

1 ENGROSSED SENATE  
2 BILL NO. 1739

By: Thompson (Kristen) of the  
Senate

3 and

4 McEntire of the House  
5

6 An Act relating to birthing centers; amending 36 O.S.  
7 2021, Section 6060.3, which relates to maternity  
8 benefits; modifying criteria for coverage of certain  
9 benefits; conforming language; defining term;  
10 amending 63 O.S. 2021, Section 1-701, as amended by  
11 Section 1, Chapter 117, O.S.L. 2023 (63 O.S. Supp.  
12 2023, Section 1-701), which relates to hospitals;  
13 modifying definitions; conforming language; amending  
14 63 O.S. 2021, Section 1-702a, which relates to  
15 voluntary licensing of birthing centers; eliminating  
16 license for birthing centers; providing certain  
17 construction; amending 63 O.S. 2021, Section 3129,  
18 which relates to Lily's Law; defining term;  
19 conforming language; updating statutory language;  
20 directing the Oklahoma Health Care Authority to seek  
21 certain federal approval; providing for codification;  
22 and providing an effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY 36 O.S. 2021, Section 6060.3, is  
amended to read as follows:

Section 6060.3. A. Every health benefit plan issued, amended,  
renewed or delivered in this state on or after July 1, 1996, that  
provides maternity benefits shall provide for coverage of:

1. A minimum of forty-eight (48) hours of inpatient care at a  
hospital, or a birthing center licensed as a hospital, following a

1 vaginal delivery, for the mother and newborn infant after  
2 childbirth, except as otherwise provided in this section;

3 2. A minimum of ninety-six (96) hours of inpatient care at a  
4 hospital following a delivery by caesarean section for the mother  
5 and newborn infant after childbirth, except as otherwise provided in  
6 this section; and

7 3. a. Postpartum home care following a vaginal delivery if  
8 childbirth occurs at home or in a birthing center  
9 ~~licensed as a birthing center~~ that is not licensed as  
10 a hospital but that is accredited as a freestanding  
11 birth center by the Commission for the Accreditation  
12 of Birth Centers. The coverage shall provide for one  
13 home visit within forty-eight (48) hours of childbirth  
14 by a licensed health care provider whose scope of  
15 practice includes providing postpartum care. Visits  
16 shall include, at a minimum:

17 (1) physical assessment of the mother and the newborn  
18 infant,

19 (2) parent education, to include, but not be limited  
20 to:

21 (a) the recommended childhood immunization  
22 schedule,

23 (b) the importance of childhood immunizations,  
24 and

1 (c) resources for obtaining childhood  
2 immunizations,

3 (3) training or assistance with breast or bottle  
4 feeding, and

5 (4) the performance of any medically necessary and  
6 appropriate clinical tests.

7 b. At the discretion of the mother, visits may occur at  
8 the facility of the plan or the provider.

9 B. Inpatient care shall include, at a minimum:

10 1. Physical assessment of the mother and the newborn infant;

11 2. Parent education, to include, but not be limited to:

12 a. the recommended childhood immunization schedule,

13 b. the importance of childhood immunizations, and

14 c. resources for obtaining childhood immunizations;

15 3. Training or assistance with breast or bottle feeding; and

16 4. The performance of any medically necessary and appropriate  
17 clinical tests.

18 C. A plan may limit coverage to a shorter length of hospital  
19 inpatient stay for services related to maternity and newborn infant  
20 care provided that:

21 1. In the sole medical discretion or judgment of the attending  
22 physician licensed by the ~~Oklahoma~~ State Board of Medical Licensure  
23 and Supervision or the State Board of Osteopathic Examiners or the  
24 certified nurse midwife licensed by the Oklahoma Board of Nursing

1 providing care to the mother and to the newborn infant, it is  
2 determined prior to discharge that an earlier discharge of the  
3 mother and newborn infant is appropriate and meets medical criteria  
4 contained in the most current treatment standards of the American  
5 Academy of Pediatrics and the American College of Obstetricians and  
6 Gynecologists that determine the appropriate length of stay based  
7 upon:

- 8 a. evaluation of the antepartum, intrapartum and  
9 postpartum course of the mother and newborn infant,
- 10 b. the gestational age, birth weight and clinical  
11 condition of the newborn infant,
- 12 c. the demonstrated ability of the mother to care for the  
13 newborn infant ~~postdischarge~~ post-discharge, and
- 14 d. the availability of ~~postdischarge~~ post-discharge  
15 follow-up to verify the condition of the newborn  
16 infant in the first forty-eight (48) hours after  
17 delivery.

