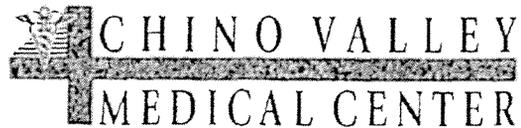


*Veritas Health Services, Inc. d/b/a Chino Valley Medical Center*  
*Case 31-CA-29713, et al.*

**APPENDIX INDEX TO EXHIBITS**

<b><u>EXHIBIT NO.</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>APPENDIX PAGE NOS</u></b>
GCX 6	Campaign Flyer – Your Benefits Without A Union	AP 1
GCX 9(a)-(b)	Patient Medical Record Distributed to HR	AP 2-4
GCX 36	Enforcement And Discipline, Information Systems Policy	AP 5-9
GCX 56	Campaign Flyer – Protect Your Flexibility	AP 10
GCX 84	CDPH Records	AP 11-15
GCX 148	CDPH Report Form	AP 16-19
RX 3	Time Card Adjustment Form – No Pay For ACLS Renewal	AP 20
RX 52	Information Security Agreement Signed by Magsino	AP 21
RX 54	Redisclosure Of Patient Health Information Policy	AP 22-23
RX 55	Meditech Appropriate Access Policy	AP 24-26
RX 63	CDPH Report Form	AP 27-30
RX 78	Campaign Flyer – Photo Shopped Posters	AP 31
RX 79	Campaign Flyer – Truth About Negotiations	AP 32
RX 80	Campaign Flyer – Why You Should Vote No	AP 33
RX 81	Campaign Flyer – Strikes	AP 34
RX 83	Campaign Flyer – Who Has A Voice With The Union	AP 35
RX 84	Campaign Flyer – Why Is It Important For Me To Vote	AP 36
RX 92	Expert Report of Christy Navarro	AP 37-41



## YOUR BENEFITS

### – WITHOUT A UNION

**Collective Bargaining:** *The process of negotiation between employers and a union on wages, benefits and other terms and conditions of employment.*

#### Pay

- Competitive Wages
- On-call RN pay (\$5.00/hr)
- RN Shift Differential, majority of shift (3p – 11p, \$2.50/hr; 11p – 7a, \$4.00/hr)
- RN weekend Shift Differential (\$2.00/hr)
- Relief Charge Differential (\$2.00/hr)
- MICN pay (\$1.50/hr)
- Relief Preceptor Pay (\$1.50/hr for licensed)
- RN Crisis Pay (\$10.00/hr)
- Float differential (\$2.00/hr for RNs only, if required)

#### Employee Perks

- Free Thanksgiving and Christmas meals
- Christmas Party
- Hospital Week celebration
- Corporate challenge
- Biggest Loser weight loss program
- Gift cards for blood drive donors
- Dr. Lally's annual birthday lunch
- Holiday Family Program

#### Voluntary Benefits

- Long Term Disability
- Short Term Disability
- Gap Insurance
- Cancer/Critical Illness Insurance
- Accident Insurance
- 401k Plan (hospital matches up to 4%)
- Group Term Life Insurance

#### Benefits

- Health: up to 100% medical coverage depending on plan, minimal co-pay  
Minimal out-of-pocket for dental and vision
- Medical opt-out program (\$35 per pay period in lieu of medical coverage)
- No limit on lifetime medical benefits
- Vacation, sick leave and holidays
- 7 Paid Holidays
- Bereavement Leave – up to 3 paid days off
- Employee Assistance Program (EAP) for employees & families
- 1x base annual salary company paid life insurance (FT only)
- Education Tuition Reimbursement (\$1,500 for FT and \$750 for PT, per calendar year, with prior approval)
- Education and Seminar Reimbursement (up to \$250 annually, if approved by admin)
- CEUs, \$5 reimbursed through lunch ticket
- Flex Ed, paid while you are learning
- Paid BLS/ACLS certifications & required courses for employment (FT)
- Certification Recognition (\$500 for FT, \$300 for PT)

#### Other

- Vacation time cash-outs with no limits
- Open door policy
- Allow charitable fundraising for employee purposes
- Flexible scheduling

**You and YOUR FAMILY get all of this without a union.**

**Everything on this list is negotiable—what are you willing to risk?**

**YOU DON'T NEED UNAC**

**VOTE NO on April 1 and 2, 2010**

ACCOUNT [REDACTED]  
PATIENT [REDACTED]  
DATE OF EVALUATION: 04/01/2010  
TIME SEEN: 1235 Hours

MEANS OF ARRIVAL: The patient was brought into the emergency room by herself.

CHIEF COMPLAINT: Right flank pain.

HISTORY OF PRESENT ILLNESS:

This is a 43-year-old Hispanic female who is morbidly obese presented to the emergency room complaining of having right flank pain for the past three days. Per the patient, she does not know whether she has any fever or not. She denied having any trauma. She does have some nausea without any vomiting. She did not have any pain upon urination or being pregnant. ~~She denied having any sensory or motor deficit problem. She denied having any acute abdominal pain, any headache, or shortness of breath problem.~~

PAST MEDICAL HISTORY: Significant for having hypertension, diabetes, and also high cholesterol.

CURRENT MEDICATIONS: Lisinopril, Glucophage, insulin, and also Lipitor.

ALLERGIES: REGLAN.

SOCIAL HISTORY: The patient denies smoking, any alcohol use, or any drug use.

REVIEW OF SYSTEMS: Positive as above and the remainder were negative.

PHYSICAL EXAMINATION:

VITAL SIGNS: ~~Temperature is 37.8 degrees, heart rate 87, respirations 18, and the patient's blood pressure is 198/101.~~

GENERAL APPEARANCE: The patient is alert, awake, and cooperative. The patient appears to be moderately obese.

HEENT: Normocephalic and atraumatic. Conjunctivae are not injected. Oral mucosa is moist.

LUNGS: Clear.

CARDIOVASCULAR: Regular rate and rhythm.

ABDOMEN: Soft. Positive bowel sounds. No rebound or guarding.

BACK: Positive having right CVA tenderness.

EXTREMITIES: Active. No evidence of any calf tenderness to palpation.

SKIN: No jaundice. No petechiae are noted.

NEUROLOGIC: Cranial nerves II through XII are intact. The patient is to ambulate well without any assistance.

DIAGNOSTIC DATA:

The patient had urine pregnancy test done and it is negative. Her urine dipstick is positive for blood, positive for nitrites, negative for leukocyte, positive for protein, and positive for glucose. Urine was sent for cultures.

PATIENTS NAME: [REDACTED]  
UNIT NUMBER: [REDACTED]  
DICTATING PHYSICIAN: Winn, James S.  
DATE OF ADMISSION:

CHINO VALLEY MEDICAL CENTER  
5451 WALNUT AVENUE  
CHINO, CA 91710

EMERGENCY ROOM REPORT

GLX 9(a)

Chino Valley Medical Center PCI \*\*LIVE\*\* (PCI: OE Database CVMC)

DRAFT COPY

Run: 05/05/10-16:58 by Magsino, Ronald A

Page 1 of 2

EMERGENCY DEPARTMENT COURSE:

The patient will be given Levaquin 500 mg p.o. The patient will be allowed to be discharged home with a prescription for Cipro 500 mg b.i.d. for the next ten days and also Vicodin one to two tablets p.o. q.6 h. p.r.n. for pain, and ibuprofen 600 mg t.i.d. p.r.n. for pain. The patient was advised to drink plenty of fluids and she is to follow with her own PMD in two days for further evaluation and treatment.

IMPRESSION: Acute right pyelonephritis.

CONDITION: ~~Condition of the patient is in the form of~~

James S. Winn, D.O.

DR: JSW/SM DD: 04/01/2010 13:20 DT: 04/02/2010 05:22 Job 

PATIENTS NAME:   
UNIT NUMBER:   
DICTATING PHYSICIAN: Winn, James S.  
DATE OF ADMISSION:

CHINO VALLEY MEDICAL CENTER  
5451 WALNUT AVENUE  
CHINO, CA 91710

EMERGENCY ROOM REPORT

Chino Valley Medical Center PCI \*\*LIVE\*\* (PCI: OE Database CVMC)

Run: 05/05/10-16:58 by Magsino, Ronald A

AP 3

6696-2  
DRAFT COPY  
Page

RUN DATE: 05/06/10  
RUN TIME: 0757  
RUN USER: NURMRA

Chino Valley Med Center EDM \*\*LIVE\*\*  
Patient Notes

PAC

Patient: [REDACTED]  
ED Physician: Winn, James S.  
Chief Cmplnt: FLANK PAIN

Acct No.: [REDACTED] Unit No. [REDACTED]  
Age/sex: [REDACTED] Loc: ED  
Status: [REDACTED]

[REDACTED] 05/06/10 134  
PT AMBULATED TO TRAUMA 1 C/O ABDOMINAL PAIN X 3 DAYS. PT INSTRUCTED TO COLLECT URINE SAMPLE. AWAITING DR EVAL.

