



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

**IN THE MATTER OF:
Nancy's Homestyle Deli
Violations of Executive Orders and
RI Department of Health Regulations**

IMMEDIATE COMPLIANCE ORDER

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 Order 20-95 ("Executive Order"), 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 Nancy's Homestyle Deli ("Respondent") is in violation of applicable Executive Orders and/or the Safe Regulations, which violations require 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.”

GROUNDINGS FOR DETERMINATION OF VIOLATION

- I. Respondent is a dining establishment located at 139 Main Street in Warren.
- II. Respondent is a covered entity as defined in the Safe Regulations. As such, the Respondent is required to comply with applicable Executive Orders and the Safe Regulations.
- III. On or about August 12, 2020, a Task Force inspector met with owner Nancy Weigel (“Owner”) and conducted a Healthy Environment inspection of the Respondent. The inspector performed a checklist inspection based on the Safe Regulations and determined that Respondent scored a 5/11 for overall requirements and a 1/5 for dining requirements. After the inspection, the inspector provided information and resources to the Respondent to help it achieve full 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 an inspector would conduct a reinspection in the near future.
- IV. On or about October 30, 2020, the same Task Force inspector conducted a reinspection of the Respondent. The inspector again met with the Owner and again performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent scored a 7/11 for overall requirements, a 3/5 for dining requirements, and a 5/7 for bar requirements. As a result of this inspection, a ten (10) day Notice of Compliance Order (“Notice”) was served upon the Respondent on November 4, 2020. (See “Attachment 1”)
- V. On or about November 13, 2020, a Task Force inspector conducted a reinspection of the Respondent to determine whether the requirements in the Notice had been met. The inspector met with the Owner and performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent again scored a 7/11 for overall requirements and a 3/5

for dining requirements. Notably, the inspector observed that the Respondent had made no attempts to meet the requirements of the Notice.

- VI. Therefore, as a result of the Respondent's continued failure to comply with applicable Executive Orders and the Safe Regulations, its failure to meet the requirements of the Notice, and in the absence of any other information to rebut the allegations above, RIDOH has drawn the conclusion that the above allegations are true, and the Respondent is not in compliance with applicable Executive Orders and/or the Safe Regulations.

VIOLATIONS

The following alleged violations stem from the November 13, 2020 reinspection.

- I. 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. The inspector observed that there were no measures in place to ensure that physical distancing was maintained.
- II. 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, to clean commonly touched surfaces, such as shared workstations, elevator buttons, door handles and railings in accordance with CDC guidance for specific industries, and to maintain records documenting such environmental cleaning. The inspector observed that there were dirty tables and food coolers that were unclean, and concluded, therefore, that the Respondent did not clean high touch surfaces in accordance with CDC guidelines for its industry. Further, upon request, the Respondent could not produce the required records.

- 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 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. (See "Exhibit 2")
- V. Respondent is in violation of Section 7.4.2(A)(2) of the Safe Regulations, which prohibits self-service seating. The inspector observed that patrons were allowed to seat themselves without assistance by the Respondent.
- VI. Respondent is in violation of Section 7.4.2(A)(5) of the Safe Regulations, which requires that all parties seated at a bar be separated by at least 6 feet, unless separated by a physical, non-porous barrier of an appropriate height. The inspector observed that there was neither adequate spacing nor physical barriers to separate customers sitting at the bar/countertop area near the front window. (See "Exhibit 3")

ORDER

It is hereby **ORDERED**, that Respondent is to immediately close. Prior to reopening, violations shall be remedied to the satisfaction of the Director of RIDOH by fulfilling the conditions as set forth below:

- I. Respondent must develop and incorporate into its written control plan a strategy to prevent the violations listed above from reoccurring. Said written plan shall incorporate, but not be limited to, the following:

- a. 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.
- b. Respondent shall ensure the performance of environmental cleaning of its establishment once per day and maintain records documenting such environmental cleaning.
- c. Respondent shall clean all high touch surfaces in accordance with CDC guidelines, in accordance with its specific industry, and maintain records documenting such cleaning.
- d. 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.
- e. 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.
- f. Respondent shall ensure that no self-seating occurs.
- g. Respondent shall ensure that all parties seated at a bar be separated by at least 6 feet, unless separated by a physical, non-porous barrier of an appropriate height.

Entered this 17th Day of November 2020.