18 A plan shall adopt these guidelines by July 1, 1996; and

19 2. The plan covers one home visit, within forty-eight (48)  
20 hours of discharge, by a licensed health care provider whose scope  
21 of practice includes providing postpartum care. The visits shall  
22 include, at a minimum:

- 23 a. physical assessment of the mother and the newborn  
24 infant,

- 1           b.   parent education, to include, but not be limited to:
- 2                 (1)   the recommended childhood immunization schedule,
- 3                 (2)   the importance of childhood immunizations, and
- 4                 (3)   resources for obtaining childhood immunizations,
- 5           c.   training or assistance with breast or bottle feeding,
- 6                 and
- 7           d.   the performance of any medically necessary and
- 8                 clinical tests.

9           At the mother's discretion, visits may occur at the facility of

10           the plan or the provider.

11           D.   The plan shall include, but is not limited to, notice of the

12           coverage required by this section in the evidence of coverage of the

13           plan, and shall provide additional written notice of the coverage to

14           the insured or an enrollee during the course of the prenatal care of

15           the insured or enrollee.

16           E.   In the event the coverage required by this section is

17           provided under a contract that is subject to a capitated or global

18           rate, the plan shall be required to provide supplementary

19           reimbursement to providers for any additional services required by

20           that coverage if it is not included in the capitation or global

21           rate.

22           F.   No health benefit plan subject to the provisions of this

23           section shall terminate the services of, reduce capitation payments

24           for, refuse payment for services, or otherwise discipline a licensed

1 health care provider who orders care consistent with the provisions  
2 of this section.

3 G. As used in this section, ~~“health:~~ “health:

4 1. “Birthing center” has the same meaning as provided by  
5 Section 1-701 of Title 63 of the Oklahoma Statutes; and

6 2. “Health benefit plan” means any plan or arrangement as  
7 defined in subsection C of Section 6060.4 of this title.

8 H. The Insurance Commissioner shall promulgate any rules  
9 necessary to implement the provisions of this section.

10 SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-701, as  
11 amended by Section 1, Chapter 117, O.S.L. 2023 (63 O.S. Supp. 2023,  
12 Section 1-701), is amended to read as follows:

13 Section 1-701. For the purposes of Section 1-701 et seq. of  
14 this title:

15 1. “Hospital” means any institution, place, building or agency,  
16 public or private, whether organized for profit or not, primarily  
17 engaged in the maintenance and operation of facilities for the  
18 diagnosis, treatment or care of patients admitted for overnight stay  
19 or longer in order to obtain medical care, surgical care,  
20 obstetrical care, or nursing care for illness, disease, injury,  
21 infirmity, or deformity. Except as otherwise provided by paragraph  
22 7 of this section, places where pregnant females are admitted and  
23 receive care incident to pregnancy, abortion or delivery shall be  
24 considered to be a ~~“hospital”~~ hospital within the meaning of this

1 article, regardless of the number of patients received or the  
2 duration of their stay. The term ~~"hospital"~~ hospital includes  
3 general medical surgical hospitals, specialized hospitals, critical  
4 access hospitals, emergency hospitals, and rural emergency  
5 hospitals, ~~and~~ but does not include birthing centers except to the  
6 extent a birthing center is licensed as a hospital;

7 2. "General medical surgical hospital" means a hospital  
8 maintained for the purpose of providing hospital care in a broad  
9 category of illness and injury;

10 3. "Specialized hospital" means a hospital maintained for the  
11 purpose of providing hospital care in a certain category, or  
12 categories, of illness and injury;

13 4. "Critical access hospital" means a hospital determined by  
14 the State Department of Health to be a necessary provider of health  
15 care services to residents of a rural community;

