

This is an amendment to 8.370.17 NMAC, Sections 7, 12 & 25 effective 5/5/2026.

8.370.17.7 DEFINITIONS:

- ~~_____~~ **A.** ~~“AABC” means American association of birth centers.~~
- ~~_____~~ **B.** ~~“Administrator” means the person who is delegated the administrative responsibility for interpreting, implementing, and applying policies and procedures at the birth center. The administrator is responsible for establishing and maintaining safe and effective management, control and operation of the facility and all of the services provided at the facility, including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations.~~
- ~~_____~~ **C.** ~~“Applicant” means the individual or legal entity that applies for a license. If the applicant is a legal entity, then the individual signing the license application on behalf of the legal entity must have written legal authority from the legal entity to act on its behalf and execute the application. The license applicant must be the legal owner of the facility.~~
- ~~_____~~ **D.** ~~“Apprentice midwife” means an individual as defined in and licensed under 16.11.3 NMAC, as amended, and currently in good standing.~~
- ~~_____~~ **E.** ~~“ACNM” means the American college of nurse midwives.~~
- ~~_____~~ **F.** ~~“Basic life support” (BLS) means training and current certification in adult cardiopulmonary resuscitation equivalent to American heart association class C basic life support and in emergency treatment of a victim of cardiac or respiratory arrest through cardiopulmonary resuscitation and emergency cardiac care.~~
- ~~_____~~ **G.** ~~“Birth assistant” means a staff person over the age of 18 who is capable of recognizing complications and who can care for the mother and infant by performing normal postpartum and newborn care. At a minimum, a birth assistant must be trained and have current certifications in BLS and neonatal resuscitation program (NRP) and can only function under the direct supervision of a licensed provider immediately available on site.~~
- ~~_____~~ **H.** ~~“Birth center” (BC) means a freestanding birth center licensed by the state for the primary purpose of performing low risk deliveries that is not a hospital, attached to a hospital or in a hospital, and where births are planned to occur away from the mother’s residence following a low risk pregnancy.~~
- ~~_____~~ **I.** ~~“Birth room” or “birthing room” means a private room of sufficient size to accommodate a client in active labor with the equipment and personnel necessary to assist the mother in a safe birth and in full compliance with the minimum standards in these regulations. Any facility with four or more birthing rooms must also comply with the birthing room and center requirements in the current edition of the facility guidelines institute, guidelines for design and construction, specific requirements for freestanding birth centers.~~
- ~~_____~~ **J.** ~~“CABC” means the commission for the accreditation of birth centers.~~
- ~~_____~~ **K.** ~~“Certified nurse midwife” means a licensed individual educated in the two disciplines of nursing and midwifery as defined and licensed under 16.11.2 NMAC, as amended, and currently in good standing.~~
- ~~_____~~ **L.** ~~“Certified nurse practitioner” means a registered nurse as defined and licensed under the Nursing Practice Act, Section 61-3-23.2 NMSA 1978, as amended, and related regulations and is currently in good standing.~~
- ~~_____~~ **M.** ~~“CLIA” means Clinical laboratory improvement amendments of 1988 as amended.~~
- ~~_____~~ **N.** ~~“Client” means any person who receives care, including a mother, infant or newborn, at a freestanding birth center.~~
- ~~_____~~ **O.** ~~“Compliance” means the facility’s adherence to these regulations, as well as any and all other applicable state and federal statutes and regulations. Compliance violations may result in sanctions, civil monetary penalties and revocation or suspension of the facility license.~~
- ~~_____~~ **P.** ~~“Deficiency” means a violation of or failure to comply with any provision(s) of these regulations.~~
- ~~_____~~ **Q.** ~~“Employee” means any person who works at the facility and is a direct hire of the owner or management company, if applicable.~~
- ~~_____~~ **R.** ~~“External quality committee” means the members of the internal quality committee and an external peer reviewer or a clinical consultant and any other facility healthcare partners, as available.~~
- ~~_____~~ **S.** ~~“Facility” means the physical premises, building(s) and equipment where the freestanding birth center services are provided, whether owned or leased and which is licensed pursuant to these regulations.~~
- ~~_____~~ **T.** ~~“Incident” means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.~~

U. — “**Incident management system**” means the written policies and procedures adopted or developed by the licensed health facility for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

V. — “**Incident report form**” means the reporting format issued by the authority for the reporting of incidents or complaints.

