

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility Name: Regency Home Healthcare Services			Report Number: H8081019	Date of Visit: January 31, 2017
Facility Address: 2980 Rice Street			Time of Visit: 10:45 a.m. - 3:00 p.m.	Date Concluded: December 18, 2017
Facility City: Little Canada			Investigator's Name and Title: Deborah Neuberger, RN, Special Investigator	
State: Minnesota	ZIP: 55113	County: Ramsey		

☒ **HHA**

Allegation(s):

It is alleged that the Alleged Perpetrator (AP) financially exploited two patient's Patient #1 and Patient #2 by stealing the client's medication and replacing it with a different medication

- ☒ Federal Regulations for HHA (Home Health Agencies) (42 CFR, Part 484)
- ☒ State Statutes for Home Care Providers (MN Statutes, section 144A.43 - 144A.483)
- ☒ State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557)
- ☒ State Statutes Chapters 144 and 144A

Conclusion:

Based on a preponderance of evidence financial exploitation occurred when a witness saw the alleged perpetrator (AP) took one dose of Patient #1's Gabapentin pain medication and replaced it with another medication. Although the AP denied the allegation, s/he later admitted swapping out the medications Gabapentin for Hiprex on one occasion.

Patient #1 and Patient #2 were long-term patients of the agency. The patient's care plans included medication administration by staff. The AP was one of the agency staff members to provide care for the patients and the patient's peers in the same home. Patient #1 and Patient #2's physician orders included Gabapentin, a medication used for neurological pain.

Staff interviews revealed staff reported a medication card of approximately 60 pills of Gabapentin was found to be missing in the home where several patients reside, including Patient #1 and Patient #2. No staff member was identified as the perpetrator of this event. The agency responded by locking up the Gabapentin with the narcotic medications and counting them each shift.

About two months later a staff member stated that s/he observed the AP switch out a dose of Patient #1's Gabapentin while it was on the counter in the home, with another medication s/he took out of his/her pocket. Staff stated s/he observed the medication that the AP switched with the Gabapentin looked like Hiprex, another medication the patient takes, which can cause bleeding in the urinary tract. The AP left the patient home after the incident and before his/her shift ended.

During an interview, the AP denied the allegations stating s/he had his/her own pills in his/her pocket that s/he used for pain control. The AP stated s/he moved the patient's pills that were on the counter in a medication cup because they were in her way. The AP stated s/he was going to take her pain medication when a staff person grabbed his/her hand and accused him/her of switching the patient's medication with another medication. The AP stated the staff member started yelling at him/her, so s/he left the home.

During an interview, Patient #1 stated that about two days prior to the incident, s/he went to the emergency department related to blood in his/her urine. The patient questioned whether the AP may have taken his/her medications prior and perhaps his/her blood in his/her urine was due to the AP switching medications at other times.

During an interview, Patient #2 communicated s/he was not aware of the AP attempting to steal his/her Gabapentin.

A review of Patient #1's hospital record revealed the patient was admitted for blood in his/her urine, an expected side effect when a patient is on blood thinners and has a suprapubic catheter. The patient also had a recent procedure, which could cause the symptoms. The patient was later discharged back to the agency without complications.

A review of a Minnesota Board of Nursing Stipulation and Consent order revealed the AP admitted to switching the patient's Gabapentin for Hiprex on the date of the incident.

Contact with law enforcement revealed they were investigating the incident.

Minnesota Vulnerable Adults Act (Minnesota Statutes, section 626.557)

Under the Minnesota Vulnerable Adults Act (Minnesota Statutes, section 626.557):

☐ Abuse	☐ Neglect	☒ Financial Exploitation
☒ Substantiated	☐ Not Substantiated	☐ Inconclusive based on the following information:

Mitigating Factors:

The "mitigating factors" in Minnesota Statutes, section 626.557, subdivision 9c (c) were considered and it was determined that the ☒ Individual(s) and/or ☐ Facility is responsible for the

☐ Abuse ☐ Neglect ☒ Financial Exploitation. This determination was based on the following:

Although the agency had policies in place related to protection of vulnerable adults and the AP was trained in the policies, the AP took the patient's medications without his/her permission.

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.

Compliance:

Federal Regulations for HHA (Home Health Agencies) (42 CFR, Part 484) – Compliance Met

The facility was found to be in compliance with Federal Regulations for HHA (Home Health Agencies) (42 CFR, Part 484). No deficiencies were issued.

