



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

**IN THE MATTER OF:  
Copperfield’s Burger and Beer House  
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 Copperfield’s Burger and Beer House (“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 VIOLATIONS**

- I. Respondent is a dining establishment, which maintains a bar area, located at 9 Cedar Swamp Road in Smithfield.
- 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 September 8, 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 11/11 for overall requirements and a 5/5 for dining requirements. The inspector was advised that the bar area was closed to customers, therefore, no inspection of the bar area was conducted.
- IV. On or about September 19, 2020, at approximately 11:50 p.m., a different Task Force inspector conducted a spot check of the Respondent to ensure compliance with bar requirements. The inspector observed that, although the bar was supposed to be closed to customers, there were multiple patrons standing and sitting at the bar.
- V. Of significance is the fact that the Respondent failed to ensure that, if parties were seated at the bar, no staff were permitted to work in any areas behind the bar unless a physical, non-porous barrier of appropriate height is installed between the bar work areas and customers; that even with physical barriers between the 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/or that working bar areas, such as drink making stations or glassware storage, must be located at least six feet from the gaps.
- 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 multiple provisions

of applicable Executive Orders and/or the Safe Regulations and that, with respect to the bar requirements, immediate action is necessary to protect the health, welfare, or safety of the public.

### **VIOLATIONS**

The following violations stem from the September 19, 2020 spot check:

- I. 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 three (3) patrons standing at the bar and two (2) seated at the bar, all of whom had beverages in front of them. The inspector further observed that there was no non-porous barrier installed between the bar work area and the customers.

- II. Respondent is in violation of Section 7.4.2(A)(3) of the Safe Regulations, which prohibits service to standing customers. As described above, the inspector observed three (3) customers who were standing at the bar with beverages in front of them.
- III. Respondent is in violation of Executive Order 20-61, which, among other things, 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 their bar areas and make seating at the bar counters unavailable to customers. The inspector conducted the inspection at 11:50 p.m. and observed five (5) customers at the bar area, and concluded, therefore, that the bar area remained accessible to patrons after 11:00 p.m.

### **ORDER**

It is hereby **ORDERED**, that Respondent is to immediately close its bar/counter area 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 ensure 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 (i.e., plexiglass) of appropriate height and made of a material which complies with the interior finish requirements of the State Fire Safety 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) are located at least six (6) feet from these gaps and that drinks and/or food is not passed to customers under, over, or around such barrier by staff behind the bar.
- II. Respondent shall ensure that service is made only to seated customers and that no service to standing customers occurs.

III. 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, or made otherwise inaccessible to patrons, and seating at the bar counter is unavailable to customers.

Entered this 22nd day of September 2020.

A handwritten signature in black ink, appearing to read "Nicole Alexander-Scott". The signature is fluid and cursive, with the first name "Nicole" written in a larger, more prominent script than the last name "Alexander-Scott".

Nicole Alexander-Scott, MD, MPH Director  
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