W. — “**Internal quality committee**” means and includes the administrator and clinical director at a minimum. If the administrator and clinical director are the same person, another staff person with clinical experience must serve on the internal quality committee. Other staff at the facility may also serve on this committee as deemed appropriate.

X. — “**License**” means the document issued by the licensing authority pursuant to these regulations granting the legal right to operate a birth center for a specified period of time, at the physical premises, not to exceed one year.

Y. — “**Licensee**” means the person(s) or legal entity that operates the physical premises and facility and in whose name the facility license has been issued and who is legally responsible for compliance with these regulations.

Z. — “**Licensed midwife**” means a licensed individual as defined and licensed under 16.11.3 NMAC, as amended, currently in good standing.

AA. — “**Licensed practical nurse**” means a licensed individual as defined and licensed under the Nursing Practice Act, Section 61-3-19 NMSA 1978, as amended, currently in good standing.

BB. — “**Licensing authority**” means the New Mexico health care authority.

CC. — “**Low risk pregnancy**” means a pregnancy that is determined by documented medical history, risk assessment, and prenatal care that reasonably predicts an outcome of a normal and uncomplicated labor and birth.

DD. — “**Management company**” means the legal entity that manages the facility, if different from the legal owner of the facility.

EE. — “**Midwife**” means a licensed individual authorized to practice midwifery in New Mexico as defined and licensed under 16.11.2 NMAC, as amended, or 16.11.3 NMAC, as amended, currently in good standing.

FF. — “**NFPA**” means the national fire protection association which sets codes and standards for building fire safety.

GG. — “**NMSA**” means the New Mexico Statutes Annotated 1978 compilation and all subsequent amendments, revisions and compilations.

HH. — “**Neonatal resuscitation program**” (NRP) means training and current certification in both the NRP module on medications and the module on intubation using an endotracheal tube (ET) or laryngeal mask airway (LMA) or both, endorsed by American academy of pediatrics or the American heart association.

I. — “**Quality assurance**” means the licensed health care facility’s on-going comprehensive self-assessment of compliance with these regulations and any and all other applicable statutes and regulations including, but not limited to, the facility’s own policies and procedures and incident investigations, documentation, reporting and reviewing of all alleged incidents of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents for study and improvement of the facility’s organizational, administrative and preventative practices in employee training and reporting.

JJ. — “**Quality improvement system**” means a systematic approach to the continuous study and improvement of the efficacy of organizational, administrative and clinical practices to meet the needs of persons served, address any changing regulatory requirements and achieve the facility’s mission, values and goals.

KK. — “**Physician**” means a licensed individual, currently in good standing, authorized to practice medicine as defined and licensed under the New Mexico Medical Practice Act, Sections 61-6-1 to 61-6-34 NMSA 1978, as amended, and related regulations or osteopathic medicine as defined and licensed under Sections 61-10-1 to 61-10-22 NMSA 1978, as amended, and related regulations.

LL. — “**Physician's assistant**” means an individual, currently in good standing, who is licensed and authorized to provide services to patients under the supervision and direction of a licensed physician under the Physician Assistant Act, Sections 61-6-7 to 61-6-10 NMSA 1978, as amended and related regulations, or is authorized and licensed to provide services to patients under the supervision and direction of a licensed osteopathic physician under the Osteopathic Physicians' Assistants Act, Sections 61-10A-1 to 61-10-7 NMSA 1978 as amended, and related regulations.

MM. — “**Plan of correction**” (POC) means the plan submitted by the licensee or its representative(s) addressing how and when deficiencies identified through a survey or investigation will be corrected. A plan of correction is a public record once it has been approved by the regulatory authority and is admissible for all purposes

in any adjudicatory hearing and all subsequent appeals relating to a facility license, including to prove licensee compliance violations or failures.

