

*PJC accepted. Kris Hooper notified 3/18/14 Great Mohr H/62*

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH  
 FORM APPROVED  
 DATE: 01/23/2014

California Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>CA070000150</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____	<b>MAR - 7 2014</b>  L & C DIVISION SAN JOSE	(X3) DATE SURVEY COMPLETED  <b>C</b> <b>12/24/2013</b>
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NAME OF PROVIDER OR SUPPLIER  <b>KAISER FOUNDATION HOSPITAL-SAN JOSE</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>250 HOSPITAL PARKWAY SAN JOSE, CA 95119</b>
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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
A 000	<p><b>Initial Comments</b></p> <p>The following reflects the findings of the California Department of Public Health during the investigation of an entity reported incident conducted on 12/18/13.</p> <p>For Entity Reported Incident CA00374797 regarding State Monitoring, Intentional Breach by a Health Care Worker, a State deficiency was identified (see California Health and Safety Code, Section 1280.15(a)).</p> <p>Representing the California Department of Public Health was 25721, 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 facility detected the breach on 10/23/13. The facility notified the patient of the breach on 10/24/13. The facility notified the Department of the breach on 10/25/13.</p>	A 000		
A 001	<p><b>Informed Adverse Event Notification</b></p> <p>Health and Safety Code Section 1279.1 (c), "The facility shall inform the patient or the party responsible for the patient of the adverse event by the time the report is made."</p> <p>The CDPH verified that the facility informed the patient or the party responsible for the patient of the adverse event by the time the report was made.</p>	A 001		

Licensing and Certification Division  
 LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE  
*Jane Chavez Sr VP Area Manager* TITLE  
 DATE: *3/17/14* (X6) DATE  
 STATE FORM PN7011 If continuation sheet 1 of 3

California Department of Public Health

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH  
12/24/2013

MAR - 7 2014

L & C DIVISION  
SAN JOSE

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A 017 A 017	Continued From page 1 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.  This Statute is not met as evidenced by: Based on interview and record review, the hospital failed to prevent unauthorized access of one patient's medical information. A billing technician (BT) accessed Patient 1's medical	A 017 A 017	1280.16(b)(2) Health & Safety Code 1280  <b>Immediate Action:</b> The employee was immediately suspended on 12/6/2012 pending investigation and then terminated following the results of the investigation interview on 12/11/2012.  <b>Systemic Actions:</b> Staff is required to complete HIPAA privacy and security training on hire and annually thereafter. This training includes a review of Kaiser Permanente's Principles of Responsibility and HIPAA policies regarding privacy and confidentiality. Additionally, staff in the Business Office Management received training with emphasis on "business need only access", Kaiser Permanente's Code of Conduct, and HIPAA policies and procedures.  <b>Responsible Parties:</b> Assistant Director Claims NCAL Revenue Cycle	12/11/12  Start date: Jan 2013 End date: June 2013

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A017	<p>Continued From page 2</p> <p>information without a work-related need to do so. The information included time and date of birth, sex, laboratory tests and diagnosis. Findings:</p> <p>The Department received a self report dated 10/25/13 via facsimile indicating the hospital detected a potential event of unauthorized disclosure of a patient's medical information.</p> <p>The Privacy Officer (PO) was interviewed on 12/18/13 at 10:46 a.m. She stated a family member (FM) expressed concern her newborn baby's medical record had been accessed by an unauthorized person. The PO stated the hospital conducted an audit of the electronic medical record and discovered Patient 1's record had been accessed by the BT with no work-related reason to access the record. The PO stated the audit indicated the record was accessed by the BT on 10/2/12 and 10/3/12. The PO indicated the information included time and date of birth, sex, laboratory tests, and diagnosis.</p> <p>On 12/18/14 review of sample medical record audit documents indicated age, sex, diagnosis and laboratory tests were accessible on Patient 1's electronic medical record.</p> <p>During an interview on 1/23/14 at 11:20 a.m., the BT stated she accessed Patient 1's record more than once in 2012 while employed by the hospital. The BT stated she had no business reason to do so. She stated she accessed the record for personal reasons.</p>	A017	<p><b>Monitoring:</b></p> <p>Attendance by the Claims NCAL Revenue Cycle staff at monthly meetings (January, February, March, April, May, and June 2013) was monitored by the Senior Compliance Consultant or designee. Meetings emphasized "business need only access", Kaiser Permanent's Code of Conduct, and HIPAA policies and procedures.</p> <p>Results were reported to the Compliance Committee.</p> <p><b>Responsible Parties:</b></p> <p>Assistant Director Claims NCAL Revenue Cycle</p> <p><b>Oversight(s):</b></p> <p>Compliance and Privacy Officer</p>	<p>Start date: Jan 2013</p> <p>End date: June 2013</p>