



CITATION AND NOTIFICATION OF PENALTY

To:

Santa Clara Valley Medical Center
and its successors
751 S. Bascom Ave.
San Jose, CA 95128

Inspection #: 1474041
Inspection Date (s): 05/04/2020 - 09/18/2020
Issuance Date: 09/18/2020
CSHO ID: U1591
Optional Report #: 024-20
Reporting ID: 0950612

Inspection Site:

751 S. Bascom Ave.
San Jose, CA 95128

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** 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
Fremont District Office
39141 Civic Center Drive, Suite 310
Fremont, CA 94538
Telephone: (510) 794-2521
Fax: (510) 794-3889

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
Fremont District Office
39141 Civic Center Drive, Suite 310
Fremont, CA 94538
Phone: (510) 794-2521 Fax: (510) 794-3889

Inspection #: 1474041
Inspection Dates: 05/04/2020 - 09/18/2020
Issuance Date: 09/18/2020
CSHO ID: U1591
Optional Report #: 024-20



Citation and Notification of Penalty

Company Name: Santa Clara Valley Medical Center
Establishment DBA:

and its successors

Inspection Site: 751 S. Bascom Ave.
San Jose, CA 95128

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

California Code of Regulations, Title 8, §5199(d)(1). Aerosol Transmissible Diseases.

(d) Aerosol Transmissible Diseases Exposure Control Plan.

(1) The employer shall establish, implement, and maintain an effective, written ATD Exposure Control Plan (Plan) which is specific to the work place or operation(s), and which contains all of the elements in subsection (d)(2).

...

(2) The Plan shall contain all of the following elements:

(A) The name(s) or title(s) of the person(s) responsible for administering the Plan. This person shall be knowledgeable in infection control principles and practices as they apply to the facility, service or operation.

(B) A list of all job classifications in which employees have occupational exposure.

(C) A list of all high hazard procedures performed in the facility, service or operation, and the job classifications and operations in which employees are exposed to those procedures.

(D) A list of all assignments or tasks requiring personal or respiratory protection.

(E) The methods of implementation of subsections (e), (g), (h), (i) and (j) as they apply to that facility, service or work operation. Specific control measures shall be listed for each operation or work area in which occupational exposure occurs. These measures shall include applicable engineering and work practice controls, cleaning and decontamination procedures, and personal protective equipment and respiratory protection. In establishments where the Plan pertains to laboratory operations, it also shall contain the methods of implementation for subsection (f), unless those operations are included in a Biosafety Plan.

(F) A description of the source control measures to be implemented in the facility, service or operation, and the method of informing people entering the work setting of the source control measures.

(G) The procedures the employer will use to identify, temporarily isolate, and refer or transfer AirID cases or suspected cases to All rooms, areas or facilities. These procedures shall include the methods the employer will use to limit employee exposure to these persons during periods when they are not in airborne infection isolation rooms or areas. These procedures shall also include the methods the employer will use to document medical decisions not to transfer patients in need of All in accordance with subsection (e)(5)(B).

(H) The procedures the employer will use to provide medical services, including recommended vaccinations and follow-up, as required in subsection (h). This shall include the procedures the employer will use to document the lack of availability of a recommended vaccine.

(I) The procedures for employees and supervisors to follow in the event of an exposure incident, including how the employer will determine which employees had a significant exposure, in accordance with subsections (h)(6) through (h)(9).

(J) The procedures the employer will use to evaluate each exposure incident, to determine the cause, and to revise existing procedures to prevent future incidents.

(K) The procedures the employer will use to communicate with its employees and other employers regarding the suspected or confirmed infectious disease status of persons to whom employees are exposed in the course of their duties, in accordance with subsection (h).

(L) The procedures the employer will use to communicate with other employers regarding exposure incidents, including procedures for providing or receiving notification to and from health care providers about the disease status of referred or transferred patients, in accordance with subsection (h).

(M) The procedures the employer will use to ensure that there is an adequate supply of personal protective equipment and other equipment necessary to minimize employee exposure to ATPs, in normal operations and in foreseeable emergencies.

(N) The procedures the employer will use to provide initial and annual training in accordance with subsection (i) to employees in job categories identified in subsection (d)(2)(B).

(O) The procedures the employer will use for recordkeeping, in accordance with subsection (j).

(P) An effective procedure for obtaining the active involvement of employees in reviewing and updating the exposure control plan with respect to the procedures performed in their respective work areas or departments in accordance with subsection (d)(3).

(Q) Surge procedures. Employers of employees who are designated to provide services in surge conditions, and employers of employees who are designated to provide services to persons who have been contaminated as the result of a release of a biological agent as described in subsection (a)(1)(B), shall include procedures for these activities in the plan. The plan shall include work practices, decontamination facilities, and appropriate personal protective equipment and respiratory protection for such events. The procedures shall include how respiratory and personal protective equipment will be stockpiled, accessed or procured, and how the facility or operation will

interact with the local and regional emergency plan.

