A bill for an act

relating to health; establishing licensure for birthing centers; limiting reimbursement for uncomplicated births; designating licensed birthing centers as essential community providers; amending Minnesota Statutes 2008, section 62Q.19, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 144; 256B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 62Q.19, subdivision 1, is amended to read:

Subdivision 1. **Designation.** (a) The commissioner shall designate essential community providers. The criteria for essential community provider designation shall be the following:

(1) a demonstrated ability to integrate applicable supportive and stabilizing services with medical care for uninsured persons and high-risk and special needs populations, underserved, and other special needs populations; and

(2) a commitment to serve low-income and underserved populations by meeting the following requirements:

(i) has nonprofit status in accordance with chapter 317A;

(ii) has tax exempt status in accordance with the Internal Revenue Service Code, section 501(c)(3);

(iii) charges for services on a sliding fee schedule based on current poverty income guidelines; and

(iv) does not restrict access or services because of a client's financial limitation;

(3) status as a local government unit as defined in section 62D.02, subdivision 11, a hospital district created or reorganized under sections 447.31 to 447.37, an Indian tribal

government, an Indian health service unit, or a community health board as defined in chapter 145A;

(4) a former state hospital that specializes in the treatment of cerebral palsy, spina bifida, epilepsy, closed head injuries, specialized orthopedic problems, and other disabling conditions; ~~or~~

(5) a sole community hospital. For these rural hospitals, the essential community provider designation applies to all health services provided, including both inpatient and outpatient services. For purposes of this section, "sole community hospital" means a rural hospital that:

(i) is eligible to be classified as a sole community hospital according to Code of Federal Regulations, title 42, section 412.92, or is located in a community with a population of less than 5,000 and located more than 25 miles from a like hospital currently providing acute short-term services;

(ii) has experienced net operating income losses in two of the previous three most recent consecutive hospital fiscal years for which audited financial information is available; and

(iii) consists of 40 or fewer licensed beds; or

(6) a birthing center licensed under section 144.566.

(b) Prior to designation, the commissioner shall publish the names of all applicants in the State Register. The public shall have 30 days from the date of publication to submit written comments to the commissioner on the application. No designation shall be made by the commissioner until the 30-day period has expired.

(c) The commissioner may designate an eligible provider as an essential community provider for all the services offered by that provider or for specific services designated by the commissioner.

(d) For the purpose of this subdivision, supportive and stabilizing services include at a minimum, transportation, child care, cultural, and linguistic services where appropriate.

Sec. 2. **[144.566] BIRTHING CENTERS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following definitions have the meanings given to them.

(b) "Birthing center" means a health care facility licensed for the primary purpose of performing low-risk deliveries that is not a hospital or in a hospital and where births are planned to occur away from the mother's usual residence following a normal uncomplicated pregnancy.

(c) "Low-risk pregnancy" means a normal, uncomplicated prenatal course as determined by documentation of adequate prenatal care and the anticipation of a normal uncomplicated labor and birth, as defined by reasonable and generally accepted criteria adopted by professional groups for maternal, fetal, and neonatal health care, and generally accepted by the health care providers to whom they apply and approved by the commissioner as reasonable.

Subd. 2. **License required.** (a) No person may establish, conduct, or maintain a birthing center without first obtaining a license from the commissioner of health according to this section. The license is effective for one year following the date of issuance.

(b) A license issued under this section is not transferable or assignable and is subject to suspension or revocation at any time for failure to comply with this section.

(c) A birthing center licensed under this section shall not assert, represent, offer, provide, or imply that the center is or may render care or services other than the services it is permitted to render within the scope of the license issued.

(d) The license must be conspicuously posted in an area where patients are admitted.

Subd. 3. **Application.** An application for a license to operate a birthing center and the applicable fee under subdivision 7 must be submitted to the commissioner on a form provided by the commissioner and must contain:

(1) the name of the applicant;

(2) the location of the birthing center;

(3) the name of the person in charge of the center;

(4) documentation that the standards described under subdivision 5 have been met; and

(5) any other information the commissioner deems necessary.

Subd. 4. **Suspension, revocation, and refusal to renew.** The commissioner may refuse to grant or renew, or may suspend or revoke, a license on any of the grounds described under section 144.55, subdivision 6, and the applicant or licensee is entitled to notice and a hearing as described under section 144.55, subdivision 7.

Subd. 5. **Standards for licensure.** (a) To be eligible for licensure under this section, a birthing center must meet the following requirements:

(1) a governing body or person must be clearly identified as being legally responsible for setting policies and procedures and ensuring that they are implemented;

(2) care must be provided by a physician, advanced practice registered nurse, or licensed traditional midwife during labor, birth, and puerperium;

(3) an obstetrician and pediatrician must be on call and available to provide medical care at the birthing center at all times;

(4) procedures must be in place to transfer a patient within 30 minutes from the time of diagnosis of the emergency to an acute care hospital capable of providing obstetrical and neonatal services;

(5) the birthing center must be equipped to initiate emergency procedures in life-threatening events to the mother and baby including, but not limited to, cardiopulmonary resuscitation (CPR) equipment, oxygen, positive pressure mask, suction, intravenous medications, and equipment for maintaining infant temperature and ventilation; and

(6) the birthing center must maintain a quality assurance program.

(b) The center must have procedures in place specifying criteria by which risk status will be established and applied to each woman at admission and during labor. Prior to admission, a physician must make a written determination that the planned birth is low risk. Before admitting a patient, the birthing center must fully inform each woman seeking care on the benefits and risks of the services available at the center and each woman must sign a written informed consent indicating that she has received this information.

Subd. 6. **Limitations of services.** The following limitations apply to the services performed at a birthing center:

(1) surgical procedures must be limited to those normally accomplished during an uncomplicated birth, including episiotomy and repair;

(2) no abortions may be performed; and

(3) no general anesthesia may be performed.

Subd. 7. **Fees.** The annual license fee for a birthing center is $....., and shall be collected and deposited according to section 144.122.

Subd. 8. **Inspections.** The commissioner shall annually conduct an inspection of each licensed birthing center for the purpose of determining compliance with this section and any rules promulgated under subdivision 9.

Subd. 9. **Rules.** The commissioner may promulgate rules necessary to implement this section.

Sec. 3. **[256B.755] REIMBURSEMENT FOR UNCOMPLICATED BIRTHS.**

Notwithstanding section 256.969, effective for services provided on or after January 1, 2010, the facility payment rate for labor, birthing, and puerperium services provided to women with an uncomplicated birth shall be no greater than $1,650. This rate does not include newborn care.

Sec. 4. **[256B.85] BIRTHING CENTERS.**

As a condition of participating in the prepaid medical assistance or MinnesotaCare programs under section 256B.69 or 256L.12, a health plan must either contract with or establish a birthing center for the provision of obstetric services that are covered under section 256B.0625 and provided by the birthing center. The birthing center must be licensed under section 144.566.