

CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY  
DEPARTMENT OF PUBLIC HEALTH

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>050077</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>08/10/2009</b>
NAME OF PROVIDER OR SUPPLIER <b>SCRIPPS MERCY HOSPITAL</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>4077 FIFTH AVENUE, SAN DIEGO, CA 92103 - SAN DIEGO COUNTY</b>		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC 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: CA00187699 - Substantiated</p> <p>Representing the Department of Public Health: Surveyor ID # 21240, 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>1280.15. (a) A clinic, health facility, home health</p>		<p style="text-align: center;"><b>RECEIVED</b></p> <p style="text-align: center;"><b>APR 25 2011</b></p> <p style="text-align: center;">LICENSING AND CERTIFICATION SAN DIEGO DISTRICT OFFICE SOUTH</p> <p><b>PLAN OF CORRECTION:</b></p> <p><b>E1969</b></p> <p>The hospital will ensure that hospital personnel observe a patient's right to privacy and confidentiality of their medical record.</p> <p>The involved nurse has been terminated (5/8/09) Education has been provided to all staff via: "Unit Based Privacy and Security Update" required education (7/31/09) attachment A Monthly staff meetings (5/13/09) attachment B Manager's Hot Sheet (5/25/09) attachment C Mercy Nurse Newsletter (8/09) attachment D <u>Responsible person:</u> Emergency Department Director <u>Timeline:</u> August 31, 2009 <u>Audit:</u> employee understanding of our privacy rules and policies is audited annually.</p>	

Event ID:DN7E11

4/14/2011

2:41:59PM

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

*Kathy Sieny*

TITLE

*Director Risk*

(X6) DATE

*4-21-11*

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><b>Continued From page 2</b></p> <p>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.</p> <p>Based on interview and record review, the facility failed to ensure all hospital personnel observed rights to confidentiality and privacy of their medical record information. Patient A and Patient B's medical records were accessed and reviewed by a hospital employee (Staff 1). Staff 1 was not listed as Patient A and Patient B's responsible party and was not involved with their medical care at the facility. This resulted in the violation of Patient A and Patient B's right to confidentiality, privacy, safety and security of their medical record information.</p> <p>Findings:</p> <p>On 5/4/09, the hospital received a report from a patient representative regarding an incident that involved unauthorized hospital personnel (Staff 1) that accessed the medical records Patient A and Patient B. The incident regarded a breach of confidentiality of both patients' medical record information and was reported to the Department of Public Health on 5/8/2009.</p> <p>A review of the facility's investigation was conducted on 5/20/09 at 2:00 P.M. Per the investigation, during an emergency department's staff meeting, an employee (Staff 1) had disclosed</p>				

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	<p><b>Continued From page 3</b></p> <p>that she (Staff 1) had accessed 2 patients' records (Patient A and Patient B) to verify if they had been exposed to an illness.</p> <p>Further investigation reveled that Staff 1 was not listed as the responsible party for Patient A and Patient B. Staff 1 did not provide care or treatment to Patient A or Patient B and accessed Patient A and Patient B's records without their consent.</p> <p>A review of the facility's policy entitled, Health Information, Access, Use and Disclosure, was conducted on 5/20/09 at 4:00 P.M. The policy stated that facility workforce and physician access: Authorized access to health information is limited to:</p> <ol style="list-style-type: none"> <li>1. Personnel providing care and treatment</li> <li>2. Individuals requiring information for payment/billing activities</li> <li>3. Individuals participating in functions of health care operations</li> </ol> <p>An interview was conducted with the Emergency Department Manager (EDM) on 5/20/09 at 4:00 P.M. EDM acknowledged that Staff 1 had accessed Patient A's and Patient B's records without their consent. She further acknowledged that Staff 1 had not followed the facility's policy and procedure for health information access and use.</p> <p>An interview was conducted with the Director of Risk Management (DRM) on 9/2/09 at 3:00 P.M. DRM acknowledged that Staff 1 had deliberately accessed Patient A's and Patient B's records. DRM further acknowledged that Staff 1 did not have</p>			
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	<p><b>Continued From page 4</b></p> <p>direct involvement with Patient A's and Patient B's care.</p> <p>The facility notified the responsible party of Patient A and Patient B of the breach by mail, on 5/14/09.</p> <p>The facility failed to prevent unlawful or unauthorized access to patients' confidential medical information in violation of Health and Safety Code Section 1280.15 (a).</p>			

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