



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility:

Augustana Mercy Care Center
710 South Kenwood Avenue
Moose Lake, MN 55767
Carlton County

Report #: H5491014

Date: April 14, 2014

Date of Visit: November 12, 2013
Time of Visit: 10:30 a.m. – 3:00 p.m.

By: DeeAnn Hogenson, R.N., Special Investigator

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

Facility Self Report Complaint

Allegation(s): It is alleged that financial exploitation occurred when a nurse (AP) took a resident's narcotic medication on multiple occasions for his/her personal 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 the evidence financial exploitation is substantiated. The AP took narcotic medications from a resident multiple times for his/her own use.

The resident was severely cognitively impaired and had diagnoses that contributed to chronic pain that required the use of a narcotic pain medication scheduled twice daily. The resident was not able to communicate if or when s/he was having pain however, the AP documented s/he gave the resident an extra dose of narcotic for complaints of pain each night the AP worked. The AP was the only nurse who gave the resident an additional dose of pain medication. In addition, the AP documented nine times in the resident's medical record s/he dropped the pill or the resident spit it out and a second pill was then removed from the locked narcotic box. There were no witness signatures verifying the disposition of the missing narcotic; in accordance with facility policy.

The narcotic logs indicated the AP removed a total of 39 narcotics from multiple other residents unaccounted for controlled medications. The AP drew a line through the first documented dose indicating an error had occurred then removed a second dose from the resident's supply of medication. Seven of the errors had been co-signed however; interview with several of the co-signers verified that they did not co-sign as a witness to the missing medications. The remaining errors documented by the AP did not have witness signatures and 13 of those had no explanation why an error occurred or explained the disposition of the missing medication.

The police report confirmed that during an interview with police officers; the AP confessed to taking narcotic medications belonging to residents for his/her personal use.

The AP refused to be interviewed and did not respond to subpoena.

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 for medication security and had adequately trained the AP on these policies. The AP did not adhere to facility policy and standards of practice for nursing.

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):

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:

(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.

(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 type="checkbox"/> Care Guide |
| <input checked="" type="checkbox"/> Medication Administration Records | <input type="checkbox"/> Treatment Sheets |
| <input type="checkbox"/> Facility Incident Reports | <input checked="" type="checkbox"/> Physician Progress Notes |
| <input type="checkbox"/> ADL (Activities of Daily Living) Flow Sheets | <input type="checkbox"/> Laboratory and X-ray Reports |
| <input 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 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
- 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: _____

Number of additional resident(s) reviewed: 3

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: _____

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: Severely cognitively impaired

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: 6

Physician interviewed: Yes No

Nurse Practitioner interviewed: Yes No

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

Attempts to contact: Date/time: 2/5/14 12:05 Date/time: 2/6/2014 10:30 Date/time: _____

If unable to contact was subpoena issued: Yes , date subpoena was issued 2/11/2014 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: _____

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: Division of Compliance Monitoring - Licensing & Certification
 Minnesota Board of Examiners for Nursing Home Administrators
 Minnesota Board of Nursing
 Moose Lake Police Department
 Carlton County Attorney
 Moose Lake City Attorney

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

PRINTED: 02/26/2014
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 245491	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 02/06/2014
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NAME OF PROVIDER OR SUPPLIER AUGUSTANA MERCY CARE CENTER	STREET ADDRESS, CITY, STATE, ZIP CODE 710 SOUTH KENWOOD AVENUE MOOSE LAKE, MN 55767
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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 #H5491014 . Augustana Mercy Care Center is in compliance with 42 CFR Part 483, subpart B, requirements for Long Term Care Facilities.</p>	F 000		
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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: 00049	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 02/06/2014
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NAME OF PROVIDER OR SUPPLIER AUGUSTANA MERCY CARE CENTER	STREET ADDRESS, CITY, STATE, ZIP CODE 710 SOUTH KENWOOD AVENUE MOOSE LAKE, MN 55767
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2 000	<p>Initial Comments</p> <p style="text-align: center;">*****ATTENTION*****</p> <p style="text-align: center;">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 #H5491014. No correction orders were issued.</p>	2 000		

Minnesota Department of Health
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE _____ TITLE _____ (X6) DATE _____