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

EXHIBIT 1



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

**ELIZABETH M. TANNER, ESQ.
IN HER CAPACITY AS CHAIR OF THE
RHODE ISLAND COVID-19 ENFORCEMENT
TASK FORCE**

**IN THE MATTER OF:
Nancy's Homestyle Deli
Violations of Executive Orders and
RI Department of Health Regulations**

NOTICE OF VIOLATION AND COMPLIANCE ORDER

Now comes the Chair ("Chair") of the Rhode Island COVID-19 Enforcement Task Force ("Task Force") and pursuant to R.I. Gen. Laws § 23-1-20, Executive Orders 20-32, 20-40, and 20-90, and Rhode Island Department of Health ("RIDOH") regulation 216-RICR-50-15-7 ("Safe Regulations"), determines that there are reasonable grounds to believe that Nancy's Homestyle Deli ("Respondent") is in violation of Executive Orders and/or the Safe Regulations, and provides notice thereof.

REASONABLE GROUNDS FOR DETERMINATION OF VIOLATION

- VII. Respondent is a dining establishment located at 139 Main Street in Warren.
- VIII. Respondent is a covered entity as defined in the Safe Regulations. As such, the Respondent is required to comply with applicable Executive Orders and the Safe Regulations.
- IX. On or about August 12, 2020, a Task Force inspector met with owner Nancy Weigel ("Owner") and conducted a Healthy Environment inspection of the Respondent. The inspector performed a

checklist inspection based on the Safe Regulations and determined that Respondent scored a 5/11 for overall requirements and a 1/5 for dining requirements. After the inspection, the inspector provided information and resources to the Respondent to help it achieve full 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 an inspector would conduct a reinspection in the near future.

- X. On or about October 30, 2020, the same Task Force inspector conducted a reinspection of the Respondent. The inspector again met with the Owner and again performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent scored a 7/11 for overall requirements, a 3/5 for dining requirements, and a 5/7 for bar requirements.
- XI. Therefore, as a result of the Respondent's continued failure to comply with applicable Executive Orders and the Safe Regulations, and in the absence of any other information to rebut the allegations above, RIDOH has drawn the conclusion that the above allegations are true, and the Respondent is not in compliance with applicable Executive Orders and/or the Safe Regulations.

ALLEGED VIOLATIONS

The following alleged violations stem from the October 30, 2020 reinspection.

- VII. 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.
- VIII. 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 could not produce the required plan and the inspector observed that there

were no measures in place to ensure that physical distancing was maintained. The inspector also observed that, due to the lack of spacing between tables and seating at the bar, physical distancing could not be maintained to the extent feasible. (See "Exhibit A")

- IX. 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.
- X. 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.
- XI. 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 numerous 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 to allow six (6) feet of spacing between seated customers at different tables. (See "Exhibit A")
- XII. Respondent is in violation of Section 7.4.2(A)(1)(a) of the Safe Regulations, which requires that information be collected from all visitors and other entrants who have interacted with others present on site for a period of 15-minutes or more solely for the purposes of contact tracing. Upon request, the Respondent admitted that they did not collect the required information.
- XIII. Respondent is in violation of Section 7.4.2(A)(5) of the Safe Regulations, which requires that all parties seated at a bar be separated by at least 6 feet, unless separated by a physical, non-porous

barrier of an appropriate height. The inspector observed that there was neither adequate spacing nor physical barriers to separate customers sitting at the bar/countertop area near the front window. (See "Exhibit A")

ORDER

It is hereby ORDERED, that on or before the tenth (10th) day from service of this Notice of Violation and Compliance Order, Respondent shall remedy the above cited violations and come into full compliance with applicable Executive Orders and Regulations, by fulfilling the conditions as set forth below:

- II. Respondent shall develop, maintain, and ensure compliance with a written plan for the safe operation of the establishment.
- III. 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.
- 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 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.
- VI. 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.

- VII. Respondent shall ensure that information be collected from all visitors and other entrants who have interacted with others present on site for a period of 15-minutes or more solely for the purposes of contact tracing.
- VIII. Respondent shall ensure that all parties seated at a bar be separated by at least 6 feet, unless separated by a physical, non-porous barrier of an appropriate height.

Failure to comply with this ORDER may result in the imposition of civil fines, the issuance of an immediate compliance order, and/or any other action authorized by regulation, the Act, or other applicable law.

Entered this 4th day of November 2020.



Elizabeth M. Tanner, Esq.
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**A WRITTEN REQUEST FOR A HEARING MAY BE FILED IN WRITING WITHIN
TEN DAYS AFTER THIS NOTICE**

EXHIBIT A



EXHIBIT 2



EXHIBIT 3