16 5. "Emergency hospital" means a hospital that provides  
17 emergency treatment and stabilization services on a twenty-four-hour  
18 basis that has the ability to admit and treat patients for short  
19 periods of time;

20 6. "Rural emergency hospital" means a hospital that provides  
21 emergency treatment and stabilization services for an average length  
22 of stay of twenty-four (24) hours or less;

23 7. "Birthing center" means any facility, place or institution,  
24 ~~which~~ that is maintained or established primarily for the purpose of

1 providing services ~~of a certified midwife or licensed medical doctor~~  
2 to assist or attend a woman in delivery and birth, and where a woman  
3 is scheduled in advance to give birth following a normal,  
4 uncomplicated, low-risk pregnancy. Such services are performed by:

5 a. a licensed Advanced Practice Registered Nurse  
6 recognized by the Oklahoma Board of Nursing as a  
7 Certified Nurse-Midwife,

8 b. a Certified Professional Midwife or Certified Midwife  
9 licensed under Section 3040.6 of Title 59 of the  
10 Oklahoma Statutes, or

11 c. a licensed allopathic or osteopathic physician.

12 Provided, however, licensure ~~for a birthing center~~ shall not be  
13 ~~compulsory~~ available or required for birthing centers unless the  
14 birthing center is a hospital, in which case the hospital shall be  
15 licensed as a hospital under Section 1-702 of this title;

16 8. "Day treatment program" means nonresidential, partial  
17 hospitalization programs, day treatment programs, and day hospital  
18 programs as defined by subsection A of Section 175.20 of Title 10 of  
19 the Oklahoma Statutes; and

20 9. a. "Primarily engaged" means a hospital shall be  
21 primarily engaged, defined by this section and as  
22 determined by the State Department of Health, in  
23 providing to inpatients the following care by or under  
24 the supervision of physicians:

1 (1) diagnostic services and therapeutic services for  
2 medical diagnosis, treatment and care of injured,  
3 disabled or sick persons, or

4 (2) rehabilitation services for the rehabilitation of  
5 injured, disabled or sick persons.

6 b. In reaching a determination as to whether an entity is  
7 primarily engaged in providing inpatient hospital  
8 services to inpatients of a hospital, the Department  
9 shall evaluate the total facility operations and  
10 consider multiple factors as provided in subparagraphs  
11 c and d of this ~~subsection~~ paragraph.

12 c. In evaluating the total facility operations, the  
13 Department shall review the actual provision of care  
14 and services to two or more inpatients, and the  
15 effects of that care, to assess whether the care  
16 provided meets the needs of individual patients by way  
17 of patient outcomes.

18 d. The factors that the Department shall consider for  
19 determination of whether an entity meets the  
20 definition of primarily engaged include, but are not  
21 limited to:

22 (1) a minimum of four inpatient beds,

23 (2) the entity's average daily census (ADC),

24 (3) the average length of stay (ALOS),

- 1 (4) the number of off-site campus outpatient
- 2 locations,
- 3 (5) the number of provider-based emergency
- 4 departments for the entity,
- 5 (6) the number of inpatient beds related to the size
- 6 of the entity and the scope of the services
- 7 offered,
- 8 (7) the volume of outpatient surgical procedures
- 9 compared to the inpatient surgical procedures, if
- 10 surgical services are provided,
- 11 (8) staffing patterns, and
- 12 (9) patterns of ADC by day of the week.

13 e. Notwithstanding any other provision of this section,  
14 an entity shall be considered primarily engaged in  
15 providing inpatient hospital services to inpatients if  
16 the hospital has had an ADC of at least two (2) and an  
17 ALOS of at least two (2) midnights over the past  
18 twelve (12) months. A critical access hospital shall  
19 be exempt from the ADC and ALOS determination. ADC  
20 shall be calculated by adding the midnight daily  
21 census for each day of the twelve-month period and  
22 then dividing the total number by days in the year. A  
23 facility that has been operating for less than (12)  
24 months at the time of the survey shall calculate its

1 ADC based on the number of months the facility has  
2 been operational, but not less than three (3) months.  
3 If a first survey finds noncompliance with the ADC and  
4 ALOS, a second survey may be required by the  
5 Department to demonstrate compliance with state  
6 licensure.

