

A **50 year old female** employee died due to exposure to the **COVID-19** virus as a result of working as a certified nurse assistant (CNA) in a 24-hour skilled nursing long and short-term care facility.

The facility had the first reported COVID case on July 24. At that time the facility designated a COVID positive wing (RED) to house residents and isolate them from the rest of residents. The facility also designated a quarantine hall (YELLOW) for residents who were moved off the Red wing awaiting assimilation back to the regular (GREEN) areas of the facility. The facility restricted access to the Red wing and installed plastic barrier walls to seal off Red wing or COVID hall from the rest of the facility. Employees would arrive to a screening station where they would answer screening questions and have a temperature check. After successful completion of the screening, they were given a bag with appropriate PPE for the area they worked. Employees working on the Red Wing or COVID hall would proceed outside, around the building and enter using the exterior door onto the hall. Employees not assigned to the Red Hall were not allowed into the area. The employer tests employees weekly for SARS-COV-2/COVID.

The victim had been working as the facility's supply clerk and was responsible for procuring, storing, and distributing supplies at the facility. As the facility began seeing an increase in SARS-COV-2 cases of the residents, the facility experienced a large number of employees who tested positive for SARS-COV-2. Half of the employees interviewed stated they had been positive for COVID since the outbreak. This increase left the facility with a staffing shortage. Faced with a shortage in staffing, the employer moved employees into the vacancies with employees from other areas. The victim was transferred to work on the facility's COVID hall or Red wing.

Interviews of the staff indicated that employees were not prepared for the new challenges that SARS-COV-2 presented with respect to infection control, PPE, and cleaning procedures. It was determined that the employer did have N-95 filtering facepieces on site but did not deploy them as employees had not been fit tested.

Also, it was learned that the employer did not deploy any type of air filtration or negative pressure ventilation on the Red or COVID hall, because that wing has its own HVAC system. OSHA recommends airborne infection isolation rooms (AIIRs) with proper ventilation. The employer had hung heavy mil plastic from the ceiling at the Red or COVID hall entrance to create a barrier from the main facility.

The employer failed to implement an adequate system of engineering, administrative and PPE controls to protect employees from the hazards of SARS-COV-2. When used correctly, the hierarchy of controls is a mechanism to implement the most effective system of protection. The employer relied on PPE and weak administrative controls to protect employees.

Citation(s) as Originally Issued

A complete inspection was conducted at the accident scene. Some of the items cited may not directly relate to the fatality.

Citation 1 Item 1 a **Type of Violation: Serious** **\$2,400**

29 CFR 1910.134(c)(1): A written respiratory protection program that included the provisions in 29 CFR 1910.134(c)(1)(i) - (ix) with worksite specific procedures was not established and implemented for required respirator use.

On 08/14/2020, the employer had not established and implemented a written respiratory protection program for employees required to wear KN-95 filtering facepieces in the workplace. An adequate written program would include, at minimum, the following provisions:

- 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.

Citation 1 Item 1b **Type of Violation: Serious** **\$0**

29 CFR 1910.134(e)(1): The employer did not provide a medical evaluation to determine the employee's ability to use a respirator, before the employee was fit tested or required to use the respirator in the workplace.

On 08/14/2020, the employer failed to provide a medical evaluation to employees who were required to wear KN-95 filtering facepieces.

Citation 1 Item 1c **Type of Violation: Serious** **\$0**

29 CFR 1910.134(f)(2): Employee(s) using tight-fitting facepiece respirators were not fit tested prior to initial use of the respirator.

On 08/14/2020, the employer failed to conduct fit testing for employees required to wear KN-95 filtering facepieces in the workplace

Citation 1 Item 1d **Type of Violation: Serious** **\$0**

29 CFR 1910.134(g)(1)(iii): Employee(s) did not perform a user seal check each time they put on a tight-fitting respirator using the procedure in Appendix B-1 of 29 CFR 1910.134 or procedures recommended by the respirator manufacturer that the employer demonstrated were as effective as those in Appendix B-1.

On 08/14/2020, the employer failed to ensure that employees, required to wear KN-95 filtering facepieces in the workplace, were performing user seal checks.

