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11/11/14

CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF PUBLIC HEALTH

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 050228	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED 10/29/2013
NAME OF PROVIDER OR SUPPLIER San Francisco General Hospital		STREET ADDRESS, CITY, STATE, ZIP CODE 1001 Potrero Ave, San Francisco, CA 94110-3518 SAN FRANCISCO 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: CA00374966 - Substantiated</p> <p>Representing the Department of Public Health: Surveyor ID # 25730, HFEN</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>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</p>			

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Event ID:GBVG11 *Jusana A Curran* 1/10/2014 3:54:30PM *CEO* 1-30-14
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE TITLE (X6) DATE

By signing this document, I am acknowledging receipt of the entire citation packet. Page(s) 1 thru 7
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 90 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.

State-2567 *Poc accepted. McCoulton HFEN 2/4/14* Page 1 of 7

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	<p>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> <p>The attorney, representing Patient 1's daughter, was notified of the information breach within five days from discovery.</p> <p>1280.15(a) Health & Safety Code 1280</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 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</p>		<p>Health & Safety Code Section 1280.15 (a): a ... health facility... shall prevent unlawful or unauthorized access to and use or disclosure of patient' medical information.</p> <p>And</p> <p>T22 DIV5 CH1 ART7-70751 (b) <u>Medical Record Availability</u>: The hospital shall safeguard the information in the record against loss, defacement, tampering or use by unauthorized persons.</p> <p>Action(s): Before and after these privacy breach incidents, hospital leadership has engaged in ongoing efforts via memos, emails, staff trainings, and employee annual update training to ensure that hospital staff are educated and knowledgeable about hospital and SFDPH privacy and security policies.</p>	Ongoing	

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1/10/2014

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	<p>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>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.</p> <p>This RULE: is not met as evidenced by:</p> <p>Based on interview and record review, the facility failed to ensure the confidentiality of Patient 1's Lifetime Care Record (LCR - medical record, electronic chart) when four staff members accessed Patient 1's LCR without need and without authorization.</p> <p>Findings:</p> <p>Patient 1 was admitted to the hospital on 9/19/13. Patient 1, who had periods of confusion, wandered off the nursing unit and was not located within the hospital or at home. This triggered a Missing Persons search by the local Police Department which was broadcast in newspaper and television reports. Patient 1's dead body was found in a stairwell of the hospital on 10/8/13 and this started</p>		<p>The SFGH multidisciplinary <i>Privacy Committee</i>, composed of the SFGH Privacy Officer and staff from the SFGH Privacy Office, the SFGH Chief Medical Officer, the SFGH Chief Communications Officer, representatives from the SFGH Legal Affairs, Regulatory Affairs, Health Information Systems departments, as well as representatives from both the SFGH and UCSF Risk Management and Information Systems Departments, meets monthly to review, discuss, and recommend policy involving privacy compliance issues.</p> <p>The SFGH Privacy Officer and the SFGH Privacy Analyst routinely conduct "<i>Privacy Rounds</i>" within the hospital departments to educate hospital staff about privacy security and awareness, to validate staff knowledge regarding privacy security and awareness, as well as to identify issues requiring corrective action by managers. Findings are reported to the Privacy Committee.</p> <p>As noted, the four privacy breaches were discovered during a routine audit of medical records of high profile patients by the SFGH Privacy Office on October 21, 2013.</p>	<p>Initiated July 12, 2011 and ongoing</p> <p>Initiated June 2012 and ongoing</p>

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	<p>more media coverage. This entire situation made Patient 1 a high-profile case.</p> <p>During an interview on 10/28/13 at 8:00 AM, the hospital's Privacy Officer (PO) stated that the hospital automatically does weekly computer audits on high-profile cases to identify potentially unauthorized access to the high profile individual's Lifetime Care Record (LCR). The PO went on to say that the audits identified four individuals who had accessed Patient 1's LCR without an obvious need to review Patient 1's clinical information.</p> <p>The PO went on to say that on 10/21/13 the audit report identified that on 10/18/13 a Registered Nurse (RN 6), who worked in the ICU (Intensive Care Unit), had accessed clinical notes and reports in Patient 1's LCR. The PO stated she spoke with RN 6 by telephone on 10/21/13, and RN 6 admitted that she had accessed Patient 1's LCR without need and without authorization because she (RN 6) "was curious."</p> <p>The PO continued her report and stated the audit indicated that on 10/10/13, a contracted Billing Manager, working for the Department of Anesthesia, had accessed Patient 1's LCR two times to review Patient 1's report notes and discharge summary. During her interview with the PO, the Billing Manager admitted that she had improperly accessed Patient 1's record because she "was curious."</p> <p>The PO went on to say that a contracted Billing Clerk, working for the Department of Anesthesia,</p>		<p>As noted, the four employees (RN 6 and the three contracted billing clerks) involved in these privacy breaches had been oriented to their responsibilities to protect the confidentiality of patient protected health information (PHI) and to medical information privacy requirements as evidenced by training documentation.</p> <p>RN 6 and the three contract billing clerks were placed on administrative leave by their respective HR departments pending completion of the Privacy Officer' investigation.</p> <p>RN6 voluntarily resigned; two of the three contracted billing clerks have subsequently been terminated from employment and one contracted billing clerk was returned to duty. Her LCR access is being randomly audited by the SFGH Privacy Office to ensure compliance with patient confidentiality.</p> <p>The Chief Nursing Officer (CNO) issued a memo to nursing staff reminding staff about their employee responsibility to protect patient privacy and confidentiality.</p> <p>The privacy breaches were disclosed to Patient 1' family representative by hospital leadership.</p>	<p>October 2013</p> <p>October 2013</p> <p>November 11, 2013</p> <p>November 18, 2013</p>

