

CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY  
DEPARTMENT OF PUBLIC HEALTH

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JAN 21 2015

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  050009	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  12/12/2013
NAME OF PROVIDER OR SUPPLIER  Queen of the Valley Medical Center		STREET ADDRESS, CITY, STATE, ZIP CODE 1000 Trancas St, Napa, CA 94558-2906 NAPA 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: CA00265628 - Substantiated</p> <p>Representing the Department of Public Health: Surveyor ID # 27035, 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>Penalty number 110010347</p> <p>A 017 1280.15(a) Health &amp; Safety Code 1280</p>			

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

TITLE

(X6) DATE

*Shmoygen Vincent J. Moraga, MD* EVP/COO/CMO 1/19/2015

By signing this document, I am acknowledging receipt of the entire citation packet, Page(s) 1 thru 6

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>(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, agencies, 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.</p> <p>Based on interview and record review, the facility failed to prevent intentional unauthorized access and disclosure of Patient 1's medical information when Patient 1's electronic medical record was intentionally accessed by unauthorized facility staff.</p>				

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	<p>This failure allowed the possible unlawful or unauthorized use of some of Patient 1's protected health information.</p> <p>Findings:</p> <p>The California Department of Public Health was notified, on 04/12/11 that an intentional breach of protected health information occurred between 04/04/11 and 04/06/11.</p> <p>Patient 1 was admitted to the facility, on 04/04/11, intubated and unresponsive.</p> <p>During an interview on 11/02/12 at 4 p.m., Administrative Staff A stated that, on 04/06/11, he became aware that facility staff, which was not responsible for Patient 1's care, knew too much about Patient 1's PHI and determined that Patient 1's electronic medical record had possibly been accessed by unauthorized facility staff.</p> <p>Administrative Staff A also stated that subsequent investigation determined that Licensed Staff B, Licensed Staff C, Unlicensed Staff D, and Unlicensed Staff E, all of whom had worked together, with Patient 1, for many years at the facility, had intentionally and inappropriately accessed their friend's PHI contrary to facility policy and procedure and their orientation information when hired.</p> <p>During an interview on 12/12/12 at 9 a.m., Licensed Staff B stated that, "[Patient 1] was a friend and a colleague...and I entered the computer system to</p>		<p><b>A 017 - Immediate / Follow Up Actions:</b> <b>Abbreviations:</b></p> <p>CMO/COO – Chief Medical Officer / Chief Operating Officer HR – Human Resources PO – Privacy Officer PHI – Protected Health Information PT – Physical Therapist ST – Speech Therapist</p> <p>Tag A 017 - On 4/4/11, a long time hospital employee was admitted to this hospital following a cardiac event at her home. The patient subsequently expired on 4/6/11. An anonymous report to the hospital's Privacy Officer (PO) on 4/8/11 stated concerns of possible inappropriate access to this patient's PHI. An intensive investigation commenced on 4/8/11, was completed on 4/26/11, and including the following:</p> <ol style="list-style-type: none"> <li>1. The PO reviewed the details of this event. An audit of the patient's electronic medical record confirmed that 6 staff members, who were not apparently involved in the care of this patient, including one (1) Physical Therapist, one (1) Speech Therapist, one (1) Case management/Social Services Assistant, one (1) Nurse Manager, one Radiation Therapy LVN; and one (1) nursing unit secretary had accessed this patient's electronic medical record.</li> <li>2. The HR manager, in conjunction with the direct supervisors of the involved employees, conducted separate interviews with each of the involved employees. The following information was gathered during individual interview sessions. Interview sessions were completed on 4/26/11.</li> </ol>	<p>Completion date</p> <p>12/12/13</p> <p>12/12/13</p>

