

and hospital facilities in which obstetric and newborn care is offered. According to Ohio Department of Health (ODH), the provisions within the bill will combine two, somewhat inconsistent, sets of regulations (the maternity licensure program and the safety standards and quality-of-care standards for obstetric and newborn care) into one standard set of regulations. ODH staff have to essentially conduct two separate inspections currently at each visit to a maternity hospital unit. As a result, the bill could reduce regulatory burden for ODH and may reduce expenditures related to inspections. Additionally, the bill makes the inspections triennial instead of annual, which might further reduce program expenditures. The bill allows the Public Health Council, with input from the Maternity and Newborn Advisory Council, to set licensure and inspection fees in rule, so there is no way to determine the effect of the bill on program revenues at this time. However, it is likely that the fee schedule established will be based on the actual costs for inspections and could possibly be comparable to or even less than the current fees charged. If this occurs, program revenues will decrease along with program expenditures. The program will be fully supported with the fees collected.

- The bill requires the Public Health Council, which is within ODH, to establish rules for things such as licensure application forms and procedures and application and renewal fees. As a result, ODH could incur increased expenditures for rule promulgation associated with the bill.
- The bill creates the Maternity and Newborn Advisory Council in ODH and establishes the membership and duties related to the Council. The bill specifies that the members of the Council must be reimbursed for actual and necessary expenses and that ODH must provide the Council with necessary administrative support. Additionally, the bill allows the Council to establish committees to focus on specific components of the enforcement of the bill. Members of these committees must also be reimbursed for actual and necessary expenses. Thus, ODH will experience an increase in expenditures. The total increase will depend upon the number of meetings for the Council and the amount of administrative support needed, as well as the number of additional committees established.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase
Government-Owned Hospitals			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential decrease	Potential decrease	Potential decrease

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The bill permits the Director of Health to ask the Attorney General to apply to the appropriate county court of common pleas for an order enjoining a license holder from operating a home or facility under certain conditions. This could increase costs to county courts of common pleas. The increase is expected to be minimal, as the number of enjoinders are expected to be few.
- The bill repeals current law governing maternity hospitals, lying-in hospitals, and places where women are received and cared for during parturition and replaces it with law providing for the licensure and regulation of maternity homes and facilities in which obstetric and newborn care is offered. The Ohio Hospital Association (OHA) assumes that the fees established in rule for licensing and inspections of hospital maternity units could be comparable to current fees. It is also possible that the fees could be slightly reduced. This is due to the fact that two, somewhat

inconsistent, sets of regulations will be combined into one, which will reduce regulatory burden for ODH. If this occurs, ODH program expenditures would be reduced which would be passed along to hospitals in the form of lower fees. However, the fees are to be established by the Public Health Council and the fiscal effect on hospitals will not be known until after the fee schedule has been adopted. It should be noted that the Maternity and Newborn Advisory Council does advise in the development of these rules, so the regulated community will have a voice in this process and in the establishment of the fee schedule. Having stated this, OHA still believes that hospitals will have reduced expenses because the time currently required to prepare for and participate in annual inspections will be reduced when the inspections become triennial. According to OHA, preparing for and participating in inspections is very time consuming for hospital staff. There may also be some hospital staff time savings because there will be a single set of regulations, as opposed to the current two sets of regulations.

Detailed Fiscal Analysis

The bill makes changes to the law regarding the licensure of maternity homes and obstetric and newborn care facilities.

Current law

While hospitals are not licensed in Ohio, maternity units within hospitals are required to be licensed as "maternity hospitals, lying-in hospitals, or places where women are received and cared for during partuition." Current law also prohibits a person from maintaining a maternity boardinghouse or lying-in hospital unless licensed to do so by the Department of Health (ODH). Currently, ODH has a fee schedule in ORC section 3711.021 that outlines the license or renewal fees charged a maternity hospital or lying-in hospital. The fees are listed below:

- \$4,042 for a hospital in which not less than 2,000 births occurred the previous calendar year;
- \$3,517 for a hospital in which not more than 1,999 and not less than 1,000 births occurred the previous calendar year;
- \$2,992 for a hospital in which not more than 999 and not less than 650 births occurred the previous calendar year;
- \$2,467 for a hospital in which not more than 649 and not less than 450 births occurred the previous calendar year;
- \$1,942 for a hospital in which not more than 449 births and not less than 100 births occurred the previous calendar year; and
- \$1,417 for a hospital in which not more than 99 births occurred in the previous calendar year.

The costs for inspections for the maternity licensure program are included in this fee schedule. Licenses are renewed annually and inspections are performed annually or more often in the case of complaints. Hospitals with maternity units currently pay these fees.

Currently, ODH also establishes safety standards and quality-of-care standards for obstetric and newborn care. The Director of Health monitors health care providers for compliance with these standards. In OAC Section 3701-84-06, the fee for these inspections are stated. The fees are \$1,250 for an inspection, \$650 for a complaint inspection, and \$650 for a follow-up inspection. Hospital maternity units are currently subject to these standards. However, according to the Ohio Hospital Association, while ODH has the authority to charge for these inspections, ODH usually avoids assessment of separate inspection fees. Since ODH staff inspect the hospital maternity units for the licensure program they do not charge for the safety standards and quality-of-care standards inspections.

The bill repeals the current law governing maternity hospitals, lying-in hospitals, and places where women are received and cared for during partuition and replaces it with law providing for the licensure and regulation of "maternity homes" and hospital "facilities in which obstetric and newborn care is offered." The bill eliminates the authority of the Director of Health to adopt rules establishing safety standards and quality-of-care standards for "obstetric and newborn care" and instead requires the Public Health Council to adopt rules in accordance with the Administrative Procedure Act as the Council considers necessary to implement the requirements for licensure and operation of maternity homes and facilities in which obstetric and newborn care is offered.

