

**Chapter 18.46 RCW
BIRTHING CENTERS**

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Abortion: Chapter 9.02 RCW.

Crimes relating to pregnancy and childbirth: RCW 9A.32.060.

Registration of live birth: Chapter 70.58A RCW.

RCW 18.46.005 Purpose. The purpose of this chapter is to provide for the development, establishment, and enforcement of standards for the maintenance and operation of birthing centers, which, in the light of advancing knowledge, will promote safe and adequate care and treatment of the individuals therein. [2000 c 93 § 29; 1951 c 168 § 1.]

RCW 18.46.010 Definitions. (1) "Birthing center" or "childbirth center" means any health facility, not part of a hospital or in a hospital, that provides facilities and staff to support a birth service to low-risk maternity clients: PROVIDED, HOWEVER, That this chapter shall not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association, or its successor.

(2) "Department" means the state department of health.

(3) "Low-risk" means normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health.

(4) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof. [2000 c 93 § 30; 1991 c 3 § 100; 1985 c 213 § 8; 1979 c 141 § 32; 1951 c 168 § 2. Prior: 1943 c 214 § 1; Rem. Supp. 1943 § 6130-47.]

Savings—Effective date—1985 c 213: See notes following RCW 43.20.050.

RCW 18.46.020 License required. After July 1, 1951, no person shall operate a birthing center in this state without a license under this chapter. [2000 c 93 § 31; 1951 c 168 § 3. Prior: 1943 c 214 § 2; Rem. Supp. 1943 § 6130-48.]

RCW 18.46.030 Application for license—Fee. An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with rules and regulations as are lawfully prescribed hereunder. Each application for license or renewal of license shall be accompanied by a license fee as established by the department under RCW 43.20B.110: PROVIDED, That no fee shall be required of charitable or nonprofit or government-operated institutions. [1987 c 75 § 4; 1982 c 201 § 5; 1951 c 168 § 4.]

Savings—1987 c 75: See RCW 43.20B.900.

RCW 18.46.040 License—Issuance—Renewal—Limitations—Display. Upon receipt of an application for a license and the license fee, the licensing agency shall issue a license if the applicant and the birthing center meet the requirements established under this chapter. A license, unless suspended or revoked, shall be renewable annually. Applications for renewal shall be on forms provided by the department and shall be filed in the department not less than ten days prior to its expiration. Each application for renewal shall be accompanied by a license fee as established by the department under RCW 43.20B.110. Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises. [2000 c 93 § 32; 1987 c 75 § 5; 1982 c 201 § 6; 1951 c 168 § 5. Prior: 1943 c 214 § 3; Rem. Supp. 1943 § 6130-49.]

Savings—1987 c 75: See RCW 43.20B.900.

RCW 18.46.050 Actions against license. (1) The department may deny, suspend, or revoke a license in any case in which it finds that there has been failure or refusal to comply with the requirements established under this chapter or the rules adopted under it.

(2) The department shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding but shall not apply to actions taken under subsection (2) of this section. [1997 c 58 § 823; 1991 c 3 § 101; 1989 c 175 § 63; 1985 c 213 § 9; 1951 c 168 § 6.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Short title—Part headings, captions, table of contents not law—Exemptions and waivers from federal law—Conflict with federal requirements—Severability—1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Effective date—1989 c 175: See note following RCW 34.05.010.

Savings—Effective date—1985 c 213: See notes following RCW 43.20.050.

RCW 18.46.060 Rules. The department, after consultation with representatives of birthing center operators, state medical association, Washington Osteopathic Association, state nurses association, state hospital association, state midwives association, and any other representatives as the department may deem necessary, shall adopt, amend, and promulgate such rules and regulations with respect to all birthing centers in the promotion of safe and adequate medical and nursing care in the birthing center and the sanitary, hygienic, and safe condition of the birthing center in the interest of the health, safety, and welfare of the people. [2000 c 93 § 33; 1985 c 213 § 10; 1951 c 168 § 7.]

Savings—Effective date—1985 c 213: See notes following RCW 43.20.050.

