

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 #: 1505648
Inspection Dates: 12/09/2020 - 06/30/2021
Issuance Date: 07/01/2021
CSHO ID: N3190
Optional Report #: 009-21



Citation and Notification of Penalty

Company Name: Oakrheem Inc.
Establishment DBA: Hayward Convalescent Hospital
 and its successors
Inspection Site: 1832 B Street
 Hayward, CA 94541

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

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

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. {Ref Title 8 Section 330(h) "Serious injury or illness" means any injury or illness occurring in a place of employment or in connection with any employment that requires inpatient hospitalization for other than medical observation or diagnostic testing, or in which an employee suffers an amputation, the loss of an eye, or any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by an accident on a public street or highway, unless the accident occurred in a construction zone.}

Alleged Violation Description:

Employer failed to immediately report to the Division the serious illness suffered by employees who were hospitalized due to COVID-19, contracted as a result of their employment:

Instance 1) on or about December 6th, 2020 an employee (IE# 1) was admitted to hospital with COVID-19 and died on December 8th, 2020 the Division was noticed on December 9th, 2020.

Instance 2) on or about December 2nd, 2020 an employee (IE#2) was admitted to hospital with

COVID-19 the Division was noticed on 12/09/2020.

Instance 3) on or about December 5th, 2020 an employee (IE#3) was admitted to hospital with COVID-19 and the employer reported to the Division on December 9th, 2020

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$5000.00

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Company Name: Oakrheem Inc.
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and its successors
Inspection Site: 1832 B Street
Hayward, CA 94541

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. 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.

Alleged Violation Description

Prior to and during the course of the inspection, including but not limited to, on December 09, 2020 the employer failed to identify, in a written Aerosol Transmissible Disease Plan or any written plan or program, the job categories in which employees have occupational exposure to aerosol transmissible diseases.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$1125.00

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**Citation and Notification of Penalty**

Company Name: Oakrheem Inc.
Establishment DBA: Hayward Convalescent Hospital
and its successors
Inspection Site: 1832 B Street
Hayward, CA 94541

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

Title 8 CCR § 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.

(g) Respiratory Protection.

(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.

(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.

Alleged Violation Description:

Prior to and during the course of the inspection, the employer failed to implement 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 cases were in the facility or were in contact with employees during the period of November to December 2020 in the following instances:

Instance 1: The employer failed to provide medical evaluations to determine employee ability to use a respirator before the employees were required to use the respirator while caring for or exposed to suspect and confirmed COVID-19 patients. [Ref. T8 CCR Section 5199(g)(5)]

Instance 2: 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 fit and use of the respirator. [Ref. T8 CCR Section 5199(g)(6)(B)]

Date By Which Violation Must be Abated:

July 16, 2021

Proposed Penalty:

\$16875.00

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**Citation and Notification of Penalty**

Company Name: Oakrheem Inc.
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Inspection Site: 1832 B Street
Hayward, CA 94541

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

Title 8 CCR § 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).

(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

Title 8 CCR § 5199(h)(6) Aerosol Transmissible Diseases.

(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.

(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).

Alleged Violative Condition

Prior to and during the course of the Division's inspection, the employer failed to have developed, implemented, and maintained effective written procedures (e.g. as part of its COVID-19 Mitigation Plan) in accordance with subsections (h)(6) through (h)(9) in response to significant COVID-19 exposure incidents occurring from 11/18/2020 through 1/02/2021, including but not limited to:

- a) Four laundry workers who tested positive between 11/18/2020 and 01/08/2021;
- b) One Infection Preventionist who tested positive on 11/24/2020;
- c) Ten Certified Nursing Assistants (CNAs) who tested positive on or after 11/24/2020;
- d) Six Licensed Vocational Nurses (LVNs) who tested positive on or after 11/24/2020;
- e) Four Activities department employees who tested positive on or after 11/24/2020;
- f) Two Dietary department employees who tested positive on or after 11/24/2020;
- g) One Central supply employee who tested positive on or after 11/24/2020;

and, in the following instances:

Instance 1) The employer failed to develop, implement and maintain written procedures for investigating exposure incidents and to complete an analysis of the exposure scenario to determine which employees had significant exposures. [5199(h)(6)(C) 1.]

Instance 2) The employer failed to develop, implement and maintain written procedures for notifying employees with significant exposure, other employers of employees with significant exposure, and/or the local health officer of the date, time, and nature of the exposure within 96 hours of becoming aware of the potential exposure. [5199(h)(6)(C) 2.]

Instance 3) The employer failed to develop, implement and maintain written procedures for providing post-exposure medical evaluation as soon as feasible to all employees who had a significant exposure. [5199(h)(6)(C)3.]

Instance 4) The employer failed to develop, implement and maintain written procedures to obtain a recommendation from the PLHCP regarding precautionary removal in accordance with subsection (h)(8), and a written opinion in accordance with subsection (h)(9). [5199(h)(6)(C) 4.]

Instance 5) 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 case or suspected case while performing activities within the scope of Title 8 CCR section 5199(c). [5199 (h)(6)(B)]

Instance 6) The employer failed to develop in its written plan provisions to maintain, until the employee recommended for precautionary removal was determined to be noninfectious, the employee's earnings, seniority, and all other employee rights and benefits, as if the employee had not been removed from his or her job or otherwise medically limited. [5199(h)(8)(B)]

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

**Corrected During Inspection
\$8435.00**

Charles Rachlis Wendy Hogle-Lui
Compliance Officer / District Manager