

CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF PUBLIC HEALTH

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 050454	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED 08/21/2014
NAME OF PROVIDER OR SUPPLIER UCSF Medical Center		STREET ADDRESS, CITY, STATE, ZIP CODE 505 Parnassus Ave, San Francisco, CA 94143-2204 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: CA00407173 - 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>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>		<p>CDPH L&C JUL 09 2015 SAN FRANCISCO DO</p> <p><i>POC accepted 7/9/15</i></p>	

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

LaTina Radice

TITLE

Regulatory Manager

(X6) DATE

July 8, 2015

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.

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	<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>This RULE: is not met as evidenced by: Based on interview and record review, the hospital failed to ensure confidentiality of Patient 2's and Patient 3 electronic medical records (EMR), when an employee (Temp 1) accessed these two records without authorization, and subsequently may have made harassing phone calls to Patient 2 using information from Patient 2's EMR, and may have tried to initiate a new credit card using information from Patient 3's EMR. Further investigation indicated Temp 1 accessed sixty-eight other patients' EMRs without business justification or authorization. This breach caused Patient 2 to have concerns for her safety, and it had the potential for embarrassment to the patients whose medical information was breached and for identity theft at a future date.</p> <p>Findings: During an interview on 8/21/14 at approximately 11:00 AM, the hospital's Privacy Analyst (PA 2) stated the hospital had received a complaint letter from Patient 2 on behalf of Patient 2 and her</p>		<p>The statements made on this Plan of Correction are not an admission and do not constitute agreement with the alleged deficiencies herein. The Plan of Correction constitutes UCSF Medical Center's written credible allegation of compliance for the deficiencies noted.</p> <p>Plan of Correction: Prior to the event the employee of the temporary agency signed the University of California, San Francisco Confidentiality of Patient, Employee and University Business Information statement on April 30, 2013 which clearly outlines staff responsibility to access, use or disclose confidential information only in the performance of University duties.</p> <p>When notified of the breach the medical center initiated an investigation of the event and notified the two involved patients. At this time the employee of the temporary agency was no longer on assignment at the medical center. With the involvement of the Police Department and the information that an attempt was made to initiate a new credit card for one of the two patients, the medical center expanded the search of the access of the employee of the temporary agency and discovered additional patients, that were accessed by her without a business need. These patients were notified. As investigation continued staff from the Privacy Office cooperated with District Attorney's office.</p> <p>The temporary agency placed this person on a "do not rehire" status.</p> <p>The medical center required that the temporary staffing agency enhance and align their HIPAA training to the more intensive HIPAA training used by the medical center.</p> <p>The involved temporary agency required that all of their staff placed at the medical center undergo the enhanced HIPAA privacy program through an additional retraining.</p>	<p>4/30/13</p> <p>12/22/14</p> <p>7/24/13</p> <p>9/25/14</p> <p>11/11/14</p>

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	<p>daughter, Patient 3, stating she (Patient 2) had been receiving harassing phone calls. Patient 2's 'caller ID' feature indicated the calls were coming from the hospital and Patient 2 suspected that the caller got her phone number from her EMR.</p> <p>PA 2 stated that an audit of Patients 2 and 3's EMRs showed that between 4/30/14 and 7/27/14, Temp 1, who was employed as a Scheduler/Biller in the GI (Gastrointestinal) Clinic, accessed Patient 2's EMR two times and Patient 3's EMR eight times without authorization or business justification.</p> <p>PA 2 stated that when Patient 2 learned the name of Temp 1, Patient 2 stated there had been a long history of disagreements between them.</p> <p>PA 2 continued that the Police Department was involved and they reported that on 7/15/14 an attempt was made to initiate a new credit card using Patient 3's information.</p> <p>After receiving this information from the Police, the hospital expanded its search of Temp 1's computer activity and discovered that Temp 1 had accessed an additional sixty-eight patients' EMRs without business justification or authorization. This information was also provided to the Police Department for follow up.</p> <p>Record review of letters from the hospital to CDPH, dated 9/3/14, indicated Temp 1 no longer worked at the hospital and no longer worked for the Business Associate who provided her as a temporary worker.</p>		<p>Monitoring: The Privacy Department has oversight of privacy breaches and takes prompt action to investigate events. The Privacy Department works with the involved parties to ensure an appropriate mitigation has been put in place. This information is reported to the Privacy Compliance Steering Committee quarterly.</p> <p>Responsible party: Chief Privacy Officer</p> <p style="text-align: center;">CDPH L&C JUL 09 2015 SAN FRANCISCO DO</p>	Quarterly & Ongoing	

