CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF PUBLIC HEALTH

Accepted 8/12/10

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	050180	A BUILDING B WING	06/29/2010

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
John Muir Medical Center- Walnut Creek Campus	1601 YGNACIO VALLEY ROAD, WALNUT CREEK, CA 94598 CONTRA COSTA COUNTY

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	The following reflects the findings of the Department of Public Health during a complaint/breach event visit: Complaint Intake Number: CA00200378 - Substantiated Representing the Department of Public Health: [redacted] HFEN The inspection was limited to the specific facility event investigated and does not represent the findings of a full inspection of the facility. Health and Safety Code Section 1280.15(a) A clinic, health facility, home health agency, or hospice licensed pursuant to Section 1204, 1250, 1725, or 1745 shall prevent unlawful or unauthorized access to, and use or disclosure of, patients' medical information, as defined in subdivision (g) of Section 56.05 of the Civil Code and consistent with Section 130203. The department, after investigation, may assess an administrative penalty for a violation of this section of up to twenty-five thousand dollars ($25,000) per patient whose medical information was unlawfully or without authorization accessed, used, or disclosed, and up to seventeen thousand five hundred dollars ($17,500) per subsequent occurrence of unlawful or unauthorized access, use, or disclosure of that patients' medical information. The hospital detected the breach on 8/11/09 and informed the Department within the required five business day time period.		**Plan of Correction Response for Complaint # CA00200378:** To ensure correction was accomplished both temporarily and permanently for each the following actions have been taken: 1. Patient 90 and Wife notified via US mail of incident and offered credit monitoring protection service. **Responsible Person:** VP Chief Compliance and Privacy Officer 2. Implemented new process for management of the "Emergency Department Patient Information Sheets" which requires that clerks immediately scan and shred information sheets upon receipt from the patient. This new process will provide additional safeguards to further protect patient information from unauthorized access, use or disclosure. **Responsible Person:** Office Manager, Emergency Department and Director, Emergency Department 3. Reviewed and educated Clerical Staff on new process. **Responsible Person:** Office Manager, Emergency Department	8/17/09 9/9/09 9/15/09 & 9/17/09

Event ID:YR3L11 7/30/2010 9:10:44AM

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X8) DATE
[signature]	VP-CCO	8/9/10

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	Continued From page 1 Based on observation, interview, and record review, the hospital failed to safeguard the information in Patient 90's medical record by failing to protect the "Emergency Department Patient Information Sheet" resulting in the identity theft of patient and his wife. Findings: On 5/20/10, Assistant Compliance Officer presented for review the hospital "Privacy Breach Investigation Form" for the breach in the confidentiality of Patient 90's medical information. The "Privacy Breach Investigation Form", dated 8/17/09, included the Incident Report Form (an eight pages document) and showed that Patient 90's wife called the hospital on 8/11/09 to report that she had been the victim of identity theft and that the person responsible for this crime had on her possession, at the time of arrest, health information from the hospital which she used to commit fraud. Further review showed that Patient 90's wife brought Patient 90 to the ED (Emergency Department) for care on [redacted]09. As part of the registration process, the wife completed the hospital form titled "[Hospital name] Emergency Department Patient Information Sheet" and provided Patient 90 and her (as she was the primary insured) personal information including the full names, dates of birth, address, and social security numbers. Patient 90 was admitted and later discharged. The wife also reported that within a few weeks after Patient 90's discharge from the		**Continue Plan of Correction Response for Complaint # CA00200378:** 4. Implement new process for closure of "pods" by clerical staff members within the Emergency Department. New process requires that prior to a pod closure; all patient related documentation (non-patient information sheets) will be physically moved by the appropriate clerk to Pod 3, which is always occupied by a clerical staff member. This new process will further safeguard patient information maintained by clerical staff within the Emergency Department. **Responsible Person:** Office Manager, Emergency Department 5. Daily review conducted three times per day (each shift) in a 24-hour period to ensure clerks compliance with department procedure for scanning and shredding patient information sheets. Review to continue for a period of 30 days to ensure 100% compliance with department procedure. Appropriate action to be taken in accordance with review findings. Review to be re-evaluated after 30 days to ascertain whether monitoring will be continued, discontinued or revised. **Responsible Person:** Office Manager, Emergency Department and Lead Clerk, Emergency Department	8/9/10 8/9/2010 (on-going for a period of 30 days)

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NAME OF PROVIDER OR SUPPLIER: John Muir Medical Center- Walnut Creek Campus	STREET ADDRESS, CITY, STATE, ZIP CODE: 1601 YGNACIO VALLEY ROAD, WALNUT CREEK, CA 94598 CONTRA COSTA COUNTY		

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	Continued From page 2 hospital, she discovered that a person was using her information to open credit accounts and make purchases in her name. The person responsible was arrested and was found to have in her possession a document from the hospital, which she was using to open up these accounts and which was later identified as being the "Emergency Department Patient Information Sheet". Review on 5/20/10 of the "Emergency Department Patient Information Sheet" for Patient 90 showed that it included Patient 90's protected health information including, name, age, gender, social security number, address, physician, account number, medical record number, admission date, employment status, and employers address. It also contained information about Patient 90's wife, including her full name, age, marital status, address, social security number, and health insurance information. The Incident Report Form further showed that the "Emergency Department Patient Information Sheet" was used by registration staff at the time of patient's admission to obtain the name, date of birth, address, social security number and insurance information, and it was filled out by the patient or a family member/agent of the patient. The sheet was used by the Registration clerk and the financial counselor to enter the patient's data into the hospital's data system, and was then handed off to the lead clerk, who would then place it into a basket that sat directly behind the lead clerk's desk. It was the lead clerk's job to assure the accuracy of the information and scan the sheet into			

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	Continued From page 3 the patient's record. According to the Incident Report, the "Emergency Department Patient Information Sheet" could sit in the basket for up to two days. An ED lead clerk and an ED transporter (staff assigned the duties of transporting patients within the hospital) were investigated by the hospital and found to be related to the person responsible for the identity theft. The incident was still under investigation by a police task force. Observation on 6/30/10 at 10:30 a.m. of the Emergency Department, in the presence of ED Manager, showed three areas, called "pods", that were desk areas with a glass wall in the front of the desk. Entry to the pod area was by way of an open walkway at either end of the desk. There was no door or partition. Pod 3 had a desk facing the glass wall, had computer terminals and chairs facing the glass wall, and a counter behind the desk, with a basket holding completed admitting papers on it. The ED Manager stated the lead clerk worked at Pod 3. The hospital policy titled, " PHI- Privacy Practices: Uses and Disclosures of Protected Health Information ", revised 9/07 and reviewed on 5/20/10, stated, "workforce members (employee, volunteers, others), physicians, and other allied health professionals while providing care may not use or disclose PHI in a manner inconsistent with federal and state laws and regulations." The policy instructed staff to make sure that medical information that identifies the patient is kept private, except as the patient authorizes or as laws require or permit. The policy further instructed,			

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	Continued From page 4 "Reasonable precautions must be taken to minimize the chance of inadvertent disclosure of PHI to individuals who do not have a need to know."			

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