

CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF PUBLIC HEALTH

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 050467	(X2) MULTIPLE CONSTRUCTION A BUILDING _____ B WING _____	(X3) DATE SURVEY COMPLETED 03/04/2011
NAME OF PROVIDER OR SUPPLIER ST. MARY'S MEDICAL CENTER		STREET ADDRESS, CITY, STATE ZIP CODE 450 STANYAN STREET, SAN FRANCISCO, CA 94117 SAN FRANCISCO COUNTY		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LEC 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/breach event visit:</p> <p>Complaint Intake Number: CA00259080 - Substantiated</p> <p>Representing the Department of Public Health: Surveyor ID # 25732, 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>For purposes of the investigation, the department shall consider the clinic's, health facility's, agency's, or hospice's history of compliance with</p>			

C.D.P.H.
NOV 22 2011

Event ID: I0K811 10/27/2011 2:22:03PM

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE *Shirley Hanes, RN* TITLE *Accreditation & Regulatory Manager* (X8) DATE *Revised 11/21/11*

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12/12/11 Accepted amended POC - Jordan Acting HFES

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	<p>Continued From page 1</p> <p>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>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 regulation was not met as evidenced by:</p> <p>Based on record review and interview, the facility failed to maintain the privacy and confidentiality of 17 patient medical records (Patients 1 to 17) when a staff (Registration Clerk A) inappropriately accessed the patients' medical records and disclosed confidential information to other individuals not affiliated with the facility, which allowed them to manufacture phony California Driver's Licenses (CDLs). These fraudulent CDLs were used to set up several fraudulent credit card accounts.</p>		<p>St. Mary's Medical Center requests an informal conference with the District Administrator to discuss the merits of the deficiency.</p> <p>We respectfully disagree with the factual content of several statements in the CA00259080 findings document. We request an informal conference with the District Administrator to discuss, clarify, and possibly amend the document to more accurately reflect the facts of our investigation.</p> <p>T22 Div 5 Ch1 ART 7 §70751(b) Medical record availability</p> <p>The regulation was not met as evidenced by: Based on interview and record review, the hospital failed maintain the privacy and confidentiality of 17 patient medical records (Patients 1-17) when a staff (Registration Clerk A) inappropriately accessed the patients' medical records and disclosed confidential information to other individuals not affiliated with the facility, which allowed them to manufacture phony California Driver's Licenses.</p>	NOV 22 2011

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	<p>Continued From page 2</p> <p>Findings:</p> <p>According to a facility letter to the Department dated 2/14/11, the facility Security Director (SD-1) received information on 2/11/11, from a Police Detective (DET-1) representing an Economic Crime Unit in the Palm Beach Florida area that fake California Driver's Licenses with names and address of individuals who were in the patient medical record data base of the facility were seized during an identity theft raid.</p> <p>Review of a local police department crime report, dated 2/24/11, indicated "SD-1 received a call from DET-1 who stated the he was handling an identity theft case involving patients and employee physicians of St. Mary's Hospital. DET-1 said he had several photocopies of CDLs (California Driver's Licenses) belonging to victims of identity theft who also had been patients or physician employees at St. Mary's Hospital. DET-1 further stated that each driver's license had a photograph of the same individual, who is unknown. DET-1 told SD-1 that he had contacted a few victims (Patient 1, Patient 2, Patient 3) on the CDL and was told by the three that he contacted that they had been patients of St. Mary's and one who stated that she was a physician at the facility. DET-1 provided all names on the CDL list to SD-1 who confirmed that each person was either a current or past patient or active physician at St. Mary's Hospital."</p> <p>In an interview on 3/2/11 at 3:40 P.M., the Facility Privacy Officer (FPO) made the following statements:</p>		<p><u>How the corrective action(s) will be accomplished for those patients/persons found to have been affected.</u></p> <p>The facility employed the following actions 2/25/11 and ongoing</p> <ol style="list-style-type: none"> 1. Patient/Persons identified were sent notification letters. 2. Patient/Persons identified offered Credit Monitoring Services for 12 months. 3. Patient/Persons identified were given information regarding Security Freeze. 4. Facility Privacy Official point of contact to speak with patient/persons. <p><u>How will the facility identify other patient/persons who may be affected and what corrective action will be taken.</u></p> <p>The facility employed the following detection/prevention methods:</p> <ol style="list-style-type: none"> 1. Audit log review of all computer application activity 1/1/2010-2/17-21/2011 of RC-A. 3/12/11 2. Audit log review of same function employees in same physical location. 3/16/11 3. Audit log reviews. 3/1/11 and every two weeks thereafter for 12 months. Random audits of at least 50 patient registrations. After 12 months, random quarterly audits. 	

