



**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:
Barbers & Beards
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 Barbers & Beards (“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 OF VIOLATIONS

- I. Respondent is a personal services establishment located at 8 Highland Street in West Warwick.
- 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 23, 2020, a RIDOH inspector conducted a pre-licensure inspection of the Respondent, which included 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. After the inspection, the inspector provided information and resources to the Respondent to help it maintain full compliance. This included providing necessary signs and posters and a recommendation to the Respondent on how to access www.ReopeningRI.com and the relevant websites for the Executive Orders, rules, regulations, and guidance.
- IV. On or about October 1, 2020, a Task Force inspector conducted a routine inspection of the Respondent. The inspector met with the owner, Jacob Lima (“Owner”), and again performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent this time scored a 3/11 for overall requirements.
- V. Of note is the fact that Respondent failed to ensure that all employees wear a face covering with protection equivalent to an N-95 respirator and eye protection when performing services where the individual receiving the service must remove his or her mask and to collect full name, phone

number, and date and time(s) on site solely for purposes of contact tracing from all visitors and other entrants who have interacted with others present on site for a period of 15-minutes or more, or any duration for individuals receiving services for which they must remove their masks. The information must be maintained for thirty (30) days.

- 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 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 alleged 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, neither of whom was wearing a cloth face covering. Neither employee claimed an exception, nor was either employee able to continuously maintain physical distancing. Of note was that the employees told the inspector that they wear their masks and were simply caught with them off, but when given the opportunity to put their masks on it was discovered that the employees did not actually have any masks to wear.
- II. 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. The inspector determined, moreover, that Owner, with whom she spoke, had a general lack of familiarity with the guidance and regulations.

- III. 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 to not having a written plan, and appeared unfamiliar with the requirement.
- IV. 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 to not having an employee work log, and appeared unfamiliar with the requirement.
- V. 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 produced a cleaning log, but the log was completely empty, no records having been kept.
- 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. 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 RIDOH. The inspector observed that none of the required information was posted at 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 7.4.6(A)(3) of the Safe Regulations, which requires that services where the individual receiving personal services must remove his or her mask, including in shared, communal facilities, or enclosed spaces, shall only be performed if: (a) The personal service professional wears a 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 (b) The unmasked individual maintains physical distancing from all other individuals, besides the personal service professional. The inspector observed both employees shaving customers who were not wear cloth face coverings. The employees, themselves, were not wearing face coverings of any sort.
- X. Respondent is violation of Section 7.4.6(A)(4) of the Safe Regulations, which requires that information must be collected from all visitors to establishments offering personal services, and other entrants who have interacted with others present on site or for a period of 15-minutes or more solely for the purposes of contact tracing, provided that information from individuals who received a service in accordance with Section 7.4.6(A)(3)—i.e., where customer cannot wear a face covering—must be collected regardless of the amount of time he or she was present on site. Upon request, Respondent admitted to not collecting the required information.

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 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.
- III. Respondent shall develop, maintain, and ensure compliance with a written plan for the safe operation of the establishment.
- IV. 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.
- V. Respondent shall ensure the performance of environmental cleaning of its establishment once per day and maintain records documenting such environmental 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 additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible.
- IX. Respondent shall ensure that services where the individual receiving personal services must remove his or her mask, including in shared, communal facilities, or enclosed spaces, shall only be performed if: (a) The personal service professional wears a 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 (b) The unmasked individual maintains physical distancing from all other individuals, besides the personal service professional.
- X. Respondent shall ensure that information is collected from all visitors to Respondent, and other entrants who have interacted with others present on site or for a period of 15-minutes or more solely for the purposes of contact tracing, provided that information from individuals who received a service in accordance with Section 7.4.6(A)(3)—i.e., where customer cannot wear a face covering—is collected regardless of the amount of time he or she was present on site.

Entered this 5th 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
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