State of Rhode Island and Providence Plantations

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Attorney General Guidance to Law Enforcement

AG 2020-02-A

TO: Chiefs of Police

FROM: Peter F. Neronha, Attorney General PFN

CC: Colonel James M. Manni

DATE: May 19, 2020

SUBJECT: **(UPDATED) Enforcement of State COVID-19 Emergency Orders**

On March 9, 2020, the Governor declared a state of emergency for Rhode Island because of the COVID-19 pandemic. In times of emergency, Rhode Island law authorizes the Governor to issue orders, proclamations, and through the state agencies adopt regulations to manage the State's response to the emergency. Rhode Island law also authorizes the Governor and the Director of the Department of Health ("RIDOH") to issue orders quarantining individuals, portions of the state, or the entire state to preserve public health and address the spread of a communicable disease like COVID-19.

I expect that the vast majority of Rhode Islanders will voluntarily comply with these orders and regulations. However, if necessary, state and local police are empowered to enforce the Governor's emergency Executive Orders and RIDOH orders and regulations requiring social distancing, quarantine and isolation.

We should always attempt to educate individuals and businesses about the importance of complying with these important public health measures and attempt to secure voluntary cooperation. This memorandum is intended to provide guidance in those limited instances where attempts at voluntary compliance fail and civil or criminal enforcement action is necessary. There are three principle enforcement mechanisms available to you: 1) civil citation and fine, through RIDOH; 2) criminal summons; and 3) arrest. All three enforcement mechanisms are described in detail in Section III below.

I. Summary of Executive Orders Issued to Date

The Governor's Executive Orders issued to date involve the social distancing, quarantine and isolation of individuals, public gatherings, and regulating or suspending operations of businesses and other organizations. For convenience, they are summarized here.

A. Executive Orders pertaining to Social Distancing, Quarantine and Isolation of Individuals

- Executive Order 20-03, issued on March 13, 2020 and effective, by extension, through June 5, 2020, ordered that:
  - *Any person arriving in Rhode Island from locations outside of the 50 states or the District of Columbia must self-quarantine for 14 days upon arrival and that anyone who has traveled outside of the 50 states or the District of Columbia must self-quarantine for the remainder of the 14-day period since his or her arrival in Rhode Island.*

- Executive Order 20-32, issued on May 8, 2020 and effective through May 23, 2020, ordered that:
  - *Any person coming to Rhode Island from another state for a non-work-related purpose must immediately self-quarantine for 14 days.*
    - *This quarantine restriction shall not apply to public health, public safety, or health care workers.*
    - *This quarantine restriction shall also not apply to anyone traveling for medical treatment; to attend funeral or memorial services; to obtain necessities such as groceries, gas or medication; to dropping off or picking up children from day care; or to anyone who must work on their boats.*
  - *Any person who lives in Rhode Island and works in another state shall self-quarantine when not at work. This quarantine restriction shall not apply to public health, public safety, or health care workers.*
  - *All social gatherings of more than five (5) people in any public or private space such as an auditorium, stadium, arena, large conference room, meeting hall, library, theater, place of worship, parade, fair, festival, park or beach, are prohibited.*

- Executive Order 20-20, issued on April 9, 2020 and effective, by extension, through June 5, 2020 ordered that:
  - *Any person who has been diagnosed with COVID-19 by a licensed health care practitioner or by laboratory testing must immediately self-isolate until they have had no fever for at least 72 hours, have experienced a resolution of their respiratory symptoms, and at least 7 days have passed since their symptoms first appeared.*
  - *Any person who has been in known close contact (within 6 feet) of a person who has been diagnosed with COVID-19 by a licensed health care practitioner or by laboratory testing and has been contacted by the Rhode Island Department of Health to inform them that they were a close contact of a confirmed positive case must immediately self-*

quarantine for 14 days following that contact. (This quarantine restriction shall not apply to public health, public safety, social service providers, and healthcare workers provided they follow RIDOH guidance.)

- Executive Order 20-30, issued on May 5, 2020 and effective through June 4, 2020, ordered that:
  - *Any person in a place open to the public, whether indoors or outdoors, shall cover their mouth and nose with a mask or cloth face covering unless doing so would damage the person's health. However, masks are not required for:*
    - *Persons under two years of age;*
    - *Persons who are developmentally unable to comply, including young children who may not be able to effectively wear a mask;*
    - *Persons whose health would be damaged by wearing a mask; or*
    - *Persons who can easily, continuously, and measurably maintain at least six (6) feet of distance from other people.*
  - *All persons are required to wear masks or cloth face coverings at all times when inside grocery stores, pharmacies, or retail stores; and also at all times when providing or using the services of any taxi, car, livery, ride-sharing, or similar service or any means of mass public transit, or while within an enclosed or semi-enclosed transit stop or waiting area. However, masks are not required for:*
    - *Persons whose health would be damaged by wearing a mask; or*
    - *Persons who can easily, continuously, and measurably maintain at least six (6) feet of distance from other people.*

B. Executive Orders Governing Business and Organization Operations, Including Social Distancing and Closures

- Executive Order 20-32, issued on May 8, 2020 and effective through May 23, 2020, ordered that:
  - *All recreation and entertainment establishments cease in-person operations. Recreation and entertainment establishments include, but are not limited to, theaters, cinemas, sporting events, bowling alleys, concert venues, museums, and zoos.*
  - *All close-contact businesses (businesses which cannot maintain social distancing with their customers) including, but not limited to,*

gymnasiums, fitness centers and similar exercise facilities, hair salons and barbershops, nail salons, spas and tattoo parlors cease in-person operations.

