

As Passed by the Senate

127th General Assembly

Regular Session

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Sub. H. B. No. 331

Representative Wagoner

**Cosponsors: Representatives McGregor, J., Schindel, Fende, Goodwin,
Stewart, J., Seitz, Brown, Sears, Bacon, Batchelder, Bolon, Chandler, Combs,
Dyer, Evans, Flowers, Hughes, Patton, Schneider, Uecker, Ujvagi,
Wachtmann, Williams, B.**

**Senators Schuring, Padgett, Fedor, Goodman, Harris, Kearney, Sawyer,
Spada, Wilson**

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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, 3711.05, 4
3711.06, 3711.08, 3711.10, and 3711.12; and to 5
repeal sections 3711.01, 3711.02, 3711.021, 6
3711.03, 3711.04, 3711.05, 3711.06, 3711.07, 7
3711.08, 3711.09, 3711.10, 3711.11, 3711.12, 8
3711.13, and 3711.99 of the Revised Code regarding 9
the licensure of hospital maternity units, 10
hospital newborn care nurseries, and maternity 11
homes. 12

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

Section 1. That sections 3701.83, 3702.11, 3702.55, and 13
3709.09 be amended and new sections 3711.01, 3711.02, 3711.04, 14
3711.05, 3711.06, 3711.08, 3711.10, and 3711.12 and sections 15

3711.14, 3711.16, 3711.20, 3711.21, and 3711.22 of the Revised Code be enacted to read as follows:

Sec. 3701.83. (A) There is hereby created in the state treasury the general operations fund. Moneys in the fund shall be used for the purposes specified in sections 3701.04, 3701.344, 3702.20, 3710.15, ~~3711.021~~ 3711.16, 3717.45, 3718.06, 3721.02, 3722.04, 3729.07, 3733.04, 3733.25, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 4769.09 of the Revised Code.

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

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

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

- (A) Solid organ and bone marrow transplantation;
- (B) Stem cell harvesting and reinfusion;
- (C) Cardiac catheterization;
- (D) Open-heart surgery;
- (E) ~~Obstetric and newborn care;~~
- ~~(F)~~ Pediatric intensive care;
- ~~(G)~~(F) Operation of linear accelerators;
- ~~(H)~~(G) Operation of cobalt radiation therapy units;

(I)(H) Operation of gamma knives. 44

Sec. 3702.55. Except as provided in section 3702.542 of the 45
Revised Code, a person that the director of health determines has 46
violated section 3702.53 of the Revised Code shall cease 47
conducting the activity that constitutes the violation or 48
utilizing the equipment or facility resulting from the violation 49
not later than thirty days after the person receives the notice 50
mailed under section 3702.532 of the Revised Code or, if the 51
person appeals the director's determination under section 3702.60 52
of the Revised Code, thirty days after the person receives an 53
order upholding the director's determination that is not subject 54
to further appeal. A person that applies for a certificate of need 55
as described in section 3702.542 of the Revised Code shall cease 56
conducting the activity or using the equipment or facility in 57
accordance with the timetable established by the director of 58
health under that section. 59

If any person determined to have violated section 3702.53 of 60
the Revised Code fails to cease conducting an activity or using 61
equipment or a facility as required by this section or a timetable 62
established under section 3702.542 of the Revised Code, or if the 63
person continues to seek payment or reimbursement for services 64
rendered or costs incurred in conducting the activity as 65
prohibited by section 3702.56 of the Revised Code, in addition to 66
the penalties imposed under section 3702.54, 3702.541, or 3702.542 67
or former section 3702.543 of the Revised Code: 68

(A) The director of health may refuse to include any beds 69
involved in the activity in the bed capacity of a hospital for 70
purposes of registration under section 3701.07 of the Revised 71
Code; 72

(B) The director of health may refuse to license, or may 73
revoke a license or reduce bed capacity previously granted to, a 74

~~maternity boardinghouse or lying in hospital under section 3711.02~~ 75
~~of the Revised Code;~~ a hospice care program under section 3712.04 76
of the Revised Code; a nursing home, rest home, or home for the 77
aging under section 3721.02 of the Revised Code; or any beds 78
within any of those facilities that are involved in the activity; 79

(C) A political subdivision certified under section 3721.09 80
of the Revised Code may refuse to license, or may revoke a license 81
or reduce bed capacity previously granted to, a nursing home, rest 82
home, or home for the aging, or any beds within any of those 83
facilities that are involved in the activity; 84

(D) The director of mental health may refuse to license under 85
section 5119.20 of the Revised Code, or may revoke a license or 86
reduce bed capacity previously granted to, a hospital receiving 87
mentally ill persons or beds within such a hospital that are 88
involved in the activity; 89

(E) The department of job and family services may refuse to 90
enter into a provider agreement that includes a facility, beds, or 91
services that result from the activity. 92

Sec. 3709.09. (A) The board of health of a city or general 93
health district may, by rule, establish a uniform system of fees 94
to pay the costs of any services provided by the board. 95

The fee for issuance of a certified copy of a vital record or 96
a certification of birth shall not be less than the fee prescribed 97
for the same service under division (A)(1) of section 3705.24 of 98
the Revised Code and shall include the fees required by division 99
(B) of section 3705.24 and section 3109.14 of the Revised Code. 100

Fees for services provided by the board for purposes 101
specified in sections 3701.344, ~~3711.05~~ 3711.10, 3718.06, 3729.07, 102
3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code shall 103
be established in accordance with rules adopted under division (B) 104

of this section. The district advisory council, in the case of a
general health district, and the legislative authority of the
city, in the case of a city health district, may disapprove any
fee established by the board of health under this division, and
any such fee, as disapproved, shall not be charged by the board of
health.

(B) The public health council shall adopt rules under section
111.15 of the Revised Code that establish fee categories and
uniform methodologies for use in calculating the costs of services
provided for purposes specified in sections 3701.344, ~~3711.05~~
3711.10, 3718.06, 3729.07, 3730.03, 3733.04, 3733.25, and 3749.04
of the Revised Code. In adopting the rules, the public health
council shall consider recommendations it receives from advisory
boards established either by statute or the director of health for
entities subject to the fees.

(C) At least thirty days prior to establishing a fee for a
service provided by the board for a purpose specified in section
3701.344, ~~3711.05~~ 3711.10, 3718.06, 3729.07, 3730.03, 3733.04,
3733.25, or 3749.04 of the Revised Code, a board of health shall
notify any entity that would be affected by the proposed fee of
the amount of the proposed fee.

Sec. 3711.01. As used in this chapter:

(A) "Board of health" means a board of health of a city or
general health district or the authority having the duties of a
board of health under section 3709.05 of the Revised Code.

(B) "Maternity home" means a facility for pregnant girls and
women where accommodations, medical care, and social services are
provided during the prenatal and postpartal periods. "Maternity
home" does not include a private residence where obstetric or
newborn services are received by a resident of the home.

(C) "Maternity unit" means a distinct portion of a hospital 135
in which inpatient care is provided to women during all or part of 136
the maternity cycle. 137

(D) "Newborn care nursery" means a distinct portion of a 138
hospital in which inpatient care is provided to infants. "Newborn 139
care nursery" includes a distinct portion of a hospital in which 140
intensive care is provided to infants. 141

Sec. 3711.02. (A) Except as provided in division (B) of this 142
section, no person shall operate any of the following, unless the 143
person holds the appropriate license issued under this chapter and 144
the license is valid: 145

(1) A maternity unit; 146

(2) A newborn care nursery; 147

(3) A maternity home. 148

(B) Division (A) of this section does not apply to a health 149
care facility as defined in division (A)(4) of section 3702.30 of 150
the Revised Code. 151

Sec. 3711.04. Each person seeking to operate a maternity 152
unit, newborn care nursery, or maternity home shall apply to the 153
director of health for a license under this chapter. The 154
application shall be submitted in the form and manner prescribed 155
by the public health council in rules adopted under section 156
3711.12 of the Revised Code. 157

A single application and license is required if an applicant 158
will operate both a maternity unit and newborn care nursery. 159

Sec. 3711.05. (A) The director of health shall review all 160
applications received under section 3711.04 of the Revised Code. 161
On receipt of a complete application, the director shall send a 162
copy of the application to the board of health of the city or 163

general health district in which the maternity unit, newborn care nursery, or maternity home is to be operated. 164
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Unless the board finds that an applicant is not in compliance with an applicable health regulation adopted by the board, the board shall approve the application. The board shall notify the director of its determination to approve or disapprove the application. If the board does not notify the director of its determination by the end of the thirtieth day after the board receives the copy of the application, the application is deemed to have been approved by the board. 166
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(B) The director shall issue a license to an applicant if all of the following requirements are met: 174
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(1) The board of health approves the application or the application is deemed to have been approved; 176
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(2) The applicant meets the standards specified in rules adopted under section 3711.12 of the Revised Code; 178
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(3) The applicant passes the inspection required by section 3711.06 of the Revised Code. 180
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(C) On issuance of a license, the director shall notify the board of health to which the application was sent under division (A) of this section. In the notice, the director shall specify the terms that apply to the license. 182
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Sec. 3711.06. The director of health shall inspect each maternity unit, newborn care nursery, or maternity home for which a person has applied for an initial license under section 3711.04 of the Revised Code prior to issuing the 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. 186
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Sec. 3711.08. A license issued under this chapter is valid 193
for three years, unless earlier revoked or suspended under section 194
3711.14 of the Revised Code. The license may be renewed in the 195
manner prescribed by the public health council in rules adopted 196
under section 3711.12 of the Revised Code. The license renewal fee 197
specified in the rules shall be paid not later than sixty days 198
after the director of health mails an invoice for the fee to the 199
license holder. A penalty of ten per cent of the amount of the 200
renewal fee shall be assessed for each month the fee is overdue. 201

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Sec. 3711.10. The director of health shall monitor compliance 203
with this chapter and the rules adopted under it. The director may 204
conduct inspections of a maternity unit, newborn care nursery, or 205
maternity home as necessary to adequately monitor compliance with 206
this chapter and the rules adopted under it. The inspections may 207
be scheduled or random. 208

The board of health of the city or general health district in 209
which a maternity unit, newborn care nursery, or maternity home is 210
located may conduct inspections of the unit, nursery, or home as 211
necessary to adequately monitor compliance with any applicable 212
health regulation adopted by the board. The inspections may be 213
scheduled or random. 214

Sec. 3711.12. (A) The public health council shall adopt rules 215
in accordance with Chapter 119. of the Revised Code as the council 216
considers necessary to implement the requirements of this chapter 217
for licensure and operation of maternity units, newborn care 218
nurseries, and maternity homes. The rules shall include provisions 219
for the following: 220

(1) Licensure application forms and procedures; 221

(2) Renewal procedures, including procedures that address the 222

<u>right of the director of health, at the director's sole</u>	223
<u>discretion, to conduct an inspection prior to renewal of a</u>	224
<u>license;</u>	225
<u>(3) Initial license fees and license renewal fees;</u>	226
<u>(4) Fees for inspections conducted by the director under</u>	227
<u>section 3711.10 of the Revised Code;</u>	228
<u>(5) Safety standards, quality-of-care standards, and</u>	229
<u>quality-of-care data reporting requirements;</u>	230
<u>(6) Reporting and auditing requirements;</u>	231
<u>(7) Inspection criteria, procedures, and guidelines;</u>	232
<u>(8) Any other rules necessary to implement this chapter.</u>	233
<u>(B) When adopting rules under this section, the public health</u>	234
<u>council shall give consideration to recommendations regarding</u>	235
<u>obstetric and newborn care issued by the American college of</u>	236
<u>obstetricians and gynecologists; American academy of pediatrics;</u>	237
<u>American academy of family physicians; American society of</u>	238
<u>anesthesiologists; American college of nurse midwives; United</u>	239
<u>States centers for disease control and prevention; association of</u>	240
<u>women's health, obstetric and neonatal nurses; and association of</u>	241
<u>perioperative registered nurses, or their successor organizations.</u>	242
<u>The council shall also consider the recommendations of the</u>	243
<u>maternity and newborn advisory council established in section</u>	244
<u>3711.20 of the Revised Code.</u>	245
<u>Sec. 3711.14. (A) In accordance with Chapter 119. of the</u>	246
<u>Revised Code, the director of health may do any of the following:</u>	247
<u>(1) Impose a civil penalty of not less than one thousand</u>	248
<u>dollars and not more than two hundred fifty thousand dollars on a</u>	249
<u>person who violates a provision of this chapter or the rules</u>	250
<u>adopted under it;</u>	251

