



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report  
PUBLIC

**Facility:**

Benedictine Living Community New London  
100 Glen Oaks Drive  
New London, MN 56273  
Kandiyohi County

Report #: H5360013

Date: December 15, 2014

Date of Visit: October 16 and 17, 2014  
Time of Visit: 9:00 a.m.- 4:30 p.m. and  
8:00 a.m.- 1:00 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 some residents were financially exploited when a staff, alleged perpetrator (AP) took the resident's narcotic medications for his/her own use.

**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 is substantiated. From April 2014 through August 28, 2014 the alleged perpetrator (AP) diverted narcotic medications from 18 residents of the facility for his/her own use.

Interviews and documentation review established on 8/28/14, two nurses completed the narcotic count and found Hydrocodone tablets in a unit dose cassette replaced with Tylenol. In addition, the liquid morphine solution appeared to have been tampered with, as the color was lighter. Administrative staff was notified and initiated an audit of the narcotic pain medications in the three medication carts of the facility. The medication dosage cassettes found to be tampered with were: Oxycodone (narcotic pain medication), Hydrocodone (narcotic pain medication), liquid Morphine Sulfate (narcotic pain medication), and Ativan (anti-anxiety medication). The residents who had Hydrocodone orders included: resident #1, #2, #3, #4, #6, #7, #8, #9, #11, #12, #13, #15, #16, #17 and #18. Resident #4, and #16 had Oxycodone ordered, and resident #5, #10, #14, and #16 had orders for Ativan. Resident #14 had orders for liquid Morphine Sulfate.

The police investigated and determined that 179 Hydrocodone pills were found to be replaced with Tylenol, and nine Oxycodone pills were also replaced with Tylenol, eight Lorazepam pills were replaced with Lasix pills and one bottle of liquid Morphine had been replaced with water. A total of 37 pills were identified as Hydrocodone, but had been replaced with a lower dose of Hydrocodone.

When interviewed by police, the AP stated the medication tampering began in April 2014. The AP denied removing the OxyContin or Lorazepam from the medication carts, but did admit to replacing Hydrocodone with Tylenol. The AP told police that s/he would take 10-20 Hydrocodone pills a month and would take approximately 4-5 pills a shift.

Several attempts to reach the AP for an interview were unsuccessful.

**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 AP received training regarding financial exploitation, narcotic administration, and pain management. The facility was unaware of the drug diversion for approximately five months and failed to have a system in place to ensure security of narcotic medications.

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 implemented a new system for staff to count and administer narcotic medications. Two staff will count narcotic medications at the beginning and end of each shift, and ensure the cartridges are sealed and the medication count is correct. One nurse on each shift is responsible for the narcotic key for all three medication carts. When a narcotic medication is needed, staff will notify that staff person. The two staff will remove the narcotic medication, and take the medication to the resident's room and ensure the medication is administered to the resident. Both staff will sign off in the narcotic book that the medication was administered. In addition, new medication cards were obtained which make a distinct sound when a pill is removed from the card, and staff can easier observe if the card has been tampered with. Onsite observations and interviews verified staff were trained on the policies and procedures of narcotic medication storage and security, 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:

(1) engages in unauthorized expenditure of funds entrusted to the actor by the vulnerable adult which results or is likely to result in detriment to the vulnerable adult; or

(2) fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct or supervision for the vulnerable adult, and the failure results or is likely to result in detriment to the vulnerable adult.

**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
- Physician Orders
- Nurses Notes
- Activities Reports
- Therapy and/or Ancillary Services Records
- Skin Assessments
- Laboratory and X-ray Reports
- Social Service Notes
- Meal Intake Records
- Weight Records
- 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
- Staff Time Sheets, Schedules, etc.
- Facility Internal Investigation Reports
- Call Light Audits
- Personnel Records/Background Check, etc.
- Facility In-service Records
- Facility Policies and Procedures
- Other, specify: pain assessments

Number of additional resident(s) reviewed: 17

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: \_\_\_\_\_

Did you interview additional residents:  Yes  No

Total number of resident interviews: 21

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

Tennessee Warning given as required:  Yes  No

Total number of staff interviews: 10

Physician interviewed:  Yes  No

Nurse Practitioner interviewed:  Yes  No

Interview with Alleged Perpetrator(s):  Yes  No  N/A Specify: The AP was called but did not return several messages or a subpoena request for an interview.

Attempts to contact: Date/time: 10/15/14 Date/time: 11/7/14 Date/time: 12/1/14

If unable to contact was subpoena issued:  Yes , date subpoena was issued 12/2/14  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: The medication dispensing units.

xc:    Division of Compliance Monitoring - Licensing & Certification  
Minnesota Board of Nursing Home Administrators  
Minnesota Board of Nursing  
Kandiyohi County Sheriff  
Kandiyohi County Attorney  
New London City Attorney

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

PRINTED: 12/22/2014  
FORM APPROVED  
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>245360</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____  B. WING _____		(X3) DATE SURVEY COMPLETED  <b>C</b> <b>12/01/2014</b>
NAME OF PROVIDER OR SUPPLIER  <b>BENEDICTINE LIVING COMMUNITY OF NEW LONDON</b>			STREET ADDRESS, CITY, STATE, ZIP CODE <b>100 GLEN OAKS DRIVE</b> <b>NEW LONDON, MN 56273</b>		
(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><b>INITIAL COMMENTS</b></p> <p>An abbreviated standard survey was conducted to investigate case #H5360013. Benedictine Living Community New London 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. Electronic submission of the POC will be used as verification of compliance.</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:  <b>00314</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING _____	(X3) DATE SURVEY COMPLETED  <b>C</b> <b>12/01/2014</b>
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NAME OF PROVIDER OR SUPPLIER  <b>BENEDICTINE LIVING COMMUNITY OF NEW L</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>100 GLEN OAKS DRIVE NEW LONDON, MN 56273</b>
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2 000	<p><b>Initial Comments</b></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 #H5360013. 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		

Minnesota Department of Health  
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

Minnesota Department of Health

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NAME OF PROVIDER OR SUPPLIER  <b>BENEDICTINE LIVING COMMUNITY OF NEW L</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>100 GLEN OAKS DRIVE NEW LONDON, MN 56273</b>
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2 000	Continued From page 1  correction is required, it is required that you acknowledge receipt of the electronic documents.	2 000		