

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 #: 1508964
Inspection Dates: 01/07/2021 - 06/29/2021
Issuance Date: 06/29/2021
CSHO ID: E2672
Optional Report #: 027-21



Citation and Notification of Penalty

Company Name: Glacier Bay Holdings LLC
Establishment DBA: Westwood Post Acute
and its successors
Inspection Site: 1601 Petersen Ave.
San Jose, CA 95129

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

Title 8 CCR Section 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.

The employer failed to immediately report by telephone, online mechanism, or email to the Division the serious illnesses (hospitalization) suffered by employee on or about November 24, 2020. The employer did not report this illness/death to the division until December 29, 2020.

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

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

Title 8 CCR Section 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:**
- (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:**

(7) Provide training and instruction:

(8) Allow employee access to the Program.

On or before November 2020, the employer did not establish, implement and maintain an effective written Injury and Illness Prevention Program in accordance with this section.

Instance #1

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. (Ref: T8CCR 3203(a)(4))

Instance #2

Allow employee access to the written Injury and Illness Prevention Program (Ref: T8CCR 3203(a)(8))

Date By Which Violation Must be Abated:

July 22, 2021

Proposed Penalty:

\$1350.00

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

Title 8 CCR Section 5199(c)(5)(C). 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:

(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 AirID 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 AirID 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.

Prior to and during the course of the inspection, including but not limited to November 1, 2020, the employer failed to have established and implemented 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 its employees. Specifically, respiratory protection used to protect employees when entering the room(s) or area(s) in which the suspect or confirmed COVID-19 case are located, where those cases are not compliant with source control measures, failed to meet the requirements of subsection (g) of these orders and Section 5144, in the following instances:

1. The employer failed to have implemented a written respiratory protection program for its employees required to wear respirators [Ref. T8 CCR 5144(c)(1); T8 CCR 5199 (g)(2)];
2. The employer failed to provide medical evaluations, in accordance with Title 8 CCR Section 5144(e), to determine the employee's ability to use a respirator before each employee is fit tested or required to use a respirator. [Ref. T8 CCR 5199(g)(5)]
3. The employer failed to ensure that employees required to use N95 filtering facepiece respirators or other tight-fitting respirators were fit tested in accordance with Appendix A of Section 5144 of these orders, prior to their initial use of the respirator [Ref. 5199 (g)(6)];
4. The employer failed to provide initial training in accordance with section 5144 of these orders to each employee prior to using a N-95 filtering facepiece or other tight-fitting respirators. [Ref. 5199 (g)(7)]

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

**Corrected During Inspection
\$10125.00**

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

Title 8 CCR Section 5199©(7): Aerosol Transmissible Pathogens

(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:

(7) Employers shall ensure that all employees with occupational exposure participate in a training program. Training shall be provided at the time of initial assignment to tasks where occupational exposure may take place and at least annually thereafter. Additional training shall be provided when there are changes in the workplace or when there are changes in procedures that could affect worker exposure to ATPs. The person conducting the training shall be knowledgeable in the subject matter covered by the training program as it relates to the workplace. Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.

Prior to and during the course of the inspection, including, but not limited to, on November 1, 2020, the employer failed to provide training to employees with occupational exposure to aerosol transmissible pathogens (ATP), as required by this subsection, both at the time of initial assignment to tasks where occupational exposure to ATPs may take place and at least annually thereafter.
[§5199(c)(7).]

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

Title 8 CCR Section 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 employer shall designate a person as the administrator who will be responsible for the establishment, implementation and maintenance of effective written infection control procedures to control the risk of transmission of aerosol transmissible diseases. The administrator shall have the authority to perform this function and shall be knowledgeable in infection control principles as they apply specifically to the facility, service or operation. The administrator shall also identify in writing the job categories in which employees have occupational exposure to ATDs. When the administrator is not on site, there shall be a designated person with full authority to act on his or her behalf. The infection control procedures shall include procedures for the cleaning and disinfection of work areas, vehicles, and equipment that may become contaminated with ATPs and pose an infection risk to employees. The written procedures shall be available at the worksite.

Prior to and during the course of the inspection, including but not limited to, on November 1, 2020, the employer failed to have established and implemented an effective written infection control procedures to control the risk of transmission of aerosol transmissible diseases meeting the requirements of this subsection for its employees with occupational exposure to aerosol transmissible pathogens, including but not limited to SARS-CoV-2, the pathogen that causes COVID-19.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **\$10125.00**

Kelly Tatum
Compliance Officer / District Manager