

State of California

Department of Industrial Relations
Division of Occupational Safety and Health
American Canyon District Office
3419 Broadway Street Ste H8
American Canyon, CA 94503
Phone: (707) 649-3700 Fax: (707) 649-3712

Inspection #: 1478378
Inspection Dates: 06/11/2020 - 01/22/2021
Issuance Date: 01/22/2021
CSHO ID: S0358
Optional Report #: 051-20



Citation and Notification of Penalty

Company Name: Kaiser Foundation Hospitals
Establishment DBA: dba Walnut Creek Medical Center
and its successors
Inspection Site: 1425 S. Main Street
Walnut Creek, CA 94596

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

T8 CCR Section 5199(e)(1). Aerosol Transmissible Diseases.

(e) Engineering and Work Practice Controls, and Personal Protective Equipment.

(1) General. Employers shall use feasible engineering and work practice controls to minimize employee exposures to ATPs. Where engineering and work practice controls do not provide sufficient protection (e.g., when an employee enters an All room or area) the employer shall provide, and ensure that employees use, personal protective equipment, and shall provide respiratory protection in accordance with subsection (g) to control exposures to AirIPs.

(A) Work practices shall be implemented to prevent or minimize employee exposures to airborne, droplet, and contact transmission of aerosol transmissible pathogens (ATP), in accordance with Appendix A, and where not addressed by Appendix A, in accordance with the Guideline for Isolation Precautions. Droplet and contact precautions shall be in accordance with Guideline for Isolation Precautions. Airborne precautions shall be in accordance with Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-Care Settings.

(B) Each employer shall implement written source control procedures. For fixed health care and correctional facilities, and in field operations to the extent that it is reasonably practicable, these procedures shall incorporate the recommendations contained in the Respiratory Hygiene/Cough Etiquette in Health Care Settings. The procedures shall include methods to inform individuals entering the facility, being transported by employees, or otherwise in close contact with employees, of the source control practices implemented by the employer.

Prior to and during the course of the inspection, from March 2020 to November 2020 the employer failed to implement work practices and source control procedures to prevent or minimize employee exposure to airborne transmission of a novel aerosol transmissible pathogen (ATP) in the following instances:

Instance 1: The employer did not implement effective screening procedures for employees and/or patients entering their facility to assess for signs and symptoms of SARS-CoV-2 (the virus causing COVID-19).

Instance 2: The employer did not implement effective screening of patients, including testing to determine whether patients were infected with SARS-CoV-2 prior to employees performing, or being present for, aerosol-generating procedures in the operating room and gastrointestinal department. The employer also did not implement other protective measures to minimize employee exposure to SARS-CoV-2 when in the presence of and/or performing aerosol-generating procedures and services on patients who had not been completely screened for SARS-CoV-2.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$9000.00

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

T8 CCR Section 5199(g)(4). Aerosol Transmissible Diseases.

(g) Respiratory Protection.

(4) The employer shall provide, and ensure that employees use, a respirator selected in accordance with subsection (g)(3) and Section 5144 when the employee:

(A) Enters an All room or area in use for All;

(B) Is present during the performance of procedures or services for an AirID case or suspected case;

(C) Repairs, replaces, or maintains air systems or equipment that may contain or generate aerosolized pathogens;

(D) Is working in an area occupied by an AirID case or suspected case, during decontamination procedures after the person has left the area and as required by subsection (e)(5)(D)9;

(E) Is working in a residence where an AirID case or suspected case is known to be present;

(F) Is present during the performance of aerosol generating procedures on cadavers that are suspected of, or confirmed as, being infected with aerosol transmissible pathogens;

(G) Is performing a task for which the Biosafety Plan or Exposure Control Plan requires the use of respirators; or

(H) Transports an AirID case or suspected case within the facility or in an enclosed vehicle (e.g., van, car, ambulance or helicopter) when the patient is not masked.

Reference T8CCR 5199(e)(5)(C):

(e) Engineering and Work Practice Controls, and Personal Protective Equipment.

(5) AirID cases or suspected cases shall be identified, and except in field operations and in settings where home health care or home-based hospice care is being provided, these individuals shall be:

(C) High-hazard procedures shall be conducted in All rooms or areas, such as a ventilated booth or tent. Persons not performing the procedures shall be excluded from the area, unless they use the respiratory and personal protective equipment required for employees performing these procedures.

Reference T8 CCR 5199(g)(3)(B):

(3) Respirator selection.

(B) Effective September 1, 2010, the employer shall provide a powered air purifying respirator (PAPR) with a High Efficiency Particulate Air (HEPA) filter(s), or a respirator providing equivalent or greater protection, to employees who perform high hazard procedures on AirID cases or suspected cases and to employees who perform high hazard procedures on cadavers potentially infected with ATPs, unless the employer determines that this use would interfere with the successful performance of the required task or tasks. This determination shall be documented in accordance with the ATD Plan and shall be reviewed by the employer and employees at least annually in accordance with subsection (d)(3).

