



February 11, 2021

CERTIFIED MAIL

Brandywine Diner
303 Rocky Run Pkwy
Wilmington, DE 19803

Notice of Administrative Penalty

Dear Brandywine Diner:

The following Notice of Violation is issued under the authority of the Secretary, Delaware Health and Social Services pursuant to 16 Del. C. §122 (3) and the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat, including its modifications.

Notice of Violation

After receiving complaints of non-compliance, the Division of Public Health (DPH) conducted site visits to the above referenced location on December 7, 2020, December 16, 2020, and December 21, 2020 to assess compliance with the current restrictions in place to reduce transmission of COVID-19. DPH inspectors provided education to Brandywine Diner during these visits to assist with compliance.

During the December 7th visit, DPH inspectors observed the following violations:

- Lack of social distancing among customers, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Lack of floor markings and signage for counter service/pickup, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Utensils pre-set on tables, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
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- Lack of guidance and signage to control flow, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.

DPH conducted a follow-up inspection on December 16th and observed the following violation:

- Lack of social distancing among customers, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.

An additional site visit was conducted on December 21st and inspectors observed the following violations:

- Lack of social distancing among customers, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.

DPH has continued to receive complaints regarding non-compliance at Brandywine Diner.

Notice of Administrative Penalty

Under 16 *Del. C.* §107(a) the Department of Health and Social Services has the authority to impose an administrative penalty upon any business that refuses, fails or neglects to perform the duties required of it. The penalty shall be \$100.00 to \$1,000.00 per Violation per day and may result in closure of the facility. Based on the failure to comply with COVID-19 requirements, Brandywine Diner is hereby assessed an Administrative Penalty. The administrative penalty assessed is \$200.00. This penalty is payable to the "State of Delaware" and must be received within 30 days of receipt of this notice. DPH does not accept the validity of any disclaimer of liability that may accompany your payment of this penalty. Payment must be sent to the following address:

CENTRAL BILLING
DIVISION OF PUBLIC HEALTH
417 Federal Street
Dover, DE 19901

If you wish to contest this administrative penalty, you may request an administrative hearing before an Administrative Hearing Officer. Your written request must be sent to the address listed above within 30 calendar days of receipt of this notice.

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Failure to remit payment or request an administrative hearing within 30 days of receipt of this letter may result in additional legal action.

Brandywine Diner is subject to unannounced DPH COVID-19 compliance checks. Failure to grant reasonable access to DPH staff will result in immediate closure of the facility.

Any questions regarding this warning or how to gain compliance may be directed to Mr. Jamie Mack at 302-744-4832.

Sincerely,



Karyl T. Rattay, MD, MS, FAAP
Director

cc: Jamie Mack, Section Chief, Health Systems Protection
Joanna Suder, DAG