

U.S. Department of Labor Occupational Safety and Health Administration
6393 Oak Tree Blvd
Suite 203
Independence, OH 44131



07/13/2020

OHNH EMP, LLC, dba Salem North Healthcare Center
250 Continental Drive
Salem, OH 44460

Dear Employer,

Enclosed you will find citations for violations of the Occupational Safety and Health Act of 1970 (the Act) which may have accompanying proposed penalties. Also enclosed is a booklet entitled, "Employer Rights and Responsibilities Following a Federal OSHA Inspection", (OSHA 3000-04R) revised 2018, which explains your rights and responsibilities under the Act. If you have any questions about the enclosed citations and penalties, I would welcome further discussions in person or by telephone. Please contact me at 216-447-4194.

You will note on page 2 of the booklet that, for violations which you do not contest, you must (1) notify this office promptly by letter that you have taken appropriate corrective action within the time set forth on the citation; and (2) pay any penalties assessed. Please inform me of the abatement steps you have taken and of their dates together with adequate supporting documentation; e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results. This information will allow us to close the case.

As indicated on page 3 of the booklet, you may request an informal conference with me during the 15-working-day notice of contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation or the penalty.

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of the citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete the attached notice at the bottom of this letter and post it next to the Citations as soon as the time, date and the place of the informal conference have been determined. Be sure to bring to the conference with you any and all supporting documentation of existing conditions as well as of any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read 'HBE', is written over the word 'Sincerely,'.

Howard B Eberts
Area Director

Enclosures

U.S. Department of Labor
Occupational Safety and Health Administration
6393 Oak Tree Blvd
Suite 203
Independence, OH 44131



Citation and Notification of Penalty

To:
OHNH EMP, LLC, dba Salem North Healthcare
Center
and its successors
250 Continental Drive
Salem, OH 44460

Inspection Site:
250 Continental Drive
Salem, OH 44460

Inspection Number: 1475615
Inspection Date(s): 05/18/2020 - 06/01/2020
Issuance Date: 07/13/2020

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 (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty **you either call to schedule an informal conference (see paragraph below) or** you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period by calling 216-447-4194. During such an informal conference you may present any evidence or views which you believe would

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Right to Contest – You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. **Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.**

Penalty Payment – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to “DOL-OSHA”. Please indicate the Inspection Number on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type “OSHA” and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

Notification of Corrective Action – For each violation which you do not contest, you must provide ***abatement certification*** to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that ***abatement documentation*** is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

Employer Discrimination Unlawful – The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees – The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 07/13/2020. The conference will be held by telephone or at the OSHA office located at 6393 Oak Tree Blvd, Suite 203, Independence, OH 44131 on _____ at

_____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1475615

Company Name: OHNH EMP, LLC, dba Salem North Healthcare Center

Inspection Site: 250 Continental Drive, Salem, OH 44460

Issuance Date: 07/13/2020

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 6393 Oak Tree Blvd, Suite 203, Independence, OH 44131**

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

Signature

Date

Typed or Printed Name

Title

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review



Citation and Notification of Penalty

Company Name: OHNH EMP, LLC, dba Salem North Healthcare Center
Inspection Site: 250 Continental Drive, Salem, OH 44460

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

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

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 or about March 17, 2020, where the use of respiratory protection including, but not limited to 8611 N95 Respirators and AlphaProTech 695 N-95 Respirators was necessary for employees when administering any respiratory treatment which may result in aerosolization of viral particles including, but not limited to tracheostomy care and application or adjustment of oxygen masks, the facility's N95 Policy did not meet the requirements of a written respiratory protection program in that:

- a. The policy does not include provisions for medical evaluations. 1910.134(c)(1)(ii)
- b. The policy does not include provisions for fit testing. 1910.134(c)(1)(iii)
- c. The policy does not include procedures for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators. 1910.134(c)(1)(v)
- d. The policy does not outline procedures for training employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance. 1910.134(c)(1)(viii)

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$13494.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: OHNH EMP, LLC, dba Salem North Healthcare Center
Inspection Site: 250 Continental Drive, Salem, OH 44460

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

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 or about March 17, 2020, where the use of respiratory protection including, but not limited to 8611 N95 Respirators and AlphaProTech 695 N-95 Respirators was necessary for employees when administering any respiratory treatment which may result in aerosolization of viral particles including, but not limited to tracheostomy care and application or adjustment of oxygen masks, the employer did not ensure that medical evaluations were conducted prior to providing respirators for use.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

07/31/2020

A handwritten signature in blue ink, appearing to read "H. Eberts", written over a horizontal line.

