



CITATION AND NOTIFICATION OF PENALTY

To:

Sutter Bay Hospitals
DBA CPMC Davies Campus
and its successors
P.O. Box 7999
San Francisco, CA 94120

Inspection #: 1472716
Inspection Date (s): 04/11/2020 - 04/11/2020
Issuance Date: 09/18/2020
CSHO ID: W6628
Optional Report #: 015
Reporting ID: 0950611

Inspection Site:

45 Castro Street
San Francisco, CA 94114

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 Section 6317 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

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 that are not appealed. Enclosed for your use is a Penalty Remittance Form for payment.

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 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, if any, has already been reduced by 50% because abatement of those violations has been completed.

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

Division of Occupational Safety and Health
San Francisco District Office
455 Golden Gate Avenue, Suite 9516
San Francisco, CA 94102
Telephone: (415) 557-0100
Fax: (415) 557-0123

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
San Francisco District Office
455 Golden Gate Avenue, Suite 9516
San Francisco, CA 94102
Phone: (415) 557-0100 Fax: (415) 557-0123

Inspection #: 1472716
Inspection Dates: 04/11/2020 - 04/11/2020
Issuance Date: 09/18/2020
CSHO ID: W6628
Optional Report #: 015



Citation and Notification of Penalty

Company Name: Sutter Bay Hospitals
Establishment DBA: CPMC Davies Campus
and its successors
Inspection Site: 45 Castro Street
San Francisco, CA 94114

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

Title 8 CCR section 5199(d)(2)(K) Aerosol Transmissible Diseases.

(d) Aerosol Transmissible Diseases Exposure Control Plan.

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

(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).

Prior to and during the course of the inspection including, but not limited to April 11, 2020, the employer failed to implement effective procedures in its Aerosol Transmissible Diseases Exposure Control Plan and COVID Source Control Measures in that the employer did not communicate to employees regarding the status of persons with suspected or confirmed COVID-19 infection to whom the employees would be exposed in the course of their duties.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$600.00

State of California

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Division of Occupational Safety and Health
San Francisco District Office
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Company Name: Sutter Bay Hospitals
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Citation 2 Item 1 Type of Violation: **Serious**

Title 8 CCR section 5199(e)(1)(B). Aerosol Transmissible Diseases.

(e) Engineering and Work Practice Controls, and Personal Protective Equipment.

(1) General. Employers shall use feasible engineering and work practice controls to minimize employee exposures to ATPs. Where engineering and work practice controls do not provide sufficient protection (e.g., when an employee enters an All room or area) the employer shall provide, and ensure that employees use, personal protective equipment, and shall provide respiratory protection in accordance with subsection (g) to control exposures to AirIPs.

(B) Each employer shall implement written source control procedures. For fixed health care and correctional facilities, and in field operations to the extent that it is reasonably practicable, these procedures shall incorporate the recommendations contained in the Respiratory Hygiene/Cough Etiquette in Health Care Settings. The procedures shall include methods to inform individuals entering the facility, being transported by employees, or otherwise in close contact with employees, of the source control practices implemented by the employer.

Prior to and during the course of the inspection including, but not limited to April 11, 2020, the employer failed to effectively implement its written source control procedures (universal masking policy) to minimize the potential for SARs Cov-2 transmission, the virus that causes COVID-19, in that:

1. Security guards were not required to wear masks at all times when working in the Emergency Department; and
2. Healthcare workers were not wearing masks as required by employers source control plan when working in the administrative office area and medical surgical unit.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$9000.00

State of California

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San Francisco, CA 94102
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Inspection #: 1472716
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Citation and Notification of Penalty

Company Name: Sutter Bay Hospitals
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and its successors
Inspection Site: 45 Castro Street
San Francisco, CA 94114

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

Title 8 CCR section 5199(g). Respiratory Protection.

(g) 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:

(B) Is present during the performance of procedures or services for an AirID case or suspected case;

Reference: Title 8 CCR section 5199(g). Respiratory Protection.

(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 AirID 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.

Prior to and during the course of the inspection including, but not limited to on or about March 9 through March 13, the employer failed to provide, and ensure that employees used, appropriate respiratory protection in accordance with subsection (g)(3) and Section 5144 while the employees were present during the performance of procedures on a suspect AirID (COVID-19) patient in the operating room.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$5400.00

Denis McComb
Compliance Officer / District Manager

State of California
Department of Industrial Relations
Division of Occupational Safety and Health
San Francisco District Office
455 Golden Gate Avenue, Suite 9516
San Francisco, CA 94102
Phone: (415) 557-0100 Fax: (415) 557-0123



NOTICE OF PROPOSED PENALTIES

Company Name: Sutter Bay Hospitals
Establishment DBA: CPMC Davies Campus
and its successors
Inspection Site: 45 Castro Street, San Francisco, CA 94114
Mailing Address: P.O. Box 7999, San Francisco, CA 94120
Issuance Date: 09/18/2020
Reporting ID: 0950611
CSHO ID: W 6628

Summary of Penalties for Inspection Number 1472716

Citation 1 Item 1, General	\$600.00
Citation 2 Item 1, Serious	\$9000.00
Citation 3 Item 1, Serious	\$5400.00
TOTAL PROPOSED PENALTIES:	\$15000.00

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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.: 1472716	REPORTING ID: 0950611
COMPANY NAME:	Sutter Bay Hospitals	FEIN/SEIN: UNKNOWN
ESTABLISHMENT DBA:	CPMC Davies Campus	
CONTACT PERSON:	Jennifer Lataorraca	
PHONE NO.:	(415) 600-2058	FAX NO.: UNKNOWN
SITE ADDRESS:	45 Castro Street, San Francisco, CA 94114	
MAILING ADDRESS:	P.O. Box 7999, San Francisco, CA 94120	

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.: 1472716

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
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