

CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY  
DEPARTMENT OF PUBLIC HEALTH

POC ACCEPTABLE  
YES  NO   
Reviewed By: Steven Lopez  
Name

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  050060	(X2) MULTIPLE CONSTRUCTION A. BUILDING B. WING	Facility Notified Name: <u>Jones Paul</u> Date: <u>12/11/12</u> Time: <u>11:41</u> Notified By: <u>Directly by phone</u> Name	(X3) DATE SURVEY COMPLETED <u>10/23/2012</u> <u>459.2742</u> <u>10/23</u>
	NAME OF PROVIDER OR SUPPLIER <b>Community Regional Medical Center</b>		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: CA00329115 - Substantiated</p> <p>Representing the Department of Public Health: Surveyor ID # 22968, HFES</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>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 written credible allegation of compliance for the deficiencies noted.</p> <p>Complaint #: CA00329115</p> <p>The individual responsible for the access, use and disclosure of protected health information (PHI) was terminated from their place of employment. The individual was employed by a physician medical group responsible for billing on behalf of providers. Community Medical Centers was informed that the individual was arrested for an allegation of identity theft.</p> <p>Access to information systems was disabled immediately by Community Medical Centers (CMC) upon receipt of notification from the third party requester that its employee had accessed, used and disclosed information inappropriately for the purpose of identity theft.</p> <p>All remaining third party requester staff with similar access was educated by the third party requester on security of PHI policies and procedures; who can access PHI, what PHI can be accessed, what PHI can be disclosed, access to minimum necessary PHI only.. In addition, the Sanctions policy was reviewed and monitoring of individual access to electronic PHI.</p>	<p>10/4/12</p> <p>10/5/12</p> <p>11/14/12</p>

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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE: Jones Paul TITLE: Privacy Officer (X6) DATE: 12/13/13

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 30 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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Page 1 of 5

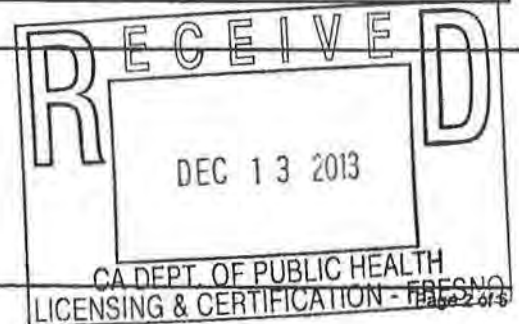
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	<p>Based on interviews, administrative document and police report review, the hospital failed to prevent the unlawful and unauthorized access of Protected Health Information (PHI) when Employee (E) 1 accessed sixteen patients' (Patients 1, 2, 3...15, 16) medical records electronically for the purpose of identity theft.</p> <p>Findings:</p> <p>On 10/12/12 the hospital self-reported an alleged incident where six patient names were accessed without a business need to know by E1. All six of the patients' names had the same first and last names, but each had different dates of birth and different medical record numbers.</p> <p>On 8/22/13 at 1p.m., during an interview, the Privacy Officer (PO) stated the employee was terminated on 10/4/12 after a police investigation indicated that E1 had obtained unauthorized access of patient records. The PO stated the police investigation indicated E1 obtained patient record information by taking computer screen shots with the camera on her smart phone. The screen shot of patient information was then shared with an acquaintance that used the information to open false identity accounts with local businesses.</p> <p>The PO stated an internal audit of computer use by E1 indicated multiple levels of unauthorized access. PO stated the total number of patients whose information was accessed by E1 without authorization was three hundred eighty five (385) of which it was confirmed that sixteen patients'</p>		<p>All third party requester staff received additional privacy and security education at a mandatory annual meeting. Both Federal and State privacy and security regulations were presented.</p> <p>Access to Community Medical Center's information system was re-evaluated to determine appropriate access for the intended purpose for users of third party requesters. The information system had an interface build completed in order to maintain more limited access to third party users. With the current interface the third party requesters only access patients associated with a provider or they must know the patients name, date of birth, gender and/or medical record number. This access reduces the risk of the third party users searching and accessing patients with similar/like names.</p> <p>Third party requester users were transitioned to the alternative access; more restrictive search and access functionality. In addition, other third party users were evaluated and transitioned to more restricted access. This is an ongoing review and will continue until all third party users are evaluated.</p> <p>In addition, CMC formally asked the third party requester (medical billing group) to; provide additional training in HIPAA and privacy of patient health information to their Privacy Officer by the end of the year and provide a one hour HIPAA/Patient Health Information</p>	<p>3/8/13</p> <p>11/1/12</p> <p>4/9/13</p> <p>9/25/13</p>

