

State of California

Department of Industrial Relations
Division of Occupational Safety and Health
Van Nuys District Office
6150 Van Nuys Blvd, Suite 405
Van Nuys, CA 91401
Phone: (818) 901-5403 Fax: (818) 901-5578

Inspection #: 1473875
Inspection Dates: 04/30/2020 - 10/28/2020
Issuance Date: 10/28/2020
CSHO ID: B9670
Optional Report #: 029-20



Citation and Notification of Penalty

Company Name: PANORAMA MEADOWS NURSING CENTER, LP
Establishment DBA: The Meadows Post Acute
and its successors
Inspection Site: 14857 Roscoe Blvd.
Panorama City, CA 91402

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

California Code of Regulation, Title 8 §342. Reporting Work-Connected Fatalities and Serious Injuries.

a) Every employer shall report immediately by telephone or telegraph to the nearest District Office of 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.

Violation

The employer failed to timely report to the Division serious workplace illnesses suffered by a Licensed Vocational Nurse on 4/26/2020, 2020, and a Registered Nurse on 4/27/2020.

Date By Which Violation Must be Abated: December 02, 2020
Proposed Penalty: \$5000.00

State of California

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

California Code of regulation, Title 8 §5199(c)(3). Aerosol Transmissible Diseases

(3) The employer shall establish, implement, and maintain effective written procedures for the screening and referral of cases and suspected cases of AirIDs to appropriate facilities.

(A) Transfers shall occur within 5 hours of the identification of the case or suspected case, unless:

- (1) the initial encounter with the case or suspected case occurs after 3:30 p.m. and prior to 7 a.m., in which event the employer shall ensure that transfer occurs no later than 11:00 a.m.; or
- (2) the employer has contacted the local health officer, determined that there is no facility that can provide appropriate All, and complied with all of the conditions in (e)(5)(B)2.; or
- (3) the case meets the conditions of either of the exceptions to subsection (e)(5)(B).

(B) When screening is provided by persons who are not health care providers, the employer shall meet the requirements of this section by establishing criteria and procedures for referral of persons to a health care provider for further evaluation within the timeframes in subsection (c)(3)(A). Referrals shall be provided to persons who do any of the following:

1. Have a cough for more than three weeks that is not explained by non-infectious conditions.
2. Exhibit signs and symptoms of a flu-like illness during March through October, the months outside of the typical period for seasonal influenza, or exhibit these signs and symptoms for a period longer than two weeks at any time during the year. These signs and symptoms generally include combinations of the following: coughing and other respiratory symptoms, fever, sweating, chills, muscle aches, weakness and malaise.
3. State that they have a transmissible respiratory disease, excluding the common cold and seasonal influenza.
4. State that they have been exposed to an infectious ATD case, other than seasonal influenza.

NOTES to subsection (c)(3):

1. Seasonal influenza does not require referral.
2. Appendix F contains sample criteria for screening that may be adopted by employers in non-medical settings for the purpose of meeting the requirements of this subsection.

Violation

Prior to and during the course of the investigation, including, but not limited to, April 27, 2020, the employer did not establish, implement, and maintain effective procedures for the transfer and referral of cases and suspected cases of AirlDs to appropriate facilities. Patients who were suspected or confirmed cases of COVID-19 were not transferred within the required time frame. Also, the employer did not implement or provide other effective control measures to reduce the risk of transmission to employees, including but not limited to the use of respirators in accordance with subsection (g).

Date By Which Violation Must be Abated:

December 02, 2020

Proposed Penalty:

\$750.00

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

California Code of regulation, Title 8 §5199(c)(4).

(4) The employer shall establish, implement, and maintain effective written procedures to communicate with employees, other employers, and the local health officer regarding the suspected or diagnosed infectious disease status of referred patients. These shall include procedures to receive information from the facility to which patients were referred and to provide necessary infection control information to employees who were exposed to the referred person.

Violation

Prior to and during the course of investigation, including, but not limited to, on April 27, 2020, the employer's procedure for communicating with employees, other employers, and the local health officer regarding the suspected or diagnosed infectious disease status of referred patients was not in writing. Ref. 5199(c)(4)

Date By Which Violation Must be Abated:	December 02, 2020
Proposed Penalty:	\$750.00

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

California Code of regulation, Title 8 §5199(c)(6).

