



POSITION STATEMENT

Certificate of Need

The American Association of Birth Centers (AABC) takes the position that freestanding birth centers (FSBCs) must be exempt from state Certificate of Need (CON) requirements. CON laws act as a significant barrier to the establishment of FSBCs, effectively stunting the growth of a proven, high-value care model that has been shown to improve outcomes and reduce costs.

Overview: Certificate of Need

Definition and Purpose. CON laws regulate the establishment and expansion of healthcare facilities and services in a particular community. They require facilities to seek approval from regulators and comply with specific facility requirements.¹ Where CON is required, facilities cannot obtain licensure without a CON. CON laws were originally intended to ensure healthcare services remained affordable, by preventing an oversupply of hospital beds and capital equipment that have high fixed costs.¹ However, evidence has demonstrated that CON requirements may actually drive costs up in a community and can negatively impact access; thus many states have moved away from CON laws.²

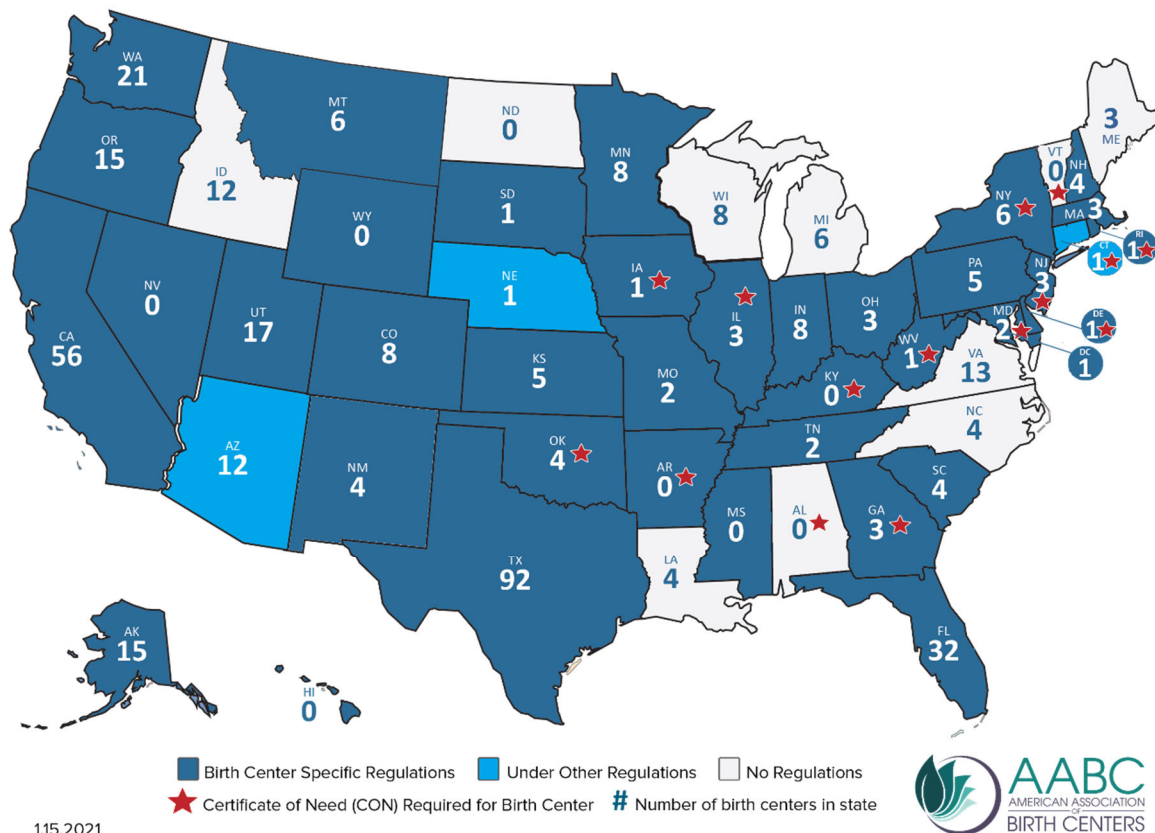
Restricting Access to High-Value Care. CON requirements for FSBCs do not protect communities, but instead keep them from accessing valuable maternity healthcare services:

