



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility:

Martin Luther Care Center
1401 East 100th Street
Bloomington, MN 55425
Hennepin County

Report #: H5272053

Date: April 3, 2015

Date of Visit: May 1, 2014

By: William Nelson, R.N., Special Investigator

Time of Visit: 8:45 a.m. – 4:00 p.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 the alleged perpetrator took resident's pain medications.

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 evidence financial exploitation did occur when the Alleged Perpetrator (AP) stole 24 Tramadol tablets from an unknown number of residents for his/her personal use.

Resident #1 had a physician's order for Tramadol (a narcotic like pain medication) 50 to 100 milligrams (mg) every 6 hours as needed for leg and hip pain. Resident #2 had a physician's order for Tramadol 50 mg three times a day as needed for chronic pain. Resident #3 had a physician's order for Tramadol 50 mg every 6 hours as needed for lower back pain. Resident #4 had a physician's order for Tramadol 50 to 100 mg every 4 hours as needed for back pain.

During a night shift in March 2014, a staff member found a plastic envelope on the floor in the hallway with 24 Tramadol 50 mg tablets in it. The staff member turned the envelope and contents over to the night supervisor. The AP was in the area just before the envelope of medication was found. No other staff walked through the hallway after the AP until the staff member who found the envelope containing the Tramadol.

The AP did not return phone calls or respond to a subpoena requesting that s/he call for an interview. During an interview with the police, the AP admitted to stealing the 24 Tramadol, found in an envelope on the floor, from the facility residents (the specific residents are unknown) for friends and relatives.

An audit of the medication administration records on all the residents prescribed Tramadol in the past eight (8) months. The audit found that residents #1, #2, #3, and #4 had a combined total of 208 additional Tramadol missing. The AP denied to the police any knowledge of the additional missing Tramadol.

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:

The facility had policies and procedures in place to minimize the risk of drug diversion. The individual involved was a trusted employee in a management level position. The individual employee was in a position that enforced policies and procedures, provided education to the employees about the policies and procedures and interpreted policies and procedures.

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 site visit the facility reviewed and modified their policies and procedures regarding the refilling of as needed medications. The facility is evaluating as needed medication usage and determining if the medication should be a scheduled medication or, if not using, discontinued. The facility provided education to all medication passers on the policy changes. The facility provided education to staff on ways to identify possible drug diversion activities. The facility has initiated audits of the narcotic book to confirm accuracy. Interviews and document review verified the facility was in compliance prior to the site visit. Therefore, no deficiencies were issued.

Definitions:

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.

Minnesota Statutes, section 626.5572, subdivision 9 - Financial exploitation

"Financial exploitation" means:

(a) In breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501, a person:

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

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

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

- | | |
|---|---|
| <input checked="" type="checkbox"/> Medical Records | <input checked="" type="checkbox"/> Care Guide |
| <input checked="" type="checkbox"/> Medication Administration Records | <input type="checkbox"/> Treatment Sheets |
| <input type="checkbox"/> Facility Incident Reports | <input type="checkbox"/> Physician Progress Notes |
| <input type="checkbox"/> ADL (Activities of Daily Living) Flow Sheets | <input type="checkbox"/> Laboratory and X-ray Reports |
| <input checked="" type="checkbox"/> Physician Orders | <input type="checkbox"/> Social Service Notes |
| <input checked="" type="checkbox"/> Nurses Notes | <input type="checkbox"/> Meal Intake Records |
| <input type="checkbox"/> Activities Reports | <input type="checkbox"/> Weight Records |
| <input type="checkbox"/> Therapy and/or Ancillary Services Records | <input checked="" type="checkbox"/> Assessments |
| <input type="checkbox"/> Skin Assessments | <input checked="" type="checkbox"/> Care Plan Records |

Other pertinent medical records:

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Hospital Records | <input type="checkbox"/> Ambulance/Paramedics | <input type="checkbox"/> Medical Examiner Records | <input type="checkbox"/> Death Certificate |
| <input checked="" type="checkbox"/> 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: 4

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: Facility self-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: _____

Did you interview additional residents: Yes No

Total number of resident interviews: 4

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

Tennessee Warning given as required: Yes No

Total number of staff interviews: 6

Physician interviewed: Yes No

Nurse Practitioner interviewed: Yes No

Interview with Alleged Perpetrator(s): Yes No N/A Specify: Multiple attempts to contact the AP via phone were unsuccessful. A subpoena was sent and the AP did not respond to the subpoena.

Attempts to contact: Date/time: 5/12/14 9:00 a.m. Date/time: 5/14/14 10:00 a.m. Date/time: 6/4/14 1:00 p.m. on 6/12/14 number did not work. A new number was tried on 11/20/14, no answer and no option to leave message.

If unable to contact was subpoena issued: Yes , date subpoena was issued November 25, 2014 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: narcotic count between shifts

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: _____

- xc: Health Regulation Division - Licensing & Certification
- Minnesota Board of Nursing Home Administrators
- Minnesota Board of Nursing
- Bloomington City Police Department
- Hennepin County Attorney
- Bloomington City Attorney

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

PRINTED: 04/28/2015
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 245272	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 06/17/2014
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NAME OF PROVIDER OR SUPPLIER MARTIN LUTHER CARE CENTER	STREET ADDRESS, CITY, STATE, ZIP CODE 1401 EAST 100TH STREET BLOOMINGTON, MN 55425
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(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
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F 000	<p>INITIAL COMMENTS</p> <p>An abbreviated standard survey was conducted to investigate case #H5272053. Martin Luther Care Center is in compliance with 42 CFR Part 483, subpart B, requirements for Long Term Care Facilities.</p> <p>You have agreed to participate in the ePOC. Although no plan of correction is required, it is required that you acknowledge receipt of the electronic 2567.</p>	F 000		
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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE Electronically Signed	TITLE	(X6) DATE 06/23/2014
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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: 00227	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 06/17/2014
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NAME OF PROVIDER OR SUPPLIER MARTIN LUTHER CARE CENTER	STREET ADDRESS, CITY, STATE, ZIP CODE 1401 EAST 100TH STREET BLOOMINGTON, MN 55425
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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 #H5272053. No correction orders were issued.</p> <p>You have agreed to participate in the electronic receipt of state licensure orders consistent with the Minnesota Department of Health</p>	2 000		
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Minnesota Department of Health
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

Electronically Signed

TITLE

(X6) DATE

06/23/14

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 00227	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 06/17/2014
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2 000	Continued From page 1 Informational Bulletin 14-01, available at http://www.health.state.mn.us/divs/fpc/profinfo/infobul.htm Although no plan of correction is required. It is required that you acknowledge receipt of the electronic state form.	2 000		
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