



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report  
PUBLIC

Facility:

Mother of Mercy Campus of Care  
230 Church Street Box 676  
Albany, MN 56307  
Stearns County

Report #: H5339009

Date: December 19, 2014

Date of Visit: September 30, 2014  
Time of Visit: 9:30 a.m.- 3:15 p.m.

By: Jolene Bertelsen, R.N., Special Investigator

- 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) laid/held a pillow on top of the resident's head during cares. The resident sustained bruising on the right side of her face as a result of the incident and blood was present on the pillow case.

**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 abuse did occur when the alleged perpetrator (AP) placed a pillow over the resident's face and held it in place for approximately 10-15 seconds. Bruising was noted to the right side of the resident's eye.

Documentation review established the resident had diagnoses including dementia. The resident was alert and oriented to self and had behaviors that included yelling/calling out and refusal of cares.

A witness to the incident was interviewed and stated on the evening of the incident, the AP and the witness assisted the resident with cares. The resident yelled out and the AP told the resident to shut up. The witness was at the foot of the bed, and looked up to see the AP hold a pillow over the resident's face and the AP held the pillow in place for approximately ten seconds, but was unsure if the AP applied pressure to the pillow. The witness stated the resident continued to yell out while the AP held the pillow over the resident's face. The AP continued to tell the resident to shut up and made a comment that the resident must still be able to breathe, as the resident is still yelling out. Following the incident, the witness observed a red mark below the resident's eye. The witness and the AP finished cares, and left the room. The following day a nurse asked the staff why the resident had bruises to the right side of the resident's face, and at that time the witness reported the incident.

The AP was interviewed and stated on the evening of the incident, the AP assisted the witness with the resident's cares. While the AP placed the pillow under the resident's head, the pillow fell and landed on the resident's face. The AP stated s/he picked up the pillow and placed it under the resident's head. The AP did not see bruising on the resident's face prior to leaving the room. The AP denied the allegation.

The resident was visited, but unable to be interviewed due to the resident's cognitive status.

**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 conducts annual training for staff on abuse, neglect, and the Vulnerable Adults Act. The AP had been trained in abuse and neglect, and the Vulnerable Adults Act.

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, all staff was reeducated on abuse prevention and immediate reporting of incidents of abuse and neglect. Following the incident, all staff was retrained on the Vulnerable Adults Act, and immediate reporting of abuse or neglect. This was verified through interview and document review, 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 2 - Abuse**

"Abuse" means:

(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.

**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: \_\_\_\_\_

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: The facility reported the incident.

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: The resident was visited but unable to be interviewed due to cognitive status.

Did you interview additional residents:  Yes  No

Total number of resident interviews: 3

Interview with staff:  Yes  No  N/A Specify: \_\_\_\_\_

Tennessee Warning given as required:  Yes  No

Total number of staff interviews: 12

Physician interviewed:  Yes  No

Nurse Practitioner 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:**

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

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: pillow case with blood remnants.

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

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

PRINTED: 11/07/2014  
FORM APPROVED  
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>245339</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____  B. WING _____	(X3) DATE SURVEY COMPLETED  <b>C</b> <b>10/22/2014</b>
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NAME OF PROVIDER OR SUPPLIER  <b>MOTHER OF MERCY CAMPUS OF CARE</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>230 CHURCH AVENUE, BOX 676</b> <b>ALBANY, MN 56307</b>
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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><b>INITIAL COMMENTS</b></p> <p>An abbreviated standard survey was initiated to investigate case #H5339009. Mother of Mercy Campus of Care 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, is it required that you acknowledge receipt of the electronic documents.</p>	F 000		
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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
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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

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2 000	<p>Initial Comments</p> <p><b>*****ATTENTION*****</b></p> <p><b>NH LICENSING CORRECTION ORDER</b></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><b>INITIAL COMMENTS:</b> A complaint investigation was conducted to investigate complaint #H5339009. No correction orders are issued. 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 the facility</p>	2 000		
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Minnesota Department of Health LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
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