

By: Zerwas

H.B. No. 1507

A BILL TO BE ENTITLED

AN ACT

relating to the minimum standards for birthing centers and certain health professionals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 244.002, Health and Safety Code, is amended by amending Subdivisions (2) and (3) and adding Subdivisions (2-a), (2-b), (3-a), and (3-b) to read as follows:

(2) "Board" means the executive commissioner [~~Texas Board of Health~~].

(2-a) "Certified nurse-midwife" has the meaning assigned by Section 203.002, Occupations Code.

(2-b) "Clinical director" means the person responsible for advising and consulting with the staff of a birthing center on matters relating to the clinical management of the center's patients, including developing clinical policies for the center and supervising all persons who provide direct patient care.

(3) "Department" means the [~~Texas~~] Department of State Health Services.

(3-a) "Executive Commissioner" means the executive commissioner of the Health and Human Services Commission.

(3-b) "Licensed midwife" means a midwife licensed under Chapter 203, Occupations Code.

SECTION 2. Section 244.005(c), Health and Safety Code, is

1 amended to read as follows:

2 (c) The application must contain evidence that:

3 (1) the composition of the center's staff meets the
4 standards adopted [~~by the board~~] under this chapter for the level of
5 license for which the application is submitted; and

6 (2) the center, or each licensed or certified
7 professional providing services at the center, maintains liability
8 insurance coverage in the amount specified by and subject to the
9 terms required by department rules.

10 SECTION 3. Section 244.010, Health and Safety Code, is
11 amended by amending Subsection (a) and adding Subsection (c) to
12 read as follows:

13 (a) For each level of license of a birthing center, the
14 rules must contain minimum standards for:

15 (1) the qualifications for professional and
16 nonprofessional personnel;

17 (2) the supervision of professional and
18 nonprofessional personnel;

19 (3) the provision and coordination of treatment and
20 services;

21 (4) the organizational structure, including the lines
22 of authority and the delegation of responsibility;

23 (5) the keeping of clinical records; [~~and~~]

24 (6) any other aspect of the operation of a birthing
25 center considered [~~that the board considers~~] necessary to protect
26 the public; and

27 (7) the construction and design of a birthing center.

1 (c) The minimum construction and design standards,
2 including plumbing, heating, lighting, and ventilation standards
3 and other design standards necessary to ensure the health and
4 safety of a birthing center's patients, adopted under this section
5 must be at least as stringent as the standards of The Joint
6 Commission on health care organization accreditation in effect on
7 January 1, 2013.

8 SECTION 4. Chapter 244, Health and Safety Code, is amended
9 by adding Sections 244.0101, 244.0102, 244.0103, and 244.0104 to
10 read as follows:

11 Sec. 244.0101. CLINICAL DIRECTOR. (a) A birthing center
12 shall employ a qualified clinical director.

13 (b) A clinical director employed under this section must be
14 a certified nurse-midwife or a physician licensed to practice
15 medicine in this state.

16 Sec. 244.0102. REQUIRED PATIENT TRANSFERS. A licensed
17 midwife who is providing care to a patient at a birthing center
18 shall immediately transfer the patient to a hospital located in
19 close proximity to the center, as established by department rule,
20 if the patient exhibits one or more of the following medical
21 conditions:

- 22 (1) a non-vertex presentation;
23 (2) a multiple gestation; or
24 (3) a previous uterine surgery, including a cesarean
25 delivery.

26 Sec. 244.0103. TRANSFER AGREEMENTS. (a) A birthing center
27 shall enter into a transfer agreement with a hospital located in

1 close proximity to the center, as established by department rule.

