

As Introduced

**127th General Assembly
Regular Session
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H. B. No. 331

Representative Wagoner

**Cosponsors: Representatives McGregor, J., Schindel, Fende, Goodwin,
Stewart, J., Seitz, Brown**

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A B I L L

To amend sections 3701.83, 3702.11, 3702.55, and 1
3709.09; to enact sections 3711.14, 3711.16, 2
3711.20, 3711.21, and 3711.22; to enact new 3
sections 3711.01, 3711.02, 3711.04, 3711.06, 4
3711.08, 3711.10, and 3711.12; and to repeal 5
sections 3711.01, 3711.02, 3711.021, 3711.03, 6
3711.04, 3711.05, 3711.06, 3711.07, 3711.08, 7
3711.09, 3711.10, 3711.11, 3711.12, 3711.13, and 8
3711.99 of the Revised Code regarding the 9
licensure of maternity homes and obstetric and 10
newborn care facilities. 11

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

Section 1. That sections 3701.83, 3702.11, 3702.55, and 12
3709.09 be amended and new sections 3711.01, 3711.02, 3711.04, 13
3711.06, 3711.08, 3711.10, and 3711.12 and sections 3711.14, 14
3711.16, 3711.20, 3711.21, and 3711.22 of the Revised Code be 15
enacted to read as follows: 16

Sec. 3701.83. (A) There is hereby created in the state 17
treasury the general operations fund. Moneys in the fund shall be 18

used for the purposes specified in sections 3701.04, 3701.344, 19
3702.20, 3710.15, ~~3711.02~~ 3711.14, 3717.45, 3718.06, 3721.02, 20
3722.04, 3729.07, 3733.04, 3733.25, 3733.43, 3748.04, 3748.05, 21
3748.07, 3748.12, 3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 22
4769.09 of the Revised Code. 23

(B) The alcohol testing program fund is hereby created in the 24
state treasury. The director of health shall use the fund to 25
administer and enforce the alcohol testing and permit program 26
authorized by section 3701.143 of the Revised Code. 27

The fund shall receive transfers from the liquor control fund 28
created under section 4301.12 of the Revised Code. All investment 29
earnings of the alcohol testing program fund shall be credited to 30
the fund. 31

Sec. 3702.11. The director of health shall adopt rules 32
establishing safety standards and quality-of-care standards for 33
each of the following: 34

- (A) Solid organ and bone marrow transplantation; 35
- (B) Stem cell harvesting and reinfusion; 36
- (C) Cardiac catheterization; 37
- (D) Open-heart surgery; 38
- (E) ~~Obstetric and newborn care;~~ 39
- ~~(F)~~ Pediatric intensive care; 40
- ~~(G)~~(F) Operation of linear accelerators; 41
- ~~(H)~~(G) Operation of cobalt radiation therapy units; 42
- ~~(I)~~(H) Operation of gamma knives. 43

Sec. 3702.55. Except as provided in section 3702.542 of the 44
Revised Code, a person that the director of health determines has 45
violated section 3702.53 of the Revised Code shall cease 46

conducting the activity that constitutes the violation or 47
utilizing the equipment or facility resulting from the violation 48
not later than thirty days after the person receives the notice 49
mailed under section 3702.532 of the Revised Code or, if the 50
person appeals the director's determination under section 3702.60 51
of the Revised Code, thirty days after the person receives an 52
order upholding the director's determination that is not subject 53
to further appeal. A person that applies for a certificate of need 54
as described in section 3702.542 of the Revised Code shall cease 55
conducting the activity or using the equipment or facility in 56
accordance with the timetable established by the director of 57
health under that section. 58

If any person determined to have violated section 3702.53 of 59
the Revised Code fails to cease conducting an activity or using 60
equipment or a facility as required by this section or a timetable 61
established under section 3702.542 of the Revised Code, or if the 62
person continues to seek payment or reimbursement for services 63
rendered or costs incurred in conducting the activity as 64
prohibited by section 3702.56 of the Revised Code, in addition to 65
the penalties imposed under section 3702.54, 3702.541, or 3702.542 66
or former section 3702.543 of the Revised Code: 67

