

*PDK - acceptable
9/22/09 for 9/17/09*

PRINTED: 07/15/2009
FORM APPROVED

California Department of Health Services

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: CA930000074	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED 05/12/2009
NAME OF PROVIDER OR SUPPLIER KAISER FOUNDATION HOSPITAL		STREET ADDRESS, CITY, STATE, ZIP CODE 9400 E ROSECRANS AVE BELLFLOWER, CA 90706		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
E 000	Initial Comments The following reflects the findings of the Department of Public Health during a Complaint visit Complaint Intake Number: CA00186764 - Substantiated The inspection was limited to the specific complaint investigated and does not represent the findings of a full inspection of the facility. Representing the Department of Public Health:  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 seven thousand five hundred dollars (\$7,500) per subsequent occurrence of unlawful or unauthorized access, use, or disclosure of that patients' medical information.	E 000		
E1953	T22 DIV6 CH1 ART7-70707(b)(6) Patients' Rights (b) A list of these patients' rights shall be posted	E1953		

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

[Signature]

Chief Operating Officer

7-23-09

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E1953	Continued From Page 1 In both Spanish and English in appropriate places within the hospital so that such rights may be read by patients. This list shall include but not be limited to the patients' rights to: (8) Confidential treatment of all communications and records pertaining to the care and the stay in the hospital. Written permission shall be obtained before the medical records can be made available to anyone not directly concerned with the care. This RULE: is not met as evidenced by: Based on record review and interview, the facility failed to maintain the privacy and confidentiality of four (4) patients' medical records for Patients 1, 2, 3, and 4. For Patient 1's medical record, six employees inappropriately accessed the patient's electronic record without authorization. For Patient 2's medical record, one employee inappropriately accessed the patient's electronic record without authorization. For Patient 3's medical record, one employee inappropriately accessed the patient's electronic record without authorization. For Patient 4's medical record, one employee inappropriately accessed the patient's electronic record without authorization. Findings: On May 4, 2009, a self-reported facility incident was investigated regarding a breach in the electronic medical records for Patients 1, 2, 3 and 4. A review of the facility investigative report dated April 28, 2009, disclosed, "through subsequent investigation and employee interviews" the hospital had "ascertained" that five (5)	E1953	All employees and physicians receive confidentiality training at the time of orientation and annually. Training regarding the Kaiser Permanente Principles of Responsibility, including the importance of patient privacy, is mandatory for all employees and physicians. The 8 employees who were reported for impermissible access to the patients' electronic medical records had received training and had completed mandatory "refresher" education. Confidentiality agreements were signed by the 8 employees who had impermissible access to the records. As part of the training, employees are informed that a breach of confidentiality will lead to disciplinary action, up to and including termination. Information related to HIPAA and confidentiality of protected healthcare information is posted on the Kaiser Permanente intranet site and is accessible to employees. The hospital's Compliance Officer conducts ongoing staff and physician training. This year, the annual compliance training began on April 4, 2009 and will be ongoing throughout the year.	

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E1953	<p>Continued From Page 2</p> <p>employees had inappropriately accessed the electronic medical record of Patient 1, one employee had inappropriately accessed the electronic medical record of Patient 1 and Patient 2, one employee had inappropriately accessed the electronic record of Patient 3 and one employee had inappropriately accessed the electronic record of Patient 4.</p> <p>During an interview with Administrative Staff A on May 4, 2009 at 8:25 a.m., she stated that eight (8) employees accessed the electronic records of Patient #'s 1, 2, 3, and 4 without authorization. Administrative Staff A stated one registered nurse (RN) from Medical/Surgical, who, "Had no business. No need to know," viewed the electronic medical records of Patient 1 and Patient 2. Administrative Staff A also stated that another RN from Labor and Delivery (L&D) viewed the medical record of Patient 1 and "she should not have." According to Administrative Staff A, there was no signed consent or authorization for release of medical information to the above mentioned eight employees in the patients' medical record. Administrative Staff A stated six of the eight employees resigned, one employee was terminated and disciplinary action was taken against one employee.</p> <p>A review of the facility Impermissible Medical Record Access dated April 24, 2009, disclosed nine impermissible accessions by eight employees: Employee A, B, C, D, E and F inappropriately accessed Patient 1's electronic record. Employee C inappropriately accessed Patient 1's and Patient 2's electronic medical records. Employee G inappropriately accessed Patient 3's electronic record. Employee H inappropriately accessed Patient 4's electronic record.</p>	E1953	<p>Policies and procedures related to HIPAA and protected healthcare information were in effect at the time of impermissible access and are also posted on the intranet site. Most notably, Policy #1580.00: "HIPAA: Sanctions by Kaiser Permanente Against Workforce Members who Fail to Comply" has been in effect since 2003. The policy defines "disclosure" and "Protected Health Information" and states that Kaiser Permanente (KP) will impose sanctions against employees, physicians, and other workforce members who fail to comply with KP policies and procedures, the requirements of the HIPAA Privacy or Security Rules, or other applicable law.</p> <p>From December 24, 2008 to March 16, 2009, twelve notices regarding the protection of patient medical records and HIPAA regulations were sent from the hospital leadership team to staff and physicians. The leadership team made rounds throughout the hospital reminding staff to protect patient confidentiality and to comply with all confidentiality policies.</p>	3/16/09

