

AMENDED MOTION BY SUPERVISORS JANICE HAHN AND
KATHRYN BARGER

March 16, 2021

Revisiting the Health Officer Order Enforcement Protocols with Recovery

With the rates of COVID-19 cases steadily decreasing and rates of vaccination increasing, many LA County residents are looking to rebuild their businesses and return to work safely. In July 2020, the Board passed a motion directing the Department of Public Health to develop a plan to incorporate fines into their Environmental Health Inspector enforcement work to ensure greater levels of compliance. This was a reasonable measure earlier in the pandemic when many businesses were blatantly violating the Health Officer Order (HOO), and there was a need for stricter enforcement to deter these activities. However, these first violation fines have been more frequently enforced on minor infractions of businesses attempting to operate safely. Furthermore, fines have shown to be an incomplete measure for the most severe violations, forcing the county take legal action. The Board should continue to explore ways to prevent repeated non-compliance through updated ordinance language, while at the same time take immediate action to work with businesses who are acting in good faith to follow the HOO.

At the end of August 2020, the Department of Public Health began issuing

MOTION

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citations to businesses not in compliance with the HOO. The current enforcement protocol includes a \$500 fine on the first inspection visit to a business if a violation is found. On the second visit to a permitted business, if violations were not corrected, the Department of Public Health issues another \$500 fine and suspends the business permit for 7-days. Violations subject to a fine include deviations from the applicable reopening protocols, which are posted on the Department of Public Health website in multiple languages. As reported by the Department of Public Health, common violations for outdoor dining included unapproved outdoor structures, tables less than eight feet apart, TVs turned on and staff without face shields.

It is critical to the health and safety of LA County residents for businesses to follow state and local health orders. However, enforcement protocols can lead to inequitable impacts of underserved populations and sometimes even unintentionally harm the very populations they are seeking to protect. Business owners and workers, who are acting in good faith to comply with the HOO, are also facing catastrophic economic losses. Many have invested significant funds in outdoor structures, plexi-glass barriers and other safety measures. An enforcement protocol that too quickly escalates to temporarily shutting down a business may unnecessarily compromise people's jobs and livelihoods.

Additionally, the current system to issue a fine at the first inspection has severely damaged trust between the Environmental Health inspectors and business owners. In some instances, inspectors have experienced harassment and even physical assault, because of heightened tensions during enforcement visits.

As various business sectors are reopening for the first time in many months and protocols are often updated with state and local safety measures, it is unreasonable to issue a fine at the first finding of non-compliance to businesses that are working quickly

to gain compliance. The Board is committed to providing businesses a pathway for recovery. This motion revisits the HOO enforcement policy direction from the Board in July 2020 to reflect the current recovery demands of the pandemic. It is critical for Environmental Health inspectors to have a safe, productive space to provide education and guidance to businesses without the looming threat of a fine on the first visit.

WE, THEREFORE MOVE that the Board of Supervisors direct the Department of Public Health to make the following changes to its Environmental Health Enforcement Protocol for businesses:

1. On the first visit, advise a business of non-compliance, educate the business on the importance of the health and safety protocols, and only consider issuing a monetary fine for the most significant violations.
2. For businesses with a Public Health permit or license, focus on educating businesses on compliance and utilize permit suspension or revocation only for ~~the most~~ significant violations or for repeated uncured violations.
3. Any other changes to current practices that will allow businesses to come into compliance and reopen safely.

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JH:kb