[REDACTED] 05/06/10 135  
U DIP DONE RESULTS TO DR WINN

[REDACTED] 05/06/10 136  
MEDICATED WITH LEVAQUIN AS ORDERED

[REDACTED] 05/06/10 137  
DISCHARGE TO HOME. PATIENT ALERT, ORIENTED TO PERSON, PLACE AND TIME. AFTERCARE INSTRUCTIONS GIVEN AND DISCUSSED WITH PATIENT. PATIENT AMBULATORY TO HOME, DENIES PAIN, NO ACUTE DISTRESS NOTED.

9(b)

<b>CHINO VALLEY MEDICAL CENTER</b>	Section: Tab 2, Tab 1:Approp. Access
<b>Hospital Policies and Procedures</b>	Saved As: AA015
<b>Manual: ADMINISTRATIVE/INFORMATION TECHNOLOGY</b>	Page: 1 of 4
	Formulated: 3/99
	Reviewed: 12/00, 8/04, 5/07,4/09
<b>Subject:</b> Enforcement and Discipline, Information Systems	Revised: 5/07
<b>Related:</b>	Approved: 8/04, 5/07

<p><b>SCOPE:</b> All users of Clinical Patient Care System (CPCS), including employees, physicians, physician office personnel, and external entities.</p>
<p><b>PURPOSE:</b></p> <p>To describe the requirements for discipline when breaches of confidentiality are identified and the suggested methodology for determining the severity of the breach.</p>
<p><b>POLICY:</b></p> <p>Disciplinary action for breaches of confidentiality will be addressed through Information Security Violations standards established by the Multi-Facility and Facility Security Committees. Minimally, Standards should reflect the violation guidelines outlined in the procedure below. The user will be subject to disciplinary action up to and including termination/revocation of medical staff privileges.</p> <p>Disciplinary action for breaches of confidentiality by physicians and/or allied health professionals must be included in the medical staff bylaws, rules and regulations section addressing corrective action/appeals. The procedures for action taken must be outlined in the medical staff bylaws rules and regulations.</p> <p>In the case of physician office staff, vendors, and/or external entity breaches of confidentiality, disciplinary action will include immediate discontinuance of user privileges and the evaluation of any additional sanctions or actions warranted by the situation.</p>

<b>CHINO VALLEY MEDICAL CENTER</b>	Section: Tab 2, Tab 1:Approp. Access
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<b>Manual: ADMINISTRATIVE/INFORMATION TECHNOLOGY</b>	Page: 2 of 4
	Formulated: 3/99
	Reviewed: 12/00, 8/04, 5/07,4/09
<b>Subject: Enforcement and Discipline, Information Systems</b>	Revised: 5/07
<b>Related:</b>	Approved: 8/04, 5/07

<p><b>PROCEDURE:</b></p> <p><b>EMPLOYEES</b></p> <ol style="list-style-type: none"> <li>1. System access will be routinely reviewed through the use of conformance and monitoring audit reports.             <ol style="list-style-type: none"> <li>A. Employees found in violation of Appropriate Access policies will be confronted with the violation by their manager and the Facility Security Officer.</li> <li>B. Based upon the type/severity of the infraction and/or the repetitive pattern of infractions, disciplinary action will be taken up to and including termination of employment. See attached Minimum Recommended Violation Levels.</li> <li>C. Documentation of the violation and disciplinary action taken must be placed in the Employee's personnel file.</li> </ol> </li> </ol> <p><b>PHYSICIANS, ALLIED HEALTH PROFESSIONALS</b></p> <ol style="list-style-type: none"> <li>1. System access will be routinely reviewed through the use of conformance and monitoring audit reports.</li> <li>2. Violations of Appropriate Access policies by a physician or allied health professional will be communicated to the individual by the CEO or designee and the Facility Security Officer.</li> <li>3. Disciplinary action will be based on guidelines established in the Medical Staff Bylaws and Rules and Regulations. See attached Minimum Recommended Violation Levels.</li> <li>4. Documentation of the disciplinary action must be placed in the credentials file of the physician</li> </ol>
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<b>CHINO VALLEY MEDICAL CENTER</b>	Section: Tab 2, Tab 1:Approp. Access
Hospital Policies and Procedures	Saved As: AA015
<b>Manual: ADMINISTRATIVE/INFORMATION TECHNOLOGY</b>	Page: 3 of 4
	Formulated: 3/99
	Reviewed: 12/00, 8/04, 5/07,4/09
<b>Subject: Enforcement and Discipline, Information Systems</b>	Revised: 5/07
<b>Related:</b>	Approved: 8/04, 5/07

or allied health professional.

**PHYSICIAN OFFICE STAFF, VENDORS, EXTERNAL ENTITIES**

1. System access will be routinely reviewed through the use of conformance and monitoring audit reports.
2. Violations of the Appropriate Access policy by physician office staff, vendor or any other external entity with access to information systems will be communicated to the individual by the CEO or designee.
3. Disciplinary action will be based on the severity and/or frequency of the violation and may result in the termination of the user privileges or termination of the contract. See attached Minimum Recommended Violation Levels.
4. Documentation of the disciplinary action must be placed in the vendor file.

**REFERENCES:**

Multi-Facility Security Committee Policy, IS.AA.002;  
 Facility Security Committee Policy, IS.AA.003;  
 Release of and Access to Demographic and Clinical Patient Information Policy, IS.AA.004;  
 Re-Disclosure of Patient Health Information Policy, IS.AA.005;  
 Conformance & Monitoring Reports Policy, IS.AA.014;  
 CPCS Appropriate Access Guideline, Section 8

<b>CHINO VALLEY MEDICAL CENTER</b>	Section: Tab 2, Tab 1:Approp. Access
<b>Hospital Policies and Procedures</b>	Saved As: AA015
<b>Manual: ADMINISTRATIVE/INFORMATION TECHNOLOGY</b>	Page: 4 of 4
	Formulated: 3/99
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<b>Subject: Enforcement and Discipline, Information Systems</b>	Revised: 5/07
<b>Related:</b>	Approved: 8/04, 5/07

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Attachment A

ENFORCEMENT AND DISCIPLINE POLICY

MINIMUM RECOMMENDED VIOLATION LEVELS		
Level and Definition of Violation	Examples of Violations	Recommended Action
I Accidental and/or due to lack of proper education	<ul style="list-style-type: none"> <li>Failing to sign off a given computer terminal when not using it</li> <li>Accessing own record in PCI</li> </ul>	<ul style="list-style-type: none"> <li>Retraining and re-evaluation</li> <li>Discussion of policy and procedures</li> <li>Oral warning or reprimand</li> </ul>
II Purposeful break in the terms of the Confidentiality Agreement, Security Agreement or an unacceptable number of previous violations	<ul style="list-style-type: none"> <li>Accessing the record of a patient without having a legitimate reason to do so</li> <li>Using another user's access code</li> <li>Allowing another user to utilize CPCS via your password</li> <li>Physician self-assigning to patient records without obtaining the p</li> </ul>	<ul style="list-style-type: none"> <li>Retraining and re-evaluation</li> <li>Discussion of policy and procedures</li> <li>Written warning and acknowledgment of consequences of subsequent infractions</li> </ul>
III Purposeful break in the terms of the Confidentiality Agreement or an unacceptable number of previous violations and accompanying verbal disclosure of patient information regarding treatment and status	<ul style="list-style-type: none"> <li>Accessing the record of a patient without having a legitimate reason to do so</li> <li>Using another user's access code</li> <li>Allowing another user to utilize CPCS via his/her password</li> <li>Disclosure of confidential patient information</li> </ul>	<ul style="list-style-type: none"> <li>Termination of employment</li> <li>Revocation of Medical staff privilege's</li> <li>Termination of the user privileges or termination of the contract</li> </ul> <p>NOTE: Recommended actions for physicians must be listed as part of the facility's medical staff bylaws, rules and regulations.</p>

# PROTECT YOUR FLEXIBILITY!



WHAT MIGHT HAPPEN IF A UNION CONTRACT LOCKS IN WORKING RULES THAT DON'T FIT INDIVIDUAL NEEDS?



