

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1739

By: Thompson (Kristen)

AS INTRODUCED

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

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

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           1. A minimum of forty-eight (48) hours of inpatient care at a  
2 hospital, or a birthing center licensed as a hospital, following a  
3 vaginal delivery, for the mother and newborn infant after  
4 childbirth, except as otherwise provided in this section;

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

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

19                    (1) physical assessment of the mother and the newborn  
20                    infant,

21                    (2) parent education, to include, but not be limited  
22                    to:

23                    (a) the recommended childhood immunization  
24                    schedule,

1 (b) the importance of childhood immunizations,  
2 and

3 (c) resources for obtaining childhood  
4 immunizations,

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

7 (4) the performance of any medically necessary and  
8 appropriate clinical tests.

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

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

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

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

14 a. the recommended childhood immunization schedule,

15 b. the importance of childhood immunizations, and

16 c. resources for obtaining childhood immunizations;

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

18 4. The performance of any medically necessary and appropriate

19 clinical tests.

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

23 1. In the sole medical discretion or judgment of the attending  
24 physician licensed by the ~~Oklahoma~~ State Board of Medical Licensure

1 and Supervision or the State Board of Osteopathic Examiners or the  
2 certified nurse midwife licensed by the Oklahoma Board of Nursing  
3 providing care to the mother and to the newborn infant, it is  
4 determined prior to discharge that an earlier discharge of the  
5 mother and newborn infant is appropriate and meets medical criteria  
6 contained in the most current treatment standards of the American  
7 Academy of Pediatrics and the American College of Obstetricians and  
8 Gynecologists that determine the appropriate length of stay based  
9 upon:

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

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

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

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

11 At the mother's discretion, visits may occur at the facility of  
12 the plan or the provider.

13 D. The plan shall include, but is not limited to, notice of the  
14 coverage required by this section in the evidence of coverage of the  
15 plan, and shall provide additional written notice of the coverage to  
16 the insured or an enrollee during the course of the prenatal care of  
17 the insured or enrollee.

18 E. In the event the coverage required by this section is  
19 provided under a contract that is subject to a capitated or global  
20 rate, the plan shall be required to provide supplementary  
21 reimbursement to providers for any additional services required by  
22 that coverage if it is not included in the capitation or global  
23 rate.

1 F. No health benefit plan subject to the provisions of this  
2 section shall terminate the services of, reduce capitation payments  
3 for, refuse payment for services, or otherwise discipline a licensed  
4 health care provider who orders care consistent with the provisions  
5 of this section.

6 G. As used in this section, ~~"health:~~ "health:

7 1. "Birthing center" has the same meaning as provided by  
8 Section 1-701 of Title 63 of the Oklahoma Statutes; and

9 2. "Health benefit plan" means any plan or arrangement as  
10 defined in subsection C of Section 6060.4 of this title.

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

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

16 Section 1-701. For the purposes of Section 1-701 et seq. of  
17 this title:

18 1. "Hospital" means any institution, place, building or agency,  
19 public or private, whether organized for profit or not, primarily  
20 engaged in the maintenance and operation of facilities for the  
21 diagnosis, treatment or care of patients admitted for overnight stay  
22 or longer in order to obtain medical care, surgical care,  
23 obstetrical care, or nursing care for illness, disease, injury,  
24 infirmity, or deformity. Except as otherwise provided by paragraph

1 7 of this section, places where pregnant females are admitted and  
2 receive care incident to pregnancy, abortion or delivery shall be  
3 considered to be a ~~"hospital"~~ hospital within the meaning of this  
4 article, regardless of the number of patients received or the  
5 duration of their stay. The term ~~"hospital"~~ hospital includes  
6 general medical surgical hospitals, specialized hospitals, critical  
7 access hospitals, emergency hospitals, and rural emergency  
8 hospitals, ~~and~~ but does not include birthing centers except to the  
9 extent a birthing center is licensed as a hospital;

10 2. "General medical surgical hospital" means a hospital  
11 maintained for the purpose of providing hospital care in a broad  
12 category of illness and injury;

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

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

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

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

4 7. "Birthing center" means any facility, place or institution,  
5 ~~which~~ that is maintained or established primarily for the purpose of  
6 providing services ~~of a certified midwife or licensed medical doctor~~  
7 to assist or attend a woman in delivery and birth, and where a woman  
8 is scheduled in advance to give birth following a normal,  
9 uncomplicated, low-risk pregnancy. Such services are performed by:

10 a. a licensed Advanced Practice Registered Nurse  
11 recognized by the Oklahoma Board of Nursing as a  
12 Certified Nurse-Midwife,

13 b. a Certified Professional Midwife or Certified Midwife  
14 licensed under Section 3040.6 of Title 59 of the  
15 Oklahoma Statutes, or

16 c. a licensed allopathic or osteopathic physician.