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	<p>see why she was in the intensive Care Unit...It was an impulsive decision since regretted.?</p> <p>During an interview on 12/12/12 at 10:10 a.m., Licensed Staff C stated that, "I was going on pure emotion mode, was close to the family, and did not think.?"</p> <p>During an interview on 12/12/12 at noon, Unlicensed Staff E stated that, "I was not thinking. I was concerned about my friend and looked at her record without malice.?"</p> <p>A review of the facility Policy and Procedure for "CONFIDENTIALITY" (02/03/11) reveals the following: "3.0 POLICY The protection of confidential, sensitive, and proprietary information is of critical importance to the facility, its work-force, and its patients. In addition, the safeguarding of patient information from unauthorized, inappropriate, and unlawful use and disclosure is required by law and is consistent with the values of [the facility]. Employees are required to follow all policies and procedures and the facilities Standards of Conduct regarding use and disclosure of business patient information, and to comply with all safeguards applicable to the employee's work area and the employee's scope of duty in order to ensure that business and patient information is safeguarded at all times... 1.1.2 The employee will only use and disclose that patient information that is minimally necessary in order to accomplish the intended purpose of the use or disclosure... 1.1.3 The employee will follow all [facility] policies and procedures and [the facility's] Standards of Conduct</p>		<p>A. Interview with the PT:</p> <ul style="list-style-type: none"> <li>a. the patient was a close friend</li> <li>b. looking at the record was an "emotional response".</li> <li>c. she knew looking into this patient's record was wrong</li> <li>d. this is something she would never do again</li> <li>e. there was no malice or ill intent</li> <li>f. she did not use or share PHI with anyone inside or outside of the organization</li> <li>g. she acknowledged understanding of hospital policies prohibiting unauthorized access to PHI.</li> <li>h. she acknowledged receiving and understanding education regarding privacy regulations including regulations prohibiting unauthorized access to patients PHI.</li> <li>i. This was a 15 yr. employee with exceptional performance evaluations and no previous corrective actions.</li> </ul> <p>B. Interview with ST:</p> <ul style="list-style-type: none"> <li>a. Stated that she had entered the record in error; "clicked on the record by mistake" and was "in and out" of the record as soon as she realized she was in the incorrect record.</li> <li>b. She did not know the patient</li> <li>c. She did not know the patient was an employee</li> <li>d. She was remorseful for not accessing the correct record</li> <li>e. There was no malice or ill intent</li> <li>f. She did not use or share any patient's PHI</li> <li>g. She acknowledged understanding of hospital policies prohibiting</li> </ul>	

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	<p>and take all precautions to prevent any intentional or unintentional use or disclosure of any trade secrets or confidential information about the facility, its employees, and its programs.?</p> <p>A review of [the facility] Corporate Responsibility Program Handbook (Employee Compliance Handbook-v 4.9) reveals the following: "All medical records and any other information that has the potential to identify an individual, in any form, whether electronic, on paper, or oral is considered protected health information ("PHI"). This includes any information that relates to the past, present, or future physical or mental health or condition of an individual (patient); that care has been provided to an individual (such as whether or not the individual is at the hospital receiving treatment or has been in the hospital)...Avoid unnecessary discussions about patients outside of treatment rooms, elevators, reception areas or any other room used by the general public... The patient must authorize the use and disclosure of their health information for any non-routine disclosures and most non-health care related purposes... You may not access any medical record, including your own or family member unless it's required in order to perform your job.?</p> <p>A review of the facility Policy and Procedure for "PROTECTED HEALTH INFORMATION, USE &amp; DISCLOSURE: IMPROPER ACCESS OR USE, CALIFORNIA NOTIFICATION &amp; REPORTING REQUIREMENTS" (11/1/11) reveals the following: "1.0 DEFINITIONS...Unauthorized The inappropriate access, review or viewing of patient</p>		<p>unauthorized access to PHI.</p> <p>h. She acknowledged receiving and understanding education regarding privacy regulations including regulations prohibiting unauthorized access to patients PHI.</p> <p>i. This was a 15 yr. employee with exceptional performance evaluations and no previous corrective actions.</p> <p>C. Interview with Case Management /Social Services Assistant:</p> <p>a. Stated that she did not have a referral for discharge so would not have entered the record.</p> <p>b. She did not know the patient personally.</p> <p>c. She does not remember when she found out about this patient event.</p> <p>d. She stated she regularly leaves her workstation without logging off, and is sometimes away from her desk for extended periods of time.</p> <p>e. There was no malice or ill intent</p> <p>f. Denied accessing, using or sharing any patient's PHI</p> <p>g. She acknowledged understanding of hospital policies prohibiting unauthorized access to PHI, minimum necessary rule, and expectations to log off a computer before leaving a workstation.</p> <p>h. She acknowledged receiving and understanding education regarding privacy regulations including regulations prohibiting unauthorized access to patients PHI, minimum necessary standard, and expectations to log off the computer before leaving a workstation.</p>	