HAVE YOU EVER ...

- ✓ been allowed to come in late/leave early-because of responsibilities at home?
- ✓ been allowed to leave early to pick up a sick child at school?
- ✓ had your schedule rearranged to make it to school or another job?
- ✓ changed your schedule with a co-worker after it was posted?
- ✓ changed your schedule to accommodate your childcare needs?
- ✓ been granted a special request over the phone on short notice?
- ✓ been granted available overtime to meet your needs as opposed to by strict seniority?
- ✓ been given assignments because of your skills, not because of how long you've been here?
- ✓ been able to extend your vacation due to an important personal situation?
- ✓ had car trouble and been given time off to take care of repairs?
- ✓ made an honest mistake and your director treated it as nothing more than a lesson learned (our practice of "Just Culture")?
- ✓ worked overtime even though you were not the next in line for it?
- ✓ had special time off for family illness?
- ✓ been able to select and attend training classes at Flex Ed cost-free?
- ✓ been selected for promotion because of merit and hard work?
- ✓ taken advantage of the hospital's open door policy?
- ✓ had the opportunity to float to other departments for the purpose of learning?

*Contracts require complete and consistent obedience to what is spelled out in the contract. If privileges that you value now are not in the contract, the rules in the contract will prevail.*

**CAN UNAC GUARANTEE THAT ANY OF THESE THINGS WILL BE IN A UNION CONTRACT?**

**VOTE NO ON APRIL 1 & 2!**

GC Exhibit 56  
Page 1 of 1

1  
2 UNITED STATES OF AMERICA  
3 BEFORE THE NATIONAL LABOR RELATIONS BOARD  
4 REGION 31  
5

6 VERITAS HEALTH SERVICES, INC.  
7 d/b/a CHINO VALLEY MEDICAL  
8 CENTER,

Case Nos. 31-CA-29713, et al.

Respondent,

9 and

DECLARATION OF CUSTODIAN OF  
RECORDS

10 UNITED NURSES ASSOCIATIONS OF  
11 CALIFORNIA/UNION OF HEALTH  
12 CARE PROFESSIONALS, NUHHCE,  
13 AFSCME, AFL-CIO,

Charging Party.  
14

15 I, James Johnson, declare:

16 1. I am employed by the California Department of Public Health, Center for Healthcare  
17 Quality, Licensing and Certification Division (CDPH--L&C) as a Supervising Program  
18 Technician II. I am a duly authorized custodian of records and authorized to certify the attached  
19 business records.  
20

21 2. The copies of the accompanying business records are true copies of records maintained by  
22 CDPH--L&C as described in the U.S. National Labor Relations Board Subpoena Duces Tecum  
23 issued on June 6, 2011, directed to CDPH--L&C.  
24

25 3. These records were prepared by CDPH--L&C personnel in the ordinary course of business  
26 at or near the time of the act, condition, or event.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 7, 2010 at San Bernardino, California.

By: James Johnson  
James Johnson  
Supervising Program Technician II  
San Bernardino District Office  
Licensing and Certification Division  
Center for Healthcare Quality  
Department of Public Health

California Department of Public Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  CA240000003	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  05/27/2010	
NAME OF PROVIDER OR SUPPLIER  CHINO VALLEY MEDICAL CENTER		STREET ADDRESS, CITY, STATE, ZIP CODE 5451 WALNUT AVE CHINO, CA 91710		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED 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
E 000	<p>Initial Comments</p> <p>Surveyor:                      The following reflects the findings of the California Department of Public Health during the investigation of an entity reported incident.</p> <p>Intake #CA00229601</p> <p>Representing the Department:                      HFEN</p> <p>The inspection was limited to the specific incident investigated and does not represent the findings of a full inspection of the facility.</p> <p>No deficiency issued for CA00229601</p>	E 000	<p style="text-align: center;">SAN BERNARDINO COUNTY                      LIC. &amp; CERT.                      10 JUN - 7 PM 3:30                      STATE DEPT. OF HEALTH SERVICES</p>	

LABORATORY DIRECTORS OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE *[Signature]* TITLE *CNO* (X6) DATE *6/7/10*

STATE FORM 021196 VLVG11 If continuation sheet 1 of 1

# Summary Report

Facility: CVMC Complaint #: CA02229601

Investigation Date: 5/27/10 Time: 2:30p

Initial Complainant Notification Date: \_\_\_\_\_ Time: \_\_\_\_\_

Final Complainant Notification Date: \_\_\_\_\_ Time: \_\_\_\_\_

---

Evaluator: ABurton Date: 5/27 Supervisor: AM Date: 5/27/10

Allegation #1: Breach of pt information

Observation:  (circle one); if yes-location in the field notes:

Interview:  (circle one); if yes-location in the field notes: |

Record Review:  (circle one); if yes-location in the field notes: |

Substantiated / Unsubstantiated / Substantiated with no regulatory violations  
(circle one)  
If Substantiated, the facility failed to:

---

Allegation #2:

Observation: Y/N (circle one); if yes-location in the field notes:

Interview: Y/N (circle one); if yes-location in the field notes:

Record Review: Y/N (circle one); if yes-location in the field notes:

Substantiated / Unsubstantiated / Substantiated with no regulatory violations  
(circle one)  
If Substantiated, the facility failed to

10/15/2008 (light pink)

SURVEYOR NOTES WORKSHEET

Facility Name: CUMC Surveyor Name: \_\_\_\_\_  
 Provider Number: 050586 Surveyor Number: \_\_\_\_\_ Discipline: HFEN  
 Observation Dates: From 5/27/10 To \_\_\_\_\_

TAG/CONCERNS	DOCUMENTATION
2:30pm	Linda Ruggio, CNO 464-8604 CAO 0244601 5/13/10 reported 5/19/10
Heather Robison, Asst.	MR 1787946 Pt names -
	Staff - ER RN Ronald Magrino, RN counseled in care of Yesenia De Santiago, RN - printed pt. (separately) to dispute when shredded turned packet into HR that contained pt. information, for dispute
	He pulled medical records to see if just cause (when counseled) Took off site (now) Redacted pt name, but MR # + acct # H&P ER + electronic NN date seen bottom - MR # age, sex, Dr. return info
Rosie Dir. Surg. Services	Call on Tuesday
	2 staff accessed + printed records
Staff RM	strict P&P on access, need to know - Terminated 5/20/10
	no breach actually occurred, no information was shared. It was for personal use in defending themselves (Internal P&P breach)

## Potential Privacy Breach Reporting Form

(Must be completed and reported within 5 calendar days)

May 5, 6, 11, 2010	May 5, 2010 @ 1657 May 6, 2010 @ 0757 May 11, 2010 @ 0815
Two ER RN Staff members 1. Ronald Magsino, RN 2. Yesenia De Santiago, RN	[REDACTED] Emergency Dept
[REDACTED]	Potential Breach discovered Thursday May 13, 2010
<p><b>5/13/10: Ronald Magsino RN, turned in a packet of information to HR that contained among other items, copies of a patient medical record; ER H &amp; P and ER electronic nurses notes. The packet of information was in relation to a counseling that Mr. Magsino was given in relation to the patient in question. The Packet was Mr. Magsino's dispute information. Mr. Magsino did redact the patient name with black marker, however the MR number and account numbers were left on the records. Upon finding this in the packet of information, HR alerted this CNO who began an immediate investigation into a possible breach situation.</b></p>	
<p><b>Action Taken:</b></p> <ol style="list-style-type: none"> <li>1. An electronic Activity report was run to see the activity in the MR in question. That report evidenced that Mr. Magsino did access and print portions of the MR on April 5, 2010, May 5<sup>th</sup> and May 6<sup>th</sup>. Additionally, the report also evidenced that Ms. Yesenia De Santiago accessed and printed portions of the MR on May 11. Ms DeSantiago also turned in a letter of dispute to HR regarding a counseling she had received in relation to the same patient as Mr Magsino.</li> <li>2. <b>Friday May 14, 2010 @ 1600:</b> Jean Arriaga, RN I.T. Systems Analyst and this CNO spoke with Mr. Magsino regarding his access to the electronic MR. During the discussion we found and verified that the April 5<sup>th</sup> access' were valid as Mr. Magsino was verifying culture discrepancies and needed to access portions of the chart for the ER physician to order additional antibiotics for the patient. However, the access on May 5 and 6 were not fully able to substantiate. Mr. Magsino made the following statements regarding that access;</li> </ol> <p>Mr. Magsino stated that he was authorized by the ER director and that he (Ronald) asked first for permission to view and print and was advised by C. Gilliatt (ER director) that it was okay to do that as long as he redacted the name and DOB – specifically telling Ronald to leave the MR number and Account number in order to trace the pt back for any future investigation purposes.</p> <p>Mr. Magsino stated he never gave the information "to a third party if that is what you are worried about". Mr. Magsino was asked what he did with the copies and the original records and he stated that he did have a copy for himself that he was keeping in his backpack. Mr. Magsino did return the copy in his possession to us immediately. Mr. Magsino stated he no longer had possession of the original as "I threw it in the shredder</p>	

because I noticed it still had the patients name on it", this CNO asked Mr. Magsino when he threw the original in the shredder and he replied "on the day I printed them" (which would have been on the 5<sup>th</sup> and 6<sup>th</sup> of May, 2010).

