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	(X3) DATE SURVEY COMPLETED
	050128	A. BUILDING _____ B. WING _____	08/31/2015

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
Tri-City Medical Center	4002 Vista Way, Oceanside, CA 92056-4506 SAN DIEGO COUNTY

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	The following reflects the findings of the Department of Public Health during a complaint/breach event visit: Complaint Intake Number: CA00409247 - Substantiated Representing the Department of Public Health: Surveyor ID # 15932, Health Facilities Eval. Nurse 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. 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		RECEIVED CA DEPT OF PUBLIC HEALTH SEP 14 2015 LICENSING & CERTIFICATION SAN DIEGO DISTRICT OFFICE	

Event ID:WX8T11 9/4/2015 8:05:15AM

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE TITLE (X6) DATE

Jenni Beaman Director Regulatory Compliance 9/9/15

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.

State-2567

Accepted 9/22/15

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	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." The CDPH verified that the facility informed 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. Title 22, 70751 (b) Medical Record Availability 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. On Monday, 8/11/14 at 11:30 A.M., a former employee (Employee 1) of the facility contacted the Department of Public Health (CDPH) via telephone. According to Employee 1, he was in possession of several emergency department (ED) logs that contained patient names and medical information. Employee 1 agreed to come to the Licensing and Certification, San Diego North District Office (D.O.) for an interview. Employee 1 arrived at the D.O. on Monday, 8/11/14 at 12:30 P.M., with a duffle bag that contained 6 blue, legal size, ledger style folders. Each folder was labeled with a specific month, year and number of patient entries; December 2013 (959		**Penalty Number 080011706** **Facility ID: 080000152** The plan of correction is prepared in compliance with federal regulations and is intended Tri-City Medical Center (the "hospital") credible evidence of compliance. The submission of the plan of correction is not an admission by the facility that it agrees that the, citations are correct or that it violated the law. **Title 22, 70751 (b) Medical Record Availability** The paper logs are not used any longer in the Emergency Department. The process for completion of the log was automated to run within CERNER. This will met EMTALA requirements. Completed Date: August 14, 2014 Responsible Person: Emergency Department Director 1. Temporary corrective actions that were taken: 1. **CURRENT Inventory of Logs maintained at TCMC**: this 1-page document was completed for EACH current log that is utilized within department(s). a. The upper portion of the document identify Name, Purpose, Department, and Cost Center b. Data elements that are included on the log are to be identified (**Yes, No, or Not Applicable**) c. Paper vs. Electronic log d. Person responsible for completion of the log e. Retention Requirements (time retained in the department and time retained at Iron Mountain	

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	entries), January 2014(1506 entries), February 2014(1347 entries), March 2014(1501 entries), April 2014(1455 entries), and May 2014(1521 entries). The total number of entries was 8,289. Each folder contained the first and last names of 8,389 ED patient's admitted to the facility during those months. In addition, the logs included the medical record number, age, date of birth, admitting physician, patient disposition, time of admission, admitting room number and diagnosis. Employee 1 stated he was placed on Administrative leave from the Facilities Department by the facility on June 18 or 19, 2014. Employee 1 stated on Friday, 8/8/14 at 5 P.M., he returned to the facility to remove his personal belongings from his former office in the Facilities Department building. The Facilities Department building is located across the street from the main hospital. Employee 1 stated the Senior Vice President of Medical Services gave him a two rack cart to load and take his belongings to his vehicle. Employee 1 stated he noticed some blue ledgers in the bottom of the cart on the bottom rack, but stated he didn't pay much attention to them. Employee 1 stated Employee 2 helped him load his personal belongings into his vehicle. Employee 1 further stated, "I don't know if I grabbed them (ledgers) or the other guy. They probably got thrown in the mix." Employee 1 stated when he got home and		a. NOTE: if the department did NOT maintain a patient log each department noted that information at the bottom and returned the document to Privacy Officer & there was confirmation that EVERY cost center/department provided a listing back of their logs b. All required logs were converted to electronic logs with the exception of tissue logs and OR logs. These logs remain as paper and are maintained behind locked doors in cabinets that are locked c. These aforementioned logs are kept for the previous 2 months and older logs were sent to Iron Mountain for storage d. The ED paper logs/EMTALA was sent to Iron Mountain for storage & paper logs were eliminated. e. Any paper logs (OR or tissue) that are required for use by another department will be checked out and checked back in same day of use. All other electronic logs that are requested will be done via electronic communication and will not be printed out to remove from department. The logs will be reviewed electronically and if printing is required for audit purposes there will be documentation that electronic log printed was placed in shred bin f. The 6 stolen ED logs were returned to the facility & are sequestered in the Privacy Officers Office. g. AllClear ID was engaged to send out notification letters as required to patients h. TCMC posted the notification as required in local newspaper & on web site for a period of 90 days	