(A) The director of health may refuse to include any beds 68
involved in the activity in the bed capacity of a hospital for 69
purposes of registration under section 3701.07 of the Revised 70
Code; 71

(B) The director of health may refuse to license, or may 72
revoke a license or reduce bed capacity previously granted to, a 73
~~maternity boardinghouse or lying in hospital under section 3711.02~~ 74
~~of the Revised Code;~~ a hospice care program under section 3712.04 75
of the Revised Code; a nursing home, rest home, or home for the 76
aging under section 3721.02 of the Revised Code; or any beds 77
within any of those facilities that are involved in the activity; 78

(C) A political subdivision certified under section 3721.09 79
of the Revised Code may refuse to license, or may revoke a license 80
or reduce bed capacity previously granted to, a nursing home, rest 81
home, or home for the aging, or any beds within any of those 82
facilities that are involved in the activity; 83

(D) The director of mental health may refuse to license under 84
section 5119.20 of the Revised Code, or may revoke a license or 85
reduce bed capacity previously granted to, a hospital receiving 86
mentally ill persons or beds within such a hospital that are 87
involved in the activity; 88

(E) The department of job and family services may refuse to 89
enter into a provider agreement that includes a facility, beds, or 90
services that result from the activity. 91

Sec. 3709.09. (A) The board of health of a city or general 92
health district may, by rule, establish a uniform system of fees 93
to pay the costs of any services provided by the board. 94

The fee for issuance of a certified copy of a vital record or 95
a certification of birth shall not be less than the fee prescribed 96
for the same service under division (A)(1) of section 3705.24 of 97
the Revised Code and shall include the fees required by division 98
(B) of section 3705.24 and section 3109.14 of the Revised Code. 99

Fees for services provided by the board for purposes 100
specified in sections 3701.344, ~~3711.05~~, 3718.06, 3729.07, 101
3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code shall 102
be established in accordance with rules adopted under division (B) 103
of this section. The district advisory council, in the case of a 104
general health district, and the legislative authority of the 105
city, in the case of a city health district, may disapprove any 106
fee established by the board of health under this division, and 107
any such fee, as disapproved, shall not be charged by the board of 108
health. 109

(B) The public health council shall adopt rules under section 110
111.15 of the Revised Code that establish fee categories and 111
uniform methodologies for use in calculating the costs of services 112
provided for purposes specified in sections 3701.344, ~~3711.05~~, 113
3718.06, 3729.07, 3730.03, 3733.04, 3733.25, and 3749.04 of the 114
Revised Code. In adopting the rules, the public health council 115
shall consider recommendations it receives from advisory boards 116
established either by statute or the director of health for 117
entities subject to the fees. 118

(C) At least thirty days prior to establishing a fee for a 119
service provided by the board for a purpose specified in section 120
3701.344, ~~3711.05~~, 3718.06, 3729.07, 3730.03, 3733.04, 3733.25, or 121
3749.04 of the Revised Code, a board of health shall notify any 122
entity that would be affected by the proposed fee of the amount of 123
the proposed fee. 124

Sec. 3711.01. As used in this chapter: 125

(A) "Maternity home" means a facility for pregnant girls and 126
women where accommodations, medical care, and social services are 127
provided during the prenatal and postpartal periods. 128

(B) "Obstetric and newborn care" means the provision of 129
medical care to the following: 130

(1) Pregnant women; 131

(2) Fetuses; 132

(3) Women who have recently delivered a child; 133

(4) Newborns. 134

Sec. 3711.02. (A) Except as provided in division (B) of this 135
section, no person shall operate a maternity home or a facility in 136
which obstetric and newborn care is offered unless that person has 137
a valid license issued under section 3711.04 of the Revised Code. 138

(B) Division (A) of this section does not apply to a health care facility as defined in division (A)(4) of section 3702.30 of the Revised Code. 139
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Sec. 3711.04. Each person seeking licensure to operate a maternity home or facility in which obstetric and newborn care is offered subject to section 3711.02 of the Revised Code shall apply to the department of health for a license. The application shall be submitted in the form and manner prescribed by the public health council in rules adopted under section 3711.10 of the Revised Code. 142
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The department shall review all applications received. If an applicant meets the standards specified in rules adopted under section 3711.10 of the Revised Code and passes the inspection required by section 3711.06 of the Revised Code, the department shall issue a license to the applicant. 149
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Sec. 3711.06. The director of health shall inspect each maternity home or facility in which obstetric and newborn care is offered for which a person has applied for an initial license under section 3711.04 of the Revised Code prior to issuing a license. Inspections shall be conducted in accordance with inspection criteria, procedures, and guidelines adopted by the public health council under section 3711.12 of the Revised Code. 154
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Sec. 3711.08. A license issued under section 3711.04 of the Revised Code is valid for three years, unless earlier revoked or suspended under section 3711.14 of the Revised Code. The license may be renewed in the manner prescribed by the public health council in rules adopted under section 3711.12 of the Revised Code. The license renewal fee specified in the rules shall be paid not later than sixty days after the department of health mails an invoice for the fee to the license holder. A penalty of ten per 161
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cent of the amount of the renewal fee shall be assessed for each 169
month the fee is overdue. 170

Sec. 3711.10. The director of health shall monitor compliance 171
with this chapter and the rules adopted under it. The director may 172
conduct scheduled or random inspections of facilities as the 173
director considers necessary to adequately monitor compliance. 174
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Sec. 3711.12. (A) The public health council shall adopt rules 176
in accordance with Chapter 119. of the Revised Code as the council 177
considers necessary to implement the requirements of this chapter 178
for licensure and operation of maternity homes and facilities in 179
which obstetric and newborn care is offered. The rules shall 180
include provisions for the following: 181

(1) Licensure application forms and procedures; 182

(2) Application renewal procedures, including rules that 183
address the right of the director, at the director's sole 184
discretion, to inspect a home or facility prior to renewal of a 185
license; 186

(3) Application and renewal fees, including rules on fees for 187
the inspections required by section 3711.10 of the Revised Code; 188

(4) Safety standards, quality-of-care standards, and 189
quality-of-care data reporting requirements; 190

(5) Reporting and auditing requirements; 191

(6) Inspection criteria, procedures, and guidelines; 192

(7) Any other rules necessary to implement this chapter. 193

(B) When adopting rules under this section, the public health 194
council shall give consideration to recommendations regarding 195
obstetric and newborn care issued by the American college of 196
obstetricians and gynecologists; American academy of pediatrics; 197

American academy of family physicians; American society of 198
anesthesiologists; American college of nurse midwives; U.S. 199
centers for disease control and prevention; association of women's 200
health, obstetrics, and neonatal nurses; and the association of 201
operating room nurses, or their successor organizations. The 202
council shall also consider the recommendations of the maternity 203
and newborn advisory council established in section 3711.20 of the 204
Revised Code. 205

Sec. 3711.14. (A) In accordance with Chapter 119. of the 206
Revised Code, the director of health may take the following 207
actions for failure to comply with this chapter or the rules 208
adopted under it: 209

(1) Impose a civil penalty of not less than one thousand 210
dollars and not more than two hundred fifty thousand dollars on a 211
person who violates a provision of this chapter or the rules 212
adopted under it; 213

(2) Summarily suspend, in accordance with division (B) of 214
this section, a license issued under section 3711.04 of the 215
Revised Code if the director believes there is clear and 216
convincing evidence that the continued operation of a maternity 217
home or facility in which obstetric and newborn care is offered 218
presents a danger of immediate and serious harm to the public; 219

