**Section 1110.285 Birth Center Services**

a) Introduction

1) *A birth center shall obtain a certificate of need from the Health Facilities and Services Review Board under the Health Facilities Planning Act before receiving a license by the Department.* [210 ILCS 170/17(a)]

2) *All birth centers in existence as of* September 1, 2023, *shall obtain a valid license to operate by* September 1, 2025. ([210 ILCS 170/10] and 77 Ill. Adm. Code 264.1250(a)).

3) *If, after obtaining an initial certificate of need* under subsection (a)(1), *a birth center seeks to increase the bed capacity of the birth center, the birth center must obtain a certificate of need from the Health Facilities and Services Review Board before increasing bed capacity.* [210 ILCS 170/17(b)]

4) *A birth center that is located in a medically underserved area, as determined by the U.S. Department of Health and Human Services, shall receive priority in obtaining a certificate of need.* [210 ILCS 170/17(c)]

b) Review Criteria

1) These criteria are applicable only to those projects or components of projects involving the birth center category of service. In addition, the applicant shall address other applicable requirements in this Part, as well as those in 77 Ill. Adm. Code 1100, 1120 and 1130. Applicants proposing to establish, expand or modernize a birth center category of service shall comply with the applicable subsections of this Section, as follows:

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| PROJECT TYPE | REQUIRED REVIEW CRITERIA | | |
| Establishment of Service | (c)(1) | − | Formula Calculation |
|  | (c)(2) | − | Service to Area Residents |
|  | (c)(3)  (d)(1) | −  − | Service Accessibility  Unnecessary Duplication |
|  | (d)(2) | − | Maldistribution of Service |
|  |  |  |  |
|  | (d)(3) | − | Impact on Other Providers |
|  | (d)(4) | − | Request for Data from Other Providers |
|  | (f) | − | Staffing Availability |
| Expansion of Existing Service | (c)(2) | − | Service to Area Residents |
| (f) | − | Staffing Availability |
| Category of Service Modernization | (e)(1) | − | Deteriorated Facilities |
| (e)(2) | − | Documentation |
| (e)(3) | − | Additional Documentation |

2) If the proposed project involves the replacement of a birth center on the same site as the existing birth center, the applicant shall comply with the requirements listed in subsection (b)(1) for Category of Service Modernization.

3) If the proposed project involves the replacement of the birth center on a new site, the applicant shall comply with the requirements listed in subsection (b)(1) for Establishment of Service.

4) All projects shall meet or exceed the utilization standards for the service, as specified in 77 Ill. Adm. Code 1100.820(c).

5) All projects for a birth center shall comply with the licensing requirements of the Illinois Department of Public Health, which are set forth in the Birth Center Licensing Act [210 ILCS 170] and the Birth Center Licensing Code (77 Ill. Adm. Code 264).

6) The applicant shall certify that it has reviewed and understands the requirements to become certified under Titles XVIII and IX of the federal Social Security Act and plans to seek certification under this Act.

c) Area Need – Establishment or Expansion of Service

1) 77 Ill. Adm. Code 1100 Formula Calculation

No formula need calculation has been established for the birth center category of service.

2) Service to Area Residents

Applicants proposing to establish or expand a birth center shall document that the primary purpose of the project will be to provide necessary health care to the residents of the geographic service area (GSA) as set forth under 77 Ill. Adm. Code 1100.510(d).

A) For projects to establish a birth center category of service, the applicant shall document that at least 50% of the projected patient volume will be residents of the GSA.

B) For projects to expand a birth center category of service, the applicant shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the GSA. For all other projects, applicants shall document that at least 50% of the projected patient volume will be from residents of the GSA.

