



**STATE OF RHODE ISLAND
RHODE ISLAND DEPARTMENT OF HEALTH**

**IN THE MATTER OF:
Copperfield's Burger and Beer House
Violations of Executive Orders and
RI Department of Health Regulations**

**IMMEDIATE COMPLIANCE ORDER
HEALTHY ENVIRONMENT**

Now comes the Director of the Rhode Island Department of Health ("RIDOH"), as informed by the Chair ("Chair") of the Rhode Island COVID-19 Enforcement Task Force ("Task Force"), and pursuant to R.I. Gen. Laws § 23-1-21, Executive Orders 20-32 and 20-67 ("Executive Orders"), and the RIDOH rules and regulations pertaining to Safe Activities By Covered Entities During the COVID-19 Emergency (216-RICR-50-15-7) ("Safe Regulations"), determines that Copperfield's Burger and Beer House ("Respondent") is in violation of applicable Executive Orders and/or the Safe Regulations, which violation requires immediate action to protect the health, welfare, and safety of the public.

NEED FOR IMMEDIATE ACTION

On March 9, 2020, Governor Gina M. Raimondo declared a state of emergency for the State of Rhode Island due to the dangers to health and life posed by COVID-19. The Safe Regulations were promulgated as an emergency rule, pursuant to R.I. Gen. Laws § 42-35-2.10, based on a finding that an imminent peril to the public health, safety, or welfare required immediate promulgation of the rule, specifically that "[i]n order to prevent further spread of COVID-19 as individuals begin to leave their homes more frequently and establishments begin to reopen, protective measures must be followed and

implemented for individuals and establishments to resume operations so that the public's health and welfare is protected.”

GROUNDS FOR DETERMINATION VIOLATIONS

- I. Respondent is a dining establishment, which maintains a bar area, located at 9 Cedar Swamp Road in Smithfield.
- II. Respondent is a covered entity, as defined in the Safe Regulations. As such, Respondent is required to comply with applicable Executive Orders and the Safe Regulations.
- III. On or about September 8, 2020, a Task Force inspector conducted a Healthy Environment inspection of the Respondent. The inspector performed a checklist inspection based on the Safe Regulations and determined that Respondent scored an 11/11 for overall requirements and a 5/5 for dining requirements. The inspector was advised that the bar area was closed to customers, therefore, no inspection of the bar area was conducted.
- IV. On or about September 19, 2020, at approximately 11:50 p.m., a different Task Force inspector conducted a spot check of the Respondent to ensure compliance with bar requirements. The inspector observed that, although the bar was supposed to be closed to customers, there were multiple patrons standing and sitting at the bar.
- V. Based on the foregoing, and in the absence of any other information to rebut the allegations, the Director of RIDOH determined that Respondent was in present violation of multiple provisions of applicable Executive Orders and/or the Safe Regulations and that, with respect to the bar requirements, immediate action was necessary to protect the health, welfare, or safety of the public.
- VI. On or about September 22, 2020, the Director of RIDOH issued an immediate compliance (“ICO”) order pursuant to which Respondent’s bar area was immediately closed until such time that Respondent, to the satisfaction of the Director of RIDOH, could demonstrate remediation of violations by fulfilling the conditions as set forth in the ICO. (See, Exhibit A.)

