



Michael R. Pence
Governor

William C. VanNess II, MD
State Health Commissioner

IN RE THE MATTER OF:

Joseph Hernandez, Executive Chef
Memorial Hospital of South Bend
615 North Michigan Street
South Bend, IN 46601

Re: Revocation of Variance Approved on December 14, 2011 (410 IAC 7-24-195, Reduced Oxygen Packaging (ROP); criteria)

Order to Revoke a Variance

You are hereby notified that based on the recommendation of the Food Protection Program, Indiana State Department of Health (ISDH), and as authorized by Indiana Code (IC) 16-19-3-4.3 and IC 16-42-5-5.2, the State Health Commissioner hereby orders that the variance approved on December 14, 2011 to Memorial Hospital of South Bend (MHSB), 615 North Michigan Street, South Bend, IN 46601 be revoked. Henceforth, the sanitary requirements for this retail food establishment shall be those stated in 410 IAC 7-24. The findings for this order were determined to be necessary based on the conditions stated below.

Order

This **REVOCATION of VARIANCE APPROVAL** is based on the following conditions:

- A review of an inspection report (See attachment.) completed by Indiana State Department of Health, Acute Care Program inspectors on January 15, 2013, indicates the HACCP Plan and system for the affected product was changed regarding items to be reduced oxygen packaged compared to the list submitted and approved.
- According to the inspection report, the agreed upon storage temperature of 34°F or less for reduced oxygen packaged items was not being met.
- Examples of actual, completed forms that had been created throughout the year were to have been submitted to the ISDH, Food Protection Program Director for review after a date one year and not more than 13 months from the original approval. The completed records had not been received as of February 15, 2013.
- There was no evidence that employees were trained on the specific requirements of the variance.
- Food items prepared in reduced oxygen packaged bags were not being heated to the agreed upon temperatures.

- According to the inspection report, there were at least 20 other citations of conditions considered to be out of compliance with requirements in 410 IAC 7-24, some of which directly support the agreed upon terms of the variance.

If you wish to request an administrative review or stay of effectiveness of this decision pursuant to Ind. Code §40-21.5-3-7(a), you must petition for such review in writing. The petition must state facts demonstrating that:

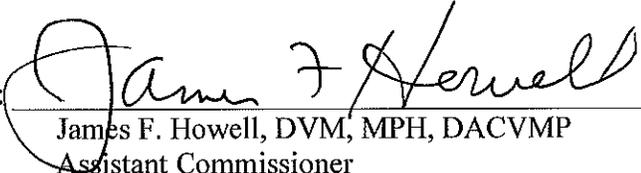
- a. you are a person to whom the decision is specifically directed;
- b. you are aggrieved or adversely affected by the decision; or,
- c. you are entitled to review under any law.

Your request for review or stay of effectiveness must be filed in writing with the Office of Legal Affairs, 2 North Meridian Street, 3H-99, Indianapolis, Indiana 46204, on or before March 16, 2013. If no request for review or stay of effectiveness is filed by March 16, 2013, this decision shall become final.

DATED AT INDIANAPOLIS, INDIANA THIS 27th DAY OF FEBRUARY 2013.

PURSUANT TO IC 16-19-3-4.3 AND IC 16-42-5-5.2, I HEREBY REVOKE THE APPROVED VARIANCE OF FOOD PROTECTION RULES AS STATED ABOVE.

WILLIAM C. VAN NESS II, M.D.
STATE HEALTH COMMISSIONER

By: 
James F. Howell, DVM, MPH, DACVMP
Assistant Commissioner
Public Health and Preparedness Commission

cc: ISDH Executive Board
ISDH Food Protection Staff
ISDH Office of Legal Affairs
Acute Care Program
Albert Daeger
Lynnette Smith
Saint Joseph County Health Department
Memorial Hospital of South Bend Chief Executive

129 Critical 01/15/2013

The Production Kitchen was toured on 1/15/2012 at 10:30 AM. The kitchen staff throughout the Production Kitchen was observed not washing their hands as required. The lack of hand washing was evidenced by:

1. One staff member was observed cleaning a meat slicer with sanitizing solution. Then the staff member was observed putting on single-use gloves then sliced turkey and caught the turkey slices with his/her right gloved hand. The staff member never washed his/her hands between cleaning the meat slicer and putting on the gloves.
2. One staff member was observed wiping down the patient deli cold counter bar with sanitizing solution while wearing single-use gloves. Then the staff member used his/her same wet gloved hand and handled a single serving pizza from the toaster oven and placed it on a patient's plate. The staff member's hands were never washed between tasks and single-use gloves were never changed between tasks.
3. Four staff members throughout the Production Kitchen were observed changing their single-use gloves multiple times without washing their hands between changing of the gloves.

173 Critical Corrected

At 12:00 PM on 1/16/13, a staff member on the serving line was carving prime rib and was handling the prime rib with their gloved hands. Between customers, the staff member was observed wiping her gloved hands on a soiled towel that was hanging out of her pocket.