(2) Summarily suspend, in accordance with division (B) of this section, a license issued under this chapter if the director believes there is clear and convincing evidence that the continued operation of a maternity unit, newborn care nursery, or maternity home presents a danger of immediate and serious harm to the public; 252
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(3) Revoke a license issued under this chapter if the director determines that a violation of a provision of this chapter or the rules adopted under it has occurred in such a manner as to pose an imminent threat of serious physical or life-threatening danger. 258
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(B) If the director suspends a license under division (A)(2) of this section, the director shall issue a written order of suspension and cause it to be delivered by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court while an appeal filed under section 119.12 of the Revised Code is pending. If the individual subject to the suspension requests an adjudication, the date set for the adjudication shall be within fifteen days but not earlier than seven days after the individual makes the request, unless another date is agreed to by both the individual and the director. The summary suspension shall remain in effect, unless reversed by the director, until a final adjudication order issued by the director pursuant to this section and Chapter 119. of the Revised Code becomes effective. 263
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The director shall issue a final adjudication order not later than ninety days after completion of the adjudication. If the director does not issue a final order within the ninety-day period, the summary suspension shall be void, but any final adjudication order issued subsequent to the ninety-day period shall not be affected. 277
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(C) If the director issues an order revoking or suspending a 283

license issued under this chapter and the license holder continues 284
to operate a maternity unit, newborn care nursery, or maternity 285
home, the director may ask the attorney general to apply to the 286
court of common pleas of the county in which the person is located 287
for an order enjoining the person from operating the unit, 288
nursery, or home. The court shall grant the order on a showing 289
that the person is operating the unit, nursery, or home. 290

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Sec. 3711.16. All initial license fees, renewal fees, late 292
renewal penalties, fees for inspections conducted by the director 293
of health, and civil penalties collected under this chapter shall 294
be deposited in the state treasury to the credit of the general 295
operations fund created under section 3701.83 of the Revised Code. 296
The moneys shall be used solely for purposes of administering and 297
enforcing this chapter and the rules adopted under it. 298

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Sec. 3711.20. (A) As used in this section: 300

(1) "Board-certified" means that a physician has been 301
certified in an area of practice by a medical specialty board of 302
the American medical association or the American osteopathic 303
association. 304

(2) "Level I," "level II," or "level III" means the 305
service-level designation applicable to the portion of a hospital 306
in which obstetric care or newborn care is provided, as those 307
levels are reported by the hospital to the department of health 308
pursuant to section 3701.07 of the Revised Code. 309

(B) There is hereby created the maternity and newborn 310
advisory council within the department of health. The governor, 311
with the advice and consent of the senate, shall appoint the 312
following members: 313

<u>(1) Two board-certified obstetricians;</u>	314
<u>(2) A board-certified pediatrician;</u>	315
<u>(3) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level I obstetric care service;</u>	316 317 318
<u>(4) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level I newborn care service;</u>	319 320 321
<u>(5) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level II obstetric care service;</u>	322 323 324
<u>(6) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level II newborn care service;</u>	325 326 327
<u>(7) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level III obstetric care service;</u>	328 329 330
<u>(8) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level III newborn care service;</u>	331 332 333
<u>(9) A licensed dietitian with knowledge of newborn nutrition;</u>	334
<u>(10) A licensed social worker with knowledge of newborn psychosocial and family support services;</u>	335 336
<u>(11) A lactation consultant certified by the international board of lactation consultant examiners;</u>	337 338
<u>(12) An individual to represent the public;</u>	339
<u>(13) A board-certified perinatologist;</u>	340
<u>(14) A board-certified neonatologist;</u>	341
<u>(15) A certified nurse-midwife, certified nurse practitioner,</u>	342

clinical nurse specialist, or certified registered nurse 343
anesthetist; 344

(16) A board-certified anesthesiologist; 345

(17) A board-certified family practice physician who delivers 346
children or provides newborn care. 347