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3:54:30PM

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	<p>accessed Patient 1's LCR reports and clinical notes on 10/10/13. The Billing Clerk told the PO that she was checking the LCR to see if there was a need to bill for Anesthesia Services. Patient 1 had never had any Anesthesia Services. The PO and the Billing Manager stated there was no need and no authorization for this Billing Clerk to access Patient 1's LCR.</p> <p>The PO continued that a contracted Billing Analyst, working for the Department of Neurosurgery, viewed Patient 1's clinical notes and discharge summary on 10/10/13. The Billing Analyst acknowledged that there was no need and no authorization for this access and stated that she (Billing Analyst) "was curious."</p> <p>Record review of the reports "Display Audit Log", dated 10/21/13, showed the dates and the areas of Patient 1's LCR which each of these four individuals had accessed.</p> <p>Record review of the hospital's Policy and Procedure titled "Health Information Services: Confidentiality, Security, and Release of Protected Health Information" dated 6/11, stated "It is the policy of (Hospital Name) to protect every patient's right to privacy. As a general guideline, all observations and/or communications regarding a patient's medical history, mental or physical conditions, and treatments are considered confidential. Protected health information may be released only for approved purposes, with proper authorization from the patient when required, and as permissible or required by federal or state law."</p>		<p>The SFGH Privacy Officer issued a memo to all hospital staff reminding them about their employee responsibility to protect patient privacy and confidentiality.</p> <p>The SFGH Privacy Committee reports privacy related issues e.g., privacy breaches and staff education around privacy, to the Leadership Medical Executive Committee (MEC), to the Nursing Administrative Forum (NAF), and to the hospital Quality Council (QC).</p> <p>SFGH has notified the California Board of Registered Nursing (BRN) of the above incident involving RN 6.</p> <p>Monitoring: The SFGH Privacy Officer and the SFGH Privacy Analyst routinely conduct monthly audits of the Lifetime Clinical Record (LCR) of all employees of the City & County of San Francisco Department of Public Health (CCSF DPH) and of all employees of the University of California, San Francisco (UCSF) who received care as patients at the hospital (emergency department, clinics, acute care, skilled nursing) to verify if the LCR access was appropriate.</p>	<p>November 20, 2013</p> <p>Ongoing</p> <p>January 29, 2014</p> <p>Initiated June 2012 and ongoing</p>	

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	<p>Record review of documentation titled "Transcripts" indicated all four individuals had completed Compliance (HIPAA) and Patient Privacy and Information Security training modules - RN 6 on 5/22/13, Billing Manager on 5/15/13, Billing Clerk on 6/3/13, and Billing Analyst on 6/6/13.</p> <p>During a telephone interview on 12/18/13 at 11:15 AM, the hospital's Director of Regulatory Affairs stated that RN 6 had been terminated from the hospital for failing to protect the confidentiality of patient information. The Director of Regulatory Affairs said the Billing Manager and the Billing Analyst had been terminated from their positions with the Contracted Services Provider for their failure to protect the confidentiality of Patient information. The Billing Clerk continued to insist that she went into Patient 1's medical record at the direction of her supervisor. Since this could not be proven nor disproven, the Billing Clerk was not terminated from her position with the Contracted Services Provider. The Billing Clerk received a Formal Written Warning as Disciplinary Action; she was required to repeat all of the courses regarding Confidentiality, Patient Privacy and HIPAA. The Billing Clerk was returned to her position at the hospital and the Privacy Officer will monitor frequent random audits of her computer access into patient medical records.</p> <p>The facility failed to ensure the confidentiality of Protected Health Information and personal medical information when four staff members accessed this information in Patient 1's computerized Lifetime</p>		<p>The SFGH Privacy Officer and the SFGH Privacy Analyst conduct audits of the Lifetime Clinical Record (LCR) of any patient as requested by managers to verify if the LCR access was appropriate .e.g., media high profile cases, VIPs. Questionable audit results are investigated with the manager and employee and action taken as indicated by the investigation.</p> <p>The total number of audits conducted per month average between 25-30/month. Questionable audit results are investigated with the manager and employee and action taken as indicated by the investigation. Audit results are reported quarterly to the SFGH Privacy Committee.</p> <p>The SFGH Privacy Officer present an annual report regarding privacy issues to the SFGH Quality Council including results of the quarterly audits. In addition, they report any incidents of non-compliance with DPH and SFGH privacy policies which occur during the year at the next scheduled SFGH Quality Council. The Quality Council reports annually to the Governing Body Joint Conference Committee.</p> <p>Responsible Person(s): Chief Nursing Officer SFGH Privacy Officer</p>	<p>Ongoing</p> <p>Ongoing</p>

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	<p>Care Record.</p> <p>The employees' actions to access the patient's medical information for improper purpose violated Health and Safety Code 1280.15 and is therefore subject to the applicable civil penalty assessment.</p>				
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