



MARK B HORTON, MD, MSPH
Director

State of California—Health and Human Services Agency
California Department of Public Health



ARNOLD SCHWARZENEGGER
Governor

ADMINISTRATIVE PENALTY NOTICE

CERTIFIED MAIL

May 14, 2009

Kaiser Foundation Hospital - Bellflower
393 E. Walnut, AR & L
Pasadena, California 91188

Dear Sir or Madam:

FACILITY ID: CA930000074

PENALTY NUMBER: 930006192

The California Department of Public Health (Department) has determined that Kaiser Foundation Hospital at 9400 E. Rosecrans Avenue in Bellflower, California failed to prevent unlawful or unauthorized access to, or use or disclosure of a patient's medical information, as required by Section 1280.15 of the Health and Safety Code.

Health and Safety Code section 1280.15(a) requires the Department to consider the facility'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."

Pursuant to California Health and Safety Code section 1280.15(a), the Department hereby assesses an administrative penalty of \$250,000 (\$25,000 per patient whose medical information was unlawfully or without authorization accessed, plus \$17,500 per twenty-two (22) subsequent occurrences of unlawful or unauthorized access, of that patient's medical information. Per Health and Safety Code 1280.15(c), the maximum fine cannot exceed \$250,000 per reported event.) This is based upon findings contained in reported event investigation (CA00176960), which are hereby incorporated by reference into this Notice, the facility's history of compliance relative to unauthorized access of confidential medical records and the immediate corrective and disciplinary actions taken by the facility once the unauthorized access was detected.

If you dispute the determination by the Department regarding a failure to prevent or to timely report unlawful or unauthorized access to, or use or disclosure of, patients' medical information, or the imposition of a penalty under this statute, you may, within 10 calendar days, request a hearing pursuant to California Health and Safety Code section 131071.

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Any request for such hearing must be submitted in writing. The request must be postmarked no later than 10 calendar days after the date that the licensee (not the hospital administrator) signs the Certified Mail return receipt for this notice. The request for the hearing should be mailed and addressed to:

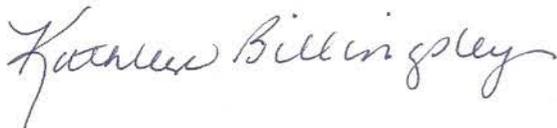
California Department of Public Health
Licensing and Certification Program
James L. Lawson, Ph.D., RN
Health Facilities Inspection Division
12440 E. Imperial Highway, Suite 522
Norwalk, CA 90650

If this penalty is being appealed, then payment shall be due when the appeal has been exhausted and the assessment has been upheld. Payment of this penalty shall be mailed to:

California Department of Public Health
Licensing and Certification Program
Grant and Fiscal Assessment Unit
P.O. Box 189190
Sacramento, CA 95818-9190

If you have questions regarding this notice, you may contact Kathleen Billingsley, R.N, Deputy Director of the Center for Health Care Quality, Licensing and Certification Program at (916) 324-6630 or at Kathleen.Billingsley@cdph.ca.gov.

Sincerely,



Kathleen Billingsley, R.N.
Deputy Director

cc: Mary T. Carrillo
Chief Operating Officer
Kaiser Foundation Hospital – Bellflower
9400 E. Rosecrans Avenue
Bellflower, CA 90706

Mr. Cliff Donaldson
Grant and Fiscal Assessment Unit
P.O. Box 189190
Sacramento, CA 95818-9190

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cc: James L. Lawson. Ph.D., RN
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CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF PUBLIC HEALTH

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 050139	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED 03/20/2009
NAME OF PROVIDER OR SUPPLIER KAISER FOUNDATION HOSPITAL-BELLFLOWER		STREET ADDRESS, CITY, STATE, ZIP CODE 9400 E. ROSECRANS AVE., BELLFLOWER, CA 90706 LOS ANGELES COUNTY		
(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
	<p>The following reflects the findings of the Department of Public Health during a Complaint investigation.</p> <p>Complaint Intake Number: CA0017690 – Substantiated</p> <p>The inspection was limited to the specific complaint investigated and does not represent the findings of a full inspection of the facility.</p> <p>Representing the Department of Public Health: Belinda Rarela, RN-HFEN, Rosario Grospe, RN-Sr. HFEN, Eric Stone, REHS, Supervisor</p> <p>Health and Safety Cod Section 1280.15(a)</p> <p>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>T22 DIV5 CH1 ART7-70707(b)(8) Patients' Rights</p> <p>(b) A list of these patients' rights shall be posted in</p>			

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5/14/2009

12:51:20PM

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

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	<p>Continued From page 1</p> <p>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>This Statute is not met as evidenced by:</p> <p>Based on record review and interview, the facility failed to maintain the privacy and confidentiality of a patient's medical record. For Patient 1's medical record, there were twenty one (21) employees and two physicians who inappropriately accessed the patient's electronic medical record without authorization.</p> <p>Findings:</p> <p>On February 5, 2009, a self reported facility incident was investigated regarding employees at the hospital breaching the electronic medical record of Patient 1.</p> <p>According to a facility letter to the Department dated February 5, 2009 at 10:44 a.m., the facility had confirmed that two (2) employees had inappropriately accessed the electronic medical record of Patient 1. In addition, the facility's letter indicated that the "matter" was still under investigation.</p>				

