

California Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: CA070000153	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 08/05/2014
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NAME OF PROVIDER OR SUPPLIER GOOD SAMARITAN HOSPITAL	STREET ADDRESS, CITY, STATE, ZIP CODE 2425 SAMARITAN DRIVE SAN JOSE, CA 95124
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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 conducted from 7/18/14 to 8/5/14.</p> <p>For Entity Reported Incident CA00360429, regarding State Monitoring, Intentional Breach of PHI by Health Care Worker, one State deficiency was identified (see California Health and Safety Code, Section 1280.15(a)).</p> <p>Inspection was limited to the specific entity reported incident investigated and does not represent the findings of a full inspection of the hospital.</p> <p>Representing the California Department of Public Health: 32398, Health Facilities Evaluator Nurse.</p> <p>The hospital detected the Breach of Patient's Health Information (PHI) on 6/25/13. The hospital reported the Breach of PHI to the Department on 7/1/13. The hospital notified Patient 1 of the Breach of PHI on 7/1/13.</p>	A 000		
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</p>	A 001	<p>CALIFORNIA DEPARTMENT OF PUBLIC HEALTH</p> <p>SEP 10 2014</p> <p>L & C DIVISION SAN JOSE</p>	

Licensing and Certification Division LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE <i>Paul Beane</i> CEO	TITLE 9/4/14	(X6) DATE
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9/11/14 DOC accepted via faxed copy on 9/8/14, spoke to Amy Edwards - H

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A 001	Continued From page 1 affected patient(s) or the patient's representative(s) of the unlawful or unauthorized access, use or disclosure of the patient's medical information.	A 001		
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	A. A letter was mailed to the patient on 7/1/2013, to inform him of the access to his patient identifiable information, radiology reports, cardiology reports and other physician dictation which was above and beyond his x-ray films which he had authorized her to pick up. B. No other patients were affected by the same deficient practice. A real time report called the Appropriate Access Tool, is constantly monitoring appropriate access to patient's records by employees. An audit would be performed on patients who appear on the Appropriate Access Tool in order to determine the appropriateness of the employee's access. If after review of the report and investigation of questionable access, an employee is found reviewing a record without the need to know for their job function, we will use the Sanctions for HIPAA Privacy and Security Violations policy to establish corrective action.	7/1/13 On-going

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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 the unauthorized disclosure of patient health information (PHI) for one of one sampled patient (1), when a hospital employee accessed Patient 1's electronic medical records without a job related purpose. The failure resulted in Patient 1's PHI being disclosed to an unauthorized individual. Findings:</p> <p>The California Department of Public Health received an online report on 7/1/13, which indicated a nurse had accessed Patient 1's medical records. The nurse was not treating Patient 1 nor had authorization on file to access Patient 1's records.</p> <p>During an interview on 7/18/14 at 10:45 a.m., the privacy official (PO) stated during a real-time computer audit, the computer flagged the access of Patient 1's record. After an internal investigation, the hospital identified a registered nurse (RN A) had accessed Patient 1's medical record. RN A had not cared for Patient 1, nor had a business related reason to access Patient 1's medical records. PO further stated RN A was Patient 1's family member and did have authorization to pick up X-rays for Patient 1, but not for any other access. The computer audit indicated RN A had accessed radiology and cardiology department reports, physician dictations, which included a history and physical, and consultation/procedure notes.</p> <p>During an interview on 7/18/14 at 11:20 a.m., RN A stated she had brought Patient 1 to the emergency room (ER) on 6/2/13. RN A stated Patient 1 was released from the ER, but required</p>	A 017	<p>C. The Facility Information Security Officer sent an electronic message to all employees on 7/1/2013. This message included the following language:</p> <p>Patient information is widely disseminated throughout the hospital through the hard copy Medical Record, through computer systems and on information boards in various locations. The following are guidelines for ensuring this information is kept confidential:</p> <p><u>DO</u></p> <ul style="list-style-type: none"> - Consider all information in a patient medical record as confidential. - Access to PCI and all patient information is granted after acknowledgement of confidentiality. <p><u>DONT</u></p> <ul style="list-style-type: none"> - NEVER ACCESS YOUR OWN MEDICAL RECORD, OR THOSE OF FRIENDS, FAMILY OR COWORKERS FROM PCI. <p>The HIM Department can assist you with these records if needed.</p> <ul style="list-style-type: none"> - DON'T ACCESS ANY PATIENT RECORD UNLESS YOU ARE TAKING CARE OF THE PATIENT (You may NOT check on the progress of a patient once they have left your department or floor). <p>Thank you for keeping our patient records safe.</p>	7/1/13

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A 017	Continued From page 4 management queries, and recent clinical areas of Patient 1's electronic records. A review of a copy of the hospital's 5/1/08 "Minimum Necessary" policy indicated only workforce members with a legitimate "need to know" may access patient information. Each workforce member may only access information necessary to perform his or her designated role.	A 017		