NN. “Policy” means a written statement that guides and determines present and future facility decisions and actions.

OO. “Premises” means all of the facility including buildings, grounds and equipment.

PP. “Procedure” means the action(s) that must be taken in order to implement a written policy.

QQ. “Registered nurse” means an individual, currently in good standing, who is licensed and authorized to provide nursing services under the Nursing Practice Act, Sections 61-3-1 to 61-3-30 NMSA 1978, as amended, and related regulations.

RR. “Scope of practice” means the procedures, actions, and processes that a healthcare practitioner is permitted to undertake under the terms of their professional license. The scope of practice is limited to that which the applicable law allows for specific education, training, experience and demonstrated competency.

SS. “Staff” means any person who works at the facility, and includes employees, contracted persons, independent contractors and volunteers who perform work or provide goods and services at the facility.

TT. “U/L approved” means approved for safety by the national underwriters laboratory.

UU. “Variance” means a written decision, made at the licensing authority’s sole discretion, allowing a licensee and facility to deviate from a portion(s) or provision of these regulations for a specified time period not exceeding a year, providing the variance does not jeopardize the health, safety or welfare of the facility’s clients, patients and staff and is not in violation of other applicable state and federal statutes and regulations.

VV. “Violation” means any and all actions or procedures by the facility or licensee that are not in compliance with these regulations and any and all other applicable state and federal statutes and regulations.

WW. “Waive” or “waiver” means a written decision, made at the licensing authority’s sole discretion, to allow a birth center to refrain from complying with a portion(s) or provision of these regulations for a limited and specified time period not exceeding a year, providing the waiver does not jeopardize the health, safety or welfare of the facility’s clients, patients and staff and is not in violation of other applicable state and federal statutes and regulations.]

A. Definitions beginning with “A”:

(1) “AABC” means American association of birth centers.

(2) “Administrator” means the person who is delegated the administrative responsibility for interpreting, implementing, and applying policies and procedures at the birth center. The administrator is responsible for establishing and maintaining safe and effective management, control and operation of the facility and all of the services provided at the facility, including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations.

(3) “Applicant” means the individual or legal entity that applies for a license. If the applicant is a legal entity, then the individual signing the license application on behalf of the legal entity must have written legal authority from the legal entity to act on its behalf and execute the application. The license applicant must be the legal owner of the facility.

(4) “Apprentice midwife” means an individual as defined in and licensed under 16.11.3 NMAC, as amended, and currently in good standing.

(5) “ACNM” means the American college of nurse midwives.

B. Definitions beginning with “B”:

(1) “Basic life support” (BLS) means training and current certification in adult cardiopulmonary resuscitation equivalent to American heart association class C basic life support and in emergency treatment of a victim of cardiac or respiratory arrest through cardiopulmonary resuscitation and emergency cardiac care.

(2) “Birth assistant” means a staff person over the age of 18 who is capable of recognizing complications and who can care for the mother and infant by performing normal postpartum and newborn care. At a minimum, a birth assistant must be trained and have current certifications in BLS and neonatal resuscitation program (NRP) and can only function under the direct supervision of a licensed provider immediately available on site.

(3) “Birth center” (BC) means a freestanding birth center licensed by the state for the primary purpose of performing low-risk deliveries that is not a hospital, attached to a hospital or in a hospital, and where births are planned to occur away from the mother’s residence following a low-risk pregnancy.

(4) “Birth room” or “birthing room” means a private room of sufficient size to accommodate a client in active labor with the equipment and personnel necessary to assist the mother in a safe birth and in full compliance with the minimum standards in these regulations. Any facility with four or more birthing

rooms must also comply with the birthing room and center requirements in the current edition of the facility guidelines institute, guidelines for design and construction, specific requirements for freestanding birth centers.

C. Definitions beginning with “C”:

(1) **“CABC”** means the commission for the accreditation of birth centers.