Mr. Magsino also stated that C. Gilliatt gave him permission to print the record and take it home to review.

Ms. Arriaga and I informed Mr. Magsino that we would be continuing our investigation and inform him of the results and resolutions.

**3. Monday May 17, 2010 @ 0730:** This CNO spoke with C. Gilliatt, ER director regarding instruction to R. Magsino;

Cheryl stated she did speak with Mr. Magsino the day following his counseling (Mr. Magsino was counseled and disciplined regarding the pt in question on May 4, 2010). Cheryl stated that Mr. Magsino was attempting to gather data to dispute his counseling. Mr. Magsino did speak to Cheryl about the patient wanting to know who it was. Cheryl did give Mr. Magsino the patients name written down on a piece of paper. Cheryl did tell Mr. Magsino to "do your research and make sure you know what you are disputing". Cheryl stated she could understand how Ronald would have taken that as "permission" to access the chart. However, Cheryl stated she never told Ronald he could "print" or "take the chart home". Cheryl does not recall ever telling Ronald it was okay to "print as long as he blanked out the patient's name, but to leave the account number and MR number for future research use".

**4. Monday May 17, 2010 @ 1430:** This CNO spoke with Yesenia DeSantiago accompanied by Edelma Urquieta, HIPAA Privacy Officer for Chino Valley Medical Center; This CNO explained to Yesenia that I was investigating a breach in confidentiality. Yesenia stated she thought that as long as she had cared for the patient, she thought it was okay to access the electronic chart. Yesenia also stated she thought it was okay because she was reviewing in order to refresh her memory on the patient and documented the times in order to dispute a counseling she received regarding documentation.

Edelma and this CNO explained the proper way to access a chart for those purposes. We did go over the HIPAA regulations and Yesenia was able to verbalize that she knew records were not to leave the hospital which is why she states she put the records in the shredder box after accessing and gather the information she wanted. Yesenia further stated she accessed only to get information to include in her dispute letter. Yesenia was tearful and stated she was fearful to lose her job. Edelma and this CNO explained that we would be filing a breach report with CDPH per regulations, policy and procedures for Unauthorized Access of Health Information. Yesenia was further informed that we would keep her aware of any reports further actions that transpired related to the reporting of the breach.

5. This CNO then pulled the employee files for Mr. Magsino and Ms. DeSantiago and was able to find competencies and education for HIPAA compliance and Confidentiality that had been provided for them as part of their Orientations and annual skills training.

6. The following Hospital Policies were pulled for verification;

- Re-disclosure of Patient Health Information
- Information Security Agreement
- Meditech Appropriate Access Policy

- Enforcement and Discipline

7. Tuesday May 18, 2010 @ 0900: This CNO, the HIPAA Safety Officer and the I. T. Systems Analyst had a meeting to discuss all the findings, determine if a breach had occurred and develop an Action and Resolution plan for implementation.

We found the following;

- Regarding Mr. Ronald Magsino;  
Breach of Information did occur by;
  1. Printing of portions of the MR on May 5<sup>th</sup> and 6<sup>th</sup>
  2. Making unauthorized copies of portions of the MR
  3. Unauthorized removal of the MR from the hospital
  4. Unauthorized distribution of the MR; (When Mr. Magsino included the copies of the MR in his counseling dispute and turned them in to the HR dept). ( See; Re-Disclosure Policy).

It is of the opinion of this investigating team that there was no breach when Mr. Magsino accessed the computer to review the electronic record as he did believe he was accessing as part of his job because it was in direct relation to a disciplinary counseling he had received. Although this team does acknowledge that unauthorized access to a MR can be considered a breach. (See; Meditech Appropriate Access Policy).

- Regarding Ms. Yesenia DeSantiago;  
Breach of Information did occur by;
  1. Printing of portions of the MR on May 11, 2010. (This investigation team is unable to prove what happened to the printed records).

It is of the opinion of this investigation team that there was no breach when Ms. DeSantiago accessed the computer to review the electronic record as she did believe she was accessing as part of her job because it was in direct relation to a disciplinary counseling she had received. Although this team does acknowledge that unauthorized access to a MR can be considered a breach. (See; Meditech Appropriate Access Policy).

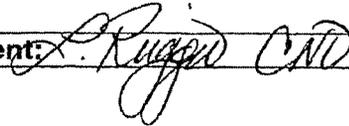
- Regarding Printing of the MR;  
This investigation team is of the opinion that the violation/breach occurred when both of these employees printed portions of the MR and further when one employee removed the MR from the premises, copied it and distributed without proper authorization. Further, this team is unable to verify the Use/True intent/whereabouts of the originals that were printed.

Reportable to CDPH: No__ Yes__		If yes, please complete below (See notes held)
Date Reported: 5/19/10	Reported to: Gina Sanchez @ CDPH L & C SB Office	Time: 1515
Action taken: Both employees were; Re-educated regarding the situations for accessing electronic MR, printing MR, and distribution of the MR.		
FOLLOW UP: Both employees will be;		

1. Retrained and re-evaluated in relation to their understanding of HIPAA, Confidentiality, Unauthorized printing, accessing and distribution of Medical Records
2. Re-educated regarding proper accessing procedures
3. Discussion of Policy and Procedures for HIPAA/Confidentiality/Unauthorized access.
4. Written warnings and acknowledgment of consequences of subsequent infractions will be discussed with the employees and entered into their personnel files.
5. House Wide Education will be provided for re-education of;
  - Safe guarding of patients records
  - Printing of Records
  - Removing Records from Hospital grounds

This House Wide re-education will be completed by June 30, 2010.

Signature of Person Completing Document:



Date: April 8, 2010

# CHINO VALLEY MEDICAL CENTER TIME CARD ADJUSTMENTS

RX 3

PPE DATE \_\_\_\_\_

DEPT. NAME \_\_\_\_\_

DEPT#: \_\_\_\_\_

EMPLOYEE NAME	EMP NO	DATE TO ADJUST	TIME (HH:MM)	ADDELETE	CATEGORY	HOURS	COMMENTS
<del>ROSALYN RONCESVALLES</del>		<del>12/24/09</del>	<del>5 HRS</del>	<del>ARC, FCA</del>	<del>SKILLS</del>	<del>DAY</del>	<del>IN ALUMI COLTON FIRE, MTCALC</del>
<del>ROSALYN RONCESVALLES</del>		<del>01/15/09</del>	<del>2 HRS</del>	<del>AB 508</del>	<del>class</del>		
<del>ROSALYN RONCESVALLES</del>		<del>11/16/09</del>	<del>CLOCKED OUT</del>	<del>@ 0730</del>	<del>(CLOCK NOT WORKING)</del>		
<del>ROSALYN RONCESVALLES</del>		<del>1/24</del>	<del>NO LUNCH</del>	<del>JAV</del>			<del>Adam R</del>
ROSALYN RONCESVALLES		05/26/09	8 HRS	ACLS	RENEWAL		NOT FOR P.D. Employee
<del>ROSALYN RONCESVALLES</del>		<del>05/29/09</del>	<del>3 HRS</del>	<del>ARC/FCA</del>			

CATEGORY	ENTRY	CATEGORY	ENTRY
BEREAVEMENT	13	SEVERANCE	06
EDUCATION	12	SICK	06
HOLIDAY	8	CALL	10
NO LUNCH	01	JURY	11
PERSONAL	08	ORIENTATION	12
VACATION	07	STANDBY	16
OVER TIME	02	ALTERNATE	48

DEPT. MANAGER: \_\_\_\_\_ DATE: \_\_\_\_\_

ENTERED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

**\*\*USE 24 HOURS FORMAT (MILITARY TIME)  
I.E. "15:30" IS USED FOR 3:30 PM.**

Computerized information systems are among the Hospital's most valuable assets. Our success and the privacy of our patients depend on the protection of this information against theft, destruction or disclosure to outside interests.

