



Ohio Legislative Service Commission

Bill Analysis

Amy J. Rinehart

H.B. 60

130th General Assembly
(As Introduced)

Reps. Huffman, Terhar

BILL SUMMARY

- Requires that rules governing maternity units, newborn care nurseries, and maternity homes include certain provisions pertaining to the authority to make decisions regarding the transfer of a pregnant woman, the mother of a newborn child, or the newborn child to a different facility.
- Codifies an administrative rule that authorizes the Director of Health to grant a variance from or waiver of any of the requirements of rules regarding the operation of a maternity unit, newborn care nursery, or maternity home.
- Requires the Director to adopt rules regarding application forms to be used and procedures to be followed in applying for a variance or waiver.
- Requires the Director to review all applications for variances and waivers and, not later than 90 days after receipt of an application, to determine whether to grant the variance or waiver and notify the applicant of the decision.

CONTENT AND OPERATION

Rules governing transfers of maternity and newborn patients

(R.C. 3711.12(B))

Under current law, the Director of Health licenses and regulates maternity units in hospitals, newborn care nurseries in hospitals, and maternity homes. The Director is required to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) as the Director considers necessary for the licensure and operation of these facilities. Rules have been adopted that address when patients are to be

transferred from one facility to another based on the level of services the facility is authorized to provide.¹

The bill requires that any of the Director's rules that pertain to the transfer of a pregnant woman, the mother of a newborn child, or the newborn child to a different facility because of circumstances related to the health condition of the pregnant woman, mother, or newborn child, including a health condition resulting from having or the potential for having a newborn child with a low birth weight or low gestational age, include provisions that do both of the following:

(1) Permit an attending physician, acting in good faith, to make the decision that the physician considers best with respect to the transfer;

(2) Grant a person who has authority to consent to the transfer, including the pregnant woman, the mother, or the guardian of the pregnant woman, mother, or newborn child, the right to refuse the transfer once information has been provided to the person regarding the risks and benefits of the transfer.

Procedures for granting variances or waivers

(R.C. 3711.12(A)(8) and 3711.13)

The bill codifies an administrative rule² that authorizes the Director to grant a variance from or waiver of any of the requirements established in rules regarding the operation of a maternity unit, newborn care nursery, or maternity home.

Under the bill, a variance may be granted to an applicant if the Director determines that the intent of a requirement has been met by the applicant in an alternate manner. A waiver may be granted if the Director determines that strict application of a requirement would cause an undue hardship to the applicant and that granting the waiver would not jeopardize the health and safety of any patient or resident.

The bill requires the Director to adopt rules regarding application forms to be used and procedures to be followed in applying for a variance or waiver each maternity unit, newborn care nursery, or maternity home seeking a variance or waiver is required to file an application with the Director. The application is to be made on the form and in accordance with the procedures specified in the Director's rules.

¹ See, for example, Ohio Administrative Code (O.A.C.) 3701-7-09, 3701-7-10, and 3701-7-11.

² O.A.C. 3701-7-17.



The Director is to review all applications received. Not later than 90 days after receiving an application, the Director must determine whether to grant the variance or waiver and must notify the applicant in writing of the Director's decision. The Director's decision is not subject to appeal under the Administrative Procedure Act.

HISTORY

ACTION	DATE
Introduced	02-12-13

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