- VII. On or about September 25, 2020, a different Task Force inspector met with a Respondent bartender and conducted a reinspection of the Respondent. The inspector performed a checklist inspection of eleven (11) items based on the Safe Regulations. The inspector observed that the bar area was closed to customers and barricaded with signs warning customers not to approach, but the inspector determined that Respondent scored a 7/11 for overall requirements and a 2/5 for dining requirements.
- VIII. In response, the inspector provided information and resources to the Respondent to help it achieve compliance. This included a recommendation to the Respondent on how to access www.ReopeningRI.com and the relevant websites for the Executive Orders, rules, regulations, and guidance. The Respondent was also advised that a reinspection would take place in the near future.
- IX. On or about October 1, 2020, the same inspector from September 25, 2020 met with Respondent owner, Karim Menebhi (“Owner”), and conducted a reinspection of the Respondent. The inspector performed a checklist inspection of eleven (11) items based on the Safe Regulations. The inspector determined that the Respondent this time scored a 6/11 for overall requirements and a 2/5 for dining requirements.
- X. Of note is the fact that Respondent failed to ensure that tables be separated by at least eight (8) feet from table edge to table edge or to allow six (6) feet spacing between seated customers at different tables unless separated by a physical, non-porous barrier of an appropriate height, to prevent congregating and/or mingling in an establishment or areas under the establishment’s control, and to ensure compliance with physical distancing and additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible.
- XI. Based on the foregoing, and in the absence of any other information to rebut the allegations, the Director of RIDOH has determined that Respondent is in present violation of applicable Executive

Orders and/or the Safe Regulations and that immediate action is necessary to protect the health, welfare, or safety of the public.

VIOLATIONS

The following violations stem from the October 1, 2020 reinspection:

- I. Respondent is in violation of Section 7.4.1(A)(3) of the Safe Regulations, which requires all individuals in an establishment to wear cloth face coverings unless physical distancing or an exception applies and requires establishments to deny entry to any employee, who is not otherwise exempt from the requirement or who refuses to wear a cloth face covering when required. The inspector observed two (2) employees in the store, both of whom were improperly wearing cloth face coverings; both employees were wearing their cloth face coverings below their chins, not covering their noses or mouths. Neither employee claimed an exception, nor was either employee able to continuously maintain physical distancing.
- II. Respondent is in violation of Section 7.4.1(A)(1) of the Safe Regulations, which requires each covered entity to develop, maintain, and ensure compliance with a written plan for the safe operation of the establishment. Upon request, Respondent could not produce a written plan.
- III. Respondent is in violation of Section 7.4.1(A)(8) of the Safe Regulations, which requires all covered entities to maintain an employee work log that identifies the full name, phone number, and the date and time of all shifts worked by each employee. This work log must be maintained for at least thirty (30) days. Upon request, Respondent could not produce an employee work log.
- IV. Respondent is in violation of Sections 7.4.1(A)(6) & (7) of the Safe Regulations, which require each covered entity to ensure the performance of environmental cleaning of its establishments once per day and to maintain records documenting such environmental cleaning. Upon request, the Respondent could not produce the required records.
- V. Respondent is in violation of Section 7.4.1(A)(4) of the Safe Regulations, which requires each covered entity to ensure the placement of posters or signs at entry to its establishments educating

any individual at the establishment concerning entry screening, required physical distancing, use of cloth face coverings, and other subjects as provided in guidance issued by RIDOH. The inspector observed some of the required information posted at entry to the establishment, but observed that the establishment lacked required posters/signs on physical distancing and that the poster/sign on cloth face coverings was posted backwards, which prevented it from being readable. (See, Exhibit B.) The inspector concluded, therefore, that the Respondent failed to ensure the placement of required posters.

- VI. Respondent is in violation of Section 7.4.1(A)(1)(a) of the Safe Regulations, which requires establishments to ensure compliance with a plan that includes procedures relative to, among other things, physical distancing at all times, to the extent feasible, and additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible. As stated, above, Respondent did not have the required plan and the inspector observed that tables were not separated by sufficient space and, moreover, that customers were seated too close together. (See, Exhibit C.) The inspector concluded, therefore, that the Respondent failed to ensure compliance and that there were no measures in place to ensure that physical distancing was maintained.
- VII. Respondent is in violation of Section 7.4.2(A)(1)(a) of the Safe Regulations, which requires that tables be separated by at least eight (8) feet from table edge to table edge or to allow six (6) feet spacing between seated customers at different tables unless separated by a physical, non-porous barrier of an appropriate height. The inspector observed that tables were not separated by a barrier of any kind and were neither spaced at least eight (8) feet from table edge to table edge nor allowed six (6) feet of spacing between seated customers at different tables.
- VIII. Respondent is in violation of Section 7.4.2(A)(2) of the Safe Regulations, which prohibits self-service seating. The inspector observed that multiple patrons were allowed to seat themselves without assistance by the Respondent.

