



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 151
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Johnson

Jason Hoskins, Attorney

SUMMARY

- Establishes standards and conditions for the medical care and treatment provided by hospitals and physicians to certain pregnant women and preterm infants and infants born with a disability.
- Requires certain health professionals to receive appropriate training in the intubation of and provision of other life-sustaining treatment for preterm infants or infants with a disability.
- Designates the act as “Emery and Elliot’s Law.”

DETAILED ANALYSIS

Care and treatment of infants and pregnant women

To whom care is provided

The bill establishes standards and conditions regarding the medical care and treatment provided to certain pregnant women and infants by hospitals and physicians. These standards and conditions must be satisfied when care and treatment are provided to any of the following:¹

- A woman who is at least 21 weeks pregnant but not more than 26 weeks pregnant;
- A woman who is less than 21 weeks pregnant but has reached a point in the pregnancy for which an infant’s survival has been demonstrated;
- A woman who is pregnant and expecting an infant with a disability;

¹ R.C. 3727.25(B).

- An infant who is delivered of a woman described above.

Care standards

The standards and conditions of care that a hospital or physician must adhere to when providing care and treatment to one of the above-described individuals depends on the location in which the care and treatment take place.

If a pregnant woman described above presents with labor symptoms to a hospital that does not have a Level III or Level IV neonatal intensive care unit, as categorized by the American Academy of Pediatrics, the bill requires the hospital to transfer the woman, within one hour, to the nearest hospital with a Level III or Level IV neonatal intensive care unit, if the transfer is possible without endangering the life of the pregnant woman and is permitted by federal law.² This transfer must be performed by a paramedic, and the transfer cannot be denied unless the infant's parent or parent's representative completes a form acknowledging that transferring is against medical advice.³

The bill also specifies that, if a woman dies while in transit to a hospital with a Level III or Level IV neonatal intensive care unit, the originating hospital is not liable for damages for injury, death, or loss to person or property.⁴

If a pregnant woman is transferred to a hospital with a Level III or Level IV neonatal intensive care unit, and subsequently delivers the infant, the receiving hospital is required to ensure that a complete assessment of the infant's condition is performed. If the infant exhibits any movement or sound, or a pulsating umbilical cord or heartbeat, the bill requires the hospital, upon written permission from the infant's parents or parent's representatives, to ensure that the infant is provided with aggressive life-sustaining treatment, defined by the bill as all appropriate medical care, procedures, or techniques performed in an effort to sustain life.⁵ The hospital also must ensure that it will not place a medical hold on the infant's treatment.

If the hospital recommends that life-sustaining treatment for the infant be discontinued, the hospital may discontinue the treatment only if the infant's parent or parent's representative completes a form indicating informed consent to cease treatment. The bill permits an infant's parent or parent's representative to request a second opinion at any time regarding the infant's condition and treatment, including from another hospital or physician associated with another hospital.⁶

² R.C. 3727.25(C)(1).

³ R.C. 3727.25(C)(2) and (3).

⁴ R.C. 3727.25(C)(4).

⁵ R.C. 3727.25(A)(1).

⁶ R.C. 3727.25(D).

Policy disclosure

Under the bill, when a pregnant woman presents with labor symptoms to a hospital, the hospital must disclose to the woman or woman's representative any policies the hospital has adopted regarding medical treatment (or lack thereof) for preterm infants or infants with a disability. This disclosure must be in writing and made before the pregnant woman is admitted. If the pregnant woman or woman's representative agrees with the hospital's policy, the woman or the woman's representative must complete a form reflecting that agreement, in the presence of a witness who also must complete the form, and that form must be included in the pregnant woman and infant's medical records.⁷

Enforcement

A hospital that fails to comply with the bill's provisions is liable for damages to an infant or parent of an infant, who sustains injury, death, or loss to person or property as a result of the hospital's failure to comply. Any action instituted against a hospital under the bill must be commenced within five years.⁸

If a hospital is found liable as described above, the physician who accepted primary responsibility for the pregnant woman's or infant's treatment is subject to discipline by the hospital, which may include termination of employment or loss of admitting privileges.⁹

Training

The bill requires each hospital with a Level III or Level IV neonatal intensive care unit to provide the unit's medical and nursing staff with appropriate training regarding the intubation of and provision of other life-sustaining treatment for preterm infants or infants with a disability.¹⁰

Additionally, the bill requires each emergency medical service organization to provide each paramedic employed by the organization with appropriate training in the intubation of and provision of other life-sustaining treatment for preterm infants or infants with a disability.¹¹

Designation

The act is designated as "Emery and Elliot's Law."¹²

⁷ R.C. 3727.25(E).

⁸ R.C. 3727.25(G).

⁹ R.C. 3727.25(H).

¹⁰ R.C. 3727.25(F).

¹¹ R.C. 4765.392.

¹² Section 2.

Background

Current Ohio statutory law does not specify a standard of care for preterm infants. Instead, it authorizes the State Medical Board to discipline a physician for failing to conform to the minimal standard of care.¹³ Any person may file a confidential complaint alleging that a physician has violated a minimal standard of care.

HISTORY

Action	Date
Introduced	03-31-21

S0151-I-134/ts

¹³ R.C. 4731.22(B)(6), not in the bill.