

1 AN ACT relating to free-standing alternative birthing centers.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in this section, "free-standing alternative birthing center" means any*  
6 *health facility, place, or institution which is not a hospital, is not in a hospital or*  
7 *a private residence, and is established to provide care for labor, delivery, and the*  
8 *immediate postpartum period.*

9 *(2) The cabinet shall promulgate administrative regulations establishing licensure*  
10 *standards for free-standing alternative birthing centers by December 1, 2021. The*  
11 *administrative regulations shall:*

12 *(a) Require accreditation by the Commission for the Accreditation of Birth*  
13 *Centers;*

14 *(b) Be consistent with the American Association of Birth Centers (AABC)*  
15 *Standards for Birth Centers; and*

16 *(c) Allow for a six (6) month provisional license to be issued when all*  
17 *requirements for licensure other than accreditation have been met to allow*  
18 *a facility time to become accredited.*

19 *(3) The cabinet shall form an ad hoc advisory committee to provide input on the*  
20 *development of administrative regulations pursuant to subsection (2) of this*  
21 *section. The ad hoc committee shall consist of one (1) member representing each*  
22 *of the following organizations:*

23 *(a) The Kentucky State Affiliate of the American College of Nurse-Midwives;*

24 *(b) The Kentucky Section of the American College of Obstetricians and*  
25 *Gynecologists;*

26 *(c) The Kentucky Association of Nurse Practitioners and Nurse-Midwives;*

27 *(d) The Kentucky Birth Coalition; and*

1        *(e) The Kentucky Chapter of the National Association of Certified Professional*  
2                *Midwives.*

3        *The ad hoc advisory committee may include staff from the cabinet as deemed*  
4        *necessary by the secretary of the cabinet.*

5        *(4) A certificate of need shall not be required to establish and license a free-standing*  
6        *alternative birthing center.*

7        ➔Section 2. KRS 216B.020 is amended to read as follows:

8        (1) The provisions of this chapter that relate to the issuance of a certificate of need shall  
9        not apply to abortion facilities as defined in KRS 216B.015; any hospital which  
10       does not charge its patients for hospital services and does not seek or accept  
11       Medicare, Medicaid, or other financial support from the federal government or any  
12       state government; assisted living residences; family care homes; state veterans'  
13       nursing homes; services provided on a contractual basis in a rural primary-care  
14       hospital as provided under KRS 216.380; community mental health centers for  
15       services as defined in KRS Chapter 210; primary care centers; rural health clinics;  
16       private duty nursing services operating as nursing pools; group homes; licensed  
17       residential crisis stabilization units; licensed free-standing residential substance use  
18       disorder treatment programs with sixteen (16) or fewer beds, but not including  
19       Levels I and II psychiatric residential treatment facilities or licensed psychiatric  
20       inpatient beds; outpatient behavioral health treatment, but not including partial  
21       hospitalization programs; end stage renal disease dialysis facilities, freestanding or  
22       hospital based; swing beds; special clinics, including but not limited to wellness,  
23       weight loss, family planning, disability determination, speech and hearing,  
24       counseling, pulmonary care, and other clinics which only provide diagnostic  
25       services with equipment not exceeding the major medical equipment cost threshold  
26       and for which there are no review criteria in the state health plan; nonclinically  
27       related expenditures; nursing home beds that shall be exclusively limited to on-

1 campus residents of a certified continuing care retirement community; home health  
2 services provided by a continuing care retirement community to its on-campus  
3 residents; the relocation of hospital administrative or outpatient services into  
4 medical office buildings which are on or contiguous to the premises of the hospital;  
5 the relocation of acute care beds which occur among acute care hospitals under  
6 common ownership and which are located in the same area development district so  
7 long as there is no substantial change in services and the relocation does not result  
8 in the establishment of a new service at the receiving hospital for which a certificate  
9 of need is required; the redistribution of beds by licensure classification within an  
10 acute care hospital so long as the redistribution does not increase the total licensed  
11 bed capacity of the hospital; residential hospice facilities established by licensed  
12 hospice programs; free-standing alternative birthing centers as defined in Section  
13 *I of this Act*; or the following health services provided on site in an existing health  
14 facility when the cost is less than six hundred thousand dollars (\$600,000) and the  
15 services are in place by December 30, 1991: psychiatric care where chemical  
16 dependency services are provided, level one (1) and level two (2) of neonatal care,  
17 cardiac catheterization, and open heart surgery where cardiac catheterization  
18 services are in place as of July 15, 1990. The provisions of this section shall not  
19 apply to nursing homes, personal care homes, intermediate care facilities, and  
20 family care homes; or nonconforming ambulance services as defined by  
21 administrative regulation. These listed facilities or services shall be subject to  
22 licensure, when applicable.

