



## CITATION AND NOTIFICATION OF PENALTY

**To:**  
Nadhi, Inc.  
DBA Gateway Care & Rehabilitation Center  
and its successors  
26660 Patrick Avenue  
Hayward, CA 94544

**Inspection #:** 1473172  
**Inspection Date (s):** 04/24/2020 - 09/21/2020  
**Issuance Date:** 09/21/2020  
**CSHO ID:** U7118  
**Optional Report #:** 008-20  
**Reporting ID:** 0950614

**Inspection Site:**  
26660 Patrick Avenue  
Hayward, CA 94544

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

**This Citation and Notification of Penalty** (hereinafter Citation) is being issued in accordance with California Labor Code Sections 6317 and 6320 for violations that were found during the inspection/ investigation. **This Citation or a copy must be prominently posted upon receipt by the employer at or near the location of each violation until the violative condition is corrected or for three working days, whichever is longer.** Violations of Title 8 of the California Code of Regulations or of the California Labor Code may result in some instances in prosecution for a misdemeanor.

**YOU HAVE A RIGHT** to contest this Citation and Notification of Penalty by filing an appeal with the Occupational Safety and Health Appeals Board. To initiate your appeal, you **must** contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of this Citation. If you miss the 15 working day deadline to appeal, the Citation and Notification of Penalty becomes a final order of the Appeals Board, not subject to review by any court or agency.

**Informal Conference** - You may request an informal conference with the manager of the district office which issued the Citation within 10 working days after receipt of the Citation. However, if the citation is appealed, you may request an informal conference at any time prior to the day of the hearing. Employers are encouraged to schedule a conference at the earliest possible time to assure an expeditious resolution of any issues. At the informal conference, you may discuss the existence of the alleged violation, classification of the violation, abatement date or proposed penalty.

Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an agreement which resolves this matter without litigation or contest.

## APPEAL RIGHTS

The Occupational Safety and Health Appeals Board (Appeals Board) consists of three members appointed by the Governor. The Appeals Board is a separate entity from the Division of Occupational Safety and Health (Division) and employs experienced administrative law judges to hear appeals fairly and impartially. To initiate an appeal from a Citation and Notification of Penalty, you must contact the Appeals Board in writing, or by telephone, or online via the Board's OASIS system, within 15 working days from the date of receipt of a Citation.

After you have initiated your appeal, you must then file a completed appeal form with the Appeals Board, at the address listed below, or online via the Board's OASIS system, for each contested Citation. Failure to file a completed appeal form with the Appeals Board may result in dismissal of the appeal. Appeal forms are available to print online at:

<https://www.dir.ca.gov/oshab/appealform.pdf>. You may also file the appeal through the Board's online OASIS system at: <https://www.dir.ca.gov/oshab/>. Hard copies can also be picked up from district offices of the Division, or from the Appeals Board:

Occupational Safety and Health Appeals Board  
2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
Telephone: (916) 274-5751 or (877) 252-1987  
Fax: (916) 274-5785

If the Citation you are appealing alleges more than one item, you must specify on the appeal form which items you are appealing. You must also attach to the appeal form a legible copy of the Citation you are appealing. In addition, please send a copy of Page 1 of this Citation and Notification of Penalty, the cover sheet.

Among the specific grounds for an appeal are the following: the safety order was not violated, the classification of the alleged violation (e.g., serious, repeat, willful) is incorrect, the abatement requirements are unreasonable or the proposed penalty is unreasonable.

**Important:** You must notify the Appeals Board, not the Division, of your intent to appeal within 15 working days from the date of receipt of the Citation. Otherwise, the Citation and Notification of Penalty becomes a final order of the Appeals Board not subject to review by any court or agency. An informal conference with the Division does not constitute an appeal and does not stay the 15 working day appeal period. If you have any questions concerning your appeal rights, call the Appeals Board, at (916) 274-5751 or (877) 252-1987.

