



**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:
Ocean State Body Builders
Violations of Executive Orders and
RI Department of Health Regulations**

NOTICE OF VIOLATION AND COMPLIANCE ORDER

Now comes the Chair (the “Chair”) of the Rhode Island COVID-19 Enforcement Task Force (“Task Force”) and pursuant to R.I. Gen. Laws § 23-1-20, Executive Order 20-32, Executive Order 20-40, Executive Order 20-58, and Rhode Island Department of Health (“RIDOH”) regulation 216-RICR-50-15-7 (the “Safe Regulations”), determines that there are reasonable grounds to believe that Ocean State Body Builders (“Respondent”) is in violation of Executive Orders and/or the Safe Regulations, and provides notice thereof.

REASONABLE GROUNDS FOR DETERMINATION OF VIOLATION

- I. Respondent is a fitness establishment located at 10 Morgan Mill Road in Johnston.
- 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 20, 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 a 3/11 for overall requirements. In response, 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 August 22, 2020, a different Task Force inspector conducted a reinspection of the Respondent. The inspector met with owner Thomas Kloza (“Owner”) and performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent again scored a 3/11 for overall requirements and a 1/5 for fitness requirements. It was evident to the inspector that despite efforts to assist the Respondent to achieve compliance, the Respondent had implemented no corrective measures to improve compliance.
- V. 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 August 22, 2020 reinspection.

- I. Respondent is in violation of Section 7.4.1(A)(1)(f) of the Safe Regulations, which requires the designation of a point of contact who is familiar with the applicable Executive Orders and the Safe Regulations, and who will work with the Department on testing, contact tracing, case investigation, isolation and quarantine follow up. Although the Owner was the identified point of

contact, the lack of compliance and efforts led the inspector to believe that he was not familiar with applicable Executive Orders and the Safe Regulations.

- 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 admitted that they did not have 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 admitted that it did not maintain an employee work log.
- IV. Respondent is in violation of Section 7.4.1(A)(6) & (7) of the Safe Regulations, which requires each covered entity to ensure the performance of environmental cleaning of their establishments once per day and to maintain records documenting such environmental cleaning. Upon request, the Respondent admitted that it had no required records.
- V. Respondent is in violation of Section 7.4.1(A)(6) of the Safe Regulations, which requires each covered entity to clean commonly touched surfaces, such as shared workstations, elevator buttons, door handles and railings in accordance with CDC guidance for specific industries. The inspector observed commonly touched surfaces, such as exercise equipment, not being cleaned between uses.
- VI. Respondent is in violation of Section 7.4.1(A)(2) of the Safe Regulations, which requires each covered entity to implement and ensure compliance with screening of all individuals entering its establishment(s) at any time for any reason. Upon inquiry, the Respondent admitted that it did not conduct entry screening. The inspector observed numerous patrons enter the establishment,

none of which were screened by the Respondent. In addition, there were no posters visible at or near the entrance concerning entry screening.

- VII. 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 the Department. Inspectors observed that required posters were absent from the entry to the establishment and concluded, therefore, that the Respondent failed to ensure the placement of required posters.
- 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 admitted to not having the required plan and the inspector observed that there were no measures in place to ensure that physical distancing was maintained.
- IX. Respondent is in violation of Section 7.4.5(A)(1) of the Safe Regulations, which requires that for individuals who do not wear a face mask while engaged in vigorous exercise, they must maintain at least fourteen (14) feet apart from other individuals in the gym or fitness center. The inspector observed eleven (11) patrons exercising, none of which were wearing a face mask. The inspector also observed several patrons vigorously exercising, who were within fourteen (14) feet of each other and not wearing a face mask.
- X. Respondent is in violation of Section 7.4.5(A)(2) of the Safe Regulations, which requires that all exercise equipment, including cardio equipment, must be separated by at least six (6) feet. The inspector observed numerous pieces of exercise equipment which were not separated by at least six (6) feet and were in use.

- XI. Respondent is in violation of Section 7.4.5(A)(3) of the Safe Regulations, which requires that all equipment must be thoroughly sanitized in between uses. The inspector observed numerous occasions where exercise equipment was being used by multiple patrons without being cleaned between uses.

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:

- I. Respondent shall designate a point of contact who is familiar with applicable Executive Orders and the Safe Regulations, and who will work with the Department on testing, contact tracing, case investigation, isolation and quarantine follow up.
- 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 clean all high touch surfaces in accordance with CDC guidelines, in accordance with its specific industry, and maintain records documenting such cleaning.
- VI. Respondent shall implement and ensure compliance with screening of all individuals entering its establishment(s) at any time for any reason.

- VII. 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.
- VIII. 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 to include additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible.
- IX. Respondent shall ensure that, for individuals who do not wear a face mask while engaged in vigorous exercise, the individuals maintain at least fourteen (14) feet apart from other individuals in the gym.
- X. Respondent shall ensure that all exercise equipment, including cardio equipment, is separated by at least six (6) feet.
- XI. Respondent shall ensure that all equipment is thoroughly sanitized between uses.

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 25th day of August 2020.



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**A WRITTEN REQUEST FOR A HEARING MAY BE FILED IN WRITING WITHIN
TEN DAYS AFTER THIS NOTICE**