

California Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(XI) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: CA230000010	(XI) MULTIPLE CONSTRUCTION A. Building _____ B. Wing _____	(X3) DATE SURVEY COMPLETED C 07/29/2010
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NAME OF PROVIDER OR SUPPLIER MERCY MEDICAL CENTER REDDING	STREET ADDRESS, CITY, STATE, ZIP, CODE 2175 ROSALINE AVE, CLAIRMONT HGTS REDDING, CA 96001
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A 001	<p>Informed Medical Breach</p> <p>Health and Safety Code Section 1280.15 (b)(2), "A clinic, health facility, agency, or hospice shall also report any unlawful or unauthorized access to, or use or disclosure of, a patient's medical information to the affected patient or the patient's representative at the last known address, no later than five business days after the unlawful or unauthorized access, use, or disclosure has been detected by the clinic, health facility, agency, or hospice."</p> <p>The CDPH verified that the facility informed the affected patient(s) or the patient's representative(s) of the unlawful or unauthorized access, use or disclosure of the patient's medical information. Surveyor: [REDACTED], HFEN</p>	A 001	<p>CORRECTIVE ACTION PLAN:</p> <p>A. Immediate Corrective Action: 1) Thorough investigation of event. 2) Patient notified of incident in writing.</p> <p>B,C. Deficient practice identification, corrective measures, and systemic changes: 1) Education of ED staff and ED physicians – completed by ED Manager, Facility Privacy Official, President, and Vice President of Patient Care Services March 25, 2010 – April 13, 2010. 2) Education to Chiefs of Staff – completed 3/25/10 by Vice President of Medical Affairs and Facility Compliance Liaison. 3) Follow up education to ED staff by ED Director completed 8/3/10 4) Education provided to hospital staff via: a. Newsletters (Monthly) b. HIPAA refresher education which includes information about use of cell phones - rolled out to all staff November 2010 – to be completed January 2011.</p>	<p>Completed by Facility Privacy Official 03/12/10</p> <p>Completed by ED Director, Vice President of Patient Care Services and President - Initiated March 2010 and ongoing through December 2010</p>
A 000	<p>Initial Comments</p> <p>The following reflects the findings of the California Department of Public Health during the investigation of an entity reported incident.</p> <p>Entity reported incidents: 221420</p> <p>The inspection was limited to the specific entity reported incident investigated and does not represent the findings of a full inspection of the facility.</p> <p>Representing the Department: [REDACTED], HFEN</p> <p>A deficiency was written for entity reported incident 221420.</p>	A 000	<p>D. Monitoring: 1) Monitoring of trauma patients to ensure: a. Consent from patient or patient's representative is obtained prior to any photographing or videotaping of trauma patients in accordance to hospital policy. b. Photography and/or videotaping is conducted by approved staff members. c. Photography and/or videotaping is conducted by use of approved media devices. d. Photography and/or videotaping results are included in the patient's medical record if used for treatment purposes. e. Photography and/or videotaping Results for educational purposes are under the control and custody of the facility to ensure the images are safeguarded.</p> <p>E. Monitoring will be conducted by the ED Director /designee and reported to the Quality Assessment and Improvement Committee and Facility Privacy Official monthly.</p>	<p>Monitoring was conducted by ED Director /designee March 2010 through December 2010 – with no subsequent incidents occurring</p>

Licensing and Certification Division

[Signature]
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

[Signature]
TITLE

[Signature]
(X6) DATE

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A 017	Continued from Page 1	A 017		
A 017	<p>1280.15(a) Health & Safety Code 1280</p> <p>(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. For purposes of the investigation, the department shall consider the clinic's, health facility's, agency's, or hospice's history of compliance with this section and other related state and federal statutes and regulations, the extent to which the facility detected violations and took preventative action to immediately correct and prevent past violations from recurring, and factors outside its control that restricted the facility's ability to comply with this section. The department shall have full discretion to consider all factors when determining the amount of an administrative penalty pursuant to this section.</p> <p>This Statute is not met as evidenced by: Based on interview and record review, the facility failed to prevent unlawful or unauthorized access to, and use or disclosure of, patients' medical information. Further the facility violated Patient 1's rights per Title 22, Section 70707(b)(7) when it failed to preserve the confidentiality of Patient 1's Private Health Information. Three staff</p>	A 017		