## PENALTY PAYMENT OPTIONS

For general/regulatory violations, and for serious violations that have been abated, penalties are due within 15 working days of receipt of this Citation and Notification of Penalty unless contested. If you are appealing any item of the citation, remittance is still due on all items described above that are not appealed. Enclosed for your use is a Penalty Remittance Form for payment.

For serious violations that are not abated, if a signed statement of abatement (as described under "Notification of Corrective Action", below) is not timely received or if the statement does not demonstrate acceptable abatement, penalties will be due within 15 working days after the date the signed statement was due, unless contested.

For serious violations for which a signed statement of abatement demonstrating acceptable abatement is timely received, the payment due date will be described in a Modified Citation and Notification of Penalty that you will receive reflecting a 50% abatement credit.

If you are paying electronically, please have the Penalty Remittance Form on-hand when you are ready to make your payment. The company name, inspection number, and Citation number(s) will be required in order to ensure that the payment is accurately posted to your account. Please go to: **[www.dir.ca.gov/dosh/CalOSHA\\_PaymentOption.html](http://www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html)** to access the secure payment processing site. **Additionally, you must also mail the Penalty Remittance Form to the address below.**

If you are paying by check, return one copy of the Citation, along with the Notice of Proposed Penalties Sheet and the Penalty Remittance Form and mail to:

Department of Industrial Relations  
Cal/OSHA Penalties  
P. O. Box 516547  
Los Angeles, CA 90051-0595

CAL/OSHA does not agree to any restrictions, conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

## NOTIFICATION OF CORRECTIVE ACTION

For general/regulatory violations which you do not contest, you should notify the Division of Occupational Safety and Health promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation and Notification of Penalty. Please inform the district office listed on the Citation by submitting the Cal/OSHA 160 form with the abatement steps you have taken and the date the violation was abated, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc. The adjusted penalty for general violations has already been reduced by 50% on the presumption that the employer will correct the violations by the abatement date. The adjusted penalty for serious violations that have been abated, if any, has already been reduced by 50% because abatement of those violations has been completed.

The adjusted penalty for serious violations that have not been abated will be reduced by 50% if the Division of Occupational Safety and Health receives from you within 10 working days following the

abatement date a signed statement under penalty of perjury (Cal/OSHA form 161) and sufficient supporting evidence, when necessary to prove abatement, demonstrating abatement acceptable to the Division. If the Division does not receive the statement of abatement within 10 working days after the abatement date, the adjusted penalty will not be reduced by 50% - regardless of whether you appeal the serious citations.

**Note:** Return the Cal/OSHA 160/161 forms to the district office listed on the Citation and as shown below:

Division of Occupational Safety and Health  
Oakland District Office  
1515 Clay Street, Suite 1303  
Oakland, CA 94612  
Telephone: (510) 622-2916  
Fax: (510) 622-2908

## **EMPLOYEE RIGHTS**

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under Labor Code Section 6310 or 6311. An employee who believes that he/she has been discriminated against may file a complaint no later than six (6) months after the discrimination occurred with the Division of Labor Standards Enforcement.

**Employee Appeals** - An employee or authorized employee's representative may, within 15 working days of the issuance of a citation, special order, or order to take special action, appeal to the Occupational Safety and Health Appeals Board the reasonableness of the period of time fixed by the Division of Occupational Safety and Health (Division) for abatement. An employee appeal may be filed with the Appeals Board or with the Division. No particular format is necessary to initiate the appeal, but the notice of appeal must be in writing.

If an Employee Appeal is filed with the Division, the Division shall note on the face of the document the date of receipt, include any envelope or other proof of the date of mailing, and promptly transmit the document to the Appeals Board. The Division shall, no later than 10 working days from receipt of the Employee Appeal, file with the Appeals Board and serve on each party a clear and concise statement of the reasons why the abatement period prescribed by it is reasonable.

Employee Appeal Forms are available from the Appeals Board, or from a district office of the Division.

