

**State of California**

Department of Industrial Relations  
Division of Occupational Safety and Health  
Oakland District Office  
1515 Clay Street, Suite 1303  
Oakland, CA 94612  
Phone: (510) 622-2916 Fax: (510) 622-2908

**Inspection #:** 1517044  
**Inspection Dates:** 03/01/2021 - 08/31/2021  
**Issuance Date:** 09/01/2021  
**CSHO ID:** U1591  
**Optional Report #:** 026-21



**Citation and Notification of Penalty**

**Company Name:** Windsor Oakridge Healthcare Center, LP  
**Establishment DBA:** Windsor Healthcare Center of Oakland  
and its successors  
**Inspection Site:** 2919 Fruitvale Avenue  
Oakland, CA 94602

Citation 1 Item 1 Type of Violation: **Regulatory**

**California Code of Regulations. Title 8 § 14300.32(a). Annual Summary.**

**(a) Basic requirement. At the end of each calendar year, you must:**

- (1) Review the Cal/OSHA Form 300 to verify that the entries are complete and accurate, and correct any deficiencies identified;**
- (2) Create an annual summary of injuries and illnesses recorded on the Cal/OSHA Form 300 using the Cal/OSHA Form 300A Annual Summary of Work-related Injuries and Illnesses;**
- (3) Certify the annual summary; and**
- (4) Post the annual summary.**

**Ref. California Code of Regulations. Title 8 § 14300.32(b)(6). Annual Summary.**

**(b) Implementation.**

**(6) When do I have to post the annual summary?**

**You must post the annual summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.**

Violation:

Prior to and during the course of the investigation, including, but not limited to, on March 1, 2021, the employer failed post the annual summary at the workplace.

<b>Date By Which Violation Must be Abated:</b>	<b>Corrected During Inspection</b>
<b>Proposed Penalty:</b>	<b>\$375.00</b>

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Citation 1 Item 2 Type of Violation: **General**

**California Code of Regulations. Title 8 §5144(I). Respiratory Protection.**

**(I) Program evaluation. This section requires the employer to conduct evaluations of the workplace to ensure that the written respiratory protection program is being properly implemented, and to consult employees to ensure that they are using the respirators properly.**

**(1) The employer shall conduct evaluations of the workplace as necessary to ensure that the provisions of the current written program are being effectively implemented and that it continues to be effective.**

**(2) The employer shall regularly consult employees required to use respirators to assess the employees' views on program effectiveness and to identify any problems. Any problems that are identified during this assessment shall be corrected. Factors to be assessed include, but are not limited to:**

**(A) Respirator fit (including the ability to use the respirator without interfering with effective workplace performance);**

**(B) Appropriate respirator selection for the hazards to which the employee is exposed;**

**(C) Proper respirator use under the workplace conditions the employee encounters; and**

**(D) Proper respirator maintenance.**

Violation:

Prior to and during the course of the investigation, including, but not limited to, on March 1, 2021, the employer failed to conduct evaluations of the workplace to ensure that the written respiratory protection program was being properly implemented for employees required to use respirators with exposure to aerosol transmissible pathogens, including but not limited to SARS-CoV-2, the virus that causes COVID-19.

**Date By Which Violation Must be Abated:**

**October 07, 2021**

**Proposed Penalty:**

**\$1125.00**

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Citation 1 Item 3 Type of Violation: **General**

**California Code of Regulations. Title 8 § 5199(c)(8). Aerosol Transmissible Diseases.**

**(c) Referring Employers. In facilities, services, or operations in which there is occupational exposure and which meet the criteria specified by (a)(3)(A), employers are only required to comply with the following provisions:**

**(8) The employer shall ensure that the infection control procedures are reviewed at least annually by the administrator and by employees regarding the effectiveness of the program in their respective work areas, and that deficiencies found are corrected.**

Violation:

Prior to and during the course of the investigation, including, but not limited to, on March 1, 2021, the employer failed ensure that the aerosol transmissible disease infection control procedures are reviewed at least annually by the administrator and by employees regarding the effectiveness of the program in their respective work areas.

**Date By Which Violation Must be Abated:** **October 07, 2021**  
**Proposed Penalty:** **\$1125.00**

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Citation 2 Item 1 Type of Violation: **Serious**

**California Code of Regulations. Title 8 § 5199(c)(5). Aerosol Transmissible Diseases.**

**(c) Referring Employers. In facilities, services, or operations in which there is occupational exposure and which meet the criteria specified by (a)(3)(A), employers are only required to comply with the following provisions:**

**(5) The employer shall establish, implement and maintain effective written procedures to reduce the risk of transmission of aerosol transmissible disease, to the extent feasible, during the period the person requiring referral is in the facility or is in contact with employees. In addition to source control measures, these procedures shall include, to the extent feasible:**

**(A) placement of the person requiring referral in a separate room or area;**

**(B) provision of separate ventilation or filtration in the room or area; and**

**(C) Employee use of respiratory protection when entering the room or area in which the person requiring referral is located, if that person is not compliant with source control measures. Respirator use shall meet the requirements of subsection (g) and Section 5144, Respiratory Protection, of these orders.**

