

CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF PUBLIC HEALTH

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 050060	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED 01/12/2015
NAME OF PROVIDER OR SUPPLIER Community Regional Medical Center		STREET ADDRESS, CITY, STATE, ZIP CODE 2823 Fresno St, Fresno, CA 93721-1324 FRESNO COUNTY		
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	<p>The following reflects the findings of the Department of Public Health during a complaint/breach event visit:</p> <p>Complaint Intake Number: CA00420482 - Substantiated</p> <p>Representing the Department of Public Health: Surveyor ID # 32851, HFEN</p> <p>The inspection was limited to the specific facility event investigated and does not represent the findings of a full inspection of the facility.</p> <p>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.</p> <p>AMMENDED TO ADD TITLE 22 REGULATION</p>		<p>POC ACCEPTABLE YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></p> <p>Reviewed By: <u>Adams</u> Name</p> <p>Fax _____ Original <input checked="" type="checkbox"/></p> <p>Name: <u>Maie Espinoza</u> Date: <u>3/24/15</u> Time: <u>8:37 a.m.</u> Notified By: <u>Adams</u> Name</p> <p>MAR 20 2015</p>	

Event ID:6EXH11

3/12/2015

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

TITLE

(X6) DATE

Janet Paul

Privacy Officer

3/20/15

By signing this document, I am acknowledging receipt of the entire citation packet, Page(s) 1 thru 5

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. Except for nursing homes, the findings above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

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	<p>T22 DIV5 CH1 ART7-70707 Patient's Rights</p> <p>(b) A list of these patients' rights shall be posted 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:</p> <p>(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.</p> <p>Based on staff interviews, clinical record and administrative document review, the hospital failed to ensure confidential treatment of Protected Health Information (PHI) when 17 employees, without a business need to know, accessed an X-ray that showed a foreign body in Patient 1's rectum. Four of those 17 employees took a picture of that X-ray on their personal cell phones and shared it with other employees. This failure resulted in unauthorized access and evidence of malicious use of Patient 1's PHI, and the potential for psychosocial harm to Patient 1.</p> <p>Findings: On 12/10/14 at 1:30 p.m., during a telephone interview, the Privacy Officer (PO) stated she received an anonymous phone call stating that multiple employees in the Emergency Department (ED) had accessed Patient 1's clinical record without a business need to know. The caller also</p>		<p>The statements made on the plan of correction are not an admission and do not constitute agreement with the alleged deficiencies herein.</p> <p>This plan of correction constitutes Community Medical Center's (CMC) written credible allegation of compliance for the deficiencies noted.</p> <p>Complaint #: CA00420482</p> <p>The Privacy Office immediately started an investigation pursuant to the complaint received. Policies and procedures were reviewed and found to be appropriate; HIPAA General Rules for the Use and Disclosure of</p>	11/10/14	

Event ID:6EXH11

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4:31:20PM

MAR 20 2015

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	<p>stated some of those employees had taken pictures of Patient 1's X-ray on their personal cell phones, and had shown the picture to other employees. The PO stated the facility immediately began an internal audit of computer use and also reviewed security camera footage of the ED, and discovered that 17 ED employees had accessed Patient 1's medical record without a business need to know. The PO stated four of those employees had taken a picture of Patient 1's X-ray on their personal cell phones. Review of Hospital security footage, showed Employees (E) 7, 13, and 15 viewing Patient 1's X-ray on E 7's personal cell phone. The PO stated she called to inform Patient 1 that employees had accessed his medical record. The PO stated Patient 1, "sighed, quietly said, 'OK', and hung up the phone."</p> <p>A review of the clinical record indicated Patient 1 was admitted to the ED on 11/9/14 at 11:22 p.m., with a diagnosis of, "Foreign Body of Rectum".</p> <p>The X-ray report dated 11/10/14, indicated, "Large flashlight positioned within the rectum and sigmoid, measuring approximately 40 cm in length..." A copy of that X-ray is included in the clinical record.</p> <p>The Discharge Summary dated 11/10/14, indicated, "...Foreign body was removed in ED by surgical and ER (Emergency Room) team..."</p> <p>On 12/10/14 at 1:30 p.m., during an interview, the PO stated E 1, 4, and 8 also had Patient 1's X-ray on their personal cell phones.</p>		<p>Protected Health Information, Confidentiality/Breach of Information, Patient's Rights and Responsibilities. Policies and procedures are readily available to staff on CMC's Intranet.</p> <p>It was confirmed that the inappropriately accessed and disclosed image was removed and deleted from the employees' personal devices.</p> <p>Discipline: The individuals responsible for accessing, using and disclosing protected health information inappropriately were disciplined in accordance with CMC's policy and procedure; Confidentiality/Breach of Information. Disciplinary actions occurred in the following units/departments as listed below: Emergency Department Clinical:</p> <ol style="list-style-type: none"> 1. Two Clinical Nurse II RN's resigned in lieu of disciplinary action 2. One Clinical Nurse III RN was terminated 3. One Unit Clerk was terminated 4. One Patient Liaison was terminated 5. One Traveling RN's contract was terminated 6. One Unit Clerk was counseled 7. Two Clinical Nurse II RN's 	<p>11/10/14</p> <p>12/02/14</p>	

