

CRIHB COMPLIANCE EXCHANGE

CA DPH Loses Records

State public health authorities have lost medical and other records for 2,550 healthcare facility residents, workers and state staff. The records were on a magnetic tape reported missing by the California Department of Public Health in September after workers sent it via U.S. mail from a West Covina field office to the central office in Sacramento for a computer backup, the statement said.

The envelope arrived unsealed and empty Sept. 27, and state officials immediately reported the privacy breach and began investigating, according to the statement. The lost tape contained confidential department e-mails; Social Security numbers for department employees, some healthcare workers and facility residents; investigative reports; background information on healthcare workers; the names of health care facility residents and their diagnoses.

State regulators are notifying those individuals whose information may have been on the tape and advising them on how to protect themselves against identity theft, according to the statement, although there have been no reports of identity theft related to the missing tape.

To read the full article, go to: <http://latimesblogs.latimes.com/lanow/2010/12/state-health-department-loses-medical-records-of-2550-people.html>

Source: SCCE Discussion Group; LA Times

Hospital Reports Employee Fraud and Still Fined

The California Department of Public Health (CDPH) levied a \$225,000 fine against Pacific Hospital of Long Beach, alleging that the facility "failed to prevent unauthorized access" after an employee obtained patients' personal information – including names and social security numbers – and used it to open fraudulent telephone service accounts in late 2009.

An official report of findings by the CDPH indicates that Pacific Hospital self-reported the violation and terminated the employee, working closely with local law enforcement. Police arrested the healthcare worker – a female telemetry technician/unit clerk. The CDPH began their investigation the following day.

The hospital will appeal the fine. "Our hospital takes patient safety very seriously and has done nothing wrong," reads a statement from Pacific Hospital public relations director Laura Salas.

"We have policies and procedures in place to prevent unauthorized access to our patient information. The misuse of patient information by one of our employees who had authorized access to the information was self-identified through our security systems and reported timely to the California Department of Public Health. This employee had received privacy training, and had signed a confidentiality agreement. The employee was swiftly terminated and prosecuted to the extent of the law with the assistance of local police."

To read the full article, go to: <http://www.lbpost.com/news/ryan/10700>

Janitor Charged with Commercial Burglary

The Martin Luther King, Jr. Multi-Service Ambulatory Care Center discovered a janitor took 14 boxes of patients records from a secure storage area. The boxes contain demographic and payer information for about 33,000 patients who were seen during the first 3 quarters of 2008. No social security numbers or banking information was in the files. The janitor admitted taking the records and selling them for \$40 to a recycling center for their paper value. He was charged with felony commercial burglary.

MLK Notice to Patients: <http://www.ladhs.org/wps/portal/KingHomepagen> (click on: "Notice of Potential Disclosure of Your Demographic Information" on the right side of the page.)

LA Times Articles: <http://latimesblogs.latimes.com/lanow/2010/09/medical-records-allegedly-sold-for-scrap-did-not-include-social-security-numbers-authorities-say.html> and <http://www.latimes.com/news/local/la-me-king-clinic-20100917,0,2568465.story>

Source: Report on Patient Privacy

Dartmouth College to Pay \$275,000

Dartmouth College agreed to pay \$275,000 to settle related potential civil claims. The matter involved allegations of improper conduct by agents and employees of Dartmouth College with respect to six contracts between the College and the VA Hospital. All were fixed price contracts. The United States contends that Dartmouth's submission of certain invoices to the VA Hospital constituted a violation of the False Claims Act and that it violated a law prohibiting federal government employees from receiving compensation from a private source for performing their federal job duties.

The United States contends that some of the irregularities came to light in late 2004 as a result of an audit conducted by the Office of Inspector General for the Dept. of Veterans Affairs. Following this and a subsequent audit, Dartmouth returned a total of \$604,000 in contract funds to the

government. As part of the Settlement Agreement, Dartmouth College has agreed to pay an additional \$275,000 to resolve the matter. Furthermore, Dartmouth College has agreed to enhance its existing policies by requiring individuals working on federal grants and contracts to identify better conflicts of interest they have with the sponsoring agency and to provide for additional tiers of review with respect to the disposition of contract funds.