**[Reference 5199(g) Respiratory Protection.**

**(6) Fit testing.**

**(A) The employer shall perform either quantitative or qualitative fit tests in accordance with the procedures outlined in Appendix A of Section 5144, Respiratory Protection, of these orders. The fit test shall be performed on the same size, make, model and style of respirator as the employee will use. When quantitative fit testing is performed, the employer shall not permit an employee to wear a filtering facepiece respirator or other half-facepiece respirator, unless a minimum fit factor of one**

hundred (100) is obtained. When fit testing single use respirators, a new respirator shall be used for each employee.

**(B) The employer shall ensure that each employee who is assigned to use a filtering facepiece or other tight-fitting respirator passes a fit test:**

- 1. At the time of initial fitting;**
- 2. When a different size, make, model or style of respirator is used; and**
- 3. At least annually thereafter.]**

Violation:

Prior to and during the course of the investigation, including, but not limited to, on March 1, 2021, the employer failed to implement written procedures to reduce the risk of transmission of aerosol transmissible disease, to the extent feasible, during the period that suspect COVID-19 cases were in the facility or were in contact with employees. The employer failed to ensure that all employees required to use a filtering facepiece respirator, while caring for or exposed to suspect COVID-19 patients, were fit tested prior to their initial use of the respirator. [Ref. T8 CCR Section 5199(g)(6)(B)]

**Date By Which Violation Must be Abated:**

**September 14, 2021**

**Proposed Penalty:**

**\$13500.00**

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Citation 3 Item 1 Type of Violation: **Serious**

**California Code of Regulations. Title 8 § 5199(c)(6)(B). Aerosol Transmissible Diseases.**

**(c) Referring Employers. In facilities, services, or operations in which there is occupational exposure and which meet the criteria specified by (a)(3)(A), employers are only required to comply with the following provisions:**

**(6) The employer shall establish a system of medical services for employees which meets the following requirements:**

**(B) The employer shall develop, implement, and maintain effective written procedures for exposure incidents in accordance with subsections (h)(6) through (h)(9).**

**[Reference T8 CCR Section 5199(h)(6) through (h)(9):**

**(6) Exposure Incidents.**

**(A) A health care provider, or the employer of a health care provider who determines that a person is an RATD case or suspected case shall report, or ensure that the health care provider reports, the case to the local health officer, in accordance with Title 17.**

**(B) In addition to the report required in subsection (h)(6)(A), the employer in the facility, service or operation that originates the report shall determine, to the extent that the information is available in the employer's records, whether the employee(s) of any other employer(s) may have had contact with the case or suspected case while performing activities within the scope of this section. The employer shall notify the other employer(s) within a timeframe that will both provide reasonable assurance that there will be adequate time for the employee to receive effective medical intervention to prevent disease or mitigate the disease course, and will also permit the prompt initiation of an investigation to identify exposed employees. In no case, shall the notification be longer than 72 hours after the report to the local health officer. The notification shall include the date, time, and nature of the potential exposure, and provide any other information that is necessary for the other employer(s) to evaluate the potential exposure of his or her employees. The notifying employer shall not provide the identity of the source patient to the other employers.**

**(C) Each employer who becomes aware that his or her employees may have been exposed to an RATD case or suspected case, or to an exposure incident involving an ATP-L shall do all of the following:**

**1. Within a timeframe that is reasonable for the specific disease, as described in subsection (h)(6)(B), but in no case later than 72 hours following, as applicable, the employer's report to the local health officer or the receipt of notification from another employer or the local health officer, conduct an analysis of the**

exposure scenario to determine which employees had significant exposures. This analysis shall be conducted by an individual knowledgeable in the mechanisms of exposure to ATPs or ATPs-L, and shall record the names and any other employee identifier used in the workplace of persons who were included in the analysis. The analysis shall also record the basis for any determination that an employee need not be included in post-exposure follow-up because the employee did not have a significant exposure or because a PLHCP determined that the employee is immune to the infection in accordance with applicable public health guidelines. The exposure analysis shall be made available to the local health officer upon request. The name of the person making the determination, and the identity of any PLHCP or local health officer consulted in making the determination shall be recorded.

2. Within a timeframe that is reasonable for the specific disease, as described in subsection (h)(6)(B), but in no case later than 96 hours of becoming aware of the potential exposure, notify employees who had significant exposures of the date, time, and nature of the exposure.

3. As soon as feasible, provide post-exposure medical evaluation to all employees who had a significant exposure. The evaluation shall be conducted by a PLHCP knowledgeable about the specific disease, including appropriate vaccination, prophylaxis and treatment. For *M. tuberculosis*, and for other pathogens where recommended by applicable public health guidelines, this shall include testing of the isolate from the source individual or material for drug susceptibility, unless the PLHCP determines that it is not feasible.