(3) Revoke a license issued under section 3711.04 of the 220
Revised Code for a person who violates a provision of this chapter 221
or the rules adopted under it in such a manner as to pose an 222
imminent threat of serious physical or life-threatening danger as 223
determined by the director. 224

(B) If the director decides to suspend a license under 225
division (A)(2) of this section, the director shall issue a 226
written order of suspension and cause it to be delivered by 227
certified mail or in person in accordance with section 119.07 of 228

the Revised Code. The order shall not be subject to suspension by 229
the court while an appeal filed under section 119.12 of the 230
Revised Code is pending. If the individual subject to the 231
suspension requests an adjudication, the date set for the 232
adjudication shall be within fifteen days but not earlier than 233
seven days after the individual makes the request, unless another 234
date is agreed to by both the individual and the director. The 235
summary suspension shall remain in effect, unless reversed by the 236
director, until a final adjudication order issued by the director 237
pursuant to this section and Chapter 119. of the Revised Code 238
becomes effective. 239

The director shall issue a final adjudication order within 240
ninety days after completion of the adjudication. If the director 241
does not issue a final order within the ninety-day period, the 242
summary suspension shall be void, but any final adjudication order 243
issued subsequent to the ninety-day period shall not be affected. 244

(C) If the director issues an order revoking or suspending a 245
license issued under section 3711.04 of the Revised Code and the 246
license holder continues to operate a maternity home or facility 247
in which obstetric and newborn care is offered, the director may 248
ask the attorney general to apply to the court of common pleas of 249
the county in which the person is located for an order enjoining 250
the person from operating the home or facility. The court shall 251
grant the order on a showing that the person is operating the home 252
or facility. 253

Sec. 3711.16. All license application fees, renewal fees, 254
late renewal penalties, and civil penalties collected under this 255
chapter shall be deposited in the state treasury to the credit of 256
the general operations fund created under section 3701.83 of the 257
Revised Code. The moneys shall be used solely for the purposes of 258
administering and enforcing this chapter and the rules adopted 259

under it. 260

Sec. 3711.20. (A) There is hereby created the maternity and 261
newborn advisory council within the department of health. The 262
governor, with the advice and consent of the senate, shall appoint 263
the following members: 264

(1) A board-certified obstetrician; 265

(2) A board-certified pediatrician; 266

(3) A nurse manager or administrator responsible for the 267
organization and supervision of nursing services in a level I 268
obstetric care service; 269

(4) A nurse manager or administrator responsible for the 270
organization and supervision of nursing services in a level I 271
newborn care service; 272

(5) A nurse manager or administrator responsible for the 273
organization and supervision of nursing services in a level II 274
obstetric care service; 275

(6) A nurse manager or administrator responsible for the 276
organization and supervision of nursing services in a level II 277
newborn care service; 278

(7) A nurse manager or administrator responsible for the 279
organization and supervision of nursing services in a level III 280
obstetric care service; 281

(8) A nurse manager or administrator responsible for the 282
organization and supervision of nursing services in a level III 283
newborn care service; 284

(9) A licensed dietitian with knowledge of newborn nutrition; 285

(10) A licensed social worker with knowledge of newborn 286
psychosocial and family support services; 287