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	<p>medical information without a direct need for medical diagnosis, treatment, or other lawful use as permitted by the California Confidentiality of Medical Information Act... 4.2 Notice to the Patient or Patient's Representative. [The facility] will provide written notification... to the affected patient or to the patient's representative at his or her last known address within five business days after the unlawful or unauthorized access, use or disclosure has been detected (sic). A patient has a "patient representative" if the patient is a minor or is an adult lacking the capacity to make health care decisions".</p>		<p>i. This was a 50-yr. employee with on target and exceptional performance evaluations and no previous corrective actions. Of note, this employee had notified the hospital of retirement plans. Her retirement date (last date worked) was 7/8/2011.</p> <p>D. Interview with Nurse Manager:</p> <ol style="list-style-type: none"> <li>the patient was a co-worker</li> <li>she wanted to know how the patient was doing</li> <li>she told her staff the patient was in the ICU; but did not share details of why</li> <li>she knew looking into this patient's record was not the right way to find out how the patient was doing.</li> <li>this is something she would never do again</li> <li>there was no malice or ill intent</li> <li>she acknowledged understanding of hospital policies prohibiting unauthorized access to PHI.</li> <li>she acknowledged receiving and understanding education regarding privacy regulations including regulation prohibiting unauthorized access to patients PHI.</li> <li>This was a 21-yr. employee with above target performance evaluations and no previous corrective actions.</li> </ol> <p>E. Interview with Radiation Therapy LVN:</p> <ol style="list-style-type: none"> <li>the patient was a co-worker</li> <li>wanted to know how the patient was doing</li> <li>did not use or share PHI</li> <li>she knew she should not have looked into the patient's record</li> <li>this is something she would never do again</li> </ol>	

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	<p>medical information without a direct need for medical diagnosis, treatment, or other lawful use as permitted by the California Confidentiality of Medical Information Act... 4.2 Notice to the Patient or Patient's Representative. [The facility] will provide written notification... to the affected patient or to the patient's representative at his or her last known address within five business days after the unlawful or unauthorized access, use or disclosure has been detected (sic). A patient has a "patient representative" if the patient is a minor or is an adult lacking the capacity to make health care decisions".</p>		<p>f. there was no malice or ill intent g. she acknowledged understanding of hospital policies prohibiting unauthorized access to PHI. h. she acknowledged receiving and understanding education regarding privacy regulations including regulation prohibiting unauthorized access to patients PHI. i. This was a 21-yr. employee with above target performance evaluations and no previous corrective actions. E. Interview with Nursing Unit Secretary: a. the patient was a co-worker b. wanted to know how the patient was doing and why she was in ICU c. did not use or share PHI d. she knew she should not have looked into the patient's record e. this is something she would never do again f. there was no malice or ill intent g. she acknowledged understanding of hospital policies prohibiting unauthorized access to PHI. h. she acknowledged receiving and understanding education regarding privacy regulations including regulation prohibiting unauthorized access to patients PHI. i. This was an 8-yr. employee with above target performance evaluations and no previous corrective actions. 3. Going forth, the PO will participate in staff interviews applicable to privacy events as necessary. 4. All of the involved employees have a signed "Confidentiality Agreement for employees" on file.</p>	

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