CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF PUBLIC HEALTH

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION A. BUILDING B. WING	(X3) DATE SURVEY COMPLETED
	050077		07/27/2009

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
SCRIPPS MERCY HOSPITAL	4077 FIFTH AVENUE, SAN DIEGO, CA 92103 SAN DIEGO COUNTY

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED 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
	The following reflects the findings of the Department of Public Health during a complaint/breach event visit: Complaint Intake Number: CA00193487 - Substantiated Representing the Department of Public Health: [redacted], 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) 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. The following represents the findings of the California Department of Public Health during an Entity Reported Incident Investigation of a breach of		**Penalty #090007665** PLAN OF CORRECTION: **E1953/E1969 of ERI#CA00193487** **This Plan of Correction was submitted to CDPH on 8/20/09.** The hospital will ensure that all hospital personnel observe the pateint's right to privacy and confidentiality of their medical record information. Formal corrective action has been taken with the RN involved in "a computer screen showing health care information about a patient". General education to all Patient Care Staff has occurred related to protecting the privacy of our patients' healthcare information. Charts on 6th, 8th and 11th floors, previously maintained in locked cupboards in the patient rooms have now been moved to a chart rack in the nurse's station, accessible to clinical staff only.	

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Event ID:OEFL11 11/30/2010 1:40:57PM

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
Karin Senay	Director, Risk	12-7-10

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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	Continued From page 1 protected health information. Entity Reported Incident Number - CA00193487 Category- State Monitoring: Breach of protected health information The inspection was limited to the specific entity reported incident investigation and does not represent the findings of a full inspection of the facility. Representing the Department of Public Health: [redacted], HFEN 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. 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		**Penalty #090007665** PLAN OF CORRECTION: **E1953/E1969 of ERI#CA00193487** (continued) Timeline: 7/20/09 – 8/1/09 Responsible person: Director, Medical Units Audit: Daily random visual audit of patient rooms on 11th, 8th and 6th floors will occur to ensure that charts are properly stored at the nurse's station. Timeline: 8/10-09 – 9/4/09 Responsible person: Director, Medical Units	

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Kathy Seney	Director Risk	12-7-10

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	Continued From page 2 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. T22 DIV5 CHI ART7- 70707(b)(8) Patients' Rights (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 maybe read by patients. This list shall include but not be limited to the patients' rights to: (8) Confidential treatment of all communications and records pertaining to the care and 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. (d) All hospital personnel shall observe these patients' rights. Based on observation, interview, record review and document review, the hospital failed to ensure all hospital personnel observed one patient's right to confidentiality and privacy of her medical record information. Patient 1's medical record was accessed, read and reviewed by the patient's visitor. This resulted in the violation of Patient 1's right to confidentiality, privacy, safety and security of the medical record, and an additional failure to			

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	Continued From page 3 protect 5 other patient's medical records' confidentiality. Findings: On 6/19/09, the hospital received a report from a patient representative regarding an incident involving a patient whose medical record information was accessed and read by a visitor who was visiting the patient. The incident regarding a breach in maintaining the confidentiality of the patient's medical record information was reported by the hospital to the Department of Public Health on June 30, 2009. Patient 1 was admitted to the hospital on [redacted]/09 with a diagnosis of pancreatic cancer. The patient was described by the physician as alert and aware of her diagnosis. Treatment modalities provided to the patient during her hospital stay included systemic antibiotics, nutritional support, intravenous fluid, pain management and physical therapy. The patient's medical record showed a physician verbal order dated [redacted]/09 to admit the patient to hospice care due to pancreatic cancer diagnosis, nausea, malnutrition and weakness. The order also included the comment that the patient's prognosis was 6 months or less. This was countersigned and acknowledged by the patient's physician on [redacted]/09 at 2:30 P.M. The patient was discharged home with 24-hour care on [redacted]/09. On 6/30/09, an entity reported incident was			

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	Continued From page 4 received by the Department of Health regarding Patient 1. The patient's legal representative (Durable Power of Attorney for Healthcare - DPOAH) had notified the hospital regarding a concern about the patient's friend who was able to access and review the patient's medical record while visiting the patient. This friend (unnamed) then communicated to the patient's representative the information that she had read from the patient's medical record. The patient's friend told the patient's representative that based on the information she read from the patient's medical record, she knew that the patient had a prognosis of 6 months to live. During the onsite investigation on 7/06/09, there were 5 separate observations on the 8th and 11th floor Medical/Surgical Units whereby patients' medical records information, both paper and electronic, were left in the patients' rooms unattended and readily accessible to non-health care providers such as visitors or anyone who entered the patients' rooms. On 7/06/09 at 2:50 P.M., an interview was conducted with the director of patient relations regarding the above incident. She confirmed that she had received a complaint from Patient 1's representative regarding the unauthorized access of Patient 1's medical record information by a visitor. She indicated that based on the complaint that she had received from the patient's representative, the information read from the patient's medical record by the visitor was the physician's order dated			

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	Continued From page 5 [redacted]/09, to admit the patient to hospice care in-patient status, for diagnosis of pancreatic cancer, management of nausea, malnutrition and weakness; patient prognosis 6 months or less. The facility failed to prevent unlawful or unauthorized access to, and use or disclosure of, 6 patients' medical information. The events which led to the unauthorized access of patient records; and the actual unauthorized access of patient records constitutes a violation of H & S 1280.15. On 7/06/09 at 2:50 P.M., an interview was conducted with the director of patient relations regarding the above incident in which the director was informed that the above failures may result in the issuance of an administrative penalty.			

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