RCW 18.46.070 Rules—Time for compliance. Any birthing center which is in operation at the time of promulgation of any applicable rules or regulations under this chapter shall be given a reasonable time, under the particular circumstances, not to exceed three months from the date of such promulgation, to comply with the rules and regulations established under this chapter. [2000 c 93 § 34; 1951 c 168 § 8.]

RCW 18.46.080 Inspections—Approval of new facilities. The department shall make or cause to be made an inspection and investigation of all birthing centers, and every inspection may include an inspection of every part of the premises. The department

may make an examination of all records, methods of administration, the general and special dietary and the stores and methods of supply. The department may prescribe by regulation that any licensee or applicant desiring to make specified types of alteration or addition to its facilities or to construct new facilities shall before commencing such alterations, addition, or new construction submit plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with regulations and standards herein authorized. Necessary conferences and consultations may be provided. [2000 c 93 § 35; 1951 c 168 § 9. Prior: 1943 c 214 § 4; Rem. Supp. 1943 § 6130-50.]

RCW 18.46.090 Information confidential. All information received by the department through filed reports, inspection, or as otherwise authorized under this chapter shall not be disclosed publicly in any manner as to identify individuals or birthing centers except in a proceeding involving the question of licensure. [2000 c 93 § 36; 1951 c 168 § 10.]

RCW 18.46.110 Fire protection—Duties of chief of the Washington state patrol. Fire protection with respect to all birthing centers to be licensed hereunder, shall be the responsibility of the chief of the Washington state patrol, through the director of fire protection, who shall adopt by reference, such recognized standards as may be applicable to nursing homes, places of refuge, and birthing centers for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the chief of the Washington state patrol, through the director of fire protection, in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make an inspection of the birthing center to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as promulgated by the chief of the Washington state patrol, through the director of fire protection, he or she shall promptly make a written report to the department as to the manner in which the premises may qualify for a license and set forth the conditions to be remedied with respect to fire regulations. The department, applicant or licensee shall notify the chief of the Washington state patrol, through the director of fire protection, upon completion of any requirements made by him or her, and the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make a reinspection of such premises. Whenever the birthing center to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, he or she shall submit to the department, a written report approving same with respect to fire protection before a license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall make or cause to be made such inspection of such birthing centers as he or she deems necessary.

In cities which have in force a comprehensive building code, the regulation of which is equal to the minimum standards of the code for

birthing centers adopted by the chief of the Washington state patrol, through the director of fire protection, the building inspector and the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection and shall approve the premises before a license can be issued.

In cities where such building codes are in force, the chief of the Washington state patrol, through the director of fire protection, may, upon request by the chief fire official, or the local governing body, or of a taxpayer of such city, assist in the enforcement of any such code pertaining to birthing centers. [2000 c 93 § 37; 1995 c 369 § 5; 1986 c 266 § 82; 1951 c 168 § 12.]

Effective date—1995 c 369: See note following RCW 43.43.930.

Severability—1986 c 266: See note following RCW 38.52.005.

State fire protection: Chapter 43.44 RCW.

RCW 18.46.120 Operating without license—Penalty. Any person operating or maintaining any birthing center without a license under this chapter shall be guilty of a misdemeanor. Each day of a continuing violation after conviction shall be considered a separate offense. [2000 c 93 § 38; 1951 c 168 § 13.]

RCW 18.46.130 Operating without license—Injunction. Notwithstanding the existence or use of any other remedy, the department may in the manner provided by law, upon the advice of the attorney general who shall represent the department in all proceedings, maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the operation or maintenance of a birthing center not licensed under this chapter. [2000 c 93 § 39; 1951 c 168 § 14.]

Injunctions: Chapter 7.40 RCW.

RCW 18.46.140 Application of chapter to birthing centers operated by certain religious organizations. Nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial and nursing care of patients in any birthing center as defined in this chapter, conducted for or by members of a recognized religious sect, denomination, or organization which in accordance with its creed, tenets, or principles depends for healing upon prayer in the practice of religion, nor shall the existence of any of the above conditions militate against the licensing of such facility. [2000 c 93 § 40; 1951 c 168 § 15.]

RCW 18.46.150 Down syndrome—Parent information. A birthing center that provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under RCW 43.70.738 at the time

the birthing center provides the parent with the Down syndrome diagnosis. [2016 c 70 § 10.]