

**STATE OF VERMONT
LIQUOR CONTROL BOARD**

**IN RE: MAD ROSE, LLC
 2 CENTER STREET
 RUTLAND, VERMONT**

DECLARATORY RULING

Licensee, Mad Rose, LLC, through counsel, seeks a declaratory ruling from this Board pursuant to 3 V.S.A. §808 and Rule 8b, Administrative Organization and Procedures, and Agency Rules of Practice¹ regarding obligations placed on a licensee pursuant to a portion of General Regulation No. 17, reproduced below:

No licensee shall allow any individual displaying such signs of intoxication to stay on the licensed premises, except under direct personal supervision by a licensee or licensee employee in a segregated nonpublic area when the patron's immediate departure could be expected to pose a risk of bodily injury to the patron or any other individual.

Licensee asserts that:

it has been suggested that the above referenced section places an affirmative obligation on the licensee to hold an 'individual displaying such signs of intoxication' on their premises 'when the patron's immediate departure could be expected to pose a risk of bodily injury to the patron or any other individual' until that patron is no longer displaying such signs of intoxication or a safe ride is found for said patron by the licensee.

The portion of General Regulation No. 17, quoted above, provides an exception to the general prohibition against a licensee allowing individuals displaying signs of intoxication to stay on licensed premises. Specifically, a licensee may allow an individual who displays signs of intoxication to remain on its premises only under direct personal supervision by the licensee or its employee(s) in a segregated, nonpublic area. This portion of General Regulation No. 17 does not require a licensee to hold a person displaying signs of intoxication on the licensed premises. Notwithstanding this, our General Regulations (including General Regulation No. 17 in its entirety) must be read and construed *in pari materia* as they relate to same purpose- to promote public safety in the production, distribution, sale and consumption of alcoholic beverages. The

¹ The rule reads:

Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Liquor Control Board will be entertained by the Liquor Control Board in an informal manner. Such petitions shall be filed with the Enforcement Secretary and shall be so drawn as to fully and completely advise the Liquor Control Board the reasons why such a ruling is sought. The Liquor Control Board shall within thirty days after such petition has been filed advise the petitioner of its decision and the facts involved.

exception contained in General Regulation No. 17 provides a tool for a licensee to minimize, for example, a risk of a General Regulation No. 36 violation.

DATED at Montpelier, Vermont this 21st day of September 2017.

VERMONT LIQUOR CONTROL BOARD

A handwritten signature in black ink, appearing to read "Mark W. Wambsgater", written over a horizontal line.

Liquor Control Board Chair