

**216B.198 Freestanding birthing centers -- Cabinet to establish licensing standards -
- Medical director -- Informed consent -- Patient transfer agreements --
Liability -- Prohibition against performance of abortion.**

- (1) As used in this section, "freestanding birthing center" means any health facility, place, or institution which is not a hospital, is not in a hospital or a private residence, and is established to provide care for labor, delivery, the immediate postpartum period, and the newborn immediately following delivery.
- (2) The cabinet shall establish licensure standards for freestanding birthing centers that:
 - (a) Require accreditation by the Commission for the Accreditation of Birth Centers;
 - (b) Delineate requirements for medical malpractice insurance;
 - (c) Require location within thirty (30) miles of a hospital. If a hospital located within thirty (30) miles of a freestanding birthing center ceases operations after a freestanding birthing center has been established, the requirement of this paragraph shall not apply to the affected freestanding birthing center;
 - (d) Do not prohibit a hospital from owning or operating a freestanding birthing center that complies with the requirements of this section; and
 - (e) Include any other requirements deemed necessary by the cabinet that are not inconsistent with the other requirements of this section.
- (3)
 - (a) A freestanding birthing center shall have a medical director who is a licensed physician who has, at a minimum, the following functions:
 1. Participation in approval of criteria that would exclude a client or newborn from receiving care at the freestanding birthing center; and
 2. Participation in the quality review functions of the freestanding birthing center, including review of transfers and sentinel events.
 - (b) The cabinet shall establish a timeline for a freestanding birthing center to fill the position of medical director if the position becomes vacant.
- (4) A freestanding birthing center shall obtain written informed consent for each client receiving care. The written informed consent shall include:
 - (a) A description of the benefits, risks, and eligibility requirements for receiving care at the freestanding birthing center;
 - (b) A description of the education and credentials of practitioners providing clinical care at the freestanding birthing center;
 - (c) Instructions for obtaining a copy of the administrative regulations promulgated pursuant to this section;
 - (d) Instructions for filing a complaint relating to the freestanding birthing center with the cabinet;
 - (e) A summary of a written protocol for emergencies, including transfer to a higher level of care;
 - (f) Disclosure of professional liability insurance held by health care providers at the freestanding birthing center; and
 - (g) A summary of procedures established by the freestanding birthing center for

professional collaboration with other care providers.

- (5) (a) A freestanding birthing center shall have a written patient transfer agreement with a hospital that provides obstetric services. The cabinet shall establish minimum requirements for the patient transfer agreement which shall include:
 1. Specifying the responsibilities that a freestanding birthing center and a hospital assume in the transfer of a patient; and
 2. Establishing the freestanding birthing center's responsibility for:
 - a. Notifying the receiving hospital promptly of the impending transfer of a patient; and
 - b. Arranging for appropriate and safe transportation.
- (b) The cabinet shall establish a process and criteria by which the requirement of paragraph (a) of this subsection may be waived if a freestanding birthing center submits to the cabinet evidence of a failure by a hospital that provides obstetric services to enter into a written patient transfer agreement with the freestanding birthing center.
- (6) (a) A freestanding birthing center shall have a written patient transfer agreement with a licensed emergency medical transportation service.
- (b) The cabinet shall establish a process and criteria by which the requirement of paragraph (a) of this subsection may be waived if a freestanding birthing center submits to the cabinet evidence of a failure by a licensed emergency medical transportation service to enter into a written patient transfer agreement with the freestanding birthing center.
- (7) A certificate of need shall not be required to establish and license a freestanding birthing center with no more than four (4) beds.
- (8) (a) Nothing in this section is intended to expand or limit the liability of a health care provider, health care facility, or freestanding birthing center.
- (b) In the event of an action for injury or death due to any act or omission of a health care provider rendering services at a freestanding birthing center from which an injured patient is transferred to any other licensed health care provider or licensed health care facility:
 1. The liability of the subsequent licensed health care provider or licensed health care facility shall be limited to their own negligent acts and omissions that violate their standards of care according to existing law, except as provided in subparagraph 2. of this paragraph; and
 2. If the subsequent licensed health care provider or licensed health care facility owns, operates, or provides care at the freestanding birthing center from which the injured patient was transferred, then the licensed health care provider or licensed health care facility shall be liable for acts or omissions that violate their standards of care and that occurred at the freestanding birthing center.
- (9) In accordance with KRS 311.772, no person shall perform an abortion in a freestanding birthing center.

Effective: June 27, 2025

History: Created 2025 Ky. Acts ch. 121, sec. 1, effective June 27, 2025.

Legislative Research Commission Note (6/27/2025). 2025 Ky. Acts ch. 121, sec. 23, provides that the Cabinet for Health and Family Services shall promulgate updated administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this statute by December 1, 2025.

Legislative Research Commission Note (6/27/2025). 2025 Ky. Acts ch. 121, sec. 24, provides that the Act, which created this statute, may be cited as the Mary Carol Akers Birth Centers Act.