4. Obtain from the PLHCP a recommendation regarding precautionary removal in accordance with subsection (h)(8), and a written opinion in accordance with subsection (h)(9).

5. Determine, to the extent that the information is available in the employer's records, whether employees of any other employers may have been exposed to the case or material. The employer shall notify these other employers within a time frame that is reasonable for the specific disease, as described in subsection (h)(6)(B), but in no case later than 72 hours of becoming aware of the exposure incident of the nature, date, and time of the exposure, and shall provide the contact information for the diagnosing PLHCP. The notifying employer shall not provide the identity of the source patient to other employers.

(7) Information provided to the Physician or Other Licensed Health Care Professional.

(A) Each employer shall ensure that all PLHCPs responsible for making determinations and performing procedures as part of the medical services program are provided a copy of this standard and applicable public health guidelines. For respirator medical evaluations, the employer shall provide information regarding the type of respiratory protection used, a description of the work effort required, any special environmental conditions that exist (e.g., heat, confined space entry), additional requirements for protective clothing and equipment, and the duration and frequency of respirator use.

(B) Each employer shall ensure that the PLHCP who evaluates an employee after an exposure incident is provided the following information:

1. A description of the exposed employee's duties as they relate to the exposure incident;
2. The circumstances under which the exposure incident occurred;
3. Any available diagnostic test results, including drug susceptibility pattern or other information relating to the source of exposure that could assist in the medical management of the employee; and
4. All of the employer's medical records for the employee that are relevant to the management of the employee, including tuberculin skin test results and other relevant tests for ATP infections, vaccination status, and determinations of immunity.

(8) Precautionary removal recommendation from the physician or other licensed health care professional.

(A) Each employer who provides a post-exposure evaluation in accordance with this Section, or an evaluation of an employee's TB conversion in accordance with subsection (h)(3) shall request from the PLHCP an opinion regarding whether precautionary removal from the employee's regular assignment is necessary to prevent spread of the disease agent by the employee and what type of alternate work assignment may be provided. The employer shall request that the PLHCP convey to the employer any recommendation for precautionary removal immediately via phone or fax and that the PLHCP document



the recommendation in the written opinion as required in subsection (h)(9).

**(B) Where the PLHCP recommends precautionary removal, or where the local health officer recommends precautionary removal, the employer shall maintain until the employee is determined to be noninfectious, the employee's earnings, seniority, and all other employee rights and benefits, including the employee's right to his or her former job status, as if the employee had not been removed from his or her job or otherwise medically limited.**

**(9) Written opinion from the physician or other licensed health care professional.**

**(A) Each employer shall obtain, and provide the employee with a copy of, the written opinion of the PLHCP within 15 working days of the completion of all medical evaluations required by this section.**

**(B) For respirator use, the physician's opinion shall have the content required by Section 5144(e)(6) of these orders.**

**(C) For TB conversions and all RATD and ATP-L exposure incidents, the written opinion shall be limited to the following information:**

- 1. The employee's TB test status or applicable RATD test status for the exposure of concern;**
- 2. The employee's infectivity status;**
- 3. A statement that the employee has been informed of the results of the medical evaluation and has been offered any applicable vaccinations, prophylaxis, or treatment;**
- 4. A statement that the employee has been told about any medical conditions resulting from exposure to TB, other RATD, or ATP-L that require further evaluation or treatment and that the employee has been informed of treatment options; and**
- 5. Any recommendations for precautionary removal from the employee's regular assignment.**

**(D) All other findings or diagnoses shall remain confidential and shall not be included in the written report.]**

Violation:

Prior to and during the course of the investigation, including, but not limited to, on March 1, 2021, the employer failed to develop, implement, and/or maintain effective written procedures for employee exposure incidents in accordance with T8 CCR Section 5199 subsections (h)(6) through (h)(9) in the following ways:

Instance 1) The employer failed to conduct an exposure analysis to determine whether any employees had significant exposure to confirmed COVID-19 cases. [5199(h)(6)(C)(1).]

Instance 2) The employer did not notify employees who had a significant exposure to confirmed COVID-19 cases, within 96 hours of becoming aware of the potential exposure. [5199(h)(6)(C)(2).]

Instance 3) The employer failed to provide post-exposure medical evaluations as soon as feasible to all employees who had significant exposure to confirmed COVID-19 cases. [5199(h)(6)(C)(3).]

Instance 4) The employer did not obtain from a PLHCP a recommendation regarding precautionary removal of the employee and employees who had a significant exposure to confirmed COVID-19 cases in accordance with subsection (h)(8), or a written opinion in accordance with subsection (h)(9). [5199(h)(6)(C)(4).]

Instance 5) The employer failed to generate the documentation required by subsection (j)(3)(B) as part of this investigation required by subsection (h)(6)(C).

**Date By Which Violation Must be Abated:**

**September 14, 2021**

**Proposed Penalty:**

**\$13500.00**

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Wendy Hogle-Lui  
Compliance Officer / District Manager