- CON laws **are associated with fewer birth centers in a state.** In the 15 states with CON requirements for birth centers, 9 (60%) have 0 or 1 birth centers, compared with just 7 of the 35 (20%) of the states without CON laws.³
- Reduced supply leads to **lack of access to a model of maternity care that improves outcomes, narrows racial disparities, enhances patient satisfaction, and reduces cost to state Medicaid programs** and other payers.⁴⁻⁷
- There is **no evidence CON laws enhance safety or improve the quality of birth center care**, and there are existing mechanisms to ensure birth centers follow

standards of care (see "Alternative Routes to Licensure" below).⁸

- Birth centers provide **services not typically provided by hospitals**, such as midwifery care and non-pharmacological pain management options.⁸
- FSBCs almost always have **fewer than five beds**, which are used only for low-risk maternity care. FSBCs do not provide surgical birth, or regional or general anesthesia. Because FSBCs do not provide the same services as a hospital, **FSBC beds do not equate to a hospital bed** in the same community and should not be subject to the same regulatory process.^{1,3}
- CON laws require FSBCs to adhere to stringent and costly regulations originally meant for hospitals and hospital-like settings. Many birth centers are **small businesses** that cannot afford costly regulatory compliance.^{1,3}

Which States Require a Certificate of Need?



- The CON requirement varies by state. As illustrated by the above map, states with a CON requirement typically have fewer FSBCs – if any.
- When FSBCs are exempt from the CON requirement, more FSBCs are established in a state. States like Texas, California, Washington, Oregon, and Florida are prime examples of strong FSBC access.



CON and Licensure

AABC believes that FSBCs should be exempt from CON requirement and that licensure and regulations for FSBCs should be based on evidence and on national industry standards that have been proven safe and effective. AABC has developed model regulations for FSBCs.⁹

Based on Standards and Evidence. AABC established the National Standards for Birth Centers to provide a tool for measuring the quality of services provided to childbearing families in birth centers.³ The Standards are reviewed periodically to assure that they remain consistent with evolving evidence-based maternity care. The Commission for the Accreditation of Birth Centers (CABC) has developed specific indicators to assess for compliance with the Standards.⁸

CABC Accreditation. CABC is an independent nonprofit organization dedicated to the quality of the operation and services of birth centers. CABC interprets the AABC Standards to create tools for the assessment and accreditation of developing and existing FSBCs and Alongside Midwifery Units (AMUs) in the U.S.

AABC supports CABC accreditation as one basis for state licensure. Unlike the CON process, CABC accreditation relies on evidence-based best practices that are proven to improve quality of care.⁸

- **Resources and Support.** CABC supports birth centers to develop and implement **policies and procedures necessary to ensure high-quality, evidence-based maternity care.** With coaching from CABC experts and access to helpful educational resources, FSBCs implement monitoring and evaluation processes, including sentinel event case reviews, regular reviews of facility transfers, and annual practice statistics. This infrastructure helps facilities **systematically identify, assess, and resolve issues** that may impact quality of care.⁸
- **Site Visits.** CABC Accreditation Specialists evaluate birth centers to ensure facilities are complying with the AABC Standards. **Accreditation Specialists use Indicators of Compliance,** including patient evaluation for risk factors; intrapartum care practices; readiness for maternal and newborn emergencies; and the collection and review of outcomes, including complications and urgent transfers. **These critical indicators of compliance span seven standardized categories:** philosophy and scope of practice; planning, governance, and administration; human resources; facility, equipment and supplies; health records; research; and quality evaluation and improvement. **Several states grant “deemed status” to CABC-accredited birth centers, thus saving states the cost of inspecting birth centers themselves and ensuring birth center regulations evolve with new evidence and industry best practices.**⁸

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