To read the full press release and the settlement agreement, go to: http://www.justice.gov/usao/vt/press/releases/20101004_dartmouth.html

Source: HCCA egroup, Dept. of Justice press release

73 People Indicted on Health Care Fraud of More Than \$163 Million

Seventy-three defendants, including a alleged members of an Armenian-American organized crime enterprise, were charged with various health care fraud-related crimes involving more than \$163 million in fraudulent billing, according to an announcement by the FBI Criminal Investigative and Human Services Inspector General.

In this national, multi-agency investigation, 52 were arrested by FBI agents in the largest Medicare fraud scheme ever perpetrated by a single criminal enterprise and charged by the Department of Justice.

The defendants are charged with engaging in numerous fraud activities, including highly-organized, multi-million dollar schemes to defraud Medicare and insurance companies by submitting fraudulent bills for medically unnecessary treatments or treatments that were never performed. According to the indictments, the defendants allegedly stole the identities of doctors and thousands of Medicare beneficiaries and operated at least 118 different phony clinics in 25 states for the purposes of submitting Medicare reimbursements.

To view the press release, go to: <http://www.justice.gov/opa/pr/2010/October/10-dag-1140.html>.

Source: HCCA/SCCE Chief Compliance & Ethics Officer Network

ARRA Funds Educational Opportunities

ARRA/HITECH Act provided funding for educational opportunities for health information professionals. The funding was distributed to 5 regional groups of more than 70 community colleges in 50 states. (Los Rios Community College District received the grant for California, Nevada & Arizona.) The colleges will develop non-degree health IT training courses that are no more than 6 months in length. The intent is to help meet the shortfall of approximately 50,000

qualified health IT workers with specific skill sets. The funded programs will train students in one of 6 roles relating to EHR:

- Practice Workflow & Information Management Redesign Specialist
- Clinician/Practitioner Consultant
- Implementation Support Specialist
- Implementation Manger
- Technical/Software Support Staff
- Trainer

There is a separate, University Based Training program which is charged with training for the following roles, in one year or less:

- Clinic Leader (HIT)
- Public Health Leader (HIT)
- Health Information Management and Exchange specialist
- Health Information Privacy and Security Specialist
- Research and Development Scientist
- Programmer and Software Engineer
- Health IT Sub-Specialist.

For more information:

Community College based programs:

http://healthit.hhs.gov/portal/server.pt?open=512&objID=1804&parentname=CommunityPage&parentid=14&mode=2&in_hi_userid=11673&cached=true

College & University based programs:

http://healthit.hhs.gov/portal/server.pt/community/healthit_hhs_gov_university-based_training_program/1808

Source: CHIA Journal

Medical Assistant Sentenced

A medical assistant in Florida was sentenced to 72 months in prison and ordered to pay almost \$3.7 million in restitution for administering medically unnecessary treatment to HIV patients in a Medicare fraud scheme. The medical assistant was formerly employed at Midway Medical Inc. The medical assistant and a physician were convicted of participating in a \$10 million Medicare billing scheme in which blood samples were manipulated to make it appear HIV infusion treatments were medically necessary. The medical assistant and others administered medically unnecessary injection and infusion treatments they also fabricated and signed medical records to reflect that Midway patients had received injections or infusions when, in fact, they had not.

Source: Health Care Fraud Report

Health Care Reform Transparency & Disclosure

The Patient Protection and Affordable Care Act contained several transparency and disclosure obligations for physicians and pharmaceutical and medical device manufactures.

- Physician Hospital Ownership: the Act contains significant new restrictions on physician ownership of hospitals. It limits new physician owned hospital construction and imposes additional reporting requirements
- Medical Device & Pharmaceutical Manufacturers: Beginning March 31, 2013 each manufacturer is required to make annual disclosures concerning payments to physicians and other providers. The report will contain specific information to identify the provider and the payments made or items of value transferred to the provider.
- In-Office Ancillary Services Disclosures: the Act requires that physicians inform patients in writing at the time of a referral for in-office ancillary services (“Designated Health Services” under Stark), that the patient may obtain these services from a person other than the physician who owns the machines. (this applies to those services which meet the in-office ancillary services exception to the Stark Act.)
- Prescription Drug Sample Transparency: the Act requires manufacturers and authorized distributes of pharmaceuticals to report the identity and quantity of drug samples requested than the identity and drug samples actually distributed. Reports are to be made to the HHS Secretary; the first report is due on April 1, 2012, and annually thereafter.
- Pharmacy Benefit managers Transparency: Pharmacy benefit managers must provide DHHS with certain information including the percentage of all prescriptions that were provided through mail order pharmacies as opposed to retail pharmacies and the percentage of prescriptions for which a generic drug was available and dispensed. The PBMs are also required to disclose the aggregate amount and type of rebates, discounts or price concessions, the amounts of any such rebates or discounts that were passed through to the plan sponsor, and the total number of prescriptions dispensed.