Employees, physicians, consultants and vendors may at some time be required to operate computer equipment or have access to software systems as part of their performance or duties for Chino Valley Medical Center. Those charged with this responsibility must understand information security policies that are in effect throughout the Hospital.

Therefore, I agree to the following provisions:

- To use the computer, e-mail, and Internet strictly for business purposes only.
- Not to operate or attempt to operate computer equipment without specific authorization from supervisors.
- Not to demonstrate the operation of computer equipment to anyone without specific authorization.
- To maintain assigned password(s) that allow access to computer systems and equipment in strictest confidence and not disclose password(s) with anyone, at any time, for any reason.
- To access only computer systems, equipment and functions as required for the performance of my responsibilities.
- To contact my supervisor or Information Technology (IT) Department immediately and request a new password(s) if mine is (are) accidentally revealed.
- Not to record passwords in any manner, as this increases the possibility of accidental disclosure.
- Not to disclose any portion of the Hospital's computerized system with any unauthorized individual(s). This includes, but is not limited to, the design, programming techniques, flow charts, source code, screens and documentation created by Hospital employees or outside sources.
- Not to disclose any portion of a patient's record except to a recipient designated by the patient or to a recipient authorized by the Hospital who has a need-to-know in order to provide for the continuing care of the patient or to discharge one's employment or other service obligation to the Hospital.
- To report activity that is contrary to the provisions of this Agreement to my supervisor, manager, or Information Technology (IT) Department.

I understand that failure to comply with the above policies will result in formal disciplinary action, up to and including discharge from employment. In the case of physicians, consultants, or vendors, violation of the aforementioned policies may or will result in the termination of agreements and/or privileges.

I further understand that my communications on the Internet and e-mail reflect Chino Valley Medical Center worldwide to our customers, suppliers, and competitors; therefore use shall be limited to that necessary for conducting Hospital business only. This document can be amended at any time.

X   
Employee/Physician/Consultant/Vendor Signature

X 1/4/06  
Date

X Ronald Allen A. Grayson  
Employee/Physician/Consultant/Vendor Printed Name

RY 52  
D

<b>CHINO VALLEY MEDICAL CENTER</b>	Section: Tab 1: Approp. Access
Hospital Policies and Procedures	Saved As: IS.AA.005
Manual: INFORMATION TECHNOLOGY/ADMINISTRATIVE	Page: 1 of 2
	Formulated: 2/98
	Reviewed: 8/99, 5/07 9/09
Subject: Re-disclosure of Patient Health Information	Revised: 2/04, 5/07
Related: IS.AA.04, IS.AA.015	Approved: 4/04, 5/07

**SCOPE:** This policy applies to all Meditech users, including employees, physicians, and external entities utilizing the Meditech System

**PURPOSE:**

This policy defines users' responsibilities for re-disclosure of demographic and clinical patient information.

**POLICY:**

Re-disclosure of patient information will be in accordance with all federal and state laws and regulations. Re-disclosure includes using patient health information for purposes which were not originally authorized in writing by the patient or the patient's legal guardian, disclosing patient information to any other party not authorized in writing by the patient or the patient's legal guardian, and/or disclosing patient information which was received from another facility.

It is the responsibility of facility administration to ensure that this policy is adhered to by all individuals with access to patient information. Policy violations will invoke disciplinary measures as defined in the Company's Appropriate Access Enforcement and Discipline policy.

**PROCEDURE:**

1. All requests for patient health information, including but not limited to those received from insurance companies, other treatment facilities, lawyers, and physicians who are not documented as a physician of record, etc., will be presented to the Health Information Management Department for processing. Requests received during non-HIM Department business hours will be referred to the appropriate facility-designated personnel.

RT 54

<b>CHINO VALLEY MEDICAL CENTER</b>	Section: Tab I: Approp. Access
<b>Hospital Policies and Procedures</b>	Saved As: IS.AA.005
<b>Manual: INFORMATION TECHNOLOGY/ADMINISTRATIVE</b>	Page: 2 of 2
	Formulated: 2/98
<b>Subject: Re-disclosure of Patient Health Information</b>	Reviewed: 8/99, 5/07 9/09
	Revised: 2/04, 5/07
<b>Related: IS.AA.04, IS.AA.015</b>	Approved: 4/04, 5/07

2. Requests for access to patient health information will be honored upon receipt of a valid written authorization from the patient or the patient's legal guardian.
3. Requests will be processed according to Company's Appropriate Access Release of and Access to Demographic and Clinical Patient Information Policy, IS.AA.004.

**REFERENCES:**

<b>CHINO VALLEY MEDICAL CENTER</b>	Section: Tab I: Approp. Access
<b>Hospital Policies and Procedures</b>	Saved As: IS.AA.001
<b>Manual: INFORMATION TECHNOLOGY</b>	Page: 1 of 3
	Formulated: 1/98
<b>Subject: Meditech Appropriate Access Policy</b>	Reviewed: 5/07 9/09
	Revised: 2/04, 5/07
<b>Related: IS.AA003 through IS.AA015, PCS Appropriate Access Policy (HIM/Administration)</b>	Approved: 4/04, 5/07

**SCOPE:** Meditech users at a facility include, but not limited to, personnel in the following areas:

Business Office	Nursing
Admitting/Registration	Laboratory
Finance	Health Information Management
Administration	Case Management/Quality Resource Mgmt
Pharmacy	Radiology
All Clinical Module Users	External Vendors
Physicians	Physician Office Personnel
Cardiopulmonary	Interns/Residents/Medical Students
Risk Management	

**PURPOSE:**

To define timely and appropriate access to patient information related to intentional or unintentional breach of patient confidentiality in the Meditech System. This definition will safeguard patient information and help minimize exposure and/or liability for individual, facility and company users. Each Meditech user is ultimately responsible for adhering to this policy. Users must only access/view information that they have a legitimate "need to know," regardless of the extent of access provided.

**POLICY:**

Appropriate access to clinical information is defined as providing a Meditech user timely access to patient-specific information which is necessary to perform his/her professional responsibilities. Access will be granted for an individual to provide and/or support quality patient care processes, as defined by an individual's professional responsibilities to the patient and the facility.

**PROCEDURE:**

This policy embraces the following principles related to the collection, processing, maintenance and storage of patient information on Meditech:

1. Users will collect, dispose, process, view, maintain and store patients' clinical and financial information in an honest, ethical and confidential manner.

RT 99

<b>CHINO VALLEY MEDICAL CENTER</b>	Section: Tab 1: Approp. Access
Hospital Policies and Procedures	Saved As: IS.AA.001
Manual: INFORMATION TECHNOLOGY	Page: 2 of 3
	Formulated: 1/98
Subject: Meditech Appropriate Access Policy	Reviewed: 5/07 9/09
	Revised: 2/04 ,5/07
Related: IS.AA003 through IS.AA015 , PCS Appropriate Access Policy (HIM/Administration)	Approved: 4/04. 5/07

2. The collection, processing, viewing, maintenance and storage of patient information will be done in such a manner that, at a minimum, meets all applicable federal and state laws regulations, and accreditation standards.
3. Access to patient information on Meditech will be limited to individuals with a legitimate "need to know" in order to effectively perform their specific job duties and responsibilities.
4. Access will be granted through the use of the Information Security Agreement.

**REFERENCES:**

Other documents exist which depict how Meditech must be implemented and maintained to ensure appropriate access is achieved and consistently maintained. Each user must refer to these documents for guidance on adhering to the Meditech Appropriate Access policy.

If there is ever a question regarding Company practices, employees should contact their supervisor Facility Ethics and Compliance Officer.

