

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 #: 1494585
Inspection Dates: 09/17/2020 - 05/26/2021
Issuance Date: 06/02/2021
CSHO ID: N3190
Optional Report #: 005-21



Citation and Notification of Penalty

Company Name: GHC of Pleasanton, LLC
Establishment DBA: Pleasanton Nursing and Rehabilitation Center
and its successors
Inspection Site: 300 Neal Street
Pleasanton, CA 94566

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

Title 8 CCR §342 (a) Reporting Work-Connected Fatalities and Serious Injuries.

(a) Every employer shall report immediately to the Division of Occupational Safety and Health any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment. The report shall be made by the telephone or through a specified online mechanism established by the Division for this purpose. Until the division has made such a mechanism available, the report may be made by telephone or email. Immediately means as soon as practically possible but not longer than 8 hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident.

Alleged Violative Condition

The employer failed to immediately report to the Division of Occupational Safety and Health the fatality suffered by an employee with COVID-19 on or about August 24, 2020.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$5000.00

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Inspection Site: 300 Neal Street
 Pleasanton, CA 94566

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

Title 8 CCR §5199(c)(1). 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:

(1) The administrator shall also identify in writing the job categories in which employees have occupational exposure to ATDs.

Alleged Violation Description

Prior to and during the course of the inspection, including but not limited to on September 17, 2020 the employer failed to identify, in writing, the job categories in which employees have occupational exposure to aerosol transmissible diseases (ATDs) in any of the documents submitted in response to the Division's request for its exposure control program.

Date By Which Violation Must be Abated:

June 16, 2021

Proposed Penalty:

\$1125.00

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Inspection Site: 300 Neal Street
Pleasanton, CA 94566

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

Title 8 CCR Section 5199(c)(3). 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:

(3) The employer shall establish, implement, and maintain effective written procedures for the screening and referral of cases and suspected cases of AirIDs to appropriate facilities.

(A) Transfers shall occur within 5 hours of the identification of the case or suspected case, unless:

(1) the initial encounter with the case or suspected case occurs after 3:30 p.m. and prior to 7 a.m., in which event the employer shall ensure that transfer occurs no later than 11:00 a.m.; or

(2) the employer has contacted the local health officer, determined that there is no facility that can provide appropriate All, and complied with all of the conditions in (e)(5)(B)2.; or

(3) the case meets the conditions of either of the exceptions to subsection (e)(5)(B).

(B) When screening is provided by persons who are not health care providers, the employer shall meet the requirements of this section by establishing criteria and procedures for referral of persons to a health care provider for further evaluation within the timeframes in subsection (c)(3)(A). Referrals shall be provided to persons who do any of the following:

1. Have a cough for more than three weeks that is not explained by non-infectious conditions.
2. Exhibit signs and symptoms of a flu-like illness during March through October, the months outside of the typical period for seasonal influenza, or exhibit these signs and symptoms for a period longer than two weeks at any time during the year. These signs and symptoms generally include combinations of

the following: coughing and other respiratory symptoms, fever, sweating, chills, muscle aches, weakness and malaise.

3. State that they have a transmissible respiratory disease, excluding the common cold and seasonal influenza.

Ref. 5199(e)(5)(B):

(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:

(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.

EXCEPTIONS to subsection (e)(5)(B):

(1) Where the treating physician determines that transfer would be detrimental to a patient's condition, the patient need not be transferred. In that case the facility shall ensure that employees use respiratory protection when entering the room or area housing the individual. The patient's condition shall be reviewed at least every 24 hours to determine if transfer is safe, and the determination shall be recorded as described in the Plan in accordance with (d)(2)(G). Once transfer is determined to be safe, transfer must be made within the time period set forth in subsection (e)(5)(B).

(2) Where it is not feasible to provide All rooms or areas to individuals suspected or confirmed to be infected with or carriers of novel or unknown ATPs, the employer shall provide other effective control

measures to reduce the risk of transmission to employees, which shall include the use of respiratory protection in accordance with subsection (g) and Section 5144, Respiratory Protection of these orders.

Alleged Violation Description

Prior to and during the course of the inspection, including up to on September 17, 2020, the employer housed cases or suspected cases of COVID-19, an airborne infectious disease caused by the novel pathogen SARS-CoV-2, without meeting the conditions of either exception to section 5199(e)(5)(B).

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

**Corrected During Inspection
\$20250.00**

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**Citation and Notification of Penalty**

Company Name: GHC of Pleasanton, LLC
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and its successors
Inspection Site: 300 Neal Street
Pleasanton, CA 94566

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

Title 8 CCR §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).]

(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).

(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 AirlD 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).

(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 AirlD case or suspected case;
- (D) Is working in an area occupied by an AirlD 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 AirlD case or suspected case is known to be present;

(5) Medical evaluation: The employer shall provide a medical evaluation, in accordance with Section 5144(e) of these orders, to determine the employee's ability to use a respirator before the employee is fit tested or required to use the respirator. For employees who use respirators solely for compliance with subsections (g)(3)(A) and (g)(3)(B), the alternate questionnaire in Appendix B may be used.

(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.]

[Reference Title 8 CCR §5144. Respiratory Protection.

