

July XX, 2023
Jacqueline D. Milledge
Bureau of Health Provider Standards
Department of Public Health
P.O. Box 303017, Montgomery, AL, 36130

RE: 420-5-13, Birthing Centers

Dear Jacqueline D. Milledge,

On behalf of the undersigned organizations, which represent a coalition of local and national perinatal healthcare providers and advocates, we respectfully request that the proposed birth center regulations be discarded, and that the Alabama Department of Public Health engage in meaningful consultation with birth center experts and stakeholders to produce a feasible draft in a reasonable timeframe.

As written, the regulations will prevent birth centers from opening in Alabama. Midwifery-led, freestanding birth centers produce excellent outcomes including reduced incidence of morbidity/mortality, preterm birth, low birthweight, and cesarean section, while reducing costs by over \$2000 per birth.¹ Lack of access to pregnancy care contributes to devastating outcomes, especially for Black and Indigenous patients.² Alabama has the nation's third highest rate of maternal mortality³, and received an F on its March of Dimes Report Card for its staggering rate of prematurity.⁴ In a state where over 37% of counties are Maternity Care Deserts,⁵ it is critical that birth centers are granted a viable pathway to licensure. These regulations are fundamentally flawed, but we take specific exception to the following five points:

1. Certified Professional Midwives are licensed providers who, according to Ala. Code 1975 Section 34-19-11,⁶ and the AL Attorney General's Opinion,⁷ may provide midwifery care in freestanding birth centers. They are uniquely qualified to manage out of hospital (OOH) birth as the only perinatal care provider type whose education requires OOH training.
2. The staff/consultant physician role, as described, is not aligned with national standards.^{8,9} The presence of a physician medical director or supervising physician in a facility is not associated with improved outcomes.¹⁰
3. The proposed RN staffing model is unnecessary and financially unsustainable.
4. Eligibility criteria related to age, history of miscarriage, history of cesarean, and parity over four, are not aligned with evidence-based practice.^{8,9} Furthermore, the use of terms such as fetal wastage, toxemia, fetal growth retardation, and malformed fetus, illustrate the need to involve experts who are familiar with the provision of up-to-date, evidence-based, perinatal healthcare.
5. Written contracts and agreements with transfer hospitals reduce access to birth center care when hospitals refuse to enter into such agreements.¹⁰ Hospitals are required to administer care to patients in labor per the Emergency Medical Treatment and Labor Act.¹¹ Therefore, written agreements are an unnecessary barrier.

We recommend that the Alabama Department of Public Health consult with birth center experts and stakeholders to write achievable regulations within the next six months. We specifically demand that the following entities are invited to appoint members to the committee responsible for writing the regulations:

- The Alabama State Board of Midwifery (ASBM)
- Alabama Birth Center owners including Heather Skanes, OBGYN, Yashica Robinson, OBGYN, and Stephanie Mitchell, DNP, CNM, CPM.
- American Association of Birth Centers (AABC)
- Commission for the Accreditation of Birth Centers (CABC)

- American College of Nurse-Midwives, Alabama Affiliate (ACNM)
- National Association of Certified Professional Midwives (NACPM)
- Alabama Midwives Alliance (ALMA)

The Memo, *Proposed Regulations for Birthing Centers*, states that the Department consulted many resources including ASBM, AABC, CABC, and ACNM. We respectfully request genuine consultation in good faith with the above organizations and individuals. The Alabama State Committee for Public Health and the Licensure Advisory Board, while undoubtedly knowledgeable and competent in their own areas of practice, lack familiarity with birth center care and administration. Midwives, physicians, and professional authorities in birth center operations can provide the expertise needed to ensure the presence of safe, functional facilities in Alabama. Birth centers are a proven solution to the perinatal mortality crisis. We implore you to increase safety for childbearing families in Alabama by collaborating on regulations that ensure birth center access in the state.

Sincerely, the undersigned,

-
1. Strong Start: CMS, 2019; Dubay et al., 2020; Alliman et al., 2019, <https://doi.org/10.1111/birt.12433>
 2. March of Dimes Maternity Care Report 2022: https://www.marchofdimes.org/sites/default/files/2022-10/2022_Maternity_Care_Report.pdf
 3. Alabama Department of Public Health Maternal Mortality Review 2020 https://www.alabamapublichealth.gov/perinatal/assets/2020_final_annual_mmr.pdf
 4. March of Dimes Report Card for Alabama (F): <https://www.marchofdimes.org/peristats/reports/alabama/report-card>
 5. Maternity Care Deserts, Alabama 2020: <https://www.marchofdimes.org/peristats/data?reg=99&top=23&stop=641&lev=1&slev=4&obj=18&sreg=01>
 6. Ala. Code 1975 Section 34-19-11: <https://alsbm.org/wp-content/uploads/2021/12/ASBM-law.pdf>
 7. State of Alabama, Office of the Attorney General Dec 15 2022 Opinion: [2023-012.pdf](#) (alabamaag.gov)
 8. AABC Standards for Birth Centers: <https://www.birthcenters.org/products/standards-digital>
 9. CABC Indicators of Compliance with Standards for Birth Centers: https://www.birthcenteraccreditation.org/wp-content/uploads/2020/04/CABC_IndicatorsRefEd-2.2_2020-0401.pdf
 10. AABC Model Birth Center Regulations FAQ [Microsoft Word - AABC FAQ - Birth Center Licensure and Regulations \(noviams.com\)](#)
 11. Emergency Medical Treatment and Labor Act: <https://www.cms.gov/regulations-and-guidance/legislation/emtala>