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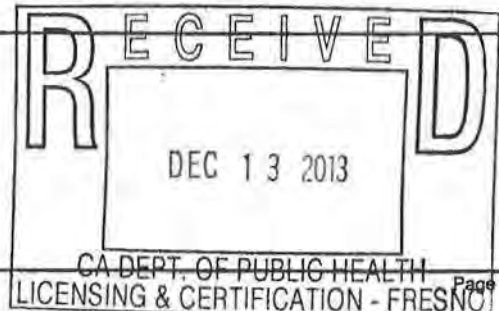
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	<p>(Patients 1, 2, 3...15, 16) PHI was accessed for the purpose of identity theft.</p> <p>The PO stated E1 was not an employee of the hospital but rather that E1 was employed for the physician group associated with the hospital. The physician group billed for services provided by members of the physician group to the hospital. The physician group had an agreement with the hospital to share patient information which included a provision to keep patient information confidential.</p> <p>On 8/23/13, the local police department Detective In-Charge (DIC) confirmed that police report case number 12-071004 involved E1 and that on 10/4/12 she had been arrested at her job site for identity theft. DIC stated the evidence collected by law enforcement indicated that E1 had unlawfully accessed patient information and had passed this information to another individual for the purpose of identity theft. The total number of identity thefts confirmed was 16 (Patients 1, 2, 3...15, 16). Examples of the identity theft for each patient included fraudulently opened bank credit cards, local and national brand store credit cards.</p> <p>On 9/6/13, the PO and representatives from the physician group, Manager (Mgr) 1(Compliance Manager) and Mgr 2 (Human Resources Manager), confirmed E1 had been employed by the physician group. Mgr 1 stated E1 began her employment on 10/25/10 until her termination on 10/4/12. E1 was employed as an Insurance Verification Specialist. Mgr 1 and Mgr 2 confirmed the business relationship between the hospital and the physician</p>		<p>training course to each and every employee by the end of the year and annually thereafter. The third party requester will provide a written affirmation that all employees have met this requirement this year and annually thereafter.</p> <p>Monitoring: The Privacy Office performed and continues to perform reviews on third party requester users. An access audit log is generated for third party users; encounters are reviewed to identify the third party provider did treat the patient, access dates aligned with dates of service, and the search is related to billing purposes, determined by the information viewed by the user. For the reported violation a minimum of one employee's access was reviewed per week, on a random day for a period of six weeks. Approximately 20% of the third party users were initially reviewed with a compliance rate of 100%. Thereafter, quarterly reviews were performed and continue to be performed; minimum of 10% of users for the third party requester involved in the breach. All access has been 100% compliant. The reports are reviewed by the Health Information Management Manager or designee. Any non-compliant activity will be forwarded to the Compliance Officer of the third party requester for review and provide a written response with actions taken.</p>	10/12/12

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	<p>group was defined in a document named the "Master Agreement". The PO, Mgr 1 and Mgr 2 stated the Master Agreement contained a stipulation stating that the physician group and its employees were obligated to protect the confidentiality of all of the hospital's patient information made accessible through the electronic health record.</p> <p>On 11/19/10 E1 signed the Non-Employee Statement of Confidentiality which stated in part "... When accessing (the hospital's) computer system, I may come into possession of confidential patient information, even though I may not be directly involved in providing patient services. I understand that such information must be maintained in the strictest confidence. As a condition of accessing the computer system, I hereby agree that, unless directed by my supervisor, I will not at any time during or after accessing (the hospital's) computer system disclose any patient information to any person whatsoever or permit any person whatsoever to examine or make copies of any patient reports or other documents prepared by me, coming into my possession, or under my control, or use patient information, other than as necessary..."</p> <p>The physician group also had their own set of policies and procedures that were signed by E1, which contain in pertinent part:"... I agree that I will: ...6. Not seek personal benefit or permit others to benefit personally from any confidential information or use of equipment available through my work assignment..."</p>		<p>In addition, monthly reviews are occurring for other third party requester users; a minimum of 10 users per month are reviewed. In the event the third party requester has &lt;10 users all users are reviewed. Any issues of non-compliance will be evaluated and forwarded to the appropriate individual requesting immediate action and follow up,</p> <p>Reviewed and analyzed at Privacy Committee with reporting to Quality Patient Safety Committee as part on the Quality Assurance process.</p> <p>The monthly third party requester reviews are performed and are part of the Privacy Office compliance quarterly report to the Compliance Officer.</p>	<p>10/25/12</p> <p>Quarterly</p>

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