(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: CCR, Title 8, 5199(h)(6)-(h)(9)

5199 (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.

EXCEPTION to subsection (h)(8)(B): Precautionary removal provisions do not extend to any period of time during which the employee is unable to work for reasons other than precautionary removal.

(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.

California Code of regulation, Title 8 §5199(c)(6). 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: CCR, Title 8, 5199(h)(6)-(h)(9)

5199 (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.

EXCEPTION to subsection (h)(8)(B): Precautionary removal provisions do not extend to any period of time during which the employee is unable to work for reasons other than precautionary removal.

(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 investigation, including, but not limited to, April 27 , 2020, the employer's procedure for investigating exposure incidents and providing post-exposure medical evaluations for employee exposures to cases and suspected cases of reportable aerosol transmissible diseases, including COVID-19, was not in writing. Ref. 5199(c)(6)(B) & 5199(h)(6)

Date By Which Violation Must be Abated:

December 02, 2020

Proposed Penalty:

\$750.00

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

California Code of regulation, Title 8 §5199(c)(7).

(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. This training shall include:

- (A) A general explanation of ATDs including the signs and symptoms that require further medical evaluation;
- (B) Screening methods and criteria for persons who require referral;
- (C) The employer's source control measures and how these measures will be communicated to persons the employees contact;
- (D) The employer's procedures for making referrals in accordance with subsection (c)(3);
- (E) The employer's procedures for temporary risk reduction measures prior to transfer;
- (F) Training in accordance with subsection (g) and Section 5144 of these orders, when respiratory protection is used;
- (G) The employer's medical services procedures in accordance with subsection (h), the methods of reporting exposure incidents, and the employer's procedures for providing employees with post-exposure evaluation;
- (H) Information on vaccines the employer will make available, including the seasonal influenza vaccine. For each vaccine, this information shall include the efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;
- (I) How employees can access the employer's written procedures and how employees can participate in reviewing the effectiveness of the employer's procedures in accordance with subsection (c)(8); and
- (J) An opportunity for interactive questions and answers with a person who is knowledgeable in the subject matter as it relates to the workplace that the training addresses and who is also

knowledgeable in the employer's infection control procedures. Training not given in person shall provide for interactive questions to be answered within 24 hours by a knowledgeable person.

Violation

Prior to and during the course of the investigation, including, but not limited to, April 27, 2020, the employer did not ensure that employees with occupational exposure to aerosol transmissible diseases received effective training. Aerosol transmissible diseases training elements are not addressed by the employer including, but not limited to:

(1) Providing training on making referrals in accordance with subsection (c)(3). Ref. 5199(c)(7)(D)

(2) Providing initial training , prior to respirator usage, in accordance with 5144 Respiratory Protection, on or about April 27, 2020, at which time employer required employees wear N95 filtering facepiece respirator.

Ref. 5199(c)(7)(F)

(3) Providing training on implementing medical services procedures in accordance with subsection (h), the methods of reporting exposure incidents, and the employer's procedures for providing employees with post-exposure evaluation. Ref. 5199(c)(7)(G)

(4) Providing training on how employees can access the employer's written procedures and how employees can participate in reviewing the effectiveness of the employer's procedures in accordance with subsection (c)(8). Ref. 5199(c)(7)(I)

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

California Code of Regulation, Title 8, §5199. Aerosol Transmissible Diseases.

(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.

EXCEPTION to subsection (c)(5)(C): Law enforcement or corrections personnel who transport a person requiring referral in a vehicle need not use respiratory protection if all of the following conditions are met:

- i. A solid partition separates the passenger area from the area where employees are located;
 - ii. The employer implements written procedures that specify the conditions of operation, including the operation of windows and fans;
 - iii. The employer tests (e.g., by the use of smoke tubes) the airflow in a representative vehicle (of the same model, year of manufacture, and partition design) under the specified conditions of operation, and finds that there is no detectable airflow from the passenger compartment to the employee area;
 - iv. The employer records the results of the tests and maintains the results in accordance with subsection (j)(3)(F); and
 - v. The person performing the test is knowledgeable about the assessment of ventilation systems.
- Reference : California Code of regulation, Title 8 §5199(g). (g) Respiratory Protection.

