

**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 #:** 1483915  
**Inspection Dates:** 07/17/2020 - 03/17/2021  
**Issuance Date:** 03/17/2021  
**CSHO ID:** N3190  
**Optional Report #:** 01-21

**Citation and Notification of Penalty**

**Company Name:** Sutter Health  
**Establishment DBA:** Alta Bates Summit Medical Center - Summit Campus  
and its successors  
**Inspection Site:** 350 Hawthorne Avenue  
Oakland, CA 94609

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

Title 8 CCR 3342(c)(11) Violence Prevention in Health Care

(c) Workplace Violence Prevention Plan. As part of the Injury and Illness Prevention Program (IIPP) required by Section 3203, the employer shall establish, implement and maintain an effective workplace violence prevention plan (Plan) that is in effect at all times in every unit, service, and operation. The Plan shall be in writing, shall be specific to the hazards and corrective measures for the unit, service, or operation, and shall be available to employees at all times. The written Plan may be incorporated into the written IIPP or maintained as a separate document, and shall include all of the following elements:

(11) Procedures to correct workplace violence hazards in a timely manner in accordance with Section 3203(a)(6). Engineering and work practice controls shall be used to eliminate or minimize employee exposure to the identified hazards to the extent feasible. The employer shall take measures to protect employees from imminent hazards immediately, and shall take measures to protect employees from identified serious hazards within seven days of the discovery of the hazard, where there is a realistic possibility that death or serious physical harm could result from the hazard. When an identified corrective measure cannot be implemented within this timeframe, the employer shall take interim measures to abate the imminent or serious nature of the hazard while completing the permanent control measures.

**Alleged Violative Condition**

Prior to and during the course of the inspection, including but not limited to, between July 6, 2020 and July 16, 2020, the employer failed to implement an effective Workplace Violence Prevention Plan and use engineering and work practice controls, to the extent feasible to eliminate or minimize employee exposure to the hazards of developmentally delayed and/or agitated COVID-19 cases' acting violently. The employer did not provide safeguards including personal protective equipment at a reasonable time and place where and when developmentally delayed and/or agitated COVID-19 cases' actions required Code Gray response action by nursing and security staff during

which time employees in hallways were not provided personal protective equipment in a timely manner.

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

**April 01, 2021**

**Proposed Penalty:**

**\$20250.00**

**State of California**

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

Title 8 CCR 5199(d)(2)(D). Aerosol Transmissible Diseases.

(d) Aerosol Transmissible Diseases Exposure Control Plan.

(2) The Plan shall contain all of the following elements:

(D) A list of all assignments or tasks requiring personal or respiratory protection.

**Alleged Violative Condition**

Prior to and during the course of the inspection, including but not limited to, from July 2020 to present, the employer failed to maintain an effective ATD ECP as the plan did not identify the list of all assignment or tasks requiring personal or respiratory protection, specifically when developmentally delayed and agitated COVID-19 Cases, were not confined to their rooms, had to be re-directed and escorted back to their rooms.

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

**April 01, 2021**

**Proposed Penalty:**

**\$20250.00**

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Department of Industrial Relations  
 Division of Occupational Safety and Health  
 Oakland District Office  
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### Citation and Notification of Penalty

**Company Name:** Sutter Health  
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 Oakland, CA 94609

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

Title 8 CCR 5199(e)(1)(A). 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.

**Alleged Violative Condition**

Prior to and during the course of the inspection, including but not limited to, from July 2020 to August 2020, the employer failed to ensure that employees use N95 filtering facepiece respirators, or respirators providing equivalent or greater protection, where there is not sufficient protection to afford employees when exposed to agitated and developmentally delayed COVID-19 cases in the hallways outside of the COVID-19 rooms which are not designed as an airborne infection isolation room or area.

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

**April 01, 2021**  
**\$20250.00**

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

Title 8 CCR 5199 (e)(5)(B) Aerosol Transmissible Diseases.

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

(5) AirlD 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:  
(B) Placed in an All room or area or transferred to a facility with All rooms or areas. The employer shall ensure that this placement or transfer is effected in a timely manner.

1. Transfers within facility. Transfers to airborne infection isolation rooms or areas within the facility shall occur within 5 hours of identification. If there is no All room or area available within this time, the employer shall transfer the individual to another suitable facility in accordance with subsection (e)(5)(B)2.

2. Transfers to other facilities. Transfers to other facilities shall occur within 5 hours of identification, unless the employer documents, at the end of the 5-hour period, and at least every 24 hours thereafter, each of the following:

- a. The employer has contacted the local health officer.
- b. There is no All room or area available within that jurisdiction.
- c. Reasonable efforts have been made to contact establishments outside of that jurisdiction, as provided in the Plan.
- d. All applicable measures recommended by the local health officer or the Infection Control PLHCP have been implemented.
- e. All employees who enter the room or area housing the individual are provided with, and use, appropriate personal protective equipment and respiratory protection in accordance with subsection (g) and Section 5144, Respiratory Protection of these orders.

