



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

**IN THE MATTER OF:
Vibe Lounge and Hookah Bar
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 §§ 23-1-20 and 23-1-21, Executive Orders 20-32 and 20-79 (“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 Vibe Lounge and Hookah Bar (“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.”

GROUNDS FOR DETERMINATION OF VIOLATIONS

- I. Respondent is a lounge and hookah bar located at 25 Broad Street in Pawtucket.
- 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 October 17, 2020, at approximately 11:30 p.m., a Task Force inspector conducted a spot check of the Respondent to determine compliance with bar requirements. Upon entry, the inspector observed multiple violations of Executive Orders and the Safe Regulations as described below.
- IV. 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 immediate action is necessary to protect the health, welfare, or safety of the public.

VIOLATIONS

The following violations stem from the October 17, 2020 spot check.

- 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 approximately six (6) employees in the establishment, two (2) of which were not wearing cloth face coverings. None claimed an exception to the requirement to wear a cloth face covering, nor were they able to maintain physical distancing. The inspector

also observed numerous patrons mingling within Respondent establishment who were not wearing any cloth face coverings. (See "Exhibit A")

- II. 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, as evidenced by the high volume of patrons in the establishment, physical distancing was not being maintained to the extent feasible. (See "Exhibit B") In addition, there were no measures in place to ensure that physical distancing was maintained.
- III. Respondent is in violation of Executive Order 20-61, which 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 the bar area and make seating at the bar counter unavailable to customers. The inspector conducted the inspection at 11:30 p.m. and observed that the bar area was not roped off and that there were approximately ten (10) patrons standing at the bar and being served. The inspector concluded, therefore, that the bar remained accessible to customers after 11:00 p.m. (See "Exhibit A")
- IV. Respondent is in violation of Section 7.4.2(A)(3) of the Safe Regulations, which prohibits service to standing customers. The inspector observed approximately ten (10) patrons standing at the bar area and being served. (See "Exhibit A")
- V. 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 patrons in the Respondent establishment who were not seated and were congregating and/or mingling. (See “Exhibits A, B, and C”)

VI. Respondent is in violation of Section 7.4.1.(A)(11) of the Safe Regulations, which prohibits the use of hookah or waterpipes indoors. The inspector observed numerous patrons using hookah indoors. (See “Exhibit C”)

VII. 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 numerous parties standing at the bar and being served though there was no physical, non-porous barrier of appropriate height separating the patrons from the bar work areas. (See “Exhibit A”)

**ORDER
IMMEDIATE COMPLIANCE**

It is hereby **ORDERED**, that Respondent is to immediately close for a period of no less than fourteen (14) days. Respondent may not reopen until such time that all violations have been 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 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.
 - b. Respondent shall instruct all patrons in its establishment to wear cloth face coverings unless physical distancing or an exception applies.
 - c. 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.
 - d. 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 and seating at the bar counter is unavailable to customers.
 - e. 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.
 - f. Respondent shall ensure that service is made only to seated customers and that no service to standing customers occurs.

- ii. Your establishment's employee worklog, dating back two weeks from the date the violations outlined in the ICO were witnessed by a Task Force inspector.
- b. Ensure all persons on the worklog are tested for COVID-19.
- c. Once all employees have been tested AND their results are available, send confirmation of such to: DBR.CovidTaskForce@dbr.ri.gov
- d. Respondent shall attend and participate in a meeting with the Rhode Island Department of Health to discuss health concerns. You will be emailed the contact information of the RI Department of Health (RIDOH) so you can schedule your meeting with RIDOH.
- e. After you have met with RIDOH, please contact: DBR.CovidTaskForce@dbr.ri.gov to schedule an inspection of your establishment.
- f. Respondent establishment shall be completely cleaned and sanitized in accordance with applicable CDC guidance.
- g. All employees must be trained on, and comply with, Respondent's updated written control plan.
- h. Any area within Respondent establishment or under the Respondent's control where patrons can congregate and/or mingle, e.g., dance floors, shall be roped off or otherwise made inaccessible to patrons.
- i. Respondent shall determine its regular indoor seating capacity and shall limit the number of patrons allowed to enter the establishment at any one time to sixty-six percent (66%) of that indoor seating capacity. Such capacity limitation will be identified in the modified control plan described above.

- j. Respondent shall ensure that information be collected from all visitors and other entrants who have interacted with others present on site solely for the purposes of contact tracing. Said information must be maintained for a period of thirty (30) days and made available to the Department of Health upon request.

This order, as well as any other supporting information shall be provided by RIDOH to the local board of licenses/municipality which holds the Respondent establishment's liquor license.

Entered this 22nd Day of October 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 "A".

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

EXHIBIT A



EXHIBIT B



EXHIBIT C