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E1953	<p>Continued From Page 3</p> <p>According to a facility report dated May 8, 2009 and a telephone interview with Administrative Staff A on May 12, 2009, at 8:10 a.m., the facility installed "Break-the-Glass" protection to Patients 1, 2, 3, and 4's electronic medical records on February 3, 2009. Administrative Staff A stated a print out of all medical record accessions was given to risk management on February 23, 2009 for Patients 1, 2, 3, and 4.</p> <p>A review of the Medical Record Access Report provided by the facility, indicated the eight (8) employees breached the patients' electronic medical records from January 26, 2009 to February 3, 2009.</p> <p>On May 4, 2009 at 10:05 a.m., access to Patients 1, 2, 3, and 4's electronic medical record was observed by the Evaluator. The observation revealed that any attempt to access the medical record required the user to enter a password and warned the user that they were about to "Break the Glass." Then when greeted with the warning screen, the user was required to explain the reason for accessing the medical record from a drop-down screen, write down more specific explanation, click accept, and enter a password.</p> <p>A review of facility records revealed that the eight employees, who breached the medical records of Patients 1, 2, 3 and 4, participated in the patient privacy and/or compliance training and signed "Confidentiality Agreement" or "Principles of Responsibility Attestation" upon hire and annually, agreeing to only access information that they had been "instructed or authorized to access to do my job."</p>	E1953	<p>Kaiser facilities utilize an electronic medical record system. In contrast to a paper medical record, all entries (including unauthorized accessions) into an electronic medical record can be tracked. All persons who access a record can be identified as well as the parts of the record that are accessed and time of accession. In order to access a patient's record, staff and physicians must enter their user identification number and password. Actions were taken to further secure the patients' records. On January 27, installation of "Break the Glass", an enhancement to the electronic medical record security, began. The installation was completed at 6:41 p.m. on February 3, 2009, after which all unauthorized accessions into the medical records of Patients 1, 2, 3 and 4 ceased to occur. The "Break the Glass" application does not allow access into a record without the user entering the reason for accession and re-entering the password. A warning was displayed on the screen to notify users that they were entering a secured record. As of February 3, 2009, the hospital leadership can initiate "Break the Glass" as a matter of course for any high profile patient's record or upon request.</p> <p style="text-align: right;">2/3/09</p>

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E2236	Continued From Page 4	E2286		
E2236	<p>T22 DIV5 CH1 ART7-70751(b) Medical Record Availability</p> <p>(b) The medical record, including X-ray films, is the property of the hospital and is maintained for the benefit of the patient, the medical staff and the hospital. The hospital shall safeguard the information in the record against loss, defacement, tampering or use by unauthorized persons.</p> <p>This RULE: is not met as evidenced by: Based on record review and interview, the facility failed to safeguard Patient 1, 2, 3 and 4's medical record against use by unauthorized individuals.</p> <p>Findings:</p> <p>On May 4, 2009, a facility self reported incident was investigated regarding a breach in the electronic medical records for Patient #'s 1, 2, 3 and 4.</p> <p>A review of the facility investigative report dated April 28, 2009, disclosed, "through subsequent investigation and employee interviews" the hospital had "ascertained" that five (5) employees had inappropriately accessed the electronic medical record of Patient 1, one employee had inappropriately accessed the electronic medical record of Patient 1 and Patient 2, one employee had inappropriately accessed the electronic record of Patient 3 and one employee had inappropriately accessed the electronic record of Patient 4.</p> <p>During an interview with Administrative Staff A on May 4, 2009 at 8:25 a.m., she stated that eight</p>	E2236	<p>The investigation into impermissible access began on February 23, 2009. The patients' medical records were reviewed for the time period of January 26 to April 13, 2009. During this time, there were 461 accessions into the medical records. Investigations were conducted with 156 employees from Kaiser Permanente facilities in Southern California regarding their accessions into the medical records, and the majority of employees were found to have an appropriate purpose for their accessions. It was determined that 8 employees had a total of 9 impermissible accessions into the patients' records. One employee viewed two of the patients' records. The investigation team included hospital leadership, the Risk Manager, the Compliance Officer, and the Director of Human Resources. As a result of the investigation process, the impermissible accessions resulted in 1 termination, 6 resignations in lieu of termination, and 1 disciplinary action. All personnel actions were completed by April 28, 2009.</p>	4/28/09

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E2236	Continued From Page 5 (8) employees accessed Patient 1, 2, 3 and 4's electronic medical records without authorization. A review of the facility Impermissible Medical Record Access dated April 24, 2009, disclosed nine impermissible accessions by eight employees: Employee A, B, C, D, E and F inappropriately accessed Patient 1's electronic record. Employee C inappropriately accessed Patient 1's and Patient 2's electronic record. Employee G inappropriately accessed Patient 3's electronic record. Employee H (from Sistar Facility 1) inappropriately accessed Patient 4's electronic record. During a telephone interview with Administrative Staff A on May 12, 2009 at 8:10 a.m., she stated the facility installed "Break-the-Glass" protection to Patient #'s 1, 2, 3, and 4's electronic medical records on February 3, 2009. A review of the Medical Record Access Report provided by the facility, indicated the eight (8) employees breached the patients' electronic medical records from January 26, 2009 to February 3, 2009. The facility failed to prevent access to confidential medical record information and safeguard Patient 1, 2, 3 and 4's electronic medical records against use by unauthorized individuals.	E2236	The patients' records were monitored for impermissible accessions beyond the dates of their discharges. There has been ongoing monitoring of the patients' medical records. The audits are conducted by the Risk Manager and Compliance Officer. During April and May, 2009, a randomly chosen week was reviewed for any impermissible accessions. To date, no impermissible accessions have been identified. Quarterly audits of patients' medical records will continue through December, 2009.	