**Employees Participation in Informal Conference** - Affected employees or their representatives may notify the District Manager that they wish to attend the informal conference. If the employer objects, a separate informal conference will be held.

## **DISABILITY ACCOMMODATION**

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district office or the Statewide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The Statewide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY - Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing or conference.

**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

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**Issuance Date:** 09/21/2020  
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**Optional Report #:** 008-20

**Citation and Notification of Penalty**

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**Establishment DBA:** Gateway Care & Rehabilitation Center  
and its successors  
**Inspection Site:** 26660 Patrick Avenue  
Hayward, CA 94544

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

**California Code of Regulations, Title 8, §3203(a)(7). 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:**  
...

**(7) Provide training and instruction:**

**(A) When the program is first established;**

**Exception: Employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with the previously existing Accident Prevention Program in Section 3203.**

**(B) To all new employees;**

**(C) To all employees given new job assignments for which training has not previously been received;**

**(D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;**

**(E) Whenever the employer is made aware of a new or previously unrecognized hazard; and,**

**(F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.**

Violation

Prior to and during the course of the inspection, including but not limited to, on April 24th, 2020 the employer failed to establish a written Injury and Illness Prevention Program that contains training and instruction as outlined in subsection (a)(7).

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

**October 26, 2020**



**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

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

**California Code of Regulations, Title 8, §5194(e)(1)(A). Hazard Communication.**

**(e) Written Hazard Communication Program.**

**(1) Employers shall develop, implement, and maintain at the workplace a written hazard communication program for their employees which at least describes how the criteria specified in sections 5194(f), (g), and (h) for labels and other forms of warning, safety data sheets, and employee information and training will be met, and which also includes the following:**

**(A) A list of the hazardous chemicals known to be present using a product identifier that is referenced on the appropriate safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas);**

Violation

Prior to and during the course of the inspection, including but not limited to, on April 24th, 2020 the employer failed to maintain a list of the hazardous chemicals known to be present in the workplace using product identifiers that is referenced on the appropriate safety data sheets.

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

**October 26, 2020**  
**\$560.00**



**State of California**

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Division of Occupational Safety and Health  
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**Citation and Notification of Penalty**

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

**California Code of Regulations, Title 8, §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.**

**Violation**

Prior to and during the course of the inspection, including but not limited to, on April 24th, 2020 the employer failed to implement and maintain effective procedures for the use of respiratory protection in accordance with subsection (g) to reduce the risk of transmission of aerosol transmissible diseases, specifically exposure to SARs Cov-2, the virus that causes COVID-19, in the following instances:

**Instance 1:**

The employer failed to provide medical evaluations in accordance with the requirements of 5199(g) and Section 5144(e) to determine employees ability to use a respirator before the employee is fit tested or required to use the respirator prior to entering the portion of the facility where COVID-19 positive residents reside. [Ref. T8 CCR 5199(g)(5)]

**Instance 2:**

The employer failed to ensure that employees assigned to use a filtering facepiece respirator were fit tested prior to their initial use of the respirator when entering the portion of the facility where COVID-19 positive residents reside in accordance with the requirements of 5199(g) and the procedures outlined in Appendix A of Section 5144, Respiratory Protection. [Ref. T8 CCR 5199(g)(6)(B)]

<b>Date By Which Violation Must be Abated:</b>	<b>Corrected During Inspection</b>
<b>Proposed Penalty:</b>	<b>\$8435.00</b>

**State of California**

Department of Industrial Relations  
Division of Occupational Safety and Health  
Oakland District Office  
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Oakland, CA 94612  
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**Citation and Notification of Penalty**

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Hayward, CA 94544

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

**California Code of Regulations, Title 8, §5199(c)(7) 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:**

**(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.**

Violation

Prior to and during the course of the inspection, including but not limited to, on April 24th, 2020 the employer failed to provide employees with effective training on its aerosol transmissible disease procedures at their time of initial assignment to tasks where occupational exposure to aerosol transmissible diseases, such as SARs Cov-2, the virus that causes COVID-19, may take place.