(2) **“Certified nurse midwife”** means a licensed individual educated in the two disciplines of nursing and midwifery as defined and licensed under 16.11.2 NMAC, as amended, and currently in good standing.

(3) **“Certified nurse practitioner”** means a registered nurse as defined and licensed under the Nursing Practice Act, Section 61-3-23.2 NMSA 1978, as amended, and related regulations and is currently in good standing.

(4) **“CLIA”** means clinical laboratory improvement amendments of 1988 as amended.

(5) **“Client”** means any person who receives care, including a mother, infant or newborn, at a freestanding birth center.

(6) **“Compliance”** means the facility’s adherence to these regulations, as well as any and all other applicable state and federal statutes and regulations. Compliance violations may result in sanctions, civil monetary penalties and revocation or suspension of the facility license.

D. Definitions beginning with “D”:

(1) **“Deficiency”** means a violation of or failure to comply with any provision(s) of these regulations.

(2) **“Doula”** means a trained, nonmedical professional who provides services, including health education, advocacy or physical, emotional or social support, to a person during the pre-conception period, pregnancy, childbirth or the postpartum period to promote positive health outcomes.

E. Definitions beginning with “E”:

(1) **“Employee”** means any person who works at the facility and is a direct hire of the owner or management company, if applicable.

(2) **“External quality committee”** means the members of the internal quality committee and an external peer reviewer or a clinical consultant and any other facility healthcare partners, as available.

F. Definitions beginning with “F”: **“Facility”** means the physical premises, building(s) and equipment where the freestanding birth center services are provided, whether owned or leased and which is licensed pursuant to these regulations.

G. Definitions beginning with “G”: [RESERVED]

H. Definitions beginning with “H”: [RESERVED]

I. Definitions beginning with “I”:

(1) **“Incident”** means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(2) **“Incident management system”** means the written policies and procedures adopted or developed by the licensed health facility for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(3) **“Incident report form”** means the reporting format issued by the authority for the reporting of incidents or complaints.

(4) **“Internal quality committee”** means and includes the administrator and clinical director at a minimum. If the administrator and clinical director are the same person, another staff person with clinical experience must serve on the internal quality committee. Other staff at the facility may also serve on this committee as deemed appropriate.

J. Definitions beginning with “J”: [RESERVED]

K. Definitions beginning with “K”: [RESERVED]

L. Definitions beginning with “L”:

(1) **“License”** means the document issued by the licensing authority pursuant to these regulations granting the legal right to operate a birth center for a specified period of time, at the physical premises, not to exceed one year.

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(6) “Low risk pregnancy” means a pregnancy that is determined by documented medical history, risk assessment, and prenatal care that reasonably predicts an outcome of a normal and uncomplicated labor and birth.

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(1) “Management company” means the legal entity that manages the facility, if different from the legal owner of the facility.

(2) “Midwife” means a licensed individual authorized to practice midwifery in New Mexico as defined and licensed under 16.11.2 NMAC, as amended, or 16.11.3 NMAC, as amended, currently in good standing.

N. Definitions beginning with “N”:

(1) “NFPA” means the national fire protection association which sets codes and standards for building fire safety.

(2) “NMSA” means the New Mexico Statutes Annotated 1978 compilation and all subsequent amendments, revisions and compilations.

(3) “Neonatal resuscitation program” (NRP) means training and current certification in both the NRP module on medications and the module on intubation using an endotracheal tube (ET) or laryngeal mask airway (LMA) or both, endorsed by American academy of pediatrics or the American heart association.

O. Definitions beginning with “O”: [RESERVED]

P. Definitions beginning with “P”:

(1) “Physician” means a licensed individual, currently in good standing, authorized to practice medicine as defined and licensed under the New Mexico Medical Practice Act, Sections 61-6-1 to 61-6-34 NMSA 1978, as amended, and related regulations or osteopathic medicine as defined and licensed under Sections 61-10-1 to 61-10-22 NMSA 1978, as amended, and related regulations.