(g) Respiratory Protection.

(1) Respirators provided for compliance with this section shall be approved by NIOSH for the purpose for which they are used.

(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). NOTE to subsection (g)(2): The respiratory protection program may be incorporated into the ATD Exposure Control Plan or the Biosafety Plan.

(3) Respirator selection.

(A) Where respirator use is required for protection against potentially infectious aerosols and is not required to meet the requirements of subsections (g)(3)(B) or (g)(3)(C), the employer shall provide a respirator that is at least as effective as an N95 filtering facepiece respirator, unless the employer's evaluation of respiratory hazards determines that a more protective respirator is necessary, in which case the more protective respirator shall be provided.

(B) Effective September 1, 2010, the employer shall provide a powered air purifying respirator (PAPR) with a High Efficiency Particulate Air (HEPA) filter(s), or a respirator providing equivalent or greater protection, to employees who perform high hazard procedures on AirlD cases or suspected cases and to employees who perform high hazard procedures on cadavers potentially infected with ATPs, unless the employer determines that this use would interfere with the successful performance of the required task or tasks. This determination shall be documented in accordance with the ATD Plan and shall be reviewed by the employer and employees at least annually in accordance with subsection (d)(3).

EXCEPTION 1 to subsection (g)(3)(B): Where a high hazard procedure is performed by placing the patient in a booth, hood or other ventilated enclosure that effectively contains and removes the aerosols resulting from the procedure, and the employee remains outside of the enclosure, the employee may use a respirator meeting the requirements of subsection (g)(3)(A).

EXCEPTION 2 to subsection (g)(3)(B): Paramedics and other emergency medical personnel in field operations may use a P100, R100 or N100 respirator in lieu of a PAPR, providing that the respirator is used in accordance with its NIOSH approval. If an employer selects N100 respirators for use under this subsection, the employer's respiratory protection program and employee training must address how an environment will be assessed for the presence of oil aerosols and how alternate respiratory protection will be made available to employees who must use respirators under conditions for which N materials are not suitable.

(C) Respirators used in laboratory operations to protect against infectious aerosols shall be selected in accordance with the risk assessment and biosafety plan, in accordance with subsection (f).

(D) Where respirators are necessary to protect the user from other hazards, including the uncontrolled release of microbiological spores, or exposure to chemical or radiologic agents, respirator selection shall also be made in

accordance with Sections 5144, Respiratory Protection, and 5192, Hazardous Waste and Emergency Response Operations, of these orders, as applicable.

(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 AirlD 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 AirlD 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 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.

EXCEPTIONS to subsection (g)(4)(H):

(1) The employer shall not require or permit respirator use when an employee is operating a helicopter or other vehicle and the respirator may interfere with the safe operation of that vehicle. When employees do not use respirators, the employer shall provide other means of protection such as barriers or source control measures, where feasible.

(2) Law enforcement or corrections personnel who transport an airborne infectious disease case or suspected case in a vehicle need not use respiratory protection if all of the following conditions are met:

i. A solid partition separates the passenger area from the area where employees are located;
ii. The employer implements written procedures that specify the conditions of operation, including the operation of windows and fans;
iii. The employer tests (for example by the use of smoke tubes) the airflow in a representative vehicle (of the same model, year of manufacture, and partition design) under the specified conditions of operation, and finds that there is no detectable airflow from the passenger compartment to the employee area;

iv. The employer records and maintains the results, in accordance with subsection (j)(3)(F); and
v. The person performing the test is knowledgeable about the assessment of air handling systems.

(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.

EXCEPTION to subsection (g)(6)(B)3: Until January 1, 2014, employers may increase the interval for repeat fit testing to no more than two years for employees who do not perform high hazard procedures and are not using respirators for protection against laboratory generated aerosols. Employers shall provide to each employee who is not fit-tested within the previous 12 months a respirator fit-test screening that includes the information in Appendix G, and that obtains a response to the questions included in Appendix G. As of January 1, 2015, an employee who uses a respirator under this section shall have been fit-tested within the previous 12 months.

