

State of California

Department of Industrial Relations
Division of Occupational Safety and Health
Fremont District Office
39141 Civic Center Drive, Suite 310
Fremont, CA 94538
Phone: (510) 794-2521 Fax: (510) 794-3889

Inspection #: 1535527
Inspection Dates: 01/03/2021 - 06/11/2021
Issuance Date: 06/14/2021
CSHO ID: T8256
Optional Report #: 024-21



Citation and Notification of Penalty

Company Name: The Permanente Medical Group, Inc.
Establishment DBA: Kaiser Permanente San Jose
and its successors
Inspection Site: 250 Hospital Parkway
San Jose, CA 95119

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

Title 8 CCR Section 5199(j)(2)(A)3. Aerosol Transmissible Diseases.

(j) Recordkeeping.

(2) Training records.

(A) Training records shall include the following information:

3. The names and qualifications of persons conducting the training or who are designated to respond to interactive questions.

Violation:

Prior to and during the course of the inspection the employer's Aerosol Transmissible Disease training records provided to the Division on March 28, 2021, were incomplete in that it did not include the names and qualifications of the persons conducting the training, or who are designated to respond to interactive questions.

Date By Which Violation Must be Abated:
Proposed Penalty:

July 19, 2021
\$500.00

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

Title8 CCR Section 5199(j)(4)(C). Aerosol Transmissible Diseases.

(j) Recordkeeping.
(4) Availability.

(C) Employee medical records required by this subsection shall be provided upon request to the subject employee, anyone having the written consent of the subject employee, the local health officer, and to the Chief and NIOSH in accordance with Section 3204 of these orders, Access to Employee Exposure and Medical Records, for examination and copying.

Violation:

Prior to and during the course of inspection, the employer failed to provide the medical records for employees ill with COVID-19 disease during the month of December 2020, in response to a request made on March 11, 2021 by a representative of the Chief of the Division of Occupational Safety and Health in accordance with Section 3204.

Date By Which Violation Must be Abated: July 19, 2021
Proposed Penalty: \$500.00

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

Title 8 CCR Section 5199(g)(7). Aerosol Transmissible Diseases.

(g) Respiratory Protection.

(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.

Ref: T8 CCR 5144(k)

(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

Violation:

Prior to and during the course of the inspection, including, but not limited to November 17th 2020, the employer's respiratory protection training did not recur annually and more often if necessary for those employees required to wear a respirator in the workplace and with occupational exposure to pathogens, including but not limited to SARS-CoV-2, the virus that causes COVID-19.

Date By Which Violation Must be Abated: July 19, 2021
Proposed Penalty: \$1250.00

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

Title 8 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:

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.

Violation:

Prior to and during the course of the inspection, the employer failed to investigate exposure incidents in the Emergency Department and Telemetry Unit, 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 December 2020 through to January 2021, the employer failed to notify employees working in the Emergency Department and Telemetry Unit 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.] [§5199 (h)(6)(C)3.]

Instance 2: From December 2020 through to January 2021, 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.]

Date By Which Violation Must be Abated:

July 19, 2021

Proposed Penalty:

\$935.00

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

Title 8 CCR Section 5199(i)(1). Aerosol Transmissible Diseases.

(i) Training.

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

Violation:

Prior and during the course of the inspection, including, but not limited to November 17th, 2020, the employer failed to ensure employees, such as Emergency Department clerks, with occupational exposure to aerosol transmissible pathogens, including the virus SARS-CoV-2 causing COVID-19, participated in the employer's aerosol transmissible disease training program.

Date By Which Violation Must be Abated: July 19, 2021
Proposed Penalty: \$935.00

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

Title 8 CCR Section 5199(i)(4). Aerosol Transmissible Diseases.**(i) Training**

(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.

EXCEPTION: Research and production laboratories do not need to include training on surveillance for LTBI if M. tuberculosis containing materials are not reasonably anticipated to be present in the laboratory.

(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.

Ref: T8 CCR 5144(k)(1)

(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:

(A) Why the respirator is necessary and how improper fit, usage, or maintenance can compromise the protective effect of the respirator;

(B) What the limitations and capabilities of the respirator are;

(C) How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions;

(D) How to inspect, put on and remove, use, and check the seals of the respirator;

(E) What the procedures are for maintenance and storage of the respirator;

(F) How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators; and

(G) The general requirements of this section.

Violation:

Prior and during the course of the inspection, including, but not limited to November 11th, 2020, the employer's Aerosol Transmissible Disease training program content did not contain the following required elements:

1. The training did not address how to access a copy of the regulatory text of this standard and an explanation of its contents; [5199(i)(4)(A)]
2. The training did not find means by which the employee can obtain a copy of the written plan and how they can provide input as to its effectiveness; [5199(i)(4)(D)]
3. The training did not address the training requirements under T8 CCR 5144(k) for the use of respirators, to include the following topics: [5199(i)(4)(I)]
 - a. Understanding the limits of using a N95 respirator in place of CAPR or PAPR for high hazard aerosol producing activities; [5144(k)(1)(B)]
 - b. How to inspect, put on and remove, use, and check the seals of the respirator; [5144(k)(1)(D)]
 - c. The procedures for maintenance and storage of respirators; [5144(k)(1)(E)]
 - d. The general requirements of the Cal/OSHA Title 8 respiratory standard requirements. [5144(k)(1)(G)]

Date By Which Violation Must be Abated:

July 19, 2021

Proposed Penalty:

\$935.00

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

Title 8 CCR Section 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 Section 5144(c)(1). Respiratory protection.**(c) Respiratory protection program.**

(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.

Violation:

Prior and during the course of the inspection, including, but not limited to November 17th, 2020, the employer's written respiratory protection program (Program) did not establish and implement the following COVID-19 related procedures at the employer's Emergency Department for the following instances:

1. The employer's Program did not contain site specific procedure use of either a CAPR or PAPR during high hazard aerosol generating procedures to protecting workers from exposure to aerosols containing SARS-CoV-2, the virus that causes COVID-19 disease, an airborne infectious disease; [Ref: 5199(g)(3)(B)]

2. The employer's Program did not describe the limitation of the use of N95 filtering face piece in protecting workers from exposure to aerosols containing SARS-CoV-2, the virus that causes COVID-19

disease, an airborne infectious disease; [Ref: 5144(c)(1)(H)]

3. The employer's Program was not updated for the SARS-CoV-2 epidemic at the Emergency Department. [Ref: 5144(c)(1)]

Date By Which Violation Must be Abated:
Proposed Penalty:

June 24, 2021
\$22500.00

State of California

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

**Title 8 5199 Section (g)(4)(B). Aerosol Transmittable Disease.
(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;**

Ref 5199(e)(5)(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.

Violation:

Prior to and during the course of the inspection, including, but not limited to November 17th 2020, the employer failed to provide and ensure employees use a respirator consistent with subsection (g)(3) and section 5144 while performing the following high hazard procedures in the Emergency Department, on confirmed or suspect COVID-19 patients, including but not limited to :

1. The employer failed to provide CAPRS or PAPRs to employees performing CPR in the emergency department;
2. The employer failed to provide CAPRS or PAPRs to nurses assisting with intubation in the emergency department;
3. The employer failed to provide CAPRS or PAPRs to nurses using continuous positive airway pressure (CPAP) on patients infected with the SARs-CoV-2 virus.

Date By Which Violation Must be Abated:	June 24, 2021
Proposed Penalty:	\$25000.00

Kelly Tatum
Compliance Officer / District Manager