

Office of Health Facility Complaints

Investigative Public Report

Maltreatment Report #: HL27108041M
Compliance #: HL27108042C

Date Concluded: June 4, 2021

Name, Address, and County of Licensee Investigated:

Ebenezer Home Care
7505 Metro Boulevard #100
Edina, MN 55439
Hennepin County

Name, Address, and County of Housing with Services location:

Riley Crossing Senior Living
620 Aldrich Drive
Chanhassen, MN 55317
Carver County

Facility Type: Home Care Provider

Investigator's Name: Yolanda Dawson, RN
Special Investigator

Revised by: Benjamin Hanson

Revised Date: November 5, 2021

Finding: Inconclusive

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: Physical abuse occurred when the alleged perpetrator slapped the client on her right leg when the client kicked the AP in the stomach during cares.

Investigative Findings and Conclusion:

Upon reconsideration, the findings of this report were changed to inconclusive.

Abuse was substantiated. The alleged perpetrator (AP) is responsible for the abuse. The AP slapped the client when the client became combative during cares.

The investigation included interviews with facility staff members, including administrative staff, nursing staff, and unlicensed staff. The investigator reviewed the internal investigation documents, personnel files, and policies and procedures.

The client's diagnosis included dementia with behavioral disturbance. The client resides on the secure memory care unit. The service plan indicated the client received services for medication management, bathing and grooming assistance, dressing assistance, safety checks, and toileting assistance.

One day, staff #1 and the AP were changing the client's brief. The client required two staff members for changing because she is combative when receiving cares. The client was swinging her arms and kicking her legs and kicked the AP in the stomach. The AP responded by slapping the client with an open hand on her right leg.

During an internal investigation interview, staff #1 reported she and the AP entered the client's room in the early morning to change her brief and the client was combative, swinging her arms and legs. Staff #1 reported she witnessed the AP slap the client with an open hand on her right leg. Staff #1 then question the AP as to why she hit the client. The AP responded by saying "I hit her because she kicked me." Staff #1 reported she told the AP that is not okay, the client has dementia.

During an internal investigation interview, the AP reported she and staff #1 were changing the client and she was fighting and combative. The client kicked her in the stomach and Staff #1 stated to her you cannot touch the resident, if the resident is hitting you then you leave and come back later, she has dementia. The AP reported she did not know why staff #1 would say that to her.

During an interview with the investigator, the AP stated that when she and staff #1 were changing the client, the client was throwing her arms and legs around and kicked her in the stomach. The AP stated her only response was to put her hand in front of her stomach to keep the client from kicking her again. The AP stated she did not hit the client. The AP denied that staff #1 questioned her about hitting the client. The AP stated her hand may have come in contact with the client's leg while the client was kicking.

In conclusion, physical abuse was substantiated. It is more likely than not that the AP slapped the client. Upon reconsideration, the findings of this report were changed to inconclusive.

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: No, unable to interview due to cognition.

Family/Responsible Party interviewed: Yes.

Alleged Perpetrator interviewed: Yes.

Action taken by facility:

Internal investigation conducted. AP is no longer employed with facility.

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
Carver County Attorney
Chanhassen City Attorney
Chanhassen Police Department

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: H27108	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 04/27/2021
NAME OF PROVIDER OR SUPPLIER EBENEZER HOME CARE			STREET ADDRESS, CITY, STATE, ZIP CODE 2722 PARK AVENUE SOUTH MINNEAPOLIS, MN 55407		
(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	<p>Initial Comments</p> <p>On April 27, 2021, the Minnesota Department of Health initiated an investigation of complaint #HL27108041M/#HL27108042C. At the time of the investigation, there were #27 clients receiving services under the comprehensive license. No correction orders are issued for HL27108041M and HL27108042C.</p>	0 000			

Minnesota Department of Health

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

TITLE

(X6) DATE