3) Service Accessibility

The proposed project to establish or expand a birth center category of service is necessary to improve access for GSA residents. The applicant shall document the following:

A) Service Restrictions

The applicant shall document that at least one of the following factors exists in the GSA:

i) The absence of a birth center within the GSA;

ii) The area population and existing care system exhibit indicators of medical care problems, such as high infant mortality;

iii) All or part of the GSA is located in the Center for Disease Control and Prevention's Social Vulnerability Index for Social and Economic Status (accessible at https://data.cdc.gov/Vaccinations/Social-Vulnerability-Index/ypqf-r5qs). Factors contained within the Social and Economic Status include: number of persons living below the federal poverty level, a higher civilian unemployment rate (compared to the State rate), per capita income, and persons (age 25 and older) without a high school diploma;

iv) Designation by the U.S. Department of Health Human Services that all or part of the GSA is located in a Health Professional Shortage Area (https://data.hrsa.gov/tools/shortage-area/hpsa-find) or a Medically Underserved Area (MUA Find (hrsa.gov);

v) All existing birth centers within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.820(c).

B) Supporting Documentation

The applicant shall provide the following documentation, as applicable, concerning existing restrictions to service access:

i) The location and utilization of other GSA service providers;

ii) Patient location information by zip code;

iii) Travel-time studies; and

iv) Scheduling or admission restrictions that exist with birth centers located within the GSA.

d) Unnecessary Duplication / Maldistribution − Review Criterion

1) The applicant shall document that the project will not result in an unnecessary duplication of birth centers. The applicant shall provide the following information:

A) A list of all zip code areas (in total or in part) that are located within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) of the project's site;

B) The total population of the identified zip code areas (based upon the most recent population estimates available for the State of Illinois); and

C) The names and locations of all existing or approved birth centers situated within the established radii outlined in 77 Ill. Adm. Code 1100.510(d).

2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the birth centers identified in subsection (d)(1)(C), as established by 77 Ill. Adm. Code 1100.510(d), have not met the target utilization. The applicant shall document the following:

A) Historical utilization (for the latest 12-month period prior to submission of the application) for existing birth centers within the established radii, as outlined in 77 Ill. Adm. Code 1100.510(d), of the applicant's site that is below the utilization standard established pursuant to 77 Ill. Adm. Code 1100.820(c); or

B) Insufficient population to provide the volume or caseload necessary to utilize the birth center services proposed by the project at or above utilization standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project will not:

A) lower the utilization of other birth centers within the GSA below the utilization standard specified in 77 Ill. Adm. Code 1100.820(c); and

B) lower, to a further extent, the utilization of other birth centers within the GSA that are currently (during the latest 12-month period) operating below the utilization standard.

4) The applicant shall document that a written request was received by all existing facilities that provide birth center services located within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) of the project site asking the anticipated impact of the proposed project upon the facility's utilization. The request shall include a statement that a written response is to be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility will not experience an adverse impact on utilization from the project. Copies of the applicant's request and any correspondence received from the facilities shall be included in the application.

e) Category of Service - Modernization

1) If the project involves modernization of an existing birth center, the applicant shall document that the existing treatment areas to be modernized have deteriorated or are functionally obsolete and need to be replaced or modernized, due to factors such as, but not limited to:

A) High cost of maintenance;

B) Non-compliance with licensing or life safety codes;

C) Changes in standards of care; or

D) Need for additional space for diagnostic or therapeutic purposes.

2) Documentation shall include the most recent:

A) IDPH inspection reports; and

B) Commission for the Accreditation of Birth Centers reports.

3) Other documentation shall include the following, as applicable to the factors cited in the application:

A) Copies of maintenance reports;

B) Copies of citations for life safety code violations; and

C) Other pertinent reports and data.

f) Staffing Availability

1) An applicant proposing to establish a birth center category of service shall document that a sufficient supply of obstetric personnel will be available to staff the service. Sufficient staff availability shall be based upon evidence that, for the latest 12-month period prior to submission of the application, existing birth centers that are located in the GSA (in total or in part), if any, have not experienced a staffing shortage.

2) A staffing shortage at a licensed birth center is indicated by an average annual vacancy rate of more than 10% for budgeted full-time equivalent obstetric personnel (staff who deliver or assist in the delivery of a newborn). This staffing includes, but is not limited to, advanced practice registered nurses, certified nurse midwives, licensed certified professional midwives, obstetricians, and patient care technicians.