- *All non-critical retail businesses with a physical location in Rhode Island are permitted to open for in-store pickup and limited browsing only.*
  - *Such non-critical retail businesses may allow up to one customer per 300 square feet of store area open to customers generally.*
  - *Non-critical retail businesses will be required to operate in accordance with the social distancing protocols, guidance and regulations set forth by RIDOH, Executive Orders 20-24 and 20-30, and any other law applicable to non-critical retail businesses.*
- *Restaurants are not permitted to provide on-premises consumption and may operate only for pickup, drive-through, and delivery.*
  - *However, effective May 18, 2020 restaurants are permitted to provide on-premises consumption in outdoor spaces, pursuant to RIDOH regulation and guidance.*
- *RIDOH has promulgated regulations pursuant to Executive Order 20-32, which may be found here and are appended to this guidance.*

II. Definitions: Social Distancing, Quarantine and Isolation

There are important distinctions between social distancing, quarantine and isolation relevant to civil and criminal enforcement of these various Orders.

- **Social Distancing** is deliberately increasing the physical space between people to avoid spreading illness. Requiring people to keep at least six (6) feet apart from each other or limiting gatherings to groups of five (5) people or less, are examples of social distancing.

- **Quarantine** separates and restricts the movement of people who have been exposed to COVID-19 or who are at risk of contracting COVID-19. Quarantine typically takes place at a person's home and lasts for 14 days. Quarantine may also be ordered to take place at another location designated by the Governor or the Director of RIDOH. Persons who are quarantined may not leave their home except to obtain medical treatment and may not have visitors.
  - For more information see: https://health.ri.gov/publications/factsheets/COVID-19-IsolationVsQuarantine.pdf, and
  - https://health.ri.gov/publications/factsheets/COVID19-At-Home-Quarantine.pdf (These are also attached to this Memorandum.)

- **Isolation** means keeping people who have a contagious disease separate from those who do not.
    - Isolation can take place at a home or at a hospital or healthcare facility or another location designated by the Director of RIDOH.
    - A person must go into isolation if: (1) they tested positive for COVID-19 (even if they are asymptomatic) or (2) they have been clinically diagnosed for COVID-19 by a licensed health care practitioner (even if they don't yet have a confirmatory test result).
    - Persons in isolation should separate from others at home, may not leave their home except to obtain medical treatment, and may not have visitors.

III. Enforcement

The purpose of the Governor's Executive Orders and the RIDOH Orders (discussed below) requiring social distancing, quarantine, and isolation is to protect public health and prevent the further spread of COVID-19. The goal is voluntary compliance, and a warning in most instances will result in compliance. In some cases, however, a civil citation or a criminal summons or arrest may be necessary to effect compliance. The choice of enforcement is within your discretion and judgment and will turn on the particular facts and circumstances of each case. This Office is always available to inform that judgment if requested.

Civil citations may be issued to individuals, businesses and other organizations violating the Orders discussed here pursuant to RIDOH regulations (the regulations are also attached to this Memorandum). Primary responsibility for issuing civil citations, particularly in the context of businesses and organizations, will fall on inspectors working with the Department of Business Regulation ("DBR") and RIDOH, or inspectors working at the direction of the enforcement task force, created by the Governor pursuant to EO 20-32. However, if you believe that an individual, business, or other organization is in violation, you may initiate the civil citation process by completing an incident/offense report and emailing it to RIDOH at [redacted] The incident/offense report should contain the date, time and place of violation; offender information (name, dob, address, phone number); nature of violation; officer's name and badge number; and certification as to the veracity of the information. The report should be signed and certified as true by the officer reporting the violation. RIDOH will mail the violator a citation and adjudicate the citation if it is contested. Fines range from $100 for a first violation to $500 for a third violation, though RIDOH will determine the amount of the fine.

You may also choose criminal enforcement, as violations of the Orders discussed in this memorandum are misdemeanors punishable by a fine of up to $500 and up to 90 days in prison, or both, pursuant to R.I. Gen. Laws. § 30-15-21. If you choose criminal enforcement, either issuance of a summons or arrest may be appropriate, depending on the circumstances. Since arrest should be reserved for multiple instances of non-compliance by those posing the greatest public health threat (i.e., persons ordered into isolation or contact quarantine, as described below), I ask that you consult with this Office prior to arresting any person for violation of any of the Executive Orders or RIDOH Orders, if possible.

Set forth below is more detailed guidance pertaining to civil and criminal enforcement, organized by the types of situations likely to be confronted by law enforcement.

A. Social Gatherings: EO-20-32

- If you encounter more than five (5) individuals congregating in public, and attempts at voluntary compliance are unsuccessful, you should determine whether there is a local ordinance or emergency order that would permit issuance of a citation.

- You could also initiate the civil citation process described above by preparing an incident/offense report and submitting that report to RIDOH at [redacted]

- Absent unusual circumstances, such as egregious or repeated violations, it is not recommended that you issue a criminal summons or arrest for violation of the public gathering order, even though a misdemeanor charge may be brought pursuant to R.I. Gen. Laws § 30-15-21. However, should you decide to invoke criminal process, and an arrest rather than a summons is contemplated, I ask that you first consult with this Office, if possible.

B. Cloth Face Coverings in Public: EO 20-30

- If you encounter individuals who are not wearing cloth face coverings in public, as required by EO 20-30, you should attempt to educate them as to the requirements and obtain voluntary compliance.

- You could also initiate the civil citation process described above by preparing an incident/offense report and submitting that report to RIDOH at [redacted].

- Absent very unusual circumstances, it is not recommended that you issue a criminal summons or arrest for violation of the face mask order, even though a misdemeanor charge may be brought pursuant to R.I. Gen. Laws § 30-15-21. However, should you decide to invoke criminal process, I ask that you first consult with this Office, if possible.