Licensure and rule-making authority provisions

Licensure

The bill requires each person seeking licensure to operate a maternity home or facility in which obstetric and newborn care is offered to apply to the Department of Health for a license. The application must be submitted in a form and manner prescribed by the Public Health Council in rules. The bill requires the Director of Health to inspect each maternity home or facility in which obstetric and newborn care is offered before an initial license is granted. Inspections must be conducted prior to issuing the license in accordance with inspection criteria, procedures, and guidelines the Public Health Council must establish in rules.

A license to operate a maternity home or facility in which obstetric and newborn care is offered is valid for three years, unless earlier revoked or suspended. A license may be renewed in the manner prescribed by the Public Health Council in rules. The license renewal fee is to be specified in the rules and must be paid not later than 60 days after the Department of Health mails an invoice to the license holder. The bill requires the Director of Health to monitor compliance with the laws governing the licensure and regulation of maternity homes and facilities in which obstetric and newborn care is offered. The Director is permitted to conduct scheduled or random inspections of facilities, as the Director considers necessary to adequately monitor compliance.

The bill also permits the Director of Health to take specific actions for failure to comply with the law governing the licensure and regulation of maternity homes and facilities in which obstetric and

newborn care is offered. These actions include the imposition of a civil penalty or if warranted the suspension or revocation of the license. The bill outlines the suspension process, as well as the adjudication process. The bill permits the Director, if the Director has issued an order revoking or suspending a license and the license holder continues to operate a maternity home or facility in which obstetric and newborn care is offered, to ask the Attorney General to apply to the appropriate county court of common pleas for an order enjoining the person from operating the home or facility.

Rule-making authority

The bill eliminates the authority of the Director of Health to adopt rules establishing safety standards and quality-of-care standards for "obstetric and newborn care" and instead requires the Public Health Council to adopt rules in accordance with the Administrative Procedure Act as the Council considers necessary to implement the requirements for licensure and operation of maternity homes and facilities in which obstetric and newborn care is offered. The rules must include provisions for things such as the licensure application forms and procedures, application renewal procedures, and application and renewal fees, which includes inspection fees.

When adopting these rules, the Council must give consideration to recommendations regarding obstetric and newborn care issued by various professional organizations, such as the American Academy of Family Physicians and the American Academy of Pediatrics, to name a few. The Council must also consider the recommendations of the Maternity and Newborn Advisory Council created by the bill.

Fiscal impact for licensure and rule-making authority provisions

Department of Health

According to ODH, the provisions within the bill will combine two, somewhat inconsistent, sets of regulations (the maternity licensure program and the safety standards and quality-of-care standards for obstetric and newborn care) into one standard set of regulations. ODH staff have to essentially conduct two separate inspections currently at each visit to a maternity hospital unit. As a result, the bill could reduce regulatory burden for ODH and may reduce expenditures related to inspections. Additionally, the bill makes the inspections triennial instead of annual, which might also reduce program expenditures. The bill allows the Public Health Council, with input from the Maternity and Newborn Advisory Council, to set licensure and inspection fees in rule, so there is no way to determine the effect of the bill on program revenues at this time. However, it is likely that the fee schedule established will be based on the actual costs for inspections and could possibly be comparable to or even less than the current fees charged. If this occurs, program revenues will decrease. The program will be fully supported with fee revenues collected. ODH will incur increased costs for rule promulgation associated with the bill.

Government-owned hospitals

The Ohio Hospital Association (OHA) assumes that the fees established in rule for licensing and inspections of hospital maternity units could be comparable to current fees. It is also possible that the

fees could be slightly reduced. This is due to the fact that two, somewhat inconsistent, sets of regulations will be combined into one, which will reduce regulatory burden for ODH. If this occurs, ODH program expenditures would be reduced which would be passed along to hospitals in the form of lower fees. However, the fees are to be established by the Public Health Council and the fiscal effect on hospitals will not be known until after the fee schedule has been adopted. It should be noted that the Maternity and Newborn Advisory Council does advise in the development of these rules, so the regulated community will have a voice in this process and in the establishment of the fee schedule. Having stated this, OHA still believes that hospitals will have reduced expenses because the time currently required to prepare for and participate in annual inspections will be reduced when the inspections become triennial. According to OHA, preparing for and participating in inspections, is very time consuming for hospital staff. There may also be some hospital staff time savings because there will be a single set of regulations, as opposed to the current two sets of regulations.

County court of common pleas

The bill permits the Director of Health to ask the Attorney General to apply to the appropriate county court of common pleas for an order enjoining a license holder from operating a home or facility under certain conditions. This could increase costs to county courts of common pleas and the Attorney General. The increase is expected to be minimal, as the number of enjoinders are expected to be few.

Maternity and Newborn Advisory Council and additional committees

The bill creates the Maternity and Newborn Advisory Council in the Department of Health. The bill lists the membership, terms of office, and the duties of the Council. The bill also specifies that the Council members must be reimbursed for actual and necessary expenses. ODH must provide the Council the administrative support necessary to execute its duties.

The bill also permits the Maternity and Newborn Advisory Council to establish committees to focus on specific components of the enforcement of the bill. The bill specifies that the membership and responsibilities of each committee be subject to approval by the Director of Health. The members of these committees must be reimbursed for actual and necessary expenses.

Fiscal impact for Council and committees provisions

Department of Health

ODH would incur increased costs as a result of the Maternity and Newborn Advisory Council and committee provisions in the bill. The total increase will depend upon the number of meetings for the Council and the amount of administrative support needed, as well as the number of additional committees established.

LSC fiscal staff: Wendy Risner, Senior Budget Analyst

HB0331IN.doc/lb

