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California Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>CA070000139</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING: _____	(X3) DATE SURVEY COMPLETED  <b>C</b> <b>08/21/2013</b>
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NAME OF PROVIDER OR SUPPLIER  <b>DOMINICAN HOSPITAL</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1555 SOQUEL DRIVE SANTA CRUZ, CA 95065</b>
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A 002	<p>Not Informed Medical Breach</p> <p>Health and Safety Code Section 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 failed to inform 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>This Statute is not met as evidenced by:</p>	A 002		
A 000	<p>Initial Comment</p> <p>The following reflects the findings of the California Department of Public Health during the investigation of an entity reported incident conducted on 8/14/13 through 8/21/13.</p> <p>For Entity Reported Incident CA00356738 regarding State Monitoring, Privacy Breach, two State deficiencies were identified (see California Health and Safety Code, 1280.15(a) and 1280.15 (b)(2)).</p> <p>Inspection was limited to the entity reported</p>	A 000		

Licensing and Certification Division

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

TITLE

*President*

(X6) DATE

*1/9/14*

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A 000	Continued From page 1  incident investigated and does not represent the findings of a full inspection of the hospital.  Representing the California Department of Public Health: 25438, Health Facilities Evaluator Nurse.	A 000		
A 017	1280.15(a) Health & Safety Code 1280  (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.	A 017	<p>Tag A017 1280.15(a) Health &amp; Safety Code 1280 <u>Deficiency:</u> Nurse accessed patient log without business or clinical need to do so. <u>Corrective Action:</u> Upon notification of suspected breach of unauthorized access the facility privacy officer began an investigation. After interviewing involved staff it was decided that the employee accessed patient information for non-work related purposes.</p> <ol style="list-style-type: none"> <li>1. Appropriate disciplinary action was taken with the involved employee. 6/24/13</li> <li>2. The employee received refresher training regarding HIPAA policies and procedures. 6/24/14</li> <li>3. The department staff was also given refresher HIPAA training. 6/18/13</li> <li>4. The department's staff was informed they should only be present while they are on duty; therefore, they are not allowed to be in the department or accessing PHI at any other time. 6/18/13</li> </ol>	5/28/13

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A 017	<p>Continued From page 2</p> <p>This Statute is not met as evidenced by: Based on interview and record review, the hospital failed to prevent unauthorized access to 29 patients' medical information. Findings:</p> <p>On 5/31/13, the California Department of Public Health received a faxed report from the hospital chief privacy officer which indicated the hospital identified a potential breach of 29 patients' health information.</p> <p>During an interview on 8/14/13 at 10:30 a.m., the privacy officer stated on 5/24/13 the hospital identified an employee (LN A) had accessed a radiology patient scheduling log without a business or clinical need to do so.</p> <p>Record review on 8/21/13 at 9:30 a.m. indicated LN A reviewed the patient logs for the following dates: 7/17/12, 8/7/12, 8/8/12, 9/4/12, 9/5/12, 9/8/12, 9/10/12, 9/11/12, 9/12/12 and 9/13/12. The information accessed included patient names, dates of birth, medical record numbers, physicians, and the treatments or procedures.</p> <p>During an interview on 8/21/13 at 9:00 a.m., licensed nurse A (LN A) stated licensed nurse B (LN B) asked him (LN A) to review the patient scheduling log book to determine who worked on days when LN B was called off (scheduled to work but taken off the schedule and notified to not come in to work). LN A stated he reviewed information on the logs for dates he was not working. He also stated he did not provide care to the affected patients whose information he reviewed on the logs.</p> <p>Record review on 8/21/13 at 10:30 a.m., of the</p>	A 017	<p>5. All hospital employees are required to complete an annual training module regarding Privacy and Data Security rules and regulations, policies, guidelines and procedures for timely notification of potential breaches.</p> <p>6. The patient log is kept in a locked area at all times that is only accessible to authorized employees.</p> <p><u>Responsible Person:</u> Facility Privacy Officer (FPO) <u>Monitoring:</u> Department management will monitor log access through direct observation.</p>	<p>Annual</p> <p>5/28/13</p>

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A 017	Continued From page 3  hospital policy indicated "Breach of Patient Privacy or Confidentiality occurs when any Dignity Health staff member or physician: Uses (assessed or reviews) PHI (protected health information) for any reason not necessary to the individual's role in the provision of care and Treatment, Payment, or healthcare operations."	A 017		
A 019	1280.15(b)(2) Health & Safety Code 1280  (b) (2) Subject to subdivision (c), a clinic, health facility, home health 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, home health agency, or hospice.  This Statute is not met as evidenced by: Based on interview and record review, the hospital failed to report an unlawful disclosure of medical information to 29 patients within 5 business days of the detection date. Findings:  On 5/31/13, the California Department of Public Health received a faxed report from the hospital chief privacy officer which indicated the hospital identified a potential breach of 29 patients' health information. The report indicated letters to patients detailing this privacy breach had been delayed pending investigation.	A 019	<p><b>Tag A019</b> 1280.15(b)(2) <b>Health &amp; Safety Code 1280</b> <u>Deficiency:</u> Failure to notify patients of alleged breach within 5 business days pending investigation because breach could not be confirmed within those 5 days. <u>Corrective Action:</u></p> <ol style="list-style-type: none"> <li>1. <b>Once PHI breach was confirmed the patients were notified per required regulation.</b></li> <li>2. <b>Future patient notifications will occur within 5 business days.</b></li> <li>3. <b>Future investigation processes will be conducted in a more timely fashion.</b></li> </ol> <p><u>Responsible Person:</u> Facility Privacy Officer (FPO) <u>Monitoring:</u> Management from Quality and FPO will coordinate timely patient notification.</p>	<p>6/25/13</p> <p>8/21/13</p> <p>8/21/13</p> <p>8/21/13</p>

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A 019	<p>Continued From page 4</p> <p>Record review on 8/21/13 at 9:30 a.m. indicated LN A reviewed the patient logs for the following dates: 7/17/12, 8/7/12, 8/8/12, 9/4/12, 9/5/12, 9/8/12, 9/10/12, 9/11/12, 9/12/12 and 9/13/12. The information accessed included patient names, dates of birth, medical record numbers, physicians, and the treatments or procedures.</p> <p>During an interview on 8/21/13 at 9:00 a.m., licensed nurse A (LN A) stated licensed nurse B. (LN B) asked him (LN A) to review the patient scheduling log book to determine who worked on days when LN B was called off (scheduled to work but taken off the schedule and notified to not come in to work). LN A stated he reviewed information on the logs for dates he was not working. He also stated he did not provide care to the affected patients whose information he reviewed on the logs.</p> <p>During an interview on 8/14/13 at 10:30 a.m., the privacy officer stated on 5/24/13 the hospital identified an employee had accessed a radiology patient scheduling log without a business or clinical need to know. The privacy officer stated 29 patients' medical information had been accessed and included patient names, dates of birth, medical record numbers, referring physicians and types of treatment. The privacy officer stated on 6/25/13 patients were notified of the unauthorized access of the medical information.</p>	A 019		
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