C. Travel Quarantine: EO 20-03, EO 20-32

- The travel quarantine requirement applies to any person (Rhode Islander and non-Rhode Islander alike) who returns to Rhode Island from outside the state for purposes other than for employment, for medical treatment; to attend funeral or memorial services; to obtain necessities such as groceries, gas or medication; for dropping off or picking up children from day care; or for anyone who must work on their boats.

- These persons are required to quarantine for 14 days. Health care and public health and safety workers are excluded. *The mere fact that a person is operating a vehicle with an out of state license plate does not indicate that they are in violation of this Order.*

- If you encounter a person who has violated one of the travel quarantine orders, and attempts at obtaining voluntary compliance are unsuccessful, you could initiate the civil citation process described above by preparing an incident/offense report and submitting that report to RIDOH at [redacted].

- Absent unusual circumstances, such as egregious or repeated violations, it is not recommended that you issue a criminal summons or arrest for violation of these Orders, even though a misdemeanor charge may be brought pursuant to R.I. Gen. Laws § 30-15-21. However, should you decide to invoke criminal process, and an arrest rather than a summons is contemplated, I ask that you first consult with this Office, if possible.

D. Businesses: EO 20-32

- If a business or organization is violating any of the Executive Orders or RIDOH regulations, you should first determine whether any municipal ordinance, rule, or emergency order has been violated.

- Additionally, you should alert the Department of Business Regulation ("DBR") at [redacted] so that it can determine whether to take administrative enforcement action, including imposition of administrative penalties.

- You could also initiate the civil citation process described above by preparing an incident/offense report and submitting that report to RIDOH at [redacted].

  For a list of critical and non-critical businesses, see https://dbr.ri.gov/documents/DBRCriticalRetailBusinessesList04032020.pdf.

- In the event of egregious or repeated violations, the owner or operator of the business may be charged with a misdemeanor pursuant to R.I. Gen. Laws § 30-15-21. If an arrest rather than a summons is contemplated, I ask that you first consult with this Office, if possible.

E. Mandatory Isolation or Contact Quarantine Due to COVID-19 Diagnosis or Exposure: EO 20-20

EO 20-20 orders individuals who have been clinically diagnosed with COVID-19 (by a licensed health care practitioner or by a laboratory test) to go into isolation. It also orders individuals who have been informed by RIDOH that they have been exposed to a person

diagnosed with COVID-19 based on their contact with that person into quarantine ("contact quarantine"). Accordingly, a person who violates EO 20-20 poses a significant risk to public health.

I anticipate that most Rhode Islanders will voluntarily comply if RIDOH orders them into isolation or contact quarantine. The State has systems in place to provide support to individuals under quarantine and isolation, including medical services, food delivery and housing assistance where necessary. RIDOH has established a hotline to assist individuals required to be in isolation or quarantine: (401) 462-4444.

Nevertheless, there may be instances where civil or criminal enforcement is necessary. While law enforcement will generally be able to identify and address violations of the social distancing, business operations, and travel quarantine Executive Orders on its own, enforcement of EO 20-20 concerning isolation and contact quarantine will depend on information sharing by RIDOH. Law enforcement is not expected to proactively enforce EO 20-20. In fact, it is anticipated that enforcement will generally occur as a result of a request for assistance by RIDOH to address a person who has failed to comply.

In an instance where in the absence of such a request by RIDOH you happen to encounter a person who you believe to be in violation of EO 20-20, you must contact RIDOH for confirmation that the person has been ordered into isolation or contact quarantine before proceeding with enforcement. You should ask for, and RIDOH should provide, written confirmation that that is the case. If RIDOH does not provide such confirmation, you should not proceed with enforcement.

RIDOH has established the following dedicated telephone number for law enforcement inquiries, to ensure that information is available to you 24/7, in real time: [redacted] You may also email inquiries to [redacted].

Additional enforcement guidance is set forth below.

1. Isolation Order Enforcement

- As noted, you may only enforce the isolation provision of EO 20-20 if RIDOH confirms the person has in fact been ordered by RIDOH into isolation. This confirmation will be in the form of an Individual Compliance Order ("ICO") issued by the Director of RIDOH.

- If RIDOH provides the required confirmation, you may initiate the civil citation process described above by preparing an incident/offense report and submitting that report to RIDOH at [redacted].

- In appropriate circumstances, you may also issue a criminal summons or make an arrest on a misdemeanor charge pursuant to R.I. Gen. Laws §§ 23-8-7 and 30-15-21. Prior to making an arrest, I ask that you first consult with this Office, if possible.

- If you arrest a person for violating an isolation order, that person may be brought to the central booking facility [redacted] for

booking and arraignment. The facility is staffed by the Department of Public Safety ("DPS"). Arraignments are conducted by Justices of the Peace and/or via video conference with the District Court. Whether the person is released on personal recognizance, or bail is set, you should ask for a condition that requires the person to isolate at the location indicated by the RIDOH ICO or at a location ordered by the court for the remainder of his/her isolation period.

- If after arraignment the person must be transported to the ACI, before transport, please contact ACI intake at [redacted].

2. Contact Quarantine Order Enforcement

- You may only enforce the contact quarantine provision of EO 20-20 <u>if RIDOH confirms</u> that the person has been advised by RIDOH that they have been in contact with a COVID-19 positive person and directed by RIDOH to self-quarantine. RIDOH must have a record of this communication in order to support a charge.

- If RIDOH provides the required confirmation, you may initiate the civil citation process described above by preparing an incident/offense report and submitting that report to RIDOH at [redacted].

- In appropriate circumstances, you may also issue a criminal summons or make an arrest on a misdemeanor charge pursuant to R.I. Gen. Laws §§ 30-15-21. Prior to making an arrest, I ask that you first consult with this Office.