Source: Health Care Fraud Report

Did You Know? Physician Referrals

California law requires California licensees who refer patients to organization in which they have a financial interest to disclose their financial interest to the patient *in writing at the time of the referral*. (Business & Professions Code 650.01(f) and 654.2). As an example, if a clinic has an internist who provides services at the clinic and who may refer patients to his/her office in town for additional services, that internist must provide the patient written notice at the time of the referral.

Business & Professions Code: “654.2. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to charge, bill, or otherwise solicit payment

from a patient on behalf of, or refer a patient to, an organization in which the licensee, or the licensee's immediate family, has a significant beneficial interest, unless the licensee first discloses in writing to the patient, that there is such an interest and advises the patient that the patient may choose any organization for the purpose of obtaining the services ordered or requested by the licensee.”

Source: Health Law Perspectives; CA Business & Professions Code

CA Hospitals Fined for Privacy Violations

The CA Dept. of Public Health announced on November 19, that it had fined 6 hospitals and 1 nursing home over \$700,000 for failing to prevent unauthorized access to confidential patient information.

Biggs Gridley Memorial Hospital, Gridley, Butte County: The hospital was assessed a \$5,000 fine after the facility failed to prevent unauthorized access of one patient’s medical information by two employees on three occasions. The patient was also an employee of the hospital. The patient’s co-worker asked another employee to access the patient’s record to determine the reason for admission. The co-worker then shared the information with 2 other employees in the department.

Oroville Hospital, Oroville, Butte County: The hospital was assessed a \$42,500 fine after the facility failed to prevent unauthorized disclosure of one patient’s medical information by one employee on two occasions. The patient’s family member overheard an emergency room employee talking on her personal cell phone, disclosing the patient was in the emergency room. The patient also complained that her medical information had been posted on the employee’s “My Space” page. The employee acknowledged that she had posted on “My Space” that the patient had been admitted to the ER three times in one month.

To view the full press release, go to: <http://www.cdph.ca.gov>.

Source: CA Dept. of Public Health; This Week in Corporate Compliance

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Source: Source: SCCE group, Long Beach Post

Facilities Management Staff Accused of Bribery

US Attorney for the Southern District of Florida, the FBI and the IRS have filed criminal information (an accusation) against two individuals who were both Team Leaders in the Facilities Management Department at Memorial Regional Hospital in Hollywood, Florida. The defendants are charged with conspiring to obtain a bribe as an agent of an organization receiving federal funds and obstructing the Internal Revenue Service, in violation of Title 18, United States Code, Section 371.

According to the accusation, the defendants were responsible for, among other things, contracting with vendors for the purchase of goods and services for Memorial Regional. The government alleges the two accepted money and in-kind kickbacks in exchange for selecting certain vendors to perform maintenance work at the Hospital. The defendants would cause the selected vendors to substantially inflate their invoices to Memorial Regional to facilitate the payment of kickbacks to themselves. In addition, the defendants, with the assistance of their accountant, would conceal the kickback payments through other entities.

To read the press release, go to: <http://www.justice.gov/usao/fls/PressReleases/101210-01.html>

Source: SCCE Discussion Group; DOJ press release

Former Tribal Leader Pleads Guilty to Accepting Bribes

The former chairman of the Soboba Band of Luiseno Indians pleaded guilty this afternoon to federal charges related to his acceptance of approximately \$875,000 in bribes from tribal vendors and concealing that income from the Internal Revenue Service.

He is scheduled to be sentenced on February 7. He faces a statutory maximum sentence of 13 years in federal prison. The plea agreement contemplates a sentence of 87 months to 108 months in prison, but the actual sentence will be determined by the judge.

To read the full press release, go to:

<http://www.justice.gov/usao/cac/pressroom/pr2010/142.html>

Source: DOJ Web site

For Questions, Comments, and Suggestions:

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