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	<p>On 12/10/14 at 1:47 p.m., during an interview, the Emergency Department Director (EDD) stated E1 had taken a picture of Patient 1's X-ray on her personal cell phone, and sent that picture to E 4. E 4 then took his cell phone to E 8, showed him the photo, and texted it to E 8's personal cell phone. E 8 showed the photo to various other employees in the ED. The EDD stated the employees involved in viewing and sharing Patient 1's X-ray admitted they shared the photo because, "They saw humor in it because the image is so shocking."</p> <p>On 12/18/14 at 10:10 a.m., during an interview, the Compliance Officer stated any employee who had the X-ray image on their cell phone had, "gone too far", and it was a "malicious" act to have the image in their possession.</p> <p>On 1/5/15 at 3:38 p.m., during a telephone interview; E 4 stated E 1 sent a picture of Patient 1's X-ray to E 4's personal cell phone.</p> <p>On 1/5/15 at 4:04 p.m., during a telephone interview, E 8 admitted to having Patient 1's X-ray on his personal cell phone.</p> <p>On 1/5/14 at 4:20 p.m., during a telephone interview, E 5 stated, "I saw that people were texting Patient 1's X-ray to each other in the Department, and I thought it was disgusting."</p> <p>On 1/7/15 at 2:00 p.m., during a telephone interview, E 1 admitted to taking a picture of Patient</p>		<p>were counseled</p> <p>Emergency Department Admitting:</p> <ol style="list-style-type: none"> 1. One Patient Representative I was terminated 2. One Patient Representative I received final written warnings 3. One Patient Representative II received final written warnings 4. Two Patient Representative I's received verbal warnings <p>Security Department:</p> <ol style="list-style-type: none"> 1. One Security Officer I was terminated <p>Access to, use and disclosure of protected health information (PHI) in the Emergency Department (ED) was reviewed by the Director of ED, Manager of ED Registration and the Manager of the Security Department. It is appropriate to access and use and disclose PHI for treatment, payment and healthcare operations. Staff is responsible for protecting patient information in accordance with CMC's policies and procedures.</p> <p>Education:</p> <p>Emergency Department Clinical:</p> <ol style="list-style-type: none"> 1. The Privacy Intake Specialist from the Privacy Office presented an in-service to the ED Department; Privacy and 	<p>12/18/14</p> <p>12/3/14</p> <p>11/11/14</p> <p>1/21/15</p>	

Event ID:6EXH11

3/12/2015

4:31:20PM

MAR 20 2015

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	<p>1's X-ray on her personal cell phone and showing it to E 4. E 1 stated, "It was a stupid thing to do, I know better, I can't believe I did that."</p> <p>Calls placed to E 7 for an interview, were not returned.</p> <p>The PHI breached included Patient 1's name, date of birth, gender, medical record number, account number, X-ray images, and other clinical information.</p> <p>The hospital policy and procedure titled, "Confidentiality/Breach of Information", dated 8/17/2010, and indicated, "II. A. Protected health information is only to be accessed in relationship to an employee's or the health care provider's assigned job duties, on a business need to know basis... in order to perform your assigned job duties."</p> <p>The hospital failed to prevent unauthorized and malicious access of Patient 1's medical record which is a violation of Health and Safety Code 1280.15 (a).</p>		<p>Security of Protected Health Information (PHI). The presentation covered existing laws, appropriate access, use and disclosure of PHI, minimum necessary, PHI and social media and privacy violation reporting. All active ED staff attended one of the presentations; two presentations were provided.</p> <p>Emergency Department Admitting:</p> <p>1. The Privacy Intake Specialist from the Privacy Office presented an in-service to the ED Admitting Department; Privacy and Security of Protected Health Information (PHI). The presentation covered existing laws, appropriate access, use and disclosure of PHI, minimum necessary, PHI and social media and privacy violation reporting. This was a mandatory class, presented multiple times, and all ED Admitting staff attended one of the presentations. Educational material was provided to the staff.</p> <p>Security Department:</p> <p>2. The Security Educator re-</p>	2/06/15	12/30/14