Howard B Eberts
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
6393 Oak Tree Blvd
Suite 203
Independence, OH 44131



INVOICE / DEBT COLLECTION NOTICE

Company Name: OHNH EMP, LLC, dba Salem North Healthcare Center
Inspection Site: 250 Continental Drive, Salem, OH 44460
Issuance Date: 07/13/2020

Summary of Penalties for Inspection Number	1475615
Citation 1, Serious	\$13494.00
TOTAL PROPOSED PENALTIES	\$13494.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

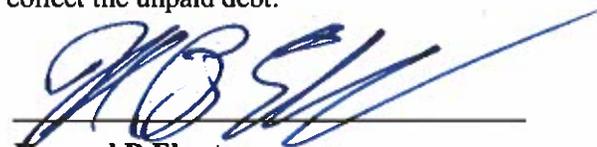
If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

Interest: Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is one percent (1%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs: Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.



Howard B Eberts
Area Director

7-13-2020

Date

U.S. Department of Labor

Occupational Safety and Health Administration
Cleveland Area Office
6393 Oak Tree Blvd, Suite 203
Independence, OH 44131



July 13, 2020

OHNH EMP, LLC dba Salem North Healthcare Center
250 Continental Drive
Salem, OH 44460

RE: OSHA Inspection No. 1475615

Dear Employer:

An inspection and evaluation of your workplace at 250 Continental Drive, Salem, OH, 44460 on May 18, 2020 disclosed the following workplace conditions which raise concerns about the potential for employee illness(es) related to exposure to SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), which is the virus causing coronavirus disease 2019 (COVID-19).

- 1. Employees required to wear N95 respirators while working in a resident care facility have not been fit tested. Care may be provided to residents who are sick with COVID-19.*
- 2. Employees that wear N95 respirators are instructed to utilize N95 respirators for seven days, which could expose them to COVID-19 due to a decreased protection caused by loss of respirator functionality.*

In the course of its investigation, OSHA became aware that employees continued to use N-95 filtering facepiece respirators for up to seven (7) days or until soiled or damaged. This practice was also memorialized in an April 15, 2020, memo to the employees which read, in part: *"Employees were educated on proper fit of N-95 masks and to wear until soiled or damaged. A surgical mask is issued daily to be worn over the top of N-95"*. The practice of an extremely long reuse of this type of respirator carries a significant risk of contact transmission of SARS-CoV-2 transmission from touching the surface of the contaminated respirator. Repeated handling of the respirator may also lead to deterioration of straps or fabric, leading to a reduced facial seal and consequently diminished protective factor. As such, both OSHA in its 20 CFR 1910.134 regulation and most manufacturer guidance require inspection of the respirator before each use, to examine the respirator parts for signs of damage, in order to ensure the continued effectiveness of the respirator.

In addition, please be advised that the practice of covering N-95 respirators with a surgical mask may interfere with the National Institute of Occupational Safety and Health (NIOSH) certification of that particular type of respirator, particularly in the inhalation and exhalation resistance tests. Please refer to the respirator manufacturer's guidance for specific User Instructions. Additional information on these tests is found on the NIOSH website at: <https://www.cdc.gov/niosh/npptl/stps/apresp.html>

Guidance on the number of reuses of N-95 filtering facepiece respirators is available on the Centers for Disease Control and Prevention (CDC) website at the following address:

<https://www.cdc.gov/niosh/topics/hcwcontrols/recommendedguidanceextuse.html>

“Recommended Guidance for Extended Use and Limited Reuse of N95 Filtering Facepiece Respirators in Healthcare Settings”, the CDC states “To reduce the chances of decreased protection caused by a loss of respirator functionality, respiratory protection program managers should consult with the respirator manufacturer regarding the maximum number of donnings or uses they recommend for the N95 respirator model(s) used in that facility. If no manufacturer guidance is available, preliminary data suggests limiting the number of reuses to no more than five uses per device to ensure an adequate safety margin.”

