



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

**IN THE MATTER OF:
Rios Barber Shop
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 20-50 (“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 Rios Barber Shop (“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."

GROUNDINGS FOR DETERMINATION VIOLATIONS

- I. Respondent is a barber shop located at 116 Granite Street in Westerly.
- 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 August 4, 2020, a Task Force inspector met with owner Carlos Javier Rios and attempted to conduct a Healthy Environment inspection of the Respondent. As the inspector began to make inquiry, the owner became belligerent and verbally abusive toward the inspector. In a profanity laden tirade, he made comments such as "why are you bothering me" and "why are you trying to make it harder than it already is." The owner then walked out of the establishment and refused to take part in the inspection.
- IV. After the owner left, the inspector met with Erika Moore on behalf of the Respondent. The inspector then performed a checklist inspection of eleven items based on the Safe Regulations. The inspector determined that Respondent was substantially not in compliance with applicable Executive Orders and/or the Safe Regulations.
- V. 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 August 4, 2020 inspection:

- I. Respondent is in violation of Section 7.3(B) of the Safe Regulations, which requires all individuals in public or in an establishment to wear a cloth face covering unless physical distancing can be maintained easily and continuously, or an exemption applies, and Section 7.4.1(A)(3), which requires each covered

entity to instruct any person entering an establishment to wear cloth face coverings except when physical distancing from others in the establishment is easily, continuously, and measurably maintained or an exception applies, and to deny access to any employee who refuses to wear a cloth face covering when required. Upon arrival, the inspector observed three employees in the establishment, none of which were wearing cloth face coverings despite the fact that physical distancing was observed by the inspector to be impossible for any of the employees to maintain. When the employees noticed that the inspector was present, all three donned cloth face coverings.

- 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 aware of applicable Executive Orders and Regulations and who will work with the Department on testing, contact tracing, case investigation, isolation and quarantine follow up. The inspector requested the name of the point of contact, but Respondent was unable to provide one. The inspector also requested to see the employee work log but was told the Respondent did not maintain one. It was clear to the inspector that based on the totality of the circumstances and the substantial lack of compliance, there was no point of contact who was familiar with applicable Executive Orders and Regulations.
- III. Respondent is in violation of Section 7.4.1(A)(1), which requires every covered entity to develop and maintain a written plan for the safe operation of its establishment with regard to COVID-19 during the state of emergency and to make this plan available to RIDOH upon request. Pursuant to Section 7.4.1(A)(1)(f), the plan must address, among other things, coordinating with RIDOH regarding any potential hot spot investigation, including the designation of a point of contact who will work with RIDOH on testing, contact tracing, case investigation, isolation and quarantine follow-up. Respondent admitted that it did not have a written control plan and that Respondent was unaware of its obligation to develop and maintain such a plan.
- IV. Respondent is in violation of Section 7.4.1(A)(8), which requires every covered entity 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. Said work log shall be maintained for at least thirty (30) days. The inspector requested to see the employee work log but was told the Respondent did not maintain one.

- V. Respondent is in violation of Sections 7.4.1(A)(6) and (7) of the Safe Regulations, which require each covered entity to ensure the performance of environmental cleaning of their establishments once per day, to clean commonly touched surfaces, such as shared workstations, elevator buttons, door handles, and railings in accordance with Centers for Disease Control (“CDC”) guidance, and to maintain records documenting such environmental cleaning. Based on the condition of the establishment, it was clear to the inspector that the required daily environmental cleaning and the cleaning of high touch surfaces was not taking place. Further, the Respondent admitted that it did not maintain any cleaning logs.
- 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. The inspector observed at least two occasions where customers entered the establishment and were not screened by the Respondent.
- 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 social distancing, use of cloth face coverings, and other subjects as provided in guidance issued by the Department. The inspectors observed that required posters were absent from the entry to the establishment and concluded that, consistent with Respondent’s lack of awareness relative to its obligations under the Safe Regulations, Respondent failed to ensure the placement of required posters.
- VIII. Respondent is in violation of Section 7.3(A) of the Safe Regulations, which requires all individuals in public or in an establishment to maintain physical distancing at all times, to the extent feasible, and Section 7.4.1(A)(1)(a), which, by extension, requires covered entities to address physical distancing in their establishments. The inspector observed that the hair cutting stations were located within 6 feet of

each other without any dividers between them. She also observed that the waiting room was set up without any spacing between the chairs to prevent customers from sitting next to each other. Finally, there were no markings or other indicia present to ensure that physical distancing could be maintained.

ORDER

It is hereby **ORDERED**, that Respondent is immediately closed until such time as the following violations are remedied to the satisfaction of the Director of RIDOH:

- I. Respondent shall develop and implement a corrective plan that brings Respondent into compliance with applicable Executive Orders and the Safe Regulations.
- II. Respondent establishment shall be cleaned and sanitized in accordance with applicable CDC guidance.
- III. 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.
- IV. Respondent shall designate a point of contact who will be familiar with applicable Executive Orders and Regulations and will work with the Department on testing, contact tracing, case investigation, isolation and quarantine follow up.
- V. Respondent shall develop and maintain a written plan for the safe operation of the establishment.
- VI. 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. Said work log shall be maintained for at least thirty (30) days.
- VII. Respondent shall ensure the performance of environmental cleaning of its establishment once per day and shall clean commonly touched surfaces, such as shared workstations, elevator buttons, door handles, and railings, in accordance with CDC guidance. Respondent shall maintain records documenting such cleaning.

- VIII. Respondent shall clean all high touch surfaces in accordance with CDC guidelines, in accordance with its specific industry.
- IX. Respondent shall implement and ensure compliance with screening of all individuals entering its establishment(s) at any time for any reason.
- X. Respondent shall ensure the placement of posters or signs at entry to its establishment educating any individual at the establishment concerning entry screening, required social distancing, use of cloth face coverings, and other subjects as provided in guidance issued by RIDOH.
- XI. Respondent shall ensure that physical distancing measures are in place and is maintained at all times, to the extent feasible.

SIGNATURE APPEARS ON NEXT PAGE

Entered this 7th day of August 2020.



Nicole Alexander-Scott, MD, MPH
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Failure to comply with this ORDER may result in the imposition of civil penalties and/or any other action authorized by applicable law or regulation.