State Statutes for Home Care Providers (MN Statutes section 144A.43 - 144A.483) – Compliance Met

The facility was found to be in compliance with State Statutes for Home Care Providers (MN Statutes section 144A.43 - 144A.483). No state licensing orders were issued.

State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557) – Compliance Met

The facility was found to be in compliance with State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557). No state licensing orders were issued.

State Statutes Chapters 144 & 144A – Compliance Not Met - Compliance Not Met

The requirements under State Statutes for Chapters 144 & 144A were not met.

State licensing orders were issued: ☒ Yes ☐ No

(State licensing orders will be available on the MDH website.)

Compliance Notes:

Facility Corrective Action:

The facility took the following corrective action(s):

Definitions:

Minnesota Statutes, section 626.5572, subdivision 9 - Financial exploitation

"Financial exploitation" means:

(b) In the absence of legal authority a person:

(1) willfully uses, withholds, or disposes of funds or property of a vulnerable adult;

Minnesota Statutes, section 626.5572, subdivision 19 - Substantiated

"Substantiated" means a preponderance of the evidence shows that an act that meets the definition of

maltreatment occurred.

The Investigation included the following:

Document Review: The following records were reviewed during the investigation:

- ☒ Medical Records
- ☒ Medication Administration Records
- ☒ Nurses Notes
- ☒ Assessments
- ☒ Physician Orders
- ☒ Physician Progress Notes
- ☒ Care Plan Records
- ☒ Facility Incident Reports

Other pertinent medical records:

- ☒ Hospital Records

Additional facility records:

- ☒ Staff Time Sheets, Schedules, etc.
- ☒ Facility Internal Investigation Reports
- ☒ Personnel Records/Background Check, etc.
- ☒ Facility In-service Records
- ☒ Facility Policies and Procedures

Number of additional resident(s) reviewed: Three

Were residents selected based on the allegation(s)? ☒ Yes ☐ No ☐ N/A

Specify: _____

Were resident(s) identified in the allegation(s) present in the facility at the time of the investigation?

☒ Yes ☐ No ☐ N/A

Specify: _____

Interviews: The following interviews were conducted during the investigation:

Interview with complainant(s) ☒ Yes ☐ No ☐ N/A

Specify: _____

If unable to contact complainant, attempts were made on:

Facility Name: Regency Home Healthcare
Services

Report Number: H8081019

Date: _____ Time: _____ Date: _____ Time: _____ Date: _____ Time: _____

Interview with family: ☒ Yes ☐ No ☐ N/A Specify: _____

Did you interview the resident(s) identified in allegation:

☒ Yes ☐ No ☐ N/A Specify: _____

Did you interview additional residents? ☒ Yes ☐ No

Total number of resident interviews: Three

Interview with staff: ☒ Yes ☐ No ☐ N/A Specify: _____

Tennessee Warnings

Tennessee Warning given as required: ☒ Yes ☐ No

Total number of staff interviews: Nine

Physician Interviewed: ☐ Yes ☒ No

Nurse Practitioner Interviewed: ☐ Yes ☒ No

Physician Assistant Interviewed: ☐ Yes ☒ No

Interview with Alleged Perpetrator(s): ☒ Yes ☐ No ☐ N/A Specify: _____

Attempts to contact:

Date: _____ Time: _____ Date: _____ Time: _____ Date: _____ Time: _____

If unable to contact was subpoena issued: ☐ Yes, date subpoena was issued _____ ☐ No

Were contacts made with any of the following:

☐ Emergency Personnel ☒ Police Officers ☐ Medical Examiner ☐ Other: Specify _____

Observations were conducted related to:

☒ Nursing Services

☒ Infection Control

☒ Cleanliness

☒ Dignity/Privacy Issues

☒ Safety Issues

☒ Facility Tour

Was any involved equipment inspected: ☐ Yes ☐ No ☒ N/A

Was equipment being operated in safe manner: ☐ Yes ☐ No ☒ N/A

Were photographs taken: ☐ Yes ☒ No Specify: _____

Facility Name: Regency Home Healthcare
Services

Report Number: H8081019

cc:

Health Regulation Division - Licensing & Certification

Minnesota Board of Nursing

Roseville Police Department

Ramsey County Attorney

Roseville City Attorney



Protecting, Maintaining and Improving the Health of All Minnesotans

October 2, 2017

Ms. Jean Johnson, Administrator
Regency Home Healthcare Services
21840 Industrial Court Suite #100
Rogers, MN 55374

RE: Complaint Number H8081018 & H8081019

Dear Ms. Jean Johnson,

A complaint investigation number H8081018 & H8081019 of your Agency was completed on September 1, 2017 for the purpose of assessing compliance with Federal certification regulations. At the time of the investigation, the investigator from the Minnesota Department of Health, Compliance Monitoring Division, Office of Health Facility Complaints found that your agency was in full compliance with Federal certification regulations.