(C) The governor shall make the initial appointments to the 348
council not later than sixty days after the effective date of this 349
section. Of the initial appointments, six shall be for a term of 350
three years, six for a term of four years, and six for a term of 351
five years. Thereafter, terms of office shall be five years with 352
each term ending on the same day of the same month as the term it 353
succeeds. Each member shall hold office from the date of the 354
member's appointment until the end of the term for which the 355
member was appointed. Members may be reappointed. Vacancies shall 356
be filled in the manner provided for original appointment. Any 357
member appointed to fill a vacancy prior to the expiration of the 358
term for which the member's predecessor was appointed shall hold 359
office for the remainder of that term. A member shall continue in 360
office subsequent to the expiration of the member's term or until 361
a period of sixty days has elapsed, whichever occurs first. 362

(D) The council shall hold four meetings in the first year 363
after the initial appointments to the council are made under 364
division (B) of this section. Thereafter, the council shall hold 365
two meetings each year. Additional meetings may be held at the 366
call of the chairperson or the director of health. 367

The chairperson shall be selected annually by members of the 368
council. Following each meeting, the chairperson may submit a 369
report to the director summarizing the activities, discussion, and 370
recommendations of the council. Eight voting members of the 371
council constitute a quorum. 372

(E) Members of the council shall be reimbursed for actual and 373

necessary expenses incurred in the performance of their official 374
duties. 375

(F) The department of health shall provide the council the 376
administrative support necessary to execute its duties. 377

Sec. 3711.21. The maternity and newborn advisory council 378
shall do all of the following: 379

(A) Advise and consult with the director of health in the 380
development of rules to be presented to the public health council 381
for proposed adoption under this chapter; 382

(B) Advise and consult with the director concerning the 383
implementation and enforcement of this chapter; 384

(C) Advise and consult with the director in the development 385
of inspection criteria, procedures, and guidelines to be used in 386
enforcement of this chapter; 387

(D) Advise and consult with the director regarding 388
recommendations to be presented to the public health council 389
regarding improving maternity and newborn care in this state; 390

(E) Prepare and submit to the director an annual report 391
evaluating the department's enforcement of this chapter. 392

Sec. 3711.22. The maternity and newborn advisory council may 393
establish committees to focus on specific components of the 394
enforcement of this chapter. Chairpersons of the committees shall 395
be appointed by the chairperson of the council and shall be 396
members of the council. Other members of the committees shall be 397
appointed by the chairperson of the council and may include 398
individuals who are not members of the council. 399

The membership and responsibilities of each committee 400
established under this section shall be subject to the approval of 401
the director of health. Members of the committees shall be 402

reimbursed for actual and necessary expenses incurred in the 403
performance of their official duties. 404

Committee reports shall be presented to the council at each 405
regular meeting of the council. 406

Section 2. That existing sections 3701.83, 3702.11, 3702.55, 407
and 3709.09 and sections 3711.01, 3711.02, 3711.021, 3711.03, 408
3711.04, 3711.05, 3711.06, 3711.07, 3711.08, 3711.09, 3711.10, 409
3711.11, 3711.12, 3711.13, and 3711.99 of the Revised Code are 410
hereby repealed. 411

Section 3. Notwithstanding the provisions of Sections 1 and 2 412
of this act, a person may continue to operate a maternity unit, 413
newborn care nursery, or maternity home pursuant to a license 414
issued under Chapter 3711. of the Revised Code, as that chapter 415
existed immediately prior to the effective date of this act, until 416
the person's license expires or is revoked. 417

Until the rules required by sections 3711.04 and 3711.10 of 418
the Revised Code as enacted by this act are adopted, the 419
Department of Health may renew licenses and issue new licenses 420
under the rules adopted under former Chapter 3711. of the Revised 421
Code. 422