Violation:

Prior to and during the course of the inspection, including but not limited to, on May 4th, 2020 the employer failed to establish, implement, and maintain an effective, written ATD Exposure Control Plan, which contains all of the elements in subsection (d)(2) of Title 8 CCR §5199.

INSTANCE 1 [T8 CCR §5199(d)(2)(E)]: The employer did not establish the methods of implementation of subsection (e), (g), (h), (i) and (j) as they apply to the facility, service or work operation. Effective and specific control measures were not listed for each operation or work area in which occupational exposure occurs, including but not limited to:

- A. Specific control measures were not established for employees changing air filters and performing other HVAC maintenance;
- B. The employer's written specific control measures concerning COVID-19 required droplet precautions for influenza like illnesses instead of airborne infection isolation; and
- C. The employer's written specific control measures concerning COVID-19 initially only required source controls, such as surgical masks, to be by employees used in patient care areas and not in the entire facility.

INSTANCE 2 [T8 CCR §5199(d)(2)(I)]: The employer did not establish effective procedures for employees and supervisors to follow in the event of an exposure incident, including how the employer will determine which employees had a significant exposure, in accordance with subsections (h)(6) through (h)(9), specifically in the following:

- A. The procedure does not include specific timeframe for reporting exposure incidents from subsection (h)(6).
- B. The procedure does not require a PLHCP to review exposure incidents and recommendation regarding precautionary removal in accordance with subsection (h)(6) through (h)(8).
- C. The program does not specify that PLHCP opinions be written, and be provided to employees within 15 days in accordance with subsection (h)(9).

INSTANCE 3 [Title 8 CCR §5199(d)(2)(J)]: The employer did not establish procedures the employer will use to determine the cause of each exposure incident, and failed to revise existing procedures to prevent future incidents.

INSTANCE 4 [Title 8 CCR §5199(d)(2)(L)]: The employer did not establish procedures to inform other employers of exposure incidents where the employees of other employers may be exposed.

Date By Which Violation Must be Abated:

October 07, 2020

Proposed Penalty:

\$1125.00

State of California
Department of Industrial Relations
Division of Occupational Safety and Health
Fremont District Office
39141 Civic Center Drive, Suite 310
Fremont, CA 94538
Phone: (510) 794-2521 Fax: (510) 794-3889

Inspection #: 1474041
Inspection Dates: 05/04/2020 - 09/18/2020
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Citation and Notification of Penalty

Company Name: Santa Clara Valley Medical Center

Establishment DBA:

and its successors

Inspection Site: 751 S. Bascom Ave.
San Jose, CA 95128

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

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

Violation:

Prior to and during the course of the inspection, including but not limited to, on May 4th, 2020 the employer failed to ensure that each employee who is assigned to use a filtering facepiece or other tight-fitting respirator passes a fit test at least annually after the initial fitting.

Date By Which Violation Must be Abated:

October 07, 2020

Proposed Penalty:

\$935.00

Kelly Tatum
Compliance Officer / District Manager



NOTICE OF PROPOSED PENALTIES

Company Name: Santa Clara Valley Medical Center
Establishment DBA: and its successors
Inspection Site: 751 S. Bascom Ave. , San Jose, CA 95128
Mailing Address: 751 S. Bascom Ave. , San Jose, CA 95128
Issuance Date: 09/18/2020
Reporting ID: 0950612
CSHO ID: U1591

Summary of Penalties for Inspection Number 1474041

Citation 1 Item 1, General	\$1125.00
Citation 1 Item 2, General	\$935.00
TOTAL PROPOSED PENALTIES:	\$2060.00

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. Enclosed for your use is a Penalty Remittance Form.

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 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

CIVIL PENALTY INFO	INSPECTION NO.:	1474041	REPORTING ID:	0950612
COMPANY NAME:	Santa Clara Valley Medical Center		FEIN/SEIN:	UNKNOWN
ESTABLISHMENT DBA:				
CONTACT PERSON:	Paul Lorenz			
PHONE NO.:	(408) 885-5730		FAX NO.:	UNKNOWN
SITE ADDRESS:	751 S. Bascom Ave. , San Jose, CA 95128			
MAILING ADDRESS:	751 S. Bascom Ave. , San Jose, CA 95128			
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				

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

PAYMENT COUPON



Inspection No.: 1474041

Amount Enclosed: \$ _____

Mail payment to:

For credit card or EFT payment, go to:
www.dir.ca.gov/dosh/CalOSHA_PaymentOption.html

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