

September 6, 2013

MEMORANDUM

TO: Administrators of Birthing Centers

FROM: Gwen C. Thompson, Chief  
Bureau of Health Facilities Licensing

SUBJECT: Physician Requirements at Licensed Birthing Centers.

The Department issues this memorandum as a reminder to the regulated community of the statutory and regulatory requirements for birthing centers with respect to physicians. Please be advised of the following requirements:

- (1) A physician, meaning a doctor of medicine or osteopathy with training in obstetrics or midwifery and licensed by the SC Board of Medical Examiners to practice medicine, must be on call and available to provide medical assistance at the birthing center at all times that it is serving the public. S.C. Code Ann. §§ 44-89-30(9), -60(3) (2002), & 8 S.C. Code Ann. Regs. 61-102 § D.6.a.1 (2012). The Department interprets this provision to mean that at any given time the birthing center is serving the public, there is an on-call physician who, if called, would be able to come to the birthing center to provide medical assistance. The on-call physician should be located within a reasonable distance of the birthing center while on call. The on-call physician need not be an obstetrician or pediatrician, so long as he or she has training in obstetrics or midwifery.
- (2) The birthing center must have a signed written agreement with an obstetrician(s) and a pediatrician(s) to ensure their availability to the staff and mother at all times that it is serving the public. 8 S.C. Code Ann. Regs. 61-102 § D.6.a.3 (2012).
- (3) All consulting and on-call physicians must have admitting privileges at one or more hospitals with appropriate obstetrical services, or other arrangements approved by the Department for the transfer of emergency cases when hospitalization becomes necessary. 8 S.C. Code Ann. Regs. 61-102 § C.6.a (2012). The Department interprets this provision to mean that the consulting and on-call physicians must have admitting privileges at a hospital located within a reasonable distance from the birthing center.

The Department will conduct inspections of licensed birthing centers to determine compliance with the above-cited requirements. When conducting inspections, the Department may request to see and/or copy all written agreements with physicians; all call schedules with physicians; all on-call policies and procedures; all consulting policies and procedures; all transfer procedures; by-laws; and any other documentation the facility may have establishing compliance with statutory and regulatory requirements.

Should you have any questions regarding this requirement, please contact Michell Hatcher at (803) 545-4968 or [hatcheml@dhec.sc.gov](mailto:hatcheml@dhec.sc.gov).



Catherine B. Templeton, Director

*Promoting and protecting the health of the public and the environment*

November 25, 2013

Mrs. Laura Evans, Esq.  
Wilkes Bowers, P. A.  
200 Meeting St., Suite 205  
Charleston, SC 29401

Dear Laura:

Thank you for discussing DHEC's position on having medical doctors available to assist in midwife clinics with me last night. DHEC is committed to protecting both the unborn and their mothers while also enforcing the law. We will not waiver in our position. The law states:

**SECTION 44-89-60.** Reports from and investigations of centers; rules and regulations.  
SC ST SEC 44-89-60]

The department shall require reports from, regulate, investigate, and inspect all birthing centers and records of these facilities as necessary and promulgate regulations in accordance with the Administrative Procedures Act to carry out the purposes of this chapter. The regulations must include, but not be limited to, the following requirements:

(1) Births planned to occur at a birthing center must be restricted to low-risk births following normal, uncomplicated pregnancy.

(2) Birthing centers shall provide care by physicians, certified nurse-midwives, or licensed lay-midwives to childbearing women during pregnancy, birth, and puerperium.

**(3) A physician must be on call and available to provide medical assistance at the birthing center at all times that it is serving the public.**

(4) A physician shall make a written determination that the planned birth is low risk.

The regulations also must provide that any birthing center which is in operation at the time of promulgation of these regulations is given a reasonable period of time, not to exceed one year from the date of the promulgation, within which to comply with the regulations.

Section (3) is that a physician as defined by the statute must be on call and available to provide medical assistance at the birthing center. It does not mean that a doctor must sit at the clinic during all hours, but that he or she is available in the traditional "on call" sense of the word. Traditionally, hospitals and doctors consider 30 minutes to be the outside time for on call service.

As you know, DHEC has always required birthing centers to show proof that they contract with physicians for medical assistance. What we cannot accept is midwife clinics contracting with a doctor physically located almost 2 hours away. The agency has simply requested the documentation that shows

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the midwife clinics are complying with the law. This is not a reinterpretation of the law, but enforcing of the law.

It is my understanding that one of your clients is misrepresenting DHEC's position in the midwife community and possibly to the media. It is incorrect and never a position of this agency, official or otherwise, that a midwife must wait for a doctor to assess a patient when the midwife otherwise believes the patient should be transported to the hospital. We do not want any delay in medical assistance for our unborn children or their mothers. I consider it a risk to public health for your client to so obviously and blatantly spread false and dangerous guidance to the midwife community. I respectfully request that you correct her misunderstanding immediately.

It will be said that women have given birth in their homes for centuries. I would point out that women still have that choice today without any interference from government. However, when a midwife holds herself out as meeting the licensing standards for the state of South Carolina, and operates in a commercial business, that individual must obey the laws that have allowed them the right to stand on the official sanction of this state.

You asked about the possibility of allowing telemedicine to fulfill the statutory requirement. We are unclear as to the Board of Medical Examiners' position on whether telemedicine qualifies as providing "medical assistance at the birthing center," but invite you to pursue an opinion from them.

I know that you are pulling the contracts for the birthing centers around the state to work with Ashley Biggers on whether they comply. As you progress through this analysis, let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Catherine Templeton". The signature is written in a cursive, flowing style.

Catherine B. Templeton

cc: Holly Pisarik, Director, LLR