Prior to and during the course of the inspection, from August 2020 through the present, the employer failed to provide and ensure that employees in the operating rooms used respirators selected in accordance with 5199(g)(3)(B), including powered air purifying respirators, or respirators providing equivalent or greater protection, when present for or while performing high-hazard procedures, including, but not limited to, intubations and extubations, on COVID-19 cases and suspected cases.

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T8 CCR Section 5199(h)(6)(C). Aerosol Transmissible Diseases.

(h) Medical Services.

(6) Exposure Incidents.

(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.

Prior to and during the course of the inspection, the employer failed to investigate exposure incidents in the Emergency Department and Operating Room to notify employees who had significant exposures to COVID-19 cases and suspected cases, and to provide post-exposure medical services to those employees, in the following instances:

Instance 1: From May 2020 through to December 2020, the employer failed to conduct an exposure analysis, including the determination of which employees had a significant exposure to SARS-CoV-2. [§5199 (h)(6)(C)1.]

Instance 2: From May 2020 through to December 2020, the employer failed to notify employees working in the Emergency Department and Operating Room with significant exposures to SARS CoV 2 in a reasonable timeframe of the date, time and nature of the exposure. [§5199 (h)(6)(C)2.]

Instance 3: From May 2020 through to December 2020, the employer failed to provide post-exposure medical evaluations to all employees who had a significant exposure to SARS-CoV-2 as soon as feasible. [§5199 (h)(6)(C)3.]

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Citation 4 Item 1 Type of Violation: **Serious**

T8 CCR Section 5199(i). Aerosol Transmissible Diseases.

(i) Training.

(1) Employers shall ensure that all employees with occupational exposure participate in a training program.

(2) Employers shall provide training as follows:

(A) At the time of initial assignment to tasks where occupational exposure may take place;

(B) At least annually thereafter, not to exceed 12 months from the previous training;

(C) For employees who have received training on aerosol transmissible diseases in the year preceding the effective date of the standard, only training with respect to the provisions of the standard that were not included previously need to be provided.

(D) When changes, such as introduction of new engineering or work practice controls, modification of tasks or procedures or institution of new tasks or procedures, affect the employee's occupational exposure or control measures. The additional training may be limited to addressing the new exposures or control measures.

(3) Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.

(4) The training program shall contain at a minimum the following elements:

(A) An accessible copy of the regulatory text of this standard and an explanation of its contents.

(B) A general explanation of ATDs including the signs and symptoms of ATDs that require further medical evaluation.

(C) An explanation of the modes of transmission of ATPs or ATPs-L and applicable source control procedures.

(D) An explanation of the employer's ATD Exposure Control Plan and/or Biosafety Plan, and the means by which the employee can obtain a copy of the written plan and how they can provide input as to its effectiveness.

(E) An explanation of the appropriate methods for recognizing tasks and other activities that may expose the employee to ATPs or ATPs-L.

(F) An explanation of the use and limitations of methods that will prevent or reduce exposure to ATPs or ATPs-L including appropriate engineering and work practice controls, decontamination and disinfection procedures, and personal and respiratory protective equipment.

(G) An explanation of the basis for selection of personal protective equipment, its uses and limitations, and the types, proper use, location, removal, handling, cleaning, decontamination and disposal of the items of personal protective equipment employees will use.

(H) A description of the employer's TB surveillance procedures, including the information that persons who are immune-compromised may have a false negative test for LTBI.

(I) Training meeting the requirements of Section 5144(k) of these orders for employees whose assignment includes the use of a respirator.

(J) Information on the vaccines made available by the employer, including information on their efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge.

(K) An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident, the medical follow-up that will be made available, and post-exposure evaluation.

(L) Information on the employer's surge plan as it pertains to the duties that employees will perform. As applicable, this training shall cover the plan for surge receiving and treatment of patients, patient isolation procedures, surge procedures for handling of specimens, including specimens from persons who may have been contaminated as the result of a release of a biological agent, how to access supplies needed for the response including personal protective equipment and respirators, decontamination facilities and procedures, and how to coordinate with emergency response personnel from other agencies.

Prior to and during the course of the inspection, including but not limited to, June 11, 2020, the employer failed to provide the required training in accordance with this subsection to employees with occupational exposure to aerosol transmissible pathogens (ATP), specifically the novel pathogen SARS-CoV-2 the virus which causes COVID-19.

Instance 1) The employer failed to train employees on all the modes of transmission of SARS-CoV-2, including aerosol transmission, and the appropriate source controls for preventing COVID-19 as an airborne infectious disease. [5199 (i)(4)(C)]

Instance 2) The employer failed to train employees on an effective method for recognizing the airborne hazards from specific tasks and other activities which generate exposure by inhalation of aerosols containing SARS-CoV-2. [5199 (i)(4)(E)]

Instance 3) The employer failed to train employees on the limitations of the employer's droplet, contact, and eye protection procedures for preventing exposure to SARS-CoV-2. Employees were not informed that medical (surgical) masks would not protect them against inhalation of infectious aerosols, and that NIOSH-certified respirators were necessary to protect against these exposures. [5199 (i)(4)(F) &(G)]

Date By Which Violation Must be Abated:
Proposed Penalty:

February 03, 2021
\$18000.00

Kathy Garner
District Manager