

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 201

H.P. 190

House of Representatives, January 18, 2001

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### **An Act to License Freestanding Birth Centers.**

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Reference to the Committee on Health and Human Services suggested and ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative FULLER of Manchester.  
Cosponsored by Senator RAND of Cumberland and  
Speaker SAXL of Portland.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 22 MRSA c. 407-A is enacted to read:**

6 **CHAPTER 407-A**

8 **FREESTANDING BIRTH CENTERS**

10 **§1955. Definitions**

12 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

14 1. **Freestanding birth center.** "Freestanding birth center" means a home, homelike facility or other place that is not a hospital where more than 3 low-risk births per calendar year are planned to occur away from the mother's usual residence following normal, uncomplicated pregnancy.

20 2. **Low-risk.** "Low-risk" means normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal, uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health recognized by the American College of Obstetrics and Gynecology.

26 **§1956. Licensing**

28 The department shall license all freestanding birth centers in order to protect the health and welfare of mothers and infants and ensure safe, quality care for mothers who choose to give birth outside the setting of the acute care hospital. A freestanding birth center may not operate without a written license from the department.

36 **§1957. Licensure process**

38 1. **Application for license.** A freestanding birth center shall apply to the department for a license upon terms provided by the department. The application must contain information the department reasonably requires, which may include affirmative evidence of ability to comply with established standards and rules.

44 2. **Licensure.** Upon receipt of an application for a license and the license fee, the department shall issue a license if the applicant meets the requirements established by this chapter.

2 3. Licenses. The department shall issue and monitor the  
3 following types of licenses.

4 A. The department shall issue a full license to an  
5 applicant who complies with all applicable laws and rules.  
6 The term of a full license is 2 years.

8 B. The department may issue a conditional license when the  
9 applicant fails to comply with all applicable laws and rules  
10 and in the judgment of the department the best interest of  
11 the public would be served by issuing a conditional  
12 license. The conditional license must specify when and what  
13 corrections must be made during the term of the conditional  
14 license. A conditional license must be issued for a  
15 specific period, not to exceed one year.

16 C. The department shall monitor all licensees for continued  
17 compliance with applicable laws and rules on at least an  
18 annual basis. The department may inspect and investigate  
19 the freestanding birth center through site visits,  
20 examination of records and review of all policies and  
21 procedures. Information received by the department for  
22 monitoring purposes may not be disclosed publicly in any  
23 manner that identifies individuals or birth centers except  
24 in a proceeding involving the question of licensure.

25 D. A license is issued only for the premises and persons  
26 named on the application and is not assignable or  
27 transferable. A license must be posted in a conspicuous  
28 place on the licensed premises along with the facility  
29 policy regarding nondiscrimination on the basis of race,  
30 color, sex, physical or mental handicap, religion, ancestry  
31 or national origin.

32 4. Failure to comply with applicable laws and rules. The  
33 department may suspend or revoke a license issued under this  
34 chapter for violation of applicable laws and rules. When the  
35 department believes that a license should be suspended or  
36 revoked, the department shall file a complaint with the District  
37 Court in accordance with Title 4, section 184 or commence  
38 administrative action pursuant to the Maine Administrative  
39 Procedure Act.

40 5. Appeals. Any applicant or licensee aggrieved by the  
41 department's decision to refuse to issue or renew a full or  
42 conditional license may request an administrative hearing as  
43 provided by the Maine Administrative Procedure Act.

44 6. Fees. Each application for a license under this chapter  
45 must be accompanied by the fee established by department rule.  
46

2 The fee is not refundable. All fees received by the department  
3 under this chapter must be paid into the State Treasury to the  
4 credit of the department for the purpose of reducing the costs of  
5 carrying out this chapter.

6 7. Compliance. Any freestanding birth center that provides  
7 services for which a license is required without obtaining a  
8 license commits a civil violation for which a forfeiture of \$100  
9 per violation may be adjudged. Each day constitutes a separate  
10 violation.

12 **§1958. Licensing Standards**

14 1. Standards for licensing of freestanding birth center.  
15 The department shall adopt rules establishing standards for  
16 freestanding birth centers no later than January 1, 2003.

18 2. Areas to be addressed. Freestanding birth center  
19 licensing standards must address the following areas:

20 A. General policies, procedures and evaluation process;

22 B. Administration and organizational structure;

24 C. Staff qualifications;

26 D. Facility structure and equipment;

28 E. Authorized services;

30 F. Emergency and referral procedures; and

32 G. National accreditation.

34 3. Rules. Rules adopted pursuant to this section are  
36 routine technical rules as defined in Title 5, chapter 375,  
37 subchapter II-A.

38 **Sec. 2. Effective date.** This Act takes effect January 1, 2002.

42 **SUMMARY**

44 This bill requires that all freestanding birth centers be  
45 licensed by the Department of Human Services. The bill also sets  
46 forth the types of licenses and the process and standards for  
licensure.