

## 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 Orders issued in connection with the declaration of disaster emergency in Executive Order 20-20, 20-32, 02 and 20-41+its successors, and are established for the ~~purpose~~purposes 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.

~~B.~~—~~In accordance with R.I. Gen. Laws § 42-35-2.10, these regulations shall remain in effect until no later than August 8, 2020, unless renewed for a period not exceeding sixty (60) days.~~

### 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 RIDOH 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 20-20 (Further Quarantine Order) 20-40 (Phase II Re-Opening), 20-41 (Continuing to Require Cloth Face Coverings in Public), and any other~~any executive orders that concern quarantine, isolation, physical distancing, masking, social gathering restrictions, or sanitation measures designed to curb the spread of COVID-19.
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" or "Physical 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 six (6) feet (two (2) meters) from other people; not gathering in groups; and staying out of crowded places and avoiding mass gatherings.
12. "Social gathering restrictions" means the applicable numerical limits for individuals in social gatherings, as set by the governor by executive order, or by other applicable law or regulation.
13. "Violation" means any act or failure to act which constitutes or results from failure to comply with any of the Executive Orders.

## 5.3 Social Gathering Limits

### 5.3.1 Calculation

- A. In calculating the size of a social gathering in a residence, any residents present count toward the size.
- B. If the number of residents in a residence exceeds the applicable social gathering limit in the absence of any non-residents, no violation of a limit on the size of a social gathering shall be deemed to have occurred.

### 5.3.2 Responsibility

- A. Hosts/Organizers. Hosts/organizers of any social gathering, irrespective of their presence at the social gathering, are responsible for ensuring that the size of the social gathering does not exceed the applicable limit. If a social gathering exceeds the applicable limit, hosts/organizers may be deemed to have committed a violation for each attendee in excess of the applicable limit.
- B. Attendee. Every person present at a social gathering, including residents, is responsible for his or her attendance and contribution to the size of the social gathering. Each person present at a social gathering in excess of the applicable limit, including residents, may be deemed to be in violation of the applicable limit.

## 5.4 Assessment of Civil Penalty~~5.3~~Penalty

### 5.4.1 Citation

- A. The assessment of a civil penalty in accordance with this Part for any violation of an executive order, 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, social gathering restrictions, 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.

#### **5.34.2 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.

### **5.34.3 Penalty Ceiling and Enforcement**

- A. The Department may assess civil penalties of not more than five hundred dollars (\$500) per violation for each individual violation of any of the executive orders. Each day's failure to comply will constitute a separate violation
- B. 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.

### **5.45 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.

### **5.56 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.