

3/30/12

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 05/16/2011
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 complain/breach event visit:</p> <p>Complaint Intake Number: CA00268593 - 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>Violation of Health and Safety Code 1280.15(a) for failure to prevent unauthorized access to patients' medical records: Substantiated</p>	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">L&C DIVISION SAN FRANCISCO</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">APR 13 2012</p>	<p>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.</p> <p>Actions: The San Francisco General Hospital (SFGH) Privacy Officer or designee conducts periodic, random electronic audits of the on-line <i>Lifetime Clinical Record (LCR)</i>, the SFGH patient health information electronic medical record system, to monitor for unauthorized access to patient protected health information (PHI) by any SFGH or UCSF employee in accordance with <i>HIS Policy 6.1/Patient Privacy LCR Audit (see Attachment 1)</i>. These electronic audits are also triggered by admission of an SFGH or UCSF employee to SFGH as a patient, by a request via phone or email by anyone who has concerns, and by high profile cases reported to the Privacy Officer by the Administrator on Duty (AOD) (e.g., high profile media cases, admission of a VIP).</p> <p>As described in the 2567 received March 30, 2012, the facility had provided documentation at the time of the May 2011 investigation that the employee involved in this privacy breach had been oriented to their responsibilities to protect the confidentiality of patient protected health information (PHI) and to medical information privacy requirements, yet still they accessed the record without authorization.</p> <p>At the time of the incident investigation in May 2011, the Department of Public Health had convened a Privacy Summit attended by DPH and UCSF Privacy Officers to establish priorities,</p>	<p>Ongoing</p> <p>May 2011</p>

Event ID: T1J011

3/27/2012

10:25:18AM

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

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	<p>Continued From page 1</p> <p>Informed Medical Breach</p> <p>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 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."</p> <p>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.</p> <p>On 5/20/11, the facility Privacy Officer mailed notices to the sixty-five (65) English speaking patients explaining the breach of their medical records.</p> <p>On 5/23/11, the facility Privacy Officer mailed notices to the thirty three (33) non-English speaking patients explaining the breach of their medical information in their primary language.</p> <p>1280.15(a) Health & Safety Code 1280</p> <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'</p>		<p>CA DEPT OF PUBLIC HEALTH</p> <p>APR 13 2012</p> <p>L&C DIVISION SAN FRANCISCO</p> <p><u>Health & Safety Code Section: 1280.15 (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</p>	
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	<p>Continued From page 2</p> <p>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 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>T22 DIV5 CH1 ART7-70707(a)(b)(8) Patients' Rights</p> <p>(a) Hospitals and medical staffs shall adopt a written policy on patients' rights.</p> <p>(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 may be read by patients. This list shall include but not be limited to the patients' rights to:</p>		<p>information, as defined in subdivision (g) of Section 56.05 of the Civil code and consistent with Section 130203.</p> <p>AND</p> <p><u>T22 DIV5 CH1 ART7-70707 (a) (b) (6) Patients' Rights</u> ...patients; rights to (8) confidential treatment of all communication and records pertaining to the care and the 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.</p> <p>Action(s): The San Francisco General Hospital (SFGH) Privacy Officer or designee conducts periodic, random electronic audits of the on-line <i>Lifetime Clinical Record (LCR)</i>, the SFGH patient health information electronic medical record system, to monitor for unauthorized access to patient protected health information (PHI) by any SFGH or UCSF employee in accordance with <i>HIS Policy 6.1/Patient Privacy LCR Audit (see Attachment 1)</i>. These electronic audits are also triggered by admission of an SFGH or UCSF employee to SFGH as a patient, by a request via phone or email, and by high profile cases reported to the Privacy Officer by the Administrator on Duty (AOD), e.g., high profile media cases, admission of a VIP.</p> <p>As described in the 2567 received March 30, 2012, the facility had provided documentation at the time of the May 2011 investigation that the employee involved in this privacy breach had been oriented to their responsibilities to protect</p>	Ongoing

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CA DEPT OF PUBLIC HEALTH

APR 13 2012

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	<p>Continued From page 3</p> <p>(8) Confidential treatment of all communications and records pertaining to the care and the 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.</p> <p>These regulations were not met as evidenced by:</p> <p>Based on interview and record review the facility failed to ensure the confidentiality of the medical information of 98 patients when a staff person accessed their computerized medical records without authorization and without justification.</p> <p>Findings:</p> <p>On 5/16/11 at 10:30 AM, the facility Privacy Officer (PO) stated that on 5/3/11 the grandmother of Patient 1 expressed concern to a nurse that a staff person was viewing the confidential computerized medical records of Patient 1. The PO stated the nurse reported this and the concern was eventually brought to his attention on 5/3/11. The PO researched Patient 1's medical record and identified two employees, Staff 1 (S1) and Staff 2 (S2), who may not have been authorized to access Patient 1's record. In an interview on 5/3/11 the PO was able to verify with S1, an insurance eligibility worker, that she did have a justified reason to access Patient 1's medical record.</p> <p>The PO indicated S2 was an employee of another facility (Facility B) who was working on a research grant which utilized the patients at this facility (Facility A) and that S2 had been given computer</p>		<p>the confidentiality of patient protected health information (PHI) and to medical information privacy requirements, yet still they accessed the record without authorization.</p> <p>At the time of the incident investigation in May 2011, the Department of Public Health had convened a Privacy Summit attended by DPH and UCSF Privacy Officers to establish priorities, agreements, and responsibilities, including the development of a security/privacy committee at SFGH to enhance the SFGH Privacy program.</p> <p>Following receipt of the 2567 on March 30, 2012, the Chief Executive Officer, Chief Nursing Officer, Chief Operating Officer, UCSF Associate Dean, Chief of Staff, and the SFGH Privacy Officer issued a memo to all SFGH and UCSF staff via email notifying staff of this recent privacy breach. The memo was issued to staff as a reminder regarding the Department of Public Health (DPH) and SFGH policies about the following:</p> <ul style="list-style-type: none"> *employee responsibilities when accessing confidential patient protected health information (PHI), *requirements to password protect/encrypt portable electronic devices on which patient protected health information (PHI) is stored, *the penalties for violating these policies as well as the penalties for violating provisions of SB541 and AB211 (see Attachment 2). <p>The memo was also posted on the Community Health Network (CHN) webpage for all CHN users (see Attachment 3).</p>	<p>May 2011</p> <p>April 13, 2012</p> <p>April 13, 2012</p>
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**L&C DIVISION
SAN FRANCISCO**

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	<p>Continued From page 5</p> <p>Officer, Risk Manager, and the Facility B physicians responsible for the research project. These persons reported S2 had been placed on administrative leave when the incident was first discovered and that S2 had subsequently been terminated from her employment at Facility B.</p> <p>During the interview on 5/16/11 Facility A's PO and the Director of Regulatory Affairs stated they planned to review S2's computer history at Facility A from 1/1/09 to the present in order to determine if S2 had accessed other records without justification or authorization.</p> <p>On 5/19/11, the PO completed a final list which indicated S2 had accessed the medical information of 98 patients at Facility A without authorization or justification.</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>year at the next scheduled <i>SFGH Quality Council</i> meeting.</p> <p>Responsible Person(s): SFGH Privacy Officer or designee SFGH Director of Regulatory Affairs</p> <p style="text-align: center;">CA DEPT OF PUBLIC HEALTH</p> <p style="text-align: center;">APR 13 2012</p> <p style="text-align: center;">L&C DIVISION SAN FRANCISCO</p>		

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