2 (b) At a minimum, a transfer agreement must:

3 (1) provide for the use of medically appropriate life
4 support measures that a reasonable and prudent physician exercising
5 ordinary care in the same or a similar locality would use to
6 stabilize the patient before the transfer and to sustain the
7 patient during the transfer;

8 (2) require the provision of appropriate personnel and
9 equipment that a reasonable and prudent physician exercising
10 ordinary care in the same or a similar locality would use for the
11 transfer;

12 (3) require the transfer of all necessary records for
13 continuing the care for the patient;

14 (4) prohibit the transfer of a patient predicated on
15 arbitrary, capricious, or unreasonable discrimination because of
16 race, religion, national origin, age, sex, physical condition, or
17 economic status; and

18 (5) prohibit the transfer or acceptance of a patient
19 in need of emergency care based on the individual's inability to pay
20 for the services rendered by the transferring birthing center or
21 receiving hospital.

22 (c) The birthing center shall submit the agreement to the
23 department for review. The department shall determine whether the
24 agreement complies with the requirements of this section and rules
25 adopted under this section. The department shall complete the
26 review not later than the 30th day after the date the agreement is
27 received by the department.

1 (d) The executive commissioner shall adopt rules governing
2 transfers and transfer agreements. The rules must:

3 (1) require that if a patient at a birthing center has
4 an emergency medical condition that has not been stabilized, the
5 center may not transfer the patient unless:

6 (A) the patient or a legally responsible person
7 acting on the patient's behalf, after being informed of the center's
8 obligations under this subsection and of the risk of transfer, in
9 writing requests transfer to another medical facility;

10 (B) a licensed physician has signed a
11 certification, which includes a summary of the risks and benefits,
12 that, based on the information available at the time of transfer,
13 the medical benefits reasonably expected from the provision of
14 appropriate medical treatment at another medical facility outweigh
15 the increased risks to the patient and, in the case of labor, to the
16 unborn child from effecting the transfer; or

17 (C) if a licensed physician is not physically
18 present in the birthing center at the time a patient is transferred,
19 a qualified medical person has signed a certification described in
20 Paragraph (B) after a licensed physician, in consultation with the
21 person, has made the determination described in that paragraph and
22 subsequently countersigns the certificate;

23 (2) authorize the birthing center to enter into
24 multiple transfer agreements based on the type or level of medical
25 services available at other hospitals;

26 (3) require the birthing center to recognize the right
27 of a patient to request transfer to the care of a physician and

1 hospital of the patient's choice;

2 (4) require the birthing center to recognize and
3 comply with the requirements of Chapter 61 relating to the transfer
4 of patients to mandated providers; and

5 (5) consider the availability of appropriate
6 facilities, services, and staff for providing care to the patient.

7 (e) A birthing center that transfers a patient in violation
8 of rules adopted under this section or provisions required in a
9 transfer agreement under this section violates this chapter.

10 Sec. 244.0104. REFERRAL AND CONSULTATION; LICENSED
11 MIDWIVES. (a) A birthing center may not allow a licensed midwife
12 to provide care to a patient at the center unless the midwife
13 complies with the standards for referral or consultation required
14 by the Texas Board of Nursing for certified nurse-midwives.

15 (b) A licensed midwife who provides care to a patient at a
16 birthing center shall enter into a referral agreement, on the form
17 prescribed by the department, with a licensed physician who agrees
18 to consult with and receive referrals from the licensed midwife.
19 The agreement may not be for a term that exceeds one year. Each
20 year, the licensed midwife shall submit a copy of the current
21 agreement to the department.

22 (c) The department shall maintain copies of the referral
23 agreements required under Subsection (b) until the first
24 anniversary of the date the agreement expires.

25 SECTION 5. (a) Not later than September 1, 2014, the
26 Department of State Health Services shall develop the form for the
27 referral agreement required by Section 244.0104, Health and Safety

1 Code, as added by this Act.

2 (b) The executive commissioner of the Health and Human
3 Services Commission shall adopt the rules required to implement
4 Chapter 244, Health and Safety Code, as amended by this Act.

5 (c) Not later than December 1, 2013, a birthing center must
6 comply with Section 244.005(c), Health and Safety Code, as amended
7 by this Act.

8 (d) On or after the effective date of this Act, a birthing
9 center may not employ or continue to employ a clinical director who
10 does not meet the requirements of Section 244.0101, Health and
11 Safety Code, as added by this Act.

12 SECTION 6. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2013.