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	Continued From page 3 "All of the names on the phony drivers' license list we received from DET-1 were in our patient medical record data base we call MS4. The MS4 is a medical record data base that contains both employee physician health records and patient records. They are one in the same, since the employees are part of our health system. Seventeen of the names on this list had been accessed by RC-A with no reason or explanation. Patient 1, who is also a doctor at our facility, told us she received a call from a detective (DET-1) in the state of Florida who told her that he found her name, address and birth date on a list of phony CDL's that was being used by an identity theft ring. DET-1 felt that patient information from St. Mary's Hospital was being used to generate phony CDL's. Patient 1 confirmed that her identity had been compromised." "We received another report from Patient 2, a victim of identity theft, who had recently been a patient at the facility. She was told by the local police department to contact any facility she had had contact with to notify them of the crime. Patient 2 had been registered by RC-A in our Outpatient Clinic. Patient 2 had a unauthorized credit card charges at a Target and Macy's Department Store on a false Master Card seized in the identity theft raid in Florida. Her name was also on the list of phony driver's licenses." "Patient 4, who is also an employee physician here, reported to us that she had had an unauthorized charge for a gold bracelet from Saks		<u>What/How the correction will be accomplished, both temporarily and permanently.</u> The facility employed the following prevention methods 1. Eliminated the photo copying of Patient's identification cards. 2/22/11 and ongoing. 2. Facility Privacy Official, periodic HIPAA presentations to Management Council to reinforce HIPAA education. Changed to standing monthly agenda item 10/12/11 and ongoing. 3. Hospital President presentation and discussion of HIPAA reportable statistics to Management Council. 4/27/11 In addition, the facility will continue to employ the following prevention methods: 2/14/11 and ongoing. 4. Pre-employment background check required before person is eligible to be employed at St. Mary's Medical Center. 5. Workforce education at initial hire orientation and periodic thereafter. 6. Role based access and unique user ID. Access to electronic applications based on job classification/duties. 7. Periodic audit log reviews	

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	<p>Continued From page 5</p> <p>in the lab department of St. Mary's that RC-A was asking more identification questions than she thought necessary like her Social Security Card number and California Driver's License number."</p> <p>"After these conversations I begin to suspect that their was a connection between the phony driver's licenses and patient/employee medical records at St. Mary's Medical Center. I sent a list of the phony CDL names to the Security Director of St. Mary's. He confirmed to me that all of the names and addresses on the list were patients or employees at St. Mary's."</p> <p>Review of RC-A's computer access registration logs, dated 2/18/11, indicate that there was no reason to for her to obtain demographic registration information (name, address, birthday) on the following patients:</p> <table border="1"> <thead> <tr> <th>Name</th> <th>Unauthorized Dates of Access</th> </tr> </thead> <tbody> <tr><td>Patient 1</td><td>12/15/10</td></tr> <tr><td>Patient 2</td><td>12/18/10</td></tr> <tr><td>Patient 3</td><td>12/15/10</td></tr> <tr><td>Patient 4</td><td>12/15/10, 1/22/11</td></tr> <tr><td>Patient 5</td><td>12/14/10, 12/15/10</td></tr> <tr><td>Patient 6</td><td>11/21/10, 1/22/11</td></tr> <tr><td>Patient 7</td><td>12/14/10, 1/4/11</td></tr> <tr><td>Patient 8</td><td>12/14/10, 12/15/10</td></tr> <tr><td>Patient 9</td><td>1/22/11</td></tr> <tr><td>Patient 10</td><td>12/15/10</td></tr> <tr><td>Patient 11</td><td>12/15/10</td></tr> <tr><td>Patient 12</td><td>12/14/10</td></tr> <tr><td>Patient 13</td><td>12/14/10</td></tr> <tr><td>Patient 14</td><td>1/18/11</td></tr> <tr><td>Patient 15</td><td>1/18/11</td></tr> </tbody> </table>	Name	Unauthorized Dates of Access	Patient 1	12/15/10	Patient 2	12/18/10	Patient 3	12/15/10	Patient 4	12/15/10, 1/22/11	Patient 5	12/14/10, 12/15/10	Patient 6	11/21/10, 1/22/11	Patient 7	12/14/10, 1/4/11	Patient 8	12/14/10, 12/15/10	Patient 9	1/22/11	Patient 10	12/15/10	Patient 11	12/15/10	Patient 12	12/14/10	Patient 13	12/14/10	Patient 14	1/18/11	Patient 15	1/18/11			
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	<p>Continued From page 6</p> <p>Patient 16 12/14/10 Patient 17 12/14/10</p> <p>All of the above identified patients, except for Patient 14, demographic medical record information matched the names on a list of fake CDLs seized in an identify theft raid in Florida referenced above.</p> <p>Review of facility's policy and procedures titled "Network Usage Policy" dated December 18, 2009, it stated in Section G, Prohibited Uses of the Network: ...8. Accessing or disclosing Confidential Information, Sensitive Information, or Strictly Confidential Information that is not within the scope of the User's (facility' initials)-related duties and responsibilities..."</p> <p>Review of a facility Termination letter addressed to RC-A, dated 2/28/11, indicated: "After conducting and investigation, we have discovered multiple instances where you have inappropriately accessed numerous patients records in violation of our Privacy and Data Security Policies."</p> <p>Review of RC-A's employment file indicated RC-A signed an "Acknowledgement Form" dated 2/19/10, agreeing that "Prohibited Uses of the Network:...Accessing or disclosing Confidential Information, Sensitive Information or Strictly Confidential Information that is not within the scope of the User's...related duties and responsibilities..."</p> <p>The facility failed to prevent unauthorized access to confidential medical record information, by RC-A for Patients 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,</p>			

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	Continued From page 7 15, 16, and 17. As a result of the failed practice, the medical information of Patients 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, and 17 were used to construct fake California Driver's Licenses by an identity theft ring.			

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