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			<p>educated Security staff on their responsibilities to protect patient confidentiality.</p> <p>3. A Privacy Intake Specialist from the Privacy Office presented an in-service to the Security Department Supervisors and Leads; Privacy and Security of Protected Health Information (PHI). The presentation covered existing laws, appropriate access, use and disclosure of PHI, minimum necessary, PHI and social media and privacy violation reporting.</p> <p>4. The Security Supervisors will present the Privacy and Security of PHI presentation to the Security staff.</p> <p>Monitoring: Emergency Department Clinical:</p> <p>1. The Privacy Office staff will be responsible for generating an audit report by user name for ED staff with the following job codes; Clinical Nurse II RN, Clinical Nurse III RN, Unit Clerk, Patient Liaison and Traveling RN. Audit reports will be reviewed to ensure staff is accessing PHI appropriately. The reports will</p>	<p>2/04/15</p> <p>3/20/15</p> <p>3/23/15</p>

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			<p>be reviewed by the ED Manager or designee to determine appropriate access. The review is currently being performed on forty-five selected employees; approximately five to six ED staff will be reviewed per week for a period of eight weeks.</p> <p>2. In addition, at ED department shift huddles, privacy of protected health information (PHI) will be the topic of the briefing; e.g., appropriate access, use and disclosure of PHI, prohibited use of personal devices to capture, store, and share PHI. A privacy topic will be on the agenda at the huddles once a week for a period of four weeks. There are two huddles per day; 7:00 a.m. and 7:00 p.m. The ED Clinical Supervisor, Clinical Educator, Manager or Assistant Manager is responsible for educating staff during the huddles. Staff will sign in, tracking participation/attendance at the huddles.</p> <p>Emergency Department Admitting: 1. The Privacy Office staff will</p>	3/23/15

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			<p>be responsible for generating an audit report by user name for ED Admitting staff with the following job codes; Patient Representative I and Patient Representative II. Audit reports will be reviewed to ensure staff is accessing PHI appropriately. The reports will be reviewed by the ED Admitting Manager to determine appropriate access. The review is currently being performed on twenty-eight employees; approximately three to four ED Admitting staff reviewed per week for a period of eight weeks. There is a total of twenty-eight ED Admitting staff in the department.</p> <p>2. In addition, at the ED Admitting department '15 a Day' meetings, a minimum of five PHI privacy/security questions will be asked of the staff and answers will be reviewed to determine their understanding of patient privacy and security rules and regulations.. There are two '15 a Day' meetings per day; 2:30 p.m. and 10:30 p.m. The ED Admitting Supervisors are</p>	

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			<p>responsible for educating staff during the '15 a Day' meetings. Staff will sign in, tracking attendance at the meetings.</p> <p>Security Department:</p> <ol style="list-style-type: none"> The Security Director and Manger are responsible for ensuring Security staff understands their responsibilities to protect patient confidentiality. The Security Educator will round on staff, a minimum of 30 Security employees; ask specific privacy questions to determine their understanding of patient privacy and security rules and regulations. A minimum of five questions will be asked of the employee and answers will be reviewed. The rounding will be performed for a period of four weeks to ensure compliance with established policy and procedures, and on an ongoing basis. In addition, the privacy questions will be reviewed with all new staff during the new hire checklist process. <p>Issues of non-compliance will be</p>	3/23/15

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3/12/2015

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			<p>reviewed and immediate action taken.</p> <p>Reviewed and analyzed at Privacy Committee for quality assurance/improvement. Forwarded to Quality Patient Safety Committee.</p>	12/15/14	

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