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A 017	<p>Continued from Page 2</p> <p>members took a picture of Patient 1 following his demise, without his family's written permission as required by facility policy, for reasons unrelated to his care and treatment. One staff member then transmitted the picture to an individual who was not an employee of the hospital.</p> <p>Findings:</p> <p>On 3/12/10, the facility notified the California Department of Public Health of a possible violation of Health and Safety Code Section 1250.15 (a) that occurred on 3/8/10. On 3/12/10, the facility also notified Patient 1's family via certified letter of the possible violation.</p> <p>A review of Patient 1's records disclosed that he was a 57 year old male who presented to the Emergency Department on [REDACTED]/10, after being struck by a train. He expired shortly after admission. The Emergency Room physician's impression was: "exsanguination (loss of large amount of blood) from right leg amputation with multi-system trauma."</p> <p>During an interview on 4/5/10 at 11:05 am, Administrative Staff A (Admin A) stated that she had interviewed Licensed Nurse B (NL B) on 3/10/10, Licensed Nurse C (LN C) on 3/11/10, and Licensed Nurse D (LN D) on 3/15/10 and confirmed that all three nurses took a picture of Patient 1, after he expire, with their cell phones.</p> <p>Admin A stated that LN B forwarded the picture to someone who was not a staff member. Admin A confirmed that she observed LN B delete the picture from her cell phone during their interview.</p> <p>Admin A stated that LN C forwarded the picture to LN B. She confirmed that LN C also deleted</p>			

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A 017	<p>Continued from Page 3</p> <p>the picture from her cell phone during their interview. This was confirmed again during a subsequent interview with LN C on 4/6/10 at 9:10 am.</p> <p>Admin A stated that LN D had not forwarded the picture to anyone and had already deleted the picture from her cell phone before their interview took place.</p> <p>During an interview on 4/30/10 at 1 pm, LN B stated that LN C took a picture of Patient 1's amputated leg with her cell phone camera. LN B asked LN C to forward it to her cell phone. Once LN B received the picture she forwarded it to a family member who in turn forwarded it to a friend who showed the picture to his roommate who reported it to the facility. LN B stated that the picture had no patient name or identifier on it and showed the patient's leg, not his face, so she was unaware that it was a privacy breach. LN B also stated that she was unable to recall any facility policy that addressed this particular situation.</p> <p>During an interview on 5/6/10 at 4 pm, LN D stated that she took a picture of Patient's leg but not his face, with her cell phone then deleted the picture a couple of days later. LN D stated, "she sort of got caught up in the moment."</p> <p>During an interview on 7/29/10 at 12:20 pm, Kitchen Employee (KE) F stated that her roommate's girlfriend told her about Patient 1's picture on the roommate's cell phone. She stated that the picture did not show Patient 1's face. She also stated that she knew the individual in the picture had been involved in a train accident and was in the Emergency Department but did not know his name.</p>	A 017	<p style="text-align: center;">RECEIVED 2010 SEP 21 09 12 39 CLERK</p>	

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A 017	<p>Continued Form page 4</p> <p>During an interview on 4/5/10 at 1:45 pm, Administrative Staff E (Admin E) stated that LN B and LN C had resigned because of this incident. Admin E provided the following policies that were violated by the staff members: Wireless Communication Devices, date reviewed 10/09; Confidential Information, date reviewed 10/09; Corrective Process for Breach of Patient Privacy or Confidentiality, date revised 8/05; Professional Conduct, dated reviewed 10/09; Rules of Conduct, date reviewed 10/09.</p> <p>The following was contained in the above referenced policies. 1.) Patient's rights to privacy and confidentiality shall be respected and any photography may be permitted only with consent of the patient or patient's representatives. 2.) Publication means any method of displaying or distributing photographs, including simply showing the photographs to a limited number of individuals. This also refers to the use of cell phone cameras or other media devices. 3.) In no case should confidential information be conveyed to individuals outside the organization, including family or associates. 4.) Treat all information regarding patients or the facility with confidentiality.</p> <p>The following information was given to the Emergency Department Staff during an inservice on 1/11/10 regarding cell phone use at the work place. "Cell phones may not be used uring working hours and while you are caring for patients. Violation of this may lead to discipline and possible termination."</p> <p>The unusual circumstances surrounding Patient 1's death had been reported on 3/5/10, in the Redding Record Searchlight, the local newspaper and Channel 7 News, a local TV station.</p>	A 017	<p style="text-align: center;">2010 SEP 21 09:19 AM STATE DEPARTMENT OF PUBLIC HEALTH</p>	

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A 017	Continued From page 5 Therefore, although the picture did not show Patient 1's face or name, the uniqueness of the situation led one of the individuals who viewed the picture to report it to the facility. The picture was easily identifiable as the individual who, according to local news reports, had his leg amputated after being hit by a train.	A 017		

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