



**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:
Body Rock Fitness and Nutrition
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 Order 21-18 (“Executive Order”), and Rhode Island Department of Health (“RIDOH”) regulation 216-RICR-50-15-7 (“Safe Regulations”), determines that there are reasonable grounds to believe that Body Rock Fitness and Nutrition (“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 3751 Mendon Road, Cumberland.
- 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 November 4, 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 an 8/12 for overall requirements and a 4/5 for fitness requirement. Of significance was the fact that 2/3 of the instructors and 15/15 participants were not wearing cloth face coverings. 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 November 16, 2020, a Task Force inspector conducted a reinspection of the Respondent. The inspector performed a checklist inspection based on the Safe Regulations and determined that the Respondent scored a 10/12 for overall requirements and a 5/5 for fitness requirements. However, it was again observed that the establishment was not in compliance with mask requirements. The inspector observed a fitness class in session where neither the instructor nor the five participants were wearing cloth face coverings. As a result of this inspection, a citation was issued against Respondent for violating Section 7.4.1(A)(3) of the Safe Regulations, Failure to Wear a Cloth Face Covering.
- V. On or about January 7, 2021, a Task Force inspector conducted a reinspection of the Respondent. The inspector performed a checklist inspection based on the Safe Regulations and determined that the Respondent scored a 12/12 for overall requirements and a 5/5 for fitness requirements.
- VI. On or about March 3, 2021, a Task Force inspector conducted a reinspection of the Respondent. The inspector performed a checklist inspection based on the Safe Regulations and determined that the Respondent scored a 7/12 for overall requirements and a 3/5 for fitness requirements. Once again, the inspector observed violations of the requirement to wear cloth face coverings.

- VII. In addition to the observations of the inspectors as described above, Respondent has been the subject of five complaints against it since November. Each of the complaints pertained to the Respondent's failure to adhere to the requirements to wear cloth face coverings.
- VIII. 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 March 3, 2021 reinspection.

- I. Respondent is in violation of Section 7.4.5(A)(1) of the Safe Regulations, which requires all individuals in a fitness center or gym to wear a cloth face covering at all times while in the establishment, unless an exception applies. The inspector arrived while a fitness class was in session and observed that two (2) or the three (3) employees and all fifteen (15) participants were not wearing cloth face coverings. None of the individuals claimed an exception.
- 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 there were no measures in place to ensure that physical distancing was maintained.
- III. 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. Although

some of the required information was posted at the entry to the establishment, missing was information pertaining to the requirements to wear cloth face coverings. The inspector concluded, therefore, that the Respondent failed to ensure the placement of required posters.

- IV. 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.

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. In accordance with Section 7.4.5(A)(1), Respondent shall require all individuals in its establishment to wear cloth face coverings at all times unless an exception applies.
- II. 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.
- III. Respondent shall instruct all individuals/customers in its establishment to wear cloth face coverings unless an exception applies.
- IV. 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.

- V. 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.
- VI. Respondent shall ensure the performance of environmental cleaning of its establishment once per day and maintain records documenting such environmental cleaning.

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 9th day of March 2021.



Elizabeth M. Tanner, Esq.
Chair
Rhode Island COVID-19 Enforcement Task Force
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**A WRITTEN REQUEST FOR A HEARING MAY BE FILED IN WRITING WITHIN
TEN DAYS AFTER THIS NOTICE**

EXHIBIT A

