

**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 #:** 1474630  
**Inspection Dates:** 05/08/2020 - 11/06/2020  
**Issuance Date:** 11/06/2020  
**CSHO ID:** N3190  
**Optional Report #:** 022-20

**Citation and Notification of Penalty**

**Company Name:** Kaiser Foundation Hospitals/Kaiser Permanente - Oakland Medical Center  
**Establishment DBA:**

and its successors

**Inspection Site:** 3600 Broadway  
 Oakland, CA 94611

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

Title 8 CCR § 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 § 5144(h)(1)

(h) Maintenance and care of respirators. This subsection requires the employer to provide for the cleaning and disinfecting, storage, inspection, and repair of respirators used by employees.

(1) Cleaning and disinfecting. The employer shall provide each respirator user with a respirator that is clean, sanitary, and in good working order. The employer shall ensure that respirators are cleaned and disinfected using the procedures in Appendix B-2, or procedures recommended by the respirator manufacturer, provided that such procedures are of equivalent effectiveness.

Prior to and during the course of the inspection, the employer failed to effectively limit reuse of N95s, as recommended by the CDC and NIOSH, so as to ensure employees were provided a respirator at least as effective as a N95 filtering facepiece when employees enter an All room, are present during the performance of procedures or services for AirID (COVID-19) cases or suspected cases, and when employees are in any places where respirator use is required for protection against potentially infectious aerosols. On 6N and 7S, among other work areas, employees donned and doffed N95s more often than recommended limits during their shifts. [5199(g)(3)(A) & 5199(g)(4)(A)]

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

**December 07, 2020**

**Proposed Penalty:**

**\$1350.00**

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Oakland, CA 94611

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

Title 8 CCR § 5199(g)(4) 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:

- (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;
- (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.

Prior to and during the course of the inspection, the employer failed to provide and to ensure that employees used a respirator selected in accordance with subsection (g) (3) and Section 5144 when employees were present during the performance of procedures or services, and/or were working in an area with a suspected or confirmed case of a person infected with SARs-CoV-2, the novel pathogen which causes COVID-19. During the period of August 13, 2020 to August 15, 2020, employees who worked on the oncology unit in 10 S and who entered room 1051 were not provided with NIOSH approved respirators at least as effective as N95 filtering facepiece respirator when they were in the area where cases and suspected cases of COVID-19 were located, and during the performance of procedures or services for a patient with COVID-19.

<b>Date By Which Violation Must be Abated:</b>	<b>December 07, 2020</b>
<b>Proposed Penalty:</b>	<b>\$24300.00</b>

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**Inspection Site:** 3600 Broadway  
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Citation 3 Item 1 Type of Violation: **Serious**

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

(g) Respiratory Protection

(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;
2. When a different size, make, model or style of respirator is used; and
3. At least annually thereafter.

Prior to and during the course of the inspection, the employer failed to ensure that each employee required to use a filtering facepiece N95 respirator passed a fit test on the make and model of the respirator they used when providing services to cases and suspected cases of COVID-19, an airborne infectious disease, in the Med Surge, 6N, 6S, 7S, and ICU areas.

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

**December 07, 2020**

**Proposed Penalty:**

**\$12150.00**

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**Citation and Notification of Penalty**

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

Title 8 CCR § 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:

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).

Prior to and during the course of the inspection, the employer failed to investigate exposure incidents, to notify employees in the oncology unit who had significant exposures to a COVID-19 case during the period August 10, 2020 to August 15, 2020, and to provide them with post-exposure medical services.

Instance 1) The employers Exposure Incident analysis did not record the basis for any determination that an employee need not be included in post-exposure follow-up. [5199(h)(6)(C)1]

Instance 2) The employer did not notify employees who had had a significant exposure to a COVID-19 case within 96 hours of becoming aware of the potential exposure. [5199(h)(6)(C)2]

Instance 3) The employer did not provide post-exposure medical evaluation to all employees who had a significant exposure, as soon as feasible. [5199(h)(6)(C)3]

Instance 4) The employer did not 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). [5199(h)(6)(C)4]

Instance 5) The employer did not notify other employers of employees who may have been exposed, 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. [5199(h)(6)(C)5]

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

**December 07, 2020**  
**\$16200.00**

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**Inspection Site:** 3600 Broadway  
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Citation 5 Item 1 Type of Violation: **Serious**

Title 8 CCR § 5199(i)(4) Aerosol Transmissible Diseases.

(i) Training

(4) The training program shall contain at a minimum the following elements:

(E) An explanation of the appropriate methods for recognizing tasks and other activities that may expose the employee to ATPs or ATPs-L.

(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.

(I) Training meeting the requirements of Section 5144(k) of these orders for employees whose assignment includes the use of a respirator.

Reference T8 5144 (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;}

(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.

Prior to and during the course of the inspection, the employer failed to provide the required training in accordance with this subsection to employees with occupational exposure to aerosol transmissible pathogens (ATP), specifically the novel pathogen SARs-CoV-2 the virus which causes COVID-19.

Instance 1) The employer failed to train employees of all the modes of transmission of SARs-CoV-2, including aerosol transmission, and the appropriate source controls for preventing COVID-19 as an airborne infectious disease. [5199 (i)(4)(C)]

Instance 2) The employer failed to train employees of an effective method for recognizing the airborne hazards from specific tasks and other activities which generate exposure by inhalation of aerosols containing SARs-CoV-2. [5199 (i)(4)(E)]

Instance 3) The employer failed to train employees of the limitations of the employer's droplet, contact and eye protection procedures for preventing exposure to SARs-CoV-2. Employees were not informed that medical (surgical) masks would not protect them against inhalation of infectious aerosols, and NIOSH certified respirators were necessary to protect against these exposures. [5199 (i)(4)(F) &(G)]

Instance 4) Employees, required to use N95 respirators, were not provided training on the recommended limits of extended and reuse practices. [5199 (i)(4)(I & L)]

Instance 5) Employees, required to use N95 respirators, were not provided effective training, as required by Title 8 CCR § 5144(k), conducted annually, or more often as necessary, to ensure respirator users can demonstrate knowledge of how to conduct a user seal check. [5199 (i)(4)(I). Reference Title 8 CCR § 5144(k) (1)(D)]

Instance 6) Respirator users, were not provided effective training, on how to immediately access PPE when the manager is not available and the N95s they are required to use are locked up. [5199 (i)(4)(I &L)]

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

**December 07, 2020**

**Proposed Penalty:**

**\$24300.00**

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Charles Rachlis          Wendy Hogle-Lui  
Compliance Officer / District Manager