Protecting, Maintaining and Improving the Health of All Minnesotans

Office of Health Facility Complaints Investigative Public Report

Maltreatment Report #: H8000019M
Compliance #: H8000017C

Date Concluded: December 24, 2020

Name, Address, and County of Licensee Investigated:
CareMate Home Health Care Inc.
2236 Marshall Avenue
St. Paul, MN 55104
Ramsey County

Facility Type: Home Health Agency (HHA)

Investigator's Name: Christine Bluhm, RN
Special Investigator

Finding: Substantiated, individual responsibility

Nature of Visit:
The Minnesota Department of Health investigated an allegation of maltreatment, in accordance with the Minnesota Reporting of Maltreatment of Vulnerable Adults Act, Minn. Stat. 626.557, and to evaluate compliance with applicable licensing standards for the provider type.

Allegation(s):
It is alleged that abuse occurred when the alleged perpetrator (AP) sexually assaulted the client. The AP was a caregiver to the client.

Investigative Findings and Conclusion:
The alleged perpetrator was responsible for the maltreatment. The AP sexually abused the client during the time he was assigned as her caregiver.

The investigation included interviews with home care staff that included administrative staff and nursing staff. The investigation included a review of policies and procedures and staff training records. Employee files were reviewed for appropriate backgrounds and training. Several client medical records were reviewed, including the client's record.

Review of the client's record indicated the client had a history of diabetes and kidney disease. The client lived independently at home and received skilled nursing visits, assistance with

medication set up, as well as patient care assistant (PCA) and homemaker services, for personal cares and light housekeeping. The AP had provided PCA services three days a week for approximately a month. The client also had a female PCA three days a week that alternated with the AP. The client was alert and oriented and could make her needs known.

Review of the client's care notes indicated the client told a staff member that the AP raped her. On the day of the assault, and after his scheduled shift was completed, the AP came back and brought flowers, alcohol and marijuana to the client's home. The AP assaulted the client and then spent the night in the client's apartment. The AP also demanded money from the client. The client reported the assault to family the next day, police were called and the client went to the hospital for an evaluation and rape examination. The AP was apprehended by police the next day.

Review of the police report indicated the police interviewed the client and the AP. The report indicated the client identified the AP, as her PCA, the one who sexually assaulted her. The police interviewed the AP and the AP stated that he had a relationship with the client and that all the interactions were consensual.

During an interview with the client, she stated that she considered the AP her friend before the assault. The AP broke her trust. After the assault, she was left in a state of shock and it was devastating.

During interview, the administrator at the home care agency stated there was a delay in the AP's background study request and AP was not allowed to work until it cleared. He further stated there were no other complaints about the AP during his employment with the agency.

During an interview with the director of nursing (DON), the DON stated the AP had received all required training before the AP was scheduled to provide direct care.

In conclusion, sexual abuse was substantiated. The AP was responsible for the abuse.

Substantiated: Minnesota Statutes, section 626.5572, Subdivision 19.
"Substantiated" means a preponderance of evidence shows that an act that meets the definition of maltreatment occurred.

Abuse: Minnesota Statutes section 626.5572, subdivision 2
"Abuse" means:
(a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:
(1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224;
(2) the use of drugs to injure or facilitate crime as defined in section 609.235;
(3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322; and

(4) criminal sexual conduct in the first through fifth degrees as defined in sections 609.342 to 609.3451.
A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.
(b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following:
(1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;
(2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening;
(3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; and
(4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825.
(c) Any sexual contact or penetration as defined in section 609.341, between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility.
(d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another.

Vulnerable Adult interviewed: Yes.
Family interviewed: Yes.
Alleged Perpetrator interviewed: The AP did not return requests for an interview.

Action taken by facility:
The AP was removed from all caregiver assignments and staff were interviewed regarding the allegations. Modifications were made to the professional boundaries policy. All staff were educated on the modified policy, as well as the policy for reporting abuse.

Action taken by the Minnesota Department of Health:
The facility was issued a correction order regarding the vulnerable adult’s right to be free from maltreatment.

The responsible party will be notified of their right to appeal the maltreatment finding. If the maltreatment is substantiated against an identified employee, this report will be submitted to the nurse aide registry for possible inclusion of the finding on the abuse registry and/or to the Minnesota Department of Human Services for possible disqualification in accordance with the provisions of the background study requirements under Minnesota 245C.

cc:

The Office of Ombudsman for Long-Term Care
St. Paul Police Department
St. Paul City Attorney
Ramsey County Attorney