- IX. Respondent is in violation of Section 7.4.1.(A)(12) of the Safe Regulations, which prohibits congregating and/or mingling in an establishment or areas under the establishment's control. The inspector observed numerous customers congregating near the door to the establishment drinking and smoking.

ORDER

It is hereby **ORDERED**, that Respondent is immediately closed until such time as violations are remedied to the satisfaction of the Director of RIDOH by fulfilling the conditions as set forth below:

- I. Respondent shall require all employees in its establishment to wear cloth face coverings unless physical distancing can be continuously maintained, or an exception applies. In accordance with Section 7.4.1(3)(a) of the Safe Regulations, Respondent shall deny access to its establishment to any employee who refuses to wear a cloth face covering when required by the Safe Regulations unless an exception applies.
- II. Respondent shall develop, maintain, and ensure compliance with a written plan for the safe operation of the establishment.
- III. Respondent shall maintain an employee work log that identifies the full name, phone number, and the date and time of all shifts worked by each employee. This work log must be maintained for at least thirty (30) days.
- IV. Respondent shall ensure the performance of environmental cleaning of its establishment once per day and maintain records documenting such environmental cleaning.
- V. Respondent shall ensure the placement of posters or signs at entry to its establishment educating any individual at the establishment concerning entry screening, required physical distancing, use of cloth face coverings, and other subjects as provided in guidance issued by RIDOH.
- VI. Respondent shall ensure compliance with its plan for safe operation, required pursuant to Section 7.4.1(A)(1) of the Safe Regulations, including compliance with, among other things, procedures

consistent with the Safe Regulations relative to physical distancing at all times, to the extent feasible, and additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible.

- VII. Respondent shall ensure that tables are situated to allow separation of at least eight (8) feet from table edge to table edge or to allow six (6) feet spacing between seated customers at different tables unless separated by a physical, non-porous barrier of an appropriate height.
- VIII. Respondent shall ensure that no congregating and/or mingling occurs within the establishment or any area under the establishment's control.
- IX. Respondent shall ensure that all parties are seated by the Respondent and that no self-seating occurs.

Entered this 5th day of October 2020.

A handwritten signature in black ink, appearing to read "Nicole Alexander-Scott", is written over a horizontal red line. To the left of the signature, there is a vertical black line.

Nicole Alexander-Scott, MD, MPH
Director
Rhode Island Department of Health
Cannon Building, Rm. 401
Three Capitol Hill
Providence, RI 02908

Exhibit A



**STATE OF RHODE ISLAND
RHODE ISLAND DEPARTMENT OF HEALTH**

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- II. Respondent is a covered entity, as defined in the Safe Regulations. As such, Respondent is required to comply with applicable Executive Orders and the Safe Regulations.
- III. On or about September 8, 2020, a Task Force inspector conducted a Healthy Environment inspection of the Respondent. The inspector performed a checklist inspection based on the Safe Regulations and determined that Respondent scored an 11/11 for overall requirements and a 5/5 for dining requirements. The inspector was advised that the bar area was closed to customers, therefore, no inspection of the bar area was conducted.
- IV. On or about September 19, 2020, at approximately 11:50 p.m., a different Task Force inspector conducted a spot check of the Respondent to ensure compliance with bar requirements. The inspector observed that, although the bar was supposed to be closed to customers, there were multiple patrons standing and sitting at the bar.
- V. Of significance is the fact that the Respondent failed to ensure that, if parties were seated at the bar, no staff were permitted to work in any areas behind the bar unless a physical, non-porous barrier of appropriate height is installed between the bar work areas and customers; that even with physical barriers between the bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and/or that working bar areas, such as drink making stations or glassware storage, must be located at least six feet from the gaps.
- VI. Based on the foregoing, and in the absence of any other information to rebut the allegations, the Director of RIDOH has determined that Respondent is in present violation of multiple provisions

of applicable Executive Orders and/or the Safe Regulations and that, with respect to the bar requirements, immediate action is necessary to protect the health, welfare, or safety of the public.