**Appropriate Access Policies:**

HIPAA Committee, IS.AA.003

Release of and Access to Demographic and Clinical Patient Information, IS.AA.004

Re-disclosure of Demographic and Clinical Patient Information, IS.AA.005

Confidential Patient Setting in Meditech, IS.AA.006

Sealed Patient Setting in Meditech, IS.AA.007

PCI Menu Access, IS.AA.008

Restrict by Location, IS.AA.009

<b>CHINO VALLEY MEDICAL CENTER</b>	Section: Tab I: Approp. Access
<b>Hospital Policies and Procedures</b>	Saved As: IS.AA.001
<b>Manual: INFORMATION TECHNOLOGY</b>	Page: 3 of 3
	Formulated: 1/98
<b>Subject: Meditech Appropriate Access Policy</b>	Reviewed: 5/07 9/09
	Revised: 2/04 ,5/07
<b>Related: IS.AA003 through IS.AA015 , PCS Appropriate Access Policy (HIM/Administration)</b>	Approved: 4/04, 5/07

Physician and Physician Staff Access to Meditech, IS.AA.010
External Entity Access, IS.AA.011
Employee Health, Employment Related Testing, IS.AA.012
Information Security Agreement, IS.AA.013
Conformance Monitoring, IS.AA.014
Enforcement and Discipline, IS.AA.015

# Potential Privacy Breach Reporting Form

(Must be completed and reported within 5 calendar days)

Date of possible Breach:	May 5, 6, 11, 2010	Time:	May 5, 2010 @ 1657 May 6, 2010 @ 0757 May 11, 2010 @ 0815
Who may have made the Breach?:	Two ER RN Staff members 1. Ronald Magsino, RN 2. Yesenia De Santiago, RN	MR#:	[REDACTED]
		Dept:	Emergency Dept
Patient(s) Name:	[REDACTED]	Date/Time Breach reported:	Potential Breach discovered Thursday May 13, 2010

**5/13/10: Ronald Magsino RN, turned in a packet of information to HR that contained among other items, copies of a patient medical record; ER H & P and ER electronic nurses notes. The packet of information was in relation to a counseling that Mr. Magsino was given in relation to the patient in question. The Packet was Mr. Magsino's dispute information. Mr. Magsino did redact the patient name with black marker, however the MR number and account numbers were left on the records. Upon finding this in the packet of information, HR alerted this CNO who began an immediate investigation into a possible breach situation.**

**Action Taken:**

1. An electronic Activity report was run to see the activity in the MR in question. The report evidenced that Mr. Magsino did access and print portions of the MR on April 5, 2010, May 5<sup>th</sup> and May 6<sup>th</sup>. Additionally, the report also evidenced that Ms. Yesenia De Santiago accessed and printed portions of the MR on May 11. Ms DeSantiago also turned in a letter of dispute to HR regarding a counseling she had received in relation to the same patient as Mr Magsino.
2. Friday May 14, 2010 @ 1600: Jean Arriaga, RN I.T. Systems Analyst and this CNO spoke with Mr. Magsino regarding his access to the electronic MR. During the discussion we found and verified that the April 5<sup>th</sup> access' were valid as Mr. Magsino was verifying culture discrepancies and needed to access portions of the chart for the ER physician to order additional antibiotics for the patient. However, the access on May 5 and 6 were not fully able to substantiate. Mr. Magsino made the following statements regarding that access;

Mr. Magsino stated that he was authorized by the ER director and that he (Ronald) asked first for permission to view and print and was advised by C. Gillatt (ER director) that it was okay to do that as long as he redacted the name and DOB – specifically telling Ronald to leave the MR number and Account number in order to trace the pt back for any future investigation purposes.

Mr. Magsino stated he never gave the information "to a third party if that is what you are worried about". Mr. Magsino was asked what he did with the copies and the original records and he stated that he did have a copy for himself that he was keeping in his backpack. Mr. Magsino did return the copy in his possession to us immediately. Mr. Magsino stated he no longer had possession of the original as "I threw it in the shredder

because I noticed it still had the patients name on it", this CNO asked Mr. Magsino when he threw the original in the shredder and he replied "on the day I printed them" (which would have been on the 5<sup>th</sup> and 6<sup>th</sup> of May, 2010).

Mr. Magsino also stated that C. Gilliatt gave him permission to print the record and take it home to review.

Ms. Arriaga and I informed Mr. Magsino that we would be continuing our investigation and inform him of the results and resolutions.

**3. Monday May 17, 2010 @ 0730:** This CNO spoke with C. Gilliatt, ER director regarding instruction to R. Magsino;

Cheryl stated she did speak with Mr. Magsino the day following his counseling (Mr. Magsino was counseled and disciplined regarding the pt in question on May 4, 2010). Cheryl stated that Mr. Magsino was attempting to gather data to dispute his counseling. Mr. Magsino did speak to Cheryl about the patient wanting to know who it was. Cheryl did give Mr. Magsino the patients name written down on a piece of paper. Cheryl did tell Mr. Magsino to "do your research and make sure you know what you are disputing". Cheryl stated she could understand how Ronald would have taken that as "permission" to access the chart. However, Cheryl stated she never told Ronald he could "print" or "take the chart home". Cheryl does not recall ever telling Ronald it was okay to "print as long as he blanked out the patient's name, but to leave the account number and MR number for future research use".

**4. Monday May 17, 2010 @ 1430:** This CNO spoke with Yesenia DeSantiago accompanied by Edelma Urquleta, HIPAA Privacy Officer for Chino Valley Medical Center; This CNO explained to Yesenia that I was investigating a breach in confidentiality. Yesenia stated she thought that as long as she had cared for the patient, she thought it was okay to access the electronic chart. Yesenia also stated she thought it was okay because she was reviewing in order to refresh her memory on the patient and documented the times in order to dispute a counseling she received regarding documentation.

Edelma and this CNO explained the proper way to access a chart for those purposes. We did go over the HIPAA regulations and Yesenia was able to verbalize that she knew records were not to leave the hospital which is why she states she put the records in the shredder box after accessing and gather the information she wanted. Yesenia further stated she accessed only to get information to include in her dispute letter. Yesenia was tearful and stated she was fearful to lose her job. Edelma and this CNO explained that we would be filing a breach report with CDPH per regulations, policy and procedures for Unauthorized Access of Health Information. Yesenia was further informed that we would keep her aware of any reports further actions that transpired related to the reporting of the breach.

**5.** This CNO then pulled the employee files for Mr. Magsino and Ms. DeSantiago and was able to find competencies and education for HIPAA compliance and Confidentiality that had been provided for them as part of their Orientations and annual skills training.

**6.** The following Hospital Policies were pulled for verification;

- Re-disclosure of Patient Health Information
- Information Security Agreement
- Meditech Appropriate Access Policy

- Enforcement and Discipline

7. Tuesday May 18, 2010 @ 0900: This CNO, the HIPAA Safety Officer and the I. T. Systems Analyst had a meeting to discuss all the findings, determine if a breach had occurred and develop an Action and Resolution plan for implementation. We found the following;

- Regarding Mr. Ronald Magsino;  
Breach of Information did occur by;
  1. Printing of portions of the MR on May 5<sup>th</sup> and 6<sup>th</sup>
  2. Making unauthorized copies of portions of the MR
  3. Unauthorized removal of the MR from the hospital
  4. Unauthorized distribution of the MR; (When Mr. Magsino included the copies of the MR in his counseling dispute and turned them in to the HR dept). ( See; Re-Disclosure Policy).

It is of the opinion of this investigating team that there was no breach when Mr. Magsino accessed the computer to review the electronic record as he did believe he was accessing as part of his job because it was in direct relation to a disciplinary counseling he had received. Although this team does acknowledge that unauthorized access to a MR can be considered a breach. (See; Meditech Appropriate Access Policy).

- Regarding Ms. Yesenia DeSantiago;  
Breach of Information did occur by;
  1. Printing of portions of the MR on May 11, 2010. (This investigation team is unable to prove what happened to the printed records).

It is of the opinion of this investigation team that there was no breach when Ms. DeSantiago accessed the computer to review the electronic record as she did believe she was accessing as part of her job because it was in direct relation to a disciplinary counseling she had received. Although this team does acknowledge that unauthorized access to a MR can be considered a breach. (See; Meditech Appropriate Access Policy).

- Regarding Printing of the MR;  
This investigation team is of the opinion that the violation/breach occurred when both of these employees printed portions of the MR and further when one employee removed the MR from the premises, copied it and distributed without proper authorization. Further, this team is unable to verify the Use/True intent/whereabouts of the originals that were printed.