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(3) “Plan of correction” (POC) means the plan submitted by the licensee or its representative(s) addressing how and when deficiencies identified through a survey or investigation will be corrected. A plan of correction is a public record once it has been approved by the regulatory authority and is admissible for all purposes in any adjudicatory hearing and all subsequent appeals relating to a facility license, including to prove licensee compliance violations or failures.

(4) “Policy” means a written statement that guides and determines present and future facility decisions and actions.

(5) “Premises” means all of the facility including buildings, grounds and equipment.

(6) “Procedure” means the action(s) that must be taken in order to implement a written policy.

Q. Definitions beginning with “Q”:

(1) “Quality assurance” means the licensed health care facility’s on-going comprehensive self-assessment of compliance with these regulations and any and all other applicable statutes and regulations including, but not limited to., the facility’s own policies and procedures and incident investigations, documentation, reporting and reviewing of all alleged incidents of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents for study and improvement of the facility’s organizational, administrative and preventative practices in employee training and reporting.

(2) “Quality improvement system” means a systematic approach to the continuous study and improvement of the efficacy of organizational, administrative and clinical practices to meet the needs of persons served, address any changing regulatory requirements and achieve the facility’s mission, values and goals.

R. Definitions beginning with “R”: “Registered nurse” means an individual, currently in good standing, who is licensed and authorized to provide nursing services under the Nursing Practice Act, Sections 61-3-1 to 61-3-30 NMSA 1978, as amended, and related regulations.

S. Definitions beginning with “S”:

(1) “Scope of practice” means the procedures, actions, and processes that a healthcare practitioner is permitted to undertake under the terms of their professional license. The scope of practice is limited to that which the applicable law allows for specific education, training, experience and demonstrated competency.

(2) “Staff” means any person who works at the facility, and includes employees, contracted persons, independent contractors and volunteers who perform work or provide goods and services at the facility.

T. Definitions beginning with “T”: [RESERVED]

U. Definitions beginning with “U”: “U/L approved” means approved for safety by the national underwriters laboratory.

V. Definitions beginning with “V”:

(1) “Variance” means a written decision, made at the licensing authority’s sole discretion, allowing a licensee and facility to deviate from a portion(s) or provision of these regulations for a specified time period not exceeding a year, providing the variance does not jeopardize the health, safety or welfare of the facility’s clients, patients and staff and is not in violation of other applicable state and federal statutes and regulations.

(2) “Violation” means any and all actions or procedures by the facility or licensee that are not in compliance with these regulations and any and all other applicable state and federal statutes and regulations.

W. Definitions beginning with “W”: “Waive” or “waiver” means a written decision, made at the licensing authority’s sole discretion, to allow a birth center to refrain from complying with a portion(s) or provision of these regulations for a limited and specified time period not exceeding a year, providing the waiver does not jeopardize the health, safety or welfare of the facility’s clients, patients and staff and is not in violation of other applicable state and federal statutes and regulations.

X. Definitions beginning with “X”: [RESERVED]

Y. Definitions beginning with “Y”: [RESERVED]

Z. Definitions beginning with “Z”: [RESERVED]

[8.370.17.7 NMAC - N, 7/1/2024; A, 5/5/2026]

8.370.17.12 ADDITIONAL DOCUMENTS REQUIRED WITH LICENSE APPLICATION: The authority reserves the right to require an applicant to provide any and all additional documents, as part of its license application, in order for the authority to determine whether the applicant and the facility are in full compliance with these regulations, as well as any and all other applicable statutes and regulations. At a minimum, additional documents required to be attached to the initial license application, include, but are not limited to:

A. Building approvals: The applicant must submit all building approvals required for the facility to operate in the jurisdiction in which it is located, including, but not limited to:

(1) written building approvals and certificates of occupancy from the appropriate authority (state, city, county, or municipality) for business occupancy; and

(2) written fire safety approvals from the fire safety authority having jurisdiction.

B. Environment approvals: If applicable or required, the applicant must provide written approval from the New Mexico environment department for the following:

(1) private water supply;

(2) private waste or sewage disposal; and

(3) ultrasound equipment.