Citation 1 Item 1e **Type of Violation: Serious** **\$0**

29 CFR 1910.134(k)(1): The employer did not provide effective training to ensure that each employee could demonstrate knowledge of 1910.134(k)(1)(i) - (vii):

On 08/14/2020, the employer failed to provide effective training to employees required to wear KN-95 filtering facepieces in the workplace.

Adequate training would include, at minimum, 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; and
- f) How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators

Citation 1 Item 2 **Type of Violation: Serious** **\$2,400**

29 CFR 1910.141(a)(3)(i): Places of employment were not kept clean to the extent that the nature of the work allowed.

On 08/14/2020, the employer failed to ensure that frequently touched surfaces on the COVID

halls were effectively disinfected at the beginning of each shift and throughout the duration of the shift to protect employees from SARS-CoV-2.

Citation 1 Item 3a **Type of Violation: Serious** **\$3,500**

29 CFR 1910.1030(c)(1)(ii): The employer's Exposure Control Plan did not contain at least the elements in 29 CFR 1910.1030(c)(1)(ii)(A) through (c)(1)(ii)(C). The employer failed to provide a written program that included all the required elements for employees who are exposed to bloodborne pathogens and other potentially infectious materials.

An adequate written program would include, at minimum, the following elements:

- a) The exposure determination required by paragraph (c)(2);
- b) The schedule and method of implementation for paragraphs (d) Methods of Compliance, (e) HIV and HBV Research Laboratories and Production Facilities, (f) Hepatitis B Vaccination and Post-Exposure Evaluation and Follow-up, (g) Communication of Hazards to Employees, and (h) Recordkeeping, of this standard, and
- c) The procedure for the evaluation of circumstances surrounding exposure incidents as required by paragraph (f)(3)(i) of this standard.

Citation 1 Item 3b **Type of Violation: Serious** **\$0**

29 CFR 1910.1030(c)(1)(iv): The Exposure Control Plan was not reviewed and updated at least annually. The employer failed to provide documentation that the written Exposure Control Plan was reviewed and updated annually.

Citation 1 Item 3c **Type of Violation: Serious** **\$0**

29 CFR 1910.1030(f)(2)(iv): The employer did not ensure that employees who declined to accept the hepatitis B vaccination offered by the employer signed the statement in appendix A.

The employer failed to provide declination documents for one employee who declined to accept the hepatitis B vaccination.

Citation 1 Item 3d **Type of Violation: Serious** **\$0**

29 CFR 1910.1030(g)(2)(iv): Annual training for employees with occupational exposure was not provided within one year of their previous training.

The employer failed to provide annual bloodborne pathogens training for employees within one

year from the previous training from April 2018 to September 2019.

Citation 1 Item 3e **Type of Violation: Serious** **\$0**

29 CFR 1910.1030(g)(2)(vii)(A): The bloodborne pathogens training program did not contain an accessible copy of the regulatory text of this standard and an explanation of its contents.

The employer failed to provide a copy of the 1910.1030 Bloodborne Pathogen standard to employees who are potentially exposed to bloodborne pathogens or other potentially infectious materials

Citation 1 Item 3f **Type of Violation: Serious** **\$0**

29 CFR 1910.1030(g)(2)(vii)(N): The bloodborne pathogens training program did not contain an opportunity for interactive questions or answers with the person conducting the training session.

The employer failed to provide exposed employees interactive bloodborne pathogen training where employees had the opportunity to ask questions.

Citation 1 Item 3g **Type of Violation: Serious** **\$0**

29 CFR 1910.1030(h)(2)(i)(B): Employee training records for bloodborne pathogens did not include the contents or a summary of the training sessions.

The employer failed to ensure the bloodborne pathogens training records provided for 2019 included the contents or summary of the training content.

Citation 1 Item 3h **Type of Violation: Serious** **\$0**

29 CFR 1910.1030(h)(2)(i)(C): Employee training records for bloodborne pathogens did not include the names or qualifications of persons conducting the training.

The employer failed to ensure the bloodborne pathogens training records provided for 2018 and 2019 included the name and qualifications of the person(s) conducting the training.

