

State of California

Department of Industrial Relations
 Division of Occupational Safety and Health
 San Bernardino District Office
 464 West 4th Street, Suite 332
 San Bernardino, CA 92401
 Phone: (909) 383-4321 Fax: (909) 383-6789

Inspection #: 1480812
Inspection Dates: 06/25/2020 - 06/07/2021
Issuance Date: 06/07/2021
CSHO ID: D5672
Optional Report #: 037-20

**Citation and Notification of Penalty**

Company Name: MSL Community Management, LLC

Establishment DBA:

and its successors

Inspection Site: 7898 California Avenue
 Riverside, CA 92504

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

Title 8 California Code of Regulations 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.

Serious injury or illness is defined in section 330(h), Title 8, California Administrative Code.

Violation:

Employer failed to report immediately to the Division of Occupational Safety and Health a death and serious illness suffered by employees including, but not limited to, the following:

Employee admitted to a hospital for a COVID-19 related illness on or about April 19, 2020, and subsequently passed away on or around April 28, 2020.

Date By Which Violation Must be Abated:

July 12, 2021

Proposed Penalty:

\$5000.00

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

Title 8 California Code of Regulations 14300.29(b). Forms.

(b) Implementation.

(1) What do I need to do to complete the Cal/OSHA Form 300?

You must enter information about your establishment at the top of the Cal/OSHA Form 300 by entering a one or two line description for each recordable injury or illness, and summarizing this information on the Cal/OSHA Form 300A at the end of the year.

(2) What do I need to do to complete the Cal/OSHA Form 301 Incident Report?

You must complete a Cal/OSHA 301 Incident Report form, or an equivalent form, for each injury or illness required to be entered on the Cal/OSHA Form 300.

(3) How quickly must each injury or illness be recorded?

You must enter each recordable injury or illness on the Cal/OSHA Form 300 and Cal/OSHA Form 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred.

(4) What is an equivalent form?

An equivalent form is one that has the same information, is as readable and understandable to a person not familiar with it, and is completed using the same instructions as the Cal/OSHA form it replaces.

(5) May I keep my records on a computer?

Yes. If the computer can produce equivalent forms when they are needed, as described under Sections 14300.35 and 14300.40, you may keep your records using a computer system.

(6) Are there situations where I do not put the employee's name on the forms for privacy reasons?

Yes. If you have a "privacy concern case," as described in subsection (b)(7) of this section, you may not enter the employee's name on the Cal/OSHA Form 300. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the Cal/OSHA Form 300 under Section 14300.35(b)(2). You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(7) How do I determine if an injury or illness is a privacy concern case?

You must consider the following injuries or illnesses to be privacy concern cases:

(A) An injury or illness to an intimate body part or the reproductive system;

(B) An injury or illness resulting from a sexual assault;

(C) Mental illnesses;

(D) HIV infection, hepatitis, or tuberculosis;

(E) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see Section 14300.8 for definitions); and

(F) Other illnesses, if the employee independently and voluntarily requests that his or her name not be entered on the log.

(8) May I classify any other types of injuries and illnesses as privacy concern cases?

No. This is a complete list of all injuries and illnesses considered privacy concern cases for purposes of Article 2.

(9) If I have removed the employee's name, but still believe that the employee may be identified from the information on the forms, is there anything else that I can do to further protect the employee's privacy?

Yes. If you have a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, you may use discretion in describing the injury or illness on both the Cal/OSHA forms 300 and 301. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, a sexual assault case could be described as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(10) What must I do to protect employee privacy if I wish to provide access to the Cal/OSHA forms 300 and 301 to persons other than government representatives, employees, former employees or authorized representatives?

If you decide to voluntarily disclose the forms to persons other than government representatives, employees, former employees or authorized representatives (as required by Sections 14300.35 and 14300.40), you must remove or hide the employees' names and other personally identifying information, except for the following cases. You may disclose the forms with personally identifying information only:

(A) to an auditor or consultant hired by the employer to evaluate the safety and health program;

(B) to the extent necessary for processing a claim for workers' compensation or other insurance benefits; or

(C) to a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR.164.512.

Violation:

Prior to and during the course of the inspection, including, but not limited to, on June 25, 2020, the employer did not fully complete the 2019 and 2020 Cal/OSHA Form 300 in that it failed to record a description for each recordable injury or illness on the forms.

Date By Which Violation Must be Abated:	July 12, 2021
Proposed Penalty:	\$325.00

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

Title 8 California Code of Regulations 3203(a). Injury and Illness Prevention Program.