Based on OSHA regulations and the current CDC guidance, which are listed at the end of this letter, it is recommended that you take the following steps to materially reduce your employees' exposure to the hazards and conditions listed above:

- a) Conduct initial and annual fit testing for those required to wear tight fitting respiratory protection as part of a comprehensive respiratory protection program. This is a requirement under OSHA's 29 CFR 1910.134 Respiratory Protection standard. During the course of the inspection, it was determined that a good faith effort was made to fit test employees but due to nationwide shortage of fit testing equipment, this was not achieved by the time of the OSHA inspection. Continue efforts to acquire this equipment and fit test all affected employees at the earliest opportunity.
- b) Consider NIOSH-certified elastomeric respirators (e.g., cartridge respirators) for essential workers who may have to decontaminate and reuse respirators in the event that there is a shortage of disposable respirators.
- c) Follow the employer's maximum number of uses (or up to five if the manufacturer does not provide a recommendation) and recommended inspection procedures.

For OSHA's latest information and guidance on the COVID-19 outbreak, please refer to OSHA's COVID-19 Safety and Health Topics page, located at www.osha.gov/coronavirus. Additionally, specific employer guidance is available (for healthcare workers, airline workers, business travelers, etc.).

1. Preventing Worker Exposure to Coronavirus (COVID-19), OSHA publication 3989), www.osha.gov/Publications/OSHA3989.pdf.
2. Guidance on Preparing for COVID-19, (OSHA publication 3990), www.osha.gov/Publications/OSHA3990.pdf.

The Centers for Disease Control and Prevention (CDC) also maintains a website that provides information for employers concerned with COVID-19 infections in the workplace. The CDC has provided specific guidance for businesses and employers at the following CDC webpage, which is updated regularly: www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html.

1. For general information and guidance on the COVID-19 outbreak, please refer to the CDC's main topic webpage at www.cdc.gov/coronavirus/2019-ncov/index.html.
2. Strategies for conserving/optimizing the supply of respirators:

- a. www.cdc.gov/coronavirus/2019-ncov/hcp/respirator-supply-strategies.html#ppe-respiratory-protection.
 - b. www.cdc.gov/coronavirus/2019-ncov/release-stockpiled-N95.html
 - c. www.cdc.gov/niosh/topics/hcwcontrols/recommendedguidanceextuse.html
3. Hospital Preparedness Assessment Tool, www.cdc.gov/coronavirus/2019-ncov/downloads/hospital-preparedness-checklist.pdf. Also, for Infection Control Guidance, www.cdc.gov/oralhealth/infectioncontrol/statement-COVID.html.

You may voluntarily provide this Area Office with progress reports on your efforts to address COVID-19 hazards in your workplace. OSHA may return to your worksite to further examine the conditions noted above.

Enclosed is a list of available resources that may be of assistance to you in preventing work-related injuries and illnesses in your workplace. Additionally, general resources for compliance assistance are available at www.osha.gov/employers/.

Sincerely,



Howard B. Eberts
Area Director

U.S. Department of Labor Occupational Safety and Health Administration
6393 Oak Tree Blvd
Suite 203
Independence, OH 44131



07/13/2020

OHNH EMP, LLC, dba Salem West Healthcare Center
2511 Bentley Drive
Salem, OH 44460

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Howard B Eberts
Area Director

Enclosures

U.S. Department of Labor
Occupational Safety and Health Administration
6393 Oak Tree Blvd
Suite 203
Independence, OH 44131



Citation and Notification of Penalty

To:
OHNH EMP, LLC, dba Salem West Healthcare Center
and its successors
2511 Bentley Drive
Salem, OH 44460

Inspection Number: 1472885
Inspection Date(s): 04/22/2020 - 05/19/2020
Issuance Date: 07/13/2020

Inspection Site:
2511 Bentley Dr.
Salem, OH 44460

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You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

Notification of Corrective Action – For each violation which you do not contest, you must provide *abatement certification* to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that *abatement documentation* is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

Employer Discrimination Unlawful – The law prohibits discrimination by an employer against an

employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees – The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 07/13/2020. The conference will be held by telephone or at the OSHA office located at 6393 Oak Tree Blvd, Suite 203, Independence, OH 44131 on _____ at