Reportable to CDPH: No <input type="checkbox"/> Yes <input type="checkbox"/>		If yes, please complete below (See notes below)
Date Reported: 5/19/10		Time:
Action taken: Both employees were; Re-educated regarding the situations for accessing electronic MR, printing MR, and distribution of the MR.		
FOLLOW UP: Both employees will be;		
1. Retrained and re-evaluated in relation to their understanding of HIPAA,		

**Confidentiality, Unauthorized printing, accessing and distribution of Medical Records**

2. Re-educated regarding proper accessing procedures
3. Discussion of Policy and Procedures for HIPAA/Confidentiality/Unauthorized access.
4. Written warnings and acknowledgment of consequences of subsequent infractions will be discussed with the employees and entered into their personnel files.
5. House Wide Education will be provided for re-education of;
  - Safe guarding of patients records
  - Printing of Records
  - Removing Records from Hospital grounds

**This House Wide re-education will be completed by June 30, 2010.**

**Follow up: June 1, 2010:**

**3:30pm:**

**Received a call from Robin Burton, CDPH requesting additional information regarding this report. She asked about disciplinary measures, she asked about our policies we have in place for HIPAA and Confidentiality. She asked for clarification regarding what identifying information was left on the printed documents specifically regarding the redaction of the name of the patient.**

**Ms Burton stated we would probably not receive any deficiencies for this as the case was handled well, action was taken swiftly and appropriately by administration. Ms. Burton stated that because the male employee no longer is employed by CVMC, she felt confident the problem would not recur. Ms Burton stated she would be sending all information to her supervisor for final approval and she would call me when she was ready to fax the 2567 to me.**

**Signature of Person Completing Document:**

**Date: May 19, 2010**



**CHINO VALLEY  
MEDICAL CENTER**

To: All employees  
Fr: Dr. Lally  
Re: Photo-shopped poster of RNs  
Date: March 31, 2010

UNAC has agreed to retract ALL photo-shopped posters.

Why?

The union misrepresented the reason for taking photos and they violated many of our nurses' privacy and confidentiality by publicizing their alleged "yes" vote.

We respect the right of our employees to vote by secret ballot.

**No one should know how you vote.**

RY 78

## THE TRUTH ABOUT NEGOTIATIONS

### THERE ARE RISKS IN COLLECTIVE BARGAINING!!!

Everything goes on the bargaining table, not just what you hope to gain, but what you have now as well. Everything is negotiable.

- ❖ Negotiations are difficult
- ❖ Negotiations can take a long time
- ❖ There are no guarantees with negotiations
- ❖ In negotiations, a union can only get what the hospital is willing to give

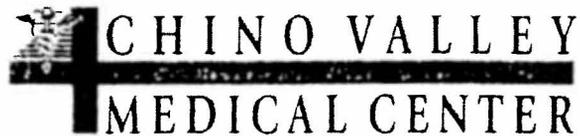
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Remember who speaks at the negotiating table –  
LAWYERS not nurses

### IS IT WORTH THE RISK?

---

### VOTE "NO" UNION ON APRIL 1 AND 2



## WHY YOU SHOULD VOTE **NO** . . .

- **To have a say in the outcome of the vote – and not let others decide your future**

Who wins the election will be determined by the majority of nurses who actually vote on April 1 and 2.

- **To keep the ability to speak for yourself and work directly with your directors to solve your issues and problems**

You will be spoken for by the union if it is voted in, and you will lose the right to deal with management directly without UNAC having the right to speak for you and instead of you – whether you want them to or not.

- **To not have your pay and benefits put at risk**

You will have to follow whatever is negotiated in a union contract – whether you wanted it or not, and whether you are members of the union or not.

- **To be free from costs of possible strikes and lost wages**

You will be subject to possible strikes if UNAC is voted in, whether you are members or not.

- **To be free from having to pay dues to the union to keep your jobs at Chino Valley**

A lot of your own money is at stake here. The union stands to gain hundreds of thousands of dollars from you in dues.

**TO HAVE A SAY IN YOUR FUTURE . . .**

**PLEASE VOTE AND VOTE “NO” ON April 1 and 2**

AY 80

# CHINO VALLEY MEDICAL CENTER STRIKES

If UNAC wins the election, Chino Valley Medical Center would negotiate in good faith. But it is not required to give into any union demand or reach an agreement. One way a union attempts to force an employer to give in to its demands is by calling union members out on strike.

It is important to know that during a strike:

- ✓ Pay from Chino Valley Medical Center would stop immediately.
- ✓ Chino Valley Medical Center is not required to pay for benefits, such as health insurance, while employees are on strike.
- ✓ In California, striking workers cannot collect unemployment benefits or food stamps.
- ✓ There is a "waiting period" for strike pay. Strikers cannot receive strike pay for the first two weeks of the strike. UNAC strike pay is probably about \$50 per week.
- ✓ In order to receive strike pay from the union, the union can require you to walk the picket line.
- ✓ Only workers walking the picket line who have been on strike for 14 consecutive days are allowed to collect strike pay.
- ✓ Union members who work during a strike can be punished by the union for violating the union constitution.
- ✓ Chino Valley Medical Center has the legal right to hire permanent replacements to fill the jobs of economic strikers in order to continue business operations, regardless of the employees' time with the company.
- ✓ Union officers continue to receive their salaries and benefits during a strike.



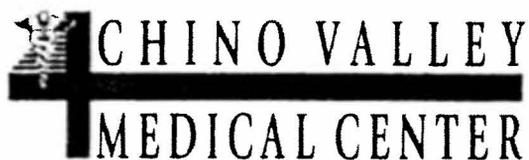
**NO UNION = NO STRIKES**

**Your vote is important. Not voting is a vote for the union.**

**VOTE "NO" UNION April 1 and April 2**



LY 81



## WHO HAS A VOICE WITH THE UNION? NOT THE NURSES

When nurses choose to be represented by a union, the UNION becomes the EXCLUSIVE BARGAINING REPRESENTATIVE for all nurses in the unit.

It is prohibited under federal labor law for the Hospital to deal directly with individual nurses regarding virtually all matters with respect to their terms and conditions of employment:

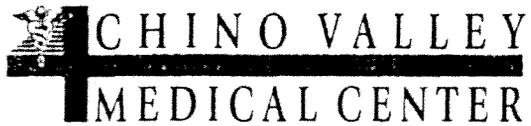
Once an employee representative has been designated by a majority of employees in an appropriate unit, the Act makes that representative the **exclusive bargaining agent for all employees in the unit**. . . . Once a collective bargaining representative has been designated or selected by its employees, **it is illegal for an employer to bargain with individual employees, with a group of employees, or with another employee representative.**  
*Basic Guide to the National Labor Relations Act, pp. 9 – 10. (Emphasis added.)*

### WHAT MEANS:

- > The Hospital is required to deal exclusively with the UNION – **Not the Nurses.**
- > The UNION CONTROLS the contract – **Not the Nurses.**
- > The UNION and the HOSPITAL DECIDE if a contract is reached and what that contract says – **Not the Nurses.** The union is under **NO OBLIGATION** to give you the opportunity to accept or reject any offers the Hospital makes to the union. Regardless, you would still be bound to follow the provisions of the contract, including the obligation to pay dues to keep your job if a union security clause is negotiated.
- > As your EXCLUSIVE REPRESENTATIVE, the UNION has the right to decide WHO will talk with the Hospital about wages, hours, and working conditions – **Not the Nurses.**
- > With a UNION, you LOSE YOUR INDIVIDUAL VOICE on the issues being negotiated in the contract . . .
- > If a contract is signed, you will not have the ability to speak or work directly with your director regarding changing any issues defined in the contract without the UNION (business agent or shop steward) having a right to be there and speak for you. AND, the union representative can veto or cause to have withdrawn any suggestion or plan an individual nurse may wish to advance – **NOT THE NURSES.**

## KEEP YOUR OWN VOICE VOTE NO on APRIL 1 and 2

LK 3



## WHY IS IT IMPORTANT FOR ME TO VOTE?

This choice affects every RN - whether you vote or not. So, it's important to vote!

It's an important choice, and it affects us all – from **forced dues** under a possible Union Security Agreement – to the **potential loss of the flexibility** and direct relationship with leadership that we've come to rely on.

So, we will spend the next 3 weeks committed to ensuring that every nurse has the facts to make an informed choice. Think of it as informed consent . . . . Because the stakes are high.

It is essential that every RN casts an informed vote in the upcoming election. Otherwise, a small minority of nurses could decide if UNAC will represent you.

For example – if:

- **130 RNs are eligible to vote;**
- **60 RNs actually vote;**
- **and 31 RNs vote for the union**

THEN . . .