**Alleged Violative Condition**

Prior to and during the course of the inspection, including but not limited to, between June 25, 2020 and October 6, 2020, the employer failed to place cases of COVID-19, an airborne infectious disease

caused by the novel pathogen SARS-CoV-2, in an airborne infection isolation room or area or transferred such cases to other facilities with an available airborne isolation room or area in a timely manner.

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

**April 01, 2021**

**Proposed Penalty:**

**\$20250.00**

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Citation 5 Item 1 Type of Violation: **Serious**

Title 8 CCR § 5199(g)(2) Aerosol Transmissible Diseases.

(g) Respiratory Protection.

(2) Each employer who has any employee whose occupational exposure is based on entering any of the work settings or performing any of the tasks described in subsection (g)(4) shall establish, implement and maintain an effective written respiratory protection program that meets the requirements of Section 5144 of these orders, except as provided in subsections (g)(5) and (g)(6).

Reference

Title 8 CCR § 5144(c, d & h)

(c) Respiratory protection program. This subsection requires the employer to develop and implement a written respiratory protection program with required worksite-specific procedures and elements for required respirator use. The program must be administered by a suitably trained program administrator. In addition, certain program elements may be required for voluntary use to prevent potential hazards associated with the use of the respirator.

(1) In any workplace where respirators are necessary to protect the health of the employee or whenever respirators are required by the employer, the employer shall establish and implement a written respiratory protection program with worksite-specific procedures. The program shall be updated as necessary to reflect those changes in workplace conditions that affect respirator use. The employer shall include in the program the following provisions, as applicable: [Subparagraphs (A-H)]

(d) Selection of respirators. This subsection requires the employer to evaluate respiratory hazard(s) in the workplace, identify relevant workplace and user factors, and base respirator selection on these factors. The subsection also specifies appropriately protective respirators for use in IDLH atmospheres, and limits the selection and use of air-purifying respirators.

(1) General requirements.

(A) The employer shall select and provide an appropriate respirator based on the respiratory hazard(s) to which the worker is exposed and workplace and user factors that affect respirator performance and reliability.

(B) The employer shall select a NIOSH-certified respirator. The respirator shall be used in compliance with the conditions of its certification.

(h) Maintenance and care of respirators. This subsection requires the employer to provide for the cleaning and disinfecting, storage, inspection, and repair of respirators used by employees.

(1) Cleaning and disinfecting. The employer shall provide each respirator user with a respirator that is clean, sanitary, and in good working order.

#### Alleged Violative Condition

Prior to and during the course of the inspection, the employer failed to establish, implement and maintain an effective respiratory protection program meeting the requirements of 5199(g) and 5144.

The employer failed to effectively establish and implement written procedures to ensure that filtering facepiece respirators were in good working order. The employer failed to limit reuse of N95s, as recommended by the CDC and NIOSH in order to ensure the respirator continued to provide the required protection. Employees were required to don and doff N95 filtering facepiece respirators an unlimited number of times during a shift, or in some cases during more than one shift.

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

**Corrected During Inspection**  
**\$20250.00**



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**Citation 6 Item 1** Type of Violation: **Serious**

Title 8 CCR § 5199(g)(4)(B). 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:

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

[Reference T8 §CCR 5199 (g)(3)(B)

(g) Respiratory Protection.

(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).]

**Alleged Violative Condition**

Prior to and during the course of the inspection, from July 2020 through the present, the employer failed to provide, and to ensure that employees used, a respirator selected in accordance with subsection (g)(3) and Section 5144 when employees were present during the performance of procedures or services, and/or working in areas, including but not limited to the ICU, on PCUs 6,7,8, & 10, with suspected or known case(s) of person(s) infected with SARs-CoV-2, the novel pathogen which causes COVID-19.

Instance 1) The employer failed to ensure that employees used powered air purifying respirators, or respirators providing equivalent or greater protection, when performing a post mortem chest tube removal, a high hazard procedure, in PCU 6 room 6763 in August 2020.

Instance 2) The employer failed to ensure that employees used N95 filtering facepiece respirators, or respirators providing equivalent or greater protection, while swabbing for COVID-19 in August and September 2020.

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

**April 01, 2021**

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**\$20250.00**

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Citation 7 Item 1 Type of Violation: **Serious**

Title 8 CCR § 5199(g)(6)(B) Aerosol Transmissible Diseases.

(g) Respiratory Protection

(6) Fit testing.

(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.

Alleged Violative Condition

Prior to and during the course of the inspection, the employer failed to ensure that each employee required to use an N95 filtering facepiece respirator passed a fit test on the make and model of the respirator. During but not limited to the period from June 2020 until September 2020, at least three employees used respirators they had not passed fit tests for while providing services to cases and suspected cases of COVID-19, an airborne infectious disease, in the Med Surge, PCU 6, PCU 8, and ICU areas.

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

**April 01, 2021**  
**\$13500.00**

**State of California**

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**Citation 8 Item 1** Type of Violation: **Serious**

Title 8 CCR § 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