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	unloaded his belongings; he discovered the 6 blue ledger style folders in his vehicle. Employee 1 stated he did not return the folders because, "No one would be there and nothing would be done about it." An onsite visit was conducted at the facility on 8/14/14 at 10 A.M. An interview was conducted with the Director of Regulatory Compliance (DRC) on 8/14/14, at 10:10 A.M. The DRC stated on 8/7/14, she used a cart to retrieve 4 ED transfer log books from the ED for review from an onsite survey team. The ED logs are kept under the desk of the ED Nurses Station. The DRC acknowledged there was no system in place to ensure the accountability of the ED transfer logs that were taken. The Director of Emergency Services (DES) was interviewed on 8/14/14 at 10:30 A.M. The DES also acknowledged, "There is no process for checking out the [ED] logs." She stated the facility would not know if ED logs were missing and admitted it was "a flimsy process." The DES stated the ED logs were collected annually in January and stored with a contracted storage company. However, when an itemized list of the ED logs sent to the storage company was requested, the facility was unable to produce the list. The Senior Vice President of Medical Services (SVPMS) was interviewed on 8/14/14, at 11:20		i. TCMC conducted an audit to ensure that all letters were sent to affected patients. The audit provided an opportunity to send out 25 additional letters to patients that were missed from outside vendor. The web site notification remained in place for an additional 90 days j. OCR notified as required k. Responsible Person: Privacy Office l. Completion date: 8/18/2014 & 09/15/2014 Permanent corrective actions taken: m. Policy developed for Patient Logs n. Procedure developed for Facility Access Program o. Education done for leadership via meetings & with e-mail communication p. Responsible Person: Privacy Office q. Completion Date: 10/28/2014 2. Monitoring process to prevent recurrence: a. Bi-weekly reports are generated by the system administrator & provided to the director having responsibility for the door. b. Review of unauthorized access will be investigated by the director and reported to the privacy officer.	

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	A.M. The SVPMS stated he met Employee 1 at the Facilities Department building on 8/8/14 at 5:30 P.M. The SVPMS stated he noticed a cart in the front lobby of the building. He stated he emptied the top of the cart, but left "3 or 4 blue folders in the bottom." The SVPMS further stated, "I had no idea what was in the folders. I didn't look." The SVPMS acknowledged he did not remain in the office with Employee 1 while he retrieved his belongings. The Director of Facilities (DOF) was interviewed on 8/14/14 at 11:45 A.M. The DOF stated he also had books on the cart used by the DRC for the survey team. The DOF stated he took the cart from the hospital's Privacy Office (PO) to the Facilities Department building, on Thursday, 8/7/14. According to the DOF, he promised the DRC he would return the cart to the PO on Friday morning, 8/8/14, but failed to do so. The cart remained in the Facilities Department building until 8/8/14, Friday evening. The DOF stated the Facilities Department was a 24 hour, seven day a week operation. The door to the department was routinely locked at 4 P.M., and when no one is there. Employee 2, employed with the Facilities Department, was interviewed on 8/14/14, at 3:25 P.M. Employee 2 stated he helped Employee 1 load his belongings from the cart into his vehicle. Employee 2 stated he saw some blue folders in the bottom of the cart, and went to place them in Employee 1's vehicle. Employee 2 stated Employee 1 stopped him from putting the blue		c. Added as a element to the EOC Rounds & Tracer Rounds PHI review to look for unsecured PHI - Risk assessment done for this occurrence to mitigate by adding key pad doors, PC screens, mandatory education for all staff, added as a element to new employee orientation, spot audits done via "buddy" system to check for unsecured PHI, heightened awareness added to work force, provide information in writing regarding privacy rights (Notice of Privacy Practices) - Describe the circumstances under which PHI may be used or disclosed - How to account for disclosures of PHI - Investigate any complaint regarding privacy concerns - Restrictions on removal of PHI from the organization - How to protect PHI to include threats or hazards to the security or integrity of the information, - How to protect against any reasonably anticipated use or disclosure of information that are not permitted by the Privacy Rule. - Ensure 100% compliance by all workforce members by affirmation of signature d. Any unauthorized access will be reported quarterly to QAPI pending resolution of access e. Responsible Person: Privacy Officer f. Completion Date: Ongoing review for continual compliance.	

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	folders in his vehicle. Employee 2 further stated Employee 1 told him, "These are not mine. They belong to the facility." Employee 1 then took the blue folders from him, put them back in the cart and went back inside his office to load the cart again. Employee 2 stated he did not pay attention to what Employee 1 did with the blue folders, and he did not observe Employee 1 re-load the cart. Employee 2 stated he noticed Employee 1 had "something" with a strap over his shoulder, "I wouldn't call it a duffle bag, but it had a strap." The DRC was again interviewed on 8/14/14 at 4:05 P.M. The DRC stated she was not notified the ED transfer logs were missing until the evening of 8/13/14. The DRC stated the facility believed only 4 ED transfer logs were missing. The DRC further stated, "I honestly can't remember how many logs I pulled." The facility failed to ensure a system was in place to account for medical records accessed by the facility personnel. In addition, the facility failed to prevent unauthorized access to and disclosure of the confidential medical information for 8,389 patients when a terminated employee removed six Emergency Department patient transfer logs from the facility and kept them in his possession for two and a half days.			