



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility:

Walker Methodist Health Center
3737 Bryant Avenue South
Minneapolis, MN 55409
Hennepin County

Report #: H5055173 & H5055174

Date: January 13, 2015

Date of Visit: December 22 & 23, 2014

By: Stephanie Richard, R.N., Special Investigator

Time of Visit: 11:00 a.m. – 3:00 p.m. & 5:25 a.m. – 10: a.m.

- Type of Facility:**
- Nursing Home
 - SLF
 - Hospital
 - HHA
 - ICF/IID
 - Other: _____
 - Home Care Provider/Assisted Living
 - Home Care

- Facility Self Report
- Complaint

Allegation(s): It is alleged that a resident was abused when a staff, alleged perpetrator (AP), sexually assaulted the resident.

An unannounced visit was made at this facility and an investigation was conducted under:

- Federal Regulations for Hospital Conditions of Participation (42 CFR, Part 482)
- Federal Regulations for Long Term Care Facilities (42 CFR Part 483, subpart B)
- Federal Regulations for ICF/IID (42 CFR Part 483, subpart I)
- Federal Regulations for HHA (Home Health Agencies) (42 CFR, Part 484)
- Federal Regulations for CAH (Critical Access Hospital) (42 CFR, Part 485)
- Federal Regulations for EMTALA (42 CFR Part 489)
- State Licensing Rules for Boarding Care Homes (MN Rules Chapter 4655)
- State Licensing Rules for Nursing Homes (MN Rules Chapter 4658)
- State Licensing Rules for Supervised Living Facilities (MN Rules Chapter 4665)

- State Licensing Rules for Home Care (MN Rules Chapter 4668)
- State Statutes for Maltreatment of Minors (MN Statutes, section 626.556)
- State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557)
- State Statutes Chapters 144 and 144A

Conclusion:

Minnesota Vulnerable Adults Act (MN 626.557)

Under the Minnesota Vulnerable Adults Act (MN. 626.557):

Abuse Neglect Financial Exploitation was:

Substantiated Not Substantiated Inconclusive based on the following information:

Based on a preponderance of the evidence, abuse is substantiated; the alleged perpetrator (AP) was observed sexually assaulting the resident. The facility acted immediately to ensure the resident's safety and remove the AP from the premises.

The resident had diagnoses that include Alzheimer's disease, osteoporosis and generalized muscle weakness. The resident had cognitive deficits in all areas and required assistance from staff for all cares and transfers. The resident was minimally verbal, giving occasional, one word responses to a direct question.

The night the resident was assaulted, the witness was on his/her way to the kitchen around 4:30 a.m. and stepped into the bathroom, located just inside the doorway of the resident's room, to wash his/her hands. The witness saw the AP's back at the edge of the resident's bed, the resident's bare legs on both sides of the AP's hips and the tape tabs, located on the sides of the resident's incontinent product, open on the bed indicating the resident's brief was open. The witness did not realize what the AP was doing until s/he saw the AP move in a back and forth, thrusting motion, about four times. When the witness realized that the AP was sexually assaulting the resident, s/he knocked on the door to alert the AP to his/her presence in the room. The AP turned around briefly and saw the witness. The AP then quickly moved back from the resident, placed the residents legs back on the bed and replaced the resident's incontinent product. The witness immediately contacted the night supervisor who removed the AP from the floor. The police were called and the AP was taken to jail and charged with sexual assault. The resident was taken to a hospital for a sexual assault examination.

The witness further said there was a light on in the room but did not recall if it was the overhead light or the light on the wall. The curtain was pulled between the resident and the resident's roommate's bed. The resident was quiet during the incident which would be usual for the resident.

A family member was interviewed and said that the facility called to notify him/her of the assault and s/he met the resident at the hospital that morning. S/he was with the resident during the examination, the resident returned to the facility.

The AP was contacted and declined to be interviewed.

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:

A review of the AP's personnel file showed that AP completed a course titled: Preventing, Recognizing, and Reporting Resident Abuse, on June 5, 2014. The facility Vulnerable Adult Abuse Prevention policy identifies sexual abuse as: any sexual contact between a facility staff member or a person providing services in the facility and a resident of the facility. Staffing the night of the incident consisted of one nurse and two nursing assistants, the usual amount of staff for the unit.

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 Long Term Care Facilities (42 CFR, Part 483, subpart B) – Compliance Met**

The facility was found to be in compliance with Federal Regulations for Long Term Care Facilities (42 CFR, Part 483, subpart B). No deficiencies were issued.

State Licensing Rules for Nursing Homes (MN Rules Chapter 4658) – Compliance Met

The facility was found to be in compliance with State Licensing Rules for Nursing Homes (MN Rules Chapter 4658). No state 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 Met

The facility was found to be in compliance with State Statutes for Chapters 144 & 144A. No state licensing orders were issued.