7 SECTION 3. AMENDATORY 63 O.S. 2021, Section 1-702a, is  
8 amended to read as follows:

9 Section 1-702a. A. ~~By January 1, 1992, the State Board of~~  
10 ~~Health shall promulgate and adopt rules for the voluntary licensing~~  
11 ~~of birthing centers~~ On and after the effective date of this act, the  
12 State Department of Health shall cease licensing birthing centers.  
13 No new license shall be issued, and no current license shall be  
14 renewed upon expiration. Provided, however, this subsection shall  
15 not be construed to exempt a hospital that operates a birthing  
16 center from the requirement to obtain a hospital license under  
17 Section 1-702 of this title.

18 B. The State ~~Board~~ Commissioner of Health shall promulgate  
19 rules establishing standards for day treatment programs other than  
20 those operated by community mental health centers.

21 SECTION 4. AMENDATORY 63 O.S. 2021, Section 3129, is  
22 amended to read as follows:

23 Section 3129. A. This section shall be known and may be cited  
24 as "Lily's Law".

1 B. As used in this section:

2 1. "Birthing center" has the same meaning as provided by  
3 Section 1-701 of this title;

4 2. "Fetal death" means:

- 5 a. spontaneous death prior to the complete expulsion or  
6 extraction from its mother of an unborn child,  
7 irrespective of gestational age. The death is  
8 indicated by the fact that, after such expulsion or  
9 extraction, the unborn child does not breathe or show  
10 any other evidence of life such as beating of the  
11 heart, pulsation of the umbilical cord or definite  
12 movement of voluntary muscles,
- 13 b. death that occurs as the result of accidental trauma  
14 or a criminal assault on the pregnant female or her  
15 unborn child, irrespective of gestational age, or
- 16 c. death that occurs, irrespective of gestational age,  
17 from the use or prescription of any instrument,  
18 medicine, drug or any other substance or device to  
19 remove an ectopic pregnancy; and

20 ~~2.~~ 3. "Stillbirth" shall have the same meaning as provided by  
21 subparagraph a of paragraph 1 of this subsection.

22 C. Every licensed hospital, birthing center, or licensed  
23 medical facility in this state shall maintain a written policy for  
24 the disposition of the remains of a child from a stillbirth or fetal

1 death event at such hospital, birthing center or medical facility.  
2 A parent of the child shall have the right to direct the disposition  
3 of the remains, except that disposition may be made by the hospital,  
4 birthing center or medical facility if no direction is given by a  
5 parent within fourteen (14) days following the delivery of the  
6 remains. The policy and the disposition shall comply with all  
7 applicable provisions of state and federal law. Upon the delivery  
8 of a child from a stillbirth or a fetal death event, the hospital,  
9 birthing center or medical facility shall notify at least one (1)  
10 parent of the parents' right to direct the disposition of the  
11 remains of the child and shall provide at least (1) one parent with  
12 a copy of its policy with respect to disposition.

13 D. Except as otherwise provided by law, nothing in this section  
14 shall be interpreted to prohibit any hospital, birthing center or  
15 medical facility from providing additional notification and  
16 assistance to the parent of a child delivered as a stillbirth or a  
17 fetal death event at the hospital, birthing center or medical  
18 facility relating to the disposition of the remains of the child.

19 SECTION 5. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 5029.1 of Title 63, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. As used in this section, "birthing center" has the same  
23 meaning as provided by Section 1-701 of Title 63 of the Oklahoma  
24 Statutes.

1 B. The Oklahoma Health Care Authority shall seek federal  
2 approval to allow a birthing center that is not licensed by the  
3 state but has been accredited as a freestanding birth center by the  
4 Commission for the Accreditation of Birth Centers to receive  
5 reimbursement under the state Medicaid program for services  
6 provided.

7 SECTION 6. This act shall become effective November 1, 2024.

8 Passed the Senate the 4th day of March, 2024.

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\_\_\_\_\_  
Presiding Officer of the Senate

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12 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

13 2024.

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Presiding Officer of the House  
of Representatives

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