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California Department of Public Health

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| STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION | (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: CA070000137 | (X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____ | (X3) DATE SURVEY COMPLETED C 07/19/2013 |
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| NAME OF PROVIDER OR SUPPLIER COMMUNITY HOSPITAL OF THE MONTEREY F | STREET ADDRESS, CITY, STATE, ZIP CODE 23825 W R HOLMAN HIGHWAY MONTEREY, CA 93940 |
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| (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 |
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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.</p> | A 001 | | |
| A 000 | <p>Initial Comment</p> <p>The following reflects the findings of the California Department of Public Health during the investigation of an entity reported incident conducted on 7/12/13 through 7/19/13.</p> <p>For Entity Reported Incident CA00354477 regarding State Monitoring, Privacy Breach, a State deficiency was identified (see Health and Safety Code 1280.15(a)).</p> <p>Representing the California Department of Public Health: 25438, Health Facilities Evaluator Nurse.</p> <p>Inspection was limited to the entity reported incident investigated and does not represent the findings of a full inspection of the hospital.</p> <p>The hospital detected the breach on 5/7/13.</p> | A 000 | | |

CALIFORNIA DEPARTMENT
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MAR 13 2014
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 SAN JOSE

Licensing and Certification Division
 LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

[Handwritten Signature]

TITLE

[Handwritten Title]

(X6) DATE

3/18/14

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| A 000 | Continued From page 1 The hospital notified the Department of the breach on 5/13/13. The hospital notified the patients of the breach on 5/13/13. | A 000 | | |
| A 017 | 1280.15(a) Health & Safety Code 1280 (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. | A 017 | | |

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| A 017 | <p>Continued From page 2</p> <p>This Statute is not met as evidenced by: Based on interview and record review, the hospital failed to prevent unauthorized access to 6 patients' (Patients 1, 2, 3, 4, 5, 6) medical information. Findings:</p> <p>On 5/13/13 the California Department of Public Health received a faxed report from the hospital compliance director which indicated the hospital received a request to determine if the electronic medical record of an employee, who was also a patient, had unauthorized access to their medical records. A follow-up report on 5/15/13 indicated six patients' medical records had been accessed without legitimate reasons to do so.</p> <p>During an interview on 7/12/13 at 8:00 a.m., the compliance director stated the hospital determined by review of "User Audit Report" Staff A accessed the medical records of Patients 1, 2, 3 and 4 on 12/19/12 and Patients 3, 5, 6 on 12/20/12. The compliance director stated Staff A had no business or clinical reason to do so. On 9/11/13, review of the "User Audit Report" provided by the hospital confirmed the patients' records were accessed as reported.</p> <p>During an interview on 7/19/13 at 8:45 a.m., Staff A confirmed he had accessed the medical records of Patients 1, 2, 3, 4, 5, and 6 and stated the information he accessed included the patient's name, date of birth, medical record number, diagnosis and treating physician. Staff A stated in the past as part of his job duties, he had reviewed records of patients not assigned to him but currently such reviews were not part of his assigned job duties. Staff A stated he was not assigned to these patients.</p> | A 017 | <p>A) Staff A was interviewed and hospital expectations relative to patient confidentiality and privacy were reviewed. Staff A was placed on 7-days suspension without pay pending completion of the investigation. Staff A returned to work, was placed on probation and required to attest to reviewing and understanding policies and procedures related to patient privacy and confidentiality of patient information. Staff A was required to participate and pass a privacy and confidentiality training program. Department management reviewed current job responsibilities with Staff A. The patient was notified of the unauthorized access by mail. Responsible Person: Department Director Privacy Officer</p> <p>B) Risk Management and Privacy Dept conducts random and targeted audits of the electronic record. Individuals accessing records without authorization will be disciplined according to the hospital disciplinary processes. Completion Date: Procedures formalized January 2013 and ongoing Responsible Person: Privacy Officer</p> | 7/31/13 |
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| A 017 | Continued From page 3 Record review on 7/19/13 at 1:30 p.m., of the hospital personnel manual dated 3/2012, indicated, "Everyone is expected to treat patient and hospital information in a respectful, professional, and confidential manner. Such information should never be viewed or discussed with another for reasons of personal interest or for reasons outside the employee's responsibilities." | A 017 | C) A mandatory patient privacy and confidentiality training program for all employees was developed and executed in addition to the yearly training program. Responsible Person: Privacy Officer D) Monthly schedule for random electronic record audits with quarterly report of findings to the Compliance Committee. Post training comprehension testing. Responsible Person: Privacy Officer Completion Date: Initiated January 2013 and ongoing. | 7/31/13 |

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