

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 11/29/2012
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: CA00330488 - 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>Health & Safety Code (HSC) 1290.15(a) <u>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.</u></p> <p>HSC 1290.15(a) - Action(s): Before and after this privacy breach incident, 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

Event ID:8WR811

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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 8

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-2597

Poc accepted 4/28/15 Moulton HFEN

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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:</p> <p>Based on interview and record review, the facility failed to ensure patients' personal information remained confidential when a licensed nurse (LN 1) faxed the 7/10/12 appointment schedule for the Occupational Health Department to an unsecured and unauthorized fax number.</p> <p>Findings:</p> <p>On 11/29/12, in a group interview with the Director of Regulatory Affairs (DRA), the Director of Critical Care Units (DCCU), and the Nurse Manager of Regulatory Affairs (NM), they stated that a Licensed Vocational Nurse (LN 1) was functioning as the unit clerk in the Occupational Health Services Department (OHS). They said LN 1 had a contractual dispute between herself and the facility in progress. In order to assist in her dispute, LN 1 faxed a copy of the 7/10/12 Occupational Health Services schedule to her Union Representative. This schedule contained the names of the thirty-nine employees scheduled as patients to be</p>		<p>The SFGH multidisciplinary Privacy Committee, 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 SFGH Privacy Analyst provide in service "Privacy trainings & updates" to requesting departments within the hospital and publish an educational flyer quarterly called Privacy Pulse 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>It should be noted that all patients who obtain services from the SFGH OHS Clinic are employees of the City and County of San Francisco (CCSF) or the University of California, San Francisco (UCSF), and therefore, all information regarding patient visits is kept confidential</p>	<p>Initiated July 12, 2011 and ongoing</p> <p>Ongoing</p> <p>Ongoing</p>

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	<p>seen that day. In addition this schedule listed the employees' job classification, medical record number, and the type of examination to be performed during their visit to OHS.</p> <p>After reviewing this document the Union Representative formulated a letter for the contractual dispute. This letter and the 7/10/12 OHS Schedule were faxed back to the Human Resources Department. Human Resources reviewed the OHS schedule and realized that employee protected health information was on the faxed document and they informed the facility's Privacy Officer of the potential breach of medical information. On 10/16/12 the facility's Privacy Officer received this faxed copy of the 7/10/12 OHS Schedule and realized this confidential personal information had been faxed over unsecured and unauthorized fax lines.</p> <p>The Privacy Officer notified the facility's Department of Regulatory Affairs and they sent a faxed notification of the information breach to the California Department of Public Health on 10/22/12 at 5:33 PM. The Privacy Officer spoke with the Union Representative who had received the faxed schedule from LN 1 and who had faxed the schedule back to the Human Resources Department. The Union Representative told the Privacy Officer the document had not been shared with other sources, and the Union Representative agreed to destroy the faxed copy of the schedule.</p> <p>During this group interview, the participants stated LN 1 had received mandatory training in Privacy</p>		<p>and not shared outside of the OHS clinic unless there is a business need to know or authorized by the employee to do so.</p> <p>LN1 was served with an Employee Conference notification with a suspension recommendation, and was subsequently served a Notice of Suspension at a later date.</p> <p>LN1's professional licensing board was notified of the above incident.</p> <p>The <i>SFGH Privacy Committee</i> reports privacy related issues e.g., privacy breaches and staff education around privacy to hospital leadership at hospital <i>Quality Council</i>.</p> <p>HSC 1290.15(a) - Monitoring: The SFGH Privacy Officer and the SFGH Privacy Analyst routinely conduct monthly audits of the <i>Lifetime Clinical Record (LCR)</i> 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>December 12, 2012 - February 22, 2013</p> <p>December 31, 2012</p> <p>Ongoing</p> <p>Ongoing</p>	