VIOLATIONS

The following violations stem from the September 19, 2020 spot check:

- I. Respondent is in violation of Section 7.4.2(A)(6) of the Safe Regulations, which requires that:
 - a. when parties are seated at the bar, no staff are permitted to work in any areas behind the bar and all work areas behind the bar unless a physical, non-porous barrier of appropriate height and made of a material, which complies with the interior finish requirements of the State Fire Code, is installed between the bar work areas and customers; and
 - b. even with physical barriers between bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and,
 - c. working bar areas (e.g., drink making stations or glassware storage) must be located at least six (6) feet from these gaps. Drinks and/or food may not be passed to customers under, over, or around such barrier by staff behind the bar.

The inspector observed that there were three (3) patrons standing at the bar and two (2) seated at the bar, all of whom had beverages in front of them. The inspector further observed that there was no non-porous barrier installed between the bar work area and the customers.

- II. Respondent is in violation of Section 7.4.2(A)(3) of the Safe Regulations, which prohibits service to standing customers. As described above, the inspector observed three (3) customers who were standing at the bar with beverages in front of them.
- III. Respondent is in violation of Executive Order 20-61, which, among other things, requires that all establishments open past 11:00 p.m. must, from 11:00 p.m. until closing, close their bar areas,

including, but not limited to the bar counter and seating at the bar counter, and ensure that the bar area is not accessible to patrons. At or before 11:00 p.m. every night, all such bars, restaurants, and other establishments must rope off their bar areas and make seating at the bar counters unavailable to customers. The inspector conducted the inspection at 11:50 p.m. and observed five (5) customers at the bar area, and concluded, therefore, that the bar area remained accessible to patrons after 11:00 p.m.

ORDER

It is hereby **ORDERED**, that Respondent is to immediately close its bar/counter area until such time as violations are remedied to the satisfaction of the Director of RIDOH by fulfilling the conditions as set forth below:

- I. Respondent shall ensure that:
 - a. when parties are seated at the bar, no staff are permitted to work in any areas behind the bar and all work areas behind the bar unless a physical, non-porous barrier (i.e., plexiglass) of appropriate height and made of a material which complies with the interior finish requirements of the State Fire Safety Code is installed between the bar work areas and customers; and,
 - b. even with physical barriers between bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and,
 - c. working bar areas (e.g. drink making stations or glassware storage) are located at least six (6) feet from these gaps and that drinks and/or food is not passed to customers under, over, or around such barrier by staff behind the bar.
- II. Respondent shall ensure that service is made only to seated customers and that no service to standing customers occurs.