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

21 8. "Day treatment program" means nonresidential, partial  
22 hospitalization programs, day treatment programs, and day hospital  
23 programs as defined by subsection A of Section 175.20 of Title 10 of  
24 the Oklahoma Statutes; and



1 9. a. "Primarily engaged" means a hospital shall be  
2 primarily engaged, defined by this section and as  
3 determined by the State Department of Health, in  
4 providing to inpatients the following care by or under  
5 the supervision of physicians:

6 (1) diagnostic services and therapeutic services for  
7 medical diagnosis, treatment and care of injured,  
8 disabled or sick persons, or

9 (2) rehabilitation services for the rehabilitation of  
10 injured, disabled or sick persons.

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

17 c. In evaluating the total facility operations, the  
18 Department shall review the actual provision of care  
19 and services to two or more inpatients, and the  
20 effects of that care, to assess whether the care  
21 provided meets the needs of individual patients by way  
22 of patient outcomes.

23 d. The factors that the Department shall consider for  
24 determination of whether an entity meets the

1 definition of primarily engaged include, but are not  
2 limited to:

- 3 (1) a minimum of four inpatient beds,
- 4 (2) the entity's average daily census (ADC),
- 5 (3) the average length of stay (ALOS),
- 6 (4) the number of off-site campus outpatient  
7 locations,
- 8 (5) the number of provider-based emergency  
9 departments for the entity,
- 10 (6) the number of inpatient beds related to the size  
11 of the entity and the scope of the services  
12 offered,
- 13 (7) the volume of outpatient surgical procedures  
14 compared to the inpatient surgical procedures, if  
15 surgical services are provided,
- 16 (8) staffing patterns, and
- 17 (9) patterns of ADC by day of the week.

18 e. Notwithstanding any other provision of this section,  
19 an entity shall be considered primarily engaged in  
20 providing inpatient hospital services to inpatients if  
21 the hospital has had an ADC of at least two (2) and an  
22 ALOS of at least two (2) midnights over the past  
23 twelve (12) months. A critical access hospital shall  
24 be exempt from the ADC and ALOS determination. ADC

1 shall be calculated by adding the midnight daily  
2 census for each day of the twelve-month period and  
3 then dividing the total number by days in the year. A  
4 facility that has been operating for less than (12)  
5 months at the time of the survey shall calculate its  
6 ADC based on the number of months the facility has  
7 been operational, but not less than three (3) months.  
8 If a first survey finds noncompliance with the ADC and  
9 ALOS, a second survey may be required by the  
10 Department to demonstrate compliance with state  
11 licensure.

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

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

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

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

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

8 B. As used in this section:

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

11 2. "Fetal death" means:

- 12 a. spontaneous death prior to the complete expulsion or  
13 extraction from its mother of an unborn child,  
14 irrespective of gestational age. The death is  
15 indicated by the fact that, after such expulsion or  
16 extraction, the unborn child does not breathe or show  
17 any other evidence of life such as beating of the  
18 heart, pulsation of the umbilical cord or definite  
19 movement of voluntary muscles,
- 20 b. death that occurs as the result of accidental trauma  
21 or a criminal assault on the pregnant female or her  
22 unborn child, irrespective of gestational age, or
- 23 c. death that occurs, irrespective of gestational age,  
24 from the use or prescription of any instrument,

1 medicine, drug or any other substance or device to  
2 remove an ectopic pregnancy; and

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

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

20 D. Except as otherwise provided by law, nothing in this section  
21 shall be interpreted to prohibit any hospital, birthing center or  
22 medical facility from providing additional notification and  
23 assistance to the parent of a child delivered as a stillbirth or a  
24

1 fetal death event at the hospital, birthing center or medical  
2 facility relating to the disposition of the remains of the child.

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

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

9 B. The Oklahoma Health Care Authority shall seek federal  
10 approval to allow a birthing center that is not licensed by the  
11 state but has been accredited as a freestanding birth center by the  
12 Commission for the Accreditation of Birth Centers to receive  
13 reimbursement under the state Medicaid program for services  
14 provided.

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

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