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A B I L L

To amend sections 3702.30 and 3702.31 and to enact 1
section 3702.301 of the Revised Code to exempt 2
certain freestanding birthing centers from the 3
requirement that a center obtain a health care 4
facility license from the Director of Health. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3702.30 and 3702.31 be amended and 6
section 3702.301 of the Revised Code be enacted to read as 7
follows: 8

Sec. 3702.30. (A) As used in this section: 9

(1) "Ambulatory surgical facility" means a facility, whether 10
or not part of the same organization as a hospital, that is 11
located in a building distinct from another in which inpatient 12
care is provided, and to which any of the following apply: 13

(a) Outpatient surgery is routinely performed in the 14
facility, and the facility functions separately from a hospital's 15
inpatient surgical service and from the offices of private 16
physicians, podiatrists, and dentists. 17

(b) Anesthesia is administered in the facility by an 18
anesthesiologist or certified registered nurse anesthetist, and 19
the facility functions separately from a hospital's inpatient 20
surgical service and from the offices of private physicians, 21
podiatrists, and dentists. 22

(c) The facility applies to be certified by the United States 23
~~health care financing administration centers for medicare and~~ 24
~~medicaid services~~ as an ambulatory surgical center for purposes of 25
reimbursement under Part B of the medicare program, Part B of 26
Title XVIII of the "Social Security Act," 49 79 Stat. 620 286 27
(1935 1965), 42 U.S.C.A. 301 1395, as amended. 28

(d) The facility applies to be certified by a national 29
accrediting body approved by the ~~health care financing~~ 30
~~administration centers for medicare and medicaid services~~ for 31
purposes of deemed compliance with the conditions for 32
participating in the medicare program as an ambulatory surgical 33
center. 34

(e) The facility bills or receives from any third-party 35
payer, governmental health care program, or other person or 36
government entity any ambulatory surgical facility fee that is 37
billed or paid in addition to any fee for professional services. 38

(f) The facility is held out to any person or government 39
entity as an ambulatory surgical facility or similar facility by 40
means of signage, advertising, or other promotional efforts. 41

"Ambulatory surgical facility" does not include a hospital 42
emergency department. 43

(2) "Ambulatory surgical facility fee" means a fee for 44
certain overhead costs associated with providing surgical services 45
in an outpatient setting. A fee is an ambulatory surgical facility 46
fee only if it directly or indirectly pays for costs associated 47
with any of the following: 48

(a) Use of operating and recovery rooms, preparation areas, and waiting rooms and lounges for patients and relatives;	49 50
(b) Administrative functions, record keeping, housekeeping, utilities, and rent;	51 52
(c) Services provided by nurses, orderlies, technical personnel, and others involved in patient care related to providing surgery.	53 54 55
"Ambulatory surgical facility fee" does not include any additional payment in excess of a professional fee that is provided to encourage physicians, podiatrists, and dentists to perform certain surgical procedures in their office or their group practice's office rather than a health care facility, if the purpose of the additional fee is to compensate for additional cost incurred in performing office-based surgery.	56 57 58 59 60 61 62
(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.	63 64
(4) "Health care facility" means any of the following:	65
(a) An ambulatory surgical facility;	66
(b) A freestanding dialysis center;	67
(c) A freestanding inpatient rehabilitation facility;	68
(d) A freestanding birthing center;	69
(e) A freestanding radiation therapy center;	70
(f) A freestanding or mobile diagnostic imaging center.	71
(5) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.	72 73
(B) By rule adopted in accordance with sections 3702.12 and 3702.13 of the Revised Code, the director of health shall establish quality standards for health care facilities. The standards may incorporate accreditation standards or other quality	74 75 76 77

standards established by any entity recognized by the director. 78

(C) Every ambulatory surgical facility shall require that 79
each physician who practices at the facility comply with all 80
relevant provisions in the Revised Code that relate to the 81
obtaining of informed consent from a patient. 82

(D) The director shall issue a license to each health care 83
facility that makes application for a license and demonstrates to 84
the director that it meets the quality standards established by 85
the rules adopted under division (B) of this section and satisfies 86
the informed consent compliance requirements specified in division 87
(C) of this section. 88

(E)(1) ~~No~~ Except as provided in section 3702.301 of the 89
Revised Code, no health care facility shall operate without a 90
license issued under this section. 91

(2) If the department of health finds that a physician who 92
practices at a health care facility is not complying with any 93
provision of the Revised Code related to the obtaining of informed 94
consent from a patient, the department shall report its finding to 95
the state medical board, the physician, and the health care 96
facility. 97

(3) This division does not create, and shall not be construed 98
as creating, a new cause of action or substantive legal right 99
against a health care facility and in favor of a patient who 100
allegedly sustains harm as a result of the failure of the 101
patient's physician to obtain informed consent from the patient 102
prior to performing a procedure on or otherwise caring for the 103
patient in the health care facility. 104

(F) The rules adopted under division (B) of this section 105
shall include all of the following: 106