- If you arrest a person for violating a contact quarantine order, that person may be brought to the central booking facility at the [redacted], for booking and arraignment. The facility is staffed by the Department of Public Safety ("DPS"). Arraignments are conducted by Justices of the Peace and/or via video conference with the District Court. Whether the person is released on personal recognizance, or bail is set, please ask for a condition that requires the person to self-quarantine at the location indicated by the RIDOH ICO or at a location ordered by the court for the remainder of his/her 14-day quarantine period.

- If after arraignment the person must be transported to the ACI, before transport, please contact ACI intake at [redacted].

I recognize that these are complex and unusual law enforcement issues. I appreciate and value your partnership and am prepared to provide any help and additional guidance you may need going forward. Case specific questions can be directed to Stephen Dambruch, Criminal Chief, at [redacted] or to Adi Goldstein, Deputy Attorney General, at [redacted] Of course, you are always welcome to contact me directly, either here at the Office, [redacted].

Applicable Laws

Rhode Island Emergency Management Act § 30-15

§ 30-15-21. Penalties

Any person violating any provisions of this chapter or any rule, order, or regulation promulgated pursuant to this chapter shall upon conviction thereof be punishable by a fine not exceeding five hundred dollars ($500), or imprisonment not exceeding ninety (90) days, or both.

Quarantine Generally § 23-8

§ 23-8-4. Quarantine.

If the state director of health, or his or her duly authorized agent, determines, upon investigation, that a threat to the public health exists because any person is suffering, or appears to be suffering, from a communicable disease, the director or his or her authorized agent may require or provide that person to be confined, in some proper place, for the purpose of isolation or quarantine, or another less restrictive intervention treatment, including, but not limited to, immunization, treatment, exclusion or other protective actions until the threat to the public health has abated. Nothing in this section shall be construed to prevent a person who is unable or unwilling for reasons of health, religion, or conscience to undergo immunization or treatment from choosing to submit to quarantine or isolation as an alternative to immunization or treatment. Orders under this chapter shall be in accordance with the procedures for compliance order and immediate compliance orders set forth in §§ 23-1-20 – 23-1-24. A person subject to quarantine under this section shall be entitled to file a petition for relief from such order at any time, included, but not limited to, a petition based upon compliance with a treatment under less restrictive alternatives.

History of Section.
(G.L. 1896, ch. 94, § 15; G.L. 1909, ch. 110, § 15; G.L. 1923, ch. 154, § 15; G.L. 1938, ch. 256, § 15; G.L. 1956, § 23-8-4; P.L. 1967, ch. 60, § 1; P.L. 2003, ch. 185, § 2; P.L. 2003, ch. 189, § 2.)

§ 23-8-4.1. Power to examine suspected cases – Right of individual to own physician.

For the purpose of carrying out the provisions of this chapter, the state department of health is empowered to make examinations of persons reasonably suspected of having a communicable disease; provided, however, that any person so examined shall have the right to have present at that examination, a physician of his or her own choice, at his or her own expense. The state department of health shall inform him or her of this right and afford him or her a reasonable opportunity to exercise that right; and at the trial of any person being prosecuted under the provisions of § 23-1-25, the prosecution must demonstrate that he or she was so informed and was afforded that opportunity.

History of Section.
(P.L. 2003, ch. 185, § 3; P.L. 2003, ch. 189, § 3.)

§ 23-8-7. Violation of quarantine

Any person who is confined by the director or his or her authorized agent under the provision of § 23-8-4 and who violates that confinement shall be punished by a fine of not more than fifty dollars ($50.00) or by imprisonment for not more than ninety (90) days, or both.

§ 23-1-21. Immediate compliance order.

Whenever the director determines that there exists a violation of any law, rule, or regulation within the jurisdiction of the director which requires immediate action to protect the health, welfare, or safety of the public or any member of the public, the director may, without prior notice of violation or hearing, issue an immediate compliance order stating the existence of the violation and the action he or she deems necessary. The compliance order shall become effective immediately upon service or within the time specified by the director in the order. No request for a hearing on an immediate compliance order may be made.

History of Section.
(P.L. 1966, ch. 109, § 1.)

§ 23-1-23. Enforcement of compliance orders.

Whenever a compliance order has become effective, whether automatically where no hearing has been requested, where an immediate compliance order has been issued, or upon decision following a hearing, the director may institute injunction proceedings in the superior court of the state for enforcement of the compliance order and for appropriate temporary relief, and in the proceeding the correctness of a compliance order shall be presumed and the person attacking the order shall bear the burden of proving error in the compliance order, except that the director shall bear the burden of proving in the proceeding the correctness of an immediate compliance order. The remedy provided for in this section shall be cumulative and not exclusive and shall be in addition to remedies relating to the removal or abatement of nuisances or any other remedies provided by law.

History of Section.
(P.L. 1966, ch. 109, § 1.)

§ 23-1-25. Penalties.

Unless another penalty is provided by the laws of this state, any person who violates any law administered by the director or any rule or regulation adopted pursuant to authority granted to the director shall, upon conviction, be punished by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and for violation of a compliance order of the director by a fine of not more than three hundred dollars ($300) or by imprisonment for not more than ninety (90) days, or both, for each offense or violation, and each day's failure to comply with any such law, rule, regulation, or order shall constitute a separate offense.

History of Section.
(P.L. 1966, ch. 109, § 1.)

§ 23-1-29. Delegation.

(a) The director may from time to time designate in writing any person in any department of the state government or any official of a district, county, city, town, or other governmental unit, with that official's consent, to enforce any rule and regulation promulgated and adopted by the director under the provisions of this chapter.

What is the difference between **isolation** and **quarantine**?

Isolation and quarantine help protect the public by preventing exposure to people who have or may have a **contagious disease**.