(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.

(k) Training and information. This subsection requires the employer to provide effective training to employees who are required to use respirators. The training must be comprehensive, understandable, and recur annually, and more often if necessary. This subsection also requires the employer to provide the basic information on respirators in Appendix D to employees who wear respirators when not required by this section or by the employer to do so.

- (1) The employer shall ensure that each employee can demonstrate knowledge of at least the following:
 - (B) What the limitations and capabilities of the respirator are;
 - (G) The general requirements of this section.
- (3) The employer shall provide the training prior to requiring the employee to use a respirator in the workplace.
- (5) Retraining shall be administered annually, and when the following situations occur:
 - (A) Changes in the workplace or the type of respirator render previous training obsolete;

Alleged Violation Description

Prior to and during the course of the inspection, including but not limited to, on September 17, 2020, the employer failed to implement effective written procedures to reduce the risk of transmission of aerosol transmissible disease, to the extent feasible, during the period that suspect and/or confirmed COVID-19, an airborne transmissible disease, cases were in the facility or were in contact with employees working in the following instances:

Instance 1:

The employer failed to ensure that all confirmed or suspected cases of COVID-19 were placed in a separate room or area from June 2020 thru August 2020. [Ref. T8 CCR Section 5199(c)(5)(A)]

Instance 2:

The employer failed to provide separate ventilation or filtration for all confirmed or suspected cases of COVID-19. [Ref. T8 CCR Section 5199(c)(5)(B)]

Instance 3:

The employer failed to provide and ensure the use of respirators selected in accordance with subsection (g)(3) and Section 5144 from June, 2020 to August, 2020 to at least one employee when required to enter a room(s) or area(s) with a suspected or known case of a person or person(s) infected with SARs-CoV-2, the novel pathogen which causes COVID-19. [Ref. T8 CCR Section 5199(c)(5)(C)]

Instance 3A :

The employer failed to ensure that employees used N95 filtering facepiece respirators, or respirators providing equivalent or greater protection, while caring for patients in August 2020 whom the employer had not placed under droplet or airborne precautions and subsequently tested positive for COVID-19. [Reference section 5199(g)(3)(A)]

Instance 3B:

The employer failed to 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, such as nebulizer, high flow oxygen nasal cannula, Bi-PAP and CPAP on COVID-19 confirmed cases or suspected cases between July 2020 and December 2020. [Ref. T8 CCR Section 5199(g)(3)(B)]

Instance 4:

The employer failed to provide medical evaluations to determine the employees ability to use a respirator before the employees were required to use the respirator while caring for and/or exposed to suspect and confirmed COVID-19 patients. [Ref. T8 CCR Section 5199(g)(5)]

Instance 5:

The employer failed to ensure that each employee required to use an N95 filtering facepiece respirator, while caring for and/or exposed to suspect and confirmed COVID-19 patients, passed a fit test on the make and model of the respirator that the employee used from June 2020 until December 2020. [Ref. T8 CCR Section 5199(g)(6)(B)]

Instance 6:

The employer failed to develop and implement a written respiratory protection program with required worksite-specific procedures and elements meeting the requirements of Section 5144(c) for required respiratory use. [Reference Title 8 CCR Section 5144(c)(1)]

Instance 7:

The employer failed to ensure that all required respirator users were provided training about the limitations of the respirators they were required to use and the general requirements of Title 8 CCR 5144 prior to being required to use a respirator. [Reference Title 8 CCR Section 5144 (k)(1)(B),(G) and (k)(2)]

Date By Which Violation Must be Abated:

June 16, 2021

Proposed Penalty:

\$20250.00

State of California

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

Title 8 California Code of Regulations §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 5199(h)(6) through (h)(9) Medical Services.]

(h) Medical Services.

(6) Exposure Incidents.

(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.

Alleged Violation Description

Prior to and during the course of the inspection, including but not limited to, on September 17, 2020, the employer failed to develop, implement and maintain effective written procedures in accordance with subsections (h)(6) through (h)(9) of Title 8 CCR section 5199 for occupational exposure incidents to the COVID-19, an airborne transmissible disease in the following ways:

Instance 1) the employer failed to 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 ATD cases or suspected ATD cases while performing activities within the scope of this section. The employer failed to notify the other employer(s) within a time frame that would both provide reasonable assurance that there was adequate time for the employee to receive effective medical intervention to prevent disease or mitigate the disease course, and would also permit the prompt initiation of an investigation to identify exposed employees. [REFERENCE 5199(h)(6)(B)]

Instance 2) the employer failed to conduct an effective analysis of the exposure scenario to determine which employees had significant exposures to unidentified COVID-19 positive cases and

to each of the employees who tested positive from June 2020 through December 2020. [REFERENCE 5199(h)(6)(C)1.]

Instance 3) the employer failed to notify employees who had significant exposures of the date, time, and nature of the exposure within 96 hours of becoming aware of the potential exposure to unidentified COVID-19 positive cases and to each of the employees who tested positive from June 2020 through December 2020.

Date By Which Violation Must be Abated:	June 16, 2021
Proposed Penalty:	\$20250.00

Wendy Hogle-Lui
Compliance Officer / District Manager