

*POC Accepted  
RGI Edgson Selis  
JSA*

PRINTED: 04/19/2011  
FORM APPROVED

California Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  CA000000103	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  C 08/31/2010
NAME OF PROVIDER OR SUPPLIER  ST MARY MEDICAL CENTER		STREET ADDRESS, CITY, STATE, ZIP CODE 1050 LINDEN AVE LONG BEACH, CA 90813		
(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 an investigation of an Entity Reported Event.  Entity Reported Incident Number: CA00228561.  Representing the Department of Public Health:  Surveyor ID # 27811, HFEN.  The inspection was limited to the specific adverse 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.	E 000	E 000 Preparation and/or execution of the Plan of Correction does not constitute admission or agreement by the provider of the truth of the facts alleged or conclusions set forth on the Statement of Deficiencies.  This Plan of Correction is prepared and/or executed solely based on the provisions of the Health and Safety Code requirements.	
E1969	T22.DIV5 CH1 ART7-70707(d) Patients' Rights  (d) All hospital personnel shall observe these patients' rights.	E1969	Correction Action E1969. T22Div5CH1 Art7-70707(d)  Patient Rights Upon notification on April 13 <sup>th</sup> 2010 there as a patient privacy issue related to patient photograph without	4/13/10

Licensing and Certification Division

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

*Paulette Frank* TITLE *Chief Nursing Officer* (X6) DATE

STATE FORM

2250 M3Q311

Continuation sheet 1 of 8

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E1969	<p>Continued From page 1</p> <p>This Statute is not met as evidenced by: Based on interview and record review, the facility failed to ensure Patient 1's right to privacy and confidential medical treatment. Patient 1 was admitted to the facility's emergency department with a severe neck wound. The facility's staff photographed the patient's body and distributed the photograph without the patient's authorization and/or consent. The facility's unauthorized disclosure of Patient 1's medical information violated Patient 1's right to privacy and confidential medical treatment.</p> <p>Findings:</p> <p>On April 22, 2010, the Department received a letter from the facility which indicated that they had become aware of a possible violation of "Health and Safety Code Section 1280.15" (unauthorized access to and use of, patients' medical information) whereby an employee took a photograph of a patient's severe neck wound using a personal cell phone.</p> <p>On June 24, 2010, a review of an Admission Record indicated Patient 1 was admitted to the facility on [REDACTED] 2010, in critical condition. A review of a Hospital and Nursing Care Facility Report dated [REDACTED] 2010 at 7:40 a.m., indicated Patient 1 was admitted to the emergency room with "extensive stab wounds/slash injury" to the left neck and right jaw. The report revealed Patient 1's large arteries of the neck were transected (cut across) and the patient exsanguinated (fatal blood loss). According to the Hospital and Nursing Care Facility Report, Patient 1 was dead on arrival to the emergency department. The local news media reported on Patient 1's admission to the facility's emergency</p>	E1969	<p><b>E1969 . Patient Rights (cont)</b></p> <p>proper consent an Immediate investigation was initiated by the Chief Nurse Executive, Human Resource Director and Privacy Officer a total of 91 staff interviews were complete.</p> <p>Immediate suspension on April 20<sup>th</sup> due to investigatory discovery of events of 5 employees: 2 registered nurses (RN), 1 emergency department (ER) tech and 2 respiratory therapists (RT) for failure to comply with HIPPA and patient rights policies and procedures. Of the five employees 1, RN was terminated on 5-1-10, 1 ER Tech terminated 4-30-10 and 2 RT were terminated 5-12-10 RT, 5-26-10.</p>	<p>4/13/10</p> <p>4/20/10</p> <p>5/1/10</p> <p>5/12/10</p> <p>5/26/10</p>
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E1969	<p>Continued From page 2</p> <p>department, the patient's name and unusual manner of death.</p> <p>On June 24, 2010, a review of the facility's complaint hotline call report indicated on April 13, 2010 at 2:06 p.m., an anonymous call was received. According to the report, the anonymous caller stated that on April 9, 2010 at approximately 8 a.m., an emergency room staff member and a respiratory therapist took photographs of a deceased person with personal cell phone cameras.</p> <p>On June 24, 2010 at 12:20 p.m. Staff A, the emergency room director, indicated Patient 1 was admitted to the facility's emergency room with a severe neck wound. Staff A stated that Staff C took a photograph of Patient 1's body using a cell phone camera and distributed the photograph to other individuals. According to Staff A, Staff B also took a photograph of Patient 1's neck wound and distributed the photograph to other individuals.</p> <p>On June 24, 2010 at 12:30 p.m., during an interview Staff D, the director of respiratory services, stated that Staff F lent Staff E his camera phone. According to Staff D, Staff E used the camera phone and took photographs of Patient 1's neck wound.</p> <p>A review of Staff C's written statement dated April 21, 2010, indicated she was working in the emergency department on [REDACTED] 2010, when Patient 1 was admitted. According to the statement, Staff C took a photograph of Patient 1's neck wound using her cell phone's camera and also saw respiratory staff taking photographs.</p>	E1969	<p>Policies revisions immediately approved for use on April 15<sup>th</sup> by the Chief Executive Officer. Revised procedure for cell phones eliminated all use of personal cell phones in the ER setting and staff educated on procedure as well as memorandum posted in ER dept. effective immediately on April 15<sup>th</sup> and on-going.</p> <p>Re-educated all nursing and respiratory staff working in the ER regarding HIPPA Privacy Standards and use of cellular devices on April 20<sup>th</sup>, 22<sup>nd</sup>, 24<sup>th</sup> and May 5<sup>th</sup>, 2010 on-going.</p> <p>Re-educated all Department Directors on policy and procedure for HIPPA Privacy Standards and Use of Cellular Devices on April 27<sup>th</sup>, July 19<sup>th</sup> &amp; Oct 26<sup>th</sup> 2010 and on-going</p> <p>Re-educated nursing and respiratory staff on use electronic Devices on April 20<sup>th</sup> and ensured each employee was aware and understood policy and procedures through competency validation</p> <p>Informed Long Beach Fire Chief on April 20<sup>th</sup> 2010 the St Mary Medical Center (SMMC) policies and procedures on HIPPA Privacy Standards and Use of Electronic Devices</p>	<p>4/15/10</p> <p>4/20/10 4/22/10 4/24/10 5/5/10 Ongoing</p> <p>4/27/10 7/19/10 10/26/10 Ongoing</p> <p>4/20/10</p> <p>4/20/10</p>
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E1969	<p>Continued From page 3</p> <p>A review of an Employee Counseling Report dated April 30, 2010, indicated Staff C took a photograph of Patient 1 while in the emergency room without the patient's consent and distributed the photograph to other individuals. The Employee Counseling Report disclosed Staff C's actions violated the patient's right to privacy and the facility's privacy policy by disclosing the patient's medical information in an unauthorized manner.</p> <p>A review of an Employee Counseling Report dated April 30, 2010, indicated that on April 9, 2010, Staff B received a photograph on her cell phone of Patient 1 and distributed the photograph to other individuals. The Employee Counseling Report disclosed Staff B's actions violated the patient's right to privacy and the facility's privacy policy by disclosing the patient's medical information in an unauthorized manner.</p> <p>A review of an investigation document disclosed an interview conducted on May 13, 2010 which indicated Staff E stated he used Staff F's phone to take a photograph of Patient 1; however, Staff E realized it "was wrong."</p> <p>On August 31, 2010, when interviewed at 11:55 p.m., Staff H stated the employees who took and distributed photographs of Patient 1's neck wound were not involved in Patient 1's care. Staff H stated the individuals did not have a legitimate reason to take and distribute photographs of Patient 1's neck wound.</p> <p>A review of a Mandatory Employer Reporting Form dated May 17, 2010, indicated Staff F took photographs of Patient 1 and Staff F's role in the violation of the Health Insurance Portability and Accountability Act (HIPAA; standards that ensure</p>	E1969	<p>Re-educating SMMC ER Physicians, Nursing and Respiratory staff on treating patients with dignity and following hospital privacy and HIPPA compliance on policies April 22<sup>nd</sup> 2011</p> <p>Education provided to at all medical staff committees to review the policies and procedures for patient rights, HIPPA and Use of Electronic Devices and presented all medical staff committees: Emergency Department, Anesthesia, Critical Care, Surgery, Medicine, Pediatrics, OBGYN as well as Medical Executive Committee on June 1<sup>st</sup>, 2010 and approved by the Community Board on June, 24<sup>th</sup></p> <p><b>Monitoring:</b> Daily walk rounds will be performed by department director and/or designee to ensure staff compliance with the revised policies. Accountable leaders: CNE, Privacy officer and/or designee</p> <p>All employees will be required to attend annual training and competency validation on the hospital policy for HIPPA, patient rights, use of cellular devices with an emphasis on reporting any variance through the chain of command. Accountable leaders: CNE, Privacy officer and/or designee</p>	<p>4/22/10</p> <p>6/1/10 6/24/10</p> <p>Ongoing daily</p> <p>Ongoing</p>