- **Isolation** separates sick people with a contagious disease from people who are not sick.
- **Quarantine** separates and restricts the movement of people who were exposed to a contagious disease to see if they become sick.

ISOLATION

Isolation is for people who are already sick.

Isolation separates and restricts the movement of sick people so they can't spread disease to healthy people.

Isolation is a routine procedure in hospitals and healthcare facilities.

Isolation is usually voluntary, but officials have the authority to isolate people who are sick if necessary.

QUARANTINE

Quarantine is for people who are not sick, but may have been exposed.

Quarantined people may or may not become sick.

Quarantined people should stay at home or another location so they don't spread disease to healthy people.

If you are quarantined and you become ill, you can seek medical treatment from a healthcare provider.

Quarantine can be voluntary, but officials have the authority to quarantine people who have been exposed to an infectious disease if necessary.

RHODE ISLAND DEPARTMENT OF HEALTH

For more information: **health.ri.gov/covid**

Coronavirus Disease 2019 (COVID-19):
10 Tips for At-Home Quarantine or Self-Monitoring

If you have been directed to quarantine or self-monitor at home because of possible COVID-19 contact:

1. **Stay home** from work, school, and away from public places. If you need help getting food or medicine call 2-1-1 or The POINT at 462-4444. Visit **RIDelivers.com**, Rhode Islanders' connection to help those living in quarantine and isolation due to COVID-19.

2. **Monitor for symptoms** and take your temperature twice daily. If you develop symptoms or a fever, then call your healthcare provider immediately.

3. **Get rest, stay hydrated, and exercise** if possible. If you are able to exercise, do so in your home or yard. Avoid locations where you may come into contact with others.

4. If you have a medical appointment, **call the healthcare provider** ahead of time and tell them that you have been exposed to COVID-19.

5. For medical emergencies, call 911 and **notify the dispatch personnel** that you have been exposed to COVID-19.

6. **Take everyday actions** to prevent the spread of germs.
   - Clean your hands often with soap and water for at least 20 seconds or an alcohol-based hand sanitizer that contains at least 60% alcohol
   - Cover your cough/sneeze
   - Avoid touching your eyes, nose, and mouth

7. As much as possible, **stay** in a specific room and **away from other people** and pets in your home. Use a separate bathroom, if available.

8. **Avoid sharing personal items** with other people in your household, like dishes, towels, and bedding.

9. **Clean all surfaces** that are touched often, like counters, tabletops, and doorknobs. Use household cleaning sprays or wipes according to the label instructions.

10. **Make the best of your time at home** by teleworking if you're able or catching up on reading, exercising, or other hobbies.

COVID 19 CORONAVIRUS DISEASE

RHODE ISLAND DEPARTMENT OF HEALTH

By executive order of Rhode Island Gov. Gina Raimondo, anyone entering Rhode Island (with the exception of public safety, health care professionals, and pilots/flight crew) must immediately self quarantine for 14 days. Rhode Island residents who work in another state must work from home, if possible. Rhode Island businesses with employees who are residents of another state must make every attempt to let those employees work from home. People traveling to other states are subject to the laws of those jurisdictions.

For more information, contact the Rhode Island Department of Health at 401 222 8022, email RIDOH.COVID19Questions@health.ri.gov, or visit health.ri.gov/covid.

216-RICR-50-15-7

TITLE 216 – DEPARTMENT OF HEALTH

CHAPTER 50 – ENVIRONMENTAL HEALTH

SUBCHAPTER 15 - HEALTHY ENVIRONMENT

PART 7– Safe Activities By Covered Entities During the COVID-19 Emergency

7.1 Authority

A. These regulations are promulgated pursuant to the authority conferred under R.I. Gen. Laws § 23-1-1, 23-1-17, and 42-35-2.10 and to Executive Order 20-32, for the purpose of establishing certain criteria for safe activity by and at covered entities in Rhode Island during the COVID-19 state of emergency in the interest of the public health.

B. These regulations are intended to supplement and not replace COVID-19 related regulations promulgated by other State agencies and departments.

7.2 Definitions

A. Wherever used in this Part, the terms listed below shall be construed in the following manner:

1. "Act" means R.I. Gen. Laws § 23-1.

2. "Business" means a person, firm, corporation, partnership, association, receiver or trustee in bankruptcy, having one or more individuals, including oneself, in service.

3. "CDC" means the Centers for Disease Control and Prevention.

4. "Civil penalty" or "penalty" or "fine" means a means a monetary sum assessed by the Director in response to a violation of, or a failure to comply with, these regulations.

5. "Cloth face covering" means a protective article that covers the wearer's mouth and nose.

6. "Covered entity" means any person, business, state agency, political subdivision of the State, non-profit organization, school, religious institution, public or private park or beach, or campground.

7. "COVID-19" means the disease caused by the novel coronavirus SARS-CoV-2.

8. "COVID-19 symptoms" means the occurrence of any of the symptoms of COVID-19, as set forth in CDC guidance, when they develop over a period of hours to days and cannot be explained by allergies or other non-infectious disease. Such symptoms include, among others, sweating, chills, repeated shaking with chills, muscle pain, body aches or other symptoms consistent with fever, temperature measured above 100.4°F, cough, congestion, sore throat, shortness of breath, headache, or new loss of taste or smell.

9. "Department" means the Rhode Island Department of Health.

10. "Director" means the Director of the Rhode Island Department of Health or his or her agents or subordinates to whom the Director has delegated the powers and duties vested in the Director by these regulations.

11. "Establishment" means a physical location operated in whole or part by any Covered Entity or any place of public gathering. For purposes of this definition, a residential dwelling, or any portion of an establishment used exclusively as a residential dwelling (such as an apartment in an apartment building), is not deemed an establishment.