C. Board of pharmacy approvals: A copy of facility’s drug permit issued by the state board of pharmacy must be provided.

D. Program outline: The applicant must submit with its license application a program outline consistent with these regulations which includes at a minimum, the following information:

(1) a list of all services and the scope of those services to be provided by the proposed facility;

(2) projected number of clients to be served monthly;

(3) a list of staffing and personnel requirements and duties to be performed;

(4) a list of all services that will be contracted or arranged with any other health providers including ambulance services, admitting hospitals, consultation with medical practitioners, laboratory work and equipment providers;

(5) the number of examination rooms, birth rooms, family rooms and other rooms for diagnostic or other use including, but not limited to, ultrasound, laboratory, clean linen storage and waste disposal;

(6) an organizational structure diagram or chart including the administrator, advisory body or board of directors, if any, staff, clinical director, internal quality committee and external quality committee; and

(7) quality improvement systems and quality assurance processes.

E. Policies and procedures: The applicant must submit with its license application a copy of the facility's policies and procedures which must comply with these regulations.

F. Policies and procedures for doula access:

(1) adopt and maintain written policies and procedures authorizing a patient to select a doula of the patient's choice to accompany the patient within the facility's premises for the purposes of providing services during pregnancy, childbirth and the twelve-month postpartum period;

(2) provide a written copy of the policies and procedures adopted pursuant to Paragraph (1) of this subsection to:

(a) health care providers providing services related to pregnancy, childbirth or the twelve-month postpartum period at the facility;

(b) patients receiving services related to pregnancy, childbirth or the 12-month postpartum period at the facility; and

(c) any other person, at the request of the patient; and

(3) post a notice of the facility's policies and procedures adopted pursuant to Paragraph (1) of this subsection:

(a) in the room of a patient admitted to the facility for services related to pregnancy, childbirth or the twelve-month postpartum period; and

(b) on the facility's website.

[8.370.17.12 NMAC - N, 7/1/2024; A, 5/5/2026]

8.370.17.25 CLIENT RIGHTS: All facilities licensed pursuant to these regulations shall support, protect, and respect clients' rights. Facility staff shall receive training on client rights and demonstrate understanding and competence in the policies and procedures regarding client rights. Client rights will be posted or made available to facility clients in English or their preferred language. The method by which a client may register a complaint against the facility will be posted or otherwise made available to clients. The facility shall have and enforce policies and procedures which guarantee:

A. the right to equal service, regardless of race, gender, gender identity, religion, ethnic background, sexual orientation, education, social class, physical or mental handicap, or economic status;

B. the right to considerate, courteous and respectful care from all staff;

C. the right to complete information using terms the average client can reasonably be expected to understand;

D. the right to informed consent, full discussion of risks and benefits prior to any invasive procedure, except in an emergency, and advice regarding alternatives to the proposed procedure(s);

E. the right to receive a written list of all services available, service costs and advanced notice of any changes;

F. the right to receive care that is consistent with current scientific evidence about benefits and risks;

G. the right for non-English speaking clients to obtain assistance in interpretation;

H. the right to know the names, titles, professions and specific types and licenses held by the facility staff to whom the client speaks to and from whom services or information are received;

I. the right to refuse examinations and procedures to the extent permitted by law and to be informed of the health and legal consequences of any refusal;

J. the right of access to the client's personal health records;

K. the right of respect for the client's privacy;

L. the right of confidentiality of the client's personal health records as provided by law;

M. the right to expect reasonable continuity of care within the scope of services and staffing;

N. the right to have the client's civil rights, cultural background and religious opinions respected;

O. the right to present complaints to the management of the facility without fear of reprisal; and

P. the right to examine and receive a full explanation of any charges made by the facility regardless of source of payment.

Q. the right to select a doula of the patient's choice to accompany the patient within the facility's premises for the purposes of providing services during pregnancy, childbirth and the twelve-month postpartum period.

[8.370.17.25 NMAC - N, 7/1/2024; A, 5/5/2026]