- EVEN THOUGH ONLY 31 RNS ACTUALLY VOTED FOR THE UNION, THE UNION WOULD WIN THE ELECTION AND WOULD REPRESENT ALL **130 RNS**
- A SMALL MINORITY OF RNS COULD DETERMINE UNION REPRESENTATION FOR ALL RNS -- IF YOU DON'T VOTE, YOU ARE ALLOWING OTHERS TO MAKE DECISIONS FOR YOU
- IF THE UNION WINS THE ELECTION, YOU CANNOT "OPT OUT" OF UNION REPRESENTATION

**Vote "NO" to UNAC on April 1 and 2**

AK 04

UNITED STATES OF AMERICA  
BEFORE THE  
NATIONAL LABOR RELATIONS BOARD  
REGION 31

VERITAS HEALTH SERVICES, INC.,  
d/b/a CHINO VALLEY MEDICAL  
CENTER,

Respondent

CASE NO. 31-CA-29713

v.

UNITED NURSES ASSOCIATIONS  
OF CALIFORNIA/UNION OF  
HEALTH CARE PROFESSIONALS,  
NUHHCE, AFSCME, AFL-CIO,

Charging Party.

EXPERT REPORT OF CHRISTY NAVARRO

**Statement of Opinions**

I will offer the following opinions at the hearing in this matter:

1. Under state and federal law an acute care hospital is required to develop and enforce policies and procedures protecting the disclosure of private patient information, including Protected Health Information, Medical Information and Personal Information.
2. Veritas Health Services, Inc.'s ("the Hospital") policies referenced as (1) Enforcement and Discipline, Information Systems, (2) Information Security Agreement, (3) Meditech Appropriate Access Policy, and (4) Re-disclosure of Patient Health Information are reasonable enforcement and discipline policies for such purposes.
3. The Hospital's investigation triggered by the submission by Mr. Magsino of a patient's medical record to the Hospital's Human Resources office was conducted in a reasonable manner consistent with the Hospital's referenced policies.

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4. It would have been reasonable for the Hospital to conclude in accordance with the referenced policies and its investigation that Mr. Magsino engaged in a violation of those policies when he accessed the patient's record on May 5, 2010 without a direct need to do so for treatment of the patient.
5. It was reasonable for the Hospital to conclude in accordance with the referenced policies and its investigation that Mr. Magsino engaged in a violation of those policies when he used the medical record by printing the medical record on May 5, 2010 without a direct need to do so for treatment of the patient.
6. It was reasonable for the Hospital to conclude in accordance with the referenced policies and its investigation that Mr. Magsino engaged in a violation of those policies when he used the medical record by making one or more copies of the patient's record on May 5, 2010 without a direct need to do so for treatment of the patient.
7. It was reasonable for the Hospital to conclude in accordance with the referenced policies and its investigation that Mr. Magsino engaged in a violation of those policies when he viewed the patient's medical record on May 6, 2011 without a direct need to do so for treatment of the patient.
8. It was reasonable for the Hospital to conclude in accordance with the referenced policies and its investigation that Mr. Magsino engaged in a violation of those policies when he used the medical record by printing out the patient's medical record on May 6, 2010 without a direct need to do so for treatment of the patient.
9. It was reasonable for the Hospital to conclude in accordance with the referenced policies and its investigation that Mr. Magsino engaged in a violation of those policies when he used the medical record by placing and maintaining a copy of the patient's medical record in his backpack without a direct need to do so for treatment of the patient and without appropriate authorization or safeguards for the patient's information.
10. It was reasonable for the Hospital to conclude in accordance with the referenced policies and its investigation that Mr. Magsino engaged in a violation of those policies when he removed one or more copies of the patient's medical record from the Hospital without a direct need to do so for the treatment of the patient.
11. It was reasonable for the Hospital to conclude in accordance with the referenced policies and its investigation that Mr. Magsino engaged in a violation of those policies when he disclosed the patient's medical record to the Human Resources office without a direct need to do so for treatment of the patient.
12. It was reasonable for the Hospital to conclude in accordance with the referenced policies and its investigation that Mr. Magsino engaged in a violation of those policies when he submitted a copy of the patient's medical record to the Hospital's Human Resources office on May 13, 2010.

13. The Hospital's decision to terminate Mr. Magsino was reasonable and within the standards of the policies as well as within the expectations of regulatory agencies requiring that a covered entity respond to a privacy violation involving inappropriate access, use or disclosure of a patient's private information by taking appropriate action to mitigate the violation and sanction the employee who committed the violation.

#### **Statement of Basis and Reasons for Opinions**

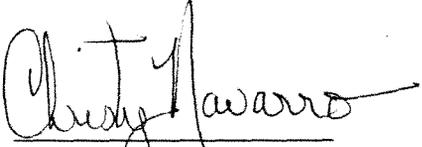
My opinions are based on the following matters, considered separately and/or in conjunction with each other:

- All covered entities as defined by HIPAA, including acute care hospitals, are required by California and federal law to develop and enforce policies and procedures relating to the access, use and disclosure of private patient information.
- Breach of the policies and procedures adopted by a covered entity relating to the unauthorized access, use or disclosure of protected health information (HIPAA) or Medical Information (defined in California Civil Code section 56.05(g)), are legally a violation of HIPAA's Privacy Rule and breaches of HIPAA and its implementing regulations, as well as a breach under California Health and Safety Code section 1280.15 and its implementing regulations.
- California acute care hospitals are required to take disciplinary action and other appropriate sanctions in accordance with their policies in order to mitigate against a potential finding of a deficiency and the imposition of monetary penalties against the hospital by the California Department of Health ("CDPH")
- HIPAA and its implementing regulations require acute care hospitals to design and implement policies and procedures to protect the private medical information of patients and set forth standards of reasonable access and use.
- Mr. Magsino's signature on the Information Security Agreement acknowledgement form evidences that the Hospital educated its employees on actions which would constitute a breach of the Hospital's policies and procedures.
- California and federal law requires that such policies must be applied consistently and in accordance with the provisions of the policies.
- It is a standard practice for California acute care hospitals to take disciplinary action against employees who are involved in breaches and potential breaches of a hospital's implementing policies and procedures.

- One of the reasons California acute care hospitals take disciplinary action is to mitigate any potential finding of a deficiency, or to avoid the finding of a deficiency altogether, by the California Department of Public Health ("CDPH").
- HIPAA requires that covered entities have in place written policies and procedures regarding breach detection & notification, train employees on these policies and procedures, and develop and apply appropriate sanctions against workforce members who do not comply with these policies and procedures.
- The CDPH has indicated that its policy is to treat all inappropriate action resulting in a disclosures of private patient information as malicious.
- An action of an employee in violation of a hospital's implementing policies, including security policies and minimum necessary use and/or access policies, is typically considered a violation resulting in disciplinary action against the employee.
- A reasonable response by a California acute care hospital to the conduct of Ronald Magsino described in the declaration of Linda Ruggio and related exhibits, in light of the Hospital's referenced policies, would be termination.
- A California acute care hospital could reasonably conclude that the actions of Mr. Magsino in removing the patient information from Hospital grounds significantly increased the risk of harm to the patient.
- The fact that Mr. Magsino accessed, used, removed, and disclosed the information for the purposes of personal gain and self interest, and with no relationship to the treatment of the patient, increases the severity of the violations.
- The lack of authorization for Mr. Magsino's violations weighs against leniency.
- Mr. Magsino made an unauthorized disclosure of this information to members of human resources.
- The matters set forth in the matters reviewed by me lead me to conclude that Mr. Magsino engaged in violations of the referenced policies by unauthorized access, unlawful use and unlawful disclosure of the patient's private information
- My opinions are based on my personal and professional experience in the industry and my knowledge of the customs and practices common in California acute care hospitals, as well as my familiarity with federal and state regulations on patient privacy and the enforcement thereof.
- My opinions are also based on the matters set forth in the documents appended to this Report as Appendix A.

## CERTIFICATIONS

- My CV is included in this report below.
- I have not testified as an expert at any trial or deposition during the 4 years prior to the commencement of this action.
- The Hospital has retained me to provide expert testimony regarding patient privacy issues involving California acute care hospitals and standard practices and procedures relating to such issues, including practices and procedures relating to potential and actual breaches by employees. The Hospital has agreed to compensate me at a rate of \$250.00 per hour for study and time spent preparing to testify in this case; and to compensate me at a rate of \$2,500.00 per day for each day during which I present expert testimony on behalf of the Hospital, and to reimburse me for all expenses incurred in connection with doing so.
- The opinions, analysis and conclusions contained in this Report are my personal, unbiased professional analyses, opinions and conclusions.

  
Christy Navarro