(11) A lactation consultant certified by the international 288

<u>board of lactation consultant examiners;</u>	289
<u>(12) An individual to represent the public;</u>	290
<u>(13) A board-certified perinatologist;</u>	291
<u>(14) A board-certified neonatologist;</u>	292
<u>(15) A certified nurse-midwife, certified nurse practitioner,</u>	293
<u>clinical nurse specialist, or certified registered nurse</u>	294
<u>anesthetist;</u>	295
<u>(16) A board-certified anesthesiologist;</u>	296
<u>(17) A board-certified family practice physician who delivers</u>	297
<u>children or provides newborn care.</u>	298
<u>(B) The governor shall make the initial appointments to the</u>	299
<u>council not later than sixty days after the effective date of this</u>	300
<u>section. Of the initial appointments, six shall be for a term of</u>	301
<u>three years, six for a term of four years, and five for a term of</u>	302
<u>five years. Thereafter, terms of office shall be five years with</u>	303
<u>each term ending on the same day of the same month as the term it</u>	304
<u>succeeds. Each member shall hold office from the date of the</u>	305
<u>member's appointment until the end of the term for which the</u>	306
<u>member was appointed. Members may be reappointed. Vacancies shall</u>	307
<u>be filled in the manner provided for original appointment. Any</u>	308
<u>member appointed to fill a vacancy prior to the expiration of the</u>	309
<u>term for which the member's predecessor was appointed shall hold</u>	310
<u>office for the remainder of that term. A member shall continue in</u>	311
<u>office subsequent to the expiration of the member's term or until</u>	312
<u>a period of sixty days has elapsed, whichever occurs first.</u>	313
<u>(C) The council shall hold four meetings in the first year</u>	314
<u>after the initial appointments to the council are made under</u>	315
<u>division (B) of this section. Thereafter, the council shall hold</u>	316
<u>two meetings each year. Additional meetings may be held at the</u>	317
<u>call of the chairperson or the director of health.</u>	318

The chairperson shall be selected annually by members of the council. Following each meeting, the chairperson may submit a report to the director summarizing the activities, discussion, and recommendations of the council. Seven voting members of the council constitute a quorum. 319
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(D) Members of the council shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties. 324
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(E) The department of health shall provide the council the administrative support necessary to execute its duties. 327
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Sec. 3711.21. The maternity and newborn advisory council shall do all of the following: 329
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(A) Advise and consult with the director of health in the development of rules to be presented to the public health council for proposed adoption under this chapter; 331
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(B) Advise and consult with the director of health concerning the implementation and enforcement of this chapter; 334
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(C) Advise and consult with the director in the development of inspection criteria, procedures, and guidelines to be used in enforcement of this chapter; 336
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(D) Advise and consult with the director regarding recommendations to be presented to the public health council regarding improving maternity and obstetric and newborn care in this state; 339
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(E) Prepare and submit to the director an annual report evaluating the department's enforcement of this chapter. 343
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Sec. 3711.22. The maternity and newborn advisory council may establish committees to focus on specific components of the enforcement of this chapter. Chairpersons of the committees shall 345
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be appointed by the chairperson of the council and shall be 348
members of the council. Other members of the committees shall be 349
appointed by the chairperson of the council and may include 350
individuals who are not members of the council. 351

The membership and responsibilities of each committee 352
established under this section shall be subject to the approval of 353
the director of health. Members of the committees shall be 354
reimbursed for actual and necessary expenses incurred in the 355
performance of their official duties. 356

Committee reports shall be presented to the council at each 357
regular meeting of the council. 358

Section 2. That existing sections 3701.83, 3702.11, 3702.55, 359
and 3709.09 and sections 3711.01, 3711.02, 3711.021, 3711.03, 360
3711.04, 3711.05, 3711.06, 3711.07, 3711.08, 3711.09, 3711.10, 361
3711.11, 3711.12, 3711.13, and 3711.99 of the Revised Code are 362
hereby repealed. 363

Section 3. Notwithstanding the provisions of Sections 1 and 2 364
of this act, a person may continue to operate a maternity home or 365
facility in which obstetric and newborn care is offered pursuant 366
to a license issued under Chapter 3711. of the Revised Code, as 367
that chapter existed immediately prior to the effective date of 368
this act, until the person's license expires or is revoked. 369

Until the rules required by sections 3711.04 and 3711.10 of 370
the Revised Code as enacted by this act are adopted, the 371
Department of Health may renew licenses and issue new licenses 372
under the rules adopted under former Chapter 3711. of the Revised 373
Code. 374