The following reflects the findings of the Department of Public Health during a complaint/breach event visit:

Complaint Intake Number:
CA00201179 - Substantiated

Representing the Department of Public Health:
Surveyor ID # 25629, HFEN

The inspection was limited to the specific facility event investigated and does not represent the findings of a full inspection of the facility.

Health and Safety Code Section 1280.15(a) and 1280.15(b)(2)

St. Mary Medical Center (SMMC) promotes personal and professional development, accountability, innovation, teamwork, and a commitment to quality (SMMC Core Value of Excellence). SMMC is committed to adhering to the requirements of the Medicare Conditions of Participation and all other relevant Federal and State laws. This document is submitted as evidence of correction of the deficiencies identified during the investigation of an entity reported incident number CA00201179 completed on September 23, 2009.

Preparation and/or execution of this Plan of Correction does not constitute admission or agreement by the provider of the truth of the facts alleged or conclusions set forth in the Statement of Deficiencies. The Plan of Correction is prepared and executed solely because it is required by provisions of Federal and state law. None of the actions taken by SMMC pursuant to its Plan of Correction should be considered an admission that a deficiency existed or that additional measures should have been in place at the time of the survey. The provider submits this Plan of Correction with the intention that it is inadmissible by any third party in any civil or criminal action or proceedings against the Provider, its employees, agents, officers, directors, or shareholders. This Plan of Correction is submitted to meet requirements established by state and federal law.
1280.15(a):
(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.

AND

1280.15(b)(2):
(2) Subject to subdivision (c), a clinic, health facility, home health agency, or hospice shall also
Health & Safety Code 1280.15(a) and 1280.15(b)(2)

QUALITY ASSURANCE PERFORMANCE IMPROVEMENT MONITORING:
The Director of Medical Staff Services or a designee conducted monthly audits of the Break Glass Report to ensure that patient information was not accessed by the physicians and/or their staff via Physician Connect when there was not a need to know.

The Director of Medical Staff Services or designee documented the results of such audits on the (Protected Health Information (PHI) Verification-Break Glass Report) for at least four (4) consecutive months and continued monthly until 100% compliance was achieved. Thereafter, Performance Improvement Indicators were monitored on a periodic basis to ensure ongoing compliance.

REPORTING PROCESS:
The outcome of these audits were presented to the Performance Improvement Advisory Committee (PIAC) on a regularly scheduled basis as part of the hospital wide Quality Assurance Performance Improvement program. The PIAC reports to the Quality Committee of the Board, Medical Executive Committee and the Board of Trustees.
20, 2009, that her protected health information was inappropriately accessed via the electronic medical record system and viewed by Front Office Staff 1, on behalf of Physician 1. Patient A told the facility that she suspected that her supervisor (Physician 1) had breached her medical record because Physician 1 discussed Patient A's diagnosis with her when she had not previously disclosed this information to Physician 1. Neither Physician 1 nor Front Office Staff 1 had authorization to view Patient A's health information.

Review of the facility's access audit sheets noted that Front Office Staff 1 accessed Patient A's electronic medical record as follows:

- July 29, 2009 at 4:37 PM
- July 29, 2009 at 4:37 PM
- July 29, 2009 at 4:37 PM
- August 5, 2009 at 10:45 PM
- August 5, 2009 at 10:45 PM
- August 5, 2009 at 10:46 PM
- August 5, 2009 at 10:47 PM
- August 5, 2009 at 10:47 PM

Further review of the audit report, showed that there was no documentation to indicate what part of Patient A's clinical record was accessed by Front Office Staff 1.

During a telephone interview with the facility Privacy Officer on August 25, 2010 at 1:30 PM, she stated that when an individual views a person's electronic medical record, if the person is not that physician's patient, a screen pops up that states, "This is not
your patient, do you still want to access?" This practice is termed by the facility as "breaking the glass." The Privacy Officer stated the physician’s access had lapsed, so he asked Front Office Staff 1 to access Patient A’s electronic medical record. During the interview, the Privacy Officer stated that Physician 1 and Front Office Staff 1 had both signed a confidentiality agreement upon hire, per facility policy and procedure (P&P).

During a review of the document entitled “Physician Connect System Access and Confidentiality Statement” (undated), the document noted the following:

"6. I will use confidential information only as needed by me to perform my legitimate duties as a Medical Staff Member, designated physician office staff or Independent Contractor/Vendor. This means that:

"a. I will not access confidential information that I have no legitimate need to know."

"b. I will not in any way divulge, copy, release, sell, loan, revise, alter, or destroy any confidential information except as properly authorized within the scope of my employment or affiliation as a Medical Staff Member."

"By attaching my signature to this form, I acknowledge and agree that I have read the System Access and Confidentiality Statement. I understand the contents and agree to abide by them."

During a review of the signature pages attached to

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<th>(X4) ID</th>
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<th>TAG</th>
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<th>(X6) COMPLETE DATE</th>
<th>PROVIDER’S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)</th>
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<td>(X2) MULTIPLE CONSTRUCTION A. BUILDING</td>
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<td>NAME OF PROVIDER OR SUPPLIER</td>
<td>ST. MARY MEDICAL CENTER</td>
<td>STREET ADDRESS, CITY, STATE, ZIP CODE</td>
<td>18300 US HIGHWAY 18, APPLE VALLEY, CA 92307-2206 SAN BERNARDINO COUNTY</td>
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Event ID: B41911

7/10/2015 4:38:16PM
### STATEMENT OF DEFICIENCIES
#### AND PLAN OF CORRECTION

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**NAME OF PROVIDER OR SUPPLIER**
St. Mary Medical Center

**STREET ADDRESS, CITY, STATE, ZIP CODE**
18300 Us Highway 18, Apple Valley, CA 92307-2206 SAN BERNARDINO COUNTY

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the "Physician Connect System Access and Confidentiality Statement" showed that Physician A signed the confidentiality statement on October 27, 2006 and Front Office Staff 1 signed the statement on December 11, 2007. Therefore, Physician A and Front Office Staff 1 knew that their actions were in violation of the "Physician Connect System Access and Confidentiality Statement" in which they signed, when they knowingly breached Patient 1's electronic medical record.

Review of the facility Policy & Procedure entitled, "Physician Connect Access and Usage" on August 8, 2010, sets forth the following on page 2: "Physician Connect Usage #1: Authorized user shall only access patient information on patients for whom they are providing care in the capacity of the: attending physician, admitting physician, referring physician, consulting physician, primary care physician and ordering physician."

Even though Physician 1 was not Patient A's attending, admitting, referring, consulting primary care or ordering physician, Physician 1 directed Front Office Staff 1 to access Patient A's electronic medical record, and Front Office Staff 1 accessed the electronic medical record. Therefore, Physician 1 and Front Office Staff 1 did not use the physician connect system, in accordance with the facility's policy and procedure.

During an interview with Patient A, on November 12, 2009, at 8:15 AM, Patient A stated that on July 27, 2009, she was sick and went to the Emergency Room. She was subsequently admitted. When

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Event ID: B41911

7/10/2015 4:36:16PM
she returned to work on August 17, 2009, Physician 1 questioned her about what happened while she was in the hospital. She stated, "He knew facts that he could only have known if he had reviewed my medical record. He questioned me about my diagnosis that I had never discussed with him. He made comments in front of other staff, such as, 'You were too loaded on morphine to remember.' I knew he must have looked at my medical record."

The facility failed to maintain the privacy and confidentiality of confidential health information, when Patient A's electronic medical record was accessed multiple times without legitimate reason or with the patient's authorization.