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

**October 01, 2020**

**Proposed Penalty:**

**\$13500.00**

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Spencer Wojcik / Wendy Hogle-Lui  
Compliance Officer / District Manager



## NOTICE OF PROPOSED PENALTIES

**Company Name:** Nadhi, Inc.  
**Establishment DBA:** Gateway Care & Rehabilitation Center  
and its successors  
**Inspection Site:** 26660 Patrick Avenue, Hayward, CA 94544  
**Mailing Address:** 26660 Patrick Avenue, Hayward, CA 94544  
**Issuance Date:** 09/21/2020  
**Reporting ID:** 0950614  
**CSHO ID:** U7118

### Summary of Penalties for Inspection Number 1473172

Citation 1 Item 1, General	\$935.00
Citation 1 Item 2, General	\$560.00
Citation 2 Item 1, Serious	\$8435.00
Citation 3 Item 1, Serious	\$13500.00

<b>TOTAL PROPOSED PENALTIES:</b>	<b>\$23430.00</b>
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If you are paying electronically: Please have this form on-hand when you are ready to make your payment. The company name, reporting ID and Citation number(s) will be required to ensure that the payment is accurately posted to your account. Please go to:

**[www.dir.ca.gov/dosh/CalOSHA\\_PaymentOption.html](http://www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html)** to access the secure payment processing site.

**Additionally, you must also mail the Penalty Remittance Form to the address below.**

If you are paying by check: Mail this Notice of Proposed Penalties, the Penalty Remittance Form, along with a copy of the Citation and Notification of Penalty to:

**DEPARTMENT OF INDUSTRIAL RELATIONS  
CAL/OSHA PENALTIES  
P. O. BOX 516547  
LOS ANGELES, CA 90051-0595**

Cal/OSHA does not agree to any restrictions, conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions or endorsements do not exist.

**DEPARTMENT OF INDUSTRIAL RELATIONS**  
**DIVISION OF OCCUPATIONAL SAFETY AND HEALTH – CAL/OSHA**  
**Accounting Office - Cashiering Unit**  
Phone (415) 703-4310 or (415) 703-4308

**PENALTY REMITTANCE FORM**

<b>CIVIL PENALTY INFO</b>	<b>INSPECTION NO.:</b> 1473172	<b>REPORTING ID:</b> 0950614
<b>COMPANY NAME:</b>	Nadhi, Inc.	<b>FEIN/SEIN:</b> UNKNOWN
<b>ESTABLISHMENT DBA:</b>	Gateway Care & Rehabilitation Center	
<b>CONTACT PERSON:</b>	Edna Cortez	
<b>PHONE NO.:</b>	UNKNOWN	<b>FAX NO.:</b> UNKNOWN
<b>SITE ADDRESS:</b>	26660 Patrick Avenue, Hayward, CA 94544	
<b>MAILING ADDRESS:</b>	26660 Patrick Avenue, Hayward, CA 94544	

**CITATION INFORMATION:**

Penalties are due within 15 working days of receipt of this notification unless contested. If you are appealing any item of this Citation, remittance is still due on all items that are not appealed.

**PAYMENT INSTRUCTIONS:**

For check or money order: please make check or money order payable to Department of Industrial Relations. Write the inspection number and total amount enclosed on the payment coupon below and on the check or money order.

For credit card or EFT payment, go to: [www.dir.ca.gov/dosh/CalOSHA\\_PaymentOption.html](http://www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html)

----- Detach here and return bottom portion with check or money order payment -----

**PAYMENT COUPON**



Inspection No.: 1473172

Amount Enclosed: \$ \_\_\_\_\_

**Mail payment to:**

For credit card or EFT payment, go to:  
[www.dir.ca.gov/dosh/CalOSHA\\_PaymentOption.html](http://www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html)

DEPARTMENT OF INDUSTRIAL RELATIONS  
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