183 Critical Corrected

The kitchen sear Tuna filets on both sides and finish the cooking process in the microwave. The practice on cooking Tuna filets in the microwave was to cook to an internal temperature of 155 F> The patient menu indicates the Tuna will be cooked medium. The Chef indicated the temperature to cook the tuna filets in the microwave is 155 F. This practice was confirmed by 2 other staff members.

187 Critical Corrected (Discarded)

Based on observation, the facility failed to ensure potentially hazardous food was maintained at 41 degrees Fahrenheit or less or at 135 degrees Fahrenheit or above. Findings included:

1. On the patient tray line, hot side: Shredded parmesan cheese held at 53 degrees Fahrenheit; shredded mozzarella cheese held at 50 degrees Fahrenheit; shredded cheddar cheese held at 54 degrees Fahrenheit; sliced american cheese held at 54 degrees Fahrenheit
2. In the CVAP number "PM3721" warmer on the patient tray line, hot side: chicken held at 124 degrees Fahrenheit; meat loaf held at 125 degrees Fahrenheit
3. In the top drawer of the cold food section on the patient tray line, hot side: chicken held at 45 degrees Fahrenheit; shredded mozzarella cheese held at 49 degrees Fahrenheit
4. In the pantry cooler #3: sliced eggs held at 44 degrees Fahrenheit; shredded cheddar cheese held at 48 degrees Fahrenheit; tuna salad held at 45 degrees Fahrenheit, and chicken salad held at 45 degrees Fahrenheit.

191 Critical 01/15/2013

Based on observation, the kitchen failed to ensure cooked pork held at 41 degrees Fahrenheit or less was clearly marked to indicate the pork was to be consumed, sold, or discarded no more than 7 days from the date it was prepared. Findings included cooked pork held in the 34 degree Fahrenheit Reduced Oxygen Packaging refrigerator contained a label which read: "Preparation date: 1-11-13" and "Use By: 1-25-13", allowing the food to be consumed or sold up to 14 days after it was prepared.

443 Critical 01/15/2013

Based on observation, the facility failed to ensure quaternary ammonia sanitizer met the requirements specified in 21 CFR 178.1010. Findings included: Oasis 146 quaternary ammonia sanitizer in the cold preparation area tested at 0 parts per million (ppm).

134 Non-Critical 01/25/2013

Based on observation, the facility failed to ensure food employees did not wear jewelry, including diamond engagement rings and watches, on their arms and hands during food preparation. Findings included: 2 food employees preparing food on the patient tray line were wearing engagement rings and 1 food employee preparing food on the patient tray line was wearing a watch.

138 Non-Critical 01/15/2013

Based on observation, the facility failed to ensure 2 food employees and one food vendor wore beard restraints. Findings included observation of 2 food employees with beards in the kitchen area without beard restraints and one food vendor from Coca-Cola with a beard and mustache in the kitchen area without a beard restraint.

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194 Non-Critical Corrected

Based on observation, the facility failed to ensure the chemical sanitizer used in the manual ware washing of pots and pans met the requirements in 21 CFR 178.1010. Findings included: Oasis 146 sanitizer in the pots and pans 3 - compartment sink tested at 0 ppm.

234 Non-Critical Corrected

Based on observation, the facility failed to store dispensing utensils with their handles above the top of the food and the container. Findings included: observation of a metal scoop stored in the sugar bin in the general food preparation and test area.

239 Non-Critical Corrected

Based on observation, the facility failed to ensure a cleaned slicer was covered while stored. Findings included: observation of a cleaned vegetable slicer in the cold preparation area that was not covered during storage.

244 Non-Critical 02/14/2013

Based on observation, the facility failed to ensure cleaned utensils were not stored under sewer lines that were not shielded. Findings included: a sewer line, located in the pop storage room, in the ceiling over clean coffee cups and carafes.

245 Non-Critical Corrected

Based on observation, the facility failed to ensure food spills on food contact surfaces were cleaned with wiping cloths that were stored in a chemical sanitizer. Findings included: observation of a staff member using a dry towel to wipe food debris off of a green cutting board in the patient tray line area, hot side.

412 Non-Critical Corrected

Based on observation, the facility failed to ensure a bug light was installed so that dead insects and insect fragments were prevented from falling on cleaned equipment. Findings included: a bug light in use in the cold preparation area located over a set of knives; cleaned, plastic food containers; and foil pan liners.

431 Non-Critical Corrected

Based on observation, the facility failed to ensure the facility was cleaned as often as necessary. Findings included: dust and debris on the top of 2 #10 cans of vanilla pudding and boxes on the bottom of a shelf in the cold preparation area; and red onion peels on the floor in the dry storage room.

Received by (name and title printed)

Inspected by (name and title)

Lynnette Smith

Albert Daeger

Received by (signature)

CC: