

*POC accepted  
W. Williams  
12/21/11*

HEALTH FACILITIES  
INSPECTION DIVISION  
ADMINISTRATION  
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05/06/2011

California Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>CA930000026</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEILLANCE COMPLETE  <b>05/06/2011</b>
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NAME OF PROVIDER OR SUPPLIER  <b>HUNTINGTON MEMORIAL HOSPITAL</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>100 W CALIFORNIA BLVD PASADENA, CA 91109</b>
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A 000	<p><b>Initial Comment</b></p> <p>The following reflects the findings of the Department of Public Health during an entity reported investigation.</p> <p>Intake Number: CA00237678 - Substantiated</p> <p>The inspection was limited to the specific entity reported investigation and does not represent the findings of a full inspection of the facility.</p> <p>Representing the Department of Public Health:  <div style="background-color: black; width: 100px; height: 1em; display: inline-block;"></div> RN, HFEN</p>	A 000	<p><b>Initial Comment:</b></p> <p>Huntington Memorial Hospital ("HMH") complies with all state and federal legal requirements to prevent unlawful and unauthorized access to patients' medical records, including Health &amp; Safety Code § 1280.15(a). HMH submits this Plan of Correction (POC) as evidence of the corrective actions undertaken by HMH since the inspection on May 6, 2011, to address the alleged deficiency and assure compliance with all its legal obligations. The submission of this POC is not intended to be an admission that HMH violated Health &amp; Safety Code § 1280.15(a).</p>	
A 017	<p><b>1280.15(a) Health &amp; Safety Code 1280</b></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</p>	A 017	<p><b>Policies and Procedures:</b></p> <p>HMH's Chief Human Resources Officer/VP of Administrative Services, Debbie Ortega, and HMH outside legal counsel, will review all HMH policies and procedures relating to medical record privacy and will make whatever changes to them, and/or develop new policies and procedures, that may be necessary to ensure that they accurately reflect all applicable legal requirements, including requirements related to preventing the unlawful or unauthorized access to, and use or disclosure of, patients' medical records. Such policies and procedures include: 1) HIPAA/Patient Rights and Confidentiality; 2) HIPAA and Patient</p>	

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A 017	<p>occurrence of unlawful or unauthorized</p> <p>Continued From page 1</p> <p>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 interviews and record reviews, the facility failed to prevent unlawful use of a patient's medical information. On [REDACTED] 2010, Employee A used Patient 1's health information and sent a sexual text message to the patient's cell phone.</p> <p>Findings:</p> <p>On May 6, 2011, an unannounced visit was made to the facility to investigate a facility reported incident regarding Employee A had inappropriately used the health information of Patient 1.</p> <p>A review of the facility letter dated July 2, 2010, submitted to the Department, indicated on June 28, 2010, hospital</p>	A 017	<p>Confidentiality Policies and Procedures; 3) Compliance Policies; 4) the Privacy and Security of Patient Information Policies; 5) the Privacy and Security of Patient Information Education Policies; and 6) the Minimum Necessary Use of Protected Health Information Policies.</p> <p>In addition, Ms. Ortega and HMH outside legal counsel will review all HMH policies and procedures relating to confidentiality of patient medical records and computer usage, including, the Confidentiality, Computer Usage and Accountability Agreement, Safeguarding Property, Assets and Information Policy, and the Employee Conduct Policies, and will make whatever changes to them, and/or develop new policies and procedures, that may be necessary to ensure that they accurately reflect all applicable legal requirements.</p> <p>Completion Date – January 31, 2012, by Ms. Ortega.</p> <p><u>Corrective Action:</u></p> <p>1) Revise Huntington Hospital's Employee Handbook and Privacy Breach Investigation and Reporting Protocol to state that employees who are suspected of misusing patient information or engaging in other serious violations of</p>	

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A 017	<p>management was made aware of a Continued From page 2</p> <p>situation which occurred on [REDACTED] 2010 where an employee within the Occupational Health Department had inappropriately accessed and used the health information of a patient. The information inappropriately accessed consisted of a cell phone/text number which was then used by the employee to send an unsolicited text message to the patient.</p> <p>According to the facility's investigation, Employee A worked as an admission clerk in the facility. On [REDACTED] 2010, Patient 1 called and informed the facility that he received a sexual text message from Employee A. Patient 1 also stated he had positive confirmation from an on-line resource that the message was from Employee A. When the facility manager informed Employee A that Patient 1 had positive confirmation of where the text originated, Employee A admitted he sent to Patient 1. He also admitted he sent text messages to approximately eight to ten other patients over the course of one year.</p> <p>During an interview with the Compliance Officer on May 6, 2011 at 11:25 a.m., he stated this was not a part of Employee A's normal business, however the employee had legitimate access to patient demographics, contact numbers, insurance and social security numbers, however he used the information inappropriately. The Compliance Officer stated they were unable to identify the other eight to ten patients to</p>	A 017	<p>HMH's policies related to the confidentiality of patient medical records and/or policies related to computer usage and confidentiality will be immediately suspended with pay while the Hospital conducts an investigation.</p> <p>2) Revise Huntington Hospital's Employee Handbook and Privacy Breach Investigation and Reporting Protocol to state that after an investigation, any employee found to have misused patient information or to have seriously violated HMH's policies related to the confidentiality of patient medical records and/or policies related to computer usage and confidentiality will be subject to termination.</p> <p>3) Revise HMH's Use of Cellular Phones and Pagers Policy to state that employees who are suspected of seriously violating, as determined by HMH, the Hospital's policy against text messaging or telephoning in work areas without authorization, will be immediately suspended with pay while the Hospital conducts an investigation.</p> <p>4) Revise HMH's Use of Cellular Phones and Pagers Policy to</p>	

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A 017	<p>whom Employee A had sent text messages.</p> <p>Continued From page 3</p> <p>A review of the admission screen, where Employee A had access, indicated Patient 1 was admitted to the facility on [REDACTED] 2010. Other pertinent information revealed the patient's phone number, home address, birth date and social security number.</p> <p>A review of Employee A's education record indicated the employee signed the Confidentiality, Computer Usage and Accountability Agreement on March 7, 2006, and the New Employee Acknowledgement form for Health Insurance Portability, Accountability (HIPPA) [sic] and Patient Confidentiality Policies on March 20, 2006.</p> <p>A review of the Employee Termination Report indicated Employee A resigned, without notice, during the investigation which alleged he had sent inappropriate sexual text messages to patients. The Termination Report indicated Employee A admitted to having sent the message and was terminated on June 28, 2010.</p> <p>A review of the facility's policy and procedure titled Standards of Conduct dated October 2008 under Safeguarding Property, Assets and Information indicated the facility was committed to using their resources wisely and would be accountable to themselves and to others for their proper use and that they would ensure that all patient information, in whatever form, was handled in a manner to protect against</p>	A 017	<p>state that any employee found, after investigation, to have seriously violated HMH's policy against text messaging or telephoning in work areas without authorization, will be subject to termination.</p> <p>5) Expand HMH's Patient Access Audit Review Protocol to implement quarterly audits of a random sampling of non-VIP patient records.</p> <p>6) On at least an annual basis, review applicable law and update HMH policies and procedures, as necessary, to accurately reflect current law.</p> <p>7) Expand orientation requirements of all HMH staff to include the information described in this POC.</p> <p>8) Email all HMH employees information regarding the Hospital's Compliance Webline and Compliance Hotline. Post information about the Webline and Hotline in key locations around HMH. Repeat the emailing above on a periodic basis, at least annually.</p> <p>Completion Date – January 31, 2012 by Ms. Ortega.</p>	

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A 017	<p>improper access or use.</p> <p>Continued From page 4</p> <p>Based on the information submitted by the facility, interviews, and other facts set forth above, Employee A unlawfully accessed and then used Patient 1's medical information on [REDACTED] 2010. The facility failed to prevent unlawful access and use of a patient's medical information in violation of Health and Safety Code Section 1280.15(a).</p>	A 017	<p><u>Training and Education:</u></p> <ol style="list-style-type: none"> <li>1) No later than January 13, 2012, HMH will send an email to all HMH employees to make them aware of a Net Learning System course on HMH's privacy policies, including all policies and procedures referenced above.</li> <li>2) HMH is accelerating its annual training schedule to ensure that all HMH employees receive an annual refresher training on the matters and information contained in this POC by April 30, 2012. Failure to complete this mandatory training will result in immediate termination.</li> <li>3) All HMH employees will be required to re-sign a Confidentiality, Computer Usage, and Accountability Agreement by April 30, 2012.</li> </ol> <p>Responsible for Completion – Ms. Ortega.</p> <p><u>Monitoring</u></p> <p>Every six months, HMH will review the actual experience of compliance and</p>	
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			any violations of any of the legal requirements or policies and procedures referenced above for the prior six months, and initiate changes in policies and procedures, or take other measures, as may be necessary to ensure compliance with the law, and relevant HMH policies and procedures.  Completion Date – January 31, 2012 by Ms. Ortega.	



Debbie Ortega, Chief Human Resources Officer/VP of Administrative Services