulation.

3. *The personnel file of a birth assistant who is on the staff of a freestanding birthing center must include, without limitation, a list of the tasks that the birth assistant has been trained and is competent to perform.*

4. *A birth assistant at a freestanding birthing center shall not render a diagnosis, initiate a treatment, start an intravenous line, perform a pelvic or dilation examination, perform an intravaginal procedure, perform an examination of a newborn, prescribe or administer a drug or perform any other task that a birth assistant is prohibited from performing by the standards prescribed in the publication adopted by reference in section 12 of this regulation.*

Sec. 16. 1. *A program of supervised training for providers of health care offered at a freestanding birthing center:*

(a) Must be supervised by:

(1) A preceptor registered with the North American Registry of Midwives, or its successor organization;

(2) A certified nurse-midwife who has been practicing as a midwife for the immediately preceding 3 years; or

(3) A physician licensed pursuant to chapter 630 or 633 of NRS who has been practicing in the area of obstetrics for the immediately preceding 3 years.

(b) Must include instruction provided in accordance with an evidence-based curriculum concerning:

(1) The process of childbirth;

(2) Care available in the community for a pregnant person, a person who has given birth and a child before and after birth;

(3) Family planning;

- (4) Laws and regulations governing midwifery;*
 - (5) Nutrition during pregnancy and lactation;*
 - (6) Breastfeeding; and*
 - (7) Skills for clinical midwifery.*
- 2. The director of a freestanding birthing center that offers a program of supervised training for providers of health care shall:*
- (a) Develop policies and procedures to carry out the program; and*
 - (b) Review those policies and procedures annually and revise the policies and procedures as necessary.*
- 3. The policies and procedures developed pursuant to subsection 2 must include, without limitation:*
- (a) The number of births that must be attended by a participant in the program as:
 - (1) An assistant under supervision; and*
 - (2) The primary clinician under supervision;**
 - (b) The number of prenatal examinations, examinations of a newborn and postpartum examinations that must be successfully performed by a participant in the program;*
 - (c) A requirement that a participant in the program must:
 - (1) Obtain certification in basic life support issued by the American Heart Association, or its successor organization, or hold an equivalent certification; and*
 - (2) Successfully complete training in the techniques of administering neonatal resuscitation provided through the Neonatal Resuscitation Program of the American Academy of Pediatrics, or any successor to that program; and**
 - (d) Procedures for an assessment of skills and an evaluation of competency.*

4. As used in this section, “program of supervised training for providers of health care” does not include a program of training for birth assistants described in paragraph (e) of subsection 2 of section 14 of this regulation.

Sec. 17. 1. The director of a freestanding birthing center shall establish:

(a) Criteria for determining whether the risk of a pregnancy is too high for a person to give birth in the freestanding birthing center. Those criteria must align with the risk factors prescribed in the publication adopted by reference in section 12 of this regulation.

(b) Protocols for determining whether a pregnant person is progressing normally through active labor.

2. A freestanding birthing center may allow a pregnant person to give birth at the freestanding birthing center if:

(a) The pregnant person is eligible to give birth in the freestanding birthing center when evaluated using the criteria established pursuant to paragraph (a) of subsection 1;

(b) Except as otherwise provided in subsection 3, the pregnant person is not less than 15 years of age or greater than 40 years of age;

(c) The gestational age of the pregnancy is not less than 252 days and not greater than 294 days;

(d) There is no medical, obstetric, fetal or neonatal condition that would preclude a safe labor, birth and postpartum period at the freestanding birthing center, including, without limitation:

(1) No previous history of major surgery of the uterine wall or more than one previous cesarean birth; and

(2) No clinically significant signs or symptoms of:

- (I) Chronic hypertension with or without medications;*
 - (II) Polyhydramnios or oligohydramnios;*
 - (III) Abruptio placenta;*
 - (IV) Chorioamnionitis;*
 - (V) Multiple gestation;*
 - (VI) Retardation of intrauterine growth;*
 - (VII) Meconium-stained amniotic fluid associated with signs of fetal intolerance of labor;*
 - (VIII) Fetal intolerance of labor;*
 - (IX) Active substance use disorder;*
 - (X) Placenta previa;*
 - (XI) Medication dependent diabetes; or*
 - (XII) Anemia that is not resolved with treatment;*
- (e) During active labor, the pregnant person does not demonstrate clinically significant signs or symptoms of:*
- (1) Intrapartum hemorrhage;*
 - (2) Active herpes simplex II of the genitals; or*
 - (3) Malpresentation of the fetus, including, without limitation, breech presentation;*
- (f) The pregnant person is progressing normally through active labor, as determined by the clinical providers of the freestanding birthing center in accordance with the protocols established pursuant to paragraph (b) of subsection 1;*
- (g) The membranes of the pregnant person did not rupture more than 48 hours before the admission of the pregnant person to the freestanding birthing center;*

(h) The pregnant person shows no evidence of a significant infection for which treatment is beyond the scope of practice of the clinical provider who will be responsible for the care of the pregnant person; and

(i) The pregnancy is appropriate for a setting where anesthesia is limited to a local infiltration of the perineum, a pudental block or the use of nitrous oxide for pain relief during labor.