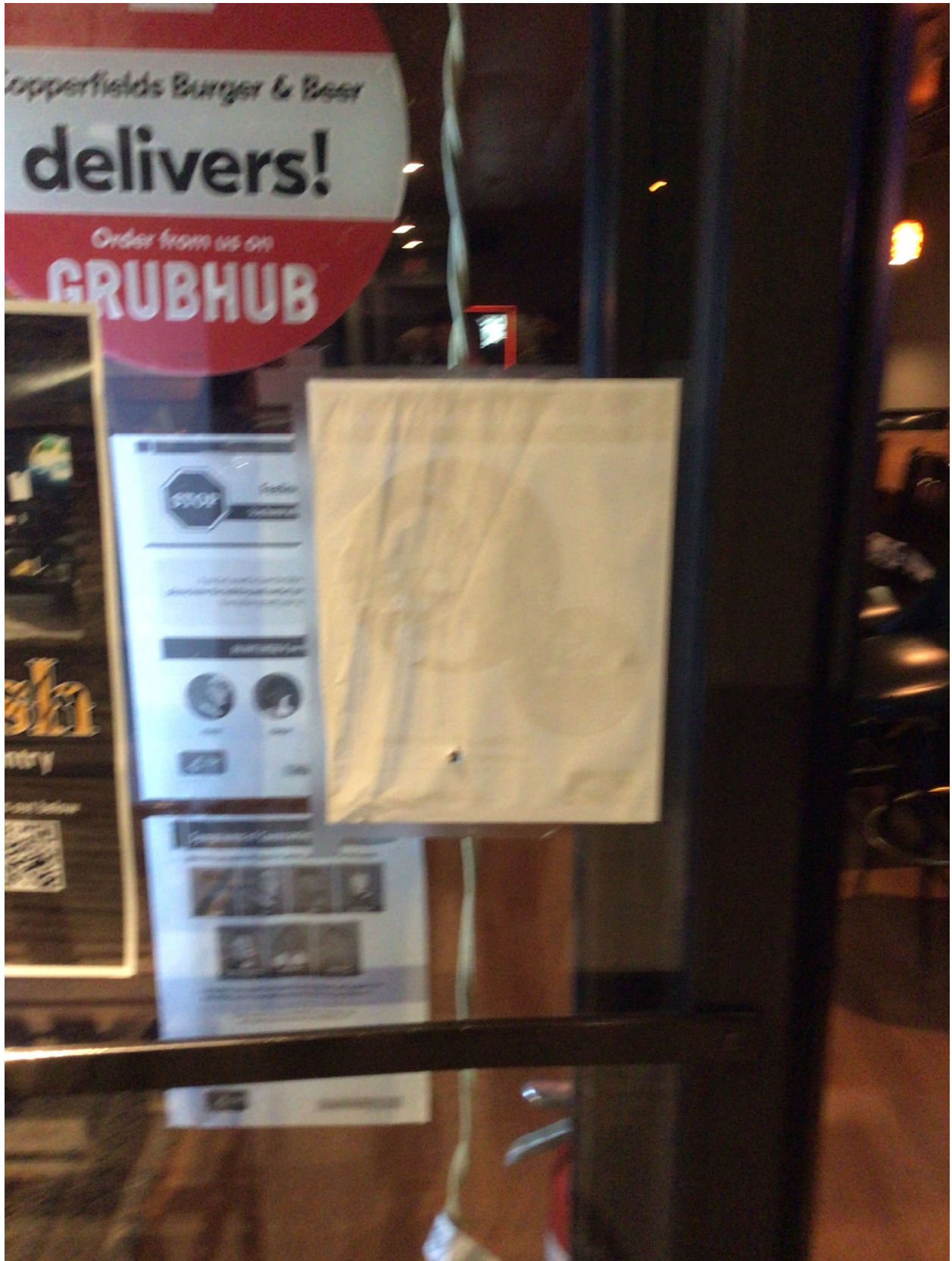
III. Respondent shall ensure that from 11:00 p.m. until closing, it closes its bar area, including but not limited to the bar counter and seating at the bar counter, and ensure that the bar area is not accessible to patrons. The Respondent shall also ensure that, at or before 11:00 p.m. every night, the bar area is roped off, or made otherwise inaccessible to patrons, and seating at the bar counter is unavailable to customers.

Entered this 22nd day of September 2020.

A handwritten signature in black ink, appearing to read "Nicole Alexander-Scott". The signature is fluid and cursive, with the first name "Nicole" written in a larger, more prominent script than the last name "Alexander-Scott".

Nicole Alexander-Scott, MD, MPH Director
Rhode Island Department of Health Cannon
Building, Rm. 401
Three Capitol Hill
Providence, RI 02908

Exhibit B





Handwritten note on a yellow sticky note, mostly illegible due to blurring.

*25.00
Minimum
on Credit
& Debit
Card Payments
Not including
TAX!
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Exhibit C



