

(127th General Assembly)
(Substitute House Bill Number 331)

AN ACT

To amend sections 3701.83, 3702.11, 3702.55, and 3709.09; to enact sections 3711.14, 3711.16, 3711.20, 3711.21, and 3711.22; to enact new sections 3711.01, 3711.02, 3711.04, 3711.05, 3711.06, 3711.08, 3711.10, and 3711.12; and to repeal sections 3711.01, 3711.02, 3711.021, 3711.03, 3711.04, 3711.05, 3711.06, 3711.07, 3711.08, 3711.09, 3711.10, 3711.11, 3711.12, 3711.13, and 3711.99 of the Revised Code regarding the licensure of hospital maternity units, hospital newborn care nurseries, and maternity homes.

Be it enacted by the General Assembly of the State of Ohio:

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

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

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

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

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

(C) A political subdivision certified under section 3721.09 of the

Revised Code may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a nursing home, rest home, or home for the aging, or any beds within any of those facilities that are involved in the activity;

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

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

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

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

Fees for services provided by the board 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 shall be established in accordance with rules adopted under division (B) 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 in which inpatient care is provided to women during all or part of the maternity cycle.

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

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

(1) A maternity unit;

(2) A newborn care nursery;

(3) A maternity home.

(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.

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

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

Sec. 3711.05. (A) The director of health shall review all applications received under section 3711.04 of the Revised Code. On receipt of a complete application, the director shall send a copy of the application to the board of health of the city or general health district in which the maternity unit, newborn care nursery, or maternity home is to be operated.

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.

(B) The director shall issue a license to an applicant if all of the following requirements are met:

(1) The board of health approves the application or the application is deemed to have been approved;

(2) The applicant meets the standards specified in rules adopted under section 3711.12 of the Revised Code;

(3) The applicant passes the inspection required by section 3711.06 of the Revised Code.

(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.

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.

Sec. 3711.08. A license issued under this chapter 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 director of health mails an invoice for the fee to the license holder. A penalty of ten per cent of the amount of the renewal fee shall be assessed for each month the fee is overdue.

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

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

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

The rules shall include provisions for the following:

- (1) Licensure application forms and procedures;
- (2) Renewal procedures, including procedures that address the right of the director of health, at the director's sole discretion, to conduct an inspection prior to renewal of a license;
- (3) Initial license fees and license renewal fees;
- (4) Fees for inspections conducted by the director under section 3711.10 of the Revised Code;
- (5) Safety standards, quality-of-care standards, and quality-of-care data reporting requirements;
- (6) Reporting and auditing requirements;
- (7) Inspection criteria, procedures, and guidelines;
- (8) Any other rules necessary to implement this chapter.

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

Sec. 3711.14. (A) In accordance with Chapter 119. of the Revised Code, the director of health may do any of the following:

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

(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.

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.

(C) If the director issues an order revoking or suspending a license issued under this chapter and the license holder continues to operate a maternity unit, newborn care nursery, or maternity home, the director may ask the attorney general to apply to the court of common pleas of the county in which the person is located for an order enjoining the person from operating the unit, nursery, or home. The court shall grant the order on a showing that the person is operating the unit, nursery, or home.

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

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

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

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

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

(1) Two board-certified obstetricians;

- (2) A board-certified pediatrician;
- (3) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level I obstetric care service;
- (4) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level I newborn care service;
- (5) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level II obstetric care service;
- (6) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level II newborn care service;
- (7) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level III obstetric care service;
- (8) A nurse manager or administrator responsible for the organization and supervision of nursing services in a level III newborn care service;
- (9) A licensed dietitian with knowledge of newborn nutrition;
- (10) A licensed social worker with knowledge of newborn psychosocial and family support services;
- (11) A lactation consultant certified by the international board of lactation consultant examiners;
- (12) An individual to represent the public;
- (13) A board-certified perinatologist;
- (14) A board-certified neonatologist;
- (15) A certified nurse-midwife, certified nurse practitioner, clinical nurse specialist, or certified registered nurse anesthetist;
- (16) A board-certified anesthesiologist;
- (17) A board-certified family practice physician who delivers children or provides newborn care.

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

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

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. Eight voting members of the council constitute a quorum.

(E) Members of the council shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

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

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

(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;

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

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

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

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

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 be appointed by the chairperson of the council and shall be members of the council. Other members of the committees shall be appointed by the chairperson of the council and may include individuals who are not members of the council.

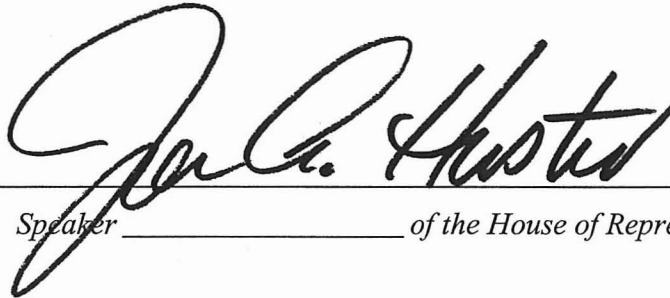
The membership and responsibilities of each committee established under this section shall be subject to the approval of the director of health. Members of the committees shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

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

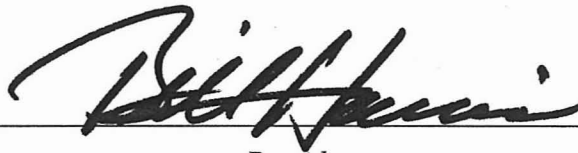
SECTION 2. That existing sections 3701.83, 3702.11, 3702.55, and 3709.09 and sections 3711.01, 3711.02, 3711.021, 3711.03, 3711.04, 3711.05, 3711.06, 3711.07, 3711.08, 3711.09, 3711.10, 3711.11, 3711.12, 3711.13, and 3711.99 of the Revised Code are hereby repealed.

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

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



Speaker _____ of the House of Representatives.



President _____ of the Senate.

Passed May 20, 2008

Approved June 2, 2008



Governor.

Sub. H. B. No. 331

5339

127th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Mark C. Flanders

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
2nd day of June, A. D. 2008.

James B. ...

Secretary of State.

File No. 89

Effective Date 9/1/08