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	<p>Continued From page 2</p> <p>During an interview with Employee B on February 5, 2009 at 3:05 p.m., she stated there was "high probability" that the facility had identified two (2) employees who inappropriately accessed Patient 1's electronic medical record. Employee B stated the investigation was ongoing and was not able to provide the names of the employees and their position. Employee B stated the facility installed "confidentiality reminders" on Patient 1's electronic record on Monday, February 2, 2009.</p> <p>A review of a facility investigative report, dated February 13, 2009, disclosed that the facility, "through subsequent investigation and employee interviews" had "ascertained" that three (3) employees had inappropriately accessed Patient 1's medical record.</p> <p>According to a facility letter to the Department dated February 20, 2009, the facility had identified that now six (6) employees (the three employees reported on February 13, 2009 plus three additional employees) who accessed Patient 1's medical record without authorization.</p> <p>On March 11, 2009 at 10 a.m., Employee A disclosed that the six (6) employees "Had no business to know. Had no permission to look" at Patient 1's medical record and all six (6) employees had subsequently resigned.</p> <p>During an interview with Employee A on March 16, 2009 at 10:30 a.m., she stated that "suspicion" of a breach was discovered on February 5, 2009.</p>				

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	<p>Continued From page 3</p> <p>Employee A stated that on February 5, 2009, the hospital's risk management department ran a report of anybody who had access to Patient 1's medical record. Employee A stated that risk management met with department heads who had employees on the list to determine whether or not there was a "need to know" confidential medical record information concerning Patient 1. Employee A stated the facility had determined that the six (6) employees had no reason to access Patient 1's medical record.</p> <p>According to a facility investigative report, dated March 20, 2009, the facility disclosed, "through subsequent investigation and employee interviews" had "ascertained" that fifteen additional employees and two physicians had inappropriately accessed Patient 1's electronic medical record. According to the facility's investigative report, eight of the seventeen individuals, who inappropriately accessed Patient 1's electronic medical record, worked at five different Sister facilities and the Corporate Regional office. In addition, the facility's investigative report of March 20, 2009, identified that two employees were terminated, seven employees resigned and disciplinary action was taken against six employees and two physicians.</p> <p>Based upon the information provided on the "computer screen shots", the twenty one (21) employees and two physicians (the six employees identified on February 20, 2009 plus the seventeen employees/physicians identified on March 20, 2009) breached Patient 1's electronic medical record from January 6, 2009 to February 19, 2009.</p>				

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	<p>Continued From page 4</p> <p>During a telephone interview with Employee A on March 20, 2009, at approximately 4:20 p.m., it was disclosed that the twenty one employees and two physicians viewed Patient 1's electronic medical record without authorization and that the facility's investigation, to date, had not identified any other patient medical records that had been breached.</p> <p>A review of facility records revealed that the twenty one employees and two physicians participated in patient privacy and/or compliance training and signed "Confidentiality Agreement" or "Principles of Responsibility Attestation" upon hire and annually, agreeing to only access information that they had been "instructed or authorized to access to do my job."</p> <p>A review of Patient 1's clinical record revealed the patient was admitted to the facility on December 6, 2008. There was no documentation that the patient had signed a consent or given authorization for release of medical information to the above-mentioned twenty one employees and two physicians during the December 2008 admission.</p> <p>T22 DIV5 CH1 ART7-70751(b) Medical Record Availability</p> <p>(b) The medical record, including X-ray films, is the property of the hospital and is maintained for the benefit of the patient, the medical staff and the hospital. The hospital shall safeguard the information in the record against loss, defacement, tampering or use by unauthorized persons. This</p>				

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	<p>Continued From page 5</p> <p>Statute is not met as evidenced by:</p> <p>Based on interview and record review, the facility failed to safeguard Patient 1's medical record against use by unauthorized individuals.</p> <p>Findings:</p> <p>On February 5, 2009, a facility self reported incident was investigated regarding a breach in the electronic medical record for Patient 1.</p> <p>During an interview with Employee B on February 5, 2009 at 3:05 p.m., she stated there was "high probability" that the facility had identified two employees who inappropriately accessed Patient 1's electronic record without authorization.</p> <p>A review of a facility investigative report, dated February 13, 2009, disclosed that the facility, "through subsequent investigation and employee interviews" had "ascertained" that three (3) employees had inappropriately accessed Patient 1's medical record.</p> <p>According to a facility letter to the Department dated February 20, 2009, the facility had identified that now six (6) employees (the three employees reported on February 13, 2009 plus three additional employees) who accessed Patient 1's medical record without authorization.</p> <p>According to a facility investigative report, dated March 20, 2009, the facility disclosed, "through subsequent investigation and employee interviews"</p>			

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	<p>Continued From page 6</p> <p>had "ascertained" that fifteen additional employees and two physicians had accessed Patient 1's electronic medical record without authorization. According to the facility's investigative report, eight of the seventeen individuals, who inappropriately accessed Patient 1's electronic medical record, worked at five different Sister facilities and the Corporate Regional office.</p> <p>Based upon the information provided on the "computer screen shots" and the facility investigative reports, the twenty one (21) employees and two physicians (the six employees identified on February 20, 2009 plus the seventeen employees/physicians identified on March 20, 2009) viewed Patient 1's electronic medical record, without authorization, from January 6, 2009 to February 19, 2009The facility failed to prevent access to confidential medical record information and safeguard Patient 1's medical record against use by unauthorized individuals.</p>				

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