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	<p>and Information Systems Security, and LN 1 had signed a confidentiality agreement.</p> <p>In a telephone interview on 7/21/14 at 11:30 AM, the facility's Privacy Officer (PO) confirmed that the OHS schedule had been faxed to the Union Representative by LN 1, and was subsequently faxed back to the Human Resources Department, by the Union Representative, over an unsecured and unauthorized fax line. The PO stated LN 1 was trying to use this document to support a different labor dispute she was having with the facility and she had not redacted any of the extraneous information. The PO went on to say that she had a formal conference regarding this information breach with LN 1 and her Union Representative but the Union Representative did not think Confidential Agreement or HIPAA (Health Insurance Portability and Accountability Act) did not apply to labor disputes.</p> <p>The PO provided a copy of the Grievance Form and the Attached OHS schedule which had been forwarded to her by the Human Resources Department.</p> <p>Record review included a copy of the 7/10/12 OHS schedule. This document contained patient names, job classifications, medical record numbers, and reason for the visit on many of the patients on the schedule.</p> <p>Record review included the letters of notification sent to each of the 39 patients. These letters were sent by the Privacy Officer and were dated</p>		<p>The SFGH Privacy Officer and the SFGH Privacy Analyst routinely conduct monthly audits of the Lifetime Clinical Record (LCR) of any patient as requested by managers to verify of the LCR access was appropriate (e.g., media high profile cases, VIPs). In addition, if a patient requests with the belief their PHI has been breached, the SFGH Privacy Officer and the SFGH Privacy Analyst conducts audits of their Lifetime Clinical Record (LCR). 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 presents 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>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p>

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	<p>11/19/12.</p> <p>Record review included LN 1 acknowledgement that she had received a copy of the facility's "Code of Conduct", a document explaining the "Use of SFDPH (San Francisco Department of Public Health) Records and Information Systems", and an "Oath of Confidentiality" all signed by LN 1 on 3/6/09 during LN 1's initial orientation to the facility.. The Oath of Confidentiality stated "I, the undersigned, hereby agree not to divulge any information or records concerning any client/patient without proper authorization..."</p> <p>Record review included a copy of LN 1's Continuing Education Record which indicated LN 1 had completed training on "HIPAA - Privacy, I. S. Security" (Health Insurance Portability and Accountability Act - Privacy, Information Security) on 4/19/12, 6/22/11, and 3/6/10. The facility provided a copy of this training which included information stating that Protected Health Information (PHI) included name and medical record number. The training described how privacy breaches could occur with examples such as misdirected faxes and sending reports to the wrong person.</p> <p>In a telephone interview on 7/21/14 at 11:30 AM, the facility's Privacy Officer (PO) confirmed that the OHS schedule which had been faxed to the Union Representative and was subsequently faxed back to the Human Resources Department over unsecured and unauthorized fax lines. The PO stated LN 1 was trying to use this document to</p>		<p><u>HSC 1290.15(a) - Responsible Person (s):</u> SFGH Privacy Officer</p>		

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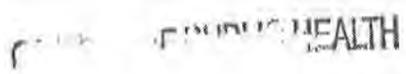
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	<p>support a different labor dispute she was having with the facility and she had not redacted any of the extraneous information. The PO went on to say that she had a formal conference regarding this information breach with LN 1 and her Union Representative but the Union Representative did not think Confidential Agreement or HIPPA (Health Information Portability and Protection Act) did not apply to labor disputes.</p> <p>The PO provided a copy of the Grievance Form and the Attached OHS schedule which had been forwarded to her by the Human Resources Department.</p> <p>The facility failed to ensure the confidentiality of Protected Health Information and personal medical information when a schedule containing this information was faxed over an unsecured fax line to an unauthorized recipient.</p> <p>The employee's action to access the patients' medical information for improper purpose violated Health and Safety Code 1280.15 and is therefore subject to the applicable civil penalty assessment.</p> <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</p>		<p><u>Health & Safety Code (HSC) 1280.15(b) (2) A clinic, health facility, agency, or hospice shall also report any unlawful or unauthorized access to... a patient's medical information to the affected patient or the patients representative at the last known address, no later than five business days after the unlawful or unauthorized access...</u></p>	