12. "Health care facilities" means any person or entity that provides in-person health care services or whose establishment is the location for in-person health-care services.

13. "Hot spot" means a location identified by the Department where there is (a) a significantly elevated number of COVID-19 suspect or positive cases or (b) a significant number or severe violations of these regulations.

14. "Social distancing" means the practice of keeping space between oneself and others when outside of the home in order to restrict the spread of infectious disease. The practice of social distancing, also known as physical distancing, involves:

    a. staying at least six (6) feet (two (2) meters) from people outside the same household unless separated by a physical barrier that prevents individuals from having direct contact and contact with any droplets from another individual's coughing, sneezing or talking;

    b. not gathering in groups;

    c. staying out of crowded places; and

d. avoiding mass gatherings.

7.3 Universal Practices

A. All individuals in public or in an establishment shall be required to maintain social distancing at all times, to the extent feasible.

1. When social distancing is not feasible, individuals should minimize the time of exposure to the extent possible.

B. All individuals in public or in an establishment shall wear a cloth face covering unless social distancing can be maintained easily and continuously.

C. Employers must arrange for cloth face coverings or materials for the making of such face coverings for each employee at no expense to the employee. Nothing shall prevent an employee from fashioning his or her own cloth face covering or voluntarily providing and wearing other equivalent or more protective face coverings (such as N95 respirators and surgical masks). This subsection will remain in effect unless and until the Occupational Safety and Health Administration (OSHA) regulates the use of cloth face coverings.

D. Exceptions

1. Cloth face coverings are not required for individuals who are required by their employers or by state or federal law to wear other more protective respiratory protection (such as N95 respirators and surgical masks).

2. Cloth face coverings are not required for:

a. Anyone for whom use of such face covering would damage his or her physical or mental health; or

b. Anyone who is developmentally unable to use a cloth face covering, including young children who may not be able to effectively wear a cloth face covering; or

c. When a face covering would directly inhibit an activity of daily living (e.g. eating); or

d. When a face covering would itself negatively impact the safety of an individual or lead to an increased risk of harm to others (e.g. near open flames); or

e. In outdoor settings when people can easily and continuously maintain at least six (6) feet of distance from other people.

7.4 Rules for Establishments

A. For the duration of the state of emergency caused by COVID-19, covered entities that have establishments that they wish to open and/or remain open, must take the following steps to limit the spread of COVID-19:

1. Every covered entity (other than an individual who is not acting as a sole proprietorship) shall develop and maintain a written plan for the safe operation of its establishment(s) with regard to COVID-19 during the state of emergency and make this plan available to the Department upon request. This plan must include procedures that meet, at a minimum, the requirements of these regulations and applicable guidance issued by the Department. The plan must address the following elements:

   a. Social distancing, including additional measures to be taken in high-traffic, communal, or other areas where social distancing is not feasible;

   b. wearing of cloth face coverings;

   c. procedures for cleaning and decontamination of surfaces;

   d. procedures for minimizing access to the establishment by COVID-19 positive or symptomatic individuals;

   e. procedures for responding to a positive case or outbreak; and

   f. coordinating with the Department regarding any potential hot spot investigation, including the designation of a point of contact who will work with the Department on testing, contact tracing, case investigation, isolation and quarantine follow up.

2. Each covered entity (other than an individual who is not acting as a sole proprietorship) shall implement and ensure compliance with screening of all individuals entering its establishment(s) at any time for any reason.

   a. Such screening shall include, at a minimum:

      (1) visual assessment, self-screening, or a written questionnaire, or a combination of any of these screening methods regarding COVID-19 symptoms and contact in the last fourteen (14) days with other individuals who are COVID-19 positive or who have COVID-19 symptoms; and

(2) at all entrances to an establishment, notice that all individuals entering must be screened or self-screened, and to not enter if they are COVID-19 positive, have COVID-19 symptoms, or have had close contact in the last fourteen (14) days with an individual who at the time had COVID-19. Samples of screening criteria for entrants can be found here:

Health.ri.gov/forms/screening/COVID-19
and here in Spanish:
Health.ri.gov/forms/screening/COVID-19/Spanish

b. If an individual is identified as having COVID-19 symptoms, the covered entity shall deny access to that individual unless (i) the establishment is a health care facility with other access requirements or limitations or (ii) the individual is a resident in a multi-unit residential establishment.

3. Each covered entity shall instruct any person entering an establishment to wear cloth face coverings except when social distancing from others in the establishment is easily, continuously, and measurably maintained or § 7.3(D)(2) of this Part applies. Without limitation of the foregoing, individuals must wear a cloth face covering when at an entrance, exit and common areas of any establishment including, but not limited to: check-in, registration, reception, waiting areas, hallways, corridors, bathrooms, elevators, and stairways.

a. If any employee refuses to wear a cloth face covering when required by these regulations and such individual is not otherwise exempt from the requirements pursuant to § 7.3(D)(2) of this Part, a covered entity shall deny access to the establishment. Nothing in this Part shall require a store or other business to refuse entry to a customer not wearing a face covering.

4. All covered entities shall 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. Copies of acceptable posters can be found here: https://health.ri.gov/

5. All covered entities shall ensure that their establishments have their restrooms open, and that they have running water and are stocked with hand soap. If access to restrooms or running water is limited, the establishment shall ensure ready access to hand sanitizer at all times.

6. All covered entities shall ensure the performance of environmental cleaning of their establishments once per day. In addition, commonly touched surfaces, such as shared workstations, elevator buttons, door handles and railings should be cleaned in accordance with CDC guidance for specific industries, found here: https://www.cdc.gov/coronavirus/2019-ncov/community/reopen-guidance.html. Covered entities shall use, and have readily available to service providers, cleaning/disinfecting products designed to clean/disinfect the surfaces they are cleaning/disinfecting and shall use the products in the manner intended.

