

**Effective 5/12/2020**

**Renumbered 5/3/2023**

**26-21-29 Birthing centers -- Regulatory restrictions.**

- (1) For purposes of this section:
  - (a) "Alongside midwifery unit" means a birthing center that meets the requirements described in Subsection (7).
  - (b) "Certified nurse midwife" means an individual who is licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act.
  - (c) "Direct-entry midwife" means an individual who is licensed under Title 58, Chapter 77, Direct-Entry Midwife Act.
  - (d) "Licensed maternity care practitioner" includes:
    - (i) a physician;
    - (ii) a certified nurse midwife;
    - (iii) a direct entry midwife;
    - (iv) a naturopathic physician; and
    - (v) other individuals who are licensed under Title 58, Occupations and Professions and whose scope of practice includes midwifery or obstetric care.
  - (e) "Naturopathic physician" means an individual who is licensed under Title 58, Chapter 71, Naturopathic Physician Practice Act.
  - (f) "Physician" means an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
- (2) The Health Facility Committee and the department may not require a birthing center or a licensed maternity care practitioner who practices at a birthing center to:
  - (a) maintain admitting privileges at a general acute hospital;
  - (b) maintain a written transfer agreement with one or more general acute hospitals;
  - (c) maintain a collaborative practice agreement with a physician; or
  - (d) have a physician or certified nurse midwife present at each birth when another licensed maternity care practitioner is present at the birth and remains until the maternal patient and newborn are stable postpartum.
- (3) The Health Facility Committee and the department shall:
  - (a) permit all types of licensed maternity care practitioners to practice in a birthing center; and
  - (b) except as provided in Subsection (2)(b), require a birthing center to have a written plan for the transfer of a patient to a hospital in accordance with Subsection (4).
- (4) A transfer plan under Subsection (3)(b) shall:
  - (a) be signed by the patient; and
  - (b) indicate that the plan is not an agreement with a hospital.
- (5) If a birthing center transfers a patient to a licensed maternity care practitioner or facility, the responsibility of the licensed maternity care practitioner or facility, for the patient:
  - (a) does not begin until the patient is physically within the care of the licensed maternity care practitioner or facility;
  - (b) is limited to the examination and care provided after the patient is transferred to the licensed maternity care practitioner or facility; and
  - (c) does not include responsibility or accountability for the patient's decision to pursue an out-of-hospital birth and the services of a birthing center.
- (6)
  - (a) Except as provided in Subsection (6)(c), a licensed maternity care practitioner who is not practicing at a birthing center may, upon receiving a briefing from a member of a birthing

- center's clinical staff, issue a medical order for the birthing center's patient without assuming liability for the care of the patient for whom the order was issued.
- (b) Regardless of the advice given or order issued under Subsection (6)(a), the responsibility and liability for caring for the patient is that of the birthing center and the birthing center's clinical staff.
  - (c) The licensed maternity care practitioner giving the order under Subsection (6)(a) is responsible and liable only for the appropriateness of the order, based on the briefing received under Subsection (6)(a).
- (7)
- (a) A birthing center that is not freestanding may be licensed as an alongside midwifery unit if the birthing center:
    - (i) is accredited by the Commission on Accreditation of Birth Centers;
    - (ii) is connected to a hospital facility, either through a bridge, ramp, or adjacent to the labor and delivery unit within the hospital with care provided with the midwifery model of care, where maternal patients are received and care provided during labor, delivery, and immediately after delivery; and
    - (iii) is supervised by a clinical director who is licensed as a physician as defined in Section 58-67-102 or a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act.
  - (b) An alongside midwifery unit shall have a transfer agreement in place with the adjoining hospital:
    - (i) to transfer a patient to the adjacent hospital's labor and delivery unit if a higher level of care is needed; and
    - (ii) for services that are provided by the adjacent hospital's staff in collaboration with the alongside midwifery unit staff.
  - (c) An alongside midwifery unit may:
    - (i) contract with staff from the adjoining hospital to assist with newborn care or resuscitation of a patient in an emergency; and
    - (ii) integrate the alongside midwifery unit's medical records with the medical record system utilized by the adjoining hospital.
  - (d) Notwithstanding Title 58, Chapter 77, Direct-Entry Midwife Act, licensure as a direct-entry midwife under Section 58-77-301 is not sufficient to practice as a licensed maternity care practitioner in an alongside midwifery unit.
- (8) The department shall hold a public hearing under Subsection 63G-3-302(2)(a) for a proposed administrative rule, and amendment to a rule, or repeal of a rule, that relates to birthing centers.