

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 60**

**Representative Huffman**

**Cosponsor: Representative Terhar**

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**A B I L L**

To amend section 3711.12 and to enact section 3711.13 1  
of the Revised Code to require that rules 2  
governing maternity units, newborn care nurseries, 3  
and maternity homes include certain provisions 4  
pertaining to the authority to make decisions 5  
regarding the transfer of patients to other 6  
facilities and to specify procedures for granting 7  
variances or waivers of any requirement in the 8  
rules governing operation of such facilities. 9

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

**Section 1.** That section 3711.12 be amended and section 10  
3711.13 of the Revised Code be enacted to read as follows: 11

**Sec. 3711.12.** (A) The director of health shall adopt rules in 12  
accordance with Chapter 119. of the Revised Code as the director 13  
considers necessary to implement the requirements of this chapter 14  
for licensure and operation of maternity units, newborn care 15  
nurseries, and maternity homes. The rules shall include provisions 16  
for the following: 17

(1) Licensure application forms and procedures; 18

(2) Renewal procedures, including procedures that address the 19

right of the director of health, at the director's sole	20
discretion, to conduct an inspection prior to renewal of a	21
license;	22
(3) Initial license fees and license renewal fees;	23
(4) Fees for inspections conducted by the director under	24
section 3711.10 of the Revised Code;	25
(5) Safety standards, quality-of-care standards, and	26
quality-of-care data reporting requirements;	27
(6) Reporting and auditing requirements;	28
(7) Inspection criteria, procedures, and guidelines;	29
(8) <u>Application forms to be used and procedures to be</u>	30
<u>followed in applying for a variance or waiver of any of the</u>	31
<u>requirements of the rules adopted under this section regarding the</u>	32
<u>operation of a maternity unit, newborn care nursery, or maternity</u>	33
<u>home;</u>	34
<u>(9) Any other rules necessary to implement this chapter.</u>	35
(B) <u>Any rules adopted under this section that pertain to the</u>	36
<u>transfer of a pregnant woman, the mother of a newborn child, or</u>	37
<u>the newborn child to a different facility because of circumstances</u>	38
<u>related to the health condition of the pregnant woman, mother, or</u>	39
<u>newborn child, including a health condition resulting from having</u>	40
<u>or the potential for having a newborn child with a low birth</u>	41
<u>weight or low gestational age, shall include provisions that do</u>	42
<u>both of the following:</u>	43
<u>(1) Permit an attending physician, acting in good faith, to</u>	44
<u>make the decision that the physician considers best with respect</u>	45
<u>to the transfer;</u>	46
<u>(2) Grant a person who has authority to consent to the</u>	47
<u>transfer, including the pregnant woman, the mother, or the</u>	48
<u>guardian of the pregnant woman, mother, or newborn child, the</u>	49

right to refuse the transfer once information has been provided to 50  
the person regarding the risks and benefits of the transfer. 51

(C) When adopting rules under this section, the director 52  
shall give consideration to recommendations regarding obstetric 53  
and newborn care issued by the American college of obstetricians 54  
and gynecologists; American academy of pediatrics; American 55  
academy of family physicians; American society of 56  
anesthesiologists; American college of nurse-midwives; United 57  
States centers for disease control and prevention; association of 58  
women's health, obstetric and neonatal nurses; and association of 59  
perioperative registered nurses, or their successor organizations. 60  
The director shall also consider the recommendations of the 61  
maternity and newborn advisory council established in section 62  
3711.20 of the Revised Code. 63

Sec. 3711.13. (A) The director of health may grant a variance 64  
from or waiver of any of the requirements established in rules 65  
adopted under section 3711.12 of the Revised Code regarding the 66  
operation of a maternity unit, newborn care nursery, or maternity 67  
home. 68

(B) Each maternity unit, newborn care nursery, or maternity 69  
home seeking a variance or waiver shall file an application with 70  
the director. The application shall be made on the form and in 71  
accordance with the procedures specified in rules adopted under 72  
section 3711.12 of the Revised Code. 73

(C) The director shall review all applications received. Not 74  
later than ninety days after receiving an application, the 75  
director shall determine whether to grant the variance or waiver 76  
and shall notify the applicant in writing of the director's 77  
decision. The director's decision is not subject to appeal under 78  
Chapter 119. of the Revised Code. 79

(D) Both of the following apply to the director in 80

determining whether to grant a variance or waiver: 81

(1) A variance may be granted to an applicant if the director 82  
determines that the intent of a requirement has been met by the 83  
applicant in an alternate manner. 84

(2) A waiver may be granted if the director determines that 85  
strict application of a requirement would cause an undue hardship 86  
to the applicant and that granting the waiver would not jeopardize 87  
the health and safety of any patient or resident. 88

**Section 2.** That existing section 3711.12 of the Revised Code 89  
is hereby repealed. 90