

Freestanding Birthing Center Overview

Regulatory Oversight

The Health Care Regulation & Quality Improvement (HCRQI) section within the Public Health Division is responsible for licensing and regulating health and safety requirements in health care facilities including hospitals, ambulatory surgery centers, outpatient renal dialysis facilities, and **freestanding birthing centers**.

Scope

Freestanding birthing centers are facilities licensed for the primary purpose of performing low risk deliveries and are primarily operated by licensed direct entry midwives, naturopathic physicians, or certified nurse midwives.

Rule History

Oregon administrative rules (OARs) for birthing centers were first adopted in 1990 and were last revised in 2006. ([OAR 333-076-0450 through 0710](#)). The rules have been updated to align with modern clinical practice and with format of other licensed facility types.

Birthing Center Rule Advisory Committee (BC RAC) Membership

Per the Oregon Administrative Procedures Act (APA), a rule advisory committee should represent the interests of persons and communities likely to be affected by the rules. The Birthing Center RAC began its work in 2019 and has included representatives from the following groups:

- Licensed birth centers
- Oregon Midwifery Council
- American Association of Birth Centers
- Oregon Association of Birth Centers
- Oregon Association of Hospital and Health Systems
- Oregon Association of Naturopathic Physicians
- Oregon Affiliate of the American College of Nurse Midwives
- Oregon State Board of Nursing
- Consumer
- Providers including a licensed physician specializing in neonatology and an OB/GYN hospitalist.
- Birth Justice Policy Committee, Forward Together

In addition, OHA subject matter experts from EMS (Emergency Medical Services) and Trauma Systems; Maternal and Child Health; the Board of Direct Entry Midwifery; the Health Evidence Review Commission and the Health Systems Division, Medicaid office have also been included in the Birthing Center RAC discussions.

As of January 1, 2022, rulemaking requirements changed to ensure that the interests of communities, particularly communities of color, that are likely to be affected by rule making are invited to participate. The Birthing Center RAC had already met 13 times before the change took effect; the RAC met five times after that. HCRQI is conducting a special community meeting to achieve the goals of the new law while honoring the work the RAC had already done. The HCRQI section is taking this opportunity to center voices from the various communities that may be impacted so that additional feedback on possible impacts can be obtained.

Current Rules Advisory Committee

The BC RAC was first convened on May 30, 2019, with regular meetings occurring about every two months. The HCRQI section's initial goal was to have final rules in place by January 2020 but due to OHA's response to COVID, legislative sessions requiring multiple priority rulemakings, and discussions related to risk factors that would require a referral to a higher level of care resulting in more meetings than anticipated, this deadline was not met. A list of meeting dates along with meeting notes are available on the web at: <https://www.healthoregon.org/hcrqirules>, under Rulemaking Advisory Committees in Progress.

In proposing amendments to the current OARs, the HCRQI section initially chose to align with the Health Evidence Review Commission's (HERC), 2015 Coverage Guidance for Planned Out-of-Hospital Birth, for risk factors that would require transfer to a higher level of care. The HERC reviews clinical evidence to guide the OHA in decisions for Oregon Health Plan (Medicaid) patients. The HERC guidance was developed using an evidence-based review process and duplication of this effort was determined not necessary. Given concerns from RAC members about HCRQI's proposal, the last several meetings of the Birthing Center RAC focused on multiple risk factors, balancing the risk tables using both HERC guidance and Direct Entry Midwife regulations.

Next Steps towards Final Draft Rules for Public Comment

The Birthing Center RAC held its last meeting on June 4, 2024. The HCRQI section has considered all information received on the proposed rules and risk factors and are proposing final draft rule language. To get more comprehensive feedback, HCRQI is convening a community meeting on November 15, 2024.

The goal of the community meeting will be to hear from racial, ethnic and immigrant communities, persons with lower incomes, and organizations that serve these communities about their experiences and concerns, and to get direct feedback on HCRQI's proposed rules from individuals in communities that have been economically and socially marginalized.

Feedback obtained at the community meeting will be considered for possible further edits to the proposed administrative rules. Final draft rules will be shared with the Oregon Department of Justice for legal sufficiency and final changes made.

A Notice of Proposed Rulemaking Hearing will be filed with the Secretary of State's office and a public hearing will be scheduled to obtain public testimony on the proposed rules.

