

**RESOLUTION B-2020**

**AUTHORIZING THE HEALTH COMMISSIONER TO SUSPEND OR REVOKE A FOOD SERVICE OPERATION AND RETAIL FOOD ESTABLISHMENT LICENSE**

The Board of Health of the Hamilton County General Health District met in regular session on February 10, 2020 with the following members present:

Jim Brett, President	<u>Present</u>
Mark A. Rippe, Vice President	<u>Present</u>
Kenneth G. Amend, M.D.	
Tracey Puthoff, Esq.	<u>Present</u>
Elizabeth A. Kelly, M.D.	<u>Present</u>

Mr. Rippe

moved for adoption of the following regulation:

**Resolution Authorizing the Health Commissioner to Suspend or Revoke a Food Service Operation and Retail Food Establishment License**

**WHEREAS**, the Hamilton County General Health District Board of Health recognizes its responsibilities as the licensor of food service operations and retail food establishments in Hamilton County, Ohio, and that under Ohio Revised Code, Section 3717, the Hamilton County General Health District Board of Health has the authority and duty to suspend or revoke licenses for these types of operations if they do not comply with Ohio Administrative Code, Section 3717-1; and

**WHEREAS**, the Hamilton County General Health District Board of Health recognizes that both emergency, non-emergency and recalcitrant situations arise in the day to day administration of Ohio Administrative Code, Section 3717-1 that may require immediate attention to protect the public's health; and

**WHEREAS**, the Ohio Revised Code, Section 3717.29 and 3717.49 and the Ohio Administrative Code, Section 901: 3-4-08(B) and 3717-21-26 (B) authorizes the Director of Environmental Health or designee, as a licensor, to enforce regulations in nonemergency situations; and

**WHEREAS**, Ohio Revised Code, Section 3717.49 and Ohio Revised Code, Section 3717.29 authorizes the Board of Health, as a licensor, to suspend or revoke a licensee's food service operation or retail food establishment license in the case of immediate danger (clear and present) to public health or after documented failure to maintain sanitary conditions within a facility; and

**WHEREAS**, the Hamilton County General Health District Board of Health is authorized under Ohio Revised Code, Section 3717.49 (C) (1) and Ohio Revised Code, Section 3717.29 (D) (1) to authorize the Health Commissioner to suspend a license without giving notice or affording an opportunity to correct any violation when the circumstances create an immediate danger (clear and present) to the public health.

**NOW, THEREFORE BE IT RESOLVED** that under the authority of Ohio Revised Code, Section 3717.49 and Ohio Revised Code, Section 3717.29, the Health Commissioner is hereby authorized to suspend or revoke any licensee's food service operation or retail food establishment license without giving notice or affording an opportunity to correct the violation if the circumstances present an immediate danger (clear and present) to the public health.

**BE IT FURTHER RESOLVED** that in accordance with the Ohio Revised Code, Section 3717.49 (C) (1) and Ohio Revised Code, Section 3717.29 (C) (1), the Hamilton County General Health District Board of Health authorizes the Health Commissioner to pursue recalcitrant actions against the operator of a food service operation or retail food establishment in accordance with the procedures established in the Ohio Revised Code, Section 3717.49 and Ohio Revised Code, Section 3717.29 and affording due process for appeals as established by Ohio Administrative Code, Section 901: 3-4-08 and Ohio Administrative Code, Section 3701-21-26; and

**BE IT FURTHER RESOLVED** that the Board of Health of the Hamilton County General Health District hereby finds by a vote of at least three-fourths of its members that this resolution be read once and the requirement that it be read on three different days be dispensed with as provided by law; and

**BE IT FURTHER RESOLVED** that any previous regulation, rule or policy adopted by the Board of Health of the Hamilton County General Health District, that in any way conflicts with this resolution in part or in whole is rescinded and repealed in part or in whole to the extent of any conflict; and

**BE IT FURTHER RESOLVED** that the Board of Health of the Hamilton County General Health District finds and determines that all formal actions relative to the passage of this resolution were taken in an open meeting of the Board and that all deliberations of this Board and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with the applicable legal requirement, including Sections 121.22 of the Ohio Revised Code.

Dr. Kelly seconded the regulation, upon roll call, the vote was as follows:

Jim Brett, President  
Mark A. Rippe, Vice President  
Kenneth G. Amend, M.D.  
Tracey Puthoff, Esq.  
Elizabeth A. Kelly, M.D.


Yes  
Yes  
Yes  
Yes

Board of Health of the Hamilton County General Health District

  
\_\_\_\_\_  
Jim Brett, President

2/10/2020  
Date

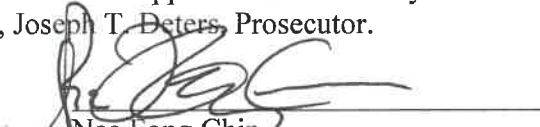
Attest:

  
\_\_\_\_\_  
Greg Kesterman, Interim Health Commissioner

2/10/2020  
Date

This regulation was approved as to form by the office of the Hamilton County Prosecuting Attorney, Joseph T. Deters, Prosecutor.

By:

  
\_\_\_\_\_  
Nee Fong Chin  
Chief Assistant Prosecuting Attorney

February 10, 2020  
Date