_____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1472885

Company Name: OHNH EMP, LLC, dba Salem West Healthcare Center
Inspection Site: 2511 Bentley Dr., Salem, OH 44460
Issuance Date: 07/13/2020

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 6393 Oak Tree Blvd, Suite 203, Independence, OH 44131**

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

Signature

Date

Typed or Printed Name

Title

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review



Citation and Notification of Penalty

Company Name: OHNH EMP, LLC, dba Salem West Healthcare Center
Inspection Site: 2511 Bentley Dr., Salem, OH 44460

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

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

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 or about March 17, 2020, where the use of respiratory protection including, but not limited to 8611 N95 Respirators and AlphaProTech 695 N-95 Respirators was necessary for employees when administering any respiratory treatment which may result in aerosolization of viral particles including, but not limited to tracheostomy care and application or adjustment of oxygen masks, the facility's N95 Policy did not meet the requirements of a written respiratory protection program in that:

- a. The policy does not include provisions for medical evaluations. 1910.134(c)(1)(ii)
- b. The policy does not include provisions for fit testing. 1910.134(c)(1)(iii)
- c. The policy does not include procedures for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators. 1910.134(c)(1)(v)
- d. The policy does not outline procedures for training employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance. 1910.134(c)(1)(viii)

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$13494.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: OHNH EMP, LLC, dba Salem West Healthcare Center
Inspection Site: 2511 Bentley Dr., Salem, OH 44460

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

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 or about March 17, 2020, where the use of respiratory protection including, but not limited to 8611 N95 Respirators and AlphaProTech 695 N-95 Respirators was necessary for employees when administering any respiratory treatment which may result in aerosolization of viral particles including, but not limited to tracheostomy care and application or adjustment of oxygen masks, the employer did not ensure that medical evaluations were conducted prior to providing respirators for use.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

07/31/2020

A handwritten signature in blue ink, appearing to read "HBE", is written over a horizontal line.

Howard B Eberts
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
6393 Oak Tree Blvd
Suite 203
Independence, OH 44131



INVOICE / DEBT COLLECTION NOTICE

Company Name: OHNH EMP, LLC, dba Salem West Healthcare Center
Inspection Site: 2511 Bentley Dr., Salem, OH 44460
Issuance Date: 07/13/2020

Summary of Penalties for Inspection Number	1472885
Citation 1, Serious	\$13494.00
TOTAL PROPOSED PENALTIES	\$13494.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

Interest: Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is one percent (1%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs: Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.



Howard B Eberts

Area Director

7-13-2020
Date

U.S. Department of Labor

Occupational Safety and Health Administration
Cleveland Area Office
6393 Oak Tree Blvd, Suite 203
Independence, OH 44131



July 13, 2020

OHNH EMP, LLC dba Salem West Healthcare Center
2511 Bentley Drive
Salem, OH 44460

RE: OSHA Inspection No. 1472885

Dear Employer:

An inspection and evaluation of your workplace at 2511 Bentley Drive, Salem, OH, 44460 on April 22, 2020 disclosed the following workplace conditions which raise concerns about the potential for employee illness(es) related to exposure to SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), which is the virus causing coronavirus disease 2019 (COVID-19).

- 1. Employees required to wear N95 respirators while working in a resident care facility have not been fit tested. Care may be provided to residents who are sick with COVID-19.*
- 2. Employees that wear N95 respirators are instructed to utilize N95 respirators for seven days, which could expose them to COVID-19 due to a decreased protection caused by loss of respirator functionality.*

In the course of its investigation, OSHA became aware that employees continued to use N-95 filtering facepiece respirators for up to seven (7) days or until soiled or damaged. This practice was also memorialized in an April 15, 2020, memo to the employees which read, in part: *"Employees were educated on proper fit of N-95 masks and to wear until soiled or damaged. A surgical mask is issued daily to be worn over the top of N-95"*. The practice of an extremely long reuse of this type of respirator carries a significant risk of contact transmission of SARS-CoV-2 transmission from touching the surface of the contaminated respirator. Repeated handling of the respirator may also lead to deterioration of straps or fabric, leading to a reduced facial seal and consequently diminished protective factor. As such, both OSHA in its 20 CFR 1910.134 regulation and most manufacturer guidance require inspection of the respirator before each use, to examine the respirator parts for signs of damage, in order to ensure the continued effectiveness of the respirator.

