



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

**IN THE MATTER OF:
The Art of Barbering
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 20-108, 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 The Art of Barbering (“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.”

GROUND FOR DETERMINATION OF VIOLATION

- I. Respondent is a personal services establishment, duly licensed by RIDOH as a Hair Design Shop (License No. HDS11076), located at 640 Broad Street, Commercial Unit 4, in Providence.
- 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 July 21, 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 6/11 for overall 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 December 24, 2020, a Task Force inspector conducted a reinspection of the Respondent. The inspector met with an employee and again performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent this time scored a 4/12 for overall requirements. Importantly, the inspector observed that none of the three (3) employees, who were performing personal services on customers, was wearing a cloth face covering, and none of the three (3) customers receiving said services was wearing a cloth face covering either. Indeed, none of the six (6) customers within the establishment was wearing a cloth face covering. (See “Exhibit 1”)

- V. Therefore, as a result of the Respondent's continued failure to comply with applicable Executive Order 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.

VIOLATIONS

The following alleged violations stem from the December 24, 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 an exception applies and requires establishments to deny entry to any employee, who is not otherwise exempt from the requirement, who refuses to wear a cloth face covering when required. The inspector observed six (6) employees in the establishment, none of whom was wearing a cloth face covering. None of the employees claimed an exception. (See "Exhibit 1")
- II. Respondent is in violation of Section 7.4.6(A)(3) of the Safe Regulations, which requires that services where the individual receiving the service must remove his or her mask, including in shared, communal facilities, or enclosed spaces, shall only be performed if the personal service professional wears a cloth face covering with protection equivalent to an N-95 respirator, such as a KN-95 respirator, and eye protection, such as goggles or a face shield, and the unmasked individual maintains physical distancing from all other individuals, besides the personal service professional. (See "Exhibit 1")
- III. Respondent is in violation of Executive Order 20-108, paragraph 33, which allows up to 1 customer per 100 square feet. The inspector observed no fewer than six (6) customers, in addition to the three (3) employees, in an area of approximately 500 square feet, placing Respondent over the limit. (See "Exhibit 1")

- IV. 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 RIDOH on testing, contact tracing, case investigation, isolation and quarantine follow up. Upon request, Respondent could not identify a point of contact who is familiar with the guidance and regulations.
- V. 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.
- 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 was unable to produce the required plan and the inspector observed that there were no measures in place to ensure that physical distancing was maintained.
- VII. 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.
- VIII. 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.
- IX. Respondent is in violation of Section 7.4.6(A)(4) 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, provided that information from individuals receiving services where the individual must remove his or her mask must be collected regardless of the amount of time he or she was present on site. The information collected must be maintained for thirty (30) days. Upon request, the Respondent could not produce the required records.

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 the following:
 - a. Respondent shall require all employees in its establishment to wear cloth face coverings unless 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.
 - b. Respondent shall actively remind all individuals/customers in its establishment to wear a mask or cloth face covering.
 - c. Respondent shall require that services where the individual receiving the service must remove his or her mask, including in shared, communal facilities, or enclosed spaces, shall only be performed if the personal service professional wears a cloth face covering with protection equivalent to an N-95 respirator, such as a KN-95 respirator, and eye protection, such as goggles or a face shield, and the unmasked individual maintains physical distancing from all other individuals, besides the personal service professional.
 - d. Respondent shall limit its customers to one (1) customer per one-hundred (100) square feet.

- e. Respondent shall designate a point of contact who is familiar with applicable Executive Orders and the Safe Regulations, and who will work with RIDOH on testing, contact tracing, case investigation, isolation and quarantine follow up.
 - f. Respondent shall develop, maintain, and ensure compliance with a written plan for the safe operation of the establishment.
 - g. 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.
 - h. Respondent shall ensure the performance of environmental cleaning of its establishment once per day and maintain records documenting such environmental cleaning.
 - i. 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.
 - j. Respondent shall ensure that information is 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 and that information from individuals receiving services where the individual must remove his or her mask is collected regardless of the amount of time he or she was present on site. The information collected must be maintained for thirty (30) days.
- II. Once completed, said written plan must be emailed to DBR.CovidTaskForce@dbr.ri.gov for approval. You will be notified whether your updated plan has been approved and, if so, the date for your reinspection.

III. Respondent shall ensure that all employees are tested for COVID-19. Once test results are available, Respondent shall send confirmation of such to DBR.CovidTaskForce@dbr.ri.gov.

IV. Respondent shall ensure that all required RIDOH licensing is in current and good standing.

Entered this 28th Day of December, 2020.

A handwritten signature in black ink, appearing to read "Nicole Alexander-Scott". The signature is fluid and cursive, with a large initial "N" and "S".

Nicole Alexander-Scott, MD, MPH
Director
Rhode Island Department of Health
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EXHIBIT 1



Due to COVID-19

We Kindly ask
patrons to
wait in
vehicle



NO FACE MASK
NO ENTRY