3) The applicant shall document that a written request for staffing information was received by all existing licensed birth centers within the GSA, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing licensed birth center to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing licensed birth center has not experienced staffing vacancy rates in excess of 10%. Copies of the applicant's request and any correspondence received from the facilities shall be included in the application.

4) If more than 25% of the licensed birth centers contacted indicate an experienced obstetric staffing vacancy rate of more than 10% percent, the applicant shall provide documentation as to how sufficient staff shall be obtained to operate the proposed project, in accordance with licensing requirements.

g) Charity Care

*A birth center shall provide charitable care consistent with that provided by comparable health care providers in the* GSA. [210 ILCS 170/40(c)] Documentation shall include a copy of the charity care policy that will be in effect at the birth center and copies of charity care policies from other birth centers located within the GSA. The applicant's charity care policy shall be compared to the other birth center providers in the GSA. If the applicant's charity care policy is inconsistent with the charity care policy of birth centers in the GSA, the applicant shall provide an explanation.

h) Admission Policies

1) For projects to establish a birth center, an applicant shall document that the *birth center may not discriminate against any patient requiring treatment because of the source of payment for services, including Medicare and Medicaid recipients*. [210 ILCS 170/40(d)] Documentation shall consist of a signed statement that no restrictions on admissions due to these factors will occur.

2) For projects to establish a birth center, an applicant shall document that all admission protocols, as referenced at 77 Ill. Adm. Code 264.1550, will be implemented, and followed once the birth center is licensed. Documentation shall consist of a signed statement that the birth center will adhere to the established requirements.

i) Transfer Agreement and Hospital Proximity

For projects to establish a birth center, an applicant shall document that it will have the mandatory linkage and integration requirements and that it will have a transfer agreement with a nearby birthing hospital. An applicant shall document the following:

1) *A birth center shall link and integrate its services with at least one birthing hospital with a minimum Level 1 perinatal designation.* [210 ILCS 170/20(a)] The applicant shall provide an attestation that it will establish the necessary services.

2) The *birth center shall have an established agreement with a nearby receiving birthing hospital with policies and procedures for timely transfer of maternal and neonatal patients.* [210 ILCS 170/20(b)] The transfer agreement shall be in place prior to initiating the planning and construction of the facility. (77 Ill. Adm. Code 264.2770(a)(2)(A)) Patient transfers shall be within 30 minutes travel time for both rural and nonrural hospitals. (77 Ill. Adm. Code 264.2250(b) and 264.2700(a)(3)) The applicant shall provide a copy of the transfer agreement in the application for permit (77 Ill. Adm. Code 264.2700(a)(2)(A)).

j) Prenatal Care and Community Education

For projects to establish a birth center, the applicant shall document that it *offers prenatal care and community education services and coordinates these services with other health care services available in the community.* [210 ILCS 170/5(4)] The applicant shall provide a written narrative on how these services will be offered and coordinated with other health care services in the community.

k) *Quality Assurance and Improvement*

For projects to establish a birth center, the applicant shall document that it *shall implement a quality improvement program consistent with the requirements of the accrediting body and is encouraged to participate in quality improvement projects implemented by the Department's Administrative Perinatal Centers and other Department-supported perinatal quality improvement projects.* [210 ILCS 170/35] The applicant shall provide a written narrative on how this requirement will be implemented at the birth center.

l) Mandatory Reporting of Data

Per Sections 13 and 14.1 of the Health Facilities Planning Act and 77 Ill. Adm. Code 1100.60, licensed birth centers shall provide HFSRB with data needed for planning. Data provided from these facilities shall include, but not be limited to, facility capacity, utilization, and socio-economic information. Data obtained from these facilities shall be included in the State Board's Inventory of Health Care Facilities and Services and Need Determinations.

(Source: Added at 48 Ill. Reg. 8945, effective June 13, 2024)