- 23 (2) Nothing in this chapter shall be construed to authorize the licensure, supervision,  
24 regulation, or control in any manner of:
- 25 (a) Private offices and clinics of physicians, dentists, and other practitioners of  
26 the healing arts, except any physician's office that meets the criteria set forth  
27 in KRS 216B.015(5) or that meets the definition of an ambulatory surgical

- 1 center as set out in KRS 216B.015;
- 2 (b) Office buildings built by or on behalf of a health facility for the exclusive use  
3 of physicians, dentists, and other practitioners of the healing arts; unless the  
4 physician's office meets the criteria set forth in KRS 216B.015(5), or unless  
5 the physician's office is also an abortion facility as defined in KRS 216B.015,  
6 except no capital expenditure or expenses relating to any such building shall  
7 be chargeable to or reimbursable as a cost for providing inpatient services  
8 offered by a health facility;
- 9 (c) Outpatient health facilities or health services that:
- 10 1. Do not provide services or hold patients in the facility after midnight;  
11 and
- 12 2. Are exempt from certificate of need and licensure under subsection (3)  
13 of this section;
- 14 (d) Dispensaries and first-aid stations located within business or industrial  
15 establishments maintained solely for the use of employees, if the facility does  
16 not contain inpatient or resident beds for patients or employees who generally  
17 remain in the facility for more than twenty-four (24) hours;
- 18 (e) Establishments, such as motels, hotels, and boarding houses, which provide  
19 domiciliary and auxiliary commercial services, but do not provide any health  
20 related services and boarding houses which are operated by persons  
21 contracting with the United States Department of Veterans Affairs for  
22 boarding services;
- 23 (f) The remedial care or treatment of residents or patients in any home or  
24 institution conducted only for those who rely solely upon treatment by prayer  
25 or spiritual means in accordance with the creed or tenets of any recognized  
26 church or religious denomination and recognized by that church or  
27 denomination; and

1 (g) On-duty police and fire department personnel assisting in emergency  
2 situations by providing first aid or transportation when regular emergency  
3 units licensed to provide first aid or transportation are unable to arrive at the  
4 scene of an emergency situation within a reasonable time.

5 (3) The following outpatient categories of care shall be exempt from certificate of need  
6 and licensure on July 14, 2018:

7 (a) Primary care centers;

8 (b) Special health clinics, unless the clinic provides pain management services  
9 and is located off the campus of the hospital that has majority ownership  
10 interest;

11 (c) Specialized medical technology services, unless providing a State Health Plan  
12 service;

13 (d) Retail-based health clinics and ambulatory care clinics that provide  
14 nonemergency, noninvasive treatment of patients;

15 (e) Ambulatory care clinics treating minor illnesses and injuries;

16 (f) Mobile health services, unless providing a service in the State Health Plan;

17 (g) Rehabilitation agencies;

18 (h) Rural health clinics; and

19 (i) Off-campus, hospital-acquired physician practices.

20 (4) The exemptions established by subsections (2) and (3) of this section shall not apply  
21 to the following categories of care:

22 (a) An ambulatory surgical center as defined by KRS 216B.015(4);

23 (b) A health facility or health service that provides one (1) of the following types  
24 of services:

25 1. Cardiac catheterization;

26 2. Megavoltage radiation therapy;

27 3. Adult day health care;

- 1           4. Behavioral health services;
- 2           5. Chronic renal dialysis;[
- 3           6.—Birthing services;] or
- 4           6.[7.]Emergency services above the level of treatment for minor illnesses or
- 5           injuries;
- 6           (c) A pain management facility as defined by KRS 218A.175(1);
- 7           (d) An abortion facility that requires licensure pursuant to KRS 216B.0431; or
- 8           (e) A health facility or health service that requests an expenditure that exceeds the
- 9           major medical expenditure minimum.
- 10       (5) An existing facility licensed as an intermediate care or nursing home shall notify the
- 11       cabinet of its intent to change to a nursing facility as defined in Public Law 100-
- 12       203. A certificate of need shall not be required for conversion of an intermediate
- 13       care or nursing home to the nursing facility licensure category.
- 14       (6) Ambulance services owned and operated by a city government, which propose to
- 15       provide services in coterminous cities outside of the ambulance service's designated
- 16       geographic service area, shall not be required to obtain a certificate of need if the
- 17       governing body of the city in which the ambulance services are to be provided
- 18       enters into an agreement with the ambulance service to provide services in the city.
- 19       (7) Notwithstanding any other provision of law, a continuing care retirement
- 20       community's nursing home beds shall not be certified as Medicaid eligible unless a
- 21       certificate of need has been issued authorizing applications for Medicaid
- 22       certification. The provisions of subsection (5) of this section notwithstanding, a
- 23       continuing care retirement community shall not change the level of care licensure
- 24       status of its beds without first obtaining a certificate of need.
- 25       ➔Section 3. This Act shall be known as the Mary Carol Akers Birth Centers Act.