Citation 1 Item 3i **Type of Violation: Serious** **\$0**

29 CFR 1910.1030(h)(2)(i)(D): Employee training records for bloodborne pathogens did not include the names or job titles of all persons attending the training sessions.

The employer failed to ensure the bloodborne pathogens training records provided for 2018 and 2019 included the name and title of the persons who received the training.

Citation 1 Item 3j **Type of Violation: Serious** **\$0**

29 CFR 1910.1030(h)(5)(i): The employer did not establish and maintain a sharps injury log for the recording of percutaneous injuries from contaminated sharps.

On 09/09/2020, the employer failed to record a sharps injury that occurred on 08/31/2020 on the log provided for 2020.

Citation 1 Item 3k **Type of Violation: Serious** **\$0**

TDLWD Rule 0800-01-10-.04(1): The employer's exposure control plan did not contain documentation of the type and brand of device in use when an exposure incident occurred.

On 09/09/2020, the employer failed to document the type and brand of a device in use for an exposure incident of an employee that occurred on 08/31/2020.

Citation 1 Item 3l **Type of Violation: Serious** **\$0**

TDLWD Rule 0800-01-10-.04(2): Engineered sharps injury protection devices evaluated and currently used were not documented in the Exposure Control Plan.

The employer failed to document the type and brand of a devices evaluated and in use on the Exposure Control Plan.

Citation 1 Item 4a **Type of Violation: Serious** **\$2,400**

29 CFR 1910.1200(e)(1)(i): The employer did not compile a list of the hazardous chemicals known to be present using a product identifier that was referenced on the appropriate safety data sheet.

On 08/14/2020, the employer failed to compile a list of hazardous chemicals present in the facility which includes, natural gas, carbon monoxide, ECOLAB Tri-Star Flexylite detergent, ECOLAB Tri-Star Aqua Soft fabric softener, ECOLAB Laundri Perma Brite Clorox Healthcare Bleach, Germicidal Cleaner Spray, and Clorox Pro Clorox Germicidal Bleach.

Citation 1 Item 4b

Type of Violation: Serious

\$0

29 CFR 1910.1200(e)(2): The employer that produced, used, or stored hazardous chemicals at the workplace in such a way that employees of other employer(s) could be exposed did not ensure that the hazard communication program included all of the elements outlined in 29 CFR 1910.1200(e)(2)(i) through 29 CFR 1910.1200(e)(2)(iii).

On 08/14/2020, the employer failed to address the methods to communicate the hazardous associated with chemicals present in the facility which includes, natural gas, carbon monoxide, ECOLAB Tri-Star Flexylite detergent, ECOLAB Tri-Star Aqua Soft fabric softener, ECOLAB Laundri Perma BriteClorox Healthcare, Bleach Germicidal Cleaner Spray, and CloroxPro Clorox Germicidal Bleach.

An adequate written program would include, at minimum, the following provisions:

- a) The methods the employer will use to provide the other employer(s) on-site access to safety data sheets for each hazardous chemical the other employer(s)' employees may be exposed to while working
- b) methods the employer will use to inform the other employer(s) of any precautionary measures that need to be taken to protect employees during the workplace's normal operating conditions and in foreseeable emergencies; and,
- c) methods the employer will use to inform the other employer(s) of the labeling system used in the workplace.

Citation 1 Item 4c

Type of Violation: Serious

\$0

29 CFR 1910.1200(g)(1): Employers did not have a safety data sheet in the workplace for each hazardous chemical which they use.

On 08/14/2020, the employer failed to provide safety data sheets for hazardous chemicals present in the facility which includes, natural gas.

Citation 2 Item 1

Type of Violation: Other-than-Serious

\$300

TDLWD Rule 0800-01-03-.03(5)(b)3(vii): The employer did not correctly record the number of calendar days of injury or illnesses cases on the OSHA 300 Log which resulted in days away from work or days of job transfer.

On 08/14/2020, the employer failed to record the number of calendar days of injury or illnesses on the 2017 OSHA 300 Log which resulted in days away from work or days of job transfer.

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