



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

**IN THE MATTER OF:
Fish Co. Bar and Grill
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 Fish Co. Bar and Grill (“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."

GROUNDINGS FOR DETERMINATION OF VIOLATIONS

- I. Respondent is a dining establishment, which maintains a bar area, located at 15 Bridge Street in Providence.
- 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 3, 2020, at approximately 11:15 p.m., a Task Force inspector conducted a spot check of the Respondent to determine compliance with bar requirements. Upon entering the establishment, the inspector observed numerous violations of applicable 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 3, 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 at least six (6) employees who were either not wearing a cloth face covering or were wearing them improperly. More specifically, the inspector observed two (2) female and one (1) male employees behind the bar who were improperly wearing the cloth face

coverings below their chins. None of the employees claimed an exception, nor were any of the observed employees able to continuously maintain physical distancing. Upon entry, the inspector also observed and overheard an employee telling those employees who were not wearing cloth face coverings to “put them on because inspectors are here.”

- 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 who were mingling and congregating in the indoors and outdoors areas of the establishment, physical distancing was not maintained to the extent feasible. 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 11:15 p.m. and observed that there were numerous patrons still sitting and standing at the bars. The inspector concluded, therefore, that the bar remained accessible to customers after 11:00 p.m.
- 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 numerous patrons standing at the bar area being served.

- 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 indoors and outdoors areas of the establishment who were not seated and were congregating and/or mingling.
- VI. Respondent is in violation of Section 7.4.2(A)(5) of the Safe Regulations, which requires 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. The inspector observed approximately ten (10) patrons sitting at the bar who were not separated by either six (6) feet or separated by a physical, non-porous barrier.

**ORDER
IMMEDIATE COMPLIANCE**

It is hereby **ORDERED**, that Respondent is to immediately close 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 must develop and incorporate into its written control plan a strategy to prevent the violations of bar requirements as 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 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 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.
- c. 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.
 - d. Respondent shall ensure that service is made only to seated customers and that no service to standing customers occurs.
 - e. Respondent shall ensure that no congregating and/or mingling takes place in any area within Respondent establishment or under Respondent's control.
 - f. 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.
- II. In addition to the conditions as set forth above, prior to reopening, Respondent must adhere to the following:
- a. Respondent shall attend and participate in a meeting with the Rhode Island Department of Health and Department of Business Regulations to discuss health concerns and compliance.
 - b. Respondent establishment shall be completely cleaned and sanitized in accordance with applicable CDC guidance.
 - c. All employees must be trained on, and comply with, Respondent's written control plan.
 - d. All employees must be tested for COVID-19. In the event that any employees test positive for COVID-19, all employees must adhere to applicable law relative to quarantine and

isolation. No employees may return to work until cleared to do so in accordance with applicable RIDOH guidance.

- e. 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.
- f. 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 liquor license.

Entered this 9th Day of October 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
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