

216-RICR-10-05-6

TITLE 216 – RHODE ISLAND DEPARTMENT OF HEALTH

CHAPTER 10 – PUBLIC HEALTH ADMINISTRATION

SUBCHAPTER 05 - PRACTICES AND PROCEDURES

PART 6 – Enforcement of Executive Orders

6.1 Authority

These regulations are promulgated pursuant to the authority conferred pursuant to R.I. Gen. Laws §§ 23-1-1 et seq., §§ 23-8-1 et seq., §§ 30-15-1 et seq., Executive Order 21-116, Protecting Public Health by Wearing Masks or Face Coverings or Obtaining Proof of Vaccination in Indoor Public Places ("Executive Order 21-116") and other executive orders. These regulations are established for the purposes of restricting the spread of COVID-19 and ensuring the public health, safety, and welfare by promoting compliance and deterring noncompliance with executive orders.

6.2 Definitions

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

1. "Capacity" means the maximum number of persons allowed as determined by the fire marshal, not the actual number of persons present.
2. "Catered events" means occasions at which the food products being served have been prepared in a licensed food service establishment and are served for a private event or an organized group (e.g., wedding reception). Catered events do not include functions and events held at nightclubs or after-hours club type venues.
3. "Citation" means the written notice of violation issued to an alleged violator setting forth the underlying facts and the amount of the potential civil penalty.
4. "Civil penalty" means a monetary sum assessed by the Director or his/her designees, pursuant to these regulations.
5. "COVID-19" means the disease caused by novel coronavirus SARS-CoV-2 and its variants.
6. "DBR" means the Rhode Island Department of Business Regulation.

7. “Department” means the Rhode Island Department of Health.
8. “Director” means the Director of the Department or his/her designee 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.
9. "Establishment" includes, but is not limited to, recreation establishments, entertainment establishments, historical establishments, cultural establishments, venues of assembly and religious and faith-based organizations, retail and service businesses, restaurants and bars, catered events, and office-based and other public and private employers (including fitness centers and personal services), all as set forth in Executive Order 21-116. Establishment also means a physical location operated in whole or in part by any person, business, state agency, political subdivision of the State, or non-profit organization.
10. "Executive order" means any executive order that concerns quarantine, isolation, physical distancing, masking, vaccination, social gathering restrictions, sanitation, or other mitigation measures designed to curb the spread of COVID-19.
11. "Mask" or "Masking" means the wearing of a cloth or paper mask. At a minimum, masks shall:
  - a. Cover nose and mouth and be secured under the chin;
  - b. Fit snugly against the side of one's face with no gaps; and
  - c. Not have exhalation valves or vents.
12. "Proof of vaccination" means an official immunization card, health record, and/or paper/electronic documentation of receiving all doses as recommended by the Center for Disease Control and Prevention and authorized by the U.S. Food and Drug Administration or World Health Organization or all recommended dose(s) of another COVID-19 vaccine approved by the Department (e.g., Novavax).
13. “Task Force” means the enforcement task force established by the Governor in Executive Order 21-116.
14. “Violation” means failure to comply with the executive orders or these regulations. Every individual permitted to enter premises in contradiction of the executive orders shall constitute a separate and distinct violation.

### **6.3 Inspections and Enforcement**

- A. The Task Force shall be responsible for the oversight, implementation, and administration of Executive Order 21-116's inspection and enforcement provisions.
- B. Pursuant to the authority granted under Executive Order 21-116, the Task Force may (i) issue compliance orders through the Department; and/or (ii) impose civil penalties through the Department.

### **6.4 Universal Practices**

- A. Establishments conducting operations in indoor venues with a capacity of two hundred fifty (250) or more persons shall require any person in their indoor premises to mask regardless of vaccination status.
- B. Establishments conducting operations in indoor venues with a capacity of fewer than two hundred fifty (250) persons shall require masking of any person in their indoor premises but may make an exception for any person who provides proof of vaccination. Establishments that provide an exception of masking may develop and maintain a written plan for checking proof of vaccination and make that plan available to the Department, Task Force, or DBR upon request.
- C. Each establishment must post signage for masking and/or proof of vaccination at all entrances to the establishment. Examples of such signage are available here: <https://health.ri.gov/publications/posters/Masks-Required.pdf>; <https://health.ri.gov/publications/posters/Proof-of-Vaccination-Required.pdf>; and here, <https://health.ri.gov/publications/posters/Mask-or-Proof-of-Vaccination-Required.pdf>. If an establishment posts its own signage, at a minimum such signage must state, in bold-print, one of the following:
  - 1. MASKS ARE REQUIRED IN THIS ESTABLISHMENT;
  - 2. PROOF OF VACCINATION IS REQUIRED IN THIS ESTABLISHMENT;  
or
  - 3. A MASK OR PROOF OF VACCINATION IS REQUIRED IN THIS ESTABLISHMENT.
- D. For catered events, capacity is determined by the number of guests in attendance.
  - 1. For catered events with more than two hundred fifty (250) guests, masking is required for all individuals regardless of vaccination status.
  - 2. For catered events with fewer than two hundred fifty (250) guests, the event host and/or venue operator must implement one (1) of the following requirements:

- a. An event-wide indoor masking requirement;
- b. An event-wide indoor proof of vaccination requirement; or
- c. Requiring individuals to either show proof of vaccination or wear masks indoors.

## **6.5 Citations and Assessment of Civil Penalties**

### **6.5.1 Citations**

- A. The assessment of a civil penalty, in accordance with this Part for any violation, 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, with the approval of the Director or his or her duly authorized agent, any local or state police department (or its officers or agents) may issue a citation on a form supplied or approved by the Department for any violation, which citation shall include the following information:
  - 1. A concise statement of facts of the alleged violation;
  - 2. The amount of the civil penalty for each violation;
  - 3. A statement of the alleged violator's right to an administrative hearing on the citation pursuant to R.I. Gen. Laws §§ 42-35-1 et seq.;
  - 4. A statement advising the alleged 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;
  - 5. The address(es), e.g., mail or email, to which a request for an administrative hearing must be sent;
  - 6. A statement advising the alleged violator that if he or she fails to request a hearing, in writing, within ten (10) days of the date of the citation, the alleged violator will be deemed to have waived his or her right to an administrative hearing and admitted to the violation;
  - 7. A statement advising the alleged violator that payment of the penalty constitutes waiver of the right to request a hearing;
  - 8. A statement advising the alleged 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; and

9. The means by which payment may be made if the alleged violator elects to pay the penalty.

C. Service of all citations to alleged violators shall be by hand, or by certified or registered mail, return receipt requested, or by express or overnight carrier with a signed receipt of delivery.

D. All administrative hearings shall be conducted in accordance with R.I. Gen. Laws § 42-35-1 et. seq. and the Practices and Procedures Before the Rhode Island Department of Health (Part 4 of this Subchapter).

### **6.5.2 Penalties**

A. The Department may assess civil penalties of not more than five hundred dollars (\$500) for each individual violation.

B. In the event a violator fails to pay a civil penalty or request a hearing within ten (10) days of the penalty being final, the Director may institute enforcement proceedings in the superior court of the State to recover the civil penalty, which remedy shall be cumulative and not exclusive, and shall be in addition to any other remedies available at law or in equity.

### **6.6 Other Remedies**

These regulations are not intended to limit the Director's authority to pursue any other legal procedure or remedy in the enforcement of the executive orders, as allowed by law.

### **6.7 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.

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Governor or Designee

Governor Signing Date

**Department of State**

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Regulation Effective Date

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