

State of California

Department of Industrial Relations
 Division of Occupational Safety and Health
 San Bernardino District Office
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 San Bernardino, CA 92401
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Inspection #: 1505922
Inspection Dates: 12/10/2020 - 06/08/2021
Issuance Date: 06/08/2021
CSHO ID: D9666
Optional Report #: 024-21

**Citation and Notification of Penalty**

Company Name: Palm Springs Operating Company, LP
Establishment DBA: Palm Springs Healthcare & Rehabilitation Center
 and its successors
Inspection Site: 277 S Sunrise Way
 Palm Springs, CA 92263

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

California Code of Regulations, Title 8, Section 5199(c)(5)
 §5199. 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.

Ref: T8 CCR § 5199 (g) Respiratory Protection.

(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).

(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 AirlD 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 AirlD 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.
- (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.
- (C) The employer shall conduct an additional fit test when the employee reports, or the employer, PLHCP, supervisor, or program administrator makes visual observations of changes in the employee's physical condition that could affect respirator fit. Such conditions include, but are not limited to, facial scarring, dental changes, cosmetic surgery, or an obvious change in body weight.
- (D) If, after passing a fit test, the employee subsequently notifies the employer, program administrator, supervisor, or PLHCP that the fit of the respirator is unacceptable, the employee shall be given a reasonable opportunity to select a different respirator facepiece and to be retested.
- (7) The employer shall ensure that each respirator user is provided with initial and annual training in accordance with Section 5144, Respiratory Protection of these orders.

VIOLATION:

Prior to and during the course of the inspection, including up to December 10, 2020, the employer did not establish, implement and maintain effective written procedures to reduce the risk of transmission of aerosol transmissible diseases, to the extent feasible, during the period that suspected and/or confirmed COVID-19 cases were in the facility or in contact with employees.

Instance 1:

The employer failed to ensure that all employees required to use a filtering facepiece respirator, while caring for or exposed to suspect and confirmed 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:

June 18, 2021

Proposed Penalty:

\$6750.00

State of California

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Company Name: Palm Springs Operating Company, LP
Establishment DBA: Palm Springs Healthcare & Rehabilitation Center
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Inspection Site: 277 S Sunrise Way
Palm Springs, CA 92263

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

California Code of Regulations, Title 8, Section 5199(c)(6)(B)
§5199. 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:

California Code of Regulations, Title 8, Section 5199(h)(6) through (h)(9)
§5199. Aerosol Transmissible Diseases.

(h) Medical Services.

(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.

NOTE 1 to subsection (h)(6)(B): These employees may include, but are not limited to, paramedics, emergency medical technicians, emergency responders, home health care personnel, homeless shelter personnel, personnel at referring health care facilities or agencies, and corrections personnel.

NOTE 2 to subsection (h)(6)(B): Some diseases, such as meningococcal disease, require prompt prophylaxis of exposed individuals to prevent disease. Some diseases, such as varicella, have a limited window in which to administer vaccine to non-immune contacts. Exposure to some diseases may create a need to temporarily remove an employee from certain duties during a potential period of communicability. For other diseases such as tuberculosis there may not be a need for immediate medical intervention, however prompt follow up is important to the success of identifying exposed employees.

(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.

(10) The employer shall make available seasonal influenza vaccine to all employees with occupational exposure. The employer shall ensure that each employee who declines to accept the seasonal influenza vaccine signs the statement in Appendix C2.

EXCEPTION 1 to subsection (h)(10): Seasonal influenza vaccine shall be provided during the period designated by the CDC for administration, and need not be provided outside of those periods.

EXCEPTION 2 to subsection (h)(10): In lieu of the statement in Appendix C2, the employer may utilize an influenza vaccine declination statement acceptable to the CDPH in accordance with Health and Safety Code Section 1288.7.

VIOLATION:

Prior to and during the course of the inspection, including but limited to, on December 10, 2020, the employer failed to effectively implement and maintain its 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, upon 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 failed to 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).]

Date By Which Violation Must be Abated:

June 18, 2021

Proposed Penalty:

\$20250.00

Stephanie Winn / Michael Loupe
Compliance Officer / District Manager