Enclosed is your copy of the Federal Form CMS-2567 indicating your facility's compliance with the Federal regulations. It is your responsibility to share the information contained in this letter and the results of the visit with the President of your agency's Governing Body. If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Kate Johnston'.

Kate Johnston, Program Specialist
Program Assurance Unit
Licensing and Certification Program
Health Regulation Division
Minnesota Department of Health
kate.johnston@state.mn.us
Telephone: (651) 201-3992 Fax: (651) 215-9697

Enclosure

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

PRINTED: 09/01/2017
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 248081		(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 09/01/2017	
NAME OF PROVIDER OR SUPPLIER REGENCY HOME HEALTHCARE SRVCS				STREET ADDRESS, CITY, STATE, ZIP CODE 21840 INDUSTRIAL COURT SUITE #100 ROGERS, MN 55374			
(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) COMPLETION DATE
G 000	INITIAL COMMENTS A complaint investigation was conducted to investigate case #H8081018 and #H8081019. Regency Home Healthcare Services was found to be in compliance with 42 CFR, Part 484, requirements for Home Health Agencies.			G 000			

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

TITLE

(X6) DATE

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.



Protecting, Maintaining and Improving the Health of All Minnesotans

Certified Mail Number: 7011 0470 0000 5262 3165

October 2, 2017

Ms. Jean Johnson, Administrator
Regency Home Healthcare Services
21840 Industrial Court Suite #100
Rogers, MN 55374

RE: Complaint Number H8081018 & H8081019

Dear Ms. Johnson :

A complaint investigation (#H8081018 #H8081019) of the Home Care Provider named above was completed on September 1, 2017, for the purpose of assessing compliance with state licensing regulations. At the time of the investigation, the investigator from the Minnesota Department of Health, Office of Health Facility Complaints, noted one or more violations of these regulations. These state licensing orders are issued in accordance with Minnesota Statutes Sections 144A.43 to 144A.482.

State licensing orders are delineated on the attached State Form. The Minnesota Department of Health is documenting the State Licensing Correction Orders using federal software. Tag numbers have been assigned to Minnesota state statutes for Home Care Providers. The assigned tag number appears in the far left column entitled "ID Prefix Tag." The state statute number and the corresponding text of the state statute out of compliance are listed in the "Summary Statement of Deficiencies" column. This column also includes the findings that are in violation of the state statute after the statement, "This MN Requirement is not met as evidenced by."

A written plan for correction of licensing orders is not required. Per Minnesota State Statute 144A.474 Subd. 8(c), the home care provider must document in the provider's records any action taken to comply with the correction order. A copy of this document of the home care provider's action may be requested at future surveys.

A licensed home care provider may request a correction order reconsideration regarding any correction order issued to the provider. The reconsideration must be in writing and received within 15 calendar days. Reconsiderations should be addressed to:

Ms. Michelle Ness, Assistant Director
Office of Health Facility Complaints
Minnesota Department of Health
P.O. Box 64970
St. Paul, MN 55164-0970

October 2, 2017

Page 2

It is your responsibility to share the information contained in this letter and the results of the visit with the President of your organization's Governing Body. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Kate Johnston", with a large, sweeping flourish extending to the right.

Kate JohnsTon, Program Specialist
Program Assurance Unit
Licensing and Certification Program
Health Regulation Division
Minnesota Department of Health
kate.johnston@state.mn.us
Telephone: (651) 201-3992 Fax: (651) 215-9697

Enclosure

cc: Home Health Care Assisted Living File
Ramsey County Adult Protection
Office of Ombudsman
MN Department of Human Services

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: H22064	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____	(X3) DATE SURVEY COMPLETED C 09/01/2017
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NAME OF PROVIDER OR SUPPLIER