Facility Corrective Action:

The facility took the following corrective action(s):

Prior to the onsite investigation the facility interviewed staff regarding the incident and knowledge of the vulnerable adult policy. Staff was provided with copies of the facility vulnerable adult policy for review and a mandatory module was added to training for staff regarding abuse prevention policies and procedures. Therefore no state or federal deficiencies were issued

Definitions:**Minnesota Statutes, section 626.5572, subdivision 2 - Abuse**

"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:

(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.

(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.

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

Care Guide

Medication Administration Records

Treatment Sheets

Facility Incident Reports

Physician Progress Notes

ADL (Activities of Daily Living) Flow Sheets

Laboratory and X-ray Reports

Physician Orders

Social Service Notes

Nurses Notes

Meal Intake Records

Activities Reports

Weight Records

Therapy and/or Ancillary Services Records

Assessments

Skin Assessments

Care Plan Records

Other pertinent medical records:

Hospital Records

Ambulance/Paramedics

Medical Examiner Records

Death Certificate

Police Report

Additional facility records:

Resident/Family Council Minutes

Personnel Records/Background Check, etc.

Staff Time Sheets, Schedules, etc.

Facility In-service Records

Facility Internal Investigation Reports

Facility Policies and Procedures

Call Light Audits

Other, specify: _____

Number of additional resident(s) reviewed: 2

Were residents selected based on the allegation(s)? Yes No N/A Specify: Unit, diagnoses

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: Facility report

If unable to contact complainant, attempts were made on:

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: Unable to provide information due to cognitive deficits.

Did you interview additional residents: Yes No

Total number of resident interviews: 6

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

Tennessee Warning given as required: Yes No

Total number of staff interviews: 9

Physician interviewed: Yes No

Nurse Practitioner interviewed: Yes No

Interview with Alleged Perpetrator(s): Yes No N/A Specify: Declined

Attempts to contact: Date/time: 1/2/2015 2:56 p.m. 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:

- Wound Care
- Medication Pass
- Meals
- Personal Care
- Dignity/Privacy Issues
- Restorative Care
- Nursing Services
- Safety Issues
- Facility Tour
- Infection Control
- Cleanliness
- Injury
- Use of Equipment
- Transfers
- Incontinence

Call Light

Other: _____

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: Room arrangement

xc: Division of Compliance Monitoring - Licensing & Certification
Minnesota Board of Examiners for Nursing Home Administrators
Minnesota Board of Nursing
Minneapolis City Police Department
Hennepin County Attorney
Minneapolis City Attorney

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

PRINTED: 12/26/2014
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 245055	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 12/26/2014
NAME OF PROVIDER OR SUPPLIER WALKER METHODIST HEALTH CENTER		STREET ADDRESS, CITY, STATE, ZIP CODE 3737 BRYANT AVENUE SOUTH MINNEAPOLIS, MN 55409		
(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
F 000	<p>INITIAL COMMENTS</p> <p>An abbreviated standard survey was conducted to investigate #H55055173. Walker Methodist Health Center is in compliance with 42 CFR Part 483, subpart B, requirements for Long Term Care Facilities.</p> <p>The facility is enrolled in ePOC and therefore a signature is not required at the bottom of the first page of the CMS-2567 form. Although no plan of correction is required, it is required that you acknowledge receipt of the electronic documents.</p>	F 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.

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 00276	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 12/26/2014
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NAME OF PROVIDER OR SUPPLIER WALKER METHODIST HEALTH CENTER	STREET ADDRESS, CITY, STATE, ZIP CODE 3737 BRYANT AVENUE SOUTH MINNEAPOLIS, MN 55409
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2 000	<p>Initial Comments</p> <p>*****ATTENTION*****</p> <p>NH LICENSING CORRECTION ORDER</p> <p>In accordance with Minnesota Statute, section 144A.10, this correction order has been issued pursuant to a survey. If, upon reinspection, it is found that the deficiency or deficiencies cited herein are not corrected, a fine for each violation not corrected shall be assessed in accordance with a schedule of fines promulgated by rule of the Minnesota Department of Health.</p> <p>Determination of whether a violation has been corrected requires compliance with all requirements of the rule provided at the tag number and MN Rule number indicated below. When a rule contains several items, failure to comply with any of the items will be considered lack of compliance. Lack of compliance upon re-inspection with any item of multi-part rule will result in the assessment of a fine even if the item that was violated during the initial inspection was corrected.</p> <p>You may request a hearing on any assessments that may result from non-compliance with these orders provided that a written request is made to the Department within 15 days of receipt of a notice of assessment for non-compliance.</p> <p>INITIAL COMMENTS: A complaint investigation was conducted to investigate complaint #5055173. No correction orders are issued.</p> <p>The facility is enrolled in ePOC and therefore a signature is not required at the bottom of the first page of the CMS-2567 form. Although no plan of</p>	2 000		
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Minnesota Department of Health
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE _____ TITLE _____ (X6) DATE _____

Minnesota Department of Health

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2 000	Continued From page 1 correction in required, it is required that you acknowledge receipt of the electronic documents.	2 000		