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Health and Government  
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*Subcommittees*

Health Occupations  
and Long Term Care

Insurance and Pharmaceuticals



*The Maryland House of Delegates*

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**HB 761 County Boards of Health and Baltimore City Health  
Department- Procedures and Appeals Process  
Health & Government Operations  
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**WHAT IS THE PROBLEM WE ARE TRYING TO SOLVE?**

During the pandemic, there have been increased burdens and responsibilities placed on the shoulders of local health officers and health departments. Maryland's Health Officers have been on the front lines of decision making throughout the COVID-19 health crisis. The vast majority of Maryland's Health Officers are dedicated civil servants in untenable circumstances, caught between a frustrated and divided public that simultaneously accuses them of doing too much or too little. On the other side of the situation are Maryland's citizens who are frustrated and confused by decisions that often appear arbitrary, inconsistent and unreasonable. **These frustrations existed long before COVID-19, but they were certainly exacerbated by the pandemic.**

***The Health Officer Accountability Act of 2022* provides for clear and understandable requirements regarding inspections, citations and cease orders and a local appeals process for local Health Department decisions.** The bill also prohibits health officers from overriding the decision and actions of the local Boards of Health.

**WHY DO WE NEED THIS LAW?**

**Currently, in COMAR, there are NO regulations for the oversight of Local Health Officers.**

The authority of the Secretary of Health over Local Health Officers is very *vaguely* described in Health-General 3-306(4)(c)(i) "The health officer for a county shall enforce throughout the county:

1. Under the direction of the Secretary, the State health laws and the policies, rules, and regulations that the Secretary adopts; and
2. Except as provided in subparagraph (ii) of this paragraph, under the direction of the county board of health, the rules and regulations that the county board of health adopts."

**There is nothing in law giving the Secretary of Health any kind of control over local health officers and there is NO appeals process with the Local Health Officer required in COMAR. The only remedy available is the Office of Administrative Hearings.** According to MACO's testimony, some counties claim that they have a process in place, but it is not consistently clear or codified in policy or local code and often not known to the person who has been given the order – often verbally with no explanation of applied law or explanation of an appeal process.

Each County's governing body is ex-officio as the Board of Health for the county, unless, in certain circumstances, they are allowed to establish a separate Board of Health.

**Currently, there are blurred lines of responsibility and unclear roles of the Local Health Officer and their respective local Board of Health, and as a result, the public is often confused and there is no accountability.**

Often, arbitrary applications of environmental health and food safety regulations have been known to arise in our businesses, restaurants, schools, excluded organizations such as, churches, non-profit organizations, charitable organizations, cottage food industry, and farming related business operations, in addition to individuals and private events, without any clear violation of law cited, resulting in inconsistent and arbitrary orders by local health department inspectors with no known recourse to the citizen.

Marylanders deserve a uniform appeals process where citizens can redress their grievances as they relate to decisions of Health Officers and inspectors on any issue. Inspection forms should state infraction cited, the right to appeal, and the specific steps to initiate the appeals process.

It is unfair to both the citizens of Maryland and to the county Health Officers to put so much responsibility on the shoulders of one civil servant. A clear inspection and appeals process will serve to lessen arbitrary decisions and give Maryland's citizens a thoughtful way to challenge actions taken by health departments on issues related to environmental health, food regulations and beyond.

**HB761 will demonstrate education and accountability and adopt a culture that promotes continuous performance improvement and equity as the local health departments work to improve the health and safety of our communities.**

## **WHAT DOES THIS BILL DO?**

HB761 *requires* each county Board of Health (County Commissioners or County Councils) and the Baltimore City Health Department to establish an inspection and appeals process for all health violations in a timely and transparent manner. The establishment of the process by each *local* jurisdiction allows local control which brings the development of the accountability process closest to the people it will impact.

I cannot think of another area of law where a violation does not have to be documented and where there is no readily available appeals process for the respondent or defendant.

**Requirements in HB761:**

1. Require county boards of health to establish clear and understandable requirements when and under what circumstances the health officer of the county or staff may perform an inspection, issue a citation or order to cease operation reference the specific law, policy or regulation that has been violated and that a summary of the options for appealing the citation order is provided.
2. Require that citations or orders to cease operation reference that specific law, policy or regulation that has been violated and that a summary of the options for appealing the citation order is provided.
3. Require each county board of health to establish a process by which a person may appeal a decision of the health officer or staff and make a determination on that appeal in a reasonable amount of time.

**HB761 makes clear that if there is a conflict between a decision by the health department and the policy of the county's Board of Health within the county's jurisdiction, the decision of the county Board of Health- the elected officials of the county – will have the final say. Currently it is not clear in state law.**

**Recently, workplace violence in the form of harassment and threats have added to the already immense pressure on our local health departments. While that behavior is unacceptable, the public is often frustrated at the often inconsistent and sometimes arbitrary application of orders by individual health enforcement officers and inspectors and feel that they have no redress.**

This locally established and controlled process will help to support the Public Health Workforce while ensuring accountability, reasonableness and consistency as public health laws are applied to our citizens and their businesses.

**I urge the Committee to favorably report HB761**