STREET ADDRESS, CITY, STATE, ZIP CODE

REGENCY HOME HEALTHCARE SRVCS

**21840 INDUSTRIAL COURT SUITE #100
ROGERS, MN 55374**

(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
0 000	Initial Comments A complaint investigation was conducted to investigate complaint #H8081018 and H8081019. The following correction order is issued related to both complaints.	0 000		
0 325	144A.44, Subd. 1(14) Free From Maltreatment Subdivision 1. Statement of rights. A person who receives home care services has these rights: (14) the right to be free from physical and verbal abuse, neglect, financial exploitation, and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment of Minors Act; This MN Requirement is not met as evidenced by: Based on interview and document review the agency failed to ensure the patient was free from maltreatment, for one of four patients, (P1), reviewed when staff financially exploited P1 when she took P1's Gabapentin medication used to treat neurologic pain. Findings include: The policy titled Service Policies/Vulnerable Client, dated 1/5/2017, indicated under the section policies: It is the policy of this agency to protect clients who are vulnerable to neglect, abuse or maltreatment due to physical or mental disability. P1's medical record was reviewed. P1 was receiving services from the agency. P1's diagnoses included quadriplegia and chronic respiratory failure. P1 lived in a home he shared with three other patients from the agency.	0 325		

Minnesota Department of Health

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

TITLE

(X6) DATE

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: H22064	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____		(X3) DATE SURVEY COMPLETED C 09/01/2017
NAME OF PROVIDER OR SUPPLIER REGENCY HOME HEALTHCARE SRVCS			STREET ADDRESS, CITY, STATE, ZIP CODE 21840 INDUSTRIAL COURT SUITE #100 ROGERS, MN 55374		
(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
0 325	Continued From page 1 P1's physician orders, dated 11/14/2016 through 1/12/2017 included: Gabapentin 600 milligrams (mg) two times daily, 1200 mg at bed time, and private duty nursing registered nurse (RN) or licensed practical nurse (LPN) up to 24 hours per day. Staffing records dated 12/4/2016 through 12/10/2016 indicated LPN-I worked in P1's home on 12/4/2016. A review of a document titled Minnesota Board of Nursing Stipulation and Consent order dated 4/6/2017, indicated the Board of Nursing revoked LPN-I's Nursing License, and during that process LPN-I admitted to switching P1's Gabapentin tablets with his Hiprex tablets on 12/4/2016. During an interview on 2/1/2017 at 4:35 p.m., LPN-H stated she was working in P1's home on 12/4/2016 with LPN-I. At about 9:00 p.m. she was getting P1's Gabapentin for him. The medication was locked with the narcotics because some of the medication had gone missing a few weeks prior, so staff began locking the Gabapentin with the narcotic medications. LPN-H stated she put the Gabapentin for P1 in a small cup to bring to P1 and set the cup on the counter. While LPN-H was watching, LPN-I pulled two pills from her pants pocket and switched them with the two Gabapentin pills in the medication cup. LPN-H immediately grabbed the cup from LPN-I. When LPN-H compared the pills in the cup to P1's Gabapentin supply in the cabinet, the pills looked dirty. LPN-H immediately called her supervisor to report the incident. After LPN-H called her supervisor, LPN-I left the building. LPN-H did not give P1 the pills LPN-I tried to switch, but gave P1 Gabapentin pills from his supply locked in the cabinet.	0 325			

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: H22064	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____		(X3) DATE SURVEY COMPLETED C 09/01/2017
NAME OF PROVIDER OR SUPPLIER REGENCY HOME HEALTHCARE SRVCS			STREET ADDRESS, CITY, STATE, ZIP CODE 21840 INDUSTRIAL COURT SUITE #100 ROGERS, MN 55374		
(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	
0 325	Continued From page 2 During an interview on 2/1/2017 at 9:20 p.m., LPN-I denied that she took P1's Gabapentin on 12/4/2016, but stated she just moved the medication cup because it was in her way and she needed to take some Ibuprofen. LPN-I stated she walked away from her shift before it was over because LPN-H was raising her voice to her and it caused her anxiety. During an interview on 1/31/2017 at 1:30 p.m., P1 stated he wondered how many medications LPN-I may have taken in the past, as there had previously been many Gabapentin pills missing from the home. P1 further stated he had Hiprex tablets missing, a bladder medication used to control infections, which look similar to Gabapentin, and wondered if LPN-I had switched these tablets and taken the Gabapentin herself on prior occasions. TIME PERIOD FOR CORRECTION: Twenty-one (21) days.	0 325			