3. The director of a freestanding birthing center may allow a pregnant person who does not meet the requirements of paragraph (b) of subsection 2 to give birth at the freestanding birthing center if, after reviewing the specific case of the pregnant person, the director determines that it is safe for the pregnant person to give birth at the freestanding birthing center.

Sec. 18. 1. A freestanding birthing center shall inform each pregnant person or person who has given birth who seeks care from the freestanding birthing center orally and in writing in a language understood by the person of:

(a) The rights prescribed in NRS 449A.100, 449A.106 and 449A.112.

(b) The provisions of NRS 449.101 to 449.104, inclusive, and the regulations adopted pursuant thereto.

(c) The right to file a complaint with the Division concerning care provided by the freestanding birthing center, including, without limitation, the address and telephone number for filing such a complaint.

(d) The risks and benefits of care provided by a freestanding birthing center and the alternatives to such care. The information provided pursuant to this paragraph must be evidence based and obtained from a source that is nationally recognized for research relating

to freestanding birthing centers. Acceptable sources include, without limitation, the American Association of Birth Centers, or its successor organization, and the Journal of Midwifery and Women's Health.

2. In addition to the information prescribed by subsection 1, a freestanding birthing center shall fully inform each pregnant person or person who has given birth who seeks care from the freestanding birthing center orally or in writing in a language understood by the person concerning:

(a) The health status of the pregnant person or person who has given birth, as applicable, and the fetus or newborn, including, without limitation, any medical conditions of the pregnant person, person who has given birth, fetus or newborn; and

(b) The existence of any known complications or risks of the pregnancy.

3. A freestanding birthing center shall allow a pregnant person or person who has given birth to:

(a) Inspect the medical record of the pregnant person or person who has given birth, as applicable, or any portion thereof; and

(b) Purchase photocopies of the medical record of the pregnant person or person who has given birth, as applicable, or any portion thereof at a cost of not more than 60 cents per page.

4. The director of a freestanding birthing center shall adopt a procedure by which a person may submit a complaint concerning care provided by the freestanding birthing center or care that was not provided by the freestanding birthing center without discrimination or reprisal.

Sec. 19. *For the purposes of NRS 449.198, as amended by section 29.5 of Assembly Bill No. 287, chapter 517, Statutes of Nevada 2021, at page 3442, surgery does not include:*

1. *Episiotomy; or*
2. *Repair of lacerations sustained during the delivery of a newborn.*

Sec. 20. 1. The director of a freestanding birthing center shall:

- (a) *Ensure that drugs are administered and stored in the freestanding birthing center in accordance with all applicable federal, state and local laws and regulations;*
- (b) *Ensure that drugs are administered and possessed in a freestanding birthing center only by persons authorized under federal and state law to administer or possess, as applicable, those drugs;*
- (c) *Ensure that drugs and laboratory testing supplies are stored:*
 - (1) *In accordance with all applicable federal, state and local laws and regulations; and*
 - (2) *At the temperature ranges recommended by the manufacturers;*
- (d) *Establish a policy to ensure the quality of drugs used and dispensed at the freestanding birthing center; and*
- (e) *Establish and maintain a list of drugs that may be administered at the freestanding birthing center and ensure that only drugs on that list are administered in the freestanding birthing center.*

2. *A patient at a freestanding birthing center may use a drug lawfully prescribed to the patient when the patient is admitted to the freestanding birthing center under the supervision of a clinical provider at the freestanding birthing center who is authorized under federal and state law to possess and administer the drug.*

Sec. 21. 1. Not later than 24 hours after the death of a pregnant person, a person who has given birth or a newborn at a freestanding birthing center, the director of the freestanding birthing center or a designee thereof shall notify the Division of the death.

2. The director of a freestanding birthing center shall establish a procedure to ensure the provision of appropriate counseling to a member of the staff of the freestanding birthing center, a pregnant person, a person who has given birth or a member of the family of a pregnant person or person who has given birth who is affected by a death at the freestanding birthing center.

Sec. 22. NAC 449.013 is hereby amended to read as follows:

449.013 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) ~~[An obstetric]~~ *A 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
{(s)} (r) An employment agency to provide nonmedical services.....	1,400

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) {An obstetric} A freestanding birthing center	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
{s} {r} An employment agency to provide nonmedical services.....	700

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 application, the applicant must submit a new application and pay the required fee to be considered for licensure.