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E1969	<p>Continued From page 4</p> <p>the privacy and security of health data) was confirmed.</p> <p>A review of facility records revealed Staff C signed a "HIPAA Training Acknowledgement" on January 11, 2010, agreeing to "abide by [the facility's] privacy and data security policies." A review of facility records revealed Staff E signed a "Privacy and Data Security Training Acknowledgement" on April 22, 2010, agreeing to "abide by [the facility's] privacy and data security policies."</p> <p>On June 24, 2010 at 1:50 p.m., during an interview, Staff G stated a patient's consent was required to photograph a patient's body. Staff G stated that the four (4) staff involved in the unauthorized photography, of Patient 1's body, were terminated from employment.</p> <p>A review of the facility's policy and procedure titled, "Internal Use of Electronic Devices (Cell Phones MP3 Players etc.)" dated March 2008, stipulated staff were prohibited from the use of cell phone in all patient care areas. The facility's policy and procedure titled, "Authorization and Consent to Photograph and Publication" dated March 2003, indicated the facility required a patient's (or patient's representative) written consent to photograph a patient's body. However, two facility staff members, Staff C and Staff E, photographed Patient 1's body without the patient's or patient's representative's written consent.</p> <p>The facility violated the patient's right to privacy by failing to comply with its "Authorization and Consent to Photograph and Publication" policy. The facility's staff failed to abide by the policy by photographing Patient 1's body without consent</p>	E1969	<p>Quarterly audits by dedicated CNE, Privacy Officer and/or designee will be conducted to assess staff knowledge of the HIPPA Privacy Standards, Patient rights and Use of Electronic Devices Policy and Procedure in the affected areas. Quarterly report will be incorporated Safety Committee to ensure compliance that will be reported to the Community Board. Enforcement of sanctions regarding staff failure to follow policy will be immediately acted upon in accordance with St. Mary Medical Center policy and procedures.</p> <p>Accountable leaders: CNE, Privacy officer, and/or designee</p>	Ongoing Quarterly

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E1969	Continued From page 5  and by the disclosure and distribution of confidential health information in an unauthorized manner.  Based on the Findings, the facility failed to prevent unlawful or unauthorized access to, and use or disclosure of, patients' medical information in violation of Health and Safety Code section 1280.15, subdivision (a).	E1969			