(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.

Reference:

CCR,T8, §5144(c)

(c) Respiratory protection program. This subsection requires the employer to develop and implement a written respiratory protection program with required worksite-specific procedures and elements for required respirator use. The program must be administered by a suitably trained program administrator. In addition, certain program elements may be required for voluntary use to prevent potential hazards associated with the use of the respirator. The Small Entity Compliance Guide contains criteria for the selection of a program administrator and a sample program that meets the requirements of this subsection. Copies of the Small Entity Compliance Guide will be available from the Occupational Safety and Health Administration's Office of Publications, Room N 3101, 200 Constitution Avenue, NW, Washington, DC, 20210 (202-219-4667).

(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. The employer shall include in the program the following provisions, as applicable:

- (A) Procedures for selecting respirators for use in the workplace;
- (B) Medical evaluations of employees required to use respirators;
- (C) Fit testing procedures for tight-fitting respirators;
- (D) Procedures for proper use of respirators in routine and reasonably foreseeable emergency situations;
- (E) Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators;
- (F) Procedures to ensure adequate air quality, quantity, and flow of breathing air for atmosphere-supplying respirators;
- (G) Training of employees in the respiratory hazards to which they are potentially exposed during routine and emergency situations;
- (H) Training of employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance; and
- (I) Procedures for regularly evaluating the effectiveness of the program.

CCR, Title 8, 5144(e)(1). Respiratory Protection. (e) Medical evaluation. Using a respirator may place a physiological burden on employees that varies with the type of respirator worn, the job and workplace conditions in which the respirator is used, and the medical status of the employee. Accordingly, this subsection specifies the minimum requirements for medical evaluation that employers must implement to determine the employee's ability to use a respirator.

(1) General. The employer shall provide a medical evaluation to determine the employee's ability to use a respirator, before the employee is fit tested or required to use the respirator in the workplace. The employer may discontinue an employee's medical evaluations when the employee is no longer required to use a respirator.

CCR,T8, §5144(f)(1). Respiratory Protection. (f) Fit testing. This subsection requires that, before an employee may be required to use any respirator with a negative or positive pressure tight-fitting facepiece, the employee must be fit tested with the same make, model, style, and size of respirator that will be used. This subsection specifies the kinds of fit tests allowed, the procedures for conducting them, and how the results of the fit tests must be used.

(1) The employer shall ensure that employees using a tight-fitting facepiece respirator pass an appropriate qualitative fit test (QLFT) or quantitative fit test (QNFT) as stated in this subsection.

Violation

Prior to and during the course of the investigation, including, but not limited to, April 30, 2020, the employer did not establish, implement and maintain effective written procedures to reduce the risk of transmission of aerosol transmissible diseases, but not limited to the following instances:

(1)Employer did not establish and implement effective written procedures to reduce the risk of transmission during the period when the person requiring referral is in the facility or is in contact with employees Ref. 5199(c)(5)(C)

(2)Employer did not establish and implement an effective respiratory protection program in accordance with section 5144 of these orders. [Ref. 5199(c)(5)(C) & (g)(2)]

(3)The employer did not provide a medical evaluation, in accordance with Section 5144(e), before the employee is fit tested or required to use the respirator.[Ref. 5199(c)(5)(C) &(g)(5)

(4)The employer did not perform respirator fit testing at the time of initial fitting, including but not limited to commencing on or about April 27,2020, at which time the employer required employees to wear N95 filtering facepiece or other tight-fitting respirators. [Ref. 5199(c)(5)(C) &(g)(6)]

(5)The employer did not provide initial training, including but not limited to commencing on or about April 27,2020, at which time the employer required employees to wear N95 filtering facepiece or other tight-fitting respirators. [Ref. 5199(c)(5)(C)& (g)(7)]

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

**November 09, 2020
\$13500.00**

Zulfiqar Merchant
Compliance Officer / District Manager