7. All covered entities shall maintain records documenting the date, time, location and procedures for the cleaning activities required in § 7.4(A)(6) of this Part.

8. In the event the Department identifies a hot spot, the affected covered entity shall cooperate fully with the Department to restrict the further spread of COVID-19 within an affected establishment and/or the community at large, which cooperation shall, at minimum, include providing access to all the covered entity's records required by these regulations.

9. Each covered entity will cooperate with the Department on testing, contact tracing, case investigation, isolation and quarantine follow-up matters relating to the covered entity's establishment.

10. All covered entities must also comply with all applicable federal, state and local laws and regulations governing safety and health in their establishments.

B. Exceptions

1. Sections 7.4(A)(2), (3), (5) and (6) of this Part do not apply to any outdoor facility, unless that facility has staff at all points of entry.

2. Sections 7.4(A)(2) and (5) of this Part do not apply to public bus transportation.

7.5 Closure of Establishments

A. If the Director determines that there exists a hot spot which requires immediate action to protect the health, welfare, or safety of the public or any member of the public, the Director may issue an immediate compliance order, as provided for in R.I. Gen. Laws § 23-1-21, effecting the closure of the establishment until such time as the violation has been remedied, to the satisfaction of the Director. Such remedy shall be in addition to any other penalty that may be prescribed by law.

7.6 Enforcement

A. Inspections

1. The Department and its authorized representatives may enter and inspect any establishment's premises in a reasonable manner, including, without limitation, all equipment, materials, containers, records, processes and controls, in order to ascertain compliance with these regulations and the Act.

2. The Department may coordinate with law enforcement and/or other state or federal agencies to conduct inspections hereunder.

B. Penalties

1. The Department may take any combination of the following actions against an establishment for violation of these regulations and/or the Act:

   a. Issue a compliance order;

   b. If immediate action to protect the health, welfare, or safety of the public or any member of the public is required, issue an immediate compliance order pursuant to § 7.5(A) of this Part;

   c. Levy a civil penalty in accordance with § 7.6(C) of this Part; and/or

   d. Take any other action authorized by these regulations, the Act or other applicable law.

C. Civil Penalties

1. The Department adopts the following schedule of civil penalties with respect to violations of these regulations.

Violation	Civil Penalty per Violation. Each day's failure to comply will constitute a separate offense.
Any violation	A. The civil penalty for a first violation shall be not more than one hundred dollars ($100). B. The civil penalty for a second violation shall be not more than two hundred fifty dollars ($250). C. The civil penalty for a third or subsequent violation shall be not more than five hundred dollars ($500).
Any violation	A. The civil penalty for a first violation shall be not more than two hundred dollars ($200). B. The civil penalty for a second violation shall be not more than five hundred

of a compliance order	dollars ($500). C. The civil penalty for a third or subsequent violation shall be not more than one thousand ($1,000).

D. All hearings and reviews required under the provisions of R.I. Gen. Laws § 23-1 shall be held in accordance with the provisions of the Act and the rules and regulations regarding Practices and Procedures Before the Department of Health (Part 10-05-4 of this Title) and Access to Public Records (Part 10-05-1 of this Title).

E. Administrative action including civil penalties imposed by the Department on account of violations hereunder are in addition to any criminal penalties provided for under applicable law.

7.7. Severability

A. If any provision of these regulations, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of the regulations which can be given effect without the invalid provision or application, and to this end the provisions are declared to be severable.

216-RICR-50-15-7

TITLE 216 - DEPARTMENT OF HEALTH

CHAPTER 50 - ENVIRONMENTAL HEALTH

SUBCHAPTER 15 - HEALTHY ENVIRONMENT

PART 7 - SAFE ACTIVITIES BY COVERED ENTITIES DURING THE COVID-19 EMERGENCY

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TITLE 216 – DEPARTMENT OF HEALTH

CHAPTER 10 – PUBLIC HEALTH ADMINISTRATION

SUBCHAPTER 05 – PRACTICES AND PROCEDURES

PART 5 – Enforcement of Certain COVID-19-Related Executive Orders

5.1 Authority

A. These regulations are promulgated pursuant to the authority conferred under R.I. Gen. Laws Chapters 30-15, 23-1, and 23-8, and pursuant to Executive Order 20-20, and are established for the purpose of restricting the spread of COVID-19 and assuring the public health, safety, and welfare by promoting compliance and deterring noncompliance with the Executive Orders.

5.2 Definitions

A. Wherever used in this Part, the terms listed below shall be construed in the following manner:

1. "Civil penalty" or "penalty" or "fine" means a monetary sum assessed by the Director pursuant to these regulations in response to a violation of, or a failure to comply with the Executive Orders.

2. "Citation" means the formal notice issued to a violator setting forth, among other things, the civil penalty assessed and the basis therefor.

3. "Clinically diagnosed" means the condition of being diagnosed with COVID-19 by a licensed health-care practitioner by assessment of symptoms or by laboratory testing.

4. "COVID-19" means the new disease caused by novel coronavirus SARS-CoV-2.

5. "Department" or "RIDOH" means the Rhode Island Department of Health.

6. "Director" means the Director of the Rhode Island Department of Health or his/her subordinates to whom the Director has delegated the powers and duties vested in the Director by these regulations. The terms Department and Director may be used interchangeably unless clearly indicated otherwise by the context of the sentence in which it appears.

7. "Executive Orders" means Executive Orders 20-03 (Quarantine Restrictions on International Travelers), 20-10 (Quarantine Restrictions on Domestic Air Travelers), 20-14 (Staying at Home, Reducing Gatherings, Certain Retail Business Closures, and Further Quarantine Provisions), and 20-20 (Further Quarantine Order).