In addition, please be advised that the practice of covering N-95 respirators with a surgical mask may interfere with the National Institute of Occupational Safety and Health (NIOSH) certification of that particular type of respirator, particularly in the inhalation and exhalation resistance tests. Please refer to the respirator manufacturer's guidance for specific User Instructions. Additional information on these tests is found on the NIOSH website at: <https://www.cdc.gov/niosh/npptl/stps/apresp.html>

Guidance on the number of reuses of N-95 filtering facepiece respirators is available on the Centers for Disease Control and Prevention (CDC) website at the following address:

<https://www.cdc.gov/niosh/topics/hcwcontrols/recommendedguidanceextuse.html>

“Recommended Guidance for Extended Use and Limited Reuse of N95 Filtering Facepiece Respirators in Healthcare Settings”, the CDC states “To reduce the chances of decreased protection caused by a loss of respirator functionality, respiratory protection program managers should consult with the respirator manufacturer regarding the maximum number of donnings or uses they recommend for the N95 respirator model(s) used in that facility. If no manufacturer guidance is available, preliminary data suggests limiting the number of reuses to no more than five uses per device to ensure an adequate safety margin.”

Based on OSHA regulations and the current CDC guidance, which are listed at the end of this letter, it is recommended that you take the following steps to materially reduce your employees’ exposure to the hazards and conditions listed above:

- a) Conduct initial and annual fit testing for those required to wear tight fitting respiratory protection as part of a comprehensive respiratory protection program. This is a requirement under OSHA’s 29 CFR 1910.134 Respiratory Protection standard. During the course of the inspection, it was determined that a good faith effort was made to fit test employees but due to nationwide shortage of fit testing equipment, this was not achieved by the time of the OSHA inspection. Continue efforts to acquire this equipment and fit test all affected employees at the earliest opportunity.
- b) Consider NIOSH-certified elastomeric respirators (e.g., cartridge respirators) for essential workers who may have to decontaminate and reuse respirators in the event that there is a shortage of disposable respirators.
- c) Follow the employer’s maximum number of uses (or up to five if the manufacturer does not provide a recommendation) and recommended inspection procedures.

For OSHA’s latest information and guidance on the COVID-19 outbreak, please refer to OSHA’s COVID-19 Safety and Health Topics page, located at www.osha.gov/coronavirus. Additionally, specific employer guidance is available (for healthcare workers, airline workers, business travelers, etc.).

1. Preventing Worker Exposure to Coronavirus (COVID-19), OSHA publication 3989), www.osha.gov/Publications/OSHA3989.pdf.
2. Guidance on Preparing for COVID-19, (OSHA publication 3990), www.osha.gov/Publications/OSHA3990.pdf.

The Centers for Disease Control and Prevention (CDC) also maintains a website that provides information for employers concerned with COVID-19 infections in the workplace. The CDC has provided specific guidance for businesses and employers at the following CDC webpage, which is updated regularly: www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html.

1. For general information and guidance on the COVID-19 outbreak, please refer to the CDC’s main topic webpage at www.cdc.gov/coronavirus/2019-ncov/index.html.
2. Strategies for conserving/optimizing the supply of respirators:

- a. www.cdc.gov/coronavirus/2019-ncov/hcp/respirator-supply-strategies.html#ppe-respiratory-protection.
 - b. www.cdc.gov/coronavirus/2019-ncov/release-stockpiled-N95.html
 - c. www.cdc.gov/niosh/topics/hcwcontrols/recommendedguidanceextuse.html
3. Hospital Preparedness Assessment Tool, www.cdc.gov/coronavirus/2019-ncov/downloads/hospital-preparedness-checklist.pdf. Also, for Infection Control Guidance, www.cdc.gov/oralhealth/infectioncontrol/statement-COVID.html.

You may voluntarily provide this Area Office with progress reports on your efforts to address COVID-19 hazards in your workplace. OSHA may return to your worksite to further examine the conditions noted above.

Enclosed is a list of available resources that may be of assistance to you in preventing work-related injuries and illnesses in your workplace. Additionally, general resources for compliance assistance are available at www.osha.gov/employers/.

Sincerely,



Howard B. Eberts
Area Director