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	<p>hospice."</p> <p>This RULE: is not met as evidenced by:</p> <p>Based on interview and record review, the facility failed to notify the patients affected by the breach of their medical information within the required five days after discovery of the breach.</p> <p>Findings:</p> <p>In an interview on 11/29/12 at 2:45 PM, the facility's staff discussed the information breach described in detail in this document. The facility's Director of Regulatory Affairs (DRA) stated the 39 patients whose information had been breached were notified by letter on 11/19/12.</p> <p>Review of the 10/22/12 letter from the DRA informing the California Department of Public Health (CDPH) of the information breach indicated the breach was initially discovered on 10/16/12. This letter was faxed to CDPH on 10/22/12 at 5:33 PM.</p> <p>Review of the copies of the letters sent to the 39 patients of the Occupational Health Services (OHS) about the possible breach indicated all of the letters were mailed to the patients on 11/19/12. This was 34 days after discovery.</p> <p>In a telephone interview on 12/20/12, the DRA confirmed that the letters had not been sent to patients within the five day time frame specified in the regulations. The DRA stated there was confusion at the facility regarding the role of the</p>		<p>HSC 1280.15(b)(2) - Action(s):</p> <p>The SFGH Privacy Officer notifies hospital leadership immediately of any allegations of potential privacy breach when received and forwards the results of the Privacy Office investigation to hospital leadership for review and verification that the allegation meets the Privacy Breach reporting requirements. Once the verification is made, the institution notifies the involved patient(s) and the CDPH Regional Office.</p> <p>This incident occurred in 2012; as a result of the 2567 received on April 22, 2014, for a separate 2013 incident involving late reporting of privacy breach to CDPH, the Director of Regulatory Affairs had met with the Privacy Officer to review the report and the regulatory requirement to report the finding no later than five business days after the unlawful or unauthorized access, use or disclosure has been detected.</p> <p>This incident occurred in 2012; as a result of the 2567 received on April 22, 2014 for a separate 2013 incident involving late reporting of privacy breach to CDPH, hospital leadership reviewed current privacy breach investigation and reporting procedures and implemented a change in procedure that effective that date, the Privacy Officer will collaborate with the Director of Regulatory Affairs to ensure that all allegations of potential privacy breach</p>	<p>Ongoing</p> <p>April 23, 2014 for the 2013 incident</p> <p>Initiated May 7, 2014 and ongoing.</p>	

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	<p>Privacy Officer in this case since she was also the Interim Manager of the OHS department and she was actively involved in the contractual dispute discussions with the Licensed Nurse (LN 1) who subsequently faxed the material over the unsecured and unauthorized fax line.</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 safeguard the contents of the medical records of 39 patients when information from their records was transcribed onto an Occupational Health Services schedule and this schedule was faxed to an unauthorized recipient over an unsecured fax line.</p> <p>Findings:</p> <p>The facility was in violation of Health & Safety Code Section 1280.15 (a).</p>		<p>under investigation by the SFGH Privacy Office are reported to the involved patient (s) and CDPH no later than five business days after the unlawful or unauthorized access, use or disclosure has been detected even if the facility investigation is still in process.</p> <p>As detailed in CDPH All Facilities Letter (AFL) 14-26, pursuant to Assembly Bill 1755 and HSC 1280.15, effective January 1, 2015, specified health care providers must report a breach of medical information to CDPH and the affected patient within 15 business days rather than 5 business days. This change applies to San Francisco General Hospital & Trauma Center's.</p> <p>HSC 1280.15(b)(2) - Monitoring: The Privacy Officer reports allegations of potential and verified privacy breaches monthly to the <i>Privacy Committee</i>.</p> <p>The Privacy Officer reports verified privacy breaches which occur between meetings of the <i>Quality Council</i> at the next scheduled meeting of the <i>Quality Council</i>. In addition, the Privacy Officer reports annually to the <i>Quality Council</i> which details all of the Privacy Office activities for the calendar year including investigations of potential and verified allegations of privacy breaches. The <i>Quality Council</i> reports to The Governing Body <i>Joint</i></p>	<p>November 12, 2014</p> <p>Ongoing</p> <p>Initiated May 7, 2014 and ongoing</p>

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	<p>Privacy Officer in this case since she was also the Interim Manager of the OHS department and she was actively involved in the contractual dispute discussions with the Licensed Nurse (LN 1) who subsequently faxed the material over the unsecured and unauthorized fax line.</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 safeguard the contents of the medical records of 39 patients when information from their records was transcribed onto an Occupational Health Services schedule and this schedule was faxed to an unauthorized recipient over an unsecured fax line.</p> <p>Findings:</p> <p>The facility was in violation of Health & Safety Code Section 1280.15 (a).</p>		<p><u>22DIV5 CH1 ART7-70751 (b) Medical Record Availability: The hospital shall safeguard the information in the record against loss, defacement, tampering or use by unauthorized persons.</u></p> <p><u>22DIV5 CH1 ART7-70751 (b) - Action(s):</u> Before and after this privacy breach incident, 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> <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</p>	<p>Ongoing</p> <p>Initiated July 12, 2011 and ongoing</p>

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CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

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 11/29/2012
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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