8. "Isolation" means the separation of anyone clinically diagnosed with COVID-19 from people who are not sick.

9. "Person" means an individual, trust, firm, joint stock company, corporation (including quasigovernmental corporation), partnership, association, syndicate, municipality, municipal or state agency, fire district, club, non-profit agency or any subdivision, commission, department, bureau, agency, department or political subdivision of State or Federal Government (including quasigovernmental corporation) or of any interstate body and any agent or employee thereof.

10. "Quarantine" means the separation and restriction of movement of anyone who has been exposed to COVID-19 to see if he or she becomes sick.

11. "Social Distancing" means the practice of keeping space between oneself and others when outside of the home in order to restrict the spread of infectious disease. The practice of social distancing, also known as physical distancing, involves: staying at least 6 feet (2 meters) from other people; not gathering in groups; and staying out of crowded places and avoiding mass gatherings.

12. "Violation" means any act or failure to act which constitutes or results from failure to comply with the Executive Orders.

5.3 Assessment of Civil Penalty

5.3.1 Citation

A. The assessment of a civil penalty in accordance with these regulations shall be in addition to any other penalty that may be prescribed by law.

B. The Director, or his or her duly authorized agent, or any local or state of Rhode Island police department, or their officers or agents, may issue a citation, on a form supplied or approved by the Department, for any violation of the Executive Orders, which citation shall include the following information:

1. A concise statement of the alleged act or failure to act (e.g., manner of violation of quarantine, isolation, social distancing, etc.);

2. Reference to the specific Executive Order(s) violated as a result of the act or failure to act;

3. The amount of the civil penalty;

4. A statement of the violator's right to an administrative hearing on the citation pursuant to R.I. Gen. Laws Chapter 42-35.

5. A statement advising the violator that he or she has ten (10) days from the date of the citation to request an administrative hearing and that the request must be made in writing, which includes electronic written format, such as email.

6. The address(es), e.g., mail or email, to which a request for an administrative hearing must be sent.

7. A statement advising the violator that if he or she fails to request a hearing, in writing, within ten (10) days of the date of the citation, the violator will be deemed to have waived his or her right to an administrative hearing.

8. A statement advising the violator that payment of the penalty constitutes waiver of the right to request a hearing.

9. A statement advising the violator that if he or she fails to either pay the penalty or request a hearing within ten (10) days of the citation, the Director may institute enforcement proceedings in Rhode Island Superior Court.

10. The means by which payment may be made if the violator elects to pay the penalty and waive the administrative hearing.

C. The issuance of a citation shall be by service upon the violator, either by service, in hand, or by certified or registered mail, return receipt requested, or by express or overnight carrier with a signed receipt of delivery.

5.3.2 Hearing and Burden of Proof

A. Any violator has the right to request a hearing on the citation pursuant to R.I. Gen. Laws § 42-35-1 et seq. The right to request a hearing may be waived, however. The request for a hearing must be made in writing within ten (10) days after the date of the citation. Failure to do so shall constitute waiver of the

right to request a hearing. Payment of the penalty shall also constitute waiver of the right to request a hearing.

B. In the event a violator waives his or her right to request a hearing, the proposed civil penalty shall be final immediately upon the waiver, which adverse order shall be memorialized in writing in accordance with and conforming to all requirements of R.I. Gen. Laws § 42-35-12.

C. If a timely request for a hearing is filed, a hearing shall be conducted in accordance with R.I. Gen. Laws § 42-35-9 and Part 4 of this Subchapter, Practices and Procedures Before the Rhode Island Department of Health (216-RICR-10-05-4).

D. At hearing, the Director must prove the alleged violation by a preponderance of the evidence. Once a violation is established, the violator bears the burden of proving by a preponderance of the evidence that the Director failed to assess the penalty in accordance with these regulations.

E. If, after hearing, a civil penalty is assessed, such penalty shall be final, and constitute a final decision of the Director, upon the expiration of thirty (30) days if no action for judicial review of the decision is commenced pursuant to R.I. Gen. Laws § 42-35-15.

F. Judicial review of any final decision shall be available in accordance with R.I. Gen. Laws § 42-35-15.

5.33 Penalty Ceiling and Enforcement

A. The civil penalty for a first violation shall be not more than one-hundred dollars ($100).

B. The civil penalty for a second violation shall be not more than two-hundred-fifty dollars ($250).

C. The civil penalty for a third or subsequent violation shall be not more than five-hundred dollars ($500).

D. Each and every occurrence and/or day during which the violation is repeated shall constitute a separate and distinct violation.

E. In the event a violator fails to pay a civil penalty within ten (10) days of its being final, the Director may institute injunction proceedings in the superior court of the

state for enforcement of the civil penalty, which remedy shall be cumulative and not exclusive, and shall be in addition to any other remedies available at law.

5.4 Immediate Compliance Orders

Pursuant to Executive Order 20-20, the Director is authorized to take any action and make and enforce any regulations necessary to implement the Executive Order. The Director has the authority to enforce the Executive Orders through immediate compliance orders issued in accordance with R.I. Gen. Laws § 23-1-21.

5.5 Severability

If any provisions of this Part, or the application thereof, to any person or entity or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Part, or the application thereof, to other persons, entities, or circumstances.

216-RICR-10-05-5

TITLE 216 - DEPARTMENT OF HEALTH

CHAPTER 10 - PUBLIC HEALTH ADMINISTRATION

SUBCHAPTER 05 - PRACTICES AND PROCEDURES

PART 5 - ENFORCEMENT OF CERTAIN COVID-19-RELATED EXECUTIVE ORDERS

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