



# **BOARD OF HEALTH**

2/13/2024 UPDATE

## **BOARD OF HEALTH: LEGAL FRAMEWORK OVERVIEW**

By Leroy D. Maddox, Jr., Legislative Officer

## **STATUTORY AUTHORITY OF THE BOARD OF HEALTH**

*The County Council of Prince George's County has the enabling authority to act as the local Board of Health pursuant to Section 3-201(b) of the Health-General Article of the Maryland Annotated Code which states "In a code county or charter county, the governing body is ex officio the board of health for the county, unless the governing body establishes a board of health."*

*The governing body did establish the County Council as the local Board of Health pursuant to Section 12-101 of the Prince George's County Code, which states:*

**"(a) The Council shall be the County Board of Health.**

(b) The Council, sitting as the Board of Health, shall have all the powers and duties granted to a local Board of Health under State law. It is the responsibility of the Board of Health, upon reasonable public notice and consultation with the County Health Officer, to take any action pursuant to its authority, upon determining that it is in the public interest and consistent with Section 3-202 of the Health General Article of the Annotated Code of Maryland, including but not limited to the following:

- (1) Review, advise and make recommendations regarding policies related to health care facilities, health services, and public health in the County;
- (2) Review, advise and make recommendations regarding any development, enlargement or other modification of health care facilities that it determines are relevant to the County;
- (3) Review, advise and make recommendations regarding policies related to any County-funded or subsidized health clinics for the treatment and prevention of physical and mental illnesses;
- (4) Have general oversight for the health and sanitary interests of the people of the County including the investigation and study of the causes of disease, epidemics, nuisances affecting public health, prevention of contagious diseases and the preservation of health;
- (5) Promote and support policies and programs that encourage healthier lifestyles and better public health in the County, including educating the public with respect to environmental, physical and mental health;
- (6) Adopt regulations by Council resolution in furtherance of the responsibilities and objectives set forth in this Subsection; and
- (7) Enlist experts to assist in the execution of its duties.

*The scope of authority of the Board of Health resides in Section 3-202(a) and (d) of the Health-General Article of the Maryland Annotated Code which states:*

“(a) Scope of authority. --

(1) Except as provided in paragraph (2) of this subsection, each county board of health shall exercise the duties imposed by law on a board of health.

(2) The county board of health shall exercise those duties in each municipality or special taxing district in the county unless the municipality or district has a charter provision or ordinance that:

(i) Covers the same subject matter;

(ii) Is at least as restrictive as the provision that the county board is required to enforce; and

(iii) Includes provisions for enforcement.

(b) Duties. -- In addition to the other duties provided by law, each county board of health shall:

(1) Meet in May and October of each year and at any other time the board considers necessary;

(2) Coordinate its activities with the Department; and

(3) Report to the Department on the sanitary conditions of the county whenever the board considers it important and necessary to do so.

(c) Fees and charges. --

(1) Except as provided in paragraph (2) of this subsection, each county board of health may set any fee or charge in connection with its rules and regulations.

(2) A fee or charge for a service that is provided wholly or partly with State or federal funds that the Department administers is subject to approval and modification by the Secretary.

(d) Nuisances; disease. -- In addition to the other powers provided by law and subject to the provisions of this article, each county board of health may adopt and enforce rules and regulations on any nuisance or cause of disease in the county.”

## **BOARD OF HEALTH'S RELATIONSHIP WITH THE COUNTY HEALTH OFFICER**

*Pursuant to Section 3-306 of the Health-General Article of the Annotated Code of Maryland expresses their legislative intent with respect to the nature of the relationship between the County Health Officer and the Board of Health.*

“3-306. Powers and duties.

(a) Except as provided by agreement between the Secretary and the local governing body, and in addition to the powers and duties set forth elsewhere, each health officer has the powers and duties set forth in this section.

(b) A health officer may obtain samples of food and drugs for analysis.

(c)

(1) The health officer for a county is the executive officer and secretary of the county board of health.

(2) Except in Montgomery County, the health officer for a county shall appoint the staff of the county health department.

(3) The health officer for a county shall have an office at an accessible place in the county.

**(4)(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.

**(ii)** The health officer for a county shall enforce in each municipality or special taxing district in the county the rules or regulations that the county board of health adopts unless the municipality or district has a charter provision or ordinance that:

1. Covers the same subject matter as the county rule or regulation;

2. Is at least as restrictive as the county rule or regulation; and

3. Includes provisions for enforcement.

**(5)** A health officer shall perform any investigation or other duty or function directed by the Secretary or the county board of health and submit appropriate reports to them.

**(d)** Subject to the consent of the governing body of the county and the written approval of the Secretary, a health officer for a county may enter into a contract or any other written agreement to assist or participate in the delivery of health care services with a person that is authorized to provide, finance, coordinate, facilitate, or otherwise deliver health care services in the State.

*What Section 3-306(c)(1), (4)(i)(ii), and (5) illustrates is that the County Health Officer on certain matters shall take direction from Board of Health. Whereas, Section 12-101(b) of the County Code, allows the Board of Health upon reasonable public notice and consultation with the County Health Officer, to take any action pursuant to its authority, upon determining that it is in the public interest and consistent with Section 3-202 of the Health General Article of the Annotated Code of Maryland.*