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	<p>Temp 1 left her employment at the hospital before her intentional medical information breaches were discovered. There was no interview conducted with Temp 1 by hospital personnel or by Business Associate personnel.</p> <p>The hospital provided a copy of the audit performed by the Informational Technology staff. In a letter dated 2/20/15, the Manager of Accreditation and Licensing wrote that the Privacy Department set the parameters of the audit which included Temp 1's name and employee ID, patient name, any and all access, medical record number, and systems: APEX access with start date of 4/29/13 to "present" (approximately 6/9/14). The letter went on to say that PA 2, in concert with the Department Manager, reviewed the audit results and redacted the patient information for those patients for whom Temp 1 had a legitimate business reason for access. The letter also stated that the column headed "Module" indicated the section of the electronic medical record that Temp 1 accessed.</p> <p>Review of the "Modules" column indicated Temp 1 accessed areas of the EMR which included such protected health information (PHI) as physician Notes, Immunizations records, laboratory reports, medications, and physician orders.</p> <p>Record review indicated Temp 1 signed a Confidentiality of Patient/Employee and (Hospital) Business Information statement on 4/30/13. In addition, Temp 1 had taken a Hospital/Business Associate "HIPPA Quiz" on 4/30/13 and had a passing score of 95%.</p>			

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	<p>Record review of the Hospital's Police Case Report Summary for case number 2013-00016527 indicated that the Police had confirmed that Temp 1 had accessed the protected health records of Patient 2 and Patient 3 without business justification. This record indicated that on 9/11/14 a detective (PO 1) spoke with Temp 1 and requested an interview with her regarding this matter. PO 1 told Temp 1 that she could bring an attorney with her. Temp 1 declined to be interviewed. PO 1 wrote "Based on my investigation, I believe there is probable cause to arrest (S) [Suspect] Temp 1 for violation of 502 (c) (2)PC (Two Counts)." Violation 502(c)(2)PC refers to "accessing data outside the scope of employment."</p> <p>On 11/24/14, PO 1 added to this case summary that Temp 1 "had been arrested and booked in Solano County for the warrant that had been issued in this case." The actual arrest took place on 11/21/14.</p> <p>The facility failed to ensure the confidentiality of Protected Health Information when a staff member, Temp 1, accessed seventy patients' electronic medical records without authorization and used this information to make harassing telephone calls to Patient 2, and may have attempted to use Patient 3's information to obtain a new credit card.</p> <p>The employee's action to access the patients' medical information for improper purposes violated Health and Safety Code 1280.15 and is therefore subject to the applicable civil penalty assessment.</p>		<p>CDPH L&C JUL 09 2015 SAN FRANCISCO DO</p>	

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	<p>Health and Safety Code 1280.15 (b)(2) " A clinic, health facility, agency, or hospice shall also report any unlawful or unauthorized access to, or use or disclosure of, a patient's medical information to the affected patient or the patient's representative at the last known address, no later than five business days after the unlawful or unauthorized access, use, or disclosure has been detected by the clinic, health facility, agency, or hospice."</p> <p>The CDPH verified that the facility informed the affected patient(s) or the patient's representative(s) of the unlawful or unauthorized access, use or disclosure of the patient's 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 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>		Please see the Plan of Correction detailed in the section referencing 1280.15(a)		

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