(1) Provisions governing application for, renewal, 107

suspension, and revocation of a license under this section;	108
(2) Provisions governing orders issued pursuant to section 3702.32 of the Revised Code for a health care facility to cease its operations or to prohibit certain types of services provided by a health care facility;	109 110 111 112
(3) Provisions governing the imposition under section 3702.32 of the Revised Code of civil penalties for violations of this section or the rules adopted under this section, including a scale for determining the amount of the penalties.	113 114 115 116
<u>Sec. 3702.301. (A) Except as provided in division (C) of this section, a freestanding birthing center is not required to obtain a license under section 3702.30 of the Revised Code if all of the following are the case:</u>	117 118 119 120
<u>(1) A religious denomination, sect, or group owns and operates the center.</u>	121 122
<u>(2) Requiring that the center be licensed significantly abridges or infringes on the religious practices or beliefs of that religious denomination, sect, or group.</u>	123 124 125
<u>(3) The center provides care only during low-risk pregnancy, delivery, and the immediate postpartum period exclusively to women who are members of that religious denomination, sect, or group.</u>	126 127 128
<u>(4) The center monitors and evaluates the care provided to its patients in accordance with at least the minimum patient safety monitoring and evaluation requirements established in rules adopted under division (D) of this section.</u>	129 130 131 132
<u>(5) The center meets the quality assessment and improvement standards established in rules adopted under division (D) of this section.</u>	133 134 135
<u>(B) If the director determines that a freestanding birthing</u>	136

center is no longer exempt from the requirement to obtain a 137
license under section 3702.30 of the Revised Code because the 138
center ceases to comply with division (A)(4) or (5) of this 139
section, the director may order the center to come into 140
compliance. In the order, the director may do all of the 141
following: 142

(1) Identify what the center is not in compliance with and 143
what the center needs to do to come into compliance; 144

(2) Require that the center come into compliance within a 145
period of time specified in the order; 146

(3) Require that the center provide the director a written 147
notice within a period of time specified in the order that 148
contains all of the following: 149

(a) Certification that the center has come into compliance; 150

(b) The signature of the center's administrator or medical 151
director and certification that the administrator or medical 152
director, whichever signs the notice, is the center's authorized 153
representative; 154

(c) Certification that the information contained in the 155
notice and any accompanying documentation are true and accurate; 156

(d) Any other information or documentation that the director 157
may require to verify that the center has come into compliance. 158

(C) If the director issues an order to a freestanding 159
birthing center under division (B) of this section and the center 160
fails to comply with the order within the time specified in the 161
order, the director may issue a second order that requires the 162
center to cease operations until the center obtains a license 163
under section 3702.30 of the Revised Code. 164

(D) The director of health shall adopt rules in accordance 165
with Chapter 119. of the Revised Code as necessary to implement 166

<u>this section. The rules shall establish all of the following:</u>	167
<u>(1) Minimum patient safety monitoring and evaluation requirements;</u>	168
<u>(2) Quality assessment and improvement standards;</u>	169
<u>(3) Procedures for determining whether freestanding birthing centers are in compliance with the rules.</u>	170
Sec. 3702.31. (A) The quality monitoring and inspection fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce this section and sections 3702.11 to 3702.20, 3702.30, <u>3702.301</u> , and 3702.32 of the Revised Code and rules adopted pursuant to those sections. The director shall deposit in the fund any moneys collected pursuant to this section or section 3702.32 of the Revised Code. All investment earnings of the fund shall be credited to the fund.	171
(B) The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code establishing fees for both of the following:	172
(1) Initial and renewal license applications submitted under section 3702.30 of the Revised Code. The fees established under division (B)(1) of this section shall not exceed the actual and necessary costs of performing the activities described in division (A) of this section.	173
(2) Inspections conducted under section 3702.15 or 3702.30 of the Revised Code. The fees established under division (B)(2) of this section shall not exceed the actual and necessary costs incurred during an inspection, including any indirect costs incurred by the department for staff, salary, or other administrative costs. The director of health shall provide to each health care facility or provider inspected pursuant to section 3702.15 or 3702.30 of the Revised Code a written statement of the	174

fee. The statement shall itemize and total the costs incurred. 197
Within fifteen days after receiving a statement from the director, 198
the facility or provider shall forward the total amount of the fee 199
to the director. 200

(3) The fees described in divisions (B)(1) and (2) of this 201
section shall meet both of the following requirements: 202

(a) For each service described in section 3702.11 of the 203
Revised Code, the fee shall not exceed one thousand seven hundred 204
fifty dollars annually, except that the total fees charged to a 205
health care provider under this section shall not exceed five 206
thousand dollars annually. 207

(b) The fee shall exclude any costs reimbursable by the 208
United States ~~health care financing administration~~ centers for 209
medicare and medicaid services as part of the certification 210
process for the medicare program established under Title XVIII of 211
the "Social Security Act," 49 ~~79~~ Stat. ~~620~~ 286 (1935), 42 U.S.C.A. 212
~~301~~ 1395, as amended, and the medicaid program established under 213
Title XIX of ~~that act~~ the "Social Security Act," 79 Stat. 286 214
(1965), 42 U.S.C. 1396. 215

(4) The director shall not establish a fee for any service 216
for which a licensure or inspection fee is paid by the health care 217
provider to a state agency for the same or similar licensure or 218
inspection. 219

Section 2. That existing sections 3702.30 and 3702.31 of the 220
Revised Code are hereby repealed. 221