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(1) Identify the person or persons with authority and responsibility for implementing the Program.

(2) Include a system for ensuring that employees comply with safe and healthy work practices.

Substantial compliance with this provision includes recognition of employees who follow safe and healthful work practices, training and retraining programs, disciplinary actions, or any other such means that ensures employee compliance with safe and healthful work practices.

(3) Include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal. Substantial compliance with this provision includes meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees.

(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards:

(A) When the Program is first established;

Exception: Those employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with previously existing section 3203.

(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and

(C) Whenever the employer is made aware of a new or previously unrecognized hazard.

(5) Include a procedure to investigate occupational injury or occupational illness.

(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

(A) When observed or discovered; and,

(B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.

(7) Provide training and instruction:

(A) When the program is first established;

(B) To all new employees;

(C) To all employees given new job assignments for which training has not previously been received;

(D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;

(E) Whenever the employer is made aware of a new or previously unrecognized hazard; and,

(F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

(8) Allow employee access to the Program.

(A) As used in this subsection:

1. The term "access" means the right and opportunity to examine and receive a copy.

2. The term "designated representative" means any individual or organization to whom an employee gives written authorization to exercise a right of access. A recognized or certified collective bargaining agent shall be treated automatically as a designated representative for the purpose of access to the Program.

3. The term "written authorization" means a request provided to the employer containing the following information:

a. The name and signature of the employee authorizing a designated representative to access the Program on the employee's behalf;

b. The date of the request;

c. The name of the designated representative (individual or organization) authorized to receive the Program on the employee's behalf; and

d. The date upon which the written authorization will expire (if less than one (1) year).

(B) The employer shall provide access to the Program by doing one of the following:

1. Provide access in a reasonable time, place, and manner, but in no event later than five (5) business days after the request for access is received from an employee or designated representative.

a. Whenever an employee or designated representative requests a copy of the Program, the employer shall provide the requester a printed copy of the Program, unless the employee or designated representative agrees to receive an electronic copy of the Program.

b. One printed copy of the Program shall be provided free of charge. If the employee or designated representative requests additional copies of the Program within one (1) year of the previous request and the Program has not

been updated with new information since the prior copy was provided, the employer may charge reasonable, non-discriminatory reproduction costs (per Section 3204(e)(1)(E)) for the additional copies. or,

2. Provide unobstructed access through a company server or website, which allows an employee to review, print, and email the current version of the Program. Unobstructed access means that the employee, as part of his or her regular work duties, predictably and routinely uses the electronic means to communicate with management or coworkers.

(C) The Program provided to the employee or designated representative need not include any of the records of the steps taken to implement and maintain the written Program.

(D) If an employer has distinctly different and separate operations with distinctly separate and different Programs, the employer may limit access to the Program (or Programs) applicable to the employee requesting it.

(E) The employer shall communicate the right and procedure to access the Program to all

employees.

(F) Nothing in this section is intended to preclude employees and collective bargaining agents from collectively bargaining to obtain access to information in addition to that available under this section.

Violation:

Prior to and during the course of the investigation, including, but not limited to June 25, 2020 the employer failed to establish, implement and maintain an effective written Injury and Illness Prevention Program in that the employer's written program failed to meet the following minimum requirements:

Instance 1: The employer failed to effectively communicate about COVID-19 in the work place, including infections, outbreaks, and fatalities of residents and employees to all workers who were exposed or potentially exposed. [3203(a)(3)]

**Instance 2: The employer failed to effectively identify or evaluate workplace hazards related to COVID-19 including, but not limited to, the following hazards:
The lack of effective control measures to reduce the risk of transmission from residents with COVID-19 to employees. [3203(a)(4)]**

Instance 3: The employer failed to investigate an occupational illness of an employee who was admitted to a hospital for a COVID-19 related illness on April 19, 2020, and subsequently passed away on or around April 28, 2020. [3203(a)(5)]

**Instance 4: The employer failed to effectively implement methods or procedures to correct unhealthy conditions or work practices related to COVID-19, including but not limited to:
The lack of effective control measures to reduce the risk of transmission from residents with COVID-19 to employees. [3203(a)(6)]**

Instance 5: The employer failed to effectively train employees on COVID-19 information, including but not limited to prevention, symptoms, reporting and the employer's procedures to control and prevent transmission for employees. [3203(a)(7)]

Date By Which Violation Must be Abated:

June 17, 2021

Proposed